

**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):  
July 29, 2019**

**Fiserv, Inc.**

(Exact Name of Registrant as Specified in Its Charter)

**Wisconsin**  
(State or Other Jurisdiction  
of Incorporation)

**1-38962**  
(Commission  
File Number)

**39-1506125**  
(IRS Employer  
Identification No.)

**255 Fiserv Drive, Brookfield, Wisconsin**  
(Address of Principal Executive Offices, including)

**53045**  
(Zip Code)

**(262) 879-5000**  
(Registrant's Telephone Number, Including Area Code)

**Not Applicable**  
(Former Name or Former Address, if Changed Since Last Report)

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

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

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

Title of each class:	Trading Symbol(s)	Name of each exchange on which registered:
<b>Common stock, par value \$0.01 per share</b>	<b>FISV</b>	<b>The Nasdaq Stock Market LLC</b>
<b>0.375% Senior Notes due 2023</b>	<b>FISV23</b>	<b>The Nasdaq Stock Market LLC</b>
<b>1.125% Senior Notes due 2027</b>	<b>FISV27</b>	<b>The Nasdaq Stock Market LLC</b>
<b>1.625% Senior Notes due 2030</b>	<b>FISV30</b>	<b>The Nasdaq Stock Market LLC</b>
<b>2.250% Senior Notes due 2025</b>	<b>FISV25</b>	<b>The Nasdaq Stock Market LLC</b>
<b>3.000% Senior Notes due 2031</b>	<b>FISV31</b>	<b>The Nasdaq Stock Market LLC</b>

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

Emerging growth company

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

## **Introductory Note.**

This Current Report on Form 8-K is being filed in connection with the completion of the transactions contemplated by that certain Agreement and Plan of Merger, dated January 16, 2019 (the “Merger Agreement”), by and among Fiserv, Inc. (“Fiserv”), 300 Holdings, Inc. (“Merger Sub”), a wholly owned subsidiary of Fiserv, and First Data Corporation (“First Data”). On July 29, 2019, pursuant to the Merger Agreement, on the terms and subject to the conditions set forth therein, Merger Sub merged with and into First Data, with First Data as the surviving entity and a wholly owned subsidiary of Fiserv (the “Merger”).

## **Item 1.01. Entry into a Material Definitive Agreement.**

### *Amendments to Existing Credit Agreements*

On July 26, 2019, Fiserv and its existing lender group entered into (i) a first amendment to Fiserv’s existing term loan credit facility, dated as of February 15, 2019 (the “Term Loan Credit Agreement”), among Fiserv, the lenders party thereto from time to time, and JPMorgan Chase Bank, N.A., as administrative agent (“JPMorgan”), and (ii) a third amendment to Fiserv’s existing revolving credit facility, dated as of September 19, 2018 (the “Revolving Credit Agreement” and, together with the Term Loan Credit Agreement, the “Credit Agreements”), among Fiserv, the lenders party thereto from time to time, and JPMorgan. The amendments became effective upon consummation of the Merger.

The purpose of the amendments was to:

- Remove as a condition precedent to borrowing under each Credit Agreement on the closing date of the Merger the requirement that amounts under the Receivables Financing Agreement, dated as of December 31, 2015, among First Data Corporation, First Data Receivables, LLC, PNC Bank, National Association, and the persons from time to time party thereto as Lenders and Group Agents (as amended, restated, supplemented or otherwise modified from time to time) be repaid and the related liens and guarantees be terminated in order to allow First Data’s accounts receivable securitization program to remain in place following consummation of the Merger; and
- Amend the debt and liens covenants in each Credit Agreement to increase Fiserv’s flexibility to enter into receivables financing arrangements in the future.

The foregoing description of the first amendment to the Term Loan Credit Agreement and the third amendment to the Revolving Credit Agreement is summary in nature and is qualified in its entirety by reference to such amendments, copies of which are filed hereto as Exhibits 4.1 and 4.2, respectively, and incorporated herein by reference.

## **Item 2.01. Completion of Acquisition or Disposition of Assets.**

### *Merger Consideration*

On the terms and subject to the conditions set forth in the Merger Agreement, at the effective time of the Merger (the “Effective Time”), each share of Class A common stock, par value \$0.01 per share, of First Data (“First Data Class A Common Stock”) and Class B common stock, par value \$0.01 per share, of First Data (together with the First Data Class A Common Stock, the “First Data Common Stock”), issued and outstanding immediately prior to the Effective Time (other than shares of First Data Common Stock held by First Data as treasury stock, First Data restricted shares and any shares of First Data Common Stock owned by Fiserv, First Data or any subsidiary of Fiserv or First Data (with limited exceptions)) was converted into the right to receive 0.303 of a share (the “Exchange Ratio”) of common stock, par value \$0.01 per share, of Fiserv (the “Fiserv Common Stock”), with cash payable in lieu of any fractional shares of Fiserv Common Stock.

### *Treatment of Equity Awards*

At the Effective Time, First Data’s equity awards, consisting of (i) the First Data equity awards granted at or before the time of the initial public offering of First Data (the “First Data IPO”) that are subject to time-based vesting (the “Time-Vesting IPO Awards”), (ii) the First Data equity awards granted at the time of the First Data IPO that are subject to vesting solely upon achievement of a price of \$32 per share of First Data Class A Common Stock (the “Performance-Vesting IPO Awards”) and (iii) the First Data equity awards granted after the First Data IPO, whether vested or unvested (the “Post-IPO Awards”), were

either settled in shares of Fiserv Common Stock or converted into Fiserv equity awards as described below. Any First Data equity award that was converted into a Fiserv equity award, other than the converted Performance-Vesting IPO Awards, will be subject to “double-trigger” vesting under certain circumstances.

At the Effective Time, the Time-Vesting IPO Awards accelerated in full in accordance with their terms, except for the Time-Vesting IPO Awards held by Frank J. Bisignano, First Data’s Chief Executive Officer immediately prior to the Merger, which were converted into Fiserv’s equity awards in a manner consistent with the Post-IPO Awards. Each restricted share and restricted stock unit award that was a Time-Vesting IPO Award was settled in shares of Fiserv Common Stock based on the Exchange Ratio and each stock option award that was a Time-Vesting IPO Award was converted into an option to purchase a number of shares of Fiserv Common Stock equal to the number of shares of First Data Common Stock subject to such option award multiplied by the Exchange Ratio, with an exercise price per share equal to the exercise price per share of such stock option immediately prior to the Effective Time divided by the Exchange Ratio. The Time-Vesting IPO Awards that were converted into options to purchase Fiserv Common Stock will otherwise continue to be governed by the same terms and conditions as were applicable prior to the Effective Time.

At the Effective Time, the Performance-Vesting IPO Awards were converted into equity awards denominated in shares of Fiserv Common Stock and will remain eligible to vest upon satisfaction of an adjusted performance condition based on a target price per share of Fiserv Common Stock equal to the existing First Data target price divided by the Exchange Ratio. Each restricted share and restricted stock unit award that was a Performance-Vesting IPO Award was converted into an award denominated in shares of Fiserv Common Stock based on the Exchange Ratio, and each stock option award that was a Performance-Vesting IPO Award was converted into an option to purchase a number of shares of Fiserv Common Stock equal to the number of shares of First Data Common Stock subject to such option award multiplied by the Exchange Ratio, with an exercise price per share equal to the exercise price per share of such stock option immediately prior to the Effective Time divided by the Exchange Ratio. As converted, the Performance-Vesting IPO Awards will otherwise continue to be governed by the same terms and conditions as were applicable prior to the Effective Time.

At the Effective Time, the Post-IPO Awards were converted into equity awards denominated in shares of Fiserv Common Stock and will continue to be governed by the same terms and conditions as were applicable prior to the Effective Time. Each such restricted share and restricted stock unit award that was a Post-IPO Award was converted into an award denominated in shares of Fiserv Common Stock based on the Exchange Ratio, and each such stock option award that was a Post-IPO Award was converted into an option to purchase a number of shares of Fiserv Common Stock equal to the number of shares of First Data Common Stock subject to such option award multiplied by the Exchange Ratio, with an exercise price per share equal to the exercise price per share of such stock option immediately prior to the Effective Time divided by the Exchange Ratio.

The foregoing description of the Merger does not purport to be complete and is qualified in its entirety by reference to the full text of the Merger Agreement, which is filed as Exhibit 2.1 to this Current Report on Form 8-K and is incorporated herein by reference.

**Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

*Board of Directors*

Effective as of the closing of the Merger, the board of directors of Fiserv (the “Board”) consists of the following members serving on the listed Board committee(s):

<u>Name</u>	<u>Continuing Fiserv Director</u>	<u>Continuing First Data Director</u>	<u>Board Positions / Committee Membership<sup>1</sup></u>
Frank J. Bisignano		X	
Alison Davis	X		Audit Committee
Henrique de Castro		X	Audit Committee
Harry F. DiSimone	X		Audit Committee
Dennis F. Lynch	X		Nominating and Corporate Governance Committee (chair) Compensation Committee
Heidi G. Miller		X	Nominating and Corporate Governance Committee
Scott C. Nuttall		X	Compensation Committee (chair)
Denis J. O’Leary	X		Lead Director Audit Committee (chair) Nominating and Corporate Governance Committee
Doyle R. Simons	X		Compensation Committee
Jeffery W. Yabuki	X		Chairman of the Board

<sup>1</sup> The Board has established a Continuing Fiserv Directors Committee comprised of all the Continuing Fiserv Directors and a Continuing First Data Directors Committee comprised of all the Continuing First Data Directors in connection with the completion of the Merger to fulfill certain duties and responsibilities relating to the election and appointment of Continuing Fiserv Directors and Continuing First Data Directors, respectively, as prescribed in Fiserv’s Amended By-laws (as defined and described in Item 5.03 of this Current Report on Form 8-K).

In connection with the reconstitution of the Board described above, the following actions were taken:

- On July 29, 2019, John Y. Kim, Glenn M. Renwick, Kim M. Robak and JD Sherman tendered their resignations from the Board and from all committees of which they were members. Each such resignation became effective as of immediately prior to the Effective Time, and was contingent upon the completion of the transactions contemplated by the Merger Agreement.
- On July 29, 2019, the Board elected four people who were First Data directors immediately prior to the Merger to the Board, effective as of and contingent upon the occurrence of the Effective Time, pursuant to the Merger Agreement (the “Continuing First Data Directors”). The Continuing First Data Directors consist of Henrique de Castro and Heidi G. Miller, each an independent director of First Data immediately prior to the Merger, Mr. Bisignano, the Chairman of the board of directors and the Chief Executive Officer of First Data immediately prior to the Merger, and Scott C. Nuttall, who was a director of First Data immediately prior to the Merger. Mr. de Castro, Ms. Miller and Mr. Nuttall each serves as an independent director of Fiserv. Mr. Nuttall was appointed by New Omaha Holdings L.P. (“New Omaha”) to the Board pursuant to that certain Shareholder Agreement, dated January 16, 2019 (the “Shareholder Agreement”), by and between Fiserv and New Omaha.

Mr. de Castro, Ms. Miller and Mr. Nuttall will (i) participate in Fiserv’s standard non-employee director compensation arrangements set forth on the Non-Employee Director Compensation Schedule filed as Exhibit 10.1 to Fiserv’s Current Report on Form 8-K filed on May 24, 2018 and (ii) be eligible to participate in the Fiserv, Inc. Non-Employee Director Deferred Compensation Plan filed as Exhibit 10.2 to Fiserv’s Current Report on Form 8-K filed on December 1, 2017. In connection with their appointment, Mr. de Castro, Ms. Miller and Mr. Nuttall will enter into Fiserv’s Non-Employee Director Indemnity Agreement, a form of which was filed as Exhibit 10.37 to Fiserv’s Annual Report on Form 10-K for the year ended December 31, 2007. A description of Fiserv’s non-employee director compensation arrangements can be found in [the section titled “Proposal 1. Election of Directors—Director Compensation” in Fiserv’s definitive proxy statement for its 2019 annual meeting of shareholders filed on April 9, 2019](#) and is incorporated herein by reference.

In addition, certain Continuing First Data Directors hold Fiserv equity awards that were converted from First Data equity awards held by them immediately prior to the Effective Time. The information regarding the treatment of First Data’s equity awards in connection with the Merger as set forth in Item 2.01 of this Current Report on Form 8-K is hereby incorporated by reference in this Item 5.02.

On July 29, 2019, the Board appointed Mr. Bisignano as the President and Chief Operating Officer of Fiserv, effective as of and contingent upon the occurrence of the Effective Time, pursuant to the Merger Agreement. Mr. Bisignano, 59 years old, has been Chairman of First Data's board of directors since March 2014 and First Data's Chief Executive Officer since April 2013. Before joining First Data, Mr. Bisignano was the Co-Chief Operating Officer for JPMorgan Chase & Co. from July 2012 to April 2013, Chief Executive Officer of Mortgage Banking at JPMorgan Chase & Co. from February 2011 until December 2012, and Chief Administrative Officer of JPMorgan Chase & Co. from 2005 until July 2012. From 2002 to 2005, Mr. Bisignano served as the chief executive officer for Citigroup's Global Transactions Services business and a member of Citigroup's Management Committee. He has been a member of the Board of Directors of Humana Inc. since August 2017 and serves on Humana Inc.'s Technology Committee.

Mr. Bisignano and Fiserv entered into an employment agreement (the "Employment Agreement") and a Key Executive Employment and Severance Agreement (the "KEESA") on January 16, 2019, which are filed as Exhibit 10.1 and Exhibit 10.2 to this Current Report on Form 8-K and are incorporated herein by reference. A description of the material terms and conditions of such agreements can be found in [the section titled "The Merger—Interests of Certain First Data Directors and Executive Officers—Bisignano Employment Agreements" in the registration statement on Form S-4/A \(Registration No. 333-229689\) declared effective by the Securities and Exchange Commission on March 14, 2019 \(the "S-4"\)](#) and is incorporated herein by reference.

Mr. Bisignano's daughter is married to a current employee of First Data, Sam Lituchy. Mr. Lituchy currently has a base salary of \$165,000 per year and is currently eligible to receive incentive compensation in accordance with the incentive compensation plans of Fiserv and its subsidiaries (including First Data).

#### *2017 and 2018 Performance Share Units*

On July 24, 2019, the Board, upon recommendation by the Compensation Committee of the Board, approved amendments to the performance share units granted to Fiserv executive officers in 2017 (the "2017 PSUs") and 2018 (the "2018 PSUs").

The amendments to the 2017 PSUs, which vest based on Fiserv's three-year cumulative annual internal revenue growth rate subject to Fiserv attaining a threshold level of adjusted income from continuing operations for the three-year period, provide that internal revenue growth and adjusted income from continuing operations for 2017 and 2018 will be based on actual financials results for those years and for 2019 will be based on a combination of actual financial results and anticipated performance through December 31, 2019, as determined by the Board as of immediately prior to the closing of the Merger. The terms of the 2017 PSUs are otherwise unchanged from those described in Fiserv's definitive proxy statement for its 2018 annual meeting of shareholders filed with the Securities and Exchange Commission on April 10, 2018. As a result of the performance multiplier for the 2017 PSUs determined by the Board based on such amendments, Fiserv's named executive officers will vest in the following number of performance share units, subject to their continued employment with Fiserv through the end of the three-year performance period: Robert W. Hau – 14,763; Lynn S. McCreary – 4,220; Devin B. McGranahan – 10,544; and Byron C. Vielehr – 10,544. Jeffery W. Yabuki did not receive a grant of 2017 PSUs.

The amendments to the 2018 PSUs provide that the 2018 PSUs will vest (i) 20% based on Fiserv's 2018 internal revenue growth rate and (ii) 80% based on Fiserv's total shareholder return over the three-year performance period (January 1, 2018 – December 31, 2020) compared to the total shareholder return of the S&P 500 Index over the same period, all subject to Fiserv attaining an increased threshold level of adjusted income from continuing operations for the three-year period. The terms of the 2018 PSUs are otherwise unchanged from those described in Fiserv's definitive proxy statement for its 2019 annual meeting of shareholders filed with the Securities and Exchange Commission on April 9, 2019. Fiserv is unable to quantify the number of 2018 PSUs in which its named executive officers will vest as a result of these amendments because vesting of the 2018 PSUs remains subject to Fiserv's attainment of the performance criteria described above.

The foregoing descriptions of the Merger Agreement, the Shareholder Agreement, the Employment Agreement and the KEESA do not purport to be complete and are qualified in their entirety by reference to the full text of the Merger Agreement, the Shareholder Agreement, the Employment Agreement and the KEESA, which are filed as Exhibit 2.1, Exhibit 4.3, Exhibit 10.1 and Exhibit 10.2 to this Current Report on Form 8-K and are incorporated herein by reference.

### **Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.**

In accordance with the Merger Agreement, effective as of and contingent upon the occurrence of the Effective Time, Fiserv's amended and restated by-laws were further amended and restated in substantially the form as set forth as an exhibit to the Merger Agreement (as amended, the "Amended By-laws"). Descriptions of the material terms and conditions of the Amended By-laws can be found in the sections titled "The Merger—Governance of the Combined Company—Fiserv Amended By-laws" and "Comparison of the Rights of Fiserv Shareholders and First Data Stockholders" in the S-4 and are incorporated herein by reference. As adopted, the Amended By-laws describe certain additional responsibilities of the Lead Director.

The descriptions of the Amended By-laws do not purport to be complete and are qualified in their entirety by reference to the full text of the Amended By-laws, which are filed as Exhibit 3.1 to this Current Report on Form 8-K and are incorporated herein by reference.

### **Item 8.01. Other Events.**

On July 29, 2019, Fiserv issued a press release announcing the closing of the Merger. A copy of that press release is attached hereto as Exhibit 99.1 and is incorporated herein by reference.

Exhibit 5.1 to this Current Report on Form 8-K presents an exhibit that will be incorporated by reference into a prospectus supplement to the base prospectus contained in Fiserv's shelf registration statement (File No. 333-227436) relating to shares of Fiserv Common Stock that may be issuable upon the vesting, settlement or exercise of certain equity awards with respect to shares of First Data Common Stock held by former employees and consultants of First Data (or their respective legal successors) that were assumed by Fiserv and converted into equity awards with respect to Fiserv Common Stock (subject to appropriate adjustments to the number of shares and, if applicable, exercise price) in connection with the Merger.

### **Item 9.01. Financial Statements and Exhibits.**

- (a) Financial statements of businesses acquired.

The audited consolidated financial statements of (i) First Data and (ii) Wells Fargo Merchant Services, LLC, each as of December 31, 2018 and 2017 and for each of the fiscal years ended December 31, 2018, 2017 and 2016, are filed as Exhibits 99.2 and 99.3, respectively, to this Current Report on Form 8-K and are incorporated herein by reference.

First Data's interim unaudited consolidated financial statements as of June 30, 2019 and for the three and six months ended June 30, 2019 and 2018 are filed as Exhibit 99.4 to this Current Report on Form 8-K and are incorporated herein by reference.

- (b) Pro forma financial information.

The unaudited pro forma condensed combined financial statements of Fiserv and First Data (i) as of and for the six months ended June 30, 2019, including the unaudited pro forma condensed combined consolidated statements of income of Fiserv and First Data for the six months ended June 30, 2019 giving effect to the Merger as if it had occurred on January 1, 2018 and the unaudited pro forma condensed combined consolidated balance sheet data of Fiserv and First Data as of June 30, 2019, which reflects the unaudited pro forma condensed combined consolidated balance sheets of Fiserv and First Data giving effect to the Merger as if it had occurred on June 30, 2019 and (ii) for the year ended December 31, 2018, including the unaudited pro forma condensed combined consolidated statements of income of Fiserv and First Data for the year ended December 31, 2018, which reflects the combined historical consolidated statements of income of Fiserv and First Data giving effect to the Merger as if it had occurred on January 1, 2018, are filed as Exhibit 99.5 to this Current Report on Form 8-K and are incorporated herein by reference.

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
2.1	<a href="#"><u>Agreement and Plan of Merger, dated January 16, 2019, by and among Fiserv, Inc., 300 Holdings, Inc., and First Data Corporation (incorporated by reference to Exhibit 2.1 to the Current Report on Form 8-K of Fiserv, Inc., filed on January 18, 2019)*</u></a>
3.1	<a href="#"><u>Amended and Restated By-laws, dated July 29, 2019.</u></a>
4.1	<a href="#"><u>Amendment No. 1 to Term Loan Credit Agreement, dated as of July 26, 2019</u></a>
4.2	<a href="#"><u>Amendment No. 3 to Revolving Credit Agreement, dated as of July 26, 2019</u></a>
4.3	<a href="#"><u>Shareholder Agreement, dated as of January 16, 2019, by and between Fiserv, Inc. and New Omaha Holdings L.P. (incorporated by reference to Exhibit 4.1 to the current Report on Form 8-K of Fiserv, Inc., filed on January 18, 2019)</u></a>
5.1	<a href="#"><u>Opinion of Lynn S. McCreary, Chief Legal Officer and Secretary of Fiserv, Inc., regarding the validity of the securities to be issued</u></a>
10.1	<a href="#"><u>Employment Agreement, dated January 16, 2019, between Fiserv, Inc. and Frank J. Bisignano</u></a>
10.2	<a href="#"><u>Key Executive Employment and Severance Agreement, January 16, 2019, between Fiserv, Inc. and Frank J. Bisignano</u></a>
23.1	<a href="#"><u>Consent of Lynn S. McCreary (included in Exhibit 5.1)</u></a>
23.2	<a href="#"><u>Consent of Ernst &amp; Young LLP, Independent Registered Public Accounting Firm for First Data Corporation</u></a>
23.3	<a href="#"><u>Consent of KPMG LLP, Independent Registered Public Accounting Firm for Wells Fargo Merchant Services, LLC</u></a>
99.1	<a href="#"><u>Press Release of Fiserv, Inc., dated July 29, 2019</u></a>
99.2	<a href="#"><u>Audited consolidated financial statements of First Data Corporation as of December 31, 2018 and 2017 and for each of the fiscal years ended December 31, 2018, 2017 and 2016 (incorporated by reference to Exhibit 99.1 to the Current Report on Form 8-K of Fiserv, Inc., filed on June 10, 2019)</u></a>
99.3	<a href="#"><u>Audited consolidated financial statements of Wells Fargo Merchant Services, LLC as of December 31, 2018 and 2017 and for each of the fiscal years ended December 31, 2018, 2017 and 2016</u></a>
99.4	<a href="#"><u>Interim unaudited consolidated financial statements of First Data Corporation as of June 30, 2019 and for the three and six months ended June 30, 2019 and 2018.</u></a>
99.5	<a href="#"><u>Unaudited pro forma condensed combined financial statements (a) as of and for the six months ended June 30, 2019 and (b) for the year ended December 31, 2018.</u></a>

\* The schedules and exhibits have been omitted pursuant to Item 601(b)(2) of Regulation S-K. Fiserv agrees to furnish a copy of such schedules and exhibits, or any section thereof, to the SEC upon request.

**SIGNATURE**

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

Date: July 29, 2019

**FISERV, INC.**

By: /s/ Robert W. Hau

Name: Robert W. Hau

Title: Chief Financial Officer and Treasurer



**BY-LAWS**

**OF**

**FISERV, INC.**

**Incorporated under the Laws of the**

**State of Wisconsin**

Adopted as of December 31, 1992; Amended and Restated as of March 25, 1999; Amended as of February 16, 2000; Amended on September 17, 2003; Amended and Restated as of February 18, 2004; Amended and Restated as of May 23, 2007; Amended and Restated as of August 14, 2007; Amended and Restated as of November 28, 2008; Amended and Restated as of February 22, 2012; Amended and Restated as of May 23, 2012; Amended and Restated as of February 19, 2016; Amended and Restated as of July 29, 2019.

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**BY-LAWS**

**OF**

**FISERV, INC.**

ARTICLE I

OFFICES

The registered office of the Corporation in the State of Wisconsin shall be located in the City of Brookfield, County of Waukesha. The Corporation may establish or discontinue, from time to time, such other offices within or without the State of Wisconsin as may be deemed proper for the conduct of the Corporation's business.

ARTICLE II

MEETINGS OF SHAREHOLDERS

Section 1. Place of Meetings. All meetings of shareholders shall be held at such place or places, within or without the State of Wisconsin, as may from time to time be fixed by the Board of Directors, the Chairman of the Board or the Chief Executive Officer, or as shall be specified in the respective notices, or waivers of notice, thereof. Any meeting may be postponed or adjourned pursuant to Section 8 of this Article II to reconvene at any place designated by vote of the Board of Directors or by the Chairman of the Board or the Chief Executive Officer.

Section 2. Annual Meeting. The annual meeting of shareholders (the "Annual Meeting") shall be held on such date and at such time as may be fixed by the Board of Directors, the Chairman of the Board or the Chief Executive Officer. In fixing a meeting date for any Annual Meeting, the Board of Directors, the Chairman of the Board or the Chief Executive Officer may consider such factors as it, he or she deems relevant within the good faith exercise of its, his or her business judgment. At each Annual Meeting, the shareholders shall elect individuals to the Board of Directors in accordance with the Articles of Incorporation and By-Laws of the Corporation. At any such Annual Meeting, only other business properly brought before the Annual Meeting by the Board of Directors or in accordance with Section 5 of this Article II may be transacted.

Section 3. Special Meetings.

(a) A special meeting of the shareholders (a "Special Meeting") may be called only by (i) a majority of the Board of Directors, (ii) the Chairman of the Board or (iii) the Chief Executive Officer. The Board of Directors, the Chairman of the Board or the Chief Executive Officer shall call a Special Meeting upon the demand, in accordance with this Section 3, of the holders of record representing at least 10% of all the votes entitled to be cast on any issue proposed to be considered at the Special Meeting (a "Demand Special Meeting").

(b) To enable the Corporation to determine the shareholders entitled to demand a Demand Special Meeting, the Board of Directors may fix a record date to determine the shareholders entitled to make such a demand (the "Demand Record Date"). The Demand Record Date shall not precede the date on which the Board of Directors adopts the resolution fixing the Demand Record Date and shall not be more than ten days after the date on which the resolution fixing the Demand Record Date is adopted by the Board of Directors. Any shareholder of record entitled to demand a Demand Special Meeting who is seeking to have shareholders demand a Demand Special Meeting shall, by sending written notice to the Secretary at the principal offices of the Corporation, by hand or by certified or registered mail, return receipt requested, request the Board of Directors to fix a Demand Record Date. The Board of Directors shall promptly, but in all events within ten days after the date on which a valid request to fix a Demand Record Date is received and verified, adopt a resolution fixing the Demand Record Date and shall make a public announcement of such Demand Record Date. If no Demand Record Date has been fixed by the Board of Directors within ten days after the date on which such request is received and verified by the Secretary at the principal offices of the Corporation, then the Demand Record Date shall be the tenth day after the first date on which a valid written request to set a Demand Record Date is received and verified by the Secretary at the principal offices of the Corporation. To be valid, such written request shall set forth the purpose or purposes for which the Demand Special Meeting is to be held, shall be signed by one or more shareholders of record and by the beneficial owner or owners, if any, on whose behalf the request is made, shall bear the date of signature of each such shareholder and any such beneficial owner and shall set forth all information, including about each such shareholder and any such beneficial owner, that would be required to be set forth in a shareholder's notice described in Section 5(a)(ii) of this Article II as if the notice related to an Annual Meeting.

(c) For a shareholder or shareholders to demand a Demand Special Meeting, a written demand or demands for a Demand Special Meeting by the holders of record as of the Demand Record Date of shares representing at least 10% of all the votes entitled to be cast on any issue proposed to be considered at the Demand Special Meeting, calculated as if the Demand Record Date were the record date for the Demand Special Meeting, must be delivered to the Secretary at the principal offices of the Corporation. To be valid, each written demand by a shareholder for a Demand Special Meeting (i) shall set forth the specific purpose or purposes for which the Demand Special Meeting is to be held (which purpose or purposes shall be limited to the purpose or purposes set forth in the written request to set a Demand Record Date received by the Corporation pursuant to the foregoing Section 3(b)), (ii) shall be signed by one or more Persons who as of the Demand Record Date are shareholders of record of at least 10% of all the votes entitled to be cast on any issue proposed to be considered at the Demand Special Meeting and by the beneficial owners, if any, on whose behalf the demand is made, (iii) shall bear the date of signature of each such shareholder and any such beneficial owner, (iv) shall set forth the name and address of each such shareholder (as they appear in the Corporation's books) and any such beneficial owner signing such demand and the Share Information (as defined in Section 5(a)(ii) of this Article II) for each such shareholder and any such beneficial owner, (v) shall be sent to the Secretary at the principal offices of the Corporation, by hand or by certified or registered mail, return receipt requested, and (vi) shall be received by the Secretary at the principal offices of the Corporation within seventy days after the Demand Record Date.

(d) The Board of Directors, the Chairman of the Board and the Chief Executive Officer shall not be required to call a Demand Special Meeting unless, in addition to the documents required by the foregoing Section 3(c), the Secretary receives a written agreement, which may require furnishing of a bond, signed by each Soliciting Shareholder (as defined below) pursuant to which each Soliciting Shareholder, jointly and severally, agrees to pay the Corporation's costs of holding the Demand Special Meeting, including the costs of preparing and mailing proxy materials for the Corporation's own solicitation, provided that if each of the resolutions introduced by any Soliciting Shareholder at such meeting is adopted, and each of the individuals nominated by or on behalf of any Soliciting Shareholder for election as a director at such meeting is elected, then the Soliciting Shareholders shall not be required to pay such costs. For purposes of these By-Laws, the following terms shall have the respective meanings set forth below:

(i) "Affiliate" of any Person (as defined herein) shall mean any Person controlling, controlled by or under common control with such first Person.

(ii) "Business Day" shall mean any day other than a Saturday, a Sunday or a day on which banking institutions in the State of Wisconsin are authorized or obligated by law or executive order to close.

(iii) "Participant" shall have the meaning assigned to such term in Rule 14a-12 promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act").

(iv) "Person" shall mean any individual, firm, corporation, partnership, joint venture, association, trust, unincorporated organization or other entity.

(v) "Proxy" shall have the meaning assigned to such term in Rule 14a-1 promulgated under the Exchange Act.

(vi) "Solicitation" shall have the meaning assigned to such term in Rule 14a-1 promulgated under the Exchange Act.

(vii) "Soliciting Shareholder" shall mean, with respect to any Demand Special Meeting, each of the following Persons:

(A) if the number of shareholders signing the demand or demands of meeting delivered to the Secretary at the principal offices of the Corporation pursuant to the foregoing Section 3(c) is ten or fewer, each Person signing any such demand; or

(B) if the number of shareholders signing the demand or demands of meeting delivered to the Corporation pursuant to the foregoing Section 3(c) is more than ten, each Person who either (I) was a Participant in any Solicitation of such

demand or demands or (II) at the time of the delivery to the Secretary at the principal offices of the Corporation of the documents described in the foregoing Section 3(c) had engaged or intends to engage in any Solicitation of Proxies for use at such Demand Special Meeting (other than a Solicitation of Proxies on behalf of the Corporation).

A “Soliciting Shareholder” shall also mean each Affiliate of a Soliciting Shareholder described in clause (A) or (B) above who is a member of such Soliciting Shareholder’s “group” for purposes of Rule 13d-5(b) under the Exchange Act, and any other Affiliate of such a Soliciting Shareholder, if a majority of the directors then in office determines, reasonably and in good faith, that such Affiliate should be required to sign the written notice described in the foregoing Section 3(c) and/or the written agreement described in this Section 3(d) to prevent the purposes of this Section 3 from being evaded.

(e) Except as provided in the following sentence, any Special Meeting shall be held at such date and time as may be designated by whichever of the Board of Directors, the Chairman of the Board or the Chief Executive Officer shall have called such meeting. In the case of any Demand Special Meeting, such meeting shall be held at such date and time as may be designated by whichever of the Board of Directors, the Chairman of the Board or the Chief Executive Officer shall have called such meeting upon a demand in accordance with this Section 3; provided, however, that the date of any Demand Special Meeting shall be not more than seventy days after the Meeting Record Date (as defined in Section 6(a) of this Article II); and provided further that in the event that the directors, Chairman of the Board or the Chief Executive Officer then in office fail(s) to designate a date and time for a Demand Special Meeting within ten days after the date that valid written demands for such meeting by the holders of record as of the Demand Record Date of shares representing at least 10% of all the votes entitled to be cast on any issue proposed to be considered at the Demand Special Meeting, calculated as if the Demand Record Date were the record date for the Demand Special Meeting, are delivered to the Corporation (the “Delivery Date”), then such meeting shall be held at 10:00 A.M., local time, on the 100th day after the Delivery Date or, if such 100th day is not a Business Day, on the first preceding Business Day. In fixing a meeting date for any Special Meeting or Demand Special Meeting, the Board of Directors, the Chairman of the Board or the Chief Executive Officer may consider such factors as it, he or she deems relevant within the good faith exercise of its, his or her business judgment, including, without limitation, the nature of the action proposed to be taken, the facts and circumstances surrounding any demand for such meeting and any plan of the Board of Directors, the Chairman of the Board or the Chief Executive Officer to call an Annual Meeting or Special Meeting for the conduct of related business.

(f) The Corporation may engage regionally or nationally recognized independent inspectors of elections to act as an agent of the Corporation for the purpose of promptly performing a ministerial review of the validity of any purported written demand or demands for a Demand Special Meeting received by the Secretary. For the purpose of permitting the inspectors to perform such review, no purported demand shall be deemed to have been delivered to the Corporation until the earlier of (i) five Business Days following receipt by the Secretary of such purported demand and (ii) such date as the independent inspectors certify to the Corporation that the valid demands received by

the Secretary represent at least 10% of all the votes entitled to be cast on any issue proposed to be considered at the Demand Special Meeting, calculated as if the Demand Record Date were the record date for the Demand Special Meeting. Nothing contained in this Section 3(f) shall in any way be construed to suggest or imply that the Board of Directors, the Chairman of the Board or the Chief Executive Officer or any shareholder shall not be entitled to contest the validity of any demand, whether during or after such five Business Day period, or to take any other action (including, without limitation, the commencement, prosecution or defense of any litigation with respect thereto).

Section 4. Notice of Meetings.

(a) Written notice stating the place, day and time of an Annual Meeting or a Special Meeting shall be delivered not less than ten days nor more than seventy days before the date of the meeting (unless a different date is required by law or the Articles of Incorporation), by or at the direction of the Chairman of the Board or the Secretary, to each shareholder of record entitled to vote at such meeting and to such other Persons as are required by the Wisconsin Business Corporation Law. In the event of any Demand Special Meeting, such notice of meeting shall be sent prior to the later of (i) the two days after the Meeting Record Date for such Demand Special Meeting and (ii) thirty days after the Delivery Date. For purposes of this Section 4, notice by "electronic transmission" (as defined in the Wisconsin Business Corporation Law) is written notice. Written notice pursuant to this Section 4 shall be deemed to be effective (x) when mailed, if mailed postpaid and addressed to the shareholder's address shown in the Corporation's current record of shareholders or (y) when electronically transmitted to the shareholder in a manner authorized by the shareholder.

(b) Except as provided in the following sentence, in the case of any Special Meeting, the notice of meeting shall describe any business that the Board of Directors shall have theretofore determined to bring before the meeting and, if applicable, shall contain the information required in the notice received by the Corporation in accordance with Section 5(b) of this Article II. In the case of a Demand Special Meeting, the notice of meeting (i) shall describe any business set forth in the statement of purpose of the demands received by the Corporation in accordance with Section 3 of this Article II, (ii) if applicable, shall contain all of the information required in the notice received by the Corporation in accordance with Section 5(b) of this Article II and (iii) shall describe any business that the Board of Directors shall have theretofore determined to bring before the Demand Special Meeting. Except as otherwise provided in these By-Laws, in the Articles of Incorporation or in the Wisconsin Business Corporation Law, the notice of an Annual Meeting need not include a description of the purpose or purposes for which the meeting is called.

(c) If any Annual Meeting, Special Meeting or Demand Special Meeting is adjourned to a different date, time or place, then the Corporation shall not be required to give notice of the new date, time or place if the new date, time or place is announced at the meeting before adjournment; provided, however, that if a new Meeting Record Date for an adjourned meeting is or must be fixed, then the Corporation shall give notice of the adjourned meeting to Persons who are shareholders as of the new Meeting Record Date.



Section 5. Notice of Shareholder Business and Nomination of Directors.

(a) Annual Meetings.

(i) Subject to Article IX of these By-Laws, nominations of persons for election to the Board of Directors and the proposal of other business to be considered by the shareholders may be made at an Annual Meeting (A) pursuant to the Corporation's notice of meeting, (B) by or at the direction of the Board of Directors, (C) by any shareholder of the Corporation who (1) is a shareholder of record at the time of giving of notice provided for in this Section 5(a) and until and at the time of the Annual Meeting, (2) is entitled to vote with respect to such nomination or other business at the meeting under the Articles of Incorporation and (3) complies with the notice procedures set forth in this Section 5(a) as to such nomination or other business or (D) with respect to nominations by any shareholder of the Corporation who is eligible under, and complies with the notice procedures set forth in, Section 14 of this Article II. The preceding clauses (C) and (D) shall be the exclusive means for a shareholder to make nominations or submit other business (other than matters properly brought under Rule 14a-8 under the Exchange Act and included in the Corporation's notice of meeting) before an Annual Meeting.

(ii) For nominations or any other business to be properly brought before an Annual Meeting by a shareholder pursuant to the foregoing Section 5(a)(i)(C), the shareholder must have given timely notice thereof in writing to the Secretary and such other business must otherwise be a proper matter for shareholder action. To be timely, a shareholder's notice shall be received by the Secretary at the principal offices of the Corporation not less than forty-five days nor more than seventy days prior to the first annual anniversary of the date set forth in the Corporation's proxy statement for the immediately preceding Annual Meeting as the date on which the Corporation first made available to its shareholders definitive proxy materials for the immediately preceding Annual Meeting (the "Anniversary Date"); provided, however, that if the date for which the Annual Meeting is called is more than thirty days before or more than thirty days after the first annual anniversary of the immediately preceding Annual Meeting, then notice by the shareholder to be timely must be received by the Secretary not earlier than the close of business on the 100th day prior to the date of such Annual Meeting and not later than the later of (A) the 75th day prior to the date of such Annual Meeting or (B) the 10th day following the day on which public announcement of the date of such Annual Meeting is first made. In no event shall any adjournment or postponement of an Annual Meeting or the announcement thereof commence a new time period for the giving of a shareholder notice as described above. Such shareholder's notice (whether given pursuant to this Section 5(a)(ii) or Section 5(b)) to the Secretary shall be signed by the shareholder of record who intends to make the nomination or introduce the other business and by the beneficial owner or owners, if any, on whose behalf the shareholder is acting, shall bear the date of signature of such shareholder and any such beneficial owner and shall set forth: (I) the name and address of such shareholder (as they appear on the Corporation's books) and any such beneficial owner; (II) the Share Information (which Share Information required by this clause (II) shall be supplemented by such shareholder and any such beneficial owner not later than ten days after the Meeting Record Date to

disclose such Share Information as of the Meeting Record Date); (III) a representation that such shareholder is a holder of record of shares of the Corporation entitled to vote under the Articles of Incorporation at such meeting with respect to such nomination or other business and intends to appear in person or by proxy at the meeting to make such nomination or introduce such other business; (IV) any other information relating to such shareholder and any such beneficial owner that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder; (V) in the case of any proposed nomination for election or re-election as a director, (1) the name and residence address of the person or persons to be nominated, (2) a description of all agreements, arrangements or understandings between such shareholder and any such beneficial owner and each nominee and any other Person or Persons (naming such Person or Persons) pursuant to which the nomination is to be made by such shareholder and any such beneficial owner, including without limitation any arrangement or understanding with any Person as to how such nominee, if elected as a director of the Corporation, will act or vote on any issue or question, (3) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among such shareholder and any such beneficial owner and their respective Affiliates and associates, or others acting in concert therewith, on the one hand, and each proposed nominee, and his or her respective Affiliates and associates, or others acting in concert therewith, on the other hand, including, without limitation, all information that would be required to be disclosed pursuant to Rule 404 promulgated under Regulation S-K if the shareholder making the nomination and any beneficial owner on whose behalf the nomination is made, or any Affiliate or associate thereof or Person acting in concert therewith, were the "registrant" for purposes of such rule and the nominee were a director or executive officer of such registrant, (4) such other information regarding each nominee proposed by such shareholder and any such beneficial owner as would be required to be disclosed in solicitations of proxies for contested elections of directors, or would be otherwise required to be disclosed, in each case pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder, and (5) the written consent of each nominee to be named in a proxy statement and to serve as a director of the Corporation if so elected; (VI) in the case of any proposed removal of a director, (1) the names of the directors to be removed and (2) the reasons of such shareholder and any such beneficial owner for asserting that such directors should be removed; and (VII) in the case of any other business that such shareholder and any such beneficial owner propose to bring before the meeting, (1) a brief description of the business desired to be brought before the meeting and, if such business includes a proposal to amend these By-Laws, the language of the proposed amendment, (2) the reasons of such shareholder and any such beneficial owner for conducting such business at the meeting, (3) any material interest in such business of such shareholder and any such beneficial owner and (4) a description of all agreements, arrangements or understandings between such shareholder and any such beneficial owner and any other Person or Persons (naming such Person or Persons) in connection with the proposal of such business by such shareholder. In the case of any proposed nomination for election or

re-election as a director, the Corporation may require any proposed nominee to furnish such other information as may reasonably be required by the Corporation to determine the eligibility of such proposed nominee to serve as an independent director of the Corporation or that could be material to a reasonable shareholder's understanding of the independence, or lack thereof, of such nominee.

For purposes of these By-Laws, the term "Share Information" shall mean (1) the class or series and number of shares of the Corporation that are owned, directly or indirectly, of record and/or beneficially by a shareholder, any beneficial owner on whose behalf the shareholder is acting and any of their respective Affiliates, (2) any option, warrant, convertible security, stock appreciation right or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class or series of shares of the Corporation or with a value derived in whole or in part from the value of any class or series of shares of the Corporation, whether or not such instrument or right shall be subject to settlement in the underlying class or series of capital stock of the Corporation or otherwise (a "Derivative Instrument") directly or indirectly owned beneficially by such shareholder, any such beneficial owner and any of their respective Affiliates, and any other direct or indirect opportunity to profit or share in any profit derived from any increase or decrease in the value of shares of the Corporation, (3) any proxy, contract, arrangement, understanding, or relationship pursuant to which such shareholder has a right to vote any shares of any security of the Corporation, (4) any short interest in any security of the Corporation (for purposes of this By-Law a Person shall be deemed to have a short interest in a security if such Person directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has the opportunity to profit or share in any profit derived from any decrease in the value of the subject security), (5) any rights to dividends on the shares of the Corporation owned beneficially by such shareholder that are separated or separable from the underlying shares of the Corporation, (6) any proportionate interest in shares of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which such shareholder or beneficial owner is a general partner or, directly or indirectly, beneficially owns an interest in a general partner and (7) any performance-related fees (other than asset-based fee) that such shareholder, any such beneficial owner and any of their respective affiliates are entitled to based on any increase or decrease in the value of shares of the Corporation or Derivative Instruments, if any, as of the date of such notice, including without limitation any such interests held by members of such Person's immediate family sharing the same household.

(iii) Notwithstanding anything in the second sentence of the foregoing Section 5(a)(ii) to the contrary, if the number of directors to be elected to the Board of Directors is increased and there is no public announcement naming all of the nominees for director or specifying the size of the increased Board of Directors made by the Corporation at least forty-five days prior to the Anniversary Date, then a shareholder's notice required by this Section 5 shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be received by the Secretary at the principal offices of the Corporation not later than the close of business on the 10th day following the day on which such public announcement is first made by the Corporation.

(b) Special Meetings. Only such business shall be conducted at a Special Meeting as shall have been described in the Corporation's notice of meeting sent to shareholders pursuant to the foregoing Section 4. Nominations of persons for election to the Board of Directors may be made at a Special Meeting at which directors are to be elected pursuant to the Corporation's notice of meeting (i) by or at the direction of the Board of Directors or (ii) provided that the Board of Directors has determined that directors shall be elected at such Special Meeting, by any shareholder of the Corporation who (A) is a shareholder of record at the time of giving of notice provided for in this Section 5(b) and until and at the time of such Special Meeting, (B) is entitled to vote with respect to such nominations at the meeting under the Articles of Incorporation and (C) complies with the notice procedures set forth in this Section 5(b) as to such nomination. In the event the Board of Directors, the Chairman of the Board or the Chief Executive Officer calls a Special Meeting for the purpose of electing one or more directors to the Board of Directors, any shareholder permitted to nominate persons for election to the Board of Directors pursuant to clause (ii) of the preceding sentence who desires to nominate persons for election to such position(s) at such a Special Meeting as specified in the Corporation's notice of meeting shall cause a written notice described in Section 5(a)(ii) of this Article II (as if the nomination related to an Annual Meeting) to be received by the Secretary at the principal offices of the Corporation not earlier than ninety days prior to such Special Meeting and not later than the close of business on the later of (I) the 60th day prior to such Special Meeting and (II) the 10th day following the day on which public announcement is first made of the date of such Special Meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. In no event shall any adjournment or postponement of a Special Meeting or the announcement thereof commence a new time period for the giving of a shareholder's notice as described above.

(c) General.

(i) Subject to Article IX of these By-Laws, only persons who are nominated by the Board of Directors or in accordance with the procedures set forth in this Section 5 or Section 14 of this Article II shall be eligible to be elected as directors at an Annual Meeting or Special Meeting. Only such business shall be conducted at an Annual Meeting or a Special Meeting, other than a Demand Special Meeting, as shall have been brought before such meeting by the Board of Directors or in accordance with the procedures set forth in this Section 5. Only such business shall be conducted at a Demand Special Meeting as shall have been set forth in the statement of purpose of the demands received by the Corporation in accordance with Section 3 of this Article II or as shall have been brought before the Demand Special Meeting as determined by the Board of Directors. The chairman of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made in accordance with the procedures set forth in this Section 5 or Section 14 of this Article II and, if any proposed nomination or business is not in compliance with this Section 5 or Section 14 of this Article II, as the case may be, to declare that such defective proposal shall be disregarded.

(ii) For purposes of this Section 5, “public announcement” shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission (“SEC”) pursuant to Section 13, 14 or 15(d) of the Exchange Act.

(iii) Notwithstanding the foregoing provisions of this Section 5, a shareholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 5. Nothing in this Section 5 shall be deemed to limit the Corporation’s obligation to include shareholder proposals in its proxy statement if such inclusion is required by Rule 14a-8 under the Exchange Act.

Section 6. Fixing of Record Date.

(a) The Board of Directors may fix in advance a date not less than ten days and not more than seventy days prior to the date of an Annual Meeting or Special Meeting as the record date for the determination of shareholders entitled to notice of, or to vote at, such meeting (the “Meeting Record Date”). In the case of any Demand Special Meeting, (i) the Meeting Record Date shall be not later than the 30th day after the Delivery Date and (ii) if the Board of Directors fails to fix the Meeting Record Date within thirty days after the Delivery Date, then the close of business on such 30th day shall be the Meeting Record Date. The shareholders of record on the Meeting Record Date shall be the shareholders entitled to notice of and to vote at the Annual Meeting, Special Meeting or Demand Special Meeting. When a determination of shareholders entitled to notice of or to vote at the Annual Meeting, Special Meeting or Demand Special Meeting has been made as provided in this section, such determination shall be applied to any adjournment thereof unless the Board of Directors fixes a new Meeting Record Date and except as otherwise required by law. A new Meeting Record Date must be set if a meeting is adjourned to a date more than one hundred twenty days after the date fixed for the original meeting.

(b) The Board of Directors may also fix in advance a date as the record date for the purpose of determining shareholders entitled to take any other action or determining shareholders for any other purpose other than those set forth in Section 3(a) of this Article II and the foregoing Section 6(a). Such record date shall not be more than seventy days prior to the date on which the particular action, requiring such determination of shareholders, is to be taken. If the Board of Directors does not fix a record date for the determination of shareholders entitled to receive a share dividend or distribution (other than a distribution involving a purchase, redemption or other acquisition of the Corporation’s shares), then the close of business on the date on which the resolution of the Board of Directors is adopted declaring the dividend or distribution shall be the record date.

(c) In order that the Corporation may determine the shareholders entitled to express consent to corporate action in writing without a meeting, the Board of Directors may fix a record date to determine the shareholders entitled to express consent to

corporate action in writing without a meeting (the "Consent Record Date"). The Consent Record Date shall not precede the date upon which the resolution fixing the Consent Record Date is adopted by the Board of Directors, and such date shall not be more than ten days after the date upon which the resolution fixing the Consent Record Date is adopted by the Board of Directors. Any shareholder or shareholders of record who are seeking to have the shareholders express consent to corporate action in writing without a meeting shall, by sending written notice to the Secretary of the Corporation by hand or by certified registered mail, return receipt requested, request the Board of Directors to fix a Consent Record Date. The Board of Directors shall promptly, but in all events within ten days after the date on which such a valid request is received and verified, adopt a resolution fixing the Consent Record Date and shall make a public announcement of such Consent Record Date. If no Consent Record Date has been fixed by the Board of Directors within ten days after the date on which such a request is received and verified by the Secretary, then the Consent Record Date shall be the 10th day after the first date on which a valid written request to set a Consent Record Date is received and verified by the Secretary. To be valid, such written request shall comply with each of the following:

(i) Such written request shall be signed by one or more shareholders of record and by the beneficial owners or owners, if any, on whose behalf the shareholder or shareholders are acting, shall bear the date of signature of each such shareholder and any such beneficial owner and shall set forth: (A) the name and address, as they appear on this Corporation's books, of each such shareholder and any such beneficial owner who seeks to have the shareholders express consent to corporate action in writing without a meeting; (B) the Share Information; (C) a representation that each such shareholder is a holder of record of shares of the Corporation entitled to vote under the Articles of Incorporation at a meeting of shareholders with respect to each matter for which such shareholder is seeking to have shareholders express consent to corporate action in a writing without a meeting; (D) any other information relating to such shareholder and any such beneficial owner that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder; (E) the manner in which each such shareholder and any such beneficial owner intend to comply with Regulation 14A under the Exchange Act in seeking to have the shareholders express consent to corporate action in writing without a meeting; (F) in the case of any such shareholder and any such beneficial owner seeking to elect or re-elect a director by the shareholders expressing consent to corporate action in writing without a meeting, (1) the name and residence address of the person or persons each such shareholder and any such beneficial owner are seeking to elect or re-elect as a director, (2) a description of all agreements, arrangements or understandings between each such shareholder and any such beneficial owner and each person such shareholder and any such beneficial owner are seeking to elect or re-elect as a director and any other Person or Persons (naming such Person or Persons) pursuant to which such shareholder and any such beneficial owner are seeking to elect or re-elect such person as a director including without limitation any arrangement or understanding with any Person as to how such person, if elected or re-elected as a director of the Corporation, will act or vote on any issue or question, (3) a description of all direct and indirect compensation and other

material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among such shareholder and any such beneficial owner and their respective Affiliates and associates, or others acting in concert therewith, on the one hand, and each person such shareholder and any such beneficial owner are seeking to elect or re-elect as a director, and his or her respective Affiliates and associates, or others acting in concert therewith, on the other hand, including, without limitation, all information that would be required to be disclosed pursuant to Rule 404 promulgated under Regulation S-K if such shareholder and any such beneficial owner, or any Affiliate or associate thereof or Person acting in concert therewith, were the “registrant” for purposes of such rule and the person such shareholder and any such beneficial owner are seeking to elect or re-elect as a director were a director or executive officer of such registrant, (4) such other information regarding each person such shareholder and any such beneficial owner are seeking to elect or re-elect as a director as would be required to be disclosed in solicitations of proxies for contested elections of directors, or would be otherwise required to be disclosed, in each case pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder, and (5) the written consent of each such person to serve as a director of the Corporation if so elected; (G) in the case of any such shareholder and any such beneficial owner seeking to remove a director by the shareholders expressing consent to corporate action in writing without a meeting, (1) the names of the director(s) each such shareholder and any such beneficial owner are seeking to remove and (2) the reasons of each such shareholder and any such beneficial owner for asserting that such director(s) may be removed for cause; and (H) in the case of any such shareholder and any such beneficial owner seeking to authorize or take any other corporate action by the shareholders expressing consent to corporate action in writing without a meeting, (1) a brief description of the corporate action desired to be authorized or taken and, if such corporate action includes an amendment to these By-Laws, the language of the proposed amendment, (2) the reasons of each such shareholder and any such beneficial owner for authorizing or taking such corporate action, (3) any material interest in such corporate action of each such shareholder and any such beneficial owner and (4) a description of all agreements, arrangements or understandings between such shareholder and any such beneficial owner and any other Person or Persons (naming such Person or Persons) in connection with the corporate action desired to be authorized or taken by such shareholder. In the case of any such shareholder and any such beneficial owner seeking to elect or re-elect a director by the shareholders expressing consent to corporate action in writing without a meeting, the Corporation may require any person such shareholder and any such beneficial owner are seeking to elect or re-elect as a director to furnish such other information as may reasonably be required by the Corporation to determine the eligibility of such person to serve as an independent director of the Corporation or that could be material to a reasonable shareholder’s understanding of the independence, or lack thereof, of such person.

(ii) Such written request shall be accompanied by a written agreement, which may require furnishing of a bond, signed by each Consent Soliciting Shareholder (as defined below) pursuant to which each Consent Soliciting Shareholder, jointly and severally, agrees to pay the Corporation’s costs relating to such Consent Soliciting Shareholder seeking to have the shareholders express consent to corporate action in

writing without a meeting, including the costs of preparing and mailing proxy materials for the Corporation's own solicitation, provided that if the Consent Soliciting Shareholder obtains the requisite number of shares subject to valid and unrevoked Consents (as defined in Section 11(b) of this Article II) to express the corporate action referred to therein in accordance with these By-Laws, then the Consent Soliciting Shareholders shall not be required to pay such costs. For purposes of these By-Laws, "Consent Soliciting Shareholder" shall mean each of the following Persons: (A) if the number of shareholders signing the Consent or Consents is ten or fewer, each Person signing any such Consents; or (B) if the number of shareholders signing the Consent or Consents is more than ten, each Person who either (1) was a Participant in any Solicitation of such consent or consents or (2) at the time of the delivery to the Corporation of the documents described in this Section 6(c) had engaged or intends to engage in any Solicitation of Consents and/or Proxies for expressing consent to corporate action in writing without a meeting (other than a Solicitation of Consents and/or Proxies on behalf of the Corporation).

A "Consent Soliciting Shareholder" shall also mean each Affiliate of a Consent Soliciting Shareholder described in clause (A) or (B) above who is a member of such Consent Soliciting Shareholder's "group" for purposes of Rule 13d-5(b) under the Exchange Act, and any other Affiliate of such a Consent Soliciting Shareholder, if a majority of the directors then in office determine, reasonably and in good faith, that such Affiliate should be required to sign the written notice described in the foregoing Section 6(c)(i) and/or the written agreements described in this Section 6(c)(ii) and the following Section 6(c)(iii) to prevent the purposes of this Section 6(c) and Section 11 of this Article II from being evaded.

(iii) Such written request shall be accompanied by a written agreement signed by each Consent Soliciting Shareholder pursuant to which each Consent Soliciting Shareholder agrees to deliver to any inspectors of election engaged by the Corporation pursuant to Section 11(d) of this Article II within two Business Days after receipt all Consents and revocations thereof received by such Consent Soliciting Shareholder or such Consent Soliciting Shareholder's proxy solicitor or other designated agent in connection with such Consent Soliciting Shareholder seeking to have the shareholders express written consent to corporate action without a meeting.

Section 7. List of Shareholders. It shall be the duty of the Secretary or other officer of the Corporation who shall have charge of the stock ledger to prepare and make, at least ten days before every meeting of the shareholders, a complete list of the shareholders entitled to vote thereat, arranged in alphabetical order, and showing the address of each shareholder and the number of shares registered in such shareholder's name. Such list shall be open to the examination of any shareholder, for any purpose germane to the meeting, during ordinary business hours, for a period beginning two Business Days after notice of the meeting is given for which the list was prepared and continuing to the date of the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting or, if not so specified, at the place where the meeting is to be held. The list shall be kept and produced at the time and place of the meeting during the whole time thereof and subject to the inspection of any shareholders who may be present. The original or duplicate ledger shall be the only evidence as to who are the shareholders entitled to examine such list or the books of the Corporation or to vote in person or by proxy at such meeting.



Section 8. Quorum; Postponement; Adjournments.

(a) Shares entitled to vote as a separate voting group may take action on a matter at a meeting only if a quorum of those shares exists with respect to that matter. Except as otherwise provided in the Articles of Incorporation, these By-Laws or in the Wisconsin Business Corporation Law, a majority of the votes entitled to be cast on a matter by the voting group shall constitute a quorum of that voting group for action on that matter. Once a share is represented for any purpose at a meeting, other than for the purpose of objecting to holding the meeting or transacting business at the meeting, it is considered present for purposes of determining whether a quorum exists for the remainder of the meeting and for any adjournment of the meeting unless a new Meeting Record Date is or must be set for the adjourned meeting.

(b) The Board of Directors acting by resolution may postpone and reschedule any previously scheduled meeting; provided, however, that a Demand Special Meeting shall not be postponed beyond the 100th day following the Delivery Date. Any meeting may be adjourned from time to time, whether or not there is a quorum, (i) at any time, upon a resolution by shareholders if the votes cast in favor of such resolution by the holders of shares of each voting group entitled to vote on any matter theretofore properly brought before the meeting exceed the number of votes cast against such resolution by the holders of shares of each such voting group or (ii) at any time prior to the transaction of any business at such meeting, by the Chairman of the Board or Chief Executive Officer or pursuant to a resolution of the Board of Directors; provided, however, that a Demand Special Meeting adjourned pursuant to clause (ii) must be reconvened on or before the 100th day following the Delivery Date. No notice of the time and place of adjourned meetings need be given except as required by the Wisconsin Business Corporation Law. At any adjourned meeting at which a quorum shall be present or represented, any business may be transacted that might have been transacted at the meeting as originally noticed.

Section 9. Voting. Every shareholder of record who is entitled to vote shall at every meeting of the shareholders be entitled to one vote for each share of stock held on the record date; except, however, that shares of its own stock belonging to the Corporation or to another corporation, if a majority of the shares entitled to vote in the election of directors of such other corporation is held by the Corporation, shall neither be entitled to vote nor counted for quorum purposes. Nothing in this Section shall be construed as limiting the right of the Corporation to vote its own stock held by it in a fiduciary capacity. If a quorum exists, then action on a matter, other than the election of directors, by a voting group is approved if the votes cast within the voting group favoring the action exceed the votes cast opposing the action, unless the Articles of Incorporation, these By-Laws or the Wisconsin Business Corporation Law requires a greater number of affirmative votes. Each director shall be elected as provided in Section 2 of Article III. Unless demanded by a shareholder of the Corporation present in person or by proxy at any meeting of the shareholders and entitled to vote thereat or so directed by the

chairman of the meeting or required by law, the vote thereat on any question need not be by written ballot. On a vote by written ballot, each ballot shall be signed by the shareholder voting, or in such shareholder's name by such shareholder's proxy, if there be such proxy, and shall state the number of shares voted and the number of votes to which each share is entitled.

Section 10. Proxies. At any meeting, a shareholder entitled to vote may vote in person or by proxy. A shareholder entitled to vote at any meeting, or to express consent or dissent in writing to any corporate action without a meeting, may authorize another Person to act for the shareholder by appointing the Person as a proxy. The means by which a shareholder or the shareholder's authorized officer, director, employee, agent or attorney-in-fact may authorize another Person to act for the shareholder by appointing the Person as proxy include:

(a) Appointment of a proxy in writing by signing or causing the shareholder's signature to be affixed to an appointment form by any reasonable means, including, without limitation, by facsimile signature.

(b) Appointment of a proxy by transmitting or authorizing the transmission of an electronic transmission of the appointment to the Person who will be appointed as proxy or to a proxy solicitation firm, proxy support service organization or like agent authorized to receive the transmission by the Person who will be appointed as proxy. Every electronic transmission shall contain, or be accompanied by, information that can be used to reasonably determine that the shareholder transmitted or authorized the transmission of the electronic transmission. Any Person charged with determining whether a shareholder transmitted or authorized the transmission of the electronic transmission shall specify the information upon which the determination is made.

An appointment of a proxy is effective when a signed appointment form or an electronic transmission of the appointment is received by the inspector of election or the officer or agent of the Corporation authorized to tabulate votes. Unless the appointment form or electronic transmission states that the proxy is irrevocable and the appointment is coupled with an interest, a proxy may be revoked at any time before it is voted, either by written notice filed with the Secretary or the secretary of the meeting or by oral notice given by the shareholder to the presiding officer during the meeting. The presence of a shareholder who has made an effective proxy appointment shall not of itself constitute a revocation. A proxy appointment is valid for eleven months unless a different period is expressly provided in the appointment. The Board of Directors, the Chairman of the Board and the Chief Executive Officer each shall have the power and authority to make rules as to the validity and sufficiency of proxies.

Section 11. Action without a Meeting.

(a) Any action required to be taken at any Annual Meeting or Special Meeting or any action which may be taken at any Annual Meeting or Special Meeting may be taken without a meeting, without prior notice and without a vote, if a consent in writing setting forth the action so taken shall be signed by the holders of outstanding stock

having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those shareholders who have not consented in writing.

(b) To be valid, each expression of consent to corporate action in writing (a "Consent") shall be in writing; shall set forth the specific corporate action to be taken (which corporate action or actions shall be limited to the action or actions set forth in the written request to set a Consent Record Date received by the Corporation pursuant to Section 6(c) of this Article II); shall be signed by one or more Persons who as of the Consent Record Date are shareholders of record (or their duly authorized proxies); shall bear the date of signature of each such shareholder (or their duly authorized proxies); shall set forth the name and address, as they appear in the Corporation's books, of each shareholder signing such Consent and the class and number of shares of the Corporation that are owned of record by each such shareholder; in the case of a Person who is not a shareholder of record, shall be accompanied by a proxy or proxies evidencing each such Person's appointment as a proxy for the applicable shareholder of record; and shall be sent to the inspectors of elections engaged by the Corporation pursuant to the following Section 11(d) in accordance with the provisions of the following Section 11(e). Without limiting the foregoing, no Consent shall be valid unless, within seventy days after the applicable Consent Record Date fixed pursuant to Section 6(c) of this Article II, Consents representing the requisite number of shares subject to valid and unrevoked Consents to express such corporate action are delivered to the Corporation pursuant to this Section 11; provided, however, that if the Corporation or a Consent Soliciting Shareholder (whichever is soliciting Consents) has requested a Preliminary Consent Report that is pending on such 70th day pursuant to the following Section 11(f), then such Consents shall be valid if Consents representing the requisite number of shares subject to valid and unrevoked Consents to express such corporate action are delivered to the Corporation pursuant to this Section 11 at such time as such inspectors issue the Final Consent Report relating to the pending Preliminary Consent Report pursuant to the following Section 11(g) or Section 11(h). The Board of Directors, the Chairman of the Board or the Chief Executive Officer shall have the power and authority to make rules that are not inconsistent with the Wisconsin Business Corporation Law as to the validity of Consents and revocations thereof.

(c) Consents may be revoked at any time prior to the earlier of (i) such time as the inspectors of elections issue a Final Consent Report pursuant to the following Section 11(g) or Section 11(h) or (ii) seventy days after the applicable Consent Record Date fixed pursuant to Section 6(c) of this Article II by written notice delivered to (A) the Secretary, (B) any Consent Soliciting Shareholder, (C) to a proxy solicitor or other agent designated by the Corporation or any Consent Soliciting Shareholder and/or (D) the inspectors of elections engaged by the Corporation pursuant to the following Section 11(d).

(d) Within three Business Days after a Consent Record Date fixed pursuant to Section 6(c) of this Article II, the Corporation shall (i) engage regionally or nationally

recognized independent inspectors of elections to act as agent of the Corporation for the purpose of promptly performing a ministerial review of the validity of Consents and revocations thereof and (ii) provide notice to each Consent Soliciting Shareholder of the identity of such inspectors and the manner in which such Consent Soliciting Shareholder may deliver Consents and revocations thereof to such inspectors pursuant to the following Section 11(e). Except as provided in Section 6(c)(ii) of this Article II, the cost of retaining inspectors of election shall be borne by the Corporation.

(e) The Corporation, the Consent Soliciting Shareholders and their respective proxy solicitors or other designated agents shall deliver Consents and revocations thereof to the inspectors within two Business Days after receipt. As soon as the inspectors receive Consents and/or revocations thereof, the inspectors shall review the Consents and revocations thereof and shall maintain a count of the number of shares subject to valid and unrevoked Consents. The inspectors shall keep such count confidential and shall not reveal the count to any Person; provided, however, that, as soon as practicable after a written request therefor by the Corporation or a Consent Soliciting Shareholder, the inspectors shall issue a report (a "Consent Report") to the Corporation and the Consent Soliciting Shareholders stating: (i) the number of shares subject to valid Consents; (ii) the number of shares subject to valid revocations of Consents; (iii) the number of shares subject to valid and unrevoked Consents; (iv) the number of shares subject to invalid Consents; (v) the number of shares subject to invalid revocations of Consents; (vi) whether, based on their count, the requisite number of shares subject to valid and unrevoked Consents has been obtained to express the corporate action specified in the Consents; and (vii) the latest date the inspectors received Consents and revocations thereof that the inspectors reflected in such report (the "Report Date").

(f) As soon as practicable after a written request therefor by the Corporation or a Consent Soliciting Shareholder (whichever is soliciting Consents), notice of which request shall be given to the Corporation and any parties opposing the solicitation of Consents, if any, which request shall state that the Corporation or the Consent Soliciting Shareholders, as the case may be, have a good faith belief that the requisite number of shares subject to valid and unrevoked Consents to express the corporate action specified in the Consents has been received in accordance with the Articles of Incorporation and these By-Laws, the inspectors shall issue and deliver to the Corporation and the Consent Soliciting Shareholders a preliminary Consent Report (the "Preliminary Consent Report"); provided, however, that neither the Corporation nor the Consent Soliciting Shareholders may request a Preliminary Consent Report after the 70th day after the applicable Consent Record Date fixed pursuant to Section 6(c) of this Article II. Unless the Corporation and the Consent Soliciting Shareholders shall agree to a shorter or longer period, the Corporation and the Consent Soliciting Shareholders shall have two Business Days after receipt of the Preliminary Consent Report to review the Consents and revocations thereof and to advise the inspectors and the opposing parties in writing as to whether they intend to challenge the Preliminary Consent Report.

(g) If no written notice of an intention to challenge a Preliminary Consent Report is received within two Business Days after receipt of the Preliminary Consent Report by the Corporation and the Consent Soliciting Shareholders and either (i) the date

that is two Business Days after such receipt of such Preliminary Consent Report (the “Cut-Off Date”) is more than seventy days after the applicable Consent Record Date fixed pursuant to Section 6(c) of this Article II or (ii) the Cut-Off Date is not more than seventy days after the applicable Consent Record Date fixed pursuant to Section 6(c) of this Article II and the requisite number of shares subject to valid and unrevoked Consents to express the corporate action specified in the Consents was obtained, then the inspectors shall as promptly as practicable issue to the Corporation and the Consent Soliciting Shareholders their final Consent Report (a “Final Consent Report”), which shall contain the information included in the Preliminary Consent Report, plus all changes in the vote totals as a result of Consents and revocations thereof received after the Preliminary Consent Report Report Date to the time of issuance of the Final Consent Report, if such Consents and revocations thereof are received within seventy days after the applicable Consent Record Date fixed pursuant to Section 6(c) of this Article II, and a certification as to whether the requisite number of shares subject to valid and unrevoked Consents to express the corporate action specified in the Consents was obtained. If the Cut-Off Date is not more than seventy days after the applicable Consent Record Date fixed pursuant to Section 6(c) of this Article II and the requisite number or shares subject to valid and unrevoked Consents to express the corporate action specified in the Consents was not obtained, then the inspectors shall as promptly as practicable issue a Consent Report to the Corporation and the Consent Soliciting Shareholders and a certification that the requisite number of shares subject to valid and unrevoked Consents to express the corporate action specified in the Consents was not obtained, and the Corporation or the Consent Soliciting Shareholders (whichever is soliciting Consents) shall have the right to request again a Preliminary Consent Report in accordance with the provisions of the foregoing Section 11(f).

(h) If the Corporation or the Consent Soliciting Shareholders issue written notice to the inspectors and the Corporation or the Consent Soliciting Shareholders, as the case may be, of an intention to challenge a Preliminary Consent Report within two Business Days after receipt of the Preliminary Consent Report by the Corporation and the Consent Soliciting Shareholders, then a challenge session shall be scheduled by the inspectors as promptly as practicable, at which the Corporation and the Consent Soliciting Shareholders shall have the right to object to the validity of Consents and revocations thereof. A transcript of the challenge session shall be recorded by a certified court reporter. Following completion of the challenge session, if either (i) the date on which the challenge session is completed (the “Completion Date”) is more than seventy days after the applicable Consent Record Date fixed pursuant to Section 6(c) of this Article II or (ii) the Completion Date is not more than seventy days after the applicable Consent Record Date fixed pursuant to Section 6(c) of this Article II and the requisite number of shares subject to valid and unrevoked Consents to express the corporate action specified in the Consents was obtained, then the inspectors shall as promptly as practicable issue to the Corporation and the Consent Soliciting Shareholders a Final Consent Report, which shall contain the information included in the Preliminary Consent Report, plus all changes in the vote totals as a result of the challenge and, if such Consents and revocations thereof are received within seventy days after the applicable Consent Record Date fixed pursuant to Section 6(c) of this Article II, Consents and revocations thereof received after the Preliminary Consent Report Report Date to the time

of issuance of the Final Report, and a certification as to whether the requisite number of shares subject to valid and unrevoked Consents to express the corporate action specified in the Consents was obtained. If the Completion Date is not more than seventy days after the applicable Consent Record Date fixed pursuant to Section 6(c) of this Article II and the requisite number of shares subject to valid and unrevoked Consents to express the corporate action specified in the Consents was not obtained, then the inspectors shall as promptly as practicable issue a Consent Report to the Corporation and the Consent Soliciting Shareholders and a certification that the requisite number of shares subject to valid and unrevoked Consents to express the corporate action specified in the Consents was not obtained, and the Corporation or the Consent Soliciting Shareholders (whichever is soliciting Consents) shall have the right to request again a Preliminary Consent Report in accordance with the provisions of the foregoing Section 11(f).

(i) Simultaneously with the delivery of any Final Consent Report to the Corporation pursuant to the foregoing Section 11(g) or Section 11(h), the inspectors shall deliver all valid and unrevoked Consents to the Corporation, which shall constitute delivery of such Consents to the Corporation for purposes of Section 180.0704 of the Wisconsin Business Corporation Law and the Articles of Incorporation. A copy of any Final Consent Report shall be included in the book in which the proceedings of meetings of shareholders are recorded.

(j) As to any Consent, if, prior to the issuance of a Final Consent Report and delivery of Consents to the Corporation, all Consent Soliciting Shareholders notify the Corporation and the inspectors in writing that such Consent Soliciting Shareholders no longer desire to express consent to the corporate actions specified in the Consents, then the Consents shall be deemed abandoned, and the inspectors shall not issue a Final Consent Report or deliver such Consents to the Corporation.

Section 12. Acceptance of Instruments Showing Shareholder Action. If the name signed on a vote, consent, waiver or proxy appointment corresponds to the name of a shareholder, the Corporation, acting in good faith, may accept the vote, consent, waiver or proxy appointment and give it effect as the act of a shareholder. If the name signed on a vote, consent, waiver or proxy appointment does not correspond to the name of a shareholder, the Corporation, acting in good faith, may accept the vote, consent, waiver or proxy appointment and give it effect as the act of the shareholder if any of the following apply:

(a) The shareholder is an entity and the name signed purports to be that of an officer or agent of the entity.

(b) The name purports to be that of a personal representative, administrator, executor, guardian or conservator representing the shareholder and, if the Corporation requests, evidence of fiduciary status acceptable to the Corporation is presented with respect to the vote, consent, waiver or proxy appointment.

(c) The name signed purports to be that of a receiver or trustee in bankruptcy of the shareholder and, if the Corporation requests, evidence of this status acceptable to the Corporation is presented with respect to the vote, consent, waiver or proxy appointment.

(d) The name signed purports to be that of a pledgee, beneficial owner, or attorney-in-fact of the shareholder and, if the Corporation requests, evidence acceptable to the Corporation of the signatory's authority to sign for the shareholder is presented with respect to the vote, consent, waiver or proxy appointment.

(e) Two or more persons are the shareholders as co-tenants or fiduciaries and the name signed purports to be the name of at least one of the co-owners and the person signing appears to be acting on behalf of all co-owners.

The Corporation may reject a vote, consent, waiver or proxy appointment if the Secretary or other officer or agent of the Corporation who is authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the shareholder.

Section 13. Conduct of Meetings. The Chairman of the Board or, in the Chairman of the Board's absence, the Lead Director, or in the Lead Director's absence, the Chief Executive Officer, or in the Chief Executive Officer's absence, any other officer, shall call any Annual Meeting, Special Meeting or Demand Special Meeting to order and shall act as chairman of the meeting, and the Secretary shall act as secretary of all meetings of the shareholders, but, in the absence of the Secretary, the presiding officer may appoint any other person to act as secretary of the meeting. The Board of Directors may, to the extent not prohibited by law, adopt by resolution such rules and regulations for the conduct of a meeting as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the Board of Directors, the chairman of the meeting shall have the right and authority to prescribe such rules, regulations or procedures and to do such acts as, in the judgment of the chairman of the meeting, are appropriate for the proper conduct of a meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the chairman of the meeting, may to the extent not prohibited by law include, without limitation, the following: (a) the establishment of an agenda or order of business for the meeting; (b) rules and procedures for maintaining order at the meeting and the safety of those present; (c) limitations on attendance at or participation in the meeting to shareholders of record of the Corporation, their duly authorized and constituted proxies (which shall be reasonable in number) or such other persons as the chairman of the meeting shall determine; (d) restrictions on entry to the meeting after the time fixed for the commencement thereof; (e) limitations on the time allotted to questions or comments by participants; (f) rules and procedures regarding the execution of election ballots before or after the time fixed for the commencement of the meeting; (g) the appointment of an inspector of election or an officer or agent of the Corporation authorized to tabulate votes; and (h) rules and procedures to facilitate the conduct of, and participation in, the meeting by electronic means.

Section 14. Shareholder Nominations Included in the Corporation's Proxy Materials.

(a) Inclusion of Nominee in Proxy Statement. Subject to the provisions of this Section 14, if expressly requested in the relevant Nomination Notice (as defined below), the Corporation shall include in its proxy statement for any Annual Meeting:

(i) the name of any person nominated for election (the "Nominee") to the Board of Directors, which shall also be included on the Corporation's form of proxy and ballot for the relevant Annual Meeting, by any Eligible Holder (as defined below) or group of up to 20 Eligible Holders that has (individually and collectively, in the case of a group) satisfied, as determined by the Board of Directors or its designee, acting in good faith, all applicable conditions and complied with all applicable procedures set forth in this Section 14 (such Eligible Holder or group of Eligible Holders being a "Nominating Shareholder");

(ii) disclosure about the Nominee and the Nominating Shareholder required under SEC rules or any other applicable law, rule or regulation to be included in the proxy statement; and

(iii) any statement included by the Nominating Shareholder in the Nomination Notice for inclusion in the proxy statement in support of the Nominee's election to the Board of Directors (subject, without limitation, to Section 14(e)(ii)), if such statement does not exceed 500 words.

Notwithstanding anything herein to the contrary, the Corporation may solicit shareholders against any Nominee and include in its proxy statement for any Annual Meeting any other information that the Corporation or the Board of Directors determines, in their discretion, to include in the proxy statement relating to the nomination of the Nominee, including without limitation any statement in opposition to the nomination and any of the information provided pursuant to this Section 14.

(b) Maximum Number of Nominees.

(i) The Corporation shall not be required to include in the proxy statement for an Annual Meeting more Nominees than that number of directors constituting 20% of the total number of directors of the Corporation on the last day on which a Nomination Notice may be submitted pursuant to Section 14(d) (the "Final Nomination Date"), rounded down to the nearest whole number, but not less than two (the "Maximum Number"). The Maximum Number for a particular Annual Meeting shall be reduced by (A) Nominees nominated by a Nominating Shareholder for that Annual Meeting whose nomination is subsequently withdrawn after the Nominating Shareholder is notified by the Corporation that the Nominees will be included in the Corporation's proxy statement and proxy card for the Annual Meeting, (B) Nominees nominated by a Nominating Shareholder for such Annual Meeting pursuant to this Section 14 that the Board of Directors itself decides to nominate for election at such Annual Meeting and (C) the number of directors in office as of the Final Nomination Date who had been



Nominees nominated by a Nominating Shareholder with respect to any of the preceding two Annual Meetings (including any Nominee who had been counted at any such Annual Meeting pursuant to the immediately preceding clause (B)) and whose reelection at the upcoming Annual Meeting is being recommended by the Board of Directors. If one or more vacancies for any reason occurs on the Board of Directors after the Final Nomination Date but before the date of the Annual Meeting and the Board of Directors resolves to reduce the size of the Board of Directors in connection with the occurrence of the vacancy or vacancies, then the Maximum Number shall be calculated based on the number of directors in office as so reduced.

(ii) Any Nominating Holder submitting more than one Nominee pursuant to this Section 14 for an Annual Meeting shall rank such Nominees based on the order in which the Nominating Holder desires such Nominees to be selected for inclusion in the Corporation's proxy statement for such Annual Meeting if the number of Nominees pursuant to this Section 14 exceeds the Maximum Number. If the number of Nominees pursuant to this Section 14 for any Annual Meeting exceeds the Maximum Number, then the highest ranking Nominee who meets the requirements of this Section 14 from each Nominating Holder will be selected for inclusion in the Corporation's proxy statement until the Maximum Number is reached, going in order of the amount (largest to smallest) of the shares of common stock of the Corporation disclosed as owned in each Nominating Shareholder's Nomination Notice.

(iii) If, after the Final Nomination Date, (A) the Corporation is notified, or the Board of Directors or its designee, acting in good faith, determines that (1) a Nominating Shareholder has failed to satisfy or to continue to satisfy the eligibility requirements described in Section 14(c), (2) any of the representations and warranties made in the Nomination Notice cease to be true and accurate in all material respects (or omit a material fact necessary to make the statements therein not misleading) or (3) any material violation or breach occurs of the obligations, agreements, representations or warranties of the Nominating Shareholder or the Nominee under this Section 14, (B) a Nominating Shareholder or any qualified representative thereof does not appear at the Annual Meeting to present any nomination submitted pursuant to this Section 14, or the Nominating Shareholder withdraws its nomination, or (C) a Nominee becomes ineligible for inclusion in the Corporation's proxy statement pursuant to this Section 14 or dies, becomes disabled or is otherwise disqualified from being nominated for election or serving as a director of the Corporation or is unwilling or unable to serve as a director of the Corporation, in each case as determined by the Board of Directors or its designee, acting in good faith, whether before or after the Corporation's definitive proxy statement for such Annual Meeting is made available to shareholders, then the nomination of the Nominating Shareholder or such Nominee, as the case may be, shall be disregarded and no vote on such Nominee will occur (notwithstanding that proxies in respect of such vote may have been received by the Corporation), the Nominating Shareholder may not cure in any way any defect preventing the nomination of the Nominee, and the Corporation (1) may omit from its proxy statement and any ballot or form of proxy the disregarded Nominee and any information concerning such Nominee (including a Nominating Shareholder's statement in support) or any successor or replacement nominee proposed by the Nominating Shareholder or by any other Nominating Shareholder and (2) may

otherwise communicate to its shareholders, including without limitation by amending or supplementing its proxy statement or ballot or form of proxy, that the Nominee will not be included as a Nominee in the proxy statement or on any ballot or form of proxy and will not be voted on at the Annual Meeting.

(c) Eligibility of Nominating Shareholder.

(i) An “Eligible Holder” is a person who has either (A) been a record holder of the shares of the Corporation’s common stock used to satisfy the eligibility requirements in this Section 14(c) continuously for the three-year period specified in Section 14(c)(ii) or (B) provides to the Secretary of the Corporation, within the time period referred to in Section 14(d), evidence of continuous ownership of such shares for such three-year period from one or more securities intermediaries in a form and in substance that the Board of Directors or its designee, acting in good faith, determines would be deemed acceptable for purposes of a shareholder proposal under Rule 14a-8(b)(2) under the Exchange Act (or any successor rule).

(ii) An Eligible Holder or group of up to 20 Eligible Holders may submit a nomination in accordance with this Section 14 only if the person or group (in the aggregate) has continuously owned at least the Minimum Number (as defined below) of shares of the Corporation’s common stock throughout the three-year period preceding and including the date of submission of the Nomination Notice and continues to own at least the Minimum Number through the date of the Annual Meeting. A group of funds under common management and investment control shall be treated as one Eligible Holder for purposes of such limitation if such Eligible Holder shall provide together with the Nomination Notice documentation reasonably satisfactory to the Corporation that demonstrates that the funds are under common management and investment control. For the avoidance of doubt, in the event of a nomination by a group of Eligible Holders, any and all requirements and obligations applicable to an individual Eligible Holder that are set forth in this Section 14, including the minimum holding period, shall apply to each member of such group; provided, however, that the Minimum Number shall apply to the ownership of the group in the aggregate, and a breach of any obligation, agreement, representation or warranty under this Section 14 by any member of a group shall be deemed a breach by the Nominating Shareholder. If any shareholder withdraws from a group of Eligible Holders at any time prior to the Annual Meeting, then the group of Eligible Shareholders shall only be deemed to own the shares held by the remaining members of the group and if, as a result of such withdrawal, the Nominating Shareholder no longer owns the Minimum Number of shares of the Corporation’s common stock, then the nomination shall be disregarded as provided in Section 14(b)(iii).

(iii) The “Minimum Number” of shares of the Corporation’s common stock means 3% of the number of outstanding shares of the Corporation’s common stock as of the most recent date for which such amount is given in any filing by the Corporation with the SEC prior to the submission of the Nomination Notice.

(iv) For purposes of this Section 14, an Eligible Holder “owns” only those outstanding shares of common stock of the Corporation as to which the Eligible Holder possesses both:

- (A) the full voting and investment rights pertaining to such shares; and
- (B) the full economic interest in (including the opportunity for profit and risk of loss on) such shares;

provided that the number of shares calculated in accordance with clauses (A) and (B) shall not include any shares (1) sold by such Eligible Holder or any of its affiliates in any transaction that has not been settled or closed, (2) borrowed by such Eligible Holder or any of its affiliates for any purpose or purchased by such Eligible Holder or any of its affiliates pursuant to an agreement to resell or (3) subject to any option, warrant, forward contract, swap, contract of sale, other derivative or similar instrument or agreement entered into by such Eligible Holder or any of its affiliates, whether any such instrument or agreement is to be settled with shares or with cash based on the notional amount or value of outstanding shares of common stock of the Corporation, in any such case which instrument or agreement has, or is intended to have, the purpose or effect of (x) reducing in any manner, to any extent or at any time in the future, such Eligible Holder’s or any of its affiliates’ full right to vote or direct the voting of any such shares and/or (y) hedging, offsetting, or altering to any degree gain or loss arising from maintaining the full economic ownership of such shares by such Eligible Holder or any of its affiliates. An Eligible Holder “owns” shares held in the name of a nominee or other intermediary so long as the Eligible Holder retains the right to instruct how the shares are voted with respect to the election of directors and possesses the full economic interest in the shares. An Eligible Holder’s ownership of shares shall be deemed to continue during any period in which the Eligible Holder has delegated any voting power by means of a proxy, power of attorney or other similar instrument or arrangement that is revocable at any time by the Eligible Holder. An Eligible Holder’s ownership of shares shall be deemed to continue during any period in which the Eligible Holder has loaned such shares provided that the Eligible Holder has the power to recall such loaned shares on five business days’ notice, recalls such loaned shares upon being notified by the Corporation that any of the Eligible Holder’s Nominees will be included in the Corporation’s proxy statement and proxy card for the Annual Meeting (subject to the provisions of this Section 14) and holds such shares through the date of the Annual Meeting. The terms “owned,” “owning,” “ownership” and other variations of the word “own” shall have correlative meanings. Whether outstanding shares of the Corporation are “owned” for these purposes shall be determined by the Board. For purposes of this Section 14, the term “affiliate” or “affiliates” shall have the meaning ascribed thereto under the General Rules and Regulations under the Exchange Act.

(v) No person shall be permitted to be in more than one group constituting a Nominating Shareholder, and if any person appears as a member of more than one group, then it shall be deemed to be a member of the group that has the largest amount of shares of common stock of the Corporation disclosed as owned in the Nomination Notice.

(d) **Nomination Notice.** To nominate a Nominee for purposes of this Section 14, the Nominating Shareholder must have given timely notice thereof in writing to the Secretary. To be timely, a Nominating Shareholder's notice shall be received by the Secretary at the principal offices of the Corporation not less than 120 days nor more than 150 days prior to the first annual anniversary of the date set forth in the Corporation's proxy statement for the immediately preceding Annual Meeting as the date on which the Corporation first made available to its shareholders definitive proxy materials for the immediately preceding Annual Meeting; provided, however, that if the date for which the Annual Meeting is called is more than 30 days before or more than 30 days after the first annual anniversary of the immediately preceding Annual Meeting, then notice by the Nominating Shareholder to be timely must be received by the Secretary by the later of the close of business on the date that is 180 days prior to the date of such Annual Meeting or the tenth day following the day on which public announcement of such Annual Meeting is first made. In no event shall any adjournment or postponement of any Annual Meeting or the announcement thereof commence a new time period for the giving of a Nomination Notice. To be in proper form, a Nominating Shareholder's notice to the Secretary for purposes of this Section 14 shall include all of the following information and documents (collectively, the "Nomination Notice"):

(i) A Schedule 14N (or any successor form) relating to the Nominee, completed and filed with the SEC by the Nominating Shareholder as applicable, in accordance with SEC rules;

(ii) A written notice of the nomination of such Nominee that includes the following additional information, agreements, representations and warranties by the Nominating Shareholder (including each group member):

(A) the information and representations that would be required to be set forth in a shareholder's notice of a nomination for the election of directors pursuant to Section 5(a)(ii) of this Article II;

(B) the details of any relationship that existed within the past three years and that would have been described pursuant to Item 6(e) of Schedule 14N (or any successor item) if it existed on the date of submission of the Schedule 14N;

(C) a representation and warranty that the shares of common stock of the Corporation owned by the Nominating Shareholder were acquired in the ordinary course of business and not with the intent or objective to influence or change control of the Corporation and are not being held with the purpose or effect of changing control of the Corporation or to gain a number of seats on the Board of Directors that exceeds the maximum number of nominees that shareholders may nominate pursuant to this Section 14;

(D) a representation and warranty that the Nominating Shareholder satisfies the eligibility requirements set forth in Section 14(c) and has provided evidence of ownership to the extent required by Section 14(c)(i);

(E) a representation and warranty that the Nominating Shareholder will continue to satisfy the eligibility requirements described in Section 14(c) through the date of the Annual Meeting;

(F) a representation and warranty that the Nominating Shareholder has not nominated and will not nominate for election to the Board of Directors at the Annual Meeting any person other than the Nominees it is nominating pursuant to this Section 14;

(G) a representation and warranty as to the Nominating Shareholder's intentions with respect to continuing to own the Minimum Number of shares of common stock of the Corporation for at least one year following the Annual Meeting;

(H) a representation and warranty that the Nominating Shareholder will not engage in, and will not be a "participant" in another person's, "solicitation" within the meaning of Rule 14a-1(l) under the Exchange Act (without reference to the exception in Rule 14a-1(l)(2)(iv)) (or any successor rules) with respect to the Annual Meeting, other than with respect to its Nominees or any nominees of the Board of Directors;

(I) a representation and warranty that the Nominating Shareholder will not use any proxy card other than the Corporation's proxy card in soliciting shareholders in connection with the election of a Nominee at the Annual Meeting;

(J) a representation and warranty that the Nominee's nomination for election to the Board of Directors or, if elected, Board membership would not violate applicable state or federal law or the rules of any stock exchange on which the Corporation's securities are traded;

(K) a representation and warranty that the Nominee (1) qualifies as independent under the rules of any stock exchange on which the Corporation's securities are traded, (2) meets the audit committee and compensation committee independence requirements under the rules of any stock exchange on which the Corporation's securities are traded, (3) is a "non-employee director" for the purposes of Rule 16b-3 under the Exchange Act (or any successor rule), (4) is an "outside director" for the purposes of Section 162(m) of the Internal Revenue Code (or any successor provision), (5) meets the director qualifications set forth in Section 4 of Article III, and (6) is not and has not been subject to any event specified in Rule 506(d)(1) of Regulation D (or any successor rule) under the Securities Act of 1933 or Item 401(f) of Regulation S-K (or any successor rule) under the Exchange Act, without reference to whether the event is material to an evaluation of the ability or integrity of the Nominee;

(L) details of any position of the Nominee as an employee, consultant, agent or director of any Competitor of the Corporation within the three years preceding the submission of the Nomination Notice;

(1) "Competitor" means an individual, business or any other entity or enterprise engaged or having publicly announced its intent to engage in the sale or marketing of any Competing Product or Service.

(2) "Competing Product or Service" means any product or service that is sold in competition with, or is being developed and that will compete with, a product or service developed, manufactured, or sold by the Corporation.

(M) if desired, a statement for inclusion in the proxy statement in support of the Nominee's election to the Board of Directors, provided that such statement shall not exceed 500 words and shall fully comply with Section 14 of the Exchange Act and the rules and regulations thereunder, including Rule 14a-9; and

(N) in the case of a nomination by a group, the designation by all group members of one group member for purposes of receiving communications, notices and inquiries from the Corporation and that is authorized to act on behalf of all group members with respect to matters relating to the nomination, including withdrawal of the nomination.

(iii) An executed agreement, in a form deemed satisfactory by the Board of Directors or its designee, acting in good faith, pursuant to which the Nominating Shareholder (including each group member) agrees:

(A) to comply with all applicable laws, rules and regulations in connection with the nomination, solicitation and election;

(B) to file any written solicitation or other written communication with the Corporation's shareholders relating to one or more of the Corporation's directors or director nominees or any Nominee with the SEC, regardless of whether any such filing is required under rule or regulation or whether any exemption from filing is available for such materials under any rule or regulation;

(C) to assume all liability (jointly and severally by all group members in the case of a nomination by a group) stemming from any action, suit or proceeding concerning any actual or alleged legal or regulatory violation arising out of any communication by the Nominating Shareholder, its affiliates and associates or their respective agents and representatives with the Corporation, its shareholders or any other person in connection with the nomination or election of directors, including without limitation the Nomination Notice, or out of the facts, statements or other information that the Nominating Shareholder or its Nominees provided to the Corporation in connection with the inclusion of such Nominees in the Corporation's proxy statement;

(D) to indemnify and hold harmless (jointly with all other group members, in the case of a group member) the Corporation and each of its directors,

officers and employees individually against any liability, loss, damages, expenses or other costs (including attorneys' fees) incurred in connection with any threatened or pending action, suit or proceeding, whether legal, administrative or investigative, against the Corporation or any of its directors, officers or employees arising out of or relating to any nomination submitted by the Nominating Shareholder pursuant to this Section 14 or a failure or alleged failure of the Nominating Shareholder to comply with, or any breach or alleged breach of, its obligations, agreements or representations under this Section 14; and

(E) in the event that any information included in the Nomination Notice, or any other communication by the Nominating Shareholder (including with respect to any group member) with the Corporation, its shareholders or any other person in connection with the nomination or election ceases to be true and accurate in all material respects or omits a material fact necessary to make the statements made not misleading or that the Nominating Shareholder (including any group member) has failed to continue to satisfy the eligibility requirements described in Section 14(c), to promptly (and in any event within 48 hours of discovering such misstatement, omission or failure) notify the Corporation and any other recipient of such communication of the misstatement or omission in such previously provided information and of the information that is required to correct the misstatement or omission and/or notify the Corporation of the failure to continue to satisfy the eligibility requirements described in Section 14(c), as the case may be.

(iv) An executed agreement, in a form deemed satisfactory by the Board of Directors or its designee, acting in good faith, by the Nominee:

(A) to make such other acknowledgments, enter into such agreements and provide such other information as the Board of Directors requires of all directors, including promptly completing the Corporation's director questionnaire;

(B) that the Nominee has read and agrees, if elected as a director of the Corporation, to sign and adhere to the Corporation's corporate governance guidelines and codes of ethics and any other Corporation policies and guidelines applicable to directors; and

(C) that the Nominee is not and will not become a party to (1) any compensatory, payment, reimbursement, indemnification or other financial agreement, arrangement or understanding with any person or entity in connection with service or action as a director of the Corporation that has not been disclosed to the Corporation, (2) any agreement, arrangement or understanding with any person or entity as to how the Nominee would vote or act on any issue or question as a director (a "Voting Commitment") that has not been disclosed to the Corporation or (3) any Voting Commitment that could limit or interfere with the Nominee's ability to comply, if elected as a director of the Corporation, with his or her fiduciary duties under applicable law.

The information and documents required by this Section 14(d) shall be (i) provided with respect to and executed by each group member in the case of information

applicable to group members and (ii) provided with respect to the persons specified in Instruction 1 to Items 6(c) and (d) of Schedule 14N (or any successor item) in the case of a Nominating Shareholder or group member that is an entity. The Nomination Notice shall be deemed submitted on the date on which all the information and documents referred to in this Section 14(d) (other than such information and documents contemplated to be provided after the date the Nomination Notice is provided) have been delivered to or, if sent by mail, received by the Secretary of the Corporation.

(e) Exceptions.

(i) Notwithstanding anything to the contrary contained in this Section 14, the Corporation may omit from its proxy statement and any ballot or form of proxy any Nominee and any information concerning such Nominee (including a Nominating Shareholder's statement in support), and no vote on such Nominee will occur (notwithstanding that proxies in respect of such vote may have been received by the corporation), and the Nominating Shareholder may not, after the Final Nomination Date, cure in any way any defect preventing the nomination of the Nominee, if:

(A) the Corporation receives a notice pursuant to Section 5(a) that a shareholder intends to nominate a person for election to the Board of Directors at the Annual Meeting;

(B) the Board of Directors or its designee, acting in good faith, determines that such Nominee's nomination or election to the Board of Directors would result in the corporation violating or failing to be in compliance with these By-Laws, the Corporation's Articles of Incorporation or any applicable law, rule or regulation to which the Corporation is subject, including any rules or regulations of any stock exchange on which the corporation's securities are traded;

(C) the Nominee was nominated for election to the Board of Directors pursuant to this Section 14 at one of the Corporation's two preceding Annual Meetings and either (i) withdrew or became ineligible or unavailable for election at any such Annual Meeting or (ii) received a vote of less than 25% of the shares of common stock of the Corporation entitled to vote for such Nominee; or

(D) the Nominee has been, within the past three years, an officer or director of a competitor, as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914, as amended.

(ii) Notwithstanding anything to the contrary contained in this Section 14, the Corporation may omit from its proxy statement, or may supplement or correct, any information, including all or any portion of the statement in support of the Nominee included in the Nomination Notice, if the Board of Directors or its designee, acting in good faith, determines that:

(A) such information is not true in all material respects or omits a material statement necessary to make the statements made not misleading;



(B) such information directly or indirectly impugns character, integrity or personal reputation of, or directly or indirectly makes charges concerning improper, illegal or immoral conduct or associations, without factual foundation, with respect to, any person; or

(C) the inclusion of such information in the proxy statement would otherwise violate SEC rules or any other applicable law, rule or regulation.

### ARTICLE III

#### BOARD OF DIRECTORS

Section 1. Powers. The business and affairs of the Corporation shall be managed under the direction of the Board of Directors.

Section 2. Election and Term.

(a) The Board of Directors shall be elected for terms as set forth in the Articles of Incorporation of the Corporation. Acceptance of the office of Director may be expressed orally or in writing, and attendance at a meeting shall constitute such acceptance.

(b) Except as provided in this Section 2, each Director shall be elected by the majority of the votes cast with respect to that Director's election at any meeting of shareholders for the election of Directors at which a quorum is present and the election is not a Contested Election. For purposes of this Section 2, a majority of votes cast shall mean that the number of votes cast "for" a Director's election exceeds the number of votes cast "withheld" with respect to that Director's election. Abstentions will not be counted as votes cast with respect to that Director's election. If at the close of the notice periods set forth in Sections 5 and 14 of Article II or upon the Corporation's receipt of demands sufficient to require the calling of a Demand Special Meeting under Section 3(c) of Article II, the Chairman of the Board determines that the number of persons properly nominated to serve as Directors of the Corporation exceeds the number of Directors to be elected (a "Contested Election"), each Director shall be elected by a plurality of the votes cast with respect to that Director's election at the meeting at which a quorum is present regardless of whether a Contested Election shall continue to exist as of the date of such meeting.

(c) In an election of Directors that is not a Contested Election, any nominee who was an incumbent Director whose term would otherwise have expired at the time of the election if a successor had been elected who receives a number of votes cast "for" his or her election less than the number of votes cast "withheld" with respect to his or her election (a "Majority Against Vote") will promptly tender his or her resignation to the Chairman of the Board following certification of the shareholder vote. The Nominating and Corporate Governance Committee of the Board of Directors will promptly consider the resignation submitted by such director, and the Nominating and Corporate Governance Committee will make a recommendation to the Board of Directors as to

whether to accept the tendered resignation or to reject it, subject to Article IX of these By-Laws. In considering whether to accept or reject the tendered resignation, the Nominating and Corporate Governance Committee will consider all factors deemed relevant by the members of the Nominating and Corporate Governance Committee, including, without limitation, the stated reasons why shareholders “withheld” votes for election from such Director, the length of service and qualifications of the Director whose resignation has been tendered and the Director’s contributions to the Corporation. Subject to Article IX of these By-Laws, the Board of Directors will act on the Nominating and Corporate Governance Committee’s recommendation no later than 90 days following the date of the meeting of shareholders at which the election occurred. In considering the Nominating and Corporate Governance Committee’s recommendation, the Board of Directors will consider the factors considered by the Nominating and Corporate Governance Committee and such additional information and factors the Board of Directors believes to be relevant. Following the Board of Directors’ decision, the Corporation will promptly publicly disclose in a Form 8-K filed with the SEC the Board of Directors’ decision whether to accept the resignation as tendered, including a full explanation of the process by which the decision was reached and, if applicable, the reasons for rejecting the tendered resignation. Any Director who tenders a resignation pursuant to this provision will not participate in the Nominating and Corporate Governance Committee recommendation or Board of Directors consideration regarding whether or not to accept the tendered resignation. If a majority of the members of the Nominating and Corporate Governance Committee received Majority Against Votes at the same election, then the independent Directors who are on the Board of Directors who did not receive Majority Against Votes or who were not standing for election will appoint a committee of the Board of Directors among themselves for the purpose of considering the tendered resignations and will recommend to the Board of Directors whether to accept or reject them. Subject to Article IX of these By-Laws, this committee of the Board of Directors may, but need not, consist of all of the independent Directors who did not receive Majority Against Votes or who were not standing for election.

(d) Subject to Article IX of these By-Laws, if a Director’s resignation is accepted by the Board of Directors pursuant to this Section 2, or if a nominee for Director is not elected and the nominee is not an incumbent Director whose term would otherwise have expired at the time of the election if a successor had been elected, then the Board of Directors may fill the resulting vacancy pursuant to the provisions of Section 12 of Article III of these By-Laws or may decrease the size of the Board of Directors pursuant to the provisions of Section 3 of Article III of these By-Laws.

Section 3. Number. Subject to Article IX of these By-Laws, the number of Directors shall be such number as shall be determined from time to time by the Board of Directors but shall not be less than three nor more than eleven.

Section 4. Tenure and Qualifications. Each Director shall hold office until the next annual meeting of shareholders and until his or her successor shall have been elected, or until his or her prior death, resignation or removal for cause only. A Director may be removed from office for cause only by the shareholders at an annual meeting or a special meeting of shareholders called for that purpose if the number of votes cast to

remove such Director exceeds the number of votes cast not to remove such Director, and any vacancy so created may be filled by the shareholders by the affirmative vote of a majority of the votes cast with respect to filling such vacancy, subject to Article IX of these By-Laws. Directors need not be residents of the State of Wisconsin or shareholders of the Corporation.

Section 5. Nominations for Election to the Board of Directors. Subject to Article IX of these By-Laws nominations for elections to the Board of Directors may be made by the Board of Directors or by any shareholder of any outstanding class of capital stock of the Corporation entitled to vote for election of Directors at a meeting of shareholders in accordance with Sections 5 or 14 of Article II.

Section 6. Chairman of the Board. The Chairman of the Board of Directors, if one be elected, shall preside, if present, at all meetings of the shareholders and the Board of Directors, and shall have and perform such other duties as from time to time may be assigned by the Board of Directors. The Chairman may use the title Chairman or Chairman of the Board interchangeably.

Section 7. Quorum and Manner of Acting. Unless otherwise provided by law, the presence of fifty-one percent (51%) of the whole Board of Directors shall be necessary to constitute a quorum for the transaction of business. In the absence of a quorum, a majority of the Directors present may adjourn the meeting from time to time until a quorum shall be present. Notice of any adjourned meeting need not be given. At all meetings of Directors, a quorum being present, all matters shall be decided by the affirmative vote of the majority of the Directors present, except as otherwise required by law or as otherwise provided in Article IX of these By-Laws. The Board of Directors may hold its meetings at such place or places within or without the State of Wisconsin as the Board of Directors may from time to time determine or as shall be specified in the respective notices, or waivers of notice, thereof.

Section 8. Organization Meeting. Immediately after each annual meeting of shareholders for the election of Directors the Board of Directors shall meet at the place of the annual meeting of shareholders for the purpose of organization, the election of officers and the transaction of other business. Notice of such meeting need not be given. If such meeting is held at any other time or place, notice thereof must be given as hereinafter provided for special meetings of the Board of Directors, subject to a waiver of such notice, in the manner set forth in Section 180.0823 of the Wisconsin Business Corporation Law, by all Directors who may not have received such notice.

Section 9. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place, within or without the State of Wisconsin, as shall from time to time be determined by the Board of Directors. After there has been such determination, and notice thereof has been once given to each member of the Board of Directors as hereinafter provided for special meetings, regular meetings may be held without further notice being given.

Section 10. Special Meetings; Notice. Special meetings of the Board of Directors shall be held whenever called by the Chairman of the Board, the Chief Executive Officer, or by a majority of the Directors. Notice of each such meeting shall be mailed to each Director, addressed to him or her at his or her residence or usual place of business, at least five days before the date on which the meeting is to be held, or shall be sent to him or her at such place by telegraph, cable, radio or wireless, or be delivered personally or by telephone, not later than the day before the day on which such meeting is to be held. Each such notice shall state the time and place of the meeting and, as may be required, the purposes thereof. Notice of any meeting of the Board of Directors need not be given to any Director if he or she shall sign a written waiver thereof either before or after the time stated therein for such meeting, or if he or she shall be present at the meeting. Unless limited by law, the Articles of Incorporation, these By-Laws or the terms of the notice thereof, any and all business may be transacted at any meeting without the notice thereof having specifically identified the matters to be acted upon.

Section 11. Resignations. Any Director of the Corporation may resign at any time by giving written notice to the Chairman of the Board, the Chief Executive Officer or the Secretary of the Corporation. The resignation of any Director shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 12. Vacancies. Subject to Article IX of these By-Laws, any newly created directorships and vacancies occurring in the Board by reason of death, resignation, retirement or disqualification may be filled by (a) a majority of the Directors then in office or (b) the action of the holders of record of the majority of the issued and outstanding stock of the Corporation (i) present in person or by proxy at a meeting of holders of such stock and entitled to vote thereon or (ii) by a consent in writing in the manner contemplated in Section 11 of Article II. The Director so chosen, whether selected to fill a vacancy or elected to a new directorship, shall hold office until the next meeting of shareholders at which the election of directors is in the regular order of business, and until his or her successor has been elected and qualified, or until he or she sooner dies, resigns or is removed.

Section 13. Committees. Subject to Article IX of these By-Laws, there may be an Executive Committee. Subject to Article IX of these By-Laws, there shall be an Audit Committee composed of independent directors. Subject to Article IX of these By-Laws, there shall be a Compensation Committee composed of independent directors. Subject to Article IX of these By-Laws, the Board of Directors by resolution adopted by the affirmative vote of a majority of the number of directors then in office may create one or more additional committees. Subject to Article IX of these By-Laws, each committee shall have two or more members who shall, unless otherwise provided by the Board of Directors, serve at the pleasure of the Board of Directors. Except as otherwise provided by law or Article IX of these By-Laws, each committee, to the extent provided in the resolution of the Board of Directors, shall have and may exercise such power and authority as the Board of Directors shall specify.

Section 14. Compensation of Directors. Directors, as such, shall not receive any stated salary for their services, but, by resolution of the Board, a specific sum fixed by the Board plus expenses may be allowed for attendance at each regular or special meeting of the Board; provided, however, that nothing herein contained shall be construed to preclude any Director from serving the Corporation or any parent or subsidiary corporation thereof in any other capacity and receiving compensation therefor.

Section 15. Action without a Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if a written consent thereto is signed by all members of the Board, and such written consent is filed with the minutes or proceedings of the Board.

Section 16. Telephonic Participation in Meetings. Members of the Board of Directors may participate in a meeting of the Board by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation shall constitute presence in persons at such meeting.

Section 17. Lead Director. In the absence of a Chairman of the Board who is independent, the Board of Directors shall appoint an independent director to serve as Lead Director. The Lead Director, if one be elected, shall, in the absence or non-election of the Chairman of the Board of Directors, if present thereat, preside at all meetings of the shareholders and at all meetings of the Board of Directors, and shall chair meetings of the independent directors, facilitate meetings between members of the Board and the Chief Executive Officer and Chairman, and assume such other duties which the independent directors as a whole may designate from time to time.

## ARTICLE IV

### OFFICERS

Section 1. Principal Officers. The Board of Directors shall elect a Chief Executive Officer, a President, a Secretary and a Treasurer, and may in addition elect a Chairman of the Board, one or more Vice Presidents and such other officers as it deems fit; the Chief Executive Officer, the President, the Secretary, the Treasurer, the Chairman of the Board, if any, and the Vice Presidents, if any, being the principal officers of the Corporation. One person may hold, and perform the duties of, any two or more of said offices.

Section 2. Election and Term of Office. The principal officers of the Corporation shall be elected annually by the Board of Directors at the organization meeting thereof. Each such officer shall hold office until his or her successor shall have been elected and shall qualify, or until his or her earlier death, resignation or removal.

Section 3. Other Officers. In addition, the Board may elect, or the Chairman of the Board, if any, or the Chief Executive Officer may appoint, such other officers as they deem fit. Any such other officers so chosen shall be subordinate officers and shall

hold office for such period, have such authority and perform such duties as the Board of Directors, the Chairman of the Board, if any, or the Chief Executive Officer may from time to time determine.

Section 4. Removal. Any officer may be removed, either with or without cause, at any time, by resolution adopted by the Board of Directors at any regular meeting of the Board, or at any special meeting of the Board called for that purpose, at which a quorum is present.

Section 5. Resignations. Any officer may resign at any time by giving written notice to the Chairman of the Board, if any, the Chief Executive Officer, the Secretary or the Board of Directors. Any such resignation shall take effect upon receipt of such notice or at any later time specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled for the unexpired portion of the term in the manner prescribed in these By-Laws for election or appointment to such office for such term.

Section 7. Chief Executive Officer. The Chief Executive Officer shall have the general powers and duties of supervision and management usually vested in the office of Chief Executive Officer of a corporation. In the absence or non-election of the Chairman of the Board of Directors and the Lead Director, the Chief Executive Officer shall, if present thereat, preside at all meetings of the shareholders and at all meetings of the Board of Directors. Except as the Board of Directors shall authorize the execution thereof in some other manner, he or she shall execute bonds, mortgages, and other contracts on behalf of the Corporation, and shall cause the seal to be affixed to any instrument requiring it and when so affixed the seal shall be attested by the signature of the Secretary or the Treasurer.

Section 8. President. The President shall have the general powers and duties of supervision and management assigned by the Board of Directors and the Chief Executive Officer.

Section 9. Vice President. Each Vice President shall have such powers and shall perform such duties as shall be assigned by the Chief Executive Officer.

Section 10. Treasurer. The Treasurer shall have charge and custody of, and be responsible for, all funds and securities of the Corporation. He or she shall exhibit at all reasonable times his or her books of account and records to any of the Directors of the Corporation upon application during business hours at the office of the Corporation where such books and records shall be kept; when requested by the Board of Directors, he or she shall render a statement of the condition of the finances of the Corporation at any meeting of the Board or at the annual meeting of shareholders; he or she shall receive, and give receipt for, moneys due and payable to the Corporation from any source whatsoever; in general, he or she shall perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the Chairman of

the Board of Directors, the Chief Executive Officer or the Board of Directors. The Treasurer shall give such bond, if any, for the faithful discharge of his or her duties as the Board of Directors may require.

Section 11. Secretary. The Secretary, if present, shall act as secretary at all meetings of the Board of Directors and of the shareholders and keep the minutes thereof in a book or books to be provide for that purpose; he or she shall see that all notices required to be given by the Corporation are duly given and served; he or she shall have charge of the stock records of the Corporation; he or she shall see that all reports, statements and other documents required by law are properly kept and filed; and in general he or she shall perform all the duties incident to the office of Secretary and such other duties as from time to time may be assigned by the Chairman of the Board of Directors, the Chief Executive Officer or the Board of Directors.

Section 12. Salaries. The salaries of the principal officers shall be fixed from time to time by the Board of Directors, and the salaries of any other officers may be fixed by the Chairman of the Board of Directors or, if no Chairman of the Board shall have been elected, the Chief Executive Officer.

## ARTICLE V

### INDEMNIFICATION

The Corporation shall to the fullest extent permitted or required by the Wisconsin Business Corporation Law, including any amendments thereto (but in the case of any such amendment, only to the extent such amendment permits or requires the Corporation to provide broader indemnification rights than prior to such amendment), indemnify its Directors and officers against any and all liabilities, and advance any and all reasonable expenses, incurred thereby in any proceedings to which any such Director or officer is a Party because he or she is or was a Director or officer of the Corporation. The Corporation shall also indemnify an employee who is not a Director or officer to the same extent as provided by the Corporation to its Directors and officers. The rights to indemnification granted hereunder shall not be deemed exclusive of any other rights to indemnification against liabilities or the advancement of expenses which a Director, officer or employee may be entitled to under any written agreement, Board of Directors resolution, vote of shareholders, the Wisconsin Business Corporation Law or otherwise. All capitalized terms used in this Article V and not otherwise defined shall have the meaning set forth in Section 180.0850 of the Wisconsin Business Corporation Law.

## ARTICLE VI

### SHARES AND THEIR TRANSFER

Section 1. Certificates for Stock. The Board of Directors hereby authorizes the issuance of any class or series of shares of the Corporation without certificates to the full extent that the Secretary determines that such issuance is allowed by applicable law and the rules of the securities exchange upon which the Corporation's shares are traded.

Any such determination shall be conclusively evidenced by the Secretary delivering to the Corporation's transfer agent and registrar written instructions that refer to this By-Law to issue any such shares without certificates. In any event, the foregoing authorization does not affect shares already represented by certificates until the certificates are surrendered to the Corporation. No book entry or certificate shall be made or issued for partly paid shares.

Section 2. Stock Certificate Signature. Any certificate for such stock shall be numbered in the order in which it is issued and shall be signed by the Chairman of the Board or the Chief Executive Officer and the Secretary or Treasurer of the Corporation and its seal shall be affixed thereto. If such certificate is countersigned (1) by a transfer agent other than the Corporation or its employee, or (2) by a registrar other than the Corporation or its employee, the signatures of such officers of the Corporation may be facsimiles. In case any officer of the Corporation who has signed, or whose facsimile signature has been placed upon, any such certificate shall have ceased to be such officer before such certificate is issued, it may be issued by the Corporation with the same effect as if he or she were such officer at the date of issue.

Section 3. Stock Ledger. A record shall be kept by the Secretary or by any other officer, employee or agent designated by the Board of Directors of the name of each Person holding capital stock of the Corporation, the number of shares represented by, and the respective dates of, each certificate or book entry for such capital stock, and, in case of cancellation of any such certificate or book entry, the respective dates of cancellation.

Section 4. Cancellation. Every certificate surrendered to the Corporation for exchange or registration of transfer shall be cancelled, and no new certificate shall be issued or book entry made in exchange for any existing certificate until such existing certificate shall have been so cancelled, except, subject to Section 7 of this Article VI, in cases provided for by applicable law.

Section 5. Registrations of Transfers of Stock. Registrations of transfers of shares of the capital stock of the Corporation shall be made on the books of the Corporation by the registered holder thereof, or by such holder's attorney thereunto authorized by power of attorney duly executed and filed with the Secretary of the Corporation or with a transfer clerk or a transfer agent appointed as in Section 6 of this Article VI, on surrender of the certificate or certificates for such shares properly endorsed or, in the case of shares issued in book entry form, upon written transfer instructions delivered by the registered holder thereof, and the payment of all taxes thereon. The Person in whose name shares of stock stand on the books of the Corporation shall be deemed the owner thereof for all purposes as regards the Corporation.

Section 6. Regulations. The Board of Directors may make such rules and regulations as it may deem expedient, not inconsistent with the Articles of Incorporation or these By-Laws, concerning the issue, transfer and registration of shares of the stock of the Corporation. It may appoint, or authorize any principal officer or officers to appoint, one or more transfer clerks or one or more transfer agents and one or more registrars, and may require certificates of stock, if any, to bear the signature or signatures of any of them.



Section 7. Lost, Stolen, Destroyed or Mutilated Certificates. Before any book entry is made or, if applicable, any certificate is issued for stock of the Corporation in exchange for a certificate that has been mutilated or lost, stolen or destroyed, proper evidence of such loss, theft, mutilation or destruction shall be procured for the Board of Directors, if it so requires.

Section 8. Record Dates. For the purpose of determining the shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a date as a record date for any such determination of shareholders. Such record date shall not be more than sixty or less than ten days before the date of such meeting, or more than sixty days prior to any other action.

## ARTICLE VII

### MISCELLANEOUS PROVISIONS

Section 1. Corporate Seal. The Board of Directors shall provide a corporate seal, which shall be in the form of a circle and shall bear the name of the Corporation and words and figures showing that it was incorporated in the State of Wisconsin in the year 1992. The Secretary shall be the custodian of the seal. The Board of Directors may authorize a duplicate seal to be kept and used by any other officer.

Section 2. Voting of Stocks Owned by the Corporation. The Board of Directors may authorize any Person on behalf of the Corporation to attend, vote and grant proxies to be used at any meeting of shareholders of any corporation (except the Corporation) in which the Corporation may hold stock.

Section 3. Dividends. Subject to the provisions of the Wisconsin Business Corporation Law and the Articles of Incorporation, the Board of Directors may, out of funds legally available therefor, at any regular or special meeting declare dividends upon the capital stock of the Corporation as and when they deem expedient. Before declaring any dividend there may be set apart out of any funds of the Corporation available for dividends such sum or sums as the Directors from time to time in their discretion deem proper for working capital or as a reserve fund to meet contingencies or for equalizing dividends or for such other purposes as the Board of Directors shall deem conducive to the interests of the Corporation.

ARTICLE VIII

AMENDMENTS

Except as otherwise provided in Article IX of these By-Laws, these By-Laws of the Corporation may be altered, amended or repealed (a) by the Board of Directors at any regular or special meeting of the Board of Directors or (b) by the shareholders at a meeting of shareholders or by a consent in writing in the manner contemplated in Section 11 of Article II if the votes cast favoring the proposed alteration, amendment or repeal exceed the votes cast opposing the proposed alteration, amendment or repeal, provided, however, that notice of the proposed alteration, amendment or repeal is contained in the notice of such meeting. By-Laws, whether made or altered by the shareholders or by the Board of Directors, shall be subject to alteration or repeal by the shareholders as in this Article VIII.

ARTICLE IX

GOVERNANCE MATTERS

Section 1. Definitions. The following definitions shall apply to Article IX of these By-Laws:

- (a) "Closing Date" has the meaning specified in the Merger Agreement.
- (b) "Continuing First Data Directors" shall mean the directors of First Data as of the Effective Time who were nominated to be directors of the Corporation by First Data prior to the Effective Time and additional directors of the Corporation who take office after the Effective Time who are nominated by a majority of the Continuing First Data Directors Committee pursuant to Section 2(c) of this Article IX.
- (c) "Continuing First Data Directors Committee" shall mean the committee of the Board of Directors established by Section 2(c) of this Article IX.
- (d) "Continuing Fiserv Directors" shall mean the Directors of the Corporation as of the Effective Time who were nominated to be Directors by the Corporation prior to the Effective Time and additional Directors of the Corporation who take office after the Effective Time who are nominated by a majority of the Continuing Fiserv Directors Committee pursuant to Section 2(b) of this Article IX.
- (e) "Continuing Fiserv Directors Committee" shall mean the committee of the Board of Directors established by Section 2(b) of this Article IX.
- (f) "Effective Time" has the meaning specified in the Merger Agreement.
- (g) "entire Board of Directors" means the total number of Directors which the Corporation would have if there were no vacancies.

- (h) "First Data" means First Data Corporation, a Delaware corporation.
- (i) "Fiserv" means the Corporation.
- (j) "Lead Director" has the meaning set forth in Section 17 of Article III of these By-Laws.
- (k) "Merger" has the meaning specified in the Merger Agreement.
- (l) "Merger Agreement" means the Agreement and Plan of Merger, dated as of January 16, 2019, by and among the Corporation, 300 Holdings, Inc. and First Data (as the same may be amended, restated, supplemented or otherwise modified from time to time).
- (m) "Shareholder Agreement" means the Shareholder Agreement, dated as of January 16, 2019, by and between the Corporation and the Sponsor (as the same may be amended, restated, supplemented or otherwise modified from time to time).
- (n) "Specified Period" shall mean the period beginning on the Closing Date and ending immediately following the conclusion of the second Annual Meeting (including any postponement or adjournment thereof) following the Closing Date.
- (o) "Sponsor" shall mean New Omaha Holdings L.P.

Section 2. Composition of the Board of Directors.

(a) Beginning at the Effective Time and ending at the end of the Specified Period, the Board of Directors shall be comprised of 10 Directors, of which six shall be Continuing Fiserv Directors (one of whom shall be the Chief Executive Officer of Fiserv, if he or she is then a member of the Board of Directors, and the remainder of whom shall consist of Directors who are not officers of the Corporation) and four shall be Continuing First Data Directors (one of whom shall be the President of the Corporation, if he or she is then a member of the Board of Directors, and the remainder of whom shall consist of Directors who are not officers of the Corporation, including one Director nominated by the Sponsor to the extent they are so entitled in accordance with the Shareholder Agreement). During the Specified Period, all vacancies on the Board of Directors created by the cessation of service of a Continuing Fiserv Director shall be filled by a nominee selected by the Continuing Fiserv Directors Committee and all vacancies on the Board of Directors created by the cessation of service of a Continuing First Data Director be filled by a nominee selected by the Continuing First Data Directors Committee, subject to the Shareholder Agreement. During the Specified Period, the Continuing Fiserv Directors Committee shall have the exclusive authority to nominate, on behalf of the Board of Directors, Directors for election at each Annual Meeting, or at any Special Meeting at which Directors are to be elected, to fill each seat previously held by a Continuing Fiserv Director. During the Specified Period, the Continuing First Data Directors Committee shall have the exclusive authority to nominate, on behalf of the Board of Directors, Directors for election at each Annual Meeting, or at any Special Meeting at which Directors are to be elected, to fill each seat previously held by a Continuing First Data Director, in each case, subject to the Shareholder Agreement.

(b) The Board of Directors shall constitute a Continuing Fiserv Directors Committee, which shall be comprised of all the Continuing Fiserv Directors. The Continuing Fiserv Directors Committee shall have all the power and may exercise all the authority of the Board of Directors to (i) fill all vacancies on the Board of Directors created by the cessation of service of a Continuing Fiserv Director and (ii) to nominate Directors for election at each Annual Meeting, or at any Special Meeting at which Directors are to be elected, to fill each seat previously held by a Continuing Fiserv Director. At the end of the Specified Period, the Continuing Fiserv Directors Committee shall be automatically disbanded.

(c) The Board of Directors shall constitute a Continuing First Data Directors Committee, which shall be comprised of all the Continuing First Data Directors. The Continuing First Data Directors Committee shall have all the power and may exercise all the authority of the Board of Directors to (i) fill all vacancies on the Board of Directors created by the cessation of service of a Continuing First Data Director and (ii) to nominate Directors for election at each Annual Meeting, or at any Special Meeting at which Directors are to be elected, to fill each seat previously held by a Continuing First Data Director, in each case, subject to the Shareholder Agreement. At the end of the Specified Period, the Continuing First Data Directors Committee shall be automatically disbanded.

Section 3. Composition of Committees. During the Specified Period, (i) the Board of Directors shall maintain the following standing committees (each, a "Standing Committee"): an Audit Committee, a Compensation Committee and a Nominating and Corporate Governance Committee and (ii) each committee of the Board of Directors (including each Standing Committee) shall be comprised of three or four members, with at least one qualified Continuing First Data Director on each Committee. During the Specified Period, a Continuing First Data Director shall be the chair of the Compensation Committee.

Section 4. Lead Director. During the Specified Period, a Continuing Fiserv Director shall be the Lead Director.

Section 5. Amendments. During the Specified Period, this Article IX may be amended, restated, supplemented, modified or repealed, and any provision of these By-laws, the Restated Articles of Incorporation or other resolution inconsistent with this Article IX may be adopted, or any such amendment, restatement, supplement, modification or repeal or provision of these By-laws, the Restated Articles of Incorporation or other resolution inconsistent with this Article IX recommended for adoption by the shareholders of the Corporation, only by an affirmative vote of at least 70 percent (70%) of the entire Board of Directors. In the event of any inconsistency between any other provision of these By-Laws the provisions of this Article IX shall control.

Section 6. Termination. This Article IX shall terminate and be of no further force and effect immediately after the termination of the Specified Period.

## AMENDMENT NO. 1

Dated as of July 26, 2019

to

## TERM LOAN CREDIT AGREEMENT

Dated as of February 15, 2019

THIS AMENDMENT NO. 1 (this "**Amendment**") is made as of July 26, 2019 by and among Fiserv, Inc., a Wisconsin corporation (the "**Company**"), the financial institutions listed on the signature pages hereof and JPMorgan Chase Bank, N.A. in its capacity as Administrative Agent (the "**Administrative Agent**") under that certain Term Loan Credit Agreement, dated as of February 15, 2019, by and among the Company, the financial institutions from time to time party thereto as Lenders (the "**Lenders**") and the Administrative Agent (as amended, restated, supplemented or otherwise modified from time to time prior to the date hereof, the "**Existing Credit Agreement**" and, as amended by this Amendment, the "**Credit Agreement**").

WHEREAS, the Company has requested that the requisite Lenders and the Administrative Agent agree to an amendment to the Existing Credit Agreement pursuant to Section 9.02(b) thereof; and

WHEREAS, the Company, the Lenders party hereto, which constitute the Required Lenders, and the Administrative Agent have so agreed on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises set forth above, the terms and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company, the Lenders party hereto and the Administrative Agent hereby agree as follows:

1. *Definitions.* Capitalized definitional terms used herein and not otherwise defined herein shall have the respective meanings given to them in the Credit Agreement.
2. *Amendment to the Credit Agreement.* Effective on the Amendment No. 1 Effective Date (as defined below), the Existing Credit Agreement is hereby amended to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as set forth in the pages of the Credit Agreement attached as Annex I hereto.
3. *Conditions to Effectiveness.* This Amendment shall become effective on the first date (the "**Amendment No. 1 Effective Date**") on which the following conditions are satisfied:
  - (a) The Administrative Agent shall have received counterparts of this Amendment duly executed by the Company, the Lenders (which constitute the Required Lenders) and the Administrative Agent.
  - (b) The Administrative Agent shall have received a certificate, dated the date hereof and signed by a duly authorized officer of the Company, confirming (i) the representations and warranties set forth below in (1) Section 4(a) shall be true and correct in all material respects, and (2) Section 4(b) shall be true and correct, in each case, on and as of the date hereof and (ii) no Default has occurred and is continuing on and as of the date hereof.
  - (c) The Closing Date shall have occurred substantially concurrently with such effectiveness on the Amendment No. 1 Effective Date (it being understood that, for purposes of determining whether the Closing Date has occurred, the reference to Schedule 4.02(g) in the condition contained in Section 4.02(g) of the Existing Credit Agreement shall be deemed to refer to Schedule 4.02(g) of the Credit Agreement as amended by this Amendment).

4. *Representations and Warranties of the Company.* By its execution of this Amendment, the Company hereby represents and warrants to the Lenders and the Administrative Agent on the date hereof as follows:

(a) This Amendment and the Credit Agreement as modified hereby constitute the valid and legally binding obligations of the Company, enforceable in accordance with their respective terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by equitable principles relating to the availability of specific performance as a remedy.

(b) After giving effect to the terms of this Amendment, (i) the representations and warranties of the Company set forth in Article III of the Credit Agreement (other than the representations contained in Sections 3.04(a), 3.12(b) and 3.16 of the Credit Agreement) are true and correct in all material respects (provided that any representation or warranty that is qualified by materiality or Material Adverse Effect shall be true and correct in all respects) on and as of the date hereof (or, if any such representation or warranty is expressly stated to have been made as of a specific date, as of such specific date) and (ii) no Default has occurred and is continuing on and as of the date hereof.

5. *Reference to and Effect on the Credit Agreement.*

(a) Upon the effectiveness hereof on the Amendment No. 1 Effective Date, each reference in the Credit Agreement to "this Agreement," the "Credit Agreement," "hereunder," "hereof," "herein," or words of like import, and each reference to the Credit Agreement in any other Loan Document shall mean and be a reference to the Credit Agreement as amended hereby.

(b) Each Loan Document and all other documents, instruments and agreements executed and/or delivered in connection therewith shall remain in full force and effect and are hereby ratified and confirmed.

(c) Except with respect to the subject matter hereof, the execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of the Administrative Agent or the Lenders, nor constitute a waiver of any provision of the Credit Agreement, the Loan Documents or any other documents, instruments and agreements executed and/or delivered in connection therewith.

(d) This Amendment is a "Loan Document" under (and as defined in) the Credit Agreement.

6. *Miscellaneous.* The provisions of Sections 9.03, 9.06 (other than the third sentence thereof), 9.09, 9.10, 9.11 and 9.12 of the Credit Agreement shall apply with like effect to this Amendment.

[Signature Pages Follow]

IN WITNESS WHEREOF, this Amendment has been duly executed as of the day and year first above written.

FISERV, INC., as the Company

By /s/ Robert W. Hau  
Name: Robert W. Hau  
Title: Chief Financial Officer and Treasurer

[Signature Page to Amendment (Term)]



JPMORGAN CHASE BANK, N.A., individually as a  
Lender and as Administrative Agent

By /s/ Min Park

Name: Min Park

Title: Vice President

[Signature Page to Amendment (Term)]

Associated Bank, N.A., as a Lender

By /s/ Dan Holzauer

Name: Dan Holzauer

Title: SVP

[Signature Page to Amendment (Term)]

BRANCH BANKING AND TRUST COMPANY, as a  
Lender

By /s/ Sharona Yen

Name: Sharona Yen

Title: Assistant Vice President

[Signature Page to Amendment (Term)]

Bank of Montreal, Chicago Branch, as a Lender

By /s/ Ronald Carey

Name: Ronald Carey

Title: Senior Vice President

[Signature Page to Amendment (Term)]

Capital One, National Association, as a Lender

By /s/ Timothy A. Ramijanc

Name: Timothy A. Ramijanc

Title: Duly Authorized Signatory

[Signature Page to Amendment (Term)]

CITIBANK, N.A., as a Lender

By /s/ Maureen Maroney

Name: Maureen Maroney

Title: Vice President

[Signature Page to Amendment (Term)]

Citizens Bank, N.A., as a Lender

By /s/ Thomas Lass

Name: Thomas Lass

Title: Senior Vice President

[Signature Page to Amendment (Term)]

First National Bank of Pennsylvania, as a Lender

By /s/ Mark Guterman

Name: Mark Guterman

Title: Director

[Signature Page to Amendment (Term)]



THE HUNTINGTON NATIONAL BANK, as a Lender

By /s/ Mark Zobel

Name: Mark Zobel

Title: Vice President

[Signature Page to Amendment (Term)]

MUFG Bank, Ltd., as a Lender

By /s/ Lillian Kim

Name: Lillian Kim

Title: Director

[Signature Page to Amendment (Term)]

National Westminster Bank Plc, as a Lender

By /s/ Paul Simmonds

Name: Paul Simmonds

Title: Associate Director

[Signature Page to Amendment (Term)]

The Bank of Nova Scotia, as a Lender

By /s/ Kevin Chan

Name: Kevin Chan

Title: Director

[Signature Page to Amendment (Term)]

SUNTRUST BANK, as a Lender

By /s/ Carlos Cruz

Name: Carlos Cruz

Title: Director

[Signature Page to Amendment (Term)]

U.S. Bank National Association, as a Lender

By /s/ Caroline V. Krider

Name: Caroline V. Krider

Title: SVP & Milwaukee Market Leader

[Signature Page to Amendment (Term)]

WELLS FARGO BANK, NATIONAL ASSOCIATION, as a  
Lender

By /s/ Nathan Paouncic

Name: Nathan Paouncic

Title: Vice President

[Signature Page to Amendment (Term)]

By /s/ David A. Wild

Name: David A. Wild

Title: Senior Vice President

[Signature Page to Amendment (Term)]



PNC Bank, National Association, as a Lender

By /s/ Joseph A. Vehec

Name: Joseph A. Vehec

Title: Vice President

[Signature Page to Amendment (Term)]

SANTANDER BANK, N.A., as a Lender

By /s/ Mustafa Khan

Name: Mustafa Khan

Title: Senior Vice President

[Signature Page to Amendment (Term)]

COMERICA BANK, as a Lender

By /s/ John Lascody

Name: John Lascody

Title: Vice President

[Signature Page to Amendment (Term)]

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH, as  
a Lender

By /s/ Doreen Barr

Name: Doreen Barr

Title: Authorized Signatory

By /s/ Michael Loser

Name: Michael Loser

Title: Authorized Signatory

[Signature Page to Amendment (Term)]

TD Bank, N.A., as a Lender

By /s/ Shreya Shah

Name: Shreya Shah

Title: Senior Vice President

[Signature Page to Amendment (Term)]

MIZUHO BANK, LTD., as a Lender

By /s/ Donna DeMagistris

Name: Donna DeMagistris

Title: Authorized Signatory

[Signature Page to Amendment (Term)]

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Annex I

[attached]

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# J.P.Morgan

## TERM LOAN CREDIT AGREEMENT

dated as of

February 15, 2019

[as amended by Amendment No. 1](#)

among

FISERV, INC.,

The Lenders Party Hereto

and

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

CITIBANK, N.A., MUFG BANK, LTD.,  
PNC BANK, NATIONAL ASSOCIATION, U.S. BANK NATIONAL ASSOCIATION,  
and WELLS FARGO BANK, NATIONAL ASSOCIATION  
as Syndication Agents

and

BANK OF MONTREAL, CHICAGO BRANCH, CAPITAL ONE, NATIONAL ASSOCIATION,  
CITIZENS BANK, N.A., NATIONAL WESTMINSTER BANK PLC,  
SUNTRUST BANK and TD BANK, N.A.,  
as Documentation Agents

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JPMORGAN CHASE BANK, N.A., CITIBANK, N.A., MUFG BANK, LTD.,  
PNC BANK, NATIONAL ASSOCIATION, U.S. BANK NATIONAL ASSOCIATION,  
and WELLS FARGO SECURITIES, LLC,  
as Joint Bookrunners and Joint Lead Arrangers

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TERM LOAN CREDIT AGREEMENT (this "Agreement"), dated as of February 15, 2019, among FISERV, INC., a Wisconsin corporation (the "Company"), the LENDERS from time to time party hereto and JPMORGAN CHASE BANK, N.A., as administrative agent (in such capacity, including its branches and affiliates, and together with its successors and permitted assigns in such capacity, the "Administrative Agent").

WHEREAS, subject to and upon the terms and conditions herein set forth, the Lenders are willing to make available to the Company the loan facility provided for herein.

NOW THEREFORE, in consideration of the foregoing and of the agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

## ARTICLE I

### Definitions

SECTION 1.01. Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

"ABR," when used in reference to any Loan or Borrowing, refers to such Loan, or the Loans comprising such Borrowing, bearing interest at a rate determined by reference to the Alternate Base Rate.

"Acquisition" means, with respect to any Person, the purchase or other acquisition by such Person, by any means whatsoever (including by merger or consolidation (where the Company or any of its Subsidiaries is ultimately the surviving or continuing entity), devise, bequest, gift, through a dividend or otherwise), of (a) Stock of, or other equity securities of, any other Person if, immediately thereafter, such other Person would be either a consolidated subsidiary of such Person or otherwise under the Control of such Person, (b) any business, going concern or division or segment of any other Person, or (c) the Property of any other Person other than in the ordinary course of business; provided, however, that no acquisition of substantially all of the assets of such other Person shall be deemed to be in the ordinary course of business. "Acquired" shall have a correlative meaning.

"Acquisition Agreement" means that certain Agreement and Plan of Merger, dated as of January 16, 2019, among the Company, First Data and 300 Holdings, Inc. (together with the exhibits and schedules thereto), as modified, amended, supplemented, consented to or waived from time to time.

"Acquisition Agreement Representations" means such of the representations and warranties made by First Data with respect to First Data and its subsidiaries in the Acquisition Agreement as are material to the interests of the Lenders (in their capacities as such), but only to the extent that the Company or its applicable affiliates have the right (taking into account any applicable cure provisions set forth in the Acquisition Agreement) to decline to consummate the Specified Acquisition or to terminate the obligations of the Company or its applicable affiliates (or otherwise do not have an obligation to close) under the Acquisition Agreement as a result of a breach of such representations and warranties.

"Acquisition-Related Incremental Term Loans" has the meaning assigned to such term in Section 2.22.

"Additional Lender" has the meaning assigned to such term in Section 2.23(d).

“Additional Qualified Acquisition” means any Acquisition if the aggregate consideration paid or to be paid by the Company or a Subsidiary in respect of such Acquisition has a value that is equal to or greater than \$1,000,000,000.

“Additional Qualified Acquisition Adjusted Covenant Period” has the meaning assigned to such term in Section 6.08(a).

“Adjusted Covenant Period” means a Qualified Acquisition Adjusted Covenant Period or an Additional Qualified Acquisition Adjusted Covenant Period, as the case may be.

“Adjusted LIBO Rate” means, with respect to any Eurocurrency Borrowing for any Interest Period, an interest rate per annum equal to (a) the LIBO Rate for such Interest Period multiplied by (b) the Statutory Reserve Rate.

“Administrative Agent” has the meaning assigned to such term in the preamble hereto.

“Administrative Questionnaire” means an Administrative Questionnaire in a form supplied by the Administrative Agent.

“Affiliate” means, with respect to a specified Person, another Person (other than a consolidated subsidiary of such 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 Commitment” means the aggregate of the Commitments of all the Lenders, as reduced or increased from time to time pursuant to the terms and conditions hereof. As of the Effective Date, the Aggregate Commitment is \$5,000,000,000.

“Aggregate Tranche 1 Commitment” means the aggregate of the Tranche 1 Commitments of all the Tranche 1 Lenders, as reduced or increased from time to time pursuant to the terms and conditions hereof. As of the Effective Date, the Aggregate Tranche 1 Commitments are \$1,500,000,000.

“Aggregate Tranche 2 Commitment” means the aggregate of the Tranche 2 Commitments of all the Tranche 2 Lenders, as reduced or increased from time to time pursuant to the terms and conditions hereof. As of the Effective Date, the Aggregate Tranche 2 Commitments are \$3,500,000,000.

“Agreement” has the meaning assigned to such term in the preamble hereto.

“Alternate Base Rate” means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the NYFRB Rate in effect on such day plus ½ of 1% and (c) the Adjusted LIBO Rate for a one month Interest Period in Dollars on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus 1%; provided that, for the purpose of this definition, the Adjusted LIBO Rate for any day shall be based on the LIBO Rate (or if the LIBO Rate is not available for such one month Interest Period, the Interpolated Rate) at approximately 11:00 a.m., London time, on such day. Any change in the Alternate Base Rate due to a change in the Prime Rate, the NYFRB Rate or the Adjusted LIBO Rate shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the Adjusted LIBO Rate, respectively. If the Alternate Base Rate is being used as an alternate rate of interest pursuant to Section 2.14 hereof, then the Alternate Base Rate shall be the greater of clauses (a) and (b) above and shall be determined without reference to clause (c) above.

“Amendment No. 1” means that certain Amendment No. 1 to Term Loan Credit Agreement, dated as of July 26, 2019, among the Company, the Lenders party thereto, and the Administrative Agent.

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to the Company and its affiliated companies concerning or relating to bribery or corruption.

“Applicable Percentage” means (i) with respect to any Tranche 1 Lender, the percentage of the Aggregate Tranche 1 Commitment represented by such Tranche 1 Lender’s Tranche 1 Commitment, (ii) with respect to any Tranche 2 Lender, the percentage of the Aggregate Tranche 2 Commitment represented by such Tranche 2 Lender’s Tranche 2 Commitment and (iii) with respect to any Lender, the percentage of the Aggregate Commitment represented by such Lender’s Commitment; provided that, in the case of Section 2.21 when a Defaulting Lender shall exist, “Applicable Percentage” shall mean the percentage of the Aggregate Commitment, the Aggregate Tranche 1 Commitment or the Aggregate Tranche 2 Commitment, as applicable, in each case, disregarding any Defaulting Lender’s Commitment, Tranche 1 Commitment or Tranche 2 Commitment, as applicable, represented by such Lender’s Commitment, Tranche 1 Commitment or Tranche 2 Commitment, respectively. If the Aggregate Commitment, the Aggregate Tranche 1 Commitment or the Aggregate Tranche 2 Commitment, as applicable, shall have terminated or expired, the Applicable Percentage in respect of a Lender shall be determined based upon the percentage obtained by dividing such Lender’s outstanding Loans of a Tranche by the aggregate outstanding principal amount of all of the Loans of such Tranche at such time, disregarding for purposes of calculating the Applicable Percentage any Loans held by a Defaulting Lender at the time of determination.

“Applicable Rate” means, for any day, with respect to any Eurocurrency Loan or any ABR Loan, or with respect to the ticking fees payable hereunder, as the case may be, the applicable rate per annum set forth below under the caption “Eurocurrency Spread” or “ABR Spread” or “Ticking Fee Rate,” as the case may be, based upon the ratings of two (2) nationally recognized rating agencies, as selected by the Company and agreed to by the Administrative Agent and thereafter disclosed to the Lenders, applicable on such date to the Index Debt (the “Index Debt Ratings”) (it being understood and agreed that each of (i) S&P, (ii) Moody’s and (iii) Fitch shall be acceptable nationally recognized rating agencies for all purposes of this definition):

<u>Index Debt Ratings:</u>	<u>Eurocurrency Spread</u>	<u>ABR Spread</u>	<u>Ticking Fee Rate</u>
<u>Category 1: A3 or A- or higher</u>	<u>1.00%</u>	<u>0%</u>	<u>0.125%</u>
<u>Category 2: Baa1 or BBB+</u>	<u>1.125%</u>	<u>0.125%</u>	<u>0.125%</u>
<u>Category 3: Baa2 or BBB</u>	<u>1.25%</u>	<u>0.25%</u>	<u>0.125%</u>
<u>Category 4: Baa3 or BBB-</u>	<u>1.375%</u>	<u>0.375%</u>	<u>0.15%</u>
<u>Category 5: Ba1 or BB+ or lower</u>	<u>1.625%</u>	<u>0.625%</u>	<u>0.20%</u>

For purposes of the foregoing,

(i) if either of such rating agencies shall not have in effect an Index Debt Rating (other than by reason of the circumstances referred to in the last sentence of this definition), then such rating agency shall be deemed to have established a rating in Category 5;

(ii) if the Index Debt Ratings established or deemed to have been established by such rating agencies shall fall within different Categories, the Applicable Rate shall be based on the higher of the two ratings unless one of the two ratings is two or more Categories lower than the other, in which case the Applicable Rate shall be determined by reference to the Category next below that of the higher of the two ratings;

(iii) if the Index Debt Ratings established or deemed to have been established by such rating agencies shall be changed (other than as a result of a change in the rating system of either rating agency), such change shall be effective as of the date on which such change is first publicly announced by the applicable rating agency, irrespective of when notice of such change shall have been furnished by the Company to the Administrative Agent and the Lenders pursuant to Section 5.07 or otherwise; and

(iv) each change in the Applicable Rate shall apply 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. If the rating system of either rating agency shall change, or if either such rating agency shall cease to be in the business of rating corporate debt obligations, the Company and the Lenders shall negotiate in good faith to amend this definition to reflect such changed rating system or the unavailability of ratings from such rating agency and, pending the effectiveness of any such amendment, the Category shall be determined by reference to the rating (and the Category applicable thereto) most recently in effect prior to such change or cessation.

“Approved Electronic Platform” has the meaning assigned to such term in Section 8.03(a).

“Approved Fund” has the meaning assigned to such term in Section 9.04.

“Arrangers” means each of JPMorgan Chase Bank, N.A., Citibank, N.A., MUFG Bank, Ltd., PNC Bank, National Association, U.S. Bank National Association and Wells Fargo Securities, LLC, in its capacity as a joint bookrunner and joint lead arranger hereunder.

“Assignment and Assumption” means an assignment and assumption agreement entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.04), and accepted by the Administrative Agent, in the form of Exhibit A or any other form approved by the Administrative Agent.

“Augmenting Lender” is defined in Section 2.22.

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

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

“Bail-In Lender” has the meaning assigned to such term in Section 2.19(b).

“Bankruptcy Event” means, with respect to any Person, such Person becomes the subject of a voluntary or involuntary bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it, or, in the good faith determination of the



Administrative Agent, has taken any action for the purpose of effecting, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment or has had any order for relief in such proceeding entered in respect thereof; provided that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person by a Governmental Authority or instrumentality thereof, unless such ownership interest results in or provides such Person with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permits such Person (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

“Beneficial Ownership Certification” means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

“Beneficial Ownership Regulation” means 31 C.F.R. § 1010.230.

“Benefit Plan” means any of (a) an “employee benefit plan” (as defined in Section 3(3) of ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in Section 4975 of the Code to which Section 4975 of the Code applies, and (c) any Person whose assets include (for purposes of the Plan Asset Regulations or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such “employee benefit plan” or “plan”.

“Board” means the Board of Governors of the Federal Reserve System of the United States of America.

“Borrowing” means a Tranche 1 Borrowing or a Tranche 2 Borrowing, as the context may require.

“Borrowing Request” means a request by the Company for a Borrowing in accordance with Section 2.03 in substantially the form attached hereto as Exhibit D-1 or such other form as the Administrative Agent may approve from time to time.

“Bridge Commitment Letter” means that certain Bridge Facility Commitment Letter, dated as of January 16, 2019, among JPMorgan Chase Bank, N.A. and the Company, as amended, restated, supplemented or otherwise modified from time to time.

“Bridge Facility” means the \$17,000,000,000 senior unsecured bridge credit facility contemplated by the Bridge Commitment Letter.

“Business Day” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; provided that, when used in connection with a Eurocurrency Loan, the term “Business Day” shall also exclude any day on which banks are not open for dealings in Dollars in the London interbank market.

“Change in Control” means (a) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or any “group” (within the meaning of Sections 13(d) and 14(d) of the Securities Exchange Act of 1934 and the rules of the SEC thereunder as in effect on the date hereof), of Stock representing more than 35% of the aggregate ordinary voting power represented by the issued and outstanding Stock of the Company; or (b) during any period of up to three consecutive calendar years commencing on or after the Effective Date, individuals (i) who were directors of the Company on the first day of such period or (ii) whose election or nomination for election to the board of directors of the Company was recommended or approved by at least a majority of directors who were directors of the Company on the first day of such period, or whose election or nomination for election was so approved, shall cease to constitute a majority of the board of directors of the Company.

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

“Charges” has the meaning assigned to such term in Section 9.14.

“Closing Date” means the date on which the conditions specified in Section 4.02 are satisfied (or waived in accordance with Section 9.02).

“Code” means the Internal Revenue Code of 1986, as amended from time to time.

“Combination” has the meaning assigned to such term in Section 2.09(c).

“Combined Lender” has the meaning assigned to such term in Section 2.09(c).

“Commitment” means with respect to each Lender, its Tranche 1 Commitment and its Tranche 2 Commitment.

“Commitment Termination Date” has the meaning assigned to such term in Section 2.09(a).

“Communications” means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of the Company pursuant to any Loan Document or the transactions contemplated therein which is distributed by the Administrative Agent or any Lender by means of electronic communications pursuant to Section 8.03(c), including through an Approved Electronic Platform.

“Company” has the meaning assigned to such term in the preamble hereto.

“Compliance Certificate” means a certificate substantially in the form of Exhibit C.

“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 the Company and the Subsidiaries on a consolidated basis in accordance with GAAP.

“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. The terms “Controlling” and “Controlled” have meanings correlative thereto.

“Credit Party” means the Administrative Agent or any Lender.

“Default” means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

“Defaulting Lender” means any Lender that (a) has failed, within three (3) Business Days after the date required to be funded or paid, to (i) fund any portion of its Loans or (ii) pay over to any Credit Party any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender’s good faith determination that a condition precedent to funding (specifically identified and including the particular default, if any) has not been satisfied, (b) has notified the Company or any Credit Party in writing, or has made a public statement to the effect, that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Lender’s good faith determination that a condition precedent (specifically identified and including the particular default, if any) to funding a loan under this Agreement cannot be satisfied) or generally under other agreements in which it commits to extend credit, (c) has failed, within three (3) Business Days after request by the Company or the Administrative Agent, acting in good faith, to provide a certification in writing from an authorized officer of such Lender that it will comply with its obligations (and is financially able to meet such obligations) to fund prospective Loans under this Agreement; provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon such Credit Party’s receipt of such certification in form and substance satisfactory to it and the Administrative Agent, or (d) has become the subject of (i) a Bankruptcy Event and/or (ii) a Bail-In Action.

“Designated Persons” means any Person listed on a Sanctions List or who is otherwise the target of Sanctions.

“Disqualified Institutions” means (A) those Persons identified by the Company to the Administrative Agent and the Lenders in writing prior to January 16, 2019, (B) Persons that are reasonably determined by the Company to be competitors of the Company or any of its Subsidiaries and that have been specifically identified by the Company to the Administrative Agent and the Lenders in writing prior to the Effective Date and (C) in the case of each of clauses (A) and (B), any of their respective Affiliates, to the extent any such Affiliate (x) is clearly identifiable as an Affiliate of the applicable Person solely by similarity of such Affiliate’s name and (y) is not a bona fide debt investment fund that is an Affiliate of such Person; provided that the Company, by notice to the Administrative Agent and the Lenders after the Effective Date, shall be permitted to supplement from time to time in writing by name the list of Persons that are Disqualified Institutions to the extent that the Persons added by such supplements are competitors of the Company or any of its Subsidiaries (or Affiliates of Disqualified Institutions that are not bona fide debt investment funds). Each such supplement shall become effective three (3) Business Days after delivery thereof to the Administrative Agent and the Lenders (including through an Approved Electronic Platform) in accordance with Section 9.01, but shall not apply retroactively to disqualify any Persons that have previously acquired an assignment or participation interest in the Loans (but solely with respect to such Loans). It is understood and agreed that (i) the Administrative Agent shall have no responsibility or liability to determine or monitor whether any Lender or potential Lender is a Disqualified Institution, (ii) the Company’s failure to deliver such list (or supplement thereto) in accordance with Section 9.01 shall render such list (or supplement) not received and not effective and (iii) “Disqualified Institution” shall exclude any Person that the Company has designated as no longer being a “Disqualified Institution” by written notice delivered to the Administrative Agent from time to time in accordance with Section 9.01.

“Disregarded Entity” means an entity that, pursuant to Treas. Reg. § 301.7701-2(c)(2), is disregarded for U.S. federal income Tax purposes as an entity separate from its owner.

“Dividing Person” has the meaning assigned to such term in the definition of “Division.”

“Division” means the division of the assets, liabilities and/or obligations of a Person (the “Dividing Person”) among two or more Persons (whether pursuant to a “plan of division” or similar arrangement), which may or may not include the Dividing Person and pursuant to which the Dividing Person may or may not survive.

“Division Successor” means any Person that, upon the consummation of a Division of a Dividing Person, holds all or any portion of the assets, liabilities and/or obligations previously held by such Dividing Person immediately prior to the consummation of such Division. A Dividing Person which retains any of its assets, liabilities and/or obligations after a Division shall be deemed a Division Successor upon the occurrence of such Division.

“Documentation Agent” means each of Bank of Montreal, Chicago Branch, Capital One, National Association, Citizens Bank, N.A., National Westminster Bank plc, SunTrust Bank and TD Bank, N.A., in its capacity as documentation agent for the credit facility evidenced by this Agreement.

“Dollar Amount” of any currency means, at the time of determination thereof, (a) if such amount is expressed in Dollars, such amount, and (b) if such amount is expressed in a currency other than Dollars, the equivalent of such amount in Dollars determined by using the rate of exchange for the purchase of the Dollars with such other currency in the London foreign exchange market at or about 11:00 a.m., London time (or New York time, as applicable), on a particular day as displayed by ICE Data Services as the “ask price,” or as displayed on such other information service which publishes that rate of exchange from time to time in place of ICE Data Services (or if such service is not or ceases to be available, the equivalent of such amount in Dollars as reasonably determined by the Administrative Agent, in consultation with the Company, using any reasonable method of determination it deems reasonably appropriate).

“Dollars” or “\$” refers to lawful money of the United States of America.

“DQ List” has the meaning assigned to such term in Section 9.04(e)(iv) hereof.

“EBITDA” means, with respect to any Person for any period, the consolidated net earnings of such Person in respect of such period, plus, without duplication, the sum of each of the following with respect to such Person on a consolidated basis for such period to the extent deducted in the determination of such net earnings: (i) interest expense, (ii) provision for taxes, (iii) depreciation, (iv) amortization, (v) extraordinary losses incurred other than in the ordinary course of business (provided that, on and after December 15, 2015, the foregoing reference to “extraordinary” losses shall be deemed to refer to losses that are both “unusual” and “infrequent” in accordance with GAAP and as described in the Financial Accounting Standards Update No. 2015-01: Income Statement – Extraordinary and Unusual Items (Subtopic 225-20)), (vi) stock-based non-cash compensation expense, (vii) other non-cash charges, losses and expenses and other non-cash items (including foreign currency exchange losses), (viii) fees and expenses incurred during such period in connection with the credit facility evidenced by this Agreement or in connection with an Acquisition (including fees and expenses in connection with the Specified Acquisition) or other investment permitted hereunder, (ix) cash non-recurring fees, expenses, costs, charges and losses in respect of discontinued operations, the issuance or incurrence of debt, the refinancing, retirement or repayment of debt, the issuance of equity interests, casualty and condemnation events to the extent covered by insurance and expected to result in insurance proceeds of at least the amount added back and sales and other dispositions of assets outside the ordinary course of business, (x) other non-recurring expenses, costs,

charges and losses (including those resulting from restructurings, divestitures and severances) and (xi) with respect to each Acquisition, cost synergies that, as of the date of calculation with respect to such period, are anticipated by the Company in good faith to be realized within 18 months following such Acquisition (or within 24 months following the Specified Acquisition), net of the amount of any such cost synergies otherwise included, or added back, pursuant to this definition; provided that (A) the amount added back under this clause (xi) with respect to any period may not exceed fifteen percent (15%) of EBITDA for such period (as calculated without giving effect to this clause (xi)) and (B) such cost synergies have been reasonably detailed by the Company in the applicable Compliance Certificate, minus (xii) extraordinary gains realized other than in the ordinary course of business (provided that, on and after December 15, 2015, the foregoing reference to “extraordinary” gains shall be deemed to refer to gains that are both “unusual” and “infrequent” in accordance with GAAP and as described in the Financial Accounting Standards Update No. 2015-01: Income Statement – Extraordinary and Unusual Items (Subtopic 225-20)) and foreign currency exchange gains and (xiii) any cash payments made during such period in respect of the items described in clause (vi) or (vii) above subsequent to the fiscal quarter in which the relevant stock-based non-cash compensation expense or other non-cash charge, as applicable, was incurred.

“EEA Financial Institution” means (a) any institution established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

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

“EEA Resolution Authority” means any public administrative authority or any Person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

“Effective Date” means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02).

“Electronic Signature” means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or record.

“Employee Benefit Plan” means an employee benefit plan within the meaning of Section 3(3) of ERISA maintained, sponsored or contributed to by the Company, any Subsidiary or any ERISA Affiliate.

“Environmental Laws” means all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the environment, preservation or reclamation of natural resources or the management, release or threatened release of any Hazardous Material.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Company or any Subsidiary 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 Permit” means any permit, license, approval, consent or other authorization by a federal, state, local or foreign government or regulatory entity pursuant to any Environmental Law.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that, together with the Company, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

“ERISA Event” means (a) any “reportable event,” as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30-day notice period is waived); (b) the failure to satisfy the minimum funding standard with respect to any Plan (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived; (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) the incurrence by the Company or any of its ERISA Affiliates of any material liability under Title IV of ERISA with respect to the termination of any Plan; (e) the receipt by the Company or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention by the PBGC to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (f) the incurrence by the Company or any of its ERISA Affiliates of any material liability with respect to the withdrawal or partial withdrawal of the Company or any of its ERISA Affiliates from any Plan or Multiemployer Plan; or (g) the receipt by the Company or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Company or any ERISA Affiliate of any notice, concerning the imposition upon the Company or any of its ERISA Affiliates of Withdrawal Liability in a material amount or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in endangered or critical status, within the meaning of Title I and Title IV of ERISA.

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

“Eurocurrency,” when used in reference to any Loan or Borrowing, means that such Loan, or the Loans comprising such Borrowing, bears interest at a rate determined by reference to the Adjusted LIBO Rate (except pursuant to clause (c) of the definition of “Alternate Base Rate”).

“Event of Default” has the meaning assigned to such term in Article VII; provided that any requirement for the giving of notice, the lapse of time, or both, or any other condition has been satisfied.

“Excluded Taxes” means, with respect to the Administrative Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of the Company under any Loan Document, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes and branch profits Taxes, in each case, (i) imposed by the jurisdiction under the laws of which such recipient is organized or in which it has a principal office or, in the case of any Lender, in which its applicable lending office is located or (ii) that are Other Connection Taxes, (b) in the case of a Lender, any U.S. federal withholding Tax that is 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 becomes a party to this Agreement (other than pursuant to an assignment request by the Company

under Section 2.19(b)) or (ii) such Lender designates a new lending office, except in each case to the extent that it (or its assignor, if any) was entitled, immediately before the designation of a new lending office (or an assignment), to receive additional amounts pursuant to Section 2.17(a), (c) Taxes attributable to such recipient's failure to comply with Section 2.17(e), and (d) any withholding Tax that is imposed under FATCA.

“Extended Maturity Date” has the meaning assigned to such term in Section 2.23(a).

“Extending Lender” has the meaning assigned to such term in Section 2.23(b).

“Extension Availability Period” means (i) for Tranche 1 Loans, the period beginning on the Closing Date and ending on the three year anniversary thereof and (ii) for Tranche 2 Loans, the period beginning on the Closing Date and ending on the five year anniversary thereof.

“Extension Date” has the meaning assigned to such term in Section 2.23(a).

“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, any agreement entered into pursuant to Section 1471(b)(1) of the Code, and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code.

“Federal Funds Effective Rate” means, for any day, the rate calculated by the NYFRB based on such day's federal funds transactions by depository institutions (as determined in such manner as the NYFRB shall set forth on its public website from time to time) and published on the next succeeding Business Day by the NYFRB as the effective federal funds rate; provided that if the Federal Funds Effective Rate as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

“FIN 46 Entity” means any Person the financial condition and results of which, solely due to Accounting Standards Codification 810 or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect (as amended, restated, supplemented, replaced or otherwise modified from time to time), the Company is required to consolidate in its financial statements.

“Financial Officer” means the Chief Financial Officer, the Controller, any Assistant Controller, the Treasurer or any Assistant Treasurer, in each case of the Company.

“Financial Statements” has the meaning assigned to such term in Section 3.12.

“First Data” means First Data Corporation, a Delaware corporation.

“Fitch” means Fitch Ratings, Inc.

“Foreign Lender” means a Lender that is neither a U.S. Person nor a Disregarded Entity that is treated for U.S. federal income Tax purposes as having as its sole owner a Person that is a U.S. Person.

“GAAP” means generally accepted accounting principles as from time to time in effect in the United States of America.

“Governmental Authority” means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank) and any group or body charged with setting financial accounting or regulatory capital rules or standards (including, without limitation, the Financial Accounting Standards Board, the Bank for International Settlements or the Basel Committee on Banking Supervision or any successor or similar authority to any of the foregoing).

“Guarantee” of or by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, without duplication (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation; provided that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business and provided, further, that the amount of each “Guarantee” shall be the lesser of (i) the amount of the primary obligation with respect thereto or, if not stated, the reasonably expected liability in respect of such primary obligation, and (ii) the stated maximum amount of such “Guarantee.”

“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.

“Hedging Agreements” means interest rate swap, cap or collar agreements, interest rate future or option contracts, currency swap agreements, currency future or option contracts and other similar agreements.

“Impacted Interest Period” has the meaning assigned to such term in the definition of “LIBO Rate.”

“Increasing Lender” has the meaning assigned to such term in Section 2.22.

“Incremental Term Loan” has the meaning assigned to such term in Section 2.22.

“Incremental Term Loan Amendment” has the meaning assigned to such term in Section 2.22.

“Indebtedness” means, with respect to any Person, at a particular time, all items of such Person which constitute, without duplication, (a) indebtedness for borrowed money or the deferred purchase price of Property (other than accounts payable, deferred compensation, customer advances, earn-outs, agreements providing for the holdback of the purchase price relating to an acquisition and accrued expenses incurred in the ordinary course of business), (b) indebtedness evidenced by notes, bonds, debentures or similar instruments, (c) obligations with respect to any conditional sale or other title retention agreement (excluding operating leases), (d) indebtedness arising under acceptance facilities and the amount available



to be drawn under all letters of credit issued for the account of such Person and, without duplication, all drafts drawn thereunder to the extent such Person shall not have reimbursed the issuer in respect of the issuer's payment of such drafts, (e) all indebtedness referred to in clauses (a)-(d) above or (f)-(h) below secured by any Lien (other than carriers', warehousemen's, mechanics', workmen's, materialmen's, landlords, repairmen's or other similar Liens arising in the ordinary course of business) on any Property owned by such Person even though such Person shall not have assumed or otherwise become liable for the payment thereof; provided that in the event such Person shall not have assumed or otherwise become liable for the payment thereof, the amount of such liabilities shall be deemed to be the lesser of (i) the fair market value of the assets of such Person subject to such Lien and (ii) the amount of the liability secured by such Lien, (f) that portion of any obligation of such Person, as lessee, which in accordance with GAAP is required to be capitalized on the balance sheet of such Person, (g) Securitized Indebtedness, and (h) all Guarantees by such Person of any of the foregoing; provided, however, that, notwithstanding anything to the contrary contained herein, for purposes of this definition, "Indebtedness" shall not include (1) any intercompany indebtedness between or among the Company and its Subsidiaries, (2) any indebtedness that has been defeased and/or discharged if funds in an amount equal to all such indebtedness (including interest and any other amounts required to be paid to the holders thereof in order to give effect to such defeasance) have been irrevocably deposited with a trustee, paying agent or other similar Person for the benefit of the relevant holders of such indebtedness or (3) interest, fees, make-whole amounts, premium, charges or expenses, if any, relating to the principal amount of Indebtedness.

"Indemnified Taxes" means (a) Taxes other than Excluded Taxes imposed on or with respect to any payment made by or on account of the Company under any Loan Document and (b) Other Taxes.

"Indemnitee" has the meaning assigned to such term in Section 9.03(b).

"Index Debt" means senior, unsecured, long-term indebtedness for borrowed money of the Company that is not guaranteed by any other Person (other than Subsidiaries) or subject to any other credit enhancement.

"Ineligible Institution" has the meaning assigned to such term in Section 9.04(b).

"Information" has the meaning assigned to such term in Section 9.12.

"Information Memorandum" means the Confidential Information Memorandum dated January 2019 relating to the Company and the Specified Acquisition Transactions.

"Interest Coverage Ratio" means as of any date, the ratio of (a) the Consolidated EBITDA of the Company for the four consecutive fiscal quarter period ended on such date to (b) Consolidated interest expense of the Company to the extent paid or payable in cash (net of (i) any cash payments (if any) made in respect of interest rate hedging transactions under Hedging Agreements and (ii) any cash payments (if any) received in respect of interest rate hedging transactions under Hedging Agreements) for the four consecutive fiscal quarter period ended on such date, in each case based on the most recent financial statements required by Section 5.07(a) or 5.07(c), as the case may be. For purposes of this defined term, "EBITDA" shall be adjusted to give effect to each acquisition (including any Indebtedness assumed or repaid in connection therewith and related interest expense) and disposition (including any Indebtedness assumed or repaid in connection therewith and related interest expense) that occurred during such period as if such acquisition or disposition had occurred at the inception of such period.

“Interest Election Request” means a request by the Company to convert or continue a Borrowing in accordance with Section 2.08 in substantially the form attached hereto as Exhibit D-2 or such other form as the Administrative Agent may approve from time to time.

“Interest Payment Date” means (a) with respect to any ABR Loan, the last day of each March, June, September and December and the Maturity Date, and (b) with respect to any Eurocurrency Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurocurrency Borrowing with an Interest Period of more than three months’ duration, each day prior to the last day of such Interest Period that occurs at intervals of three months’ duration after the first day of such Interest Period and the Maturity Date.

“Interest Period” means, with respect to any Eurocurrency Borrowing, the period commencing on the date of such Borrowing and ending on the day that is one week thereafter or the numerically corresponding day in the calendar month that is one, two, three or six months thereafter (or such other period of time as is acceptable to each of the Lenders), as the Company may elect; provided that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless, in the case of a Eurocurrency Borrowing only, such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (ii) any Interest Period pertaining to a Eurocurrency Borrowing that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period), other than a one-week Interest Period, shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

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

“Lender Notice Date” has the meaning assigned to such term in Section 2.23(b).

“Lender Parent” means, with respect to any Lender, any Person as to which such Lender is, directly or indirectly, a subsidiary.

“Lenders” means the Persons listed on Schedule 2.01 and any other Person that shall have become a Lender hereunder pursuant to Section 2.22 or pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption.

“Leverage Ratio” means, as of any date, the ratio of (a) (i) the Consolidated Indebtedness of the Company minus (ii) Liquidity, in each case on such date to (b) Consolidated EBITDA of the Company for the four consecutive fiscal quarter period ended on such date, in each case based on the most recent financial statements required by Section 5.07(a) or 5.07(c), as the case may be. For purposes of this defined term, “EBITDA” shall be adjusted to give effect to each acquisition (including any Indebtedness assumed or repaid in connection therewith and related interest expense) and disposition (including any Indebtedness assumed or repaid in connection therewith and related interest expense) that occurred during such period as if such acquisition or disposition had occurred at the inception of such period.

“LIBO Rate” means, with respect to any Eurocurrency Borrowing for any applicable Interest Period, the London interbank offered rate as administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate) for Dollars for a period equal in length to such Interest Period as displayed on pages LIBOR01 or LIBOR02 of the Reuters screen that displays such rate or, in the event such rate does not appear on a Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate as shall be selected by the Administrative Agent from time to time in its reasonable discretion (in each case the “LIBOR Screen Rate”) at approximately 11:00 a.m., London time, on the Quotation Day for such Interest Period; provided that, if the LIBOR Screen Rate as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement; provided, further, that if a LIBOR Screen Rate shall not be available at such time for such Interest Period (the “Impacted Interest Period”), then the LIBO Rate for such Interest Period shall be the Interpolated Rate. It is understood and agreed that all of the terms and conditions of this definition of “LIBO Rate” shall be subject to Section 2.14.

“LIBOR Screen Rate” has the meaning assigned to such term in the definition of “LIBO Rate.”

“Lien” means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset and (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset; provided, however, that the term “Lien” shall not include any such interest under an operating lease.

“Limited Conditionality Acquisition” has the meaning assigned to such term in Section 2.22.

“Limited Conditionality Acquisition Agreement” has the meaning assigned to such term in Section 2.22.

“Liquidity” means, as of any date of determination, the sum of (a) the amount (if any) by which the Dollar Amount of unrestricted and unencumbered cash, cash equivalents and marketable securities of the Company and its Subsidiaries, as reflected on the Company’s balance sheet and maintained by the Company and its Subsidiaries in the United States (or that could be repatriated to the United States (less the applicable combined federal and state marginal income tax due or payable that would be imposed on the Company or applicable Subsidiary in the case of, and with respect to, the repatriation of such cash to the United States, in each case as of such date)) exceeds \$100,000,000 as of such date, plus (b) the Dollar Amount of any cash, cash equivalents and marketable securities of the Company and its Subsidiaries, as reflected on the Company’s balance sheet, constituting the proceeds of Indebtedness constituting debt securities included in clause (a)(i) of the definition of “Leverage Ratio” incurred to finance an acquisition, investment or refinancing that are subject to customary escrow or similar arrangements to the extent such proceeds (i) secure such Indebtedness or is otherwise restricted in favor of the holders of such debt securities and (ii) will be required to repay such Indebtedness if such acquisition, investment or refinancing is not consummated.

“LLC” means any Person that is a limited liability company under the laws of its jurisdiction of formation.

“Loan Documents” means this Agreement, any promissory notes executed and delivered pursuant to Section 2.10(e), each Borrowing Request and any and all other instruments and documents executed and delivered in connection with any of the foregoing.

“Loans” means the loans made by the Lenders to the Company pursuant to this Agreement, it being understood that conversions and continuations of Loans are not Loans hereunder.

“Margin Stock” means any “margin stock,” as said term is defined in Regulation U of the Board, as the same may be amended or supplemented from time to time.

“Material Adverse Effect” means a material adverse effect on (i) the financial condition, operations, business or assets of the Company and the Subsidiaries on a Consolidated basis (except for specific events (and not general economic or industry conditions) specifically applicable to the Company and/or its Subsidiaries as disclosed in the reports of the Company or First Data on Form 10-K, 10-Q or 8-K, or in any Form S-4 of the Company or First Data, filed with the SEC prior to the Effective Date), (ii) the ability of the Company to perform its obligations under the Loan Documents, or (iii) the rights, due to circumstances not caused by the Administrative Agent or any Lender, of the Administrative Agent or any Lender to enforce the Loan Documents against the Company.

“Material Indebtedness” means Indebtedness (other than the Loans) of any one or more of the Company and its Subsidiaries in an aggregate principal amount exceeding \$300,000,000. For the avoidance of doubt, as of the date hereof each of the Bridge Facility (to the extent drawn) and the Revolving Credit Facility constitute Material Indebtedness.

“Material Subsidiary” means each Subsidiary which (on an unconsolidated basis and excluding intercompany income statement items of such Subsidiary), as of the end of the most recent two consecutive fiscal quarters of the Company, in each case for the period of four consecutive fiscal quarters then ended, for which financial statements have been delivered pursuant to Section 5.07, contributed revenues in an amount greater than ten percent (10%) of the revenues of the Company and its Subsidiaries on a Consolidated basis for the four consecutive fiscal quarter period most recently ended; provided that, for purposes of this definition, the Consolidated revenues of the Company and its Subsidiaries shall be adjusted to give effect to each acquisition and disposition that occurred during each such period as if such acquisition or disposition had occurred at the inception of the first of such periods and each Subsidiary acquired or disposed of, as the case may be, had been acquired or disposed of at the inception of the first of such periods.

“Maturity Date” means (1) with respect to the Tranche 1 Loans, the Tranche 1 Maturity Date, and (2) with respect to the Tranche 2 Loans, the Tranche 2 Maturity Date.

“Maximum Rate” has the meaning assigned to such term in Section 9.14.

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

“Multiemployer Plan” means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

“Net Worth” means, at any date, the sum of all amounts that would be included under shareholders’ equity on a Consolidated balance sheet of the Company determined in accordance with GAAP on such date or, in the event such date is not a fiscal quarter end, as of the immediately preceding fiscal quarter end; provided that, for purposes of calculating shareholders’ equity, any accumulated other comprehensive income or loss, in each case as reflected on such Consolidated balance sheet of the Company determined in accordance with GAAP, shall be excluded; provided, further, that “Net Worth” shall be adjusted to give effect to each acquisition and disposition that has occurred on or prior to the date on which Net Worth is being calculated but after the immediately preceding fiscal quarter end as if such acquisition or disposition had occurred on the date of such immediately preceding fiscal quarter end.

“Non-Consenting Lender” has the meaning assigned to such term in Section 9.02(c).

“Non-Extending Lender” has the meaning assigned to such term in Section 2.23(b).

“NYFRB” means the Federal Reserve Bank of New York.

“NYFRB Rate” means, for any day, the greater of (a) the Federal Funds Effective Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day); provided that, if both such rates are not so published for any day that is a Business Day, the term “NYFRB Rate” means the rate quoted for such day for a federal funds transaction at 11:00 a.m., New York City time, on such day received by the Administrative Agent from a Federal funds broker of recognized standing selected by it; provided, further, that if any of the aforesaid rates as so determined would be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“Obligations” means all indebtedness (including interest and fees accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), obligations and liabilities of any of the Company to any of the Lenders, any indemnified party and the Administrative Agent, individually or collectively, under this Agreement or any of the other Loan Documents or in respect of any of the Loans made or other instruments at any time evidencing any thereof.

“OFAC” means the Office of Foreign Assets Control of the U.S. Department of Treasury.

“Operating Entity” means (a) any Person, (b) any business or operating unit of a Person (i) which is operated separate and apart from the other businesses and operations of such Person, or (ii) the products and services of which are divisible from the other products and services of such Person, or (c) any other line of business or business segment.

“Other Connection Taxes” means, with respect to the Administrative Agent or any Lender, 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 any and all present or future stamp, registration or documentary taxes or any other excise or property taxes, charges or similar taxes or levies arising from any payment made hereunder or from the execution, delivery or enforcement of, or otherwise with respect to, any Loan Document, but excluding Excluded Taxes.

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

“Participant” has the meaning assigned to such term in Section 9.04(c).

“Participant Register” has the meaning assigned to such term in Section 9.04(c).

“Patriot Act” has the meaning assigned to such term in Section 9.13.

“PBGC” means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

“Pension Plan” means, at any time, any Employee Benefit Plan (including a Multiemployer Plan) subject to Section 302 of ERISA or Section 412 of the Code, the funding requirements of which are, or at any time within the six years immediately preceding the time in question, were in whole or in part, the responsibility of the Company, any Subsidiary or an ERISA Affiliate.

“Permanent Financing Fee Letter” has the meaning assigned to such term in Section 4.02(f).

“Permitted Sale-Leaseback Transactions” means sales or transfers by the Company or any Subsidiary of any real property, improvements, fixtures, machinery and/or equipment with the intention of taking back a lease thereof.

[“Permitted Securitization” has the meaning assigned to such term in Section 6.01\(b\).](#)

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

“Plan” means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Company or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Plan Asset Regulations” means 29 CFR § 2510.3-101 *et seq.*, as modified by Section 3(42) of ERISA, as amended from time to time.

“Prime Rate” means the rate of interest last quoted by The Wall Street Journal as the “Prime Rate” in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the “bank prime loan” rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined reasonably and in good faith by the Administrative Agent) or any similar release by the Board (as determined reasonably and in good faith by the Administrative Agent); provided that if the Prime Rate as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement. Each change in the Prime Rate shall be effective from and including the date such change is publicly announced or quoted as being effective.

“Proceeding” has the meaning assigned to such term in [Section 9.03\(b\)](#).

“Property” means, with respect to any Person, all types of real, personal or mixed property and all types of tangible or intangible property owned or leased by such Person.

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

“Qualified Acquisition” means any Acquisition if the aggregate consideration paid or to be paid by the Company or a Subsidiary in respect of such Acquisition has a value that is equal to or greater than \$500,000,000.

“Qualified Acquisition Adjusted Covenant Period” has the meaning assigned to such term in Section 6.08(a).

“Quotation Day” means, with respect to any Eurocurrency Borrowing for any Interest Period, the day that is two (2) Business Days prior to the commencement of such Interest Period.

“Reference Bank Rate” means the arithmetic mean of the rates (rounded upwards to five decimal places) supplied to the Administrative Agent at its request by the Reference Banks (as the case may be) as of the applicable time on the Quotation Day for the applicable Interest Period as the rate at which the relevant Reference Bank could borrow funds in the London (or other applicable) interbank market in Dollars and for the relevant period, were it to do so by asking for and then accepting interbank offers in reasonable market size for that period.

“Reference Banks” means such banks as may be appointed by the Administrative Agent in consultation with the Company, in a manner consistent with that applied by the Administrative Agent generally to substantially similar credit facilities for which it acts as administrative agent. No Lender shall be obligated to be a Reference Bank without its consent.

“Register” has the meaning assigned to such term in Section 9.04.

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

“Replacement Lender” has the meaning assigned to such term in Section 2.09(c).

“Required Lenders” means, subject to Section 2.21, at any time, Lenders having Commitments representing more than 50% of the Aggregate Commitment; provided that, upon the funding of the Loans on the Closing Date, “Required Lenders” shall mean, at any time, Lenders holding Loans representing more than 50% of the aggregate outstanding principal amount of all of the Loans at such time.

“Retired Commitments” has the meaning assigned to such term in Section 2.09(c).

“Revolving Credit Facility” means the revolving credit facility evidenced by the Revolving Credit Facility Agreement.

“Revolving Credit Facility Agreement” means that certain Third Amended and Restated Credit Agreement dated as of September 19, 2018 by and among the Company, the subsidiary borrowers from time to time party thereto and the lenders from time to time party thereto, as amended, restated, supplemented, replaced or otherwise modified from time to time.

“S&P” means Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business.

“Sanctioned Country” means a country, region or territory which is at any relevant time subject to Sanctions (at the time of this Agreement, Crimea, Cuba, Iran, North Korea and Syria).

“Sanctions” means:

(a) economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the US government and administered by OFAC; and

(b) economic or financial sanctions imposed, administered or enforced from time to time by the US State Department, the US Department of Commerce, the US Department of the Treasury, the United Nations Security Council or other relevant sanctions authority.

“Sanctions List” means any of the lists of specifically designated nationals or designated persons or entities (or equivalent) held by the US government and administered by OFAC, the US State Department, the US Department of Commerce or the US Department of the Treasury or the United Nations Security Council or any similar list maintained by any other U.S. government entity or other relevant sanctions authority, in each case as the same may be amended, supplemented or substituted from time to time.

“SEC” means the Securities and Exchange Commission of the United States or such other Governmental Authority succeeding to the functions thereof.

“Securities Act” means the Securities Act of 1933.

“Securitized Indebtedness” means, with respect to any Person as of any date, the reasonably expected liability of such Person for the repayment of, or otherwise relating to, all accounts receivable, general intangibles, chattel paper or other financial assets and related rights and assets sold or otherwise transferred by such Person, or any subsidiary or affiliate thereof, on or prior to such date.

“Solvent” means (a) the fair value of the assets of the Company and its Subsidiaries, on a consolidated basis, at a fair valuation on a going concern basis, exceeds, on a consolidated basis, their debts and liabilities, subordinated, contingent or otherwise, (b) the present fair saleable value of the property of the Company and its Subsidiaries, on a consolidated and going concern basis, is greater than the amount that will be required to pay the probable liability, on a consolidated basis, of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured in the ordinary course of business, (c) the Company and its Subsidiaries, on a consolidated basis, are able to pay their debts and liabilities, subordinated, contingent or otherwise, as such liabilities become absolute and matured in the ordinary course of business and (d) the Company and its Subsidiaries are not engaged in businesses, and are not about to engage in businesses for which they have unreasonably small capital. For purposes of this definition, the amount of any contingent liability at any time shall be computed as the amount that, in light of all the facts and circumstances existing as of the date hereof, would reasonably be expected to become an actual and matured liability.

“SPE” means any bankruptcy-remote, special-purpose entity created in connection with the financing of settlement float with respect to customer funds or otherwise.

“Specified Acquisition” means the acquisition by the Company of First Data pursuant to the Acquisition Agreement.

“Specified Acquisition Arranger” has the meaning assigned to such term in Section 4.02(d).

“Specified Acquisition Transactions” means (a) the consummation of the Specified Acquisition, (b) the execution and delivery of amendments to the Revolving Credit Facility and the borrowings thereunder on or in connection with the closing of the Specified Acquisition, (c) the refinancing of certain indebtedness of First Data and its subsidiaries in connection with the Specified Acquisition, (d) the issuance by the Company of senior unsecured notes or the borrowing of Loans hereunder, or a combination of the foregoing, in connection with the Specified Acquisition, (e) to the extent the financing described in the foregoing clause (d) is not funded on the Closing Date, the incurrence by the Company of term loans under the Bridge Facility, and (f) the payment of all fees and expenses incurred or paid in connection with the foregoing.



“Specified Representations” means the representations and warranties of the Company set forth in the following provisions of this Agreement: Section 3.01 (Existence and Power) (but solely with respect to the due organization, valid existence and good standing of the Company), the first sentence of Section 3.02 (Authority) (but solely with respect to the Company), Section 3.03 (Binding Agreements) (but solely with respect to the Company), the first sentence of Section 3.05(a) (No Conflicting Agreements or Laws) (but solely with respect to a default under this Agreement constituting an Event of Default under (1) clause (b) of Article VII hereof as a result of a failure to pay any fee that is due and payable hereunder, (2) clauses (h) or (i) of Article VII hereof or (3) clause (d)(i) of Article VII hereof as a result of a failure to observe or perform the covenant contained in Section 6.04 hereof (but solely with respect to a merger of the Company)), the first sentence of Section 3.05(b) (No Conflicting Agreements or Laws) (but solely with respect to any existing material mortgage, indenture, contract, agreement or instrument governing any Material Indebtedness (other than the Loans) (on a pro forma basis giving effect to the Specified Acquisition Transactions but without giving effect to the “Material Adverse Effect” qualification contained therein)), Section 3.07 (Investment Company Act), the first sentence of Section 3.08 (Federal Reserve Regulations), Section 3.16 (Use of Proceeds) and Section 3.17 (Solvency).

“Statutory Reserve Rate” means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentage, liquid asset, fees or similar requirements (including any marginal, special, emergency or supplemental reserves or other requirements) established by any central bank, monetary authority, the Board, the Financial Conduct Authority, the Prudential Regulation Authority, the European Central Bank or other Governmental Authority for any category of deposits or liabilities customarily used to fund loans in the applicable currency, expressed in the case of each such requirement as a decimal. Such reserve, liquid asset, fees or similar requirements shall include those imposed pursuant to Regulation D of the Board. Eurocurrency Loans shall be deemed to be subject to such reserve, liquid asset, fee or similar requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under any applicable law, rule or regulation, including Regulation D of the Board. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve, liquid asset or similar requirement, and the Administrative Agent shall notify the Company promptly of any such adjustment.

“Stock” means any and all shares, partnership interests, membership interests, warrants, options, rights of conversion, participations or other equivalents (however designated) of equity interests in a Person.

“subsidiary” means, with respect to any Person (the “parent”) at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent’s consolidated financial statements if such financial statements were prepared in accordance with GAAP (excluding any FIN 46 Entity, but only to the extent that the owners of such FIN 46 Entity’s Indebtedness have no recourse, directly or indirectly, to the Company or any of its Subsidiaries for the principal, premium, if any, and interest on such Indebtedness) as of such date, as well as any other corporation, limited liability company, partnership, association or other entity of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, Controlled or held.

“Subsidiary” means any subsidiary of the Company, other than Bastogne, Inc. and any other SPE.

“Surviving Commitment” has the meaning assigned to such term in Section 2.09(c).

“Surviving Lender” has the meaning assigned to such term in Section 2.09(c).

“Syndication Agent” means each of Citibank, N.A., MUFG Bank, Ltd., PNC Bank, National Association, U.S. Bank National Association and Wells Fargo Bank, National Association in its capacity as syndication agent for the credit facility evidenced by this Agreement.

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

“Trade Date” has the meaning assigned to such term in Section 9.04(e)(i) hereof.

“Tranche” means (i) the Tranche 1 Commitments or Tranche 1 Loans or (ii) the Tranche 2 Commitments or the Tranche 2 Loans, as the context may require.

“Tranche 1 Borrowing” means a borrowing consisting of simultaneous Tranche 1 Loans of the same Type and, in the case of Eurocurrency Loans, having the same Interest Period, made by each of the Tranche 1 Lenders pursuant to Section 2.01(a).

“Tranche 1 Commitment” means, as to each Tranche 1 Lender, its obligation to make Tranche 1 Loans to the Company 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 Tranche 1 Lender’s name on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Tranche 1 Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement.

“Tranche 1 Lender” means a Lender with a Tranche 1 Commitment or holding Tranche 1 Loans.

“Tranche 1 Loan” has the meaning assigned to such term in Section 2.01(a).

“Tranche 1 Maturity Date” means the date that is three years after the Closing Date, as extended (in the case of each Lender consenting thereto) pursuant to Section 2.23.

“Tranche 2 Borrowing” means a borrowing consisting of simultaneous Tranche 2 Loans of the same Type and, in the case of Eurocurrency Loans, having the same Interest Period, made by each of the Tranche 2 Lenders pursuant to Section 2.01(b).

“Tranche 2 Commitment” means, as to each Tranche 2 Lender, its obligation to make Tranche 2 Loans to the Company pursuant to Section 2.01(b) in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Tranche 2 Lender’s name on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Tranche 2 Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement.

“Tranche 2 Lender” means a Lender with a Tranche 2 Commitment or holding Tranche 2 Loans.

“Tranche 2 Loan” has the meaning assigned to such term in Section 2.01(b).

“Tranche 2 Maturity Date” means the date that is five years after the Closing Date, as extended (in the case of each Lender consenting thereto) pursuant to Section 2.23.

“Type,” when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBO Rate or the Alternate Base Rate.

“U.S. Lender” means a Lender that is not a Foreign Lender.

“U.S. Person” means a “United States person” within the meaning of Section 7701(a)(30) of the Code.

“Withdrawal Liability” means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

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

SECTION 1.02. Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Tranche (e.g., a “Tranche 1 Loan”) or by Type (e.g., a “Eurocurrency Loan”) or by Tranche and Type (e.g., a “Eurocurrency Tranche 1 Loan”). Borrowings also may be classified and referred to by Tranche (e.g., a “Tranche 1 Borrowing”) or by Type (e.g., a “Eurocurrency Borrowing”) or by Tranche and Type (e.g., a “Eurocurrency Tranche 1 Borrowing”).

SECTION 1.03. Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” The word “law” shall be construed as referring to all statutes, rules, regulations, codes and other laws (including official rulings and interpretations thereunder having the force of law or with which affected Persons customarily comply), and all judgments, orders and decrees, of all Governmental Authorities. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, supplemented or otherwise modified (subject to any restrictions on such amendments, restatements, supplements or modifications set forth herein), (b) any definition of or reference to any statute, rule or regulation shall be construed as referring thereto as from time to time amended, supplemented or otherwise modified (including by succession of comparable successor laws), (c) any reference herein to any Person shall be construed to include such Person’s successors and assigns (subject to any restrictions on assignment set forth herein) and, in the case of any Governmental Authority, any other Governmental Authority that shall have succeeded to any or all functions thereof, (d) the words “herein,” “hereof” and “hereunder,” and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (e) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections

of, and Exhibits and Schedules to, this Agreement and (f) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

SECTION 1.04. Accounting Terms; GAAP. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that, if the Company notifies the Administrative Agent that the Company requests an amendment to any provision hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Company that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied without giving effect to such change until such notice shall have been withdrawn or such provision amended in accordance herewith. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein (including the computations and ratios referred to in Section 6.08) shall be made (i) without giving effect to any election under Accounting Standards Codification 825-10-25 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Company or any Subsidiary at “fair value,” as defined therein, (ii) without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof and (iii) without giving effect to any change to, or modification of, or the phase-in of the effectiveness of any amendments to, GAAP which would require the capitalization of leases characterized as “operating leases” as of December 15, 2018 (it being understood and agreed, for the avoidance of doubt, that financial statements delivered pursuant to Sections 5.07(a) and 5.07(c) shall be prepared without giving effect to this sentence).

SECTION 1.05. Interest Rates. The Administrative Agent does not warrant or accept responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to the rates in the definition of “LIBO Rate” or with respect to any comparable or successor rate thereto, or replacement rate therefor (other than, for the avoidance of doubt, with respect to its obligation to apply the definition of such rate in accordance with its terms).

SECTION 1.06. Certain Calculations. No Default or Event of Default shall arise as a result of any limitation or threshold set forth in Dollars in Articles VI and VII under this Agreement being exceeded solely as a result of changes in currency exchange rates from those rates applicable on the last day of the fiscal quarter of the Company immediately preceding the fiscal quarter of the Company in which the applicable transaction or occurrence requiring a determination occurs.

ARTICLE II

The Credits

SECTION 2.01. Commitments.

(a) Subject to the terms and conditions set forth herein, each Tranche 1 Lender (severally and not jointly) agrees to make loans (each such loan, a "Tranche 1 Loan") to the Company in Dollars on the Closing Date in an aggregate amount not to exceed the amount of such Tranche 1 Lender's Tranche 1 Commitment. Tranche 1 Loans may be ABR Loans or Eurocurrency Rate Loans, as further provided herein. Tranche 1 Loans borrowed under this Section 2.01(a) and paid or prepaid may not be reborrowed.

(b) Subject to the terms and conditions set forth herein, each Tranche 2 Lender (severally and not jointly) agrees to make loans (each such loan, a "Tranche 2 Loan") to the Company in Dollars on the Closing Date in an aggregate amount not to exceed the amount of such Tranche 2 Lender's Tranche 2 Commitment. Tranche 2 Loans may be ABR Loans or Eurocurrency Rate Loans, as further provided herein. Tranche 2 Loans borrowed under this Section 2.01(b) and paid or prepaid may not be reborrowed.

SECTION 2.02. Loans and Borrowings.

(a) Each Loan of any Tranche shall be made as part of a Borrowing of such Tranche consisting of Loans of such Tranche made by the applicable Lenders ratably in accordance with their respective Commitments in respect of such Tranche. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required.

(b) Subject to Section 2.14, each Borrowing shall be comprised entirely of ABR Loans or Eurocurrency Loans as the Company may request in accordance herewith. Each Lender at its option may make any Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan (and in the case of an Affiliate, the provisions of Sections 2.14, 2.15, 2.16 and 2.17 shall apply to such Affiliate to the same extent as to such Lender); provided that any exercise of such option shall not affect the obligation of the Company to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Eurocurrency Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000. At the time that each ABR Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of \$100,000 and not less than \$1,000,000. Borrowings of more than one Type and Tranche may be outstanding at the same time.

(d) Notwithstanding any other provision of this Agreement, the Company shall not be entitled to request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date.

SECTION 2.03. Requests for Borrowings. To request a Borrowing, the Company shall notify the Administrative Agent of such request (a) by irrevocable written notice (via a written Borrowing Request signed by the Company) in the case of a Eurocurrency Borrowing, not later than 12:00 noon, Chicago time, two (2) Business Days before the date of the proposed Borrowing or (b) by irrevocable written notice (via a written Borrowing Request signed by the Company) or by telephone in the case of an ABR Borrowing, not later than 12:00 noon, Chicago time, on the Business Day of the proposed Borrowing. Each such telephonic Borrowing Request shall be irrevocable and shall be confirmed promptly

by hand delivery, email or by telecopy to the Administrative Agent of a written Borrowing Request signed by the Company. Each such telephonic and written Borrowing Request shall specify the following information in compliance with Section 2.02:

- (i) the aggregate principal amount of the requested Borrowing;
- (ii) the date of such Borrowing, which shall be a Business Day;
- (iii) whether such Borrowing is to be of a Tranche 1 Loan or a Tranche 2 Loan and whether such Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing;
- (iv) in the case of a Eurocurrency Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and
- (v) the location and number of the account or accounts to which funds are to be disbursed, which shall comply with the requirements of Section 2.07.

If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurocurrency Borrowing, then the Company shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

SECTION 2.04. [Reserved].

SECTION 2.05. [Reserved].

SECTION 2.06. [Reserved].

SECTION 2.07. Funding of Borrowings.

(a) Each Lender shall make each Loan to be made by it hereunder on the proposed date specified in accordance with the terms hereof in the Borrowing Request solely by wire transfer of immediately available funds by 8:00 a.m. (or, in the case of an ABR Borrowing for which the Borrowing Request is delivered to the Administrative Agent on the proposed date of Borrowing, 1:00 p.m.), Chicago time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders. The Administrative Agent will make such Loans available to the Company by promptly crediting, on the date specified in accordance with the terms hereof in the Borrowing Request, funds so received in the aforesaid account of the Administrative Agent to the account or accounts designated by the Company in the applicable Borrowing Request.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing (or in the case of an ABR Borrowing, prior to 1:00 p.m., Chicago time, 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 paragraph (a) of this Section and may, in reliance upon such assumption, make available to the Company a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Company severally agree to pay to the Administrative Agent forthwith on

demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Company to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Company, the interest rate applicable to ABR Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing.

SECTION 2.08. Interest Elections.

(a) Each Borrowing initially shall be of the Type specified in the applicable Borrowing Request (or, if not so specified, as provided in Section 2.03) and, in the case of a Eurocurrency Borrowing, shall have an initial Interest Period as specified in such Borrowing Request (or, if not so specified, as provided in Section 2.03). Thereafter, the Company may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Eurocurrency Borrowing, may elect Interest Periods therefor, all as provided in this Section. The Company may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing.

(b) To make an election pursuant to this Section, the Company shall notify the Administrative Agent of such election (by telephone or irrevocable written notice (via an Interest Election Request signed by the Company)) by the time that a Borrowing Request would be required under Section 2.03 if the Company were requesting a Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery, email or teletype to the Administrative Agent of a written Interest Election Request signed by the Company. Notwithstanding any contrary provision herein, this Section shall not be construed to permit the Company to elect an Interest Period for Eurocurrency Loans that does not comply with Section 2.02(d).

(c) Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the Borrowing (including the applicable Tranche of such Borrowing) to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing; and

(iv) if the resulting Borrowing is a Eurocurrency Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which Interest Period shall be a period contemplated by the definition of the term "Interest Period".

If any such Interest Election Request requests a Eurocurrency Borrowing but does not specify an Interest Period, then the Company shall be deemed to have selected an Interest Period of one month's duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If the Company fails to deliver a timely Interest Election Request with respect to a Eurocurrency Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be converted to an ABR Borrowing; provided that if the Company shall have delivered to the Administrative Agent its customary standard documentation pre-authorizing automatic continuations, such Borrowing shall automatically continue as a Eurocurrency Borrowing with an Interest Period of one month unless such Eurocurrency Borrowing is or was repaid in accordance with Section 2.11. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the Company, then, so long as an Event of Default is continuing (i) no outstanding Borrowing may be converted to or continued as a Eurocurrency Borrowing, and (ii) unless repaid, each Eurocurrency Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

#### SECTION 2.09. Termination and Reduction of Commitments.

(a) The Aggregate Commitment hereunder shall be permanently reduced to zero on the date (the "Commitment Termination Date") that is the earliest of the following: (i) the date of the consummation of the Specified Acquisition without the funding of the Loans under this Agreement, (ii) the date on which the Acquisition Agreement is terminated in accordance with its terms, (iii) the date of effectiveness of any written notice from the Company to the Administrative Agent of its election to terminate the remaining Aggregate Commitment hereunder in full pursuant to Section 2.09(b) below and (iv) 11:59 p.m., New York City time, on the Initial Termination Date (as defined in the Acquisition Agreement as in effect on January 16, 2019) (or, if the Initial Termination Date shall have been extended or further extended as provided in Section 8.1(c) of the Acquisition Agreement as in effect on January 16, 2019), then on such extended Termination Date (as defined in the Acquisition Agreement as in effect on January 16, 2019)). Unless previously terminated, the Aggregate Commitment shall terminate upon the funding of the Loans on the Closing Date.

(b) The Company may at any time prior to the Closing Date terminate, or from time to time reduce, the Tranche 1 Commitments or the Tranche 2 Commitments; provided that each reduction of the Tranche 1 Commitments or the Tranche 2 Commitments shall be in an amount that is an integral multiple of \$500,000 and not less than \$5,000,000.

(c) Notwithstanding the foregoing, upon the acquisition of one Lender by another Lender, or the merger, consolidation or other combination of any two or more Lenders prior to the Closing Date (any such acquisition, merger, consolidation or other combination being referred to hereinafter as a "Combination" and each Lender which is a party to such Combination being hereinafter referred to as a "Combined Lender"), the Company may notify the Administrative Agent that it desires to reduce the Commitment of the Lender surviving such Combination (the "Surviving Lender") to an amount equal to the Commitment of that Combined Lender which had the largest Commitment of each of the Combined Lenders party to such Combination (such largest Commitment being the "Surviving Commitment" and the Commitments of the other Combined Lenders being hereinafter referred to, collectively, as the "Retired Commitments"). If the Required Lenders (determined as set forth below) and the Administrative Agent agree to such reduction in the Surviving Lender's Commitment, then (i) the aggregate amount of the Commitments shall be reduced by the Retired Commitments effective upon the effective date of the Combination, (ii) from and after the effective date of such reduction, the Surviving Lender shall have no obligation with respect to the Retired Commitments, and (iii) the Company shall notify the Administrative Agent whether it wants such reduction to be a permanent reduction or a temporary reduction. If such



reduction is to be a temporary reduction, then the Company shall be responsible for finding one or more financial institutions (each, a “Replacement Lender”), acceptable to the Administrative Agent (such acceptance not to be unreasonably withheld, conditioned or delayed), willing to assume the obligations of a Lender hereunder with aggregate Commitments up to the amount of the Retired Commitments. The Administrative Agent may require the Replacement Lenders to execute such documents, instruments or agreements as the Administrative Agent reasonably deems necessary or desirable to evidence such Replacement Lenders’ agreement to become parties hereunder. For purposes of this Section 2.09(c), Required Lenders shall be determined as if the reduction in the aggregate amount of the Commitments requested by the Company had occurred (i.e., the Combined Lenders shall be deemed to have a single Commitment equal to the Surviving Commitment and the aggregate amount of the Commitments shall be deemed to have been reduced by the Retired Commitments).

(d) The Company shall notify the Administrative Agent of any election to terminate or reduce the Commitments with respect to any Tranche under paragraph (b) of this Section at least three (3) Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Company pursuant to this Section shall be irrevocable; provided that a notice of termination of the Commitments delivered by the Company may state that such notice is conditioned upon the effectiveness of other credit facilities or other matters specified therein, in which case such notice may be revoked by the Company (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments shall be permanent. Each reduction of the Commitments with respect to a Tranche shall be made ratably among the Lenders within such Tranche in accordance with their respective Commitments.

#### SECTION 2.10. Repayment and Amortization of Loans; Evidence of Debt.

(a) The Company shall repay to the Administrative Agent:

(i) for the ratable account of the Tranche 1 Lenders (which repayments shall be adjusted from time to time pursuant to Section 2.11) (A) a principal amount in respect of the Tranche 1 Loans equal to (x) the outstanding principal amount of the Tranche 1 Loans on the Closing Date multiplied by (y)(I) for each of the first eight fiscal quarters commencing at the end of the first full fiscal quarter ending after the Closing Date, 1.25% and (II) for each fiscal quarter thereafter, 1.875%, with all accrued amounts under this clause (i)(A) to be paid on the last Business Day of each December occurring during the term of this Agreement and prior to the Tranche 1 Maturity Date, and (B) on the Tranche 1 Maturity Date, the aggregate principal amount of the Tranche 1 Loans outstanding on such date; and

(ii) for the ratable account of the Tranche 2 Lenders (which repayments shall be adjusted from time to time pursuant to Section 2.11) (A) a principal amount in respect of the Tranche 2 Loans equal to (x) the outstanding principal amount of the Tranche 2 Loans on the Closing Date multiplied by (y) (I) for each of the first eight fiscal quarters commencing at the end of the first full fiscal quarter ending after the Closing Date, 1.25%, (II) for each of the next eight fiscal quarters, 1.875% and (III) for each fiscal quarter thereafter, 2.50%, with all accrued amounts under this clause (ii)(A) to be paid on the last Business Day of each December occurring during the term of this Agreement and prior to the Tranche 2 Maturity Date, and (B) on the Tranche 2 Maturity Date, the aggregate principal amount of Tranche 2 Loans outstanding on such date.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Company to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Tranche and Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Company to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein; provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Company to repay the Loans in accordance with the terms of this Agreement.

(e) Any Lender may request that Loans made by it to the Company be evidenced by a promissory note. In such event, the Company shall prepare, execute and deliver to such Lender a promissory note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in a form reasonably approved by the Administrative Agent and the Company. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form.

#### SECTION 2.11. Prepayment of Loans.

(a) The Company shall have the right at any time and from time to time to prepay any Borrowing of either Tranche in whole or in part, subject to prior notice in accordance with paragraph (b) of this Section; provided that (i) each prepayment of a Eurocurrency Borrowing (other than in connection with a prepayment of all outstanding Eurocurrency Borrowings) shall be in an amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000 and (ii) each prepayment of an ABR Borrowing (other than in connection with a prepayment of all outstanding ABR Borrowings) shall be in an amount that is an integral multiple of \$100,000 and not less than \$1,000,000.

(b) The Company shall notify the Administrative Agent by telephone (confirmed by telecopy or e-mail in accordance with Section 9.01) of any prepayment hereunder (i) in the case of prepayment of a Eurocurrency Borrowing, not later than 1:00 p.m., Chicago time, three (3) Business Days before the date of prepayment, or (ii) in the case of prepayment of an ABR Borrowing, not later than 1:00 p.m., Chicago time, on the date of prepayment. Each such notice shall be irrevocable and shall specify the Borrowing (including the applicable Tranche) subject to such prepayment, the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; provided that, (A) if a notice of prepayment is given in connection with a conditional notice of termination of the Commitments as contemplated by Section 2.09, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.09 and (B) a notice of prepayment delivered by the Company may state that such notice is conditioned upon the effectiveness of other credit facilities or other matters specified therein, in which case such notice may be revoked by the Company (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Promptly following receipt of any such notice relating to a Borrowing, the Administrative Agent shall advise the applicable Lenders of the contents thereof. Each partial prepayment of any Borrowing shall be in an amount that would be permitted in the case of an advance of a Borrowing of the same Type as provided in Section 2.02. Each prepayment of a Borrowing shall be applied ratably to the Loans of the applicable Tranche included in the prepaid Borrowing as the Borrower shall direct. Prepayments shall be accompanied by (i) accrued interest to the extent required by Section 2.13 and (ii) break funding payments pursuant to Section 2.16.

SECTION 2.12. Fees.

(a) The Company agrees to pay to the Administrative Agent for the account of each Lender in accordance with its Applicable Percentage a ticking fee, which ticking fee shall accrue at a per annum rate equal to the Applicable Rate on the actual daily undrawn Aggregate Commitment (as such amounts shall be adjusted to give effect to any reductions of the Commitments pursuant to Section 2.09) during the period commencing on but excluding the 60<sup>th</sup> day after the Effective Date and ending on and including the earlier of (x) the Closing Date and (y) the Commitment Termination Date, payable in arrears on such earlier date. All ticking fees shall be computed on the basis of a year of 365 days and shall be payable for the actual number of days elapsed.

(b) The Company agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Company and the Administrative Agent.

(c) All fees payable hereunder shall be paid on the dates due, in immediately available funds in Dollars (except as expressly provided in this Section), to the Administrative Agent for distribution, in the case of ticking fees, to the Lenders. Fees paid shall not be refundable under any circumstances.

SECTION 2.13. Interest.

(a) The Loans comprising each ABR Borrowing shall bear interest at the Alternate Base Rate plus the Applicable Rate. The Loans comprising each Eurocurrency Borrowing shall bear interest at the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(b) Notwithstanding the foregoing, if any principal of or interest on any Loan or any fee payable by the Company hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, 2% plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section or (ii) in the case of any interest or fee, 2% plus the rate applicable to ABR Loans as provided in paragraph (a) of this Section.

(c) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan; provided that (i) interest accrued pursuant to paragraph (b) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Loan prior to the Maturity Date), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Eurocurrency Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(d) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate, Adjusted LIBO Rate or LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent demonstrable error.

SECTION 2.14. Alternate Rate of Interest.

(a) If at the time that the Administrative Agent shall seek to determine the LIBOR Screen Rate on the Quotation Day for any Interest Period for a Eurocurrency Borrowing the LIBOR Screen Rate shall not be available for such Interest Period for any reason, and the Administrative Agent shall reasonably determine that it is not possible to determine the Interpolated Rate (which conclusion shall be conclusive and binding absent demonstrable error), then the Reference Bank Rate shall be the LIBO Rate for such Interest Period for such Eurocurrency Borrowing; provided that if the Reference Bank Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement; provided, further, that if fewer than two Reference Banks shall supply a rate to the Administrative Agent for purposes of determining the LIBO Rate for such Eurocurrency Borrowing, then such Borrowing shall be made as an ABR Borrowing at the Alternate Base Rate (disregarding clause (c) of the definition thereof). It is hereby understood and agreed that, notwithstanding the foregoing set forth in this Section 2.14(a), if at any time the conditions set forth in Section 2.14(c)(i) or (ii) are in effect, the provisions of this Section 2.14(a) shall no longer be applicable for any purpose of determining any alternative rate of interest under this Agreement and Section 2.14(c) shall instead be applicable for all purposes of determining any alternative rate of interest under this Agreement.

(b) If prior to the commencement of any Interest Period for a Eurocurrency Borrowing:

(i) the Administrative Agent determines (which determination shall be conclusive and binding absent demonstrable error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate or the LIBO Rate, as applicable (including, without limitation, because the LIBOR Screen Rate is not available or published on a current basis), for a Loan for the applicable Interest Period; or

(ii) the Administrative Agent is advised by the Required Lenders that the Adjusted LIBO Rate or the LIBO Rate, as applicable, for a Loan for the applicable Interest Period will not adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans included in such Borrowing for such Interest Period;

then the Administrative Agent shall give notice (in reasonable detail) thereof to the Company and the Lenders prior to the commencement of such Interest Period by telephone, telecopy or e-mail in accordance with Section 9.01 as promptly as practicable thereafter and, until the Administrative Agent notifies the Company and the Lenders that the circumstances giving rise to such notice no longer exist (which notice the Administrative Agent hereby agrees to provide promptly after its determination of such circumstances ceasing to exist), (i) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurocurrency Borrowing for the applicable Interest Period, as the case may be, shall be ineffective, and (ii) if any Borrowing Request requests a Eurocurrency Borrowing, such Borrowing shall be made as an ABR Borrowing; provided that if the circumstances giving rise to such notice affect only one Type of Borrowings, then the other Type of Borrowings shall be permitted.

(c) Notwithstanding the foregoing, if at any time the Administrative Agent determines (which determination shall be conclusive absent demonstrable error) that (i) the circumstances set forth in Section 2.14(b)(i) have arisen and such circumstances are unlikely to be temporary or (ii) the circumstances set forth in Section 2.14(b)(i) have not arisen but (w) the supervisor for the administrator of the LIBOR Screen Rate has made a public statement that the administrator of the LIBOR Screen Rate is insolvent (and there is no successor administrator that will continue publication of the LIBOR Screen Rate), (x) the administrator of the LIBOR Screen Rate has made a public statement identifying a specific date after which the LIBOR Screen Rate will permanently or indefinitely cease to be published by it (and there is no successor administrator that will continue publication of the LIBOR Screen Rate), (y) the supervisor for the

administrator of the LIBOR Screen Rate has made a public statement identifying a specific date after which the LIBOR Screen Rate will permanently or indefinitely cease to be published or (z) the supervisor for the administrator of the LIBOR Screen Rate or a Governmental Authority having jurisdiction over the Administrative Agent has made a public statement identifying a specific date after which the LIBOR Screen Rate shall no longer be used for determining interest rates for loans, then the Administrative Agent and the Company shall endeavor to establish an alternate rate of interest to the LIBOR Rate that gives due consideration to the then prevailing market convention for determining a rate of interest for syndicated loans in the United States at such time, and shall enter into an amendment to this Agreement to reflect such alternate rate of interest and such other related changes to this Agreement as may be applicable; provided that, if such alternate rate of interest as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement. Notwithstanding anything to the contrary in Section 9.02, such amendment shall become effective without any further action or consent of any other party to this Agreement so long as the Administrative Agent shall not have received, within five (5) Business Days after the date notice of such alternate rate of interest is provided to the Lenders, a written notice from the Required Lenders stating that such Required Lenders object to such amendment. Notwithstanding anything to the contrary in this Agreement, until an alternate rate of interest shall be determined in accordance with this Section 2.14(c) (but, in the case of the circumstances described in clause (ii) of the first sentence of this Section 2.14(c), only to the extent the LIBOR Screen Rate for such Interest Period is not available or published at such time on a current basis), (x) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurocurrency Borrowing for the applicable Interest Period, as the case may be, shall be ineffective, and (y) if any Borrowing Request requests a Eurocurrency Borrowing, such Borrowing shall be made as an ABR Borrowing.

SECTION 2.15. Increased Costs.

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, liquidity or similar requirement (including any compulsory loan requirement, insurance charge or other assessment) against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Adjusted LIBOR Rate);

(ii) impose on any Lender or the London interbank market any other condition affecting this Agreement or Loans made by such Lender; or

(iii) subject the Administrative Agent or any Lender 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, commitments, or other obligations of the type that such Lender has hereunder, or its deposits, reserves, other liabilities or capital attributable thereto

and the result of any of the foregoing shall be to increase the cost to the Administrative Agent or such Lender of making, continuing, converting into or maintaining any Loan or of maintaining its obligation to make any such Loan or to reduce the amount of any sum received or receivable by the Administrative Agent or such Lender hereunder, whether of principal, interest or otherwise, then the Company will pay to the Administrative Agent or such Lender, as the case may be, such additional amount or amounts as will compensate the Administrative Agent or such Lender, as the case may be, for such additional costs incurred or reduction suffered as reasonably determined by such Lender (which determination shall be made in good faith (and not on an arbitrary or capricious basis) and consistent with similarly situated customers of the applicable Lender under agreements having provisions similar to this Section 2.15 after consideration of such factors as such Lender then reasonably determines to be relevant).

(b) If any Lender reasonably determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement or the Loans made by such Lender to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy and liquidity), then from time to time the Company will pay to such Lender, as the case may be, such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered as reasonably determined by such Lender (which determination shall be made in good faith (and not on an arbitrary or capricious basis) and consistent with similarly situated customers of the applicable Lender under agreements having provisions similar to this Section 2.15 after consideration of such factors as such Lender then reasonably determines to be relevant).

(c) A certificate of a Lender setting forth in reasonable detail the computation of the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section shall be delivered to the Company contemporaneously with any demand for payment hereunder and shall be conclusive absent clearly demonstrable error. The Company shall pay such Lender the amount shown as due on any such certificate within 30 days after receipt thereof.

(d) Failure or delay on the part of any Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's right to demand such compensation; provided that the Company shall not be required to compensate a Lender pursuant to this Section for any increased costs or reductions if such Lender fails to notify the Company within 90 days after it obtains actual knowledge (or, in the exercise of ordinary due diligence, should have obtained actual knowledge) thereof, and such Lender shall only be entitled to receive such compensation for any losses incurred by it or amounts to which it would otherwise be entitled from and after the date 90 days prior to the date such Lender provided notice thereof to the Company of the Change in Law giving rise to such increased costs or reductions and of such Lender's claim for compensation therefor; provided, further, that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 90-day period referred to above shall be extended to include the period of retroactive effect thereof.

SECTION 2.16. Break Funding Payments. In the event of (a) the payment of any principal of any Eurocurrency Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default or as a result of any prepayment pursuant to Section 2.11), (b) the conversion of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Eurocurrency Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.11(b) and is revoked in accordance therewith or otherwise) or (d) the assignment of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Company pursuant to Section 2.19 or 9.02(c), then, in any such event, the Company shall compensate each Lender for the loss, cost and expense attributable to such event. Such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted LIBO Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest which would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for deposits in Dollars of a comparable amount and period from other banks in the eurocurrency market. A certificate of any Lender setting forth the computation in reasonable detail of any amount or amounts that such Lender is entitled to receive pursuant

to this Section shall be delivered to the Company contemporaneously with the demand for payment and shall be conclusive absent manifest error. The Company shall pay such Lender the amount shown as due on any such certificate within 30 days after receipt thereof.

SECTION 2.17. Taxes.

(a) Any and all payments by or on account of any obligation of the Company under any Loan Document shall be made free and clear of and without deduction for any Indemnified Taxes or Other Taxes; provided that if the Company or the Administrative Agent shall be required (as determined in its reasonable good faith discretion) to deduct any Indemnified Taxes or Other Taxes from such payments, then (i) the sum payable by the Company shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) the Administrative Agent, Lender or any other recipient of such payments (as the case may be) receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Company or Administrative Agent shall make such deductions and (iii) the Company or Administrative Agent shall pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

(b) In addition, the Company shall pay any Other Taxes related to the Company to the relevant Governmental Authority in accordance with applicable law.

(c) The Company shall indemnify the Administrative Agent and each Lender, within 30 days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes paid by the Administrative Agent or such Lender, as the case may be, on or with respect to any payment by or on account of any obligation of the Company under any Loan Document (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) and any interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability together with a supporting document shall be delivered to the Company by a Lender, or by the Administrative Agent on its own behalf or on behalf of a Lender contemporaneously with any demand for payment, and shall be conclusive absent manifest error.

(d) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Company to a Governmental Authority, the Company shall deliver to the Administrative Agent the original or a copy of a receipt issued, if available, by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) (i) Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which the Company is located, or any treaty to which such jurisdiction is a party, with respect to payments under this Agreement shall deliver to the Company (with a copy to the Administrative Agent), at the time or times reasonably requested by the Company or the Administrative Agent, such properly completed and executed documentation prescribed by applicable law or reasonably requested by the Company or Administrative Agent as will permit such payments to be made without withholding or at a reduced rate. In addition, any Lender, if reasonably requested by the Company or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Company or the Administrative Agent as will enable the Company 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 2.17(e)(ii)(A) and (ii)(B) below) shall not be required if in the 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.

(i) Without limiting the generality of the foregoing:

(A) any U.S. Lender shall deliver to the Company 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 Company or the Administrative Agent), executed copies 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 Company 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 Company 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 copies of IRS Form W-8BEN or IRS Form W-8BEN-E 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 or IRS Form W-8BEN-E 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) in the case of a Foreign Lender claiming that its extension of credit will generate U.S. effectively connected income, an executed copy 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 E-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 Company 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 copies of IRS Form W-8BEN or IRS Form W-8BEN-E; or

(4) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate substantially in the form of Exhibit E-2 or Exhibit E-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 E-4 on behalf of each such direct and indirect partner;

(5) for purposes of furnishing the U.S. Tax Compliance Certificate as described in the foregoing clauses (3) and (4), if a Foreign Lender (or a foreign



Participant) is a Disregarded Entity, the Foreign Lender will submit such certificate based on the status of the Person that is treated for U.S. federal income tax purposes as being the sole owner of such Lender or Participant; and

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Company 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 Company or the Administrative Agent), executed originals or certified copies 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 Company or the Administrative Agent to determine the withholding or deduction required to be made.

(f) If the Administrative Agent or a Lender determines, in its discretion exercised reasonably and in good faith, that it has received a refund of any Taxes as to which it has been indemnified by the Company or with respect to which the Company has paid additional amounts pursuant to this Section 2.17, it shall pay over such refund, net of all reasonable and documented out-of-pocket expenses (including Taxes) of the Administrative Agent or such Lender and without interest, to the Company (but only to the extent of the indemnity payments made under this Section 2.17 with respect to the Taxes giving rise to such refund). This Section shall not be construed to require the Administrative Agent or any Lender to make available its tax returns (or any other information relating to its taxes which it deems confidential) to the Company or any other Person.

(g) Each Lender shall severally indemnify (i) the Administrative Agent, within 30 days after demand therefor, for (A) any Indemnified Taxes or Other Taxes attributable to such Lender (but only to the extent that the Company has not already indemnified the Administrative Agent for such Indemnified Taxes or Other Taxes and without limiting the obligation of the Company to do so) and (B) any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.04(c) relating to the maintenance of a Participant Register and (ii) the Administrative Agent and the Company, within 30 days after demand therefor, for any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent or the Company (as applicable) 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 or the Company (as applicable) shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this Section 2.17(g).

(h) If a payment made to a Lender under any Loan Document would be subject to United States 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 Company and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Company 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 Company or the Administrative Agent as may be necessary for the Company 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 Section 2.17(h), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

SECTION 2.18. Payments Generally; Pro Rata Treatment; Sharing of Set-offs.

(a) The Company shall make each payment required to be made by it hereunder (whether of principal, interest, fees or of amounts payable under Section 2.15, 2.16 or 2.17, or otherwise) prior to 1:00 p.m., Chicago time, on the date when due, in immediately available funds, without set-off, recoupment or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent at its offices at 10 South Dearborn Street, Chicago, Illinois 60603, except that payments pursuant to Sections 2.15, 2.16, 2.17 and 9.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension.

(b) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, interest and fees then due hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) second, towards payment of principal then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal then due to such parties.

(c) If any Lender shall, by exercising any right of set-off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans of any Tranche resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans of such Tranche and accrued interest thereon than the proportion received by any other Lender of Loans of such Tranche, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Loans of such Tranche of other Lenders of such Tranche to the extent necessary so that the benefit of all such payments shall be shared by the Lenders of such Tranche ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans of such Tranche; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by the Company pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant, other than to the Company or any Subsidiary or Affiliate thereof (as to which the provisions of this paragraph shall apply). The Company 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 Company rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Company in the amount of such participation.

(d) Unless the Administrative Agent shall have received notice from the Company prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders hereunder that the Company will not make such payment, the Administrative Agent may assume that the Company has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders the amount due. In such event, if the Company has not in fact made such payment, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(e) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.07(b), 2.18(d) or 9.03(c), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender and for the benefit of the Administrative Agent to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid and/or (ii) hold any such amounts in a segregated account over which the Administrative Agent shall have exclusive control as cash collateral for, and application to, any future funding obligations of such Lender under any such Section; in the case of each of clauses (i) and (ii) above, in any order as determined by the Administrative Agent in its discretion; it being understood that the Administrative Agent shall, to the extent permitted by law, apply any cash collateral to such obligations when due.

SECTION 2.19. Mitigation Obligations; Replacement of Lenders.

(a) If any Lender requests compensation under Section 2.15, or if the Company is required to pay any Indemnified Taxes or additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, then such Lender shall 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, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.15 or 2.17, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be materially disadvantageous to such Lender. The Company hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If (i) any Lender (or any of its Participants) requests compensation under Section 2.15, (ii) the Company is required to pay any Indemnified Taxes or additional amount to any Lender (or any of its Participants) or any Governmental Authority for the account of any Lender (or any of its Participants) pursuant to Section 2.17, (iii) any Lender (A) or any Lender Parent has become the subject of a Bail-In Action (or any case or other proceeding in which a Bail-In Action may occur), (B) is an EEA Financial Institution that is rated lower than BBB- by S&P and lower than Baa3 by Moody's, or (C) is or becomes a Defaulting Lender or a Disqualified Institution, (iv) any Lender shall determine that any law, regulation or treaty or directive, or any change therein or in the interpretation or application thereof, shall make it unlawful for such Lender to make or maintain any Eurocurrency Loans as contemplated by this Agreement or (v) any Lender shall enter into, or purport to enter into, any assignment or participation with a Disqualified Institution in violation of this Agreement, then the Company may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights (other than its existing rights to payments pursuant to Section 2.15 or 2.17) and obligations under the Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (A) such Lender is reasonably acceptable to the Administrative Agent and (B) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Company (in the case of all other amounts). Each party hereto agrees that (1) an assignment required pursuant to this paragraph may be effected pursuant to an Assignment and Assumption executed by the Company, the Administrative Agent and the assignee (or, to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Approved Electronic Platform as to which the Administrative Agent and such parties are participants), and (2) the Lender required to make

such assignment need not be a party thereto in order for such assignment to be effective and shall be deemed to have consented to and be bound by the terms thereof; provided that, following the effectiveness of any such assignment, the other parties to such assignment agree to execute and deliver such documents necessary to evidence such assignment as reasonably requested by the applicable Lender, which documents shall be without recourse to or warranty by the parties thereto. Notwithstanding any other provision of this Agreement to the contrary, if a Lender has become the subject of a Bail-In Action (or any case or other proceeding in which a Bail-In Action may occur) (each, a “Bail-In Lender”), then the Company may terminate such Bail-In Lender’s Commitment hereunder; provided that (I) no Default or Event of Default shall have occurred and be continuing at the time of such Commitment termination, (II) in the case of a Bail-In Lender, the Company shall concurrently terminate the Commitment of each other Lender that is a Bail-In Lender at such time, (III) the Administrative Agent and the Required Lenders shall have consented to each such Commitment termination (such consents not to be unreasonably withheld or delayed, but may include consideration of the adequacy of the liquidity of the Company and its Subsidiaries) and (IV) such Bail-In Lender shall have been paid all amounts then due to it under this Agreement and each other Loan Document (which, for the avoidance of doubt, the Company may pay in connection with any such termination without making ratable payments to any other Lender (other than another Lender that has a Commitment that concurrently is being terminated under this Section 2.19(b))).

SECTION 2.20. Judgment Currency. If for the purposes of obtaining judgment in any court it is necessary to convert a sum due from the Company hereunder in the currency expressed to be payable herein (the “specified currency”) into another currency, the parties hereto agree, to the fullest extent that they may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the specified currency with such other currency at the Administrative Agent’s main New York City office on the Business Day preceding that on which final, non-appealable judgment is given. The obligations of the Company in respect of any sum due to any Lender or the Administrative Agent hereunder shall, notwithstanding any judgment in a currency other than the specified currency, be discharged only to the extent that on the Business Day following receipt by such Lender or the Administrative Agent (as the case may be) of any sum adjudged to be so due in such other currency such Lender or the Administrative Agent (as the case may be) may in accordance with normal, reasonable banking procedures purchase the specified currency with such other currency. If the amount of the specified currency so purchased is less than the sum originally due to such Lender or the Administrative Agent, as the case may be, in the specified currency, the Company agrees, to the fullest extent that it may effectively do so, as a separate obligation and notwithstanding any such judgment, to indemnify such Lender or the Administrative Agent, as the case may be, against such loss, and if the amount of the specified currency so purchased exceeds (a) the sum originally due to any Lender or the Administrative Agent, as the case may be, in the specified currency and (b) any amounts shared with other Lenders as a result of allocations of such excess as a disproportionate payment to such Lender under Section 2.18, such Lender or the Administrative Agent, as the case may be, agrees to remit such excess to the Company.

SECTION 2.21. Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) ticking fees shall cease to accrue on the Commitment of such Defaulting Lender pursuant to Section 2.12(a);

(b) 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 or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 9.08 shall be applied at such time or times as may be reasonably determined by the Administrative

Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent (but as promptly as commercially practicable) hereunder; second, as the Company 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 reasonably determined by the Administrative Agent; third, if so determined by the Administrative Agent and the Company, to be held in a deposit account and released pro rata in order to satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement in accordance with this Section; fourth, to the payment of any amounts owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement or under any other Loan Document; fifth, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Company as a result of any judgment of a court of competent jurisdiction obtained by the Company against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement or under any other Loan Document; and sixth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made 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 all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of such Defaulting Lender until such time as all Loans are held by the Lenders pro rata in accordance with the Commitments as of the Closing Date. 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 shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto;

(c) the Commitment and Loans of such Defaulting Lender shall not be included in determining whether the Required Lenders have taken or may take any action hereunder (including any consent to any amendment, waiver or other modification pursuant to Section 9.02); provided that, except as otherwise provided in Section 9.02, this clause (c) shall not apply to the vote of a Defaulting Lender in the case of an amendment, waiver or other modification requiring the consent of such Lender or each Lender directly affected thereby;

(d) In the event that the Administrative Agent and the Company each agrees that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then on such date such Lender shall purchase at par such of the Loans of the other Lenders as the Administrative Agent shall determine may be necessary in order for such Lender to hold such Loans in accordance with its Applicable Percentage.

SECTION 2.22. Expansion Option. The Company may from time to time elect to enter into one or more tranches of term loans (each, an "Incremental Term Loan"), in each case in a minimum amount of \$50,000,000 and minimum increments of \$10,000,000 in excess thereof, so long as, after giving effect thereto, the aggregate amount of all such Incremental Term Loans does not exceed \$2,500,000,000. The Company may arrange for any such tranche to be provided by one or more Lenders (each Lender so agreeing to participate in such Incremental Term Loans, an "Increasing Lender"), or by one or more new banks, financial institutions or other entities (each such new bank, financial institution or other entity, an "Augmenting Lender"; provided that no Ineligible Institution may be an Augmenting Lender), which agree to participate in such Incremental Term Loans; provided that (i) each Augmenting Lender shall be subject to the approval of the Company and the Administrative Agent (each such consent, not to be unreasonably withheld, conditioned or delayed) and (ii) (x) in the case of an Increasing Lender, the Company and such Increasing Lender execute an agreement substantially in the form of Exhibit G hereto, and (y) in the case of an Augmenting Lender, the Company and such Augmenting Lender execute an agreement substantially in the form of Exhibit H hereto. No consent of any Lender (other than the Lenders participating in any

Incremental Term Loan) shall be required for any Incremental Term Loan pursuant to this Section 2.22. Incremental Term Loans created pursuant to this Section 2.22 shall become effective on the date agreed by the Company, the Administrative Agent and the relevant Increasing Lenders or Augmenting Lenders, and the Administrative Agent shall notify each Lender thereof. Notwithstanding the foregoing, no tranche of Incremental Term Loans shall become effective under this paragraph unless, (i) on the proposed date of the effectiveness of such Incremental Term Loans, (A) the conditions set forth in Section 4.01(d)(i) (other than with respect to the representations in Sections 3.04(a), 3.12(b) and 3.16) and Section 4.01(d)(ii) shall be satisfied or waived by the Required Lenders and the Administrative Agent shall have received a certificate to that effect dated such date and executed by a Financial Officer of the Company and (B) the Company shall be in compliance (on a pro forma basis) with the covenants contained in Section 6.08 and (ii) the Administrative Agent shall have received documents and opinions consistent with those delivered on the Effective Date as to the organizational power and authority of the Company to borrow hereunder after giving effect to such Incremental Term Loans; provided that, with respect to any Incremental Term Loans incurred for the purpose of financing an acquisition for which the Company has determined, in good faith, that limited conditionality is reasonably necessary (any such acquisition, a "Limited Conditionality Acquisition" and such Incremental Term Loans, "Acquisition-Related Incremental Term Loans"), (x) clause (i)(A) of this sentence shall be deemed to have been satisfied so long as (1) as of the date of execution of the definitive acquisition documentation in respect of a Limited Conditionality Acquisition (a "Limited Conditionality Acquisition Agreement") by the parties thereto, no Default or Event of Default shall have occurred and be continuing or would result from entry into such documentation, (2) as of the date of the borrowing of such Acquisition-Related Incremental Term Loans, no Event of Default under clause (a), (b), (h) or (i) of Article VII is in existence immediately before or immediately after giving effect (including on a pro forma basis) to such borrowing and to any concurrent transactions and any substantially concurrent use of proceeds thereof, (3) the representations and warranties set forth in Article III shall be true and correct in all material respects (except that any representation and warranty that is qualified by materiality or Material Adverse Effect shall be true and correct in all respects) as of the date of execution of the applicable Limited Conditionality Acquisition Agreement by the parties thereto, except to the extent any such representation and warranty specifically refers to an earlier date, in which case such representation and warranty shall be true and correct in all material respects (except that any representation and warranty that is qualified by materiality or Material Adverse Effect shall be true and correct in all respects) as of such earlier date and (4) as of the date of the borrowing of such Acquisition-Related Incremental Term Loans, representations and warranties substantially consistent with the Specified Representations (with such representations and warranties to be reasonably determined by the Lenders providing such Acquisition-Related Incremental Term Loans) shall be true and correct in all material respects (except that any representation and warranty that is qualified by materiality or Material Adverse Effect shall be true and correct in all respects) immediately prior to, and immediately after giving effect to, the incurrence of such Acquisition-Related Incremental Term Loans, except to the extent any such representation and warranty specifically refers to an earlier date, in which case such representation and warranty shall be true and correct in all material respects (except that any representation and warranty that is qualified by materiality or Material Adverse Effect shall be true and correct in all respects) as of such earlier date and (y) clause (i)(B) of this sentence shall be deemed to have been satisfied so long as the Company shall be in compliance (on a pro forma basis) with the covenants contained in Section 6.08 as of the date of execution of the related Limited Conditionality Acquisition Agreement by the parties thereto. The Incremental Term Loans (a) shall rank pari passu in right of payment with the Loans, (b) shall not mature earlier than the latest applicable Maturity Date (but may have amortization prior to such date) and (c) shall be treated substantially the same as (and in any event no more favorably than) the Loans; provided that (i) the terms and conditions applicable to any tranche of Incremental Term Loans maturing after the latest applicable Maturity Date may provide for material additional or different financial or other covenants or prepayment requirements applicable only during periods after the latest applicable Maturity Date and (ii) the Incremental Term Loans may be priced differently than the Loans. Incremental Term Loans may be made hereunder pursuant to an amendment or restatement (an "Incremental Term Loan Amendment") of this

Agreement and, as appropriate, the other Loan Documents, executed by the Company, each Increasing Lender participating in such tranche, each Augmenting Lender participating in such tranche, if any, and the Administrative Agent. The Incremental Term Loan Amendment may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent, to effect the provisions of this Section 2.22. Nothing contained in this Section 2.22 shall constitute, or otherwise be deemed to be, a commitment on the part of any Lender to provide Incremental Term Loans at any time.

SECTION 2.23. Extension of Maturity Date.

(a) Requests for Extension. The Company may, by notice to the Administrative Agent (who shall promptly notify the Lenders) during the applicable Extension Availability Period, request that each Lender extend such Lender's applicable Maturity Date to a date (the "Extended Maturity Date") that does not cause (i) the tenor of any Lender's Tranche 1 Loans to exceed three (3) years from the date upon which the conditions precedent to the effectiveness of such extension of the applicable Maturity Date set forth in clause (f) below have been satisfied (an "Extension Date") or (ii) the tenor of any Lender's Tranche 2 Loans to exceed five (5) years from the Extension Date.

(b) Lender Elections to Extend. Each Lender, acting in its sole and individual discretion, shall, by notice to the Administrative Agent (which shall be irrevocable unless the Company otherwise consents in writing in its sole discretion) given not later than the date that is 15 days after the date on which the Administrative Agent received the Company's extension request (the "Lender Notice Date"), advise the Administrative Agent whether or not such Lender agrees to such extension (each Lender that determines to so extend its applicable Maturity Date, an "Extending Lender"). Each Lender that determines not to so extend its applicable Maturity Date (a "Non-Extending Lender") shall notify the Administrative Agent of such fact promptly after such determination (but in any event no later than the Lender Notice Date), and any Lender that does not so advise the Administrative Agent on or before the Lender Notice Date shall be deemed to be a Non-Extending Lender. The election of any Lender to agree to such extension shall not obligate any other Lender to so agree, and it is understood and agreed that no Lender shall have any obligation whatsoever to agree to any request made by the Company for extension of the applicable Maturity Date.

(c) Notification by Administrative Agent. The Administrative Agent shall notify the Company of each Lender's determination under this Section promptly after the Administrative Agent's receipt thereof and, in any event, no later than the date that is 15 days prior to the applicable Extension Date (or, if such date is not a Business Day, on the next preceding Business Day).

(d) Additional Lenders. The Company shall have the right, but shall not be obligated, on or before the applicable Maturity Date for any Non-Extending Lender to replace such Non-Extending Lender with, and add as "Lenders" under this Agreement in place thereof, one or more banks, financial institutions or other entities that are not Ineligible Institutions (each, an "Additional Lender") approved by the Administrative Agent (such approval not to be unreasonably withheld, conditioned or delayed) in accordance with the procedures provided in Section 2.19(b), each of which Additional Lenders shall have entered into an Assignment and Assumption (in accordance with and subject to the restrictions contained in Section 9.04, with the Company or replacement Lender obligated to pay any applicable processing or recordation fee) with such Non-Extending Lender, pursuant to which such Additional Lenders shall, effective on or before the applicable Maturity Date for such Non-Extending Lender, assume the applicable Loans (and, if any such Additional Lender is already a Lender, its Loan shall be in addition to such Lender's Loans hereunder on such date). Prior to any Non-Extending Lender being replaced by one or more Additional Lenders pursuant hereto, such Non-Extending Lender may elect, in its sole discretion, by giving irrevocable notice thereof to the Administrative Agent and the Company (which notice shall set forth such

Lender's new applicable Maturity Date), to become an Extending Lender; provided that the Company consents thereto in writing in its sole discretion. The Administrative Agent may effect such amendments to this Agreement as are reasonably necessary to provide for any such extensions with the consent of the Company but without the consent of any other Lenders.

(e) Minimum Extension Requirement. If (and only if) the total of the Loans of the applicable Tranche of the Lenders that have agreed to extend their applicable Maturity Date and the new or increased Loans of such Tranche of any Additional Lenders is more than 50% of the aggregate amount of the Loans of such Tranche in effect immediately prior to the applicable Extension Date, then, effective as of the applicable Extension Date, the applicable Maturity Date of each Extending Lender and of each Additional Lender shall be extended to the applicable Extended Maturity Date and each Additional Lender shall thereupon become a "Lender" for all purposes of this Agreement and shall be bound by the provisions of this Agreement as a Lender hereunder and shall have the obligations of a Lender hereunder.

(f) Conditions to Effectiveness of Extension. Notwithstanding the foregoing, (x) no more than two (2) extensions of the Maturity Date of any Tranche shall be permitted hereunder and (y) any extension of any Maturity Date pursuant to this Section 2.23 shall not be effective with respect to any Extending Lender unless:

(i) no Default or Event of Default shall have occurred and be continuing on the applicable Extension Date and immediately after giving effect thereto;

(ii) the representations and warranties of the Company set forth in this Agreement (other than the representations contained in Sections 3.04(a), 3.12(b) and 3.16) shall be true and correct in all material respects (provided that any representation or warranty that is qualified by materiality or Material Adverse Effect shall be true and correct in all respects) on and as of the applicable Extension Date (or, if any such representation or warranty is expressly stated to have been made as of a specific date, as of such specific date); and

(iii) the Administrative Agent shall have received a certificate from the Company signed by a Financial Officer of the Company (A) certifying the accuracy of the foregoing clauses (i) and (ii) and (B) certifying and attaching the resolutions adopted by the Company approving or consenting to such extension.

(g) Maturity Date for Non-Extending Lenders. On the applicable Maturity Date of each Non-Extending Lender, the Company shall repay such Non-Extending Lender in accordance with Section 2.10 (and shall pay to such Non-Extending Lender all of the other Obligations due and owing to it under this Agreement).

(h) Conflicting Provisions. This Section shall supersede any provisions in Section 2.18 or Section 9.02 to the contrary.

### ARTICLE III

#### Representations and Warranties

On the Effective Date and the Closing Date, the Company represents and warrants to the Lenders that:

SECTION 3.01. Existence and Power. The Company is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, has all requisite power and



authority to own its Property and to carry on its business as now conducted, and the Company is in good standing (where applicable) and authorized to do business in each jurisdiction in which the failure to be in good standing or authorized to do business would reasonably be expected to have a Material Adverse Effect.

SECTION 3.02. Authority. The Company has full power and authority to enter into, execute, deliver and perform the terms of the Loan Documents, all of which have been duly authorized by all proper and necessary corporate or other entity action and are in full compliance with its certificate of incorporation and by-laws. No consent or approval of, or other action by, shareholders or other equity owners of the Company, any Governmental Authority or any other Person, which has not already been obtained, (a) is required to authorize the execution, delivery or performance by the Company of the Loan Documents, (b) except for the filing of the Loan Documents with the SEC, is required of the Company or any Subsidiary in connection with the execution and delivery by the Company of the Loan Documents, or (c) is required as a condition to the enforceability against the Company of the Loan Documents.

SECTION 3.03. Binding Agreements. The Loan Documents constitute the valid and legally binding obligations of the Company, enforceable in accordance with their respective terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by equitable principles relating to the availability of specific performance as a remedy.

SECTION 3.04. Litigation.

(a) Except as set forth in the filings of the Company or First Data on Forms 10-K, 10-Q or 8-K, or in any Form S-4 of the Company or First Data, filed with the SEC prior to the Effective Date, there are no actions, suits or arbitration proceedings pending or, to the knowledge of the Company, threatened against the Company or any Subsidiary, at law or in equity, before any Governmental Authority that would reasonably be expected to have a Material Adverse Effect.

(b) There are no proceedings pending or, to the knowledge of the Company, threatened against the Company or any Subsidiary (i) that call into question the validity or enforceability of, or otherwise seek to invalidate, any Loan Document, or (ii) that would reasonably be expected to, individually or in the aggregate, materially and adversely affect any of the financing transactions contemplated by any Loan Document.

SECTION 3.05. No Conflicting Agreements or Laws.

(a) Neither the Company nor any Subsidiary is in default under any existing mortgage, indenture, contract, or agreement to which it is a party or by which it or any of its Property is bound, the effect of which would reasonably be expected to have a Material Adverse Effect.

(b) No provision of any existing mortgage, indenture, contract, agreement or instrument evidencing Indebtedness, in each case binding on the Company or any Material Subsidiary or affecting the Property of the Company or any Material Subsidiary, and no provision of any statute, rule, regulation, judgment, decree or order binding on the Company or any Material Subsidiary or affecting the Property of the Company or any Material Subsidiary conflicts with, or requires any consent which has not already been obtained under, or would in any way prevent the execution, delivery or performance by the Company of the terms of, any Loan Document, except, in each case, to the extent any such circumstance would not reasonably be expected to have a Material Adverse Effect. The execution, delivery or performance by the Company of the terms of each Loan Document will not constitute a default under, or result in the creation or imposition of, or obligation to create, any Lien (other than any Lien permitted under Section 6.02) upon the Property of the Company or any Material Subsidiary pursuant to the terms of any mortgage, indenture,

contract, agreement or instrument evidencing Indebtedness binding on the Company or any Material Subsidiary or affecting the Property of the Company or any Material Subsidiary that, in each case, would reasonably be expected to have a Material Adverse Effect.

SECTION 3.06. Taxes. The Company and each Subsidiary has filed or caused to be filed all tax returns, and has paid, or has made adequate provision for the payment of, all taxes shown to be due and payable on said returns or in any assessments made against them, the failure of which to file or pay would reasonably be expected to have a Material Adverse Effect. The Company represents that it is resident for Tax purposes only in the United States of America.

SECTION 3.07. Investment Company Act. Neither the Company nor any Subsidiary is required to register as an investment company under the Investment Company Act of 1940.

SECTION 3.08. Federal Reserve Regulations. The Company is not engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any Margin Stock. After giving effect to the making of each Loan, Margin Stock will constitute less than 25% of the assets (as determined by any reasonable method) of the Company and the Subsidiaries. Anything in this Agreement to the contrary notwithstanding, no Lender shall be obligated to extend credit to the Company (i) in violation of any limitation or prohibition provided by any applicable law, regulation or statute, including Regulations U or X of the Board or (ii) to fund any tender offer for, or other Acquisition of, Stock issued by any other Person with a view towards attaining Control of such other Person at a time when the board of directors, another similar managing body of such Person, or a party to whom the board of directors has delegated approval authority shall not have approved of such attainment of Control.

SECTION 3.09. Disclosure. None of the Information Memorandum, any Loan Document or any material information delivered hereunder or thereunder (as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading in any material respect on the date when made or furnished, and when taken as a whole; provided that the foregoing shall not apply to projections, estimates and other forward-looking materials and information of a general economic or industry specific nature. With respect to projections, estimates and other forward-looking information, the Company represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time made, it being understood and agreed by the Lenders that (a) such projections, estimates and forward-looking information relate to future events, are not to be viewed as fact and are subject to significant uncertainties and contingencies, many of which are beyond the control of the Company and (b) no assurance can be given that any particular projections, estimates or forward-looking information will be realized and actual results during the period or periods covered by such projections, estimates and forward-looking information may differ from the projected results set forth therein and such differences may be material. As of the Effective Date, to the best knowledge of the Company, the information included in the Beneficial Ownership Certification provided on or prior to the Effective Date to any Lender in connection with this Agreement is true and correct in all material respects.

SECTION 3.10. Plans. Each Employee Benefit Plan of the Company, each Subsidiary and each ERISA Affiliate is in compliance with ERISA and the Code, where applicable, except to the extent that non-compliance would not reasonably be expected to have a Material Adverse Effect. The Company, each Subsidiary and each ERISA Affiliate have complied with the requirements of Section 515 of ERISA with respect to each Pension Plan which is a Multiemployer Plan, except to the extent that non-compliance would not reasonably be expected to have a Material Adverse Effect. The Company, each Subsidiary and each ERISA Affiliate has, as of the date hereof, made all contributions or payments to or

under each such Pension Plan required by law or the terms of such Pension Plan or any contract or agreement, except to the extent that non-compliance would not reasonably be expected to have a Material Adverse Effect. No liability to the PBGC has been, or is expected by the Company, any Subsidiary or any ERISA Affiliate to be, incurred by the Company, any Subsidiary or any ERISA Affiliate, except to the extent that such liability, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. Liability, as referred to in this Section 3.10, includes any joint and several liability. Each Employee Benefit Plan which is a group health plan within the meaning of Section 5000(b)(1) of the Code is in material compliance with the continuation of health care coverage requirements of Section 4980B and 4980D of the Code, except to the extent that non-compliance would not reasonably be expected to have a Material Adverse Effect.

SECTION 3.11. Environmental Matters. Except as would not reasonably be expected to have a Material Adverse Effect, (a) the Company and each Subsidiary possess all Environmental Permits currently required under applicable Environmental Laws to conduct their respective businesses and are, and within applicable statutes of limitation, have been, in compliance with the terms and conditions of such Environmental Permits, nor has the Company or any Subsidiary received written notice that any Environmental Permits possessed by any of them will be revoked, suspended or will not be renewed; (b) the Company and each Subsidiary is currently, and within applicable statutes of limitation, have been, in compliance with all applicable Environmental Laws; (c)(i) the Company has not received notice of any civil, criminal or administrative action, suit, demand, claim, hearing, notice of violation, investigation, notice or demand letter or request for information pending or threatened under any Environmental Law against the Company or any Subsidiary, and (ii) the Company has not received notice of actual or potential liability under any Environmental Law that has not been resolved, including, but not limited to, any liability that the Company or any Subsidiary may have retained or assumed either contractually or by operation of law; (d) as of the date hereof, no property or facility currently, or to the Company's knowledge, formerly owned, operated or leased by the Company or any present or former Subsidiary, or by any respective predecessor in interest, is listed or proposed for listing on the National Priorities List or CERCLIS, both promulgated under the CERCLA, or on any comparable foreign or state list established under any Environmental Law; (e)(i) there has been no disposal, spill, discharge or release of any Hazardous Material generated, used, owned, stored or controlled by the Company, any Subsidiary or respective predecessors in interest, on, at or under any property presently or formerly owned, leased or operated by the Company, any Subsidiary or any predecessor in interest; and (ii) there are no Hazardous Materials located in, at, on or under such facility or property, or at any other location, in either case, that could reasonably be expected to require investigation, removal, remedial or corrective action by the Company or that would reasonably likely result in liabilities of, or losses, damages or costs to the Company under any Environmental Law; (f)(i) there has not been any underground or aboveground storage tank or other underground storage receptacle or related piping, or any impoundment or other disposal area in each case containing Hazardous Materials located on any facility or property owned, leased or operated by the Company, any Subsidiary or respective predecessors in interest except in compliance with Environmental Laws during the period of such ownership, lease or operation, and (ii) no asbestos or polychlorinated biphenyls have been used or disposed of, or have been located at, on or under any such facility or property during the period of such ownership, lease or operation, except in compliance with Environmental Laws; and (g) no lien has been recorded against any properties, assets or facilities currently owned, leased or operated by the Company or any Subsidiary under any Environmental Law.

SECTION 3.12. Financial Statements.

(a) The Company has heretofore delivered to the Lenders copies of its audited Consolidated Balance Sheet as of December 31, 2017, and the related Consolidated Statement of Income and Consolidated Statement of Cash Flows, for the fiscal year then ended (collectively, together with the related notes and schedules, the "Financial Statements"). The Financial Statements fairly present in all

material respects the Consolidated financial condition and results of the operations of the Company and the Subsidiaries as of the dates and for the periods indicated therein and have been prepared in conformity with GAAP as then in effect.

(b) Since December 31, 2017, there has been no material adverse change in the financial condition, operations, business or assets of the Company and its Subsidiaries on a Consolidated basis (except for specific events (and not general economic or industry conditions) specifically applicable to the Company and/or its Subsidiaries as disclosed in the reports of the Company or First Data on Form 10-K, 10-Q or 8-K, or in any Form S-4 of the Company or First Data, filed with the SEC prior to the Effective Date).

SECTION 3.13. Material Subsidiaries. As of the date of this Agreement, each Material Subsidiary of the Company is set forth on Schedule 3.13.

SECTION 3.14. OFAC and Anti-Corruption Laws.

(a) The Company and, to its knowledge, its controlled Affiliates and their respective directors, officers, employees, and agents are conducting their business in compliance in all material respects with Anti-Corruption Laws and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws in all material respects.

(b) None of the Company or, to its knowledge, its controlled Affiliates or their respective directors, officers, employees or agents acting or directly benefiting in any capacity in connection with the Borrowings:

(i) is a Designated Person;

(ii) is a Person that is 50% or greater owned or controlled by one or more Designated Persons or by a Sanctioned Country;

(iii) is located, organized or resident in a Sanctioned Country; or

(iv) is (or, except as disclosed in writing to the Administrative Agent prior to the Effective Date), has, to the Company's knowledge, within the year preceding the Effective Date) directly or, to the Company's knowledge, indirectly engaged in, any dealings or transactions, in each case in violation of any Sanctions, (1) with any Designated Person or (2) in any Sanctioned Country to the extent that after giving effect to such dealings or transactions the Company and its Subsidiaries have more than 5% of their consolidated assets in Sanctioned Countries or derive more than 5% of their consolidated revenues from investments in, or transactions with, Sanctioned Countries.

SECTION 3.15. EEA Financial Institutions. The Company is not an EEA Financial Institution.

SECTION 3.16. Use of Proceeds. The Company will not, directly or, to its knowledge, indirectly, use any part of the proceeds of any Loan in violation of Anti-Corruption Laws, applicable Sanctions or the PATRIOT Act. No proceeds of any Loans will be used directly or indirectly to purchase or carry any Margin Stock, or to extend credit to others for the purpose of purchasing or carrying any Margin Stock, in violation of Regulation U of the Board, as amended. The Company will use the proceeds of the Loans funded on the Closing Date for the Specified Acquisition Transactions.

SECTION 3.17. Solvency. On the Closing Date and immediately after giving effect to the Acquisition and the transactions to occur on the Closing Date, the Company and its Subsidiaries, on a consolidated basis, are Solvent.

#### ARTICLE IV

##### Conditions

SECTION 4.01. Effective Date. This Agreement shall become effective on and as of the first date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

- (a) The Administrative Agent (or its counsel) shall have received from each party hereto either (i) a counterpart of this Agreement signed on behalf of such party or (ii) written evidence satisfactory to the Administrative Agent (which may include teletype or electronic transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement.
- (b) The Administrative Agent shall have received a legal opinion (addressed to the Administrative Agent and the Lenders and dated the Effective Date) of (i) Sullivan & Cromwell LLP, New York counsel to the Company, and (ii) Lynn S. McCreary, Chief Legal Officer of the Company, in each case as is customary for financing transactions of the type contemplated by this Agreement. The Company hereby requests such counsels to deliver such opinions.
- (c) The Administrative Agent shall have received the documents and certificates relating to the organization, existence and good standing of the Company, the authorization of the transactions contemplated by this Agreement and other legal matters relating to the Company, the Loan Documents and the transactions contemplated hereby described in the list of closing documents attached as Exhibit B, all in form and substance reasonably satisfactory to the Administrative Agent and its counsel.
- (d) Subject to Section 4.03, the Administrative Agent shall have received a certificate, dated the Effective Date and signed by the President, a Vice President or a Financial Officer of the Company, certifying that (i) the representations and warranties of the Company set forth in Article III of this Agreement are true and correct in all material respects (provided that any such representation or warranty that is qualified by materiality or Material Adverse Effect shall be true and correct in all respects) on and as of the Effective Date (or, if any such representation or warranty is expressly stated to have been made as of a specific date, as of such specific date) and (ii) that no Default shall have occurred and be continuing on and as of the Effective Date.
- (e) (i) The Administrative Agent shall have received, at least three (3) days prior to the Effective Date, all documentation and other information regarding the Company that the Administrative Agent or a Lender reasonably determines is required by U.S. regulatory authorities in connection with applicable “know your customer” and anti-money laundering rules and regulations, including the Patriot Act, to the extent requested in writing of the Company at least ten (10) days prior to the Effective Date and (ii) to the extent the Company qualifies as a “legal entity customer” under the Beneficial Ownership Regulation, at least three (3) days prior to the Effective Date, any Lender that has requested, in a written notice to the Company at least ten (10) days prior to the Effective Date, a Beneficial Ownership Certification in relation to the Company shall have received such Beneficial Ownership Certification (provided that, upon the execution and delivery by any Lender of its signature page to this Agreement, the condition set forth in this clause (e) shall be deemed to be satisfied with respect to such Lender).

(f) The Administrative Agent shall have received all fees and other amounts due and payable under this Agreement or the Permanent Financing Fee Letter on or prior to the Effective Date, including, to the extent invoiced (in reasonable detail) at least three (3) Business Days prior to the Effective Date, reimbursement or payment of all out-of-pocket expenses required to be reimbursed or paid by the Company hereunder.

(g) The Specified Acquisition Arranger shall have received a certificate of any officer of the Company confirming that this Agreement constitutes a "Qualifying Bank Financing" for the purposes of the Bridge Commitment Letter.

The Administrative Agent shall notify the Company and the Lenders of the Effective Date, and such notice shall be conclusive and binding.

SECTION 4.02. Closing Date. The obligation of each Lender to make Loans on the Closing Date is subject solely to the satisfaction (or waiver in accordance with Section 9.02) of the following conditions:

(a) The Effective Date shall have occurred.

(b) Each of the Acquisition Agreement Representations and the Specified Representations shall be true and correct in all material respects (in the case of the Acquisition Agreement Representations, to the extent required pursuant to the definition thereof) at the time of, and after giving effect to, the making of the Loans on such date.

(c) The Administrative Agent shall have received a solvency certificate from the Chief Financial Officer of the Company substantially in the form set forth in Exhibit F hereto.

(d) The Specified Acquisition shall have been consummated substantially concurrently with the making of the Loans on such date, in all material respects in accordance with the Acquisition Agreement after giving effect to any modifications, amendments, supplements, consents or waivers, other than those modifications, amendments, supplements, consents or waivers by the Company that are materially adverse to JPMorgan Chase Bank, N.A. in its capacity as arranger and lender in connection with the financing for the Specified Acquisition Transactions (in such capacity, the "Specified Acquisition Arranger") or the Lenders (in their capacities as such) without the Specified Acquisition Arranger's prior written consent (such consent not to be unreasonably withheld, delayed or conditioned); provided that any change in the Merger Consideration (as defined in the Acquisition Agreement) shall not be deemed to be materially adverse to the interests of the Lenders or the Specified Acquisition Arranger and shall not require the consent of the Specified Acquisition Arranger if such change results in the number of shares of Parent Common Stock (as defined in the Acquisition Agreement) for which each share of Company Common Stock (as defined in the Acquisition Agreement), other than any Exception Shares (as defined in the Acquisition Agreement), may be converted pursuant to the Acquisition Agreement increasing or decreasing by 7.5% or less.

(e) Since January 16, 2019, no event or events shall have occurred that have had or would reasonably be likely to have, either individually or in the aggregate, a Material Adverse Effect (as defined in the Acquisition Agreement as in effect on January 16, 2019) on First Data.

(f) The Administrative Agent and the Lenders shall have received (i) all fees required to be paid under this Agreement and, to the extent payable to the Lenders under this Agreement or their Affiliates on or prior to the Closing Date, all fees required to be paid pursuant to the terms of (A) the Permanent Loan Financing Fee Letter, dated as of January 16, 2019, by and between the Company and the

Specified Acquisition Arranger (the “Permanent Financing Fee Letter”) and (B) the Bridge Facility Fee Letter, dated as of January 16, 2019, by and between the Company and the Specified Acquisition Arranger or the definitive documentation in respect of the Bridge Facility, in each case, on or prior to the Closing Date, and (ii) to the extent invoiced at least three (3) Business Days prior to the Closing Date, expenses required to be paid hereunder on or prior to the Closing Date.

(g) All obligations (other than contingent obligations (including indemnification obligations) that by their terms are to survive the termination of the relevant loan documentation and debt instruments evidencing third party debt) for borrowed money of First Data and its subsidiaries under the instruments set forth on Schedule 4.02(g) shall have been (or substantially concurrently with the making of the Loans on such date shall be) repaid or satisfied and discharged, and in connection therewith all guarantees and liens shall have been released, on or prior to the Closing Date.

(h) The Administrative Agent shall have received a certificate from a responsible officer of the Company certifying as to the satisfaction of the condition precedent contained in Section 4.02(b) (solely with respect to the Specified Representations), (d) and (e).

(i) The Administrative Agent shall have received (i) U.S. GAAP audited consolidated balance sheets and related consolidated statements of income and comprehensive income, of shareholders’ equity and of cash flows of the Company and its subsidiaries for the three most recent fiscal years ended at least 60 days prior to the Closing Date and (ii) U.S. GAAP unaudited consolidated balance sheets and related consolidated statements of income and comprehensive income, of shareholders’ equity and of cash flows of the Company and its subsidiaries for each subsequent fiscal quarter ended at least 40 days prior to the Closing Date (other than the last fiscal quarter of any fiscal year); provided that, in each case, the financial statements required to be delivered by this paragraph (i) shall meet the requirements of Regulation S-X under the Securities Act, and all other accounting rules and regulations of the SEC promulgated thereunder applicable to a registration statement on Form S-3, in all material respects. The Administrative Agent hereby acknowledges receipt of the financial statements in the foregoing clause (i) for the fiscal years ended December 31, 2017, December 31, 2016 and December 31, 2015, and in the foregoing clause (ii) for the fiscal quarters ended September 30, 2018, June 30, 2018 and March 31, 2018.<sup>1</sup> The Company’s filing of any required audited financial statements with respect to the Company on Form 10-K or required unaudited financial statements with respect to the Company on Form 10-Q, in each case, will satisfy the requirements under clauses (i) or (ii), as applicable, of this paragraph.

(j) The Administrative Agent shall have received (i) U.S. GAAP audited consolidated balance sheets and related consolidated statements of operations, comprehensive income, equity and cash flows of First Data and its subsidiaries for the three most recent fiscal years ended at least 60 days prior to the Closing Date and (ii) U.S. GAAP unaudited consolidated balance sheets and related consolidated statements of income, comprehensive income, equity and cash flows of First Data and its subsidiaries for each subsequent fiscal quarter ended at least 40 days prior to the Closing Date (other than the last fiscal quarter of any fiscal year); provided that, in each case, the financial statements required to be delivered by this paragraph (j) shall meet the requirements of Regulation S-X under the Securities Act, and all other accounting rules and regulations of the SEC promulgated thereunder applicable to a registration statement on Form S-3 (regardless of when such financial statements are required to be filed with the SEC), in all material respects. The Administrative Agent hereby acknowledges receipt of the financial statements in the foregoing clause (i) for the fiscal years ended December 31, 2017, December 31, 2016 and December 31, 2015, and in the foregoing clause (ii) for the fiscal quarters ended September 30, 2018, June 30, 2018 and March 31, 2018. First Data’s filing of such required audited financial statements with respect to First Data on Form 10-K or required unaudited financial statements with respect to First Data on Form 10-Q, in each case, will satisfy the requirements under clauses (i) or (ii), as applicable, of this paragraph.

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<sup>1</sup> NTD: Provisions to be updated to include full-year 2018 financials and remove 2015 financials and quarterly 2018 financials if agreement signed after filing of 10-K.

(k) The Administrative Agent shall have received pro forma financial statements, in each case as would be required to be included in a registration statement on Form S-3 (regardless of when such pro forma financial statements are required to be filed with the SEC) and which shall meet the requirements of Regulation S-X under the Securities Act and all other accounting rules and regulations of the SEC promulgated thereunder applicable to a registration statement on Form S-3, in all material respects; provided, however, that, to the extent such pro forma financial statements are filed by the Company with the SEC, the condition set forth in this paragraph (xi) shall be deemed satisfied.

(l) The Administrative Agent shall have received a Borrowing Request for the Borrowings to occur on the Closing Date.

(m) The Administrative Agent shall have received, at least three (3) days prior to the Closing Date, all documentation and other information regarding the Company that the Administrative Agent or a Lender reasonably determines is required by U.S. regulatory authorities in connection with applicable “know your customer” and anti-money laundering rules and regulations, including the Patriot Act, to the extent requested in writing of the Company at least ten (10) days prior to the Closing Date.

#### SECTION 4.03. Certain Funds Availability.

Notwithstanding anything to the contrary herein (including Article VII), during the period from and including the Effective Date and to and including the Closing Date (after giving effect to the funding of the Loans on such date), and notwithstanding (a) that any representation given on the Effective Date or the Closing Date (excluding the Specified Representations and Acquisition Agreement Representations constituting conditions precedent to the Closing Date) was incorrect, (b) any failure by the Company to comply with the affirmative covenants and negative covenants (excluding compliance on the Closing Date with certain negative covenants constituting conditions precedent to the Closing Date), (c) any provision to the contrary in this Agreement, any other Loan Document or otherwise or (d) that any condition precedent to the Effective Date may subsequently be determined not to have been satisfied, neither the Administrative Agent nor any Lender shall be entitled to (unless an Event of Default under this Agreement shall have occurred and is continuing with respect to (x) clause (b) of Article VII hereof as a result of a failure to pay any fee that is due and payable hereunder or under the Permanent Financing Fee Letter or (y) clauses (h) or (i) of Article VII hereof (with respect to the Company only)) (i) rescind, terminate or cancel this Agreement or any of its Commitments hereunder (except as set forth in Section 2.09(a)) or exercise any right or remedy under this Agreement or make or enforce any claim under the Loan Documents or otherwise it may have, to the extent to do so would restrict, prevent, limit or delay the making of its Loans on the Closing Date, (ii) refuse to participate in making its Loans on the Closing Date or (iii) exercise any right of set-off or counterclaim in respect of its Loans to the extent to do so would restrict, prevent, limit or delay the making of its Loans on the Closing Date; provided that, from and after the Closing Date, after giving effect to the funding of the Loans on such date, all of the rights, remedies and entitlements of the Administrative Agent and the Lenders shall be available notwithstanding that such rights were not available prior to such time as a result of the foregoing.



Affirmative Covenants

Until the Commitments have expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full, the Company covenants and agrees with the Lenders that the Company will:

SECTION 5.01. Legal Existence. Except as may otherwise be permitted by Sections 6.03 and 6.04, maintain and cause each Subsidiary to maintain, its corporate existence in good standing (i) in the jurisdiction of its incorporation or formation and (ii) in each other jurisdiction in which such Person does business, except, in each case (other than in respect of the Company in the case of clause (i)), to the extent the failure so to do would not reasonably be expected to have a Material Adverse Effect.

SECTION 5.02. Taxes. Pay and discharge when due, and cause each Subsidiary so to do, all taxes, assessments, governmental charges, license fees and levies upon or with respect to the Company and such Subsidiary, and upon the income, profits and Property thereof unless, and only to the extent, that (a)(i) such taxes, assessments, governmental charges, license fees and levies shall be contested in good faith and by appropriate proceedings diligently conducted by the Company or such Subsidiary, and (ii) such reserve or other appropriate provision as shall be required by GAAP shall have been made therefor, or (b) the failure so to do would not reasonably be expected to have a Material Adverse Effect.

SECTION 5.03. Insurance. Maintain, and cause each Material Subsidiary to maintain, insurance with financially sound insurance carriers against at least such risks, and in at least such amounts, as are usually insured against by similar businesses, including business interruption, public liability (bodily injury and property damage), fidelity, workers' compensation and property insurance, except to the extent that the failure so to do would not reasonably be expected to have a Material Adverse Effect.

SECTION 5.04. Performance of Obligations. Pay and discharge promptly when due, and cause each Subsidiary so to do, all lawful Indebtedness, obligations and claims for labor, materials and supplies or otherwise which, if unpaid, would reasonably be expected to have a Material Adverse Effect; provided that neither the Company nor such Subsidiary shall be required to pay or discharge or cause to be paid or discharged any such Indebtedness, obligation or claim so long as (i) the validity thereof shall be contested in good faith and by appropriate proceedings diligently conducted by the Company or such Subsidiary, and (ii) such reserve or other appropriate provision as shall be required by GAAP shall have been made therefor.

SECTION 5.05. Condition of Property. Except as permitted by Sections 6.03 and 6.04 and for ordinary wear and tear, at all times, maintain, protect and keep in good repair, working order and condition, all Property used or useful in the operation of its business (other than Property which is replaced with similar Property), and cause each Subsidiary so to do, except to the extent that the failure to do so would not reasonably be expected to have a Material Adverse Effect.

SECTION 5.06. Observance of Legal Requirements. Observe and comply in all material respects, and cause each Subsidiary so to do, with all laws, ordinances, orders, judgments, rules, regulations, certifications, franchises, permits, licenses, directions and requirements of all Governmental Authorities, which now or at any time hereafter may be applicable to it or to such Subsidiary, a violation of which would reasonably be expected to have a Material Adverse Effect.

SECTION 5.07. Financial Statements and Other Information. Furnish to the Administrative Agent:

(a) As soon as available and, in any event, within 90 days after the close of each fiscal year, a copy of (x) the Company's 10-K in respect of such fiscal year, and (y) (i) the Company's Consolidated Balance Sheet as of the end of such fiscal year, and (ii) the related Consolidated Statement of Income, and Consolidated Statement of Cash Flows, as of and through the end of such fiscal year, setting forth in each case in comparative form the corresponding figures in respect of the previous fiscal year, all in reasonable detail, and accompanied by a report of the Company's auditors, which report shall state that (A) such auditor has audited such financial statements, (B) such audit was made in accordance with generally accepted auditing standards in effect at the time and provides a reasonable basis for such opinion, and (C) said financial statements have been prepared in accordance with GAAP (provided that, notwithstanding the foregoing, such report may be with reference to such financial statements which have given effect to the consolidation of any FIN 46 Entities with the Company);

(b) [reserved];

(c) As soon as available, and in any event within 45 days after the end of each of the first three fiscal quarters of each fiscal year, a copy of (x) the Company's 10-Q in respect of such fiscal quarter, and (y) (i) the Company's Consolidated Balance Sheet as of the end of such quarter, and (ii) the related Consolidated Statement of Income, and Consolidated Statement of Cash Flows for (A) such quarter, and (B) the period from the beginning of the then current fiscal year to the end of such quarter, in each case in comparable form with the prior fiscal year, all in reasonable detail and prepared in accordance with GAAP (without footnotes and subject to normal year-end and audit adjustments);

(d) Simultaneously with the delivery of the financial statements required by Section 5.07(a) or 5.07(c), as the case may be, a Compliance Certificate, as of the fiscal period then ended, certified by a Financial Officer of the Company, which shall certify that no Default or Event of Default shall have occurred and be continuing or, if so, specifying all such Defaults and Events of Default, and setting forth computations in reasonable detail demonstrating compliance with Section 6.08;

(e) Upon a Financial Officer of the Company becoming aware thereof, prompt written notice of: (i) any citation, summons, subpoena, order to show cause or other order naming the Company or any Subsidiary a party to any proceeding before any Governmental Authority which would reasonably be expected to have a Material Adverse Effect, and include with such notice a copy of such citation, summons, subpoena, order to show cause or other order, (ii) any lapse or other termination of any license, permit, franchise or other authorization issued to the Company or any Subsidiary by any Governmental Authority, (iii) any refusal by any Governmental Authority to renew or extend any license, permit, franchise or other authorization, and (iv) any dispute between the Company or any Subsidiary and any Governmental Authority, which lapse, termination, refusal or dispute, referred to in clause (ii), (iii) or (iv) above, would reasonably be expected to have a Material Adverse Effect;

(f) Upon a Financial Officer of the Company becoming aware thereof, prompt written notice of the occurrence of (i) each Default, and (ii) the occurrence of any event or circumstance that would reasonably be expected to have a Material Adverse Effect;

(g) Upon the forwarding thereof to the shareholders of the Company generally, copies of all financial statements, reports and proxy statements so furnished;

(h) Promptly after either rating agency providing a rating for the Index Debt pursuant to the definition of “Applicable Rate” shall have publicly announced a change in the rating established or deemed to have been established for the Index Debt, written notice of such rating change;

(i) Promptly after request therefor, such other information relating to the financial condition or business of the Company, the Subsidiaries and the FIN 46 Entities, as the Administrative Agent or any Lender at any time or from time to time may reasonably request (it being understood and agreed that neither the Company nor any of its Subsidiaries shall be required to disclose or discuss, or permit the inspection, examination or making of extracts of, any records, books, information or account or other matter (1) in respect of which disclosure to the Administrative Agent, any Lender or their representatives is then prohibited by applicable law or any agreement binding on the Company or its Subsidiaries; (2) that is protected from disclosure by the attorney-client privilege or the attorney work product privilege or (3) constitutes non-financial trade secrets or non-financial proprietary information); and

(j) Promptly after request therefor, information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable “know your customer” and anti-money laundering rules and regulations, including the Patriot Act and the Beneficial Ownership Regulation.

Each report and other document required to be delivered by the Company pursuant to subparagraphs (a), (c), (d) and (g) of this Section 5.07 shall be deemed to have been delivered on the date upon which (i) other than in the case of the Compliance Certificate, the Company files such documents with the SEC via the EDGAR filing system (or any successor system), to the extent such documents are publicly available, or (ii) the Company notifies the Administrative Agent that such report or other document has been posted at a site (the address of which shall be contained in such notice) on the internet, which site is accessible by a widely held nationally recognized internet browser, from which such report or document may be readily viewed. The Administrative Agent shall promptly furnish to each Lender a copy (in the form received) of each notice or other information provided to the Administrative Agent under this Section 5.07.

If any financial materials and related certificates required to be delivered pursuant to Sections 5.07(a), (c) and/or (d) shall be required to be delivered pursuant to the terms of such Section(s) on a day that is not a Business Day, the required date for such delivery shall be extended to the next succeeding Business Day.

SECTION 5.08. Records. At all reasonable times, upon reasonable prior notice and at the sole cost and expense of the Administrative Agent and the Lenders, permit representatives of the Administrative Agent and each Lender to discuss the affairs of the Company and its Subsidiaries with appropriate members of management thereof, and to meet and discuss the affairs of the Company and its Subsidiaries with the Company’s auditors.

SECTION 5.09. Authorizations. Maintain and cause each Subsidiary to maintain, in full force and effect, all copyrights, patents, trademarks, trade names, franchises, licenses, permits, applications, reports, and other authorizations and rights, except where the failure so to do would not reasonably be expected to have a Material Adverse Effect.

ARTICLE VI

Negative Covenants

Until the Commitments have expired or terminated and the principal of and interest on each Loan and all fees payable hereunder have been paid in full, the Company covenants and agrees with the Lenders that it will not:

SECTION 6.01. Subsidiary Indebtedness. Permit any Material Subsidiary to create, incur, assume or suffer to exist any Indebtedness, except any one or more of the following types of Indebtedness:

(a) (i) the Obligations and any other Indebtedness created under the Loan Documents, (ii) the obligations and any other Indebtedness incurred by a Subsidiary Borrower (as defined in the Revolving Credit Facility Agreement) under the Revolving Credit Facility, and (iii) any other Indebtedness if the Loans are guaranteed on a pari passu basis by each Subsidiary that has incurred such Indebtedness; provided that any such guarantee may, at the option of the Company, be automatically released if the Subsidiary providing such guarantee is no longer liable in respect of such Indebtedness;

(b) Indebtedness existing on the Effective Date and set forth on Schedule 6.01;

(c) Indebtedness in respect of capital and operating leases, and Permitted Sale-Leaseback Transactions;

(d) purchase money Indebtedness in connection with the acquisition of fixed or capital assets;

(e) Indebtedness to the Company or any Subsidiary, and Guarantees by any Subsidiary of Indebtedness of another Subsidiary or the Company to the extent that such Indebtedness is not prohibited hereby;

(f) other Indebtedness; provided that, immediately after giving effect thereto, (i) the aggregate sum of all Indebtedness (without duplication) under this Section 6.01(f) would not exceed the greater of (x) \$1,000,000,000 and (y) 15.0% of Net Worth as determined at the time of, and immediately after giving effect to, the incurrence of such Indebtedness and (ii) to the extent such Indebtedness is secured by Liens, such Liens would be permitted under Section 6.02(l), (m), (o), (p) and/or (r);

(g) Indebtedness assumed in connection with any Acquisition or of a Person that becomes a Subsidiary after the date hereof and not incurred in contemplation thereof; ~~and~~

(h) Any (i) Securitized Indebtedness and (ii) Indebtedness in respect of any receivables factoring, discounting, facilities or securitizations, which, in the case of any such Indebtedness described in this clause (ii), imposes obligations that are non-recourse (except for (A) representations, warranties, covenants, repurchase obligations and indemnities made in connection with any such Indebtedness that the Company determines in good faith to be customary for Indebtedness of such type, (B) guarantees given in connection with such Indebtedness and (C) servicing obligations related to such Indebtedness) to the Company and its Subsidiaries (other than any Subsidiary formed for the purpose of facilitating or entering into such Indebtedness and that in each case engages only in activities reasonably related or incidental thereto) (any such receivables factoring, discounting, facility or securitization, a "Permitted Securitization"), in the aggregate principal amount outstanding under this Section 6.01(h) not to exceed the greater of (x) \$500,000,000 and (y) 15.0% of Net Worth as determined at the time of, and immediately after giving effect to, the incurrence of such Indebtedness; and

~~(i) (h)~~—any extensions, renewals, refinancings, amendments, restatements, supplements, refundings, modifications or replacements of any Indebtedness permitted by this Section 6.01 (and, in the case of guarantees, guarantees in respect of any extension, renewal, refinancing, amendment, restatement, supplement, refunding, modification or replacement of the guaranteed indebtedness), to the extent that the principal amount thereof shall not be increased other than increases related to required premiums, accrued interest and reasonable fees and expenses in connection with such extensions, renewals, refinancings, amendments, restatements, supplements, refundings, modifications or replacements.

SECTION 6.02. Liens. Create, incur, assume or suffer to exist any Lien against or on any Property now owned or hereafter acquired by the Company or any Material Subsidiary, or permit any Material Subsidiary so to do, except any one or more of the following types of Liens:

(a) Liens in connection with workers' compensation, unemployment insurance or other social security obligations (which phrase shall not be construed to refer to ERISA or the minimum funding obligations under Section 412 of the Code);

(b) Liens to secure the performance of bids, tenders, letters of credit, contracts (other than contracts for the payment of Indebtedness), leases, statutory obligations, surety, customs, appeal, performance and payment bonds and other obligations of a similar nature, in each such case arising in the ordinary course of business;

(c) mechanics', workmen's, carriers', warehousemen's, materialmen's, landlords', or other similar Liens arising in the ordinary course of business with respect to obligations which (i) are not more than 30 days' past due, or (ii) are being contested in good faith and by appropriate action;

(d) Liens for taxes, assessments, fees or governmental charges or levies which (i) are not delinquent, (ii) are payable without material penalty, or (iii) are being contested in good faith and by appropriate action;

(e) judgment Liens in respect of judgments that do not constitute an Event of Default under clause (k) of Article VII and other Liens consisting of attachments, judgments or awards against the Company or any Subsidiary with respect to which an appeal or proceeding for review shall be pending or a stay of execution shall have been obtained, or which are otherwise being contested in good faith and by appropriate action, and in respect of which adequate reserves shall have been established in accordance with GAAP on the books of the Company or any Subsidiary;

(f) easements, rights of way, restrictions, leases of Property to others, easements for installations of public utilities, title imperfections and restrictions, zoning ordinances and other similar encumbrances affecting Property which in the aggregate do not materially adversely affect the value of such Property or materially impair its use for the operation of the business of the Company or any Subsidiary;

(g) Liens existing on the Effective Date and securing Indebtedness or other obligations of the Company or, to the extent permitted by Section 6.01, of the Subsidiaries;

(h) statutory Liens in favor of lessors arising in connection with Property leased to the Company or any Subsidiary;

(i) Liens on Margin Stock to the extent that a prohibition on such Liens pursuant to this Section 6.02 would violate Regulation U of the Board, as amended;

(j) purchase money Liens on Property hereafter acquired by the Company or any Subsidiary created within 270 days of such acquisition (or in the case of real property, completion of construction including any improvements or the commencement of operation of the property, whichever occurs later) to secure or provide for the payment or financing of all or any part of the purchase price thereof; provided that the Lien secured thereby shall attach only to the Property so acquired and related assets (except that individual financings by one Person (or an Affiliate thereof) may be cross-collateralized to other financings provided by such Person and its Affiliates that are permitted by this clause (j));

(k) Liens in respect of capital leases permitted by Section 6.01 and Permitted Sale-Leaseback Transactions;

(l) (A) Liens on the Property of a Person that becomes a Subsidiary after the date hereof; provided that (i) such Liens existed at the time such Person becomes a Subsidiary and were not created in anticipation thereof, (ii) any such Lien does not by its terms cover any Property after the time such Person becomes a Subsidiary that was not covered immediately prior thereto, (iii) any such Lien does not by its terms secure any Indebtedness other than Indebtedness existing immediately prior to the time such Person becomes a Subsidiary, and (B) Liens on the proceeds of Indebtedness constituting debt securities included in clause (a)(i) of the definition of "Leverage Ratio" incurred to finance an acquisition, investment or refinancing pursuant to customary escrow or similar arrangements to the extent such proceeds (i) secure such Indebtedness or is otherwise restricted in favor of the holders of such debt securities and (ii) will be required to repay such Indebtedness if such acquisition, investment or refinancing is not consummated;

(m) Liens on Property existing at the time of acquisition thereof and not created in contemplation thereof;

(n) Liens (i) of a collecting bank arising under Section 4-208 of the Uniform Commercial Code on the items in the course of collection, (ii) in favor of a banking institution arising as a matter of law encumbering deposits (including the right of set off) and which are within the general parameters customary in the banking industry and (iii) Liens on assets in order to secure defaulted and/or discharged indebtedness;

(o) Liens securing (i) Securitized Indebtedness; and (ii) Permitted Securitizations; provided that, the aggregate sum of all obligations and Indebtedness secured by Liens permitted under this Section 6.02(o) would not exceed the greater of (i) \$500,000,000 and (ii) 15.0% of Net Worth as determined at the time of, and immediately after giving effect to, the issuance of such Lien, provided, further, that, in the case of this clause (o)(ii), such Liens shall apply only to the receivables (which may include lease payments) of the Company or any Subsidiary, as applicable, subject to the Permitted Securitization, and any assets related thereto, including the equity interests in any Subsidiary formed for the purpose of facilitating or entering into one or more Permitted Securitizations;

(p) any extension, renewal, refinancing, substitution or replacement (or successive extensions, renewals, refinancings, substitutions or replacements), as a whole or in part, of any of the Liens referred to in paragraphs (g), (j), (l), (m) and (r) of this Section 6.02, to the extent that the principal amount secured by such Lien at such time is not increased (other than increases related to required premiums, accrued interest and reasonable fees and expenses in connection with such extensions, renewals, refinancings, substitutions or replacements); and provided that such extension, renewal, refinancing substitution or replacement Lien shall be limited to all or any part of substantially the same property or assets that secured the Lien extended, renewed, refinanced, substituted or replaced (plus improvements on such property and proceeds thereof);

(q) Liens on proceeds of any of the assets permitted to be the subject of any Lien or assignment permitted by this Section 6.02; and

(r) other Liens; provided that, without duplication, the aggregate sum of all obligations and Indebtedness secured by Liens permitted under this Section 6.02(r) would not exceed the greater of (i) \$1,000,000,000 and (ii) 15.0% of Net Worth as determined at the time of, and immediately after giving effect to, the issuance of such Lien.

SECTION 6.03. Asset Sales. Other than in connection with Permitted Sale-Leaseback Transactions or one or more transactions contemplated by Sections 6.04(a) or 6.04(b), sell, assign (other than a collateral assignment intended for security), transfer or otherwise dispose of, in one transaction or a series of related transactions and whether effected pursuant to a Division or otherwise, or permit any Material Subsidiary so to do, all or substantially all of the consolidated assets of the Company and the Subsidiaries taken as a whole.

SECTION 6.04. Mergers and Acquisitions. Consolidate or merge into or with any Person, or make any Acquisition or consummate a Division as the Dividing Person, or permit any Material Subsidiary so to do, except as follows:

(a) any Subsidiary may consolidate or merge with or into, or be Acquired by, the Company; provided that (i) the Company is the survivor or transferee thereof, and (ii) immediately before and after giving effect thereto no Default or Event of Default shall or would exist;

(b) any Subsidiary may consolidate or merge with or into, or be Acquired by, another Subsidiary;

(c) Acquisitions of one or more Operating Entities or Properties; provided that either (i) if such Acquisition constitutes a Limited Condition Acquisition, such Acquisition shall be subject to the conditions set forth in the proviso contained in the fifth sentence of Section 2.22, or (ii) immediately before and after giving effect to each such Acquisition under this Section 6.04(c), (A) no Default shall or would exist, and (B) all of the representations and warranties contained in Article III (other than Sections 3.04(a), 3.12 and 3.16) shall be true and correct as if then made (except to the extent such representations and warranties refer to an earlier date, in which case they shall be true and correct as of such date);

(d) any Subsidiary may consolidate or merge with or into, or be Acquired by, any Person (other than a Subsidiary); provided that (i) such transaction is not prohibited by Section 6.03 and (ii) immediately before and after giving effect thereto no Default or Event of Default shall or would exist; and

(e) any Subsidiary may consummate a Division as a Dividing Person if, immediately upon the consummation of the Division, the assets of the applicable Dividing Person are held by one or more Subsidiaries at such time, or, with respect to assets not so held by one or more Subsidiaries, such Division, in the aggregate, would otherwise result in a Disposition permitted by Section 6.03; provided that, notwithstanding anything to the contrary in this Agreement, any Subsidiary which is a Division Successor resulting from a Division of assets of a Material Subsidiary shall not cease to be a Material Subsidiary solely as a result of the applicable Division.

SECTION 6.05. Pari Passu Obligations. The obligations of the Company under the Loan Documents shall at all times rank not lower than pari passu as to priority of payment and in all other respects with all other unsecured and unsubordinated obligations of the Company, except for those obligations that are mandatorily preferred by law, including by operation of bankruptcy, insolvency, liquidation or similar laws of general application.

SECTION 6.06. Transactions with Affiliates. Become, or permit any Material Subsidiary to become, a party to any transaction with any Affiliate of the Company (excluding any direct or indirect wholly-owned Subsidiary of the Company) on a basis materially less favorable to the Company or such Material Subsidiary in any material respect than if such transaction were not with an Affiliate of the Company, except for (a) any transaction not prohibited under Section 6.04, (b) transactions effected as part of a securitization transaction permitted hereunder, (c) the declaration or payment of any dividend, distribution, premium or liquidation preference on any class of Stock, and (d) the redemption, retirement, purchase or acquisition of, or sinking fund or other similar payment in respect of, any class of Stock.

SECTION 6.07. [Intentionally Omitted].

SECTION 6.08. Financial Covenants.

(a) Maximum Leverage Ratio. Permit the Leverage Ratio at the end of any fiscal quarter to be greater than: 3.5 to 1.0; provided that the Company may, by written notice to the Administrative Agent for distribution to the Lenders, elect to increase the maximum Leverage Ratio permitted under this Section 6.08(a) to (i) 4.0 to 1.0 as of the end of any fiscal quarter of the Company during which a Qualified Acquisition has been consummated and the three (3) consecutive fiscal quarters ending immediately following such fiscal quarter (each such period of four (4) consecutive fiscal quarters, a "Qualified Acquisition Adjusted Covenant Period") and (ii) 4.5 to 1.0 as of the end of any fiscal quarter of the Company during which an Additional Qualified Acquisition has been consummated and the eight (8) consecutive fiscal quarters ending immediately following such fiscal quarter (each such period of nine (9) consecutive fiscal quarters, an "Additional Qualified Acquisition Adjusted Covenant Period"); provided, further, that in the case of this clause (a)(ii), the applicable maximum Leverage Ratio shall be reduced by 0.25:1.00 at the end of the second, fourth, sixth and eighth full fiscal quarters ending after the fiscal quarter in which the Additional Qualified Acquisition is consummated. Notwithstanding the foregoing, (x) during any five consecutive year term of this Agreement, the Company may elect no more than two Qualified Acquisition Adjusted Covenant Periods and no more than one Additional Qualified Acquisition Adjusted Covenant Period, and (y) the Company may not elect any Adjusted Covenant Period for at least two fiscal quarters following the end of an Adjusted Covenant Period before a new Adjusted Covenant Period is available again pursuant to clauses (a)(i) or (a)(ii) (it being understood and agreed that at the end of an Adjusted Covenant Period, the maximum Leverage Ratio permitted under this Section 6.08(a) shall revert to 3.5 to 1.0 as of the end of each subsequent fiscal quarter unless and until another Adjusted Covenant Period is elected pursuant to the terms and conditions described above); or

(b) Minimum Interest Coverage Ratio. Permit the Interest Coverage Ratio at the end of any fiscal quarter to be less than 3.0 to 1.0.

SECTION 6.09. OFAC and Anti-Corruption Laws.

(a) The Company shall not, and shall ensure that none of its controlled Affiliates will, directly or, to the Company's knowledge, indirectly use the proceeds of Borrowings hereunder:

(i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws;

(ii) to fund or finance any activities, business or transaction of or with any Designated Person or in any Sanctioned Country, in either case, to the extent such activities, business or transaction would violate Sanctions; or

(iii) in any other manner that will result in liability to the Administrative Agent or any Lender under any applicable Sanctions or a breach by the Administrative Agent or any Lenders of any Sanctions.

(b) The Company shall not, and shall ensure that none of its controlled Affiliates will, use funds or assets obtained directly or, to the Company's knowledge, indirectly from transactions with or from (i) Designated Persons or (ii) any Sanctioned Country, in either case, in violation of Sanctions, to pay or repay any amount owing to the Administrative Agent or any Lender under any Loan Document.



(c) The Company shall, and shall ensure that each of its controlled Affiliates will:

(i) conduct its business in compliance with Anti-Corruption Laws in all material respects;

(ii) maintain policies and procedures designed to promote and achieve compliance in all material respects with Anti-Corruption Laws; and

(iii) have reasonable controls and safeguards in place designed to prevent any proceeds of any Borrowing hereunder from being used contrary to the representations and undertakings set forth herein.

## ARTICLE VII

### Events of Default

If any of the following events ("Events of Default") shall occur:

(a) the Company shall fail to pay any principal of any Loan when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;

(b) the Company shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in clause (a) of this Article) payable under this Agreement, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of five (5) Business Days;

(c) any representation or warranty of the Company in this Agreement or any other Loan Document or any amendment or modification thereof or waiver thereunder, or in any final version of any certificate delivered on or after the date hereof, shall prove to have been incorrect in any material respect when made;

(d) (i) the Company shall fail to observe or perform any covenant or agreement contained in Section 5.01 or in Article VI or (ii) except as permitted herein, any Loan Document shall for any reason not be or shall cease to be in full force and effect or is declared to be null and void by the Company, or the Company or any Subsidiary takes any action (other than payment in full) for the purpose of terminating, repudiating or rescinding any Loan Document or any of its obligations thereunder;

(e) the Company shall fail to observe or perform any covenant or agreement contained in this Agreement (other than those specified in clause (a), (b) or (d) of this Article) or any other Loan Document, and such failure shall continue unremedied for a period of 30 days after (i) in the case of Section 5.07(e), a Financial Officer of the Company being aware of such failure and (ii) otherwise, notice thereof from the Administrative Agent to the Company;

(f) the Company or any Subsidiary shall fail to make any payment (whether of principal, interest or otherwise and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable (after giving effect to any applicable grace period), and such failure to pay shall not have been remedied or waived by or on behalf of the holder or holders of such Material Indebtedness;

(g) any event or condition occurs that (i) results in any Material Indebtedness becoming or being declared due prior to its scheduled maturity, and, in the case of this clause (i), such declaration is not rescinded, or (ii) enables or permits the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due prior to its scheduled maturity, and, in the case of this clause (ii), such event or condition shall not have been remedied or waived by or on behalf of the holder or holders of such Material Indebtedness; provided that this clause (g) shall not apply to any of the following events unless such event results in the acceleration of other Material Indebtedness: (1) secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness or a casualty or similar event, (2) any change of control offer made within 60 days after an Acquisition with respect to, and effectuated pursuant to, Indebtedness of an acquired business, (3) any default under Indebtedness of an acquired business if such default is cured, or such Indebtedness is repaid, within 60 days after the Acquisition of such business so long as no other creditor accelerates or commences any kind of enforcement action in respect of such Indebtedness, (4) mandatory prepayment requirements arising from the receipt of net cash proceeds from debt, dispositions (including casualty losses, governmental takings and other involuntary dispositions), equity issuances or excess cash flow, in each case pursuant to Indebtedness of an acquired business, (5) prepayments required by the terms of Indebtedness as a result of customary provisions in respect of illegality, replacement of lenders and gross-up provisions for Taxes, increased costs, capital adequacy and other similar customary requirements and (6) any voluntary prepayment, redemption or other satisfaction of Indebtedness that becomes mandatory in accordance with the terms of such Indebtedness solely as the result of the Company or any Material Subsidiary delivering a prepayment, redemption or similar notice with respect to such prepayment, redemption or other satisfaction;

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Company or any Material Subsidiary or its debts, or of a substantial part of its assets, under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Company or any Material Subsidiary or for a substantial part of its assets, and such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) the Company or any Material Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (h) of this Article, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Company or any Material Subsidiary or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any corporate action for the purpose of effecting any of the foregoing;

(j) the Company or any Material Subsidiary shall become unable, admit in writing its inability or fail generally to pay its debts as they become due;

(k) one or more judgments for the payment of money in an aggregate amount in excess of \$300,000,000 shall be rendered against the Company or any Subsidiary and the same shall remain unpaid, unstayed on appeal, undischarged, unbonded or undismissed for a period of 60 consecutive days;

(l) an ERISA Event shall have occurred that, when taken together with all other ERISA Events that have occurred, would have a Material Adverse Effect; or

(m) a Change in Control shall occur;

then, and in every such event (other than an event with respect to the Company described in clause (h) or (i) of this Article), and at any time thereafter during the continuance of such event, the Administrative Agent with the consent of the Required Lenders, may and, at the request of the Required Lenders, shall, by notice to the Company, take any or all of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the Commitments shall terminate immediately, and (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other Obligations of the Company accrued hereunder and under the other Loan Documents, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Company; and in case of any event with respect to the Company described in clause (h) or (i) of this Article, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other Obligations accrued hereunder and under the other Loan Documents, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Company.

## ARTICLE VIII

### The Administrative Agent

#### SECTION 8.01. Authorization and Action.

(a) Each Lender hereby irrevocably appoints the entity named as Administrative Agent in the preamble to this Agreement and its successors and assigns to serve as the administrative agent under the Loan Documents and each Lender authorizes the Administrative Agent to take such actions as agent on its behalf and to exercise such powers under this Agreement and the other Loan Documents as are delegated to the Administrative Agent under such agreements and to exercise such powers as are reasonably incidental thereto. Without limiting the foregoing, each Lender hereby authorizes the Administrative Agent to execute and deliver, and to perform its obligations under, each of the Loan Documents to which the Administrative Agent is a party, to exercise all rights, powers and remedies that the Administrative Agent may have under such Loan Documents.

(b) As to any matters not expressly provided for herein and in the other Loan Documents (including enforcement or collection), the Administrative Agent shall not be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the written instructions of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, pursuant to the terms in the Loan Documents), and, unless and until revoked in writing, such instructions shall be binding upon each Lender; provided, however, that the Administrative Agent shall not be required to take any action that (i) the Administrative Agent reasonably and in good faith believes exposes it to liability unless the Administrative Agent receives an indemnification satisfactory to it from the Lenders with respect to such action or (ii) is contrary to this Agreement or any other Loan Document or applicable law, including any action that may be in violation of the automatic stay under any requirement of law relating to bankruptcy, insolvency or reorganization or relief of debtors or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any requirement of law relating to bankruptcy, insolvency or reorganization or relief of debtors; provided, further, that the Administrative Agent may seek clarification or direction from the Required Lenders prior to the exercise of any such instructed action and may refrain from acting until such clarification or direction has been provided. Except as expressly set forth in the Loan Documents, the

Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Company, any Subsidiary or any Affiliate of any of the foregoing that is communicated to or obtained by the Person serving as Administrative Agent or any of its Affiliates in any capacity. Nothing in this Agreement shall require the Administrative Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(c) In performing its functions and duties hereunder and under the other Loan Documents, the Administrative Agent is acting solely on behalf of the Lenders (except in limited circumstances expressly provided for herein relating to the maintenance of the Register), and its duties are entirely mechanical and administrative in nature. Without limiting the generality of the foregoing:

(i) the Administrative Agent does not assume and shall not be deemed to have assumed any obligation or duty or any other relationship as the agent, fiduciary or trustee of or for any Lender or holder of any other Obligation other than as expressly set forth herein and in the other Loan Documents, regardless of whether a Default or an Event of Default has occurred and is continuing (and it is understood and agreed that the use of the term "agent" (or any similar term) herein or in any other Loan Document with reference to the Administrative Agent is not intended to connote any fiduciary duty or other implied (or express) obligations arising under agency doctrine of any applicable law, and that such term is used as a matter of market custom and is intended to create or reflect only an administrative relationship between contracting parties); additionally, each Lender agrees that it will not assert any claim against the Administrative Agent based on an alleged breach of fiduciary duty by the Administrative Agent in connection with this Agreement and the transactions contemplated hereby; and

(ii) nothing in this Agreement or any Loan Document shall require the Administrative Agent to account to any Lender for any sum or the profit element of any sum received by the Administrative Agent for its own account.

(d) The Administrative Agent may perform any 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 of their respective duties and exercise their respective rights and powers through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities pursuant to this Agreement. The Lenders acknowledge that the Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agent except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agent.

(e) None of any Syndication Agent, any Documentation Agent or any Arranger shall have obligations or duties whatsoever in such capacity under this Agreement or any other Loan Document (excluding, for the avoidance of doubt, any commitment and fee letters) and shall incur no liability hereunder or thereunder in such capacity, but all such persons shall have the benefit of the indemnities provided for hereunder.

(f) In case of the pendency of any proceeding with respect to the Company under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, the Administrative Agent (irrespective of whether the principal of any Loan or any 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 Company) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

(i) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other 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 and the Administrative Agent (including any claim under Sections 2.12, 2.13, 2.15, 2.17 and 9.03) allowed in such judicial proceeding; and

(ii) 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 proceeding is hereby authorized by each Lender 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, to pay to the Administrative Agent any amount due to it, in its capacity as the Administrative Agent, under the Loan Documents (including under Section 9.03). 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 any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

(g) The provisions of this Article are solely for the benefit of the Administrative Agent and the Lenders and, except solely to the extent of the Company's rights to consent pursuant to and subject to the conditions set forth in this Article, none of the Company or any Subsidiary, or any of their respective Affiliates, shall have any rights as a third party beneficiary under any such provisions. Each party that is a holder of Obligations, whether or not a party hereto, will be deemed, by its acceptance of the benefits of the guarantees of the Obligations provided under the Loan Documents, to have agreed to the provisions of this Article.

#### SECTION 8.02. Administrative Agent's Reliance, Indemnification, Etc.

(a) Neither the Administrative Agent nor any of its Related Parties shall be (i) liable for any action taken or omitted to be taken by it under or in connection with this Agreement or the other Loan Documents (x) with the consent of 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 reasonably believe in good faith to be necessary, under the circumstances as provided in the Loan Documents) or (y) in the absence of its own gross negligence or willful misconduct (such absence to be presumed unless otherwise determined by a court of competent jurisdiction by a final and nonappealable judgment) or (ii) responsible in any manner to any of the Lenders for any recitals, statements, representations or warranties made by the Company or any officer thereof contained in this Agreement or any other Loan Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement or any other Loan Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or for any failure of the Company to perform its obligations hereunder or thereunder.

(b) The Administrative Agent shall be deemed not to have knowledge of any Default unless and until written notice thereof (stating that it is a "notice of default") is given to the Administrative Agent by the Company or a Lender, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any

Loan Document, (ii) the contents of any certificate, report or other document delivered thereunder or in connection therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document or the occurrence of any Default, (iv) the sufficiency, validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, or (v) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent or satisfaction of any condition that expressly refers to the matters described therein being acceptable or satisfactory to the Administrative Agent.

(c) Without limiting the foregoing, the Administrative Agent (i) may treat the payee of any promissory note as its holder until such promissory note has been assigned in accordance with Section 9.04, (ii) may rely on the Register to the extent set forth in Section 9.04(b), (iii) may consult with legal counsel (including counsel to the Company), independent public accountants and other experts selected by it, and shall not be liable for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts, (iv) makes no warranty or representation to any Lender and shall not be responsible to any Lender for any statements, warranties or representations made by or on behalf of the Company in connection with this Agreement or any other Loan Document, (v) in determining compliance with any condition hereunder to the making of a Loan, that by its terms must be fulfilled to the satisfaction of a Lender, may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender sufficiently in advance of the making of such Loan and (vi) shall be entitled to rely on, and shall incur no liability under or in respect of this Agreement or any other Loan Document by acting upon, any notice, consent, certificate or other instrument or writing (which writing may be a fax, any electronic message, Internet or intranet website posting or other distribution) or any statement made to it orally or by telephone and reasonably and in good faith believed by it to be genuine and signed or sent or otherwise authenticated by the proper party or parties (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the maker thereof).

#### SECTION 8.03. Posting of Communications.

(a) The Company agrees that the Administrative Agent may, but shall not be obligated to, make any Communications available to the Lenders by posting the Communications on IntraLinks™, DebtDomain, SyndTrak, ClearPar or any other similar electronic platform chosen by the Administrative Agent reasonably and in good faith to be its electronic transmission system and used by it for such purpose with respect to its credit facilities generally (the “Approved Electronic Platform”).

(b) Although the Approved Electronic Platform and its primary web portal are secured with generally-applicable security procedures and policies implemented or modified by the Administrative Agent from time to time (including, as of the Effective Date, a user ID/password authorization system) and the Approved Electronic Platform is secured through a per-deal authorization method whereby each user may access the Approved Electronic Platform only on a deal-by-deal basis, each of the Lenders and the Company acknowledges and agrees that the distribution of material through an electronic medium is not necessarily secure and that there are confidentiality and other risks associated with such distribution. Each of the Lenders and the Company hereby approves distribution of the Communications through the Approved Electronic Platform and understands and assumes the risks of such distribution, other than risks arising from the gross negligence, bad faith or willful misconduct of any of the foregoing parties (as determined by a court of competent jurisdiction by a final and nonappealable judgment).

(c) THE APPROVED ELECTRONIC PLATFORM AND THE COMMUNICATIONS ARE PROVIDED “AS IS” AND “AS AVAILABLE”. THE APPLICABLE PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS, OR

THE ADEQUACY OF THE APPROVED ELECTRONIC PLATFORM AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS OR OMISSIONS IN THE APPROVED ELECTRONIC PLATFORM AND THE COMMUNICATIONS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY THE APPLICABLE PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE APPROVED ELECTRONIC PLATFORM. IN NO EVENT SHALL THE ADMINISTRATIVE AGENT, ANY ARRANGER, ANY DOCUMENTATION AGENT, ANY SYNDICATION AGENT OR ANY OF THEIR RESPECTIVE RELATED PARTIES (COLLECTIVELY, "APPLICABLE PARTIES") HAVE ANY LIABILITY TO THE COMPANY, ANY LENDER OR ANY OTHER PERSON OR ENTITY FOR DAMAGES OF ANY KIND, INCLUDING DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF THE COMPANY'S OR THE ADMINISTRATIVE AGENT'S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET OR THE APPROVED ELECTRONIC PLATFORM, OTHER THAN DIRECT ACTUAL DAMAGES ARISING FROM THE GROSS NEGLIGENCE, BAD FAITH OR WILLFUL MISCONDUCT OF ANY APPLICABLE PARTY (AS DETERMINED BY A COURT OF COMPETENT JURISDICTION BY A FINAL AND NONAPPEALABLE JUDGMENT).

(d) Each Lender agrees that notice to it (as provided in the next sentence) specifying that Communications have been posted to the Approved Electronic Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Loan Documents. Each Lender agrees (i) to notify the Administrative Agent in writing (which could be in the form of electronic communication) from time to time of such Lender's email address to which the foregoing notice may be sent by electronic transmission and (ii) that the foregoing notice may be sent to such email address.

(e) Each of the Lenders and the Company agrees that the Administrative Agent may, but (except as may be required by applicable law) shall not be obligated to, store the Communications on the Approved Electronic Platform in accordance with the Administrative Agent's generally applicable document retention procedures and policies.

(f) Nothing herein shall prejudice the right of the Administrative Agent or any Lender to give any notice or other communication pursuant to any Loan Document in any other manner specified in such Loan Document.

SECTION 8.04. The Administrative Agent Individually. With respect to its Commitment and Loans, the Person serving as the Administrative Agent shall have and may exercise the same rights and powers hereunder and is subject to the same obligations and liabilities as and to the extent set forth herein for any other Lender. The terms "Lenders," "Required Lenders" and any similar terms shall, unless the context clearly otherwise indicates, include the Administrative Agent in its individual capacity as a Lender or as one of the Required Lenders, as applicable. The Person serving as the Administrative Agent and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust or other business with, the Company, any Subsidiary or any Affiliate of any of the foregoing as if such Person was not acting as the Administrative Agent and without any duty to account therefor to the Lenders.

SECTION 8.05. Successor Administrative Agent.

(a) The Administrative Agent may resign at any time by giving 30 days' prior written notice thereof to the Lenders and the Company, whether or not a successor Administrative Agent has been

appointed. Upon any such resignation, the Required Lenders shall have the right, in consultation with (and, so long as no Event of Default shall then exist, the consent of, such consent not to be unreasonably withheld) the Company, to appoint a successor Administrative Agent. If no successor Administrative Agent shall have been so appointed by the Required Lenders, and shall have accepted such appointment, within 30 days after the retiring Administrative Agent's giving of notice of resignation, then the retiring Administrative Agent may, on behalf of the Lenders, appoint a successor Administrative Agent, which shall be a bank with an office in New York, New York or an Affiliate of any such bank. In both cases, such appointment shall be subject to the prior written approval of the Company (which approval may not be unreasonably withheld and shall not be required while an Event of Default has occurred and is continuing). Upon the acceptance of any appointment as Administrative Agent by a successor Administrative Agent, such successor Administrative Agent shall succeed to, and become vested with, all the rights, powers, privileges and duties of the retiring Administrative Agent. Upon the acceptance of appointment as Administrative Agent by a successor Administrative Agent, the retiring Administrative Agent shall be discharged from its duties and obligations under this Agreement and the other Loan Documents. Prior to any retiring Administrative Agent's resignation hereunder as Administrative Agent, the retiring Administrative Agent shall take such action as may be reasonably necessary to assign to the successor Administrative Agent its rights as Administrative Agent under the Loan Documents.

(b) Notwithstanding paragraph (a) of this Section, in the event no successor Administrative Agent shall have been so appointed and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its intent to resign, the retiring Administrative Agent may give notice of the effectiveness of its resignation to the Lenders and the Company, whereupon, on the date of effectiveness of such resignation stated in such notice, (i) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents and (ii) the Required Lenders shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent; provided that (A) all payments required to be made hereunder or under any other Loan Document to the Administrative Agent for the account of any Person other than the Administrative Agent shall be made directly to such Person and (B) all notices and other communications required or contemplated to be given or made to the Administrative Agent shall directly be given or made to each Lender. Following the effectiveness of the Administrative Agent's resignation from its capacity as such, the provisions of this Article and Section 9.03, as well as any exculpatory, reimbursement and indemnification provisions set forth in any other Loan Document, 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.

#### SECTION 8.06. Acknowledgement of Lenders.

(a) Each Lender represents that it is engaged in making, acquiring or holding commercial loans in the ordinary course of its business and that it has, independently and without reliance upon the Administrative Agent, any Arranger or any other Lender, or any of the Related Parties of any of the foregoing, and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement as a Lender, and to make, acquire or hold Loans hereunder. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent, any Arranger or any other Lender, or any of the Related Parties of any of the foregoing, and based on such documents and information (which may contain material, non-public information within the meaning of the United States securities laws concerning the Company and its Affiliates) as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.



(b) Each Lender, by delivering its signature page to this Agreement on the Effective Date, or delivering its signature page to an Assignment and Assumption or any other Loan Document pursuant to which it shall become a Lender hereunder, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be delivered to, or be approved by or satisfactory to, the Administrative Agent or the Lenders on the Effective Date.

SECTION 8.07. Certain ERISA Matters.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Company, that at least one of the following is and will be true:

(i) such Lender is not using “plan assets” (within the meaning of the Plan Asset Regulations) of one or more Benefit Plans with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Commitments or this Agreement,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement, and the conditions for exemptive relief thereunder are and will continue to be satisfied in connection therewith;

(iii) (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84- 14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Company, that the Administrative Agent is not a fiduciary with respect to the assets of such Lender involved

in such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

## ARTICLE IX

### Miscellaneous

#### SECTION 9.01. Notices.

(a) Except in the case of notices and other communications expressly permitted to be given by telephone or other means permitted hereunder (and subject to paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopy, as follows:

(i) if to the Company, to it c/o Fiserv, Inc., 255 Fiserv Drive, Brookfield, Wisconsin 53045, Attention of Robert Hau, Chief Financial Officer, and Russell Kohl, Senior Vice President, Tax & Treasury (Facsimile No. (262) 879-5318; email: Russ.Kohl@fiserv.com), with a copy to, in the case of any notice of Default or Event of Default, (A) Lynn S. McCreary, Chief Legal Officer (Facsimile No. (262) 879-5532; email: Lynn.McCreary@Fiserv.com), and (B) Neal McKnight, Sullivan & Cromwell LLP (Facsimile No. (212) 291-9097; email: mcknightn@sullcrom.com);

(ii) if to the Administrative Agent, to JPMorgan Chase Bank, N.A., 10 South Dearborn, Floor L2, Chicago, Illinois 60603, Attention of Leonida Mischke (Telecopy No. (888) 292-9533; email: jpm.agency.cri@jpmorgan.com), and with a copy to JPMorgan Chase Bank, N.A., 560 Mission Street, 19<sup>th</sup> Floor, San Francisco, California 94105, Attention of Min Park (Telecopy No. (415) 226-0799; email: min.park@jpmorgan.com) and (C) in the case of a notification of the DQ List, to JPMDQ\_Contact@jpmorgan.com;

(iii) if to any other Lender, to it at its address (or telecopy number) set forth in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile 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 delivered through Approved Electronic Platforms, to the extent provided in paragraph (b) below, shall be effective as provided in said paragraph (b).

(b) Notices and other communications to the Lenders hereunder may be delivered or furnished by using Approved Electronic Platforms pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Article II unless otherwise agreed by the Administrative Agent and the applicable Lender. The Administrative Agent or the Company may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

(c) Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to

an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient, at its e-mail address as described in the foregoing clause (i), of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii) above, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(d) Any party hereto may change its address or telecopy number for notices and other communications hereunder by notice to the other parties hereto.

SECTION 9.02. Waivers; Amendments.

(a) No failure or delay by the Administrative Agent or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by the Company therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent or any Lender may have had notice or knowledge of such Default at the time.

(b) Except as provided in Section 2.23 with respect to the extension of the applicable Maturity Date, or as provided in Section 2.22 with respect to an Incremental Term Loan Amendment or as provided in Section 2.14(c), neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Company and the Required Lenders or by the Company and the Administrative Agent with the consent of the Required Lenders; provided that no such agreement shall (i) increase the Commitment of any Lender under any Tranche without the written consent of such Lender (provided that an amendment, modification, waiver or consent with respect to any condition precedent, covenant, Event of Default or Default shall not constitute an increase in the Commitment of any Lender), (ii) reduce the principal amount of any Loan or reduce the rate of interest thereon (other than waivers or amendments with respect to the application of a default rate of interest pursuant to Section 2.13(b)), or reduce any fees payable hereunder, without the written consent of each Lender directly affected thereby (except that no amendment entered into pursuant to the terms of Section 2.14(c) shall constitute a reduction in the rate of interest or fees for purposes of this clause (ii)), (iii) postpone the scheduled date of payment of the principal amount of any Loan, or any interest thereon, or any fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment (including the Commitment Termination Date or the Maturity Date), without the written consent of each Lender directly affected thereby, (iv) change Section 2.18(b) or (c) in a manner that would alter the pro rata sharing of payments required thereby, without the written consent of each Lender directly affected thereby, (v) change any of the provisions of this Section or the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender (it being understood that, solely with the consent of the parties prescribed by Section 2.22 to be parties to an Incremental Term Loan Amendment, Incremental Term Loans may be included in the determination of Required Lenders on substantially the same basis as the Loans are included on the Closing Date) or (vi) change the provisions of any Loan Document in a manner that by its terms would reasonably be expected to materially adversely affect the

rights of Lenders holding Loans in a particular Tranche relative to the rights of Lenders holding Loans in the other Tranche without the prior written consent of Lenders having Commitments in respect of such adversely affected Tranche representing more than 50% of the Commitments in respect of such adversely affected Tranche (or, upon the funding of the Loans on the Closing Date, holding Loans in respect of such adversely affected Tranche representing more than 50% of the aggregate outstanding principal amount of all of the Loans in respect of such adversely affected Tranche at such time); provided, further, that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent hereunder without the prior written consent of the Administrative Agent (it being understood that any change to Section 2.21 shall require the consent of the Administrative Agent). Notwithstanding the foregoing, (A) no consent with respect to any amendment, waiver or other modification of this Agreement shall be required of any Defaulting Lender, except with respect to any amendment, waiver or other modification referred to in clause (i), (ii) or (iii) of the first proviso of this paragraph and then only in the event such Defaulting Lender shall be directly and adversely affected by such amendment, waiver or other modification, and (B) as to any amendment, amendment and restatement or other modification otherwise approved in accordance with this Section, it shall not be necessary to obtain the consent or approval of any Lender that, upon giving effect to such amendment, amendment and restatement or other modification, would have no Commitment or outstanding Loans, so long as such Lender receives payment in full of the principal of and interest on each Loan made by, and all other amounts owing to, such Lender or accrued for the account of such Lender under this Agreement and the other Loan Documents at the time such amendment, amendment and restatement or other modification becomes effective.

(c) If, in connection with any proposed amendment, waiver or consent requiring the consent of “each Lender” or “each Lender directly affected thereby,” the consent of the Required Lenders is obtained, but the consent of other necessary Lenders is not obtained (any such Lender whose consent is necessary but not obtained being referred to herein as a “Non-Consenting Lender”), then the Company may elect to replace a Non-Consenting Lender as a Lender party to this Agreement; provided that, concurrently with such replacement, (i) another bank or other entity which is reasonably satisfactory to the Company and the Administrative Agent shall agree, as of such date, to purchase for cash the Loans and other Obligations due to the Non-Consenting Lender pursuant to an Assignment and Assumption and to become a Lender for all purposes under this Agreement and to assume all obligations of the Non-Consenting Lender to be terminated as of such date and to comply with the requirements of clause (b) of Section 9.04, and (ii) the Company shall pay to such Non-Consenting Lender in same day funds on the day of such replacement (1) all interest, fees and other amounts then accrued but unpaid to such Non-Consenting Lender by the Company hereunder to and including the date of termination, including without limitation payments due to such Non-Consenting Lender under Sections 2.15 and 2.17, and (2) an amount, if any, equal to the payment which would have been due to such Lender on the day of such replacement under Section 2.16 had the Loans of such Non-Consenting Lender been prepaid on such date rather than sold to the replacement Lender. Each party hereto agrees that (1) an assignment required pursuant to this paragraph may be effected pursuant to an Assignment and Assumption executed by the Company, the Administrative Agent and the assignee (or, to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Approved Electronic Platform as to which the Administrative Agent and such parties are participants), and (2) the Lender required to make such assignment need not be a party thereto in order for such assignment to be effective and shall be deemed to have consented to and be bound by the terms thereof; provided that, following the effectiveness of any such assignment, the other parties to such assignment agree to execute and deliver such documents necessary to evidence such assignment as reasonably requested by the applicable Lender; provided that any such documents shall be without recourse to or warranty by the parties thereto.

(d) Notwithstanding the foregoing, this Agreement and any other Loan Document may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Company (i) to add one or more credit facilities (in addition to the Incremental Term Loans

pursuant to an Incremental Term Loan Amendment) to this Agreement and to permit extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Loans, Incremental Term Loans and the accrued interest and fees in respect thereof and (ii) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders and Lenders.

(e) Notwithstanding the foregoing, (i) if the Administrative Agent and the Company acting together identify any ambiguity, omission, mistake, typographical error or other defect in any provision of this Agreement or any other Loan Document, then the Administrative Agent and the Company shall be permitted to amend, modify or supplement such provision to cure such ambiguity, omission, mistake, typographical error or other defect, and such amendment shall become effective without any further action or consent of any other party to this Agreement and (ii) this Agreement and any other Loan Document may be amended (or amended and restated) by the Administrative Agent and the Company to reflect an alternative rate of interest and make related changes as provided in Section 2.14(c).

#### SECTION 9.03. Expenses; Indemnity; Damage Waiver.

(a) The Company shall pay (i) all reasonable, documented and invoiced out-of-pocket expenses incurred by the Administrative Agent and its Affiliates, including the reasonable, documented and invoiced fees, charges and disbursements of one primary counsel (and one additional local counsel in each applicable jurisdiction) for the Administrative Agent, in connection with the syndication and distribution (including, without limitation, via the internet or through a service such as Intralinks) of the credit facilities provided for herein, the preparation, 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); provided that, in advance of contacting outside counsel of the Administrative Agent regarding matters concerning the administration of this Agreement in respect of which the Administrative Agent will expect to be reimbursed by the Company, the Administrative Agent will notify the Company of its intent to contact such outside counsel, and (ii) all reasonable, documented and invoiced out-of-pocket expenses incurred by the Administrative Agent or any Lender, including the reasonable, documented and invoiced fees, charges and disbursements of one primary counsel (and one local counsel in each applicable jurisdiction) for the Administrative Agent and the Lenders, taken as a whole, and additional counsel to the extent reasonably determined by the Administrative Agent or any Lender or group of Lenders to be necessary to avoid actual or potential conflicts of interest or the availability of different claims or defenses (solely to the extent the Company is informed in writing of such conflict or different claim or defense in advance of hiring additional counsel), in connection with the enforcement or protection of its rights in connection with this Agreement and any other Loan Document at any time during a Default, including its rights under this Section, or in connection with the Loans made hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations during an Event of Default in respect of such Loans.

(b) The Company shall indemnify the Administrative Agent, each Arranger and each Lender, 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, penalties and related reasonable, documented and invoiced costs and expenses, including the reasonable, documented and invoiced fees, charges and disbursements of one primary counsel (and one local counsel in each applicable jurisdiction) for the Indemnitees, taken as a whole, and additional counsel to the extent reasonably determined by any Indemnitee or group of Indemnitees to be necessary to avoid actual or potential conflicts of interest or the availability of different claims or defenses (solely to the extent the Company is informed in writing of such conflict or different claim or defense in advance of hiring additional counsel), as and when incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of any Loan Document or any agreement or instrument

contemplated thereby, or the performance by the parties hereto of their respective obligations thereunder or the consummation of the Specified Acquisition Transactions or any other transactions contemplated hereby, (ii) any Loan or the use of the proceeds therefrom, (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Company or any of its Subsidiaries, or any Environmental Liability related in any way to the Company or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Company or any of its Subsidiaries 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 non-appealable judgment to have resulted from (a) the gross negligence, bad faith, material breach of the Loan Documents or willful misconduct of such Indemnitee or any of its Affiliates, (b) a dispute among the Indemnitees not arising from a Default (other than a dispute involving a claim against an Indemnitee for its acts or omissions in its capacity as an arranger, bookrunner, agent or similar role in respect of the credit facility evidenced by this Agreement, except, with respect to this clause (b), to the extent such acts or omissions are determined by a court of competent jurisdiction by final and non-appealable judgment to have constituted the gross negligence, bad faith, material breach of the Loan Documents or willful misconduct of such Indemnitee in such capacity) or (c) such Indemnitee's or any of its Affiliates' material breach of the Loan Documents. Notwithstanding the foregoing, (x) each Indemnitee shall promptly repay to the Company any and all amounts previously paid by the Company pursuant to the foregoing indemnification provisions to the extent such Indemnitee or any of its Affiliates is found by a final, non-appealable judgment of a court of competent jurisdiction not to be entitled to indemnification hereunder as contemplated by the immediately preceding proviso, and (y) the Company shall not be liable for any settlement of any claim, litigation, investigation, arbitration or proceeding (each, a "Proceeding") effectuated without the Company's consent (which consent shall not be unreasonably withheld, conditioned or delayed), but if settled with the written consent of the Company or if there is a final and non-appealable judgment for the plaintiff in any such Proceeding, the Company agrees to indemnify and hold harmless each Indemnitee from and against any and all losses, claims, damages, liabilities and reasonable and documented out-of-pocket expenses by reason of such settlement or judgment in accordance with this Section 9.03(b). The Company shall not, without the prior written consent of any Indemnitee (which consent shall not be unreasonably withheld, delayed or conditioned), effect any settlement of any pending or threatened Proceeding in respect of which indemnity could have been sought hereunder by such Indemnitee unless such settlement (a) includes an unconditional release of such Indemnitee from all liability arising out of such Proceeding, (b) does not include any statement as to, or any admission of, fault, culpability, wrongdoing or a failure to act by or on behalf of such Indemnitee or any injunctive relief or other non-monetary remedy and (c) contains customary confidentiality and non-disparagement provisions. This Section 9.03(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims or damages arising from any non-Tax claim.

(c) To the extent that the Company fails to pay any amount required to be paid by it to the Administrative Agent, under paragraph (a) or (b) of this Section, each Lender severally agrees to pay to the Administrative Agent such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount (it being understood that the Company's failure to pay any such amount shall not relieve the Company of any default in the payment thereof); provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent in its capacity as such.

(d) To the extent permitted by applicable law, the Company shall not assert, and hereby waives, any claim against any Indemnitee, (i) for any damages arising from the use by others of information or other materials obtained through telecommunications, electronic or other information transmission systems (including the Internet), other than for direct or actual damages determined by a court of competent

jurisdiction by final and nonappealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnitee or (ii) on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the Specified Acquisition Transactions, any Loan or the use of the proceeds thereof.

(e) All amounts due under this Section shall be payable not later than 30 days after written demand therefor accompanied by a reasonably detailed calculation of the amount demanded.

#### SECTION 9.04. Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) the Company may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Company without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section (and any attempted assignment or transfer by any Lender in violation of this Section 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 paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b)(i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more Persons (other than an Ineligible Institution) all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld, conditioned or delayed, it being understood that in the case of any assignment that requires the Company's consent, without limiting any other factors that may be reasonable, it shall be reasonable for the Company to consider a proposed assignee's right to require reimbursement for increased costs when determining whether to consent to such an assignment) of:

(A) the Company (provided that the Company shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within fifteen (15) Business Days after having received notice thereof); provided that no consent of the Company shall be required (but notice to the Company, either prior to or promptly after such assignment, shall be required) for an assignment to (1) a Lender, an Affiliate of a Lender or an Approved Fund (provided, further, that, notwithstanding the preceding clause (1), the consent of the Company shall be required if, after giving effect to such assignment, the assignee, collectively with its affiliated Lenders and affiliated Approved Funds, would, as a result of such assignment, hold more than fifteen percent (15%) of the aggregate amounts of unused Commitments), or, (2) if an Event of Default under clause (a), (b), (h) or (i) of Article VII has occurred and is continuing, any other assignee; and

(B) the Administrative Agent.

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

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning

Lender's Commitment or Loans of any Tranche, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$5,000,000 unless each of the Company and the Administrative Agent otherwise consent; provided that no such consent of the Company shall be required if an Event of Default under clause (a), (b), (h) or (i) of Article VII has occurred and is continuing;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement; provided that this clause shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender's rights and obligations in respect of one Tranche of Commitments or Loans;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent (x) an Assignment and Assumption or (y) to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Approved Electronic Platform as to which the Administrative Agent and the parties to the Assignment and Assumption are participants, together with a processing and recordation fee of \$3,500, such fee to be paid by either the assigning Lender or the assignee Lender or shared between such Lenders;

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

(E) without the prior written consent of the Administrative Agent, no assignment shall be made to a prospective assignee that bears a relationship to the Company described in Section 108(e)(4) of the Code; and

(F) the assignee shall not be the Company or any Subsidiary or Affiliate of the Company.

For the purposes of this Section 9.04(b), the term "Approved Fund" and "Ineligible Institution" have the following meanings:

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

"Ineligible Institution" means (a) a natural person, (b) a Defaulting Lender or its Lender Parent, (c) the Company, any of its Subsidiaries or any of its Affiliates, (d) a company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person or relative(s) thereof or (e) a Disqualified Institution.



(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.15, 2.16, 2.17 and 9.03). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 9.04 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section.

(iv) The Administrative Agent, acting for this purpose as a non-fiduciary agent of the Company, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amount (and stated interest) of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Company, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Company and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of (x) a duly completed Assignment and Assumption executed by an assigning Lender and an assignee or (y) to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Approved Electronic Platform as to which the Administrative Agent and the parties to the Assignment and Assumption are participants, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; provided that, if either the assigning Lender or the assignee shall have failed to make any payment required to be made by it pursuant to Section 2.07(b), 2.18(d) or 9.03(c), the Administrative Agent shall have no obligation to accept such Assignment and Assumption and record the information therein in the Register unless and until such payment shall have been made in full, together with all accrued interest thereon. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c) (i) Any Lender may, without the consent of the Company or the Administrative Agent, sell participations to one or more banks or other entities (a "Participant"), other than an Ineligible Institution, in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (C) the Company, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and (D) without the prior written consent of the Administrative Agent, no participation shall be sold to a prospective participant that bears a relationship to the Company described in Section 108(e)(4) of the Code. 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 the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 9.02(b) or in clause (i) of Section 9.04(a) that affects such Participant. Subject to paragraph (c)(ii) of this Section, the Company agrees that each Participant shall be entitled to the benefits of Sections 2.15, 2.16 and 2.17 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender; provided such Participant agrees to be subject to Section 2.18(c) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Company, 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 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 or other obligation is in registered form under Treasury Regulations Section 5f.103-1(c) and Proposed Treasury Regulations Section 1.163-5(b) (or any amended or successor version). 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.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.15 or 2.17 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Company's prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 2.17 unless the Company is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Company, to comply with Section 2.17(e) and (h) as though it were a Lender.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(e) Disqualified Institutions.

(i) No assignment or participation shall be made to any Person that was a Disqualified Institution as of the date (the "Trade Date") on which the assigning Lender entered into a binding agreement to sell and assign or grant a participation in all or a portion of its rights and obligations under this Agreement to such Person (unless the Company has consented to such assignment or participation in writing in its sole and absolute discretion, in which case such Person will not be considered a Disqualified Institution for the purpose of such assignment or participation). For the avoidance of doubt, with respect to any assignee or Participant that becomes a Disqualified Institution after the applicable Trade Date (including as a result of the delivery of a notice pursuant to, and/or the expiration of the notice period referred to in, the definition of "Disqualified Institution"), (x) such

assignee or Participant shall not retroactively be disqualified from being a Lender or Participant and (y) the execution by the Company of an Assignment and Assumption with respect to such assignee will not by itself result in such assignee no longer being considered a Disqualified Institution. Any assignment or participation in violation of this clause (e)(i) shall not be void, but the other provisions of this clause (e) shall apply.

(ii) If any assignment or participation is made to any Disqualified Institution without the Company's prior written consent in violation of clause (i) above, or if any Person becomes a Disqualified Institution after the applicable Trade Date, the Company may, at its sole expense and effort, upon notice to the applicable Disqualified Institution and the Administrative Agent, require such Disqualified Institution to assign, without recourse (in accordance with and subject to the restrictions contained in this Section 9.04), all of its interest, rights and obligations under this Agreement to one or more Persons (other than an Ineligible Institution) at the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Institution paid to acquire such interests, rights and obligations in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder.

(iii) Notwithstanding anything to the contrary contained in this Agreement, Disqualified Institutions to whom an assignment or participation is made in violation of clause (i) above (A) will not have the right to (x) receive information, reports or other materials provided to Lenders by the Company, the Administrative Agent or any other Lender, (y) attend or participate in meetings attended by the Lenders (or any of them) and the Administrative Agent, or (z) access any electronic site established for the Lenders or confidential communications from counsel to or financial advisors of the Administrative Agent or the Lenders and (B) for purposes of any consent to any amendment, waiver or modification of, or any action under, and for the purpose of any direction to the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) under this Agreement or any other Loan Document, each Disqualified Institution will be deemed to have consented in the same proportion as the Lenders that are not Disqualified Institutions consented to such matter.

(iv) The Administrative Agent shall have the right, and the Company hereby expressly authorizes the Administrative Agent, to (A) post the list of Disqualified Institutions provided by the Company and any updates thereto from time to time (collectively, the "DQ List") on an Approved Electronic Platform, including that portion of such Approved Electronic Platform that is designated for "public side" Lenders and/or (B) provide the DQ List to each Lender or potential Lender requesting the same.

(v) The Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Disqualified Institutions. Without limiting the generality of the foregoing, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a Disqualified Institution or (y) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information, by any other Person to any Disqualified Institution.

(f) EEA Financial Institutions. Notwithstanding anything to the contrary in this

Section 9.04, or elsewhere in this Agreement, the consent of the Company shall be required (such consent not to be unreasonably withheld or delayed) for an assignment to an assignee that is an EEA Financial Institution unless a Default shall have occurred and be continuing at the time of such assignment.

SECTION 9.05. Survival. All covenants, agreements, representations and warranties made by the Company in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect in accordance with their terms as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement or any other Loan Document is outstanding and unpaid and so long as the Commitments have not expired or terminated. The provisions of Sections 2.15, 2.16, 2.17, 9.03 and 9.12 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Commitments or the termination of this Agreement or any other Loan Document or any provision hereof or thereof.

SECTION 9.06. Counterparts; Integration; Effectiveness; Electronic Execution. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and any separate letter agreements with respect to fees payable to the Administrative Agent constitute the entire contract among the parties relating to the subject matter hereof and thereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof and thereof. 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 which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by telecopy, e-mailed .pdf or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to any document to be signed in connection with this Agreement and the transactions contemplated hereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 9.07. Severability. Any provision of any Loan Document held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 9.08. Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or

special, time or demand, provisional or final, but excluding deposits held in a trustee, fiduciary, agency or similar capacity or otherwise for the benefit of a third party) at any time held, and other obligations at any time owing, by such Lender or any such Affiliate, to or for the credit or the account of the Company against any and all of the obligations of the Company now or hereafter existing under this Agreement or any other Loan Document to such Lender or its Affiliates, irrespective of whether or not such Lender or Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Company may be contingent or unmatured or are owed to a branch office or Affiliate of such Lender 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, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.21 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 and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender and its Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender or its Affiliates may have. Each Lender agrees to notify the Company 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 9.09. Governing Law; Jurisdiction; Consent to Service of Process.**

(a) This Agreement shall be construed in accordance with and governed by the law of the State of New York; provided that (a) the interpretation of the definition of “Material Adverse Effect” and the determination of whether there shall have occurred a “Material Adverse Effect” under the Acquisition Agreement, (b) the determination of whether the Specified Acquisition has been consummated in accordance with the terms of the Acquisition Agreement and (c) the determination of whether the Acquisition Agreement Representations are accurate and whether as a result of any inaccuracy thereof the Company (or its affiliates) has the right (taking into account any applicable cure provisions) to decline to consummate the Specified Acquisition or to terminate its (or their) obligations (or otherwise do not have an obligation to close) under the Acquisition Agreement shall, in each case be governed by and construed and interpreted in accordance with the laws of the State of Delaware without regard to principles of conflicts of laws that would result in the application of the laws of another jurisdiction..

(b) Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to only the jurisdiction of (i) the Supreme Court of the State of New York sitting in New York County, Borough of Manhattan, and of the United States District Court for the Southern District of New York sitting in the Borough of Manhattan and (ii) any U.S. federal or, in the case of the Company only, Illinois state court sitting in Chicago, Illinois, and in each case any appellate court from any thereof, in any action or proceeding arising out of or relating to any Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York state, such Illinois state (if applicable) or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or any other Loan Document shall affect any right that the Administrative Agent or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against the Company or its properties in the courts of any jurisdiction.

(c) Each party hereto hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of

venue of any suit, action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 9.10. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, 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 PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 9.11. Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 9.12. Confidentiality. Each of the Administrative Agent and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors on a need-to-know basis (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 to the same extent as if they were parties hereto and the disclosing Administrative Agent or Lender shall be responsible for any violation of the provisions of this Section 9.12 by any such Person), (b) to the extent requested by any regulatory authority having jurisdiction over such Person (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required (i) by applicable laws or regulations or (ii) by any subpoena or similar compulsory legal process, (d) to any other party to this Agreement, (e) in connection with the exercise of any remedies under this Agreement or any other Loan Document or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement (it being understood that the DQ List may be disclosed to any assignee or Participant, or prospective assignee or Participant, in reliance on and subject to the terms of this clause (f)(i)) or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Company and its obligations, (g) on a confidential basis to the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the credit facilities provided for herein, (h) with the prior written consent of the Company or (i) to the extent such Information (A) becomes publicly available other than as a result of a breach of this Section or (B) becomes available to the Administrative Agent or any Lender on a non-confidential basis from a source other than the Company or any of its Subsidiaries that the Administrative Agent or such Lender, as applicable, reasonably believes is not prohibited from disclosing such information to such party

in violation of a duty or contractual obligation of confidentiality to the Company or any of its Subsidiaries. In the event of disclosure pursuant to clause (c)(i) or (ii) above, the applicable disclosing Person shall, (x) to the extent not prohibited by applicable law, rule or regulation, as promptly as practicable notify the Company in writing of such required disclosure and if possible, prior to any such required disclosure, so as to provide the Company, at its sole expense, the reasonable opportunity to obtain a protective order or other comparable relief regarding such disclosure, (y) if the Company is unable to successfully obtain a protective order or other comparable relief, so furnish only that portion of the Information which such disclosing Person reasonably determines (which may be in reliance on the advice of legal counsel) it is legally required to disclose and (z) use commercially reasonable efforts to ensure that any such Information so disclosed is accorded confidential treatment. For the purposes of this Section, "Information" means all information which is received from or on behalf of the Company relating to the Company, its Subsidiaries or Affiliates or their respective business, other than any such information that is available to the Administrative Agent or any Lender on a non-confidential basis prior to disclosure by the Company and other than information pertaining to this Agreement routinely provided by arrangers to data service providers, including league table providers, that serve the lending industry. 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 but in no event less than a reasonable degree of care.

**EACH LENDER ACKNOWLEDGES THAT INFORMATION AS DEFINED IN THE IMMEDIATELY PRECEDING PARAGRAPH FURNISHED TO IT PURSUANT TO THIS AGREEMENT MAY INCLUDE MATERIAL NON-PUBLIC INFORMATION CONCERNING THE COMPANY AND ITS RELATED PARTIES OR THEIR RESPECTIVE SECURITIES, AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MATERIAL NON-PUBLIC INFORMATION AND THAT IT WILL HANDLE SUCH MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.**

**ALL INFORMATION, INCLUDING REQUESTS FOR WAIVERS AND AMENDMENTS, FURNISHED BY OR ON BEHALF OF THE COMPANY OR THE ADMINISTRATIVE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT WILL BE SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION ABOUT THE COMPANY AND ITS RELATED PARTIES OR THEIR RESPECTIVE SECURITIES. ACCORDINGLY, EACH LENDER REPRESENTS TO THE COMPANY AND THE ADMINISTRATIVE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE QUESTIONNAIRE A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW AND AGREES TO UPDATE SUCH CREDIT CONTACT BY NOTICE TO THE COMPANY AND THE ADMINISTRATIVE AGENT FROM TIME TO TIME AS NECESSARY TO CAUSE THE FOREGOING REPRESENTATION TO BE TRUE AT ALL TIMES.**

SECTION 9.13. USA PATRIOT Act. Each Lender that is subject to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Patriot Act") hereby notifies the Company that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies the Company, which information includes the name and address of the Company and other information that will allow such Lender to identify the Company in accordance with the Patriot Act.

SECTION 9.14. Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively the “Charges”), shall exceed the maximum lawful rate (the “Maximum Rate”) which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the NYFRB Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.15. No Advisory or Fiduciary Responsibility. The Company acknowledges and agrees, and acknowledges its Subsidiaries’ understanding, that no Credit Party will have any obligations except those obligations expressly set forth herein and in the other Loan Documents and each Credit Party is acting solely in the capacity of an arm’s length contractual counterparty to the Company with respect to the Loan Documents and the transaction contemplated therein and not as a financial advisor or a fiduciary to, or an agent of, the Company or any other person. The Company agrees that it will not assert any claim against any Credit Party based on an alleged breach of fiduciary duty by such Credit Party in connection with this Agreement and the transactions contemplated hereby. Additionally, the Company acknowledges and agrees that no Credit Party is advising the Company as to any legal, tax, investment, accounting, regulatory or any other matters in any jurisdiction in connection with this Agreement, the other Loan Documents and the credit facilities evidenced hereby. The Company shall consult with its own advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated hereby, and the Credit Parties shall have no responsibility or liability to the Company with respect thereto.

The Company further acknowledges and agrees, and acknowledges its Subsidiaries’ understanding, that each Credit Party is a full service securities or banking firm engaged in securities trading and brokerage activities as well as providing investment banking and other financial services. In the ordinary course of business, any Credit Party may provide investment banking and other financial services to, and/or acquire, hold or sell, for its own accounts and the accounts of customers, equity, debt and other securities and financial instruments (including bank loans and other obligations) of, the Company, its Subsidiaries and other companies with which the Company or any of its Subsidiaries may have commercial or other relationships. With respect to any securities and/or financial instruments so held by any Credit Party or any of its customers, all rights in respect of such securities and financial instruments, including any voting rights, will be exercised by the holder of the rights, in its sole discretion.

In addition, the Company acknowledges and agrees, and acknowledges its Subsidiaries’ understanding, that each Credit Party and its affiliates may be providing debt financing, equity capital or other services (including financial advisory services) to other companies in respect of which the Company or any of its Subsidiaries may have conflicting interests regarding the transactions described herein and otherwise. No Credit Party will use Information obtained from the Company by virtue of the transactions contemplated by the Loan Documents or its other relationships with the Company in connection with the performance by such Credit Party of services for other companies, and no Credit Party will furnish any such Information to other companies. The Company also acknowledges that no Credit Party has any obligation to use in connection with the transactions contemplated by the Loan Documents, or to furnish to the Company or any of its Subsidiaries, confidential information obtained from other companies.

SECTION 9.16. Acknowledgement and Consent to Bail-In of EEA Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement,



arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document may be subject to the Write-Down and Conversion Powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

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

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

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

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

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

To the extent not prohibited by applicable law, rule or regulation, each Lender shall notify the Company and the Administrative Agent if it has become the subject of a Bail-In Action (or any case or other proceeding in which a Bail-In Action may occur).

[Signature Pages Follow]

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

FISERV, INC., as the Company

By /s/ Robert W. Hau

Name: Robert W. Hau

Title: Chief Financial Officer and Treasurer

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.

JPMORGAN CHASE BANK, N.A., individually  
as a Lender and as Administrative Agent

By /s/ Min Park

Name: Min Park

Title: Vice President

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.

JPMorgan Chase Bank, N.A. as a Lender

By /s/ Min Park

Name: Min Park

Title: Vice President

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.

Citibank, N.A., as a Lender

By /s/ Maureen Maroney

Name: Maureen Maroney

Title: Vice President

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.

WELLS FARGO BANK, NATIONAL ASSOCIATION, as a  
Lender

By /s/ Nathan Paouncic

Name: Nathan Paouncic

Title: Vice President

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.

MUFG BANK, LTD, as a Lender

By /s/ Lillian Kim

Name: Lillian Kim

Title: Director

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.

PNC Bank, National Association, as a Lender

By /s/ Joseph Vehec

Name: Joseph Vehec

Title: Vice President

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.



U.S. Bank National Association, as a Lender

By /s/ Caroline V. Krider

Name: Caroline V. Krider

Title: SVP & Milwaukee Market Leader

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.

Bank of Montreal, Chicago Branch, as a Lender

By /s/ Jude M. Carlin

Name: Jude M. Carlin

Title: Senior Vice President

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.

SUNTRUST BANK, as a Lender

By /s/ Will Miller

Name: Will Miller

Title: Vice President

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.

TD Bank, N.A., as a Lender

By /s/ Shreya Shah

Name: Shreya Shah

Title: Senior Vice President

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.

CAPITAL ONE, NATIONAL ASSOCIATION,  
as a Lender

By /s/ Jonathan Malden

Name: Jonathan Malden

Title: Duly Authorized Signatory

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.

Citizens Bank, N.A., as a Lender

By /s/ Thomas Lass

Name: Thomas Lass

Title: Senior Vice President

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.

National Westminster Bank plc, as a Lender

By /s/ Diana Rogers

Name: Diana Rogers

Title: Senior Director, LC&I

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.

MIZUHO BANK, LTD, as a Lender

By /s/ Donna DeMagistris

Name: Donna DeMagistris

Title: Authorized Signatory

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.



SANTANDER BANK, N.A., as a Lender

By /s/ Mustafa Khan

Name: Mustafa Khan

Title: Senior Vice President

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.

Branch Banking and Trust Company, as a Lender

By /s/ Matthew J. Davis

Name: Matthew J. Davis

Title: Senior Vice President

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.

First National Bank of Pennsylvania, as a Lender

By /s/ Mark Guterman

Name: Mark Guterman

Title: Vice President

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.

By /s/ David A. Wild

Name: David A. Wild

Title: Senior Vice President

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.

The Bank of Nova Scotia, as a Lender

By /s/ Kevin Chan

Name: Kevin Chan

Title: Director

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.

By /s/ Mark Zobel

Name: Mark Zobel

Title: Vice President

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.

CREDIT SUISS AG, CAYMAN ISLANDS BRANCH, as a  
Lender

By /s/ Doreen Barr

Name: Doreen Barr

Title: Authorized Signatory

By /s/ Marc Zihlmann

Name: Marc Zihlmann

Title: Authorized Signatory

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.

Associated Bank, N.A., as a Lender

By /s/ Daniel Holzauer

Name: Daniel Holzauer

Title: Sr Vice President

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.



COMERICA BANK, as a Lender

By /s/ John Lascody

Name: John Lascody

Title: Vice President

Signature Page to Term Loan Credit Agreement  
Fiserv, Inc.

**SCHEDULE 2.01**

**COMMITMENTS**

<b>LENDER</b>	<b>TRANCHE 1 COMMITMENT</b>	<b>TRANCHE 2 COMMITMENT</b>
JPMORGAN CHASE BANK, N.A.	\$ 157,500,000	\$ 367,500,000
CITIBANK, N.A.	\$ 127,500,000	\$ 297,500,000
WELLS FARGO BANK, NATIONAL ASSOCIATION	\$ 127,500,000	\$ 297,500,000
MUFG BANK, LTD.	\$ 120,000,000	\$ 280,000,000
PNC BANK, NATIONAL ASSOCIATION	\$ 120,000,000	\$ 280,000,000
U.S. BANK NATIONAL ASSOCIATION	\$ 120,000,000	\$ 280,000,000
BANK OF MONTREAL, CHICAGO BRANCH	\$ 97,500,000	\$ 227,500,000
SUNTRUST BANK	\$ 90,000,000	\$ 210,000,000
TD BANK, N.A.	\$ 90,000,000	\$ 210,000,000
CAPITAL ONE, NATIONAL ASSOCIATION	\$ 60,000,000	\$ 140,000,000
CITIZENS BANK, N.A.	\$ 60,000,000	\$ 140,000,000
NATIONAL WESTMINSTER BANK PLC	\$ 60,000,000	\$ 140,000,000
MIZUHO BANK, LTD.	\$ 37,500,000	\$ 87,500,000
SANTANDER BANK, N.A.	\$ 37,500,000	\$ 87,500,000
BRANCH BANKING AND TRUST COMPANY	\$ 30,000,000	\$ 70,000,000
FIRST NATIONAL BANK OF PENNSYLVANIA	\$ 30,000,000	\$ 70,000,000
KEYBANK NATIONAL ASSOCIATION	\$ 30,000,000	\$ 70,000,000
THE BANK OF NOVA SCOTIA	\$ 30,000,000	\$ 70,000,000
THE HUNTINGTON NATIONAL BANK	\$ 27,000,000	\$ 63,000,000
CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH	\$ 24,000,000	\$ 56,000,000
ASSOCIATED BANK, N.A.	\$ 12,000,000	\$ 28,000,000
COMERICA BANK	\$ 12,000,000	\$ 28,000,000
<b>AGGREGATE COMMITMENT</b>	<b>\$1,500,000,000</b>	<b>\$3,500,000,000</b>

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**SCHEDULE 3.13**

**LIST OF MATERIAL SUBSIDIARIES**

CheckFree Corporation, a Delaware corporation

CheckFree Services Corporation, a Delaware corporation

Fiserv Solutions, LLC, a Wisconsin limited liability company

Information Technology, Inc., a Nebraska corporation

ITI of Nebraska, Inc., a Nebraska corporation

**SCHEDULE 4.02(g)**

**LIST OF FIRST DATA DEBT INSTRUMENTS**

1. The Credit Agreement, dated as of September 24, 2007, among First Data Corporation, as borrower, the several lenders from time to time party thereto, Credit Suisse, Cayman Islands Branch, as administrative agent, swingline lender and letter of credit issuer, Citibank, N.A. as syndication agent, and the other parties party thereto, as amended, modified and supplemented through January 16, 2019.
2. The Indenture, dated August 11, 2015, among First Data Corporation, the guarantors named therein and Wells Fargo Bank, National Association, as trustee, related to the 5.375% Senior Secured Notes Due 2023, as amended, modified and supplemented through January 16, 2019.
3. The Indenture, dated November 25, 2015, by and among First Data Corporation, the guarantors named therein and Wells Fargo Bank, National Association, as trustee, related to the 5.000% Senior Secured First Lien Notes Due 2024, as amended, modified and supplemented through January 16, 2019.
4. The Indenture, dated November 25, 2015, among First Data Corporation, the guarantors named therein and Wells Fargo Bank, National Association, as trustee, related to the 5.750% Senior Secured Second Lien Notes Due 2024, as amended, modified or supplemented through January 16, 2019.
5. ~~The Receivables Financing Agreement, dated as of December 31, 2015, by and among First Data Corporation, First Data Receivables, LLC and the other persons party thereto, as amended, modified and supplemented through January 16, 2019.~~

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**SCHEDULE 6.01**

**LIST OF EXISTING INDEBTEDNESS**

**None**

EXHIBIT A

FORM OF ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (the “Assignment and Assumption”) is dated as of the Effective Date set forth below and is entered into by and between [*Insert name of Assignor*] (the “Assignor”) and [*Insert name of Assignee*] (the “Assignee”). Capitalized terms used but not defined herein shall have the meanings given to them in the Term Loan Credit Agreement identified below (as amended, restated, supplemented or otherwise modified from time to time, 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 Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, 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 (i) all of the Assignor’s rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the respective facilities identified below and (ii) 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) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including 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 (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as the “Assigned Interest”). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

- 1. Assignor: \_\_\_\_\_
- 2. Assignee: \_\_\_\_\_  
[and is an Affiliate/Approved Fund of [identify Lender]<sup>1</sup>]
- 3. Company: Fiserv, Inc.
- 4. Administrative Agent: JPMorgan Chase Bank, N.A., as the administrative agent under the Credit Agreement
- 5. Credit Agreement: The Term Loan Credit Agreement dated as of February 15, 2019 among Fiserv, Inc., the Lenders parties thereto and JPMorgan Chase Bank, N.A., as Administrative Agent (as amended, restated, supplemented or otherwise modified from time to time)

<sup>1</sup> Select as applicable.

6. Assigned Interest:

Aggregate Amount of [Tranche 1][Tranche 2] Commitment/Loans for all Lenders	Amount of [Tranche 1][Tranche 2] Commitment/ Loans Assigned	Percentage Assigned of [Tranche 1][Tranche 2] Commitment/Loans <sup>2</sup>
\$	\$	%
\$	\$	%
\$	\$	%

Effective Date: \_\_\_\_\_, 20\_\_\_\_ [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The Assignee agrees to deliver to the Administrative Agent a completed Administrative Questionnaire in which the Assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Company and/or its Related Parties and/or their respective securities) will be made available and who may receive such information in accordance with the Assignee's compliance procedures and applicable laws, including federal and state securities laws.

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR

[NAME OF ASSIGNOR]

By: \_\_\_\_\_  
Title:

ASSIGNEE

[NAME OF ASSIGNEE]

By: \_\_\_\_\_  
Title:

<sup>2</sup> Set forth, so at least 9 decimals, as a percentage of the [Tranche 1][Tranche 2] Commitment/Loans of all Lenders thereunder.

Consented to and Accepted:

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

By: \_\_\_\_\_  
Title:

[Consented to:]<sup>3</sup>

FISERV, INC.

By: \_\_\_\_\_  
Title:

\_\_\_\_\_  
<sup>3</sup> To be added only if the consent of the Company is required by the terms of the Credit Agreement.



STANDARD TERMS AND CONDITIONS FOR  
ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim 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 Company, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document, (iv) any requirements under applicable law for the Assignee to become a lender under the Credit Agreement or to charge interest at the rate set forth therein from time to time or (v) the performance or observance by the Company, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2 Assignee. The 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 satisfies the requirements, if any, specified in the Credit Agreement that are required to be satisfied by it in order to acquire the Assigned Interest and become a Lender, (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 5.07 thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent, any arranger of the credit facilities evidenced by the Credit Agreement or any other Lender and their respective Related Parties, (v) attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee, (vi) it does not bear a relationship to the Company described in Section 108(e)(4) of the Code and (vii) it meets all the requirements to be an assignee under Section 9.04 of the Credit Agreement; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, any arranger of the credit facilities evidenced by the Credit Agreement, the Assignor or any other Lender and their respective Related Parties, 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 Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the 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. Acceptance and adoption of the terms of this Assignment and Assumption by the Assignee and the Assignor by Electronic Signature or delivery of an executed counterpart of a signature page of this Assignment and Assumption by any Approved Electronic Platform 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.

**EXHIBIT B**

LIST OF CLOSING DOCUMENTS

**FISERV, INC.**

**CREDIT FACILITIES**

February 15, 2019

LIST OF CLOSING DOCUMENTS<sup>1</sup>

**A. LOAN DOCUMENTS**

1. Term Loan Credit Agreement (the "Credit Agreement") by and among Fiserv, Inc., a Wisconsin corporation (the "Company"), the institutions from time to time parties thereto as Lenders (the "Lenders") and JPMorgan Chase Bank, N.A., in its capacity as Administrative Agent for itself and the other Lenders (the "Administrative Agent"), evidencing a term loan facility to the Company from the Lenders in an initial aggregate principal amount of \$5,000,000,000.

SCHEDULES

Schedule 2.01	—	Commitments
Schedule 3.13	—	List of Material Subsidiaries
Schedule 4.02(g)	—	List of First Data Debt Instruments
Schedule 6.01	—	List of Existing Indebtedness

EXHIBITS

Exhibit A	—	Form of Assignment and Assumption
Exhibit B	—	List of Closing Documents
Exhibit C	—	Form of Compliance Certificate
Exhibit D-1	—	Form of Borrowing Request
Exhibit D-2	—	Form of Interest Election Request
Exhibits E-1-4	—	Form of U.S. Tax Certificates
Exhibit F	—	Form of Solvency Certificate
Exhibit G	—	Form of Increasing Lender Supplement
Exhibit H	—	Form of Augmenting Lender Supplement

2. Notes executed by the Company in favor of each of the Lenders, if any, which has requested a note pursuant to Section 2.10(e) of the Credit Agreement.

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<sup>1</sup> Each capitalized term used herein and not defined herein shall have the meaning assigned to such term in the below-defined Credit Agreement. Items appearing in **bold** and *italics* shall be prepared and/or provided by the Company and/or Company's counsel.

## B. CORPORATE DOCUMENTS

3. *Certificate of the Secretary or an Assistant Secretary of the Company certifying (i) that there have been no changes in the Certificate of Incorporation of the Company, as attached thereto and as certified as of a recent date by the Secretary of State (or other applicable governmental authority) of the jurisdiction of its organization, since the date of the certification thereof by such secretary of state (or other authority), (ii) the By-Laws of the Company, as attached thereto and as in effect on the date of such certification, (iii) resolutions of the Board of Directors of the Company authorizing the execution, delivery and performance of each Loan Document to which it is a party, and (iv) the names and true signatures of the incumbent officers of the Company authorized to sign the Loan Documents to which it is a party, and authorized to request Borrowings under the Credit Agreement.*
4. *Good Standing Certificate for the Company from the Wisconsin Department of Financial Institutions.*

EXHIBIT C

FORM OF COMPLIANCE CERTIFICATE

JPMorgan Chase Bank, N.A.,  
as Administrative Agent

10 South Dearborn, Floor L2  
Chicago, Illinois 60603  
Attention: Leonida Mischke  
Telecopy No. (888) 292-9533  
Email: jpm.agency.cri@jpmorgan.com

With a copy to:

560 Mission Street, 19th Floor  
San Francisco, California 94105  
Attention: Min Park  
Telecopy No. (415) 226-0799  
Email: min.park@jpmorgan.com

Re: Term Loan Credit Agreement, dated as of February 15, 2019, by and among Fiserv, Inc., the Lenders party thereto and JPMorgan Chase Bank, N.A., as Administrative Agent (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement")

Capitalized terms used herein which are not otherwise defined herein shall have the respective meanings ascribed thereto in the Credit Agreement.

With respect to the financial statements delivered herewith, I hereby certify, to my knowledge, that such financial statements have been prepared in accordance with GAAP (without footnotes and subject to audit and year-end adjustments in the case of quarterly financial statements).

Attached is a worksheet containing calculations required to establish the following as of the fiscal quarter ended \_\_\_\_\_, 20\_\_ :

Leverage Ratio is \_\_\_\_\_ :1.00.

Interest Coverage Ratio is \_\_\_\_\_ :1.00.

In addition, I hereby certify that, to my knowledge, no condition or event has occurred and is continuing which would constitute a Default or an Event of Default, **[except as follows:**

**SPECIFY ALL SUCH VIOLATIONS, CONDITIONS AND EVENTS AND THE NATURE AND STATUS THEREOF]**

FISERV, INC.

By: \_\_\_\_\_  
Name:  
Title:

EXHIBIT D-1

FORM OF BORROWING REQUEST

JPMorgan Chase Bank, N.A.,  
as Administrative Agent  
for the Lenders referred to below

10 South Dearborn, Floor L2  
Chicago, Illinois 60603  
Attention: Leonida Mischke  
Telecopy No. (888) 292-9533  
Email: jpm.agency.cri@jpmorgan.com

With a copy to:

560 Mission Street, 19<sup>th</sup> Floor  
San Francisco, California 94105  
Attention: Min Park  
Telecopy No. (415) 226-0799  
Email: min.park@jpmorgan.com

Re: Fiserv, Inc.

[Date]

Ladies and Gentlemen:

Reference is hereby made to the Term Loan Credit Agreement dated as of February 15, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Fiserv, Inc. (the "Company"), the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent"). Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Credit Agreement. The undersigned Company hereby gives you notice pursuant to Section 2.03 of the Credit Agreement that it requests a Borrowing under the Credit Agreement, and in that connection the Company specifies the following information with respect to such Borrowing requested hereby:

1. Aggregate principal amount of Borrowing:<sup>1</sup>
2. Date of Borrowing (which shall be a Business Day):
3. Tranche: [Tranche 1][Tranche 2]
4. Type of Borrowing (ABR or Eurocurrency):
5. Interest Period and the last day thereof (if a Eurocurrency Borrowing):<sup>2</sup>

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<sup>1</sup> Not less than applicable amounts specified in Section 2.02(c).

<sup>2</sup> Which must comply with the definition of "Interest Period" and end not later than the applicable Maturity Date.

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6. Location and number of the account to which proceeds of Borrowing are to be disbursed:

[Signature Page Follows]

---

Very truly yours,

FISERV, INC.,  
as the Company

By: \_\_\_\_\_  
Name:  
Title:



EXHIBIT D-2

FORM OF INTEREST ELECTION REQUEST

JPMorgan Chase Bank, N.A.,  
as Administrative Agent  
for the Lenders referred to below

10 South Dearborn, Floor L2  
Chicago, Illinois 60603  
Attention: Leonida Mischke  
Telecopy No. (888) 292-9533  
Email: jpm.agency.cri@jpmorgan.com

With a copy to:

560 Mission Street, 19<sup>th</sup> Floor  
San Francisco, California 94105  
Attention: Min Park  
Telecopy No. (415) 226-0799  
Email: min.park@jpmorgan.com

Re: Fiserv, Inc.

[Date]

Ladies and Gentlemen:

Reference is hereby made to the Term Loan Credit Agreement dated as of February 15, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Fiserv, Inc. (the "Company"), the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent"). Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Credit Agreement. The Company hereby gives you notice pursuant to Section 2.08 of the Credit Agreement that it requests to convert an existing Borrowing under the Credit Agreement, and in that connection the Company specifies the following information with respect to such conversion requested hereby:

1. List date, Type, principal amount, Tranche and Interest Period (if applicable) of existing Borrowing;
2. Aggregate principal amount of resulting Borrowing;
3. Effective date of interest election (which shall be a Business Day);
4. Type of Borrowing (ABR or Eurocurrency);
5. Interest Period and the last day thereof (if a Eurocurrency Borrowing):<sup>1</sup>

[Signature Page Follows]

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<sup>1</sup> Which must comply with the definition of "Interest Period" and end not later than the applicable Maturity Date.

---

Very truly yours,

FISERV, INC.,  
as the Company

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT E-1**

[FORM OF]

**U.S. TAX COMPLIANCE CERTIFICATE**

(For A Foreign Lender That, For U.S. Federal Income Tax Purposes, Is Neither Treated As A Partnership Nor Treated As A Disregarded Entity That Is Owned By A Partnership)

Reference is hereby made to the Term Loan Credit Agreement dated as of February 15, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Fiserv, Inc. (the "Company"), the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent").

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) 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, (ii) it (or, in the event that it is a Disregarded Entity, the Person that is treated for U.S. federal income tax purposes as being the sole owner of the undersigned) is (a) not a bank within the meaning of Section 881(c)(3)(A) of the Code, (b) not a ten percent shareholder of the Company within the meaning of Section 871(h)(3)(B) of the Code and (c) not a controlled foreign corporation related to the Company as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Company with a certificate of the non-U.S. person status of the undersigned (or, in the event that the undersigned is a Disregarded Entity, the Person that is treated for U.S. federal income tax purposes as being the sole owner of the undersigned) on IRS Form W-8BEN or IRS Form W-8BEN-E. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Company and the Administrative Agent and (2) the undersigned shall have at all times furnished the Company 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: \_\_\_\_\_, 20[ ]

**EXHIBIT E-2**

[FORM OF]

**U.S. TAX COMPLIANCE CERTIFICATE**

(For A Foreign Participant That, For U.S. Federal Income Tax Purposes, Is Neither Treated As A Partnership Nor Treated As A Disregarded Entity That Is Owned By A Partnership)

Reference is hereby made to the Term Loan Credit Agreement dated as of February 15, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Fiserv, Inc. (the "Company"), the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent").

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it (or, in the event that it is a Disregarded Entity, the Person that is treated for U.S. federal income tax purposes as being the sole owner of the undersigned) is (a) not a bank within the meaning of Section 881(c)(3)(A) of the Code, (b) not a ten percent shareholder of the Company within the meaning of Section 871(h)(3)(B) of the Code and (c) not a controlled foreign corporation related to the Company as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with a certificate of the non-U.S. person status of the undersigned (or, in the event that the undersigned is a Disregarded Entity, the Person that is treated for U.S. federal income tax purposes as being the sole owner of the undersigned) on IRS Form W-8BEN or IRS Form W-8BEN-E. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (2) 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: \_\_\_\_\_, 20[ ]

EXHIBIT E-3

[FORM OF]

U.S. TAX COMPLIANCE CERTIFICATE

(For A Foreign Participant That, For U.S. Federal Income Tax Purposes, Is Either Treated As A Partnership Or Treated As A Disregarded Entity That Is Owned By A Partnership)

Reference is hereby made to the Term Loan Credit Agreement dated as of February 15, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Fiserv, Inc. (the "Company"), the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent").

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) it is the sole beneficial owner of such participation for purposes other than U.S. federal income tax purposes, (iii) it (or, in the event that it is a Disregarded Entity, the Person that is treated for U.S. federal income tax purposes as being the sole owner of the undersigned) is not 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, and (iv) none of the members of the undersigned (or, in the event that the undersigned is a Disregarded Entity, none of the members of the Person that is treated for U.S. federal income tax purposes as being the sole owner of the undersigned) is (a) 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, (b) a ten percent shareholder of the Company within the meaning of Section 871(h)(3)(B) of the Code, or (c) a controlled foreign corporation related to the Company 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 the members of the undersigned (or, in the event that the undersigned is a Disregarded Entity, from each of the members of the Person that is treated for U.S. federal income tax purposes as being the sole owner of the undersigned) claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or IRS Form W-8BEN-E from each of such member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (2) 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: , 20[ ]

EXHIBIT E-4

[FORM OF]

U.S. TAX COMPLIANCE CERTIFICATE

(For A Foreign Lender That, For U.S. Federal Income Tax Purposes, Is Either Treated As A Partnership Or Treated As A Disregarded Entity That Is Owned By A Partnership)

Reference is hereby made to the Term Loan Credit Agreement dated as of February 15, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Fiserv, Inc. (the "Company"), the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent").

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) 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, (ii) it is the sole beneficial owner of such Loan(s) (as well as any Note(s) evidencing such Loan(s)) for purposes other than U.S. federal income tax purposes, (iii) it (or, in the event that the undersigned is a Disregarded Entity, the Person that is treated for U.S. federal income tax purposes as being the sole owner of the undersigned) is not 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, and (iv) none of the members of the undersigned (or, in the event that the undersigned is a Disregarded Entity, none of the members of the Person that is treated for U.S. federal income tax purposes as being the sole owner of the undersigned) is (a) 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, (b) a ten percent shareholder of the Company within the meaning of Section 871(h)(3)(B) of the Code, or (c) a controlled foreign corporation related to the Company as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Company with IRS Form W-8IMY accompanied by one of the following forms from each of the members of the undersigned (or, in the event that the undersigned is a Disregarded Entity, from each of the members of the Person that is treated for U.S. federal income tax purposes as being the sole owner of the undersigned) claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or IRS Form W-8BEN-E from each of such member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Company and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Company 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: , 20[ ]

**EXHIBIT F**

Form of Solvency Certificate  
[DATE]

This Solvency Certificate (“**Certificate**”) of Fiserv, Inc. (“**the Company**”) and its Subsidiaries is delivered pursuant to Section 4.02(c) of the Term Loan Credit Agreement, dated as of February 15, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), by and among the Company, the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent. Unless otherwise defined herein, capitalized terms used in this Certificate shall have the meanings set forth in the Credit Agreement.

I, [ ], the duly elected, qualified and acting Chief Financial Officer of the Company, DO HEREBY CERTIFY that I have reviewed the Credit Agreement and the other Loan Documents referred to therein and have made such investigation as I have deemed necessary to enable me to express a reasonably informed opinion as to the matters referred to herein.

I HEREBY FURTHER CERTIFY, in my capacity as Chief Financial Officer and not in my individual capacity, that as of the date hereof, immediately after giving effect to the Specified Acquisition Transactions:

1. The fair value of the assets of the Company and its Subsidiaries, on a consolidated basis, at a fair valuation on a going concern basis, exceeds, on a consolidated basis, their debts and liabilities, subordinated, contingent or otherwise.
2. The present fair saleable value of the property of the Company and its Subsidiaries, on a consolidated and going concern basis, is greater than the amount that will be required to pay the probable liability, on a consolidated basis, of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured in the ordinary course of business.
3. The Company and its Subsidiaries, on a consolidated basis, are able to pay their debts and liabilities, subordinated, contingent or otherwise, as such liabilities become absolute and matured in the ordinary course of business.
4. The Company and its Subsidiaries are not engaged in businesses, and are not about to engage in businesses for which they have unreasonably small capital.

For purposes of this Certificate, the amount of any contingent liability at any time shall be computed as the amount that, in light of all the facts and circumstances existing as of the date hereof, would reasonably be expected to become an actual and matured liability.

For the purpose of the foregoing, I have assumed there is no default under the Credit Agreement on the date hereof and will be no default under the Credit Agreement after giving effect to the funding under the Credit Agreement.

[Remainder of page intentionally left blank]

**EXHIBIT G**

**FORM OF INCREASING LENDER SUPPLEMENT**

INCREASING LENDER SUPPLEMENT, dated \_\_\_\_\_, 20\_\_\_\_ (this "Supplement"), by and among each of the signatories hereto, to the Term Loan Credit Agreement dated as of February 15, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Fiserv, Inc. (the "Company"), the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent").

**W I T N E S S E T H**

WHEREAS, pursuant to Section 2.22 of the Credit Agreement, the Company has the right, subject to the terms and conditions thereof, to effectuate from time to time one or more tranches of Incremental Term Loans under the Credit Agreement by requesting one or more Lenders to participate in such a tranche;

WHEREAS, the Company has given notice to the Administrative Agent of its intention to enter into a tranche of Incremental Term Loans pursuant to such Section 2.22; and

WHEREAS, pursuant to Section 2.22 of the Credit Agreement, the undersigned Increasing Lender now desires to participate in a tranche of Incremental Term Loans under the Credit Agreement by executing and delivering to the Company and the Administrative Agent this Supplement;

NOW, THEREFORE, each of the parties hereto hereby agrees as follows:

1. The undersigned Increasing Lender agrees, subject to the terms and conditions of the Credit Agreement, that on the date of this Supplement it shall participate in a tranche of Incremental Term Loans with a commitment amount equal to \$[ ] with respect thereto.
2. The Company hereby represents and warrants that no Default or Event of Default has occurred and is continuing on and as of the date hereof.
3. Terms defined in the Credit Agreement shall have their defined meanings when used herein.
4. This Supplement shall be governed by, and construed in accordance with, the laws of the State of New York.
5. This Supplement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same document.



IN WITNESS WHEREOF, each of the undersigned has caused this Supplement to be executed and delivered by a duly authorized officer on the date first above written.

[INSERT NAME OF INCREASING LENDER]

By: \_\_\_\_\_  
Name:  
Title:

Accepted and agreed to as of the date first written above:

FISERV, INC.

By: \_\_\_\_\_  
Name:  
Title:

Acknowledged as of the date first written above:

JPMORGAN CHASE BANK, N.A.  
as Administrative Agent

By: \_\_\_\_\_  
Name:  
Title:

FORM OF AUGMENTING LENDER SUPPLEMENT

AUGMENTING LENDER SUPPLEMENT, dated \_\_\_\_\_, 20\_\_\_\_ (this "Supplement"), by and among each of the signatories hereto, to the Term Loan Credit Agreement dated as of February 15, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Fiserv, Inc. (the "Company"), the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent").

W I T N E S S E T H

WHEREAS, the Credit Agreement provides in Section 2.22 thereof that any bank, financial institution or other entity may participate in tranches of Incremental Term Loans under the Credit Agreement subject to the approval of the Company and the Administrative Agent, by executing and delivering to the Company and the Administrative Agent a supplement to the Credit Agreement in substantially the form of this Supplement; and

WHEREAS, the undersigned Augmenting Lender was not an original party to the Credit Agreement but now desires to become a party thereto;

NOW, THEREFORE, each of the parties hereto hereby agrees as follows:

1. The undersigned Augmenting Lender agrees to be bound by the provisions of the Credit Agreement and agrees that it shall, on the date of this Supplement, become a Lender for all purposes of the Credit Agreement to the same extent as if originally a party thereto, with a commitment with respect to Incremental Term Loans of \$[\_\_\_\_\_].

2. The undersigned Augmenting Lender (a) represents and warrants that it is legally authorized to enter into this Supplement; (b) confirms that it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 5.07 thereof, as applicable, and has reviewed such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Supplement; (c) agrees that it will, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit Agreement or any other instrument or document furnished pursuant hereto or thereto; (d) appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers and discretion under the Credit Agreement or any other instrument or document furnished pursuant hereto or thereto as are delegated to the Administrative Agent by the terms thereof, together with such powers as are incidental thereto; (e) agrees that it will be bound by the provisions of the Credit Agreement and will perform in accordance with its terms all the obligations which by the terms of the Credit Agreement are required to be performed by it as a Lender; and (f) represents and warrants that (A) it is not a Disqualified Institution, and (B) it is not (and immediately upon giving effect hereto will not be) a Defaulting Lender.

3. The undersigned's address for notices for the purposes of the Credit Agreement is as follows:

[\_\_\_\_\_]

4. The Company hereby represents and warrants that no Default or Event of Default has occurred and is continuing on and as of the date hereof.
5. Terms defined in the Credit Agreement shall have their defined meanings when used herein.
6. This Supplement shall be governed by, and construed in accordance with, the laws of the State of New York.
7. This Supplement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same document.

IN WITNESS WHEREOF, each of the undersigned has caused this Supplement to be executed and delivered by a duly authorized officer on the date first above written.

[INSERT NAME OF AUGMENTING LENDER]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Accepted and agreed to as of the date first written above:

FISERV, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Acknowledged as of the date first written above:

JPMORGAN CHASE BANK, N.A.  
as Administrative Agent

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## AMENDMENT NO. 3

Dated as of July 26, 2019

to

## THIRD AMENDED AND RESTATED CREDIT AGREEMENT

Dated as of September 19, 2018

THIS AMENDMENT NO. 3 (this “**Amendment**”) is made as of July 26, 2019 by and among Fiserv, Inc., a Wisconsin corporation (the “**Company**”), the financial institutions listed on the signature pages hereof and JPMorgan Chase Bank, N.A. in its capacity as Administrative Agent (the “**Administrative Agent**”) under that certain Third Amended and Restated Credit Agreement, dated as of September 19, 2018, by and among the Company, the subsidiary borrowers from time to time party thereto, the financial institutions from time to time party thereto as Lenders (the “**Lenders**”) and the Administrative Agent (as amended, restated, supplemented or otherwise modified from time to time prior to the date hereof, including by Amendment No. 1 dated as of February 6, 2019, and Amendment No. 2 dated as of February 15, 2019 (“**Amendment No. 2**”), the “**Existing Credit Agreement**” and, as amended by this Amendment, the “**Credit Agreement**”).

WHEREAS, the Company has requested that the requisite Lenders and the Administrative Agent agree to an amendment to the Existing Credit Agreement pursuant to Section 9.02(b) thereof; and

WHEREAS, the Company, the Lenders party hereto, which constitute the Required Lenders, and the Administrative Agent have so agreed on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises set forth above, the terms and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company, the Lenders party hereto and the Administrative Agent hereby agree as follows:

1. *Definitions.* Capitalized definitional terms used herein and not otherwise defined herein shall have the respective meanings given to them in the Credit Agreement.
2. *Amendment to the Credit Agreement.* Effective on the Amendment No. 3 Effective Date (as defined below):
  - (a) the Existing Credit Agreement is hereby amended to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as set forth in the pages of the Credit Agreement attached as Annex I hereto; and
  - (b) the reference to Schedule 4.02(a)(ix) set forth in Section 3(b)(vii) of Amendment No. 2 is hereby amended to refer to Schedule 4.02(a)(vi) of the Credit Agreement as amended by this Amendment.
3. *Conditions to Effectiveness.* This Amendment shall become effective on the first date (the “**Amendment No. 3 Effective Date**”) on which the following conditions are satisfied:
  - (a) The Administrative Agent shall have received counterparts of this Amendment duly executed by the Company, the Lenders (which constitute the Required Lenders) and the Administrative Agent.

(b) The Administrative Agent shall have received a certificate, dated the date hereof and signed by a duly authorized officer of the Company, confirming (i) the representations and warranties set forth below in (1) Section 4(a) shall be true and correct in all material respects, and (2) Section 4(b) shall be true and correct, in each case, on and as of the date hereof and (ii) no Default has occurred and is continuing on and as of the date hereof.

(c) The Amendment No. 2 Effective Date shall have occurred substantially concurrently with such effectiveness on the Amendment No. 3 Effective Date (it being understood that, for purposes of determining whether the Amendment No. 2 Effective Date has occurred, the reference to Schedule 4.02(a)(ix) in the condition contained in Section 3(b)(vii) of Amendment No. 2 shall be deemed to refer to Schedule 4.02(a)(vi) of the Credit Agreement as amended by this Amendment).

4. *Representations and Warranties of the Company.* By its execution of this Amendment, the Company hereby represents and warrants to the Lenders and the Administrative Agent on the date hereof as follows:

(a) This Amendment and the Credit Agreement as modified hereby constitute the valid and legally binding obligations of the Company, enforceable in accordance with their respective terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by equitable principles relating to the availability of specific performance as a remedy.

(b) After giving effect to the terms of this Amendment, (i) the representations and warranties of the Company set forth in Article III of the Credit Agreement (other than the representations contained in Sections 3.04(a), 3.12(b) and 3.18 of the Credit Agreement) are true and correct in all material respects (provided that any representation or warranty that is qualified by materiality or Material Adverse Effect shall be true and correct in all respects) on and as of the date hereof (or, if any such representation or warranty is expressly stated to have been made as of a specific date, as of such specific date) and (ii) no Default has occurred and is continuing on and as of the date hereof.

5. *Reference to and Effect on the Credit Agreement.*

(a) Upon the effectiveness hereof on the Amendment No. 3 Effective Date, each reference in the Credit Agreement to "this Agreement," the "Credit Agreement," "hereunder," "hereof," "herein," or words of like import, and each reference to the Credit Agreement in any other Loan Document shall mean and be a reference to the Credit Agreement as amended hereby.

(b) Each Loan Document and all other documents, instruments and agreements executed and/or delivered in connection therewith shall remain in full force and effect and are hereby ratified and confirmed.

(c) Except with respect to the subject matter hereof, the execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of the Administrative Agent or the Lenders, nor constitute a waiver of any provision of the Credit Agreement, the Loan Documents or any other documents, instruments and agreements executed and/or delivered in connection therewith.

(d) This Amendment is a "Loan Document" under (and as defined in) the Credit Agreement.

6. *Miscellaneous.* The provisions of Sections 9.03, 9.06 (other than the third sentence thereof), 9.09, 9.10, 9.11 and 9.12 of the Credit Agreement shall apply with like effect to this Amendment.

*[Signature Pages Follow]*

IN WITNESS WHEREOF, this Amendment has been duly executed as of the day and year first above written.

FISERV, INC., as the Company

By /s/ Robert W. Hau  
Name: Robert W. Hau  
Title: Chief Financial Officer and Treasurer

[Signature Page to Amendment (RCF)]



JPMORGAN CHASE BANK, N.A., individually as a  
Lender and as Administrative Agent

By /s/ Min Park

Name: Min Park

Title: Vice President

[Signature Page to Amendment (RCF)]

Associated Bank, N.A., as a Lender

By /s/ Dan Holzauer

Name: Dan Holzauer

Title: SVP

[Signature Page to Amendment (RCF)]

BRANCH BANKING AND TRUST COMPANY, as a  
Lender

By /s/ Sharona Yen

Name: Sharona Yen

Title: Assistant Vice President

[Signature Page to Amendment (RCF)]

Bank of Montreal, Chicago Branch, as a Lender

By /s/ Ronald J. Carey

Name: Ronald J. Carey

Title: Senior Vice President

[Signature Page to Amendment (RCF)]

Capital One, National Association, as a Lender

By /s/ Timothy A Ramijanc

Name: Timothy A Ramijanc

Title: Duly Authorized Signatory

[Signature Page to Amendment (RCF)]

CITIBANK, N.A., as a Lender

By /s/ Maureen Maroney

Name: Maureen Maroney

Title: Vice President

[Signature Page to Amendment (RCF)]

Citizens Bank, N.A., as a Lender

By /s/ Thomas Lass

Name: Thomas Lass

Title: Senior Vice President

[Signature Page to Amendment (RCF)]

First National Bank of Pennsylvania, as a Lender

By /s/ Mark Guterman

Name: Mark Guterman

Title: Director

[Signature Page to Amendment (RCF)]



By /s/ Mark Zobel

Name: Mark Zobel

Title: Vice President

[Signature Page to Amendment (RCF)]

National Westminster Bank Plc, as a Lender

By /s/ Paul Simmonds

Name: Paul Simmonds

Title: Associate Director

[Signature Page to Amendment (RCF)]

MUFG Bank, Ltd., as a Lender

By /s/ Lillian Kim

Name: Lillian Kim

Title: Director

[Signature Page to Amendment (RCF)]

WELLS FARGO BANK, NATIONAL ASSOCIATION, as a  
Lender

By /s/ Nathan Paouncic

Name: Nathan Paouncic

Title: Vice President

[Signature Page to Amendment (RCF)]

The Bank of Nova Scotia, as a Lender

By /s/ Kevin Chan

Name: Kevin Chan

Title: Director

[Signature Page to Amendment (RCF)]

U.S. Bank National Association, as a Lender

By /s/ Caroline V. Krider

Name: Caroline V. Krider

Title: SVP & Milwaukee Market Leader

[Signature Page to Amendment (RCF)]

SANTANDER BANK, N.A., as a Lender

By /s/ Mustafa Khan

Name: Mustafa Khan

Title: Senior Vice President

[Signature Page to Amendment (RCF)]

By /s/ David A. Wild

Name: David A. Wild

Title: Senior Vice President

[Signature Page to Amendment (RCF)]



SUNTRUST BANK, as a Lender

By /s/ Carlos Cruz

Name: Carlos Cruz

Title: Director

[Signature Page to Amendment (RCF)]

PNC Bank, National Association, as a Lender

By /s/ Joseph A. Vehec

Name: Joseph A. Vehec

Title: Vice President

[Signature Page to Amendment (RCF)]

The Toronto-Dominion Bank, New York Branch, as a  
Lender

By /s/ Brian MacFarlane

Name: Brian MacFarlane

Title: Authorized Signatory

[Signature Page to Amendment (RCF)]

COMERICA BANK, as a Lender

By /s/ John Lascody

Name: John Lascody

Title: Vice President

[Signature Page to Amendment (RCF)]

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH,  
as a Lender

By /s/ Doreen Barr

\_\_\_\_\_  
Name: Doreen Barr

Title: Authorized Signatory

By /s/ Michael Loser

\_\_\_\_\_  
Name: Michael Loser

Title: Authorized Signatory

[Signature Page to Amendment (RCF)]

MIZUHO BANK, LTD., as a Lender

By /s/ Donna DeMagistris

Name: Donna DeMagistris

Title: Authorized Signatory

[Signature Page to Amendment (RCF)]

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Annex I

[attached]

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# J.P.Morgan

## THIRD AMENDED AND RESTATED CREDIT AGREEMENT

dated as of

September 19, 2018,

as amended by Amendment No. 1 ~~and~~, Amendment No. 2 ~~hereto~~ and Amendment No. 3,

among

FISERV, INC.,

The Subsidiary Borrowers From Time to Time Party Hereto,

The Lenders Party Hereto

and

JPMORGAN CHASE BANK, N.A.  
as Administrative Agent

CITIBANK, N.A., WELLS FARGO BANK, NATIONAL ASSOCIATION, MUFG BANK, LTD.,  
PNC BANK, NATIONAL ASSOCIATION and U.S. BANK NATIONAL ASSOCIATION  
as Syndication Agents

and

BANK OF MONTREAL, CHICAGO BRANCH, SUNTRUST BANK, TD BANK, N.A.,  
THE TORONTO-DOMINION BANK, NEW YORK BRANCH,  
CAPITAL ONE, NATIONAL ASSOCIATION, CITIZENS BANK, N.A.  
and NATIONAL WESTMINSTER BANK PLC  
as Documentation Agents

---

JPMORGAN CHASE BANK, N.A.,  
CITIBANK, N.A., WELLS FARGO SECURITIES, LLC, MUFG BANK, LTD.,  
PNC BANK, NATIONAL ASSOCIATION and U.S. BANK NATIONAL ASSOCIATION

as Joint Bookrunners and Joint Lead Arrangers

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Schedule 2.06	—	Existing Letters of Credit
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Schedule 6.01	—	List of Existing Indebtedness

EXHIBITS:

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Exhibit B-1	—	Form of Opinion of Foley & Lardner LLP
Exhibit B-2	—	Form of Opinion of Chief Legal Officer of the Company
Exhibit C	—	Form of Increasing Lender Supplement
Exhibit D	—	Form of Augmenting Lender Supplement
Exhibit E	—	List of Closing Documents
Exhibit F-1	—	Form of Borrowing Subsidiary Agreement
Exhibit F-2	—	Form of Borrowing Subsidiary Termination
Exhibit G	—	[Intentionally Omitted]
Exhibit H	—	Form of Compliance Certificate
Exhibit I-1	—	Form of Borrowing Request
Exhibit I-2	—	Form of Interest Election Request
Exhibits J-1-4	—	Form of U.S. Tax Compliance Certificates
Exhibit K	—	Form of Solvency Certificate

THIRD AMENDED AND RESTATED CREDIT AGREEMENT (this "Agreement") dated as of September 19, 2018 among FISERV, INC., the SUBSIDIARY BORROWERS from time to time party hereto, the LENDERS from time to time party hereto, JPMORGAN CHASE BANK, N.A., as Administrative Agent, BANK OF AMERICA, N.A., MUFG BANK, LTD., U.S. BANK NATIONAL ASSOCIATION and WELLS FARGO BANK, NATIONAL ASSOCIATION, as Syndication Agents and SUNTRUST BANK, THE TORONTO-DOMINION BANK, NEW YORK BRANCH, BMO HARRIS BANK N.A., CITIZENS BANK, N.A., CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH and PNC BANK, NATIONAL ASSOCIATION, as Documentation Agents.

WHEREAS, the Company, the lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent thereunder, are currently party to the Second Amended and Restated Credit Agreement, dated as of April 30, 2015 (as amended, supplemented or otherwise modified prior to the date hereof, the "Existing Credit Agreement").

WHEREAS, the Company, the Lenders, the Departing Lenders (as hereafter defined) and the Administrative Agent have agreed (a) to enter into this Agreement in order to (i) amend and restate the Existing Credit Agreement in its entirety; (ii) re-evidence the "Obligations" under, and as defined in, the Existing Credit Agreement, which shall be repayable in accordance with the terms of this Agreement; and (iii) set forth the terms and conditions under which the Lenders will, from time to time, make loans and extend other financial accommodations to or for the benefit of the Borrowers and (b) that each Departing Lender shall cease to be a party to the Existing Credit Agreement as evidenced by its execution and delivery of its Departing Lender Signature Page.

WHEREAS, it is the intent of the parties hereto that this Agreement not constitute a novation of the obligations and liabilities of the parties under the Existing Credit Agreement or be deemed to evidence or constitute full repayment of such obligations and liabilities, but that this Agreement amend and restate in its entirety the Existing Credit Agreement and re-evidence the obligations and liabilities of the Company outstanding thereunder, which shall be payable in accordance with the terms hereof.

WHEREAS, it is also the intent of the Company to confirm that all obligations under the applicable "Loan Documents" (as referred to and defined in the Existing Credit Agreement) shall continue in full force and effect as modified or restated by the Loan Documents (as referred to and defined herein) and that, from and after the Effective Date, all references to the "Credit Agreement" contained in any such existing "Loan Documents" shall be deemed to refer to this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the parties hereto agree that the Existing Credit Agreement is hereby amended and restated as follows:

## ARTICLE I

### Definitions

SECTION 1.01. Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

"ABR," when used in reference to any Loan or Borrowing, refers to such Loan, or the Loans comprising such Borrowing, bearing interest at a rate determined by reference to the Alternate Base Rate.

“Acquisition” means, with respect to any Person, the purchase or other acquisition by such Person, by any means whatsoever (including by merger or consolidation (where the Company or any of its Subsidiaries is ultimately the surviving or continuing entity), devise, bequest, gift, through a dividend or otherwise), of (a) Stock of, or other equity securities of, any other Person if, immediately thereafter, such other Person would be either a consolidated subsidiary of such Person or otherwise under the Control of such Person, (b) any business, going concern or division or segment of any other Person, or (c) the Property of any other Person other than in the ordinary course of business; provided, however, that no acquisition of substantially all of the assets of such other Person shall be deemed to be in the ordinary course of business. “Acquired” shall have a correlative meaning.

“Acquisition Agreement” means that certain Agreement and Plan of Merger, dated as of January 16, 2019, among the Company, First Data and 300 Holdings, Inc. (together with the exhibits and schedules thereto), as modified, amended, supplemented, consented to or waived from time to time.

“Acquisition Agreement Representations” means such of the representations and warranties made by First Data with respect to First Data and its subsidiaries in the Acquisition Agreement as are material to the interests of the Lenders (in their capacities as such), but only to the extent that the Company or its applicable affiliates have the right (taking into account any applicable cure provisions set forth in the Acquisition Agreement) to decline to consummate the Specified Acquisition or to terminate the obligations of the Company or its applicable affiliates (or otherwise do not have an obligation to close) under the Acquisition Agreement as a result of a breach of such representations and warranties.

“Acquisition-Related Incremental Term Loans” has the meaning assigned to such term in Section 2.20.

“Additional Commitment Lender” has the meaning assigned to such term in Section 2.25(d).

“Additional Qualified Acquisition” means any Acquisition if the aggregate consideration paid or to be paid by the Company or a Subsidiary in respect of such Acquisition has a value that is equal to or greater than \$1,000,000,000.

“Additional Qualified Acquisition Adjusted Covenant Period” has the meaning assigned to such term in Section 6.08(a).

“Adjusted Covenant Period” means a Qualified Acquisition Adjusted Covenant Period or an Additional Qualified Acquisition Adjusted Covenant Period, as the case may be.

“Adjusted LIBO Rate” means, with respect to any Eurocurrency Borrowing for any Interest Period, an interest rate per annum equal to (a) the LIBO Rate for such Interest Period multiplied by (b) the Statutory Reserve Rate.

“Administrative Agent” means JPMorgan Chase Bank, N.A. (including its branches and affiliates) in its capacity as administrative agent for the Lenders hereunder.

“Administrative Questionnaire” means an Administrative Questionnaire in a form supplied by the Administrative Agent.

“Affiliate” means, with respect to a specified Person, another Person (other than a consolidated subsidiary of such 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 Commitment” means the aggregate of the Commitments of all the Lenders, as reduced or increased from time to time pursuant to the terms and conditions hereof. As of the Effective Date, the Aggregate Commitment is \$2,000,000,000. As of the Amendment No. 2 Effective Date, the Aggregate Commitment is \$3,500,000,000.

“Agreed Currencies” means with respect to (a) Revolving Loans, Agreed Loan Currencies and (b) Letters of Credit, Agreed LC Currencies.

“Agreed LC Currencies” means (a) the Agreed Loan Currencies and (b) any other currency that is (i) readily available and freely transferable and convertible into Dollars and (ii) agreed to by the Company, the Administrative Agent and the relevant Issuing Bank.

“Agreed Loan Currencies” means (a) Dollars, (b) euro, (c) Pounds Sterling, (d) the lawful currency of any jurisdiction that constitutes an Approved Jurisdiction and (e) any other currency (i) that is a lawful currency (other than Dollars) that is readily available and freely transferable and convertible into Dollars, (ii) for which a LIBOR Screen Rate is available in the Administrative Agent’s reasonable good faith determination and (iii) that is agreed to by the Administrative Agent and each of the Lenders.

“Agreement” has the meaning assigned to such term in the preamble hereto.

“Alternate Base Rate” means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the NYFRB Rate in effect on such day plus ½ of 1% and (c) the Adjusted LIBO Rate for a one month Interest Period in Dollars on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus 1%; provided that, for the purpose of this definition, the Adjusted LIBO Rate for any day shall be based on the LIBO Rate (or if the LIBO Rate is not available for such one month Interest Period, the Interpolated Rate) at approximately 11:00 a.m., London time, on such day. Any change in the Alternate Base Rate due to a change in the Prime Rate, the NYFRB Rate or the Adjusted LIBO Rate shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the Adjusted LIBO Rate, respectively. If the Alternate Base Rate is being used as an alternate rate of interest pursuant to Section 2.14 hereof, then the Alternate Base Rate shall be the greater of clauses (a) and (b) above and shall be determined without reference to clause (c) above.

“Alternative Rate” has the meaning assigned to such term in Section 2.14(a).

“Amendment No. 1” means that certain Amendment No. 1 to Third Amended and Restated Credit Agreement, dated as of February 6, 2019, among the Company, the Lenders party thereto, and the Administrative Agent.

“Amendment No. 2” means that certain Amendment No. 2 to Third Amended and Restated Credit Agreement, dated as of February 15, 2019, among the Company, the Lenders party thereto, and the Administrative Agent.

“Amendment No. 2 Effective Date” means the “Amendment No. 2 Effective Date” as defined in Amendment No. 2.

[“Amendment No. 3 ” means that certain Amendment No. 3 to Third Amended and Restated Credit Agreement, dated as of July 26, 2019, among the Company, the Lenders party thereto, and the Administrative Agent.](#)

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to the Company and its affiliated companies concerning or relating to bribery or corruption.

“Applicable LC Sublimit” means (a) with respect to JPMorgan Chase Bank, N.A. in its capacity as an Issuing Bank under this Agreement, \$50,000,000, (b) with respect to Bank of America, N.A. in its capacity as an Issuing Bank under this Agreement, \$50,000,000, (c) with respect to MUFG Bank, Ltd. in its capacity as an Issuing Bank under this Agreement, \$50,000,000, (d) with respect to U.S. Bank National Association in its capacity as an Issuing Bank under this Agreement, \$50,000,000, (e) with respect to Wells Fargo Bank, National Association in its capacity as an Issuing Bank under this Agreement, \$50,000,000 and (f) with respect to any other Person that becomes an Issuing Bank pursuant to the terms of this Agreement, such amount as agreed to in writing by the Company, the Administrative Agent and such Person at the time such Person becomes an Issuing Bank pursuant to the terms of the Agreement, as each of the foregoing amounts may be decreased or increased from time to time with the written consent of the Company, the Administrative Agent and the Issuing Banks (provided that any increase in the Applicable LC Sublimit with respect to any Issuing Bank shall only require the consent of the Company and such Issuing Bank).

“Applicable Percentage” means, with respect to any Lender, the percentage of the Aggregate Commitment represented by such Lender’s Commitment; provided that, in the case of Section 2.24 when a Defaulting Lender shall exist, “Applicable Percentage” shall mean the percentage of the Aggregate Commitment (disregarding any Defaulting Lender’s Commitment) represented by such Lender’s Commitment. If the Commitments shall have terminated or expired, the Applicable Percentage in respect of a Lender shall be determined based upon the Commitments most recently in effect, giving effect to any assignments and disregarding for purposes of calculating the Applicable Percentage any Commitments held by a Defaulting Lender at the time of determination.

“Applicable Rate” means, for any day, with respect to any Eurocurrency Revolving Loan or any ABR Revolving Loan, or with respect to the facility fees payable hereunder, as the case may be, the applicable rate per annum set forth below under the caption “Eurocurrency Spread” or “ABR Spread” or “Facility Fee Rate,” as the case may be, based upon the ratings of two (2) nationally recognized rating agencies, as selected by the Company and agreed to by the Administrative Agent and thereafter disclosed to the Lenders, applicable on such date to the Index Debt (the “Index Debt Ratings”) (it being understood and agreed that each of (a) S&P, (b) Moody’s and (c) Fitch shall be acceptable nationally recognized rating agencies for all purposes of this definition):

<u>Index Debt Ratings:</u>	<u>Eurocurrency Spread</u>	<u>ABR Spread</u>	<u>Facility Fee Rate</u>
<u>Category 1: A3 or A- or higher</u>	<u>0.90%</u>	<u>0%</u>	<u>0.100%</u>
<u>Category 2: Baa1 or BBB+</u>	<u>1.015%</u>	<u>0.015%</u>	<u>0.110%</u>
<u>Category 3: Baa2 or BBB</u>	<u>1.10%</u>	<u>0.10%</u>	<u>0.150%</u>
<u>Category 4: Baa3 or BBB-</u>	<u>1.20%</u>	<u>0.20%</u>	<u>0.175%</u>
<u>Category 5: Ba1 or BB+ or lower</u>	<u>1.40%</u>	<u>0.40%</u>	<u>0.225%</u>

For purposes of the foregoing,

(i) if either of such rating agencies shall not have in effect an Index Debt Rating (other than by reason of the circumstances referred to in the last sentence of this definition), then such rating agency shall be deemed to have established a rating in Category 5;



(ii) if the Index Debt Ratings established or deemed to have been established by such rating agencies shall fall within different Categories, the Applicable Rate shall be based on the higher of the two ratings unless one of the two ratings is two or more Categories lower than the other, in which case the Applicable Rate shall be determined by reference to the Category next below that of the higher of the two ratings;

(iii) if the Index Debt Ratings established or deemed to have been established by such rating agencies shall be changed (other than as a result of a change in the rating system of either rating agency), such change shall be effective as of the date on which such change is first publicly announced by the applicable rating agency, irrespective of when notice of such change shall have been furnished by the Company to the Administrative Agent and the Lenders pursuant to Section 5.07 or otherwise; and

(iv) each change in the Applicable Rate shall apply 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. If the rating system of either rating agency shall change, or if either such rating agency shall cease to be in the business of rating corporate debt obligations, the Company and the Lenders shall negotiate in good faith to amend this definition to reflect such changed rating system or the unavailability of ratings from such rating agency and, pending the effectiveness of any such amendment, the Category shall be determined by reference to the rating (and the Category applicable thereto) most recently in effect prior to such change or cessation.

“Approved Electronic Platform” has the meaning assigned to such term in Section 8.03(a).

“Approved Fund” has the meaning assigned to such term in Section 9.04.

“Approved Jurisdictions” means Luxembourg, the Netherlands, the United States, England and Wales and, subject to amendments to this Agreement to effect local law and operational mechanics as reasonably agreed by the Company and the Administrative Agent pursuant to Section 9.02(f) and the provisions of Section 2.23, Ireland, Canada and Germany.

“Arrangers” means (a) each of JPMorgan Chase Bank, N.A., Merrill Lynch, Pierce, Fenner & Smith Incorporated (or any other registered broker-dealer organized in the United States that is wholly-owned by Bank of America Corporation and to which (i) all or substantially all of Bank of America Corporation’s or any of its subsidiaries’ investment banking, commercial lending services or related businesses may be transferred following the date of this Agreement and (ii) MLPFS assigns its rights and obligations as an arranger under syndicated credit facility commitment letters generally), MUFG Bank, Ltd., U.S. Bank National Association and Wells Fargo Securities, LLC in its capacity as a joint bookrunner and joint lead arranger hereunder and (b) each of JPMorgan Chase Bank, N.A., Citibank, N.A., MUFG Bank, Ltd., PNC Bank, National Association, U.S. Bank National Association and Wells Fargo Securities, LLC, in its capacity as a joint bookrunner and joint lead arranger in connection with Amendment No. 2.

“Assignment and Assumption” means an assignment and assumption agreement entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.04), and accepted by the Administrative Agent, in the form of Exhibit A or any other form approved by the Administrative Agent.

“Augmenting Lender” is defined in Section 2.20.

“Availability Period” means the period from and including the Effective Date to but excluding the earlier of the Maturity Date and the date of termination of the Commitments.

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

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

“Bail-In Lender” has the meaning assigned to such term in Section 2.19(b).

“Bankruptcy Event” means, with respect to any Person, such Person becomes the subject of a voluntary or involuntary bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it, or, in the good faith determination of the Administrative Agent, has taken any action for the purpose of effecting, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment or has had any order for relief in such proceeding entered in respect thereof; provided that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person by a Governmental Authority or instrumentality thereof, unless such ownership interest results in or provides such Person with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permits such Person (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

“Beneficial Ownership Certification” means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

“Beneficial Ownership Regulation” means 31 C.F.R. § 1010.230.

“Benefit Plan” means any of (a) an “employee benefit plan” (as defined in Section 3(3) of ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in Section 4975 of the Code to which Section 4975 of the Code applies, and (c) any Person whose assets include (for purposes of the Plan Asset Regulations or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such “employee benefit plan” or “plan.”

“Board” means the Board of Governors of the Federal Reserve System of the United States of America.

“Borrower” means the Company or any Subsidiary Borrower.

“Borrowing” means (a) Revolving Loans of the same Type, made, converted or continued on the same date and, in the case of Eurocurrency Loans, as to which a single Interest Period is in effect or (b) a Swingline Loan.

“Borrowing Request” means a request by any Borrower for a Revolving Borrowing in accordance with Section 2.03 in substantially the form attached hereto as Exhibit I-1 or such other form as the Administrative Agent may approve from time to time.

“Borrowing Subsidiary Agreement” means a Borrowing Subsidiary Agreement substantially in the form of Exhibit F-1.

“Borrowing Subsidiary Termination” means a Borrowing Subsidiary Termination substantially in the form of Exhibit F-2.

“Business Day” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; provided that, when used in connection with a Eurocurrency Loan, the term “Business Day” shall also exclude any day on which banks are not open for dealings in the relevant Agreed Currency in the London interbank market or the principal financial center of such Agreed Currency (and, if the Borrowings or LC Disbursements which are the subject of a borrowing, drawing, payment, reimbursement or rate selection are denominated in euro, the term “Business Day” shall also exclude any day on which the TARGET2 payment system is not open for the settlement of payments in euro).

“Change in Control” means (a) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or any “group” (within the meaning of Sections 13(d) and 14(d) of the Securities Exchange Act of 1934 and the rules of the SEC thereunder as in effect on the date hereof), of Stock representing more than 35% of the aggregate ordinary voting power represented by the issued and outstanding Stock of the Company; (b) during any period of up to three consecutive calendar years commencing on or after the Effective Date, individuals (i) who were directors of the Company on the first day of such period or (ii) whose election or nomination for election to the board of directors of the Company was recommended or approved by at least a majority of directors who were directors of the Company on the first day of such period, or whose election or nomination for election was so approved, shall cease to constitute a majority of the board of directors of the Company; or (c) the Company ceasing to own, directly or indirectly, 100% of the Stock of each Subsidiary Borrower.

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

“Charges” has the meaning assigned to such term in Section 9.14.

“Class,” when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans or Swingline Loans.

“Code” means the Internal Revenue Code of 1986, as amended from time to time.

“Combination” has the meaning assigned to such term in Section 2.09(c).

“Combined Lender” has the meaning assigned to such term in Section 2.09(c).

“Commitment” means, with respect to each Lender, the commitment of such Lender to make Revolving Loans and to acquire participations in Letters of Credit and Swingline Loans hereunder,

expressed as an amount representing the maximum aggregate amount of such Lender's Revolving Credit Exposure hereunder, as such commitment may be (a) reduced or terminated from time to time pursuant to Section 2.09, (b) increased from time to time pursuant to Section 2.20 and (c) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender's Commitment is set forth on Schedule 2.01, or in the Assignment and Assumption or other documentation or record (as such term is defined in Section 9-102(a)(70) of the New York Uniform Commercial Code) as provided in Section 9.04(b)(ii)(C) or other documentation contemplated hereby pursuant to which such Lender shall have assumed its Commitment, as applicable.

"Communications" means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Loan Party pursuant to any Loan Document or the transactions contemplated therein which is distributed by the Administrative Agent, any Lender or any Issuing Bank by means of electronic communications pursuant to Section 8.03(c), including through an Approved Electronic Platform.

"Company" means Fiserv, Inc., a Wisconsin corporation.

"Compliance Certificate" means a certificate substantially in the form of Exhibit H.

"Computation Date" is defined in Section 2.04.

"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 the Company and the Subsidiaries on a consolidated basis in accordance with GAAP.

"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. The terms "Controlling" and "Controlled" have meanings correlative thereto.

"Country Risk Event" means:

(a) any law, action or failure to act by any Governmental Authority in any Borrower's or Letter of Credit beneficiary's country which has the effect of:

(i) changing the obligations of any Issuing Bank or the Lenders under the relevant Letter of Credit, the Agreement or any of the other Loan Documents as originally agreed or otherwise creating any additional liability, cost or expense to any Issuing Bank, the Lenders or the Administrative Agent from that which exists on the Effective Date,

(ii) changing the ownership or control by such Borrower or Letter of Credit beneficiary of its business, or

(iii) preventing or restricting the conversion into or transfer of the applicable Agreed Currency;

(b) force majeure; or

(c) any similar event,

which, in relation to (a), (b) and (c), directly or indirectly, prevents or restricts the payment or transfer of any amounts owing under the relevant Letter of Credit in the applicable Agreed Currency into an account designated by the Administrative Agent or such Issuing Bank and freely available to the Administrative Agent or such Issuing Bank.

“Credit Event” means a Borrowing, the issuance, renewal or extension of a Letter of Credit, the amendment of a Letter of Credit that increases the face amount thereof, an LC Disbursement or any of the foregoing.

“Credit Party” means the Administrative Agent, any Issuing Bank, any Swingline Lender or any other Lender.

“Default” means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

“Defaulting Lender” means any Lender that (a) has failed, within three (3) Business Days after the date required to be funded or paid, to (i) fund any portion of its Loans, (ii) fund any portion of its participations in Letters of Credit or Swingline Loans or (iii) pay over to any Credit Party any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender’s good faith determination that a condition precedent to funding (specifically identified and including the particular default, if any) has not been satisfied, (b) has notified the Company or any Credit Party in writing, or has made a public statement to the effect, that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Lender’s good faith determination that a condition precedent (specifically identified and including the particular default, if any) to funding a loan under this Agreement cannot be satisfied) or generally under other agreements in which it commits to extend credit, (c) has failed, within three (3) Business Days after request by the Company or the Administrative Agent, acting in good faith, to provide a certification in writing from an authorized officer of such Lender that it will comply with its obligations (and is financially able to meet such obligations) to fund prospective Loans and participations in then outstanding Letters of Credit and Swingline Loans under this Agreement; provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon such Credit Party’s receipt of such certification in form and substance satisfactory to it and the Administrative Agent, or (d) has become the subject of (i) a Bankruptcy Event and/or (ii) a Bail-In Action.

“Departing Lender” means each lender under the Existing Credit Agreement that executes and delivers to the Administrative Agent a Departing Lender Signature Page.

“Departing Lender Signature Page” means the signature page to this Agreement on which it is indicated that the Departing Lender executing the same shall cease to be a party to the Existing Credit Agreement on the Effective Date.

“Designated Borrower” means, unless otherwise specified by the Administrative Agent to the Company and the Lenders, any Subsidiary Borrower that is organized under the laws of Luxembourg or any other jurisdiction designated from time to time by the Administrative Agent due to operational limitations relating to the ability to fund ABR Loans to such Subsidiary Borrower.

“Designated Loan” means a Loan denominated in Dollars to a Designated Borrower.

“Designated Persons” means any Person listed on a Sanctions List or who is otherwise the target of Sanctions.

“Direction” has the meaning assigned to such term in Section 2.17(j)(iii).

“Disqualified Institutions” means (a) those Persons identified by the Company to the Administrative Agent and the Lenders in writing prior to the Effective Date, (b) Persons that are reasonably determined by the Company to be competitors of the Company or any of its Subsidiaries and that have been specifically identified by the Company to the Administrative Agent and the Lenders in writing prior to the Effective Date and (c) in the case of each of clauses (a) and (b), any of their respective Affiliates, to the extent any such Affiliate (i) is clearly identifiable as an Affiliate of the applicable Person solely by similarity of such Affiliate’s name and (ii) is not a bona fide debt investment fund that is an Affiliate of such Person; provided that the Company, by notice to the Administrative Agent and the Lenders after the Effective Date, shall be permitted to supplement from time to time in writing by name the list of Persons that are Disqualified Institutions to the extent that the Persons added by such supplements are competitors of the Company or any of its Subsidiaries (or Affiliates of Disqualified Institutions that are not bona fide debt investment funds). Each such supplement shall become effective three (3) Business Days after delivery thereof to the Administrative Agent and the Lenders (including through an Approved Electronic Platform) in accordance with Section 9.01, but shall not apply retroactively to disqualify any Persons that have previously acquired an assignment or participation interest in the Loans (but solely with respect to such Loans). It is understood and agreed that (A) the Administrative Agent shall have no responsibility or liability to determine or monitor whether any Lender or potential Lender is a Disqualified Institution, (B) the Company’s failure to deliver such list (or supplement thereto) in accordance with Section 9.01 shall render such list (or supplement) not received and not effective and (C) “Disqualified Institution” shall exclude any Person that the Company has designated as no longer being a “Disqualified Institution” by written notice delivered to the Administrative Agent from time to time in accordance with Section 9.01.

“Disregarded Entity” means an entity that, pursuant to Treas. Reg. § 301.7701-2(c)(2), is disregarded for U.S. federal income Tax purposes as an entity separate from its owner.

“Dividing Person” has the meaning assigned to such term in the definition of “Division.”

“Division” means the division of the assets, liabilities and/or obligations of a Person (the “Dividing Person”) among two or more Persons (whether pursuant to a “plan of division” or similar arrangement), which may or may not include the Dividing Person and pursuant to which the Dividing Person may or may not survive.

“Division Successor” means any Person that, upon the consummation of a Division of a Dividing Person, holds all or any portion of the assets, liabilities and/or obligations previously held by such Dividing Person immediately prior to the consummation of such Division. A Dividing Person which retains any of its assets, liabilities and/or obligations after a Division shall be deemed a Division Successor upon the occurrence of such Division.

“Documentation Agent” means (a) each of SunTrust Bank, The Toronto-Dominion Bank, New York Branch, BMO Harris Bank N.A., Citizens Bank, N.A., Credit Suisse AG, Cayman Islands Branch and PNC Bank, National Association in its capacity as documentation agent for the credit facility evidenced by this Agreement and (b) each of Bank of Montreal, Chicago Branch, Capital One, National Association, Citizens Bank, N.A., National Westminster Bank plc, SunTrust Bank and TD Bank, N.A., in its capacity as documentation agent in connection with Amendment No. 2.

“Dollar Amount” of any currency means, at the time of determination thereof, (a) if such amount is expressed in Dollars, such amount, and (b) if such amount is expressed in a currency other than Dollars, the equivalent of such amount in Dollars determined by using the rate of exchange for the purchase of the Dollars with such other currency in the London foreign exchange market at or about 11:00 a.m.,

London time (or New York time, as applicable), on a particular day as displayed by ICE Data Services as the “ask price,” or as displayed on such other information service which publishes that rate of exchange from time to time in place of ICE Data Services (or if such service is not or ceases to be available, the equivalent of such amount in Dollars as reasonably determined by the Administrative Agent, in consultation with the Company, using any reasonable method of determination it deems reasonably appropriate).

“Dollars” or “\$” refers to lawful money of the United States of America.

“Domestic Subsidiary” means a Subsidiary organized under the laws of a jurisdiction located in the United States of America, or any state thereof or the District of Columbia.

“DQ List” has the meaning assigned to such term in Section 9.04(e)(iv) hereof.

“Dutch Borrower” means any Borrower that is incorporated under the laws of the Netherlands or otherwise exists in the Netherlands.

“Dutch CRR” means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012.

“Dutch Non-Public Lender” means: (a) until the publication of an interpretation of “public” as referred to in the Dutch CRR by the competent authority/ies: an entity which (i) assumes existing rights and/or obligations vis-à-vis a Dutch Borrower, the value of which is at least €100,000 (or its equivalent in another currency), (ii) provides repayable funds for an initial amount of at least €100,000 (or its equivalent in another currency) or (iii) otherwise qualifies as not forming part of the public; and (b) as soon as the interpretation of the term “public” as referred to in the Dutch CRR has been published by the relevant authority/ies: an entity which is not considered to form part of the public on the basis of such interpretation.

“EBITDA” means, with respect to any Person for any period, the consolidated net earnings of such Person in respect of such period, plus, without duplication, the sum of each of the following with respect to such Person on a consolidated basis for such period to the extent deducted in the determination of such net earnings: (i) interest expense, (ii) provision for taxes, (iii) depreciation, (iv) amortization, (v) extraordinary losses incurred other than in the ordinary course of business (provided that, on and after December 15, 2015, the foregoing reference to “extraordinary” losses shall be deemed to refer to losses that are both “unusual” and “infrequent” in accordance with GAAP and as described in the Financial Accounting Standards Update No. 2015-01: Income Statement – Extraordinary and Unusual Items (Subtopic 225-20)), (vi) stock-based non-cash compensation expense, (vii) other non-cash charges, losses and expenses and other non-cash items (including foreign currency exchange losses), (viii) fees and expenses incurred during such period in connection with the credit facility evidenced by this Agreement or in connection with an Acquisition (including fees and expenses in connection with the Specified Acquisition) or other investment permitted hereunder, (ix) cash non-recurring fees, expenses, costs, charges and losses in respect of discontinued operations, the issuance or incurrence of debt, the refinancing, retirement or repayment of debt, the issuance of equity interests, casualty and condemnation events to the extent covered by insurance and expected to result in insurance proceeds of at least the amount added back and sales and other dispositions of assets outside the ordinary course of business, (x) other non-recurring expenses, costs, charges and losses (including those resulting from restructurings, divestitures and severances) and (xi) with respect to each Acquisition, cost synergies that, as of the date of calculation with respect to such period, are anticipated by the Company in good faith to be realized within 18 months following such Acquisition (or within 24 months following the Specified Acquisition), net of the amount of any such cost synergies otherwise included, or added back, pursuant to this definition; provided that (A) the amount added back under this clause (xi) with respect to any period may not exceed fifteen percent (15%) of EBITDA for such

period (as calculated without giving effect to this clause (xi)) and (B) such cost synergies have been reasonably detailed by the Company in the applicable Compliance Certificate, minus (xii) extraordinary gains realized other than in the ordinary course of business (provided that, on and after December 15, 2015, the foregoing reference to “extraordinary” gains shall be deemed to refer to gains that are both “unusual” and “infrequent” in accordance with GAAP and as described in the Financial Accounting Standards Update No. 2015-01: Income Statement – Extraordinary and Unusual Items (Subtopic 225-20)) and foreign currency exchange gains and (xiii) any cash payments made during such period in respect of the items described in clause (vi) or (vii) above subsequent to the fiscal quarter in which the relevant stock-based non-cash compensation expense or other non-cash charge, as applicable, was incurred.

“EEA Financial Institution” means (a) any institution established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

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

“EEA Resolution Authority” means any public administrative authority or any Person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

“Effective Date” means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02).

“Electronic Signature” means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or record.

“Eligible Subsidiary” means any (a) Subsidiary incorporated or organized under the laws of an Approved Jurisdiction and (b) Subsidiary that is approved from time to time by the Administrative Agent and the Required Lenders.

“Employee Benefit Plan” means an employee benefit plan within the meaning of Section 3(3) of ERISA maintained, sponsored or contributed to by the Company, any Subsidiary or any ERISA Affiliate.

“Environmental Laws” means all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the environment, preservation or reclamation of natural resources or the management, release or threatened release of any Hazardous Material.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Company or any Subsidiary 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 Permit” means any permit, license, approval, consent or other authorization by a federal, state, local or foreign government or regulatory entity pursuant to any Environmental Law.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that, together with the Company, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

“ERISA Event” means (a) any “reportable event,” as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30-day notice period is waived); (b) the failure to satisfy the minimum funding standard with respect to any Plan (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived; (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) the incurrence by the Company or any of its ERISA Affiliates of any material liability under Title IV of ERISA with respect to the termination of any Plan; (e) the receipt by the Company or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention by the PBGC to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (f) the incurrence by the Company or any of its ERISA Affiliates of any material liability with respect to the withdrawal or partial withdrawal of the Company or any of its ERISA Affiliates from any Plan or Multiemployer Plan; or (g) the receipt by the Company or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Company or any ERISA Affiliate of any notice, concerning the imposition upon the Company or any of its ERISA Affiliates of Withdrawal Liability in a material amount or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in endangered or critical status, within the meaning of Title I and Title IV of ERISA.

“EU” means the European Union.

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

“euro” and/or “EUR” means the single currency of the Participating Member States.

“Eurocurrency,” when used in reference to a currency, means an Agreed Currency and, when used in reference to any Loan or Borrowing, means that such Loan, or the Loans comprising such Borrowing, bears interest at a rate determined by reference to the Adjusted LIBO Rate (except pursuant to clause (c) of the definition of “Alternate Base Rate”).

“Eurocurrency Payment Office” of the Administrative Agent shall mean, for each of the Agreed Currencies which is a Foreign Currency and each Designated Loan, the office, branch, affiliate or correspondent bank of the Administrative Agent for such currency or Designated Loan, as applicable, as specified from time to time by the Administrative Agent to the Company and each Lender.

“Event of Default” has the meaning assigned to such term in Article VII; provided that any requirement for the giving of notice, the lapse of time, or both, or any other condition has been satisfied.

“Excluded Taxes” means, with respect to the Administrative Agent, any Lender, any Issuing Bank or any other recipient of any payment to be made by or on account of any obligation of any

Borrower or any guarantor under any Loan Document, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes and branch profits Taxes, in each case, (i) imposed by the jurisdiction under the laws of which such recipient is organized or in which it has a principal office or, in the case of any Lender, in which its applicable lending office is located or (ii) that are Other Connection Taxes, (b) in the case of a Lender, any U.S. federal withholding Tax that is imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan, Letter of Credit or Commitment pursuant to a law in effect on the date on which (i) such Lender becomes a party to this Agreement (other than pursuant to an assignment request by the Company or any other Borrower under Section 2.19(b)) or (ii) such Lender designates a new lending office, except in each case to the extent that it (or its assignor, if any) was entitled, immediately before the designation of a new lending office (or an assignment), to receive additional amounts pursuant to Section 2.17(a), (c) Taxes attributable to such recipient's failure to comply with Section 2.17(e), (d) any withholding Tax that is imposed under FATCA and (e) any Luxembourg registration duties (*droits d'enregistrement*) payable in the case of a voluntary registration of any Loan Documents by the Lenders with the *Administration de l'Enregistrement et des Domaines* in Luxembourg, when such registration is not required to enforce their rights under the Loan Documents.

“Existing Credit Agreement” is defined in the recitals hereof.

“Extended Maturity Date” has the meaning assigned to such term in Section 2.25(a).

“Extending Lender” has the meaning assigned to such term in Section 2.25(b).

“Extension Availability Period” means the period beginning on the Effective Date and ending on the five year anniversary thereof.

“Extension Date” has the meaning assigned to such term in Section 2.25(a).

“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, any agreement entered into pursuant to Section 1471(b)(1) of the Code, and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code.

“FATCA Deduction” means a deduction or withholding from a payment under a Loan Document required by FATCA.

“Federal Funds Effective Rate” means, for any day, the rate calculated by the NYFRB based on such day's federal funds transactions by depository institutions (as determined in such manner as the NYFRB shall set forth on its public website from time to time) and published on the next succeeding Business Day by the NYFRB as the effective federal funds rate; provided that if the Federal Funds Effective Rate as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

“FIN 46 Entity” means any Person the financial condition and results of which, solely due to Accounting Standards Codification 810 or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect (as amended, restated, supplemented, replaced or otherwise modified from time to time), the Company is required to consolidate in its financial statements.

“Financial Officer” means the Chief Financial Officer, the Controller, any Assistant Controller, the Treasurer or any Assistant Treasurer, in each case of the Company.

“Financial Statements” has the meaning assigned to such term in Section 3.12.

“First Data” means First Data Corporation, a Delaware corporation.

“Fitch” means Fitch Ratings, Inc.

“Foreign Currencies” means each Agreed Currency other than Dollars.

“Foreign Currency LC Exposure” means, at any time, the sum of (a) the Dollar Amount of the aggregate undrawn, available and unexpired amount of all outstanding Foreign Currency Letters of Credit at such time plus (b) the aggregate principal Dollar Amount of all LC Disbursements in respect of Foreign Currency Letters of Credit that have not yet been reimbursed at such time.

“Foreign Currency Letter of Credit” means a Letter of Credit denominated in a Foreign Currency.

“Foreign Lender” means a Lender that is neither a U.S. Person nor a Disregarded Entity that is treated for U.S. federal income Tax purposes as having as its sole owner a Person that is a U.S. Person.

“GAAP” means generally accepted accounting principles as from time to time in effect in the United States of America.

“Governmental Authority” means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank) and any group or body charged with setting financial accounting or regulatory capital rules or standards (including, without limitation, the Financial Accounting Standards Board, the Bank for International Settlements or the Basel Committee on Banking Supervision or any successor or similar authority to any of the foregoing).

“Guarantee” of or by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, without duplication (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation; provided that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business; and provided, further, that the amount of each “Guarantee” shall be the lesser of (i) the amount of the primary obligation with respect thereto or, if not stated, the reasonably expected liability in respect of such primary obligation, and (ii) the stated maximum amount of such “Guarantee.”

“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.

“Hedging Agreements” means interest rate swap, cap or collar agreements, interest rate future or option contracts, currency swap agreements, currency future or option contracts and other similar agreements.

“Impacted Interest Period” has the meaning assigned to such term in the definition of “LIBO Rate.”

“Increasing Lender” has the meaning assigned to such term in Section 2.20.

“Incremental Term Loan” has the meaning assigned to such term in Section 2.20.

“Incremental Term Loan Amendment” has the meaning assigned to such term in Section 2.20.

“Indebtedness” means, with respect to any Person, at a particular time, all items of such Person which constitute, without duplication, (a) indebtedness for borrowed money or the deferred purchase price of Property (other than accounts payable, deferred compensation, customer advances, earn-outs, agreements providing for the holdback of the purchase price relating to an acquisition and accrued expenses incurred in the ordinary course of business), (b) indebtedness evidenced by notes, bonds, debentures or similar instruments, (c) obligations with respect to any conditional sale or other title retention agreement (excluding operating leases), (d) indebtedness arising under acceptance facilities and the amount available to be drawn under all letters of credit issued for the account of such Person and, without duplication, all drafts drawn thereunder to the extent such Person shall not have reimbursed the issuer in respect of the issuer’s payment of such drafts (excluding for the purposes of this clause (d) the amount available to be drawn under the Specified Letter of Credit), (e) all indebtedness referred to in clauses (a)-(d) above or (f)-(h) below secured by any Lien (other than carriers’, warehousemen’s, mechanics’, workmen’s, materialmen’s, landlords, repairmen’s or other similar Liens arising in the ordinary course of business) on any Property owned by such Person even though such Person shall not have assumed or otherwise become liable for the payment thereof; provided that in the event such Person shall not have assumed or otherwise become liable for the payment thereof, the amount of such liabilities shall be deemed to be the lesser of (i) the fair market value of the assets of such Person subject to such Lien and (ii) the amount of the liability secured by such Lien, (f) that portion of any obligation of such Person, as lessee, which in accordance with GAAP is required to be capitalized on the balance sheet of such Person, (g) Securitization Indebtedness, and (h) all Guarantees by such Person of any of the foregoing; provided, however, that, notwithstanding anything to the contrary contained herein, for purposes of this definition, “Indebtedness” shall not include (1) any intercompany indebtedness between or among the Company and its Subsidiaries, (2) any indebtedness that has been defeased and/or discharged if funds in an amount equal to all such indebtedness (including interest and any other amounts required to be paid to the holders thereof in order to give effect to such defeasance) have been irrevocably deposited with a trustee, paying agent or other similar Person for the benefit of the relevant holders of such indebtedness or (3) interest, fees, make-whole amounts, premium, charges or expenses, if any, relating to the principal amount of Indebtedness.

“Indemnified Taxes” means (a) Taxes other than Excluded Taxes imposed on or with respect to any payment made by or on account of any Loan Party or guarantor under any Loan Document and (b) Other Taxes.

“Indemnitee” has the meaning assigned to such term in Section 9.03(b).

“Index Debt” means senior, unsecured, long-term indebtedness for borrowed money of the Company that is not guaranteed by any other Person (other than Subsidiaries) or subject to any other credit enhancement.

“Ineligible Institution” has the meaning assigned to such term in Section 9.04(b).

“Information” has the meaning assigned to such term in Section 9.12.

“Information Memorandum” means the Confidential Information Memorandum dated September 2018 relating to the Company and the Transactions.

“Insolvency Regulation” shall mean Regulation EU 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast).

“Interest Coverage Ratio” means as of any date, the ratio of (a) the Consolidated EBITDA of the Company for the four consecutive fiscal quarter period ended on such date to (b) Consolidated interest expense of the Company to the extent paid or payable in cash (net of (i) any cash payments (if any) made in respect of interest rate hedging transactions under Hedging Agreements and (ii) any cash payments (if any) received in respect of interest rate hedging transactions under Hedging Agreements) for the four consecutive fiscal quarter period ended on such date, in each case based on the most recent financial statements required by Section 5.07(a) or 5.07(c), as the case may be. For purposes of this defined term, “EBITDA” shall be adjusted to give effect to each acquisition (including any Indebtedness assumed or repaid in connection therewith and related interest expense) and disposition (including any Indebtedness assumed or repaid in connection therewith and related interest expense) that occurred during such period as if such acquisition or disposition had occurred at the inception of such period.

“Interest Election Request” means a request by the applicable Borrower to convert or continue a Revolving Borrowing in accordance with Section 2.08 in substantially the form attached hereto as Exhibit I-2 or such other form as the Administrative Agent may approve from time to time.

“Interest Payment Date” means (a) with respect to any ABR Loan (other than a Swingline Loan), the last day of each March, June, September and December and the Maturity Date, (b) with respect to any Eurocurrency Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurocurrency Borrowing with an Interest Period of more than three months’ duration, each day prior to the last day of such Interest Period that occurs at intervals of three months’ duration after the first day of such Interest Period and the Maturity Date and (c) with respect to any Swingline Loan, the day that such Loan is required to be repaid and the Maturity Date.

“Interest Period” means, with respect to any Eurocurrency Borrowing, the period commencing on the date of such Borrowing and ending on the day that is one week thereafter or the numerically corresponding day in the calendar month that is one, two, three or six months thereafter (or such other period of time as is acceptable to each of the Lenders), as the applicable Borrower (or the Company on behalf of the applicable Borrower) may elect; provided that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless, in the case of a Eurocurrency Borrowing only, such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (ii) any Interest Period pertaining to a Eurocurrency Borrowing that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period), other than a one-week Interest Period, shall end on the last

Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

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

“Issuing Bank” means each of JPMorgan Chase Bank, N.A., Bank of America, N.A., MUFG Bank, Ltd., U.S. Bank National Association, Wells Fargo Bank, National Association and each other Lender designated by the Company as an “Issuing Bank” hereunder that has agreed to such designation (and is reasonably acceptable to the Administrative Agent), each in its capacity as the issuer of Letters of Credit hereunder, and its successors in such capacity as provided in Section 2.06(i). Each Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates or branches of such Issuing Bank, in which case the term “Issuing Bank” shall include any such Affiliate or branch, as applicable, with respect to Letters of Credit issued by such Affiliate or branch, as applicable.

“LC Disbursement” means a payment made by an Issuing Bank pursuant to a Letter of Credit.

“LC Exposure” means, at any time, the sum of (a) the aggregate undrawn Dollar Amount of all outstanding Letters of Credit at such time which are then available plus (b) the aggregate Dollar Amount of all LC Disbursements that have not yet been reimbursed by or on behalf of the Company at such time. The LC Exposure of any Lender at any time shall be its Applicable Percentage of the total LC Exposure at such time.

“Lender Notice Date” has the meaning assigned to such term in Section 2.25(b).

“Lender Parent” means, with respect to any Lender, any Person as to which such Lender is, directly or indirectly, a subsidiary.

“Lenders” means the Persons listed on Schedule 2.01 and any other Person that shall have become a Lender hereunder pursuant to Section 2.20 or pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption. Unless the context otherwise requires, the term “Lenders” includes the Swingline Lenders and the Issuing Banks. For the avoidance of doubt, the term “Lenders” excludes the Departing Lenders.

“Letter of Credit” means any letter of credit issued pursuant to this Agreement.

“Leverage Ratio” means, as of any date, the ratio of (a) (i) the Consolidated Indebtedness of the Company minus (ii) Liquidity, in each case on such date to (b) Consolidated EBITDA of the Company for the four consecutive fiscal quarter period ended on such date, in each case based on the most recent financial statements required by Section 5.07(a) or 5.07(c), as the case may be. For purposes of this defined term, “EBITDA” shall be adjusted to give effect to each acquisition (including any Indebtedness assumed or repaid in connection therewith and related interest expense) and disposition (including any Indebtedness assumed or repaid in connection therewith and related interest expense) that occurred during such period as if such acquisition or disposition had occurred at the inception of such period.

“LIBO Rate” means, with respect to any Eurocurrency Borrowing denominated in any Agreed Currency and for any applicable Interest Period, the London interbank offered rate as administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate) for such Agreed Currency for a period equal in length to such Interest Period as displayed on pages LIBOR01 or LIBOR02 of the Reuters screen that displays such rate or, in the event such rate does not appear on a Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate as shall be selected by the Administrative Agent from time to time in its reasonable discretion (in each case the “LIBOR Screen Rate”) at approximately 11:00 a.m., London time, on the Quotation Day for such Agreed Currency and Interest Period; provided that, if the LIBOR Screen Rate as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement; provided, further, that if a LIBOR Screen Rate shall not be available at such time for such Interest Period (the “Impacted Interest Period”), then the LIBO Rate for such Agreed Currency and such Interest Period shall be the Interpolated Rate. It is understood and agreed that all of the terms and conditions of this definition of “LIBO Rate” shall be subject to Section 2.14.

“LIBOR Screen Rate” has the meaning assigned to such term in the definition of “LIBO Rate.”

“Lien” means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset and (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset; provided, however, that the term “Lien” shall not include any such interest under an operating lease.

“Limited Conditionality Acquisition” has the meaning assigned to such term in Section 2.20.

“Limited Conditionality Acquisition Agreement” has the meaning assigned to such term in Section 2.20.

“Liquidity” means, as of any date of determination, the sum of (a) the amount (if any) by which the Dollar Amount of unrestricted and unencumbered cash, cash equivalents and marketable securities of the Company and its Subsidiaries, as reflected on the Company’s balance sheet and maintained by the Company and its Subsidiaries in the United States (or that could be repatriated to the United States (less the applicable combined federal and state marginal income tax due or payable that would be imposed on the Company or applicable Subsidiary in the case of, and with respect to, the repatriation of such cash to the United States, in each case as of such date)) exceeds \$100,000,000 as of such date, plus (b) the Dollar Amount of any cash, cash equivalents and marketable securities of the Company and its Subsidiaries, as reflected on the Company’s balance sheet, constituting the proceeds of Indebtedness constituting debt securities included in clause (a)(i) of the definition of “Leverage Ratio” incurred to finance an acquisition, investment or refinancing that are subject to customary escrow or similar arrangements to the extent such proceeds (i) secure such Indebtedness or is otherwise restricted in favor of the holders of such debt securities and (ii) will be required to repay such Indebtedness if such acquisition, investment or refinancing is not consummated.

“Loan Documents” means this Agreement, each Borrowing Subsidiary Agreement, each Borrowing Subsidiary Termination, any promissory notes executed and delivered pursuant to Section 2.10(e), each Borrowing Request and any and all other instruments and documents executed and delivered in connection with any of the foregoing.

“Loan Parties” means, collectively, the Borrowers.

“Loans” means the loans made by the Lenders to the Borrowers pursuant to this Agreement, it being understood that conversions and continuations of Loans are not Loans hereunder.

“Local Time” means (a) Chicago time in the case of a Loan, Borrowing or LC Disbursement denominated in Dollars (other than Designated Loans) and (b) local time in the case of a Loan, Borrowing or LC Disbursement denominated in a Foreign Currency and Designated Loans (it being understood that such local time shall mean London, England time unless otherwise notified by the Administrative Agent).

“Luxembourg” means the Grand Duchy of Luxembourg.

“Luxembourg Borrower” means a Subsidiary Borrower that (a) is organized under the laws of Luxembourg, (b) has its center of main interests, within the meaning of the Insolvency Regulation, in Luxembourg or (c) has an establishment, within the meaning of the Insolvency Regulation, in Luxembourg.

“Luxembourg Debtor Relief Laws” means (a) bankruptcy (*faillite*) within the meaning of Articles 437 *et seq.* of the Luxembourg Commercial Code, (b) controlled management (*gestion contrôlée*) within the meaning of the Luxembourg grand-ducal regulation of May 24, 1935 on controlled management, (c) voluntary arrangement with creditors (*concordat préventif de la faillite*) within the meaning of the Luxembourg law of April 14, 1886 on arrangements to prevent insolvency, as amended, (d) suspension of payments (*sursis de paiement*) within the meaning of Articles 593 *et seq.* of the Luxembourg Commercial Code, and (e) voluntary or compulsory liquidation pursuant to the Luxembourg law of August 10, 1915 on commercial companies.

“Luxembourg Relief” means bankruptcy (*faillite*), controlled management (*gestion contrôlée*), voluntary arrangement with creditors (*concordat préventif de faillite*), suspension of payments (*sursis de paiement*) and voluntary or compulsory liquidation, as such terms are understood within the Luxembourg Debtor Relief Laws, and also means any other proceedings affecting the rights of creditors generally or the appointment of an interim administrator (*administrateur provisoire*).

“Margin Stock” means any “margin stock,” as said term is defined in Regulation U of the Board, as the same may be amended or supplemented from time to time.

“Material Adverse Effect” means a material adverse effect on (i) the financial condition, operations, business or assets of the Company and the Subsidiaries on a Consolidated basis (except for specific events (and not general economic or industry conditions) specifically applicable to the Company and/or its Subsidiaries as disclosed in the reports of the Company or First Data on Form 10-K, 10-Q or 8-K, or in any Form S-4 of the Company or First Data filed with the SEC prior to the date of Amendment No. 2), (ii) the ability of any Loan Party to perform its obligations under the Loan Documents, or (iii) the rights, due to circumstances not caused by the Administrative Agent or any Lender, of the Administrative Agent, any Issuing Bank, the Swingline Lender or any Lender to enforce the Loan Documents against any Loan Party.

“Material Indebtedness” means Indebtedness (other than the Loans and Letters of Credit) of any one or more of the Company and its Subsidiaries in an aggregate principal amount exceeding \$300,000,000.



“Material Subsidiary” means (i) each Subsidiary Borrower and (ii) each other Subsidiary which (on an unconsolidated basis and excluding intercompany income statement items of such Subsidiary), as of the end of the most recent two consecutive fiscal quarters of the Company, in each case for the period of four consecutive fiscal quarters then ended, for which financial statements have been delivered pursuant to Section 5.07, contributed revenues in an amount greater than ten percent (10%) of the revenues of the Company and its Subsidiaries on a Consolidated basis for the four consecutive fiscal quarter period most recently ended; provided that, for purposes of this definition, the Consolidated revenues of the Company and its Subsidiaries shall be adjusted to give effect to each acquisition and disposition that occurred during each such period as if such acquisition or disposition had occurred at the inception of the first of such periods and each Subsidiary acquired or disposed of, as the case may be, had been acquired or disposed of at the inception of the first of such periods.

“Maturity Date” means the five year anniversary of the Effective Date, as extended (in the case of each Lender consenting thereto) pursuant to Section 2.25.

“Maximum Rate” has the meaning assigned to such term in Section 9.14.

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

“Multiemployer Plan” means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

“Net Worth” means, at any date, the sum of all amounts that would be included under shareholders’ equity on a Consolidated balance sheet of the Company determined in accordance with GAAP on such date or, in the event such date is not a fiscal quarter end, as of the immediately preceding fiscal quarter end; provided that, for purposes of calculating shareholders’ equity, any accumulated other comprehensive income or loss, in each case as reflected on such Consolidated balance sheet of the Company determined in accordance with GAAP, shall be excluded; provided, further, that “Net Worth” shall be adjusted to give effect to each acquisition and disposition that has occurred on or prior to the date on which Net Worth is being calculated but after the immediately preceding fiscal quarter end as if such acquisition or disposition had occurred on the date of such immediately preceding fiscal quarter end.

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

“New Money Credit Event” means, with respect to any Issuing Bank, any increase (directly or indirectly) in such Issuing Bank’s exposure (whether by way of additional credit or banking facilities or otherwise, including as part of a restructuring) to any Borrower occurring by reason of (a) any law, action or requirement of any Governmental Authority in such Borrower’s or such Letter of Credit beneficiary’s country, or (b) any agreement in relation to clause (a), in each case to the extent calculated by reference to the aggregate Revolving Credit Exposures outstanding prior to such increase.

“Non-Consenting Lender” has the meaning assigned to such term in Section 9.02(c).

“Non-Extending Lender” has the meaning assigned to such term in Section 2.25(b).

“NYFRB” means the Federal Reserve Bank of New York.

“NYFRB Rate” means, for any day, the greater of (a) the Federal Funds Effective Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day); provided that, if both such rates are not so published for any day that is a Business Day, the term “NYFRB Rate” means the rate quoted for such

day for a federal funds transaction at 11:00 a.m., New York City time, on such day received by the Administrative Agent from a Federal funds broker of recognized standing selected by it; provided, further, that if any of the aforesaid rates as so determined would be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“Obligations” means all indebtedness (including interest and fees accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), obligations and liabilities of any of the Company and its Subsidiaries to any of the Lenders, any of the Issuing Banks, any indemnified party and the Administrative Agent, individually or collectively, under this Agreement or any of the other Loan Documents or in respect of any of the Loans made or reimbursement obligations incurred or any of the Letters of Credit or other instruments at any time evidencing any thereof.

“OFAC” means the Office of Foreign Assets Control of the U.S. Department of Treasury.

“Operating Entity” means (a) any Person, (b) any business or operating unit of a Person (i) which is operated separate and apart from the other businesses and operations of such Person, or (ii) the products and services of which are divisible from the other products and services of such Person, or (c) any other line of business or business segment.

“Other Connection Taxes” means, with respect to the Administrative Agent, any Lender or any Issuing Bank, 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, Letter of Credit or Loan Document).

“Other Taxes” means any and all present or future stamp, registration or documentary taxes or any other excise or property taxes, charges or similar taxes or levies arising from any payment made hereunder or from the execution, delivery or enforcement of, or otherwise with respect to, any Loan Document, but excluding Excluded Taxes.

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

“Overnight Foreign Currency Rate” means, for any amount payable in a Foreign Currency, the rate of interest per annum as determined by the Administrative Agent at which overnight or weekend deposits in the relevant currency (or if such amount remains unpaid for more than three Business Days after when it is due, then for such other relevant period of time) for delivery in immediately available and freely transferable funds would be offered by the Administrative Agent to major banks in the interbank market upon request of such major banks for the relevant currency as determined above and in an amount comparable to the unpaid principal amount of the related Credit Event.

“Participant” has the meaning assigned to such term in Section 9.04(c).

“Participant Register” has the meaning assigned to such term in Section 9.04(c).

“Participating Member State” means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union relating to economic and monetary union.

“Patriot Act” has the meaning assigned to such term in [Section 9.13](#).

“PBGC” means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

“Pension Plan” means, at any time, any Employee Benefit Plan (including a Multiemployer Plan) subject to Section 302 of ERISA or Section 412 of the Code, the funding requirements of which are, or at any time within the six years immediately preceding the time in question, were in whole or in part, the responsibility of the Company, any Subsidiary or an ERISA Affiliate.

“Permanent Financing Fee Letter” has the meaning assigned to such term in [Section 4.02\(a\)\(v\)](#).

“Permitted Sale-Leaseback Transactions” means sales or transfers by the Company or any Subsidiary of any real property, improvements, fixtures, machinery and/or equipment with the intention of taking back a lease thereof.

[“Permitted Securitization” has the meaning assigned to such term in Section 6.01\(h\).](#)

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

“Plan” means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Company or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Plan Asset Regulations” means 29 CFR § 2510.3-101 *et seq.*, as modified by Section 3(42) of ERISA, as amended from time to time.

“Pounds Sterling” means the lawful currency of the United Kingdom.

“Prime Rate” means the rate of interest last quoted by The Wall Street Journal as the “Prime Rate” in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the “bank prime loan” rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined reasonably and in good faith by the Administrative Agent) or any similar release by the Board (as determined reasonably and in good faith by the Administrative Agent); provided that if the Prime Rate as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement. Each change in the Prime Rate shall be effective from and including the date such change is publicly announced or quoted as being effective.

“Proceeding” has the meaning assigned to such term in [Section 9.03\(b\)](#).

“Property” means, with respect to any Person, all types of real, personal or mixed property and all types of tangible or intangible property owned or leased by such Person.

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

“Qualified Acquisition” means any Acquisition if the aggregate consideration paid or to be paid by the Company or a Subsidiary in respect of such Acquisition has a value that is equal to or greater than \$500,000,000.

“Qualified Acquisition Adjusted Covenant Period” has the meaning assigned to such term in Section 6.08(a).

“Quotation Day” means, with respect to any Eurocurrency Borrowing for any Interest Period, (i) if the currency is Pounds Sterling, the first day of such Interest Period, (ii) if the currency is euro, the day that is two (2) TARGET2 Days before the first day of such Interest Period, and (iii) for any other currency, two (2) Business Days prior to the commencement of such Interest Period (unless, in each case, market practice differs in the relevant market where the LIBO Rate for such currency is to be determined, in which case the Quotation Day will be determined by the Administrative Agent in accordance with market practice in such market (and if quotations would normally be given on more than one day, then the Quotation Day will be the last of those days)).

“Reference Bank Rate” means the arithmetic mean of the rates (rounded upwards to five decimal places) supplied to the Administrative Agent at its request by the Reference Banks (as the case may be) as of the applicable time on the Quotation Day for the applicable currency and the applicable Interest Period as the rate at which the relevant Reference Bank could borrow funds in the London (or other applicable) interbank market in the relevant currency and for the relevant period, were it to do so by asking for and then accepting interbank offers in reasonable market size in that currency and for that period.

“Reference Banks” means such banks as may be appointed by the Administrative Agent in consultation with the Company, in a manner consistent with that applied by the Administrative Agent generally to substantially similar credit facilities for which it acts as administrative agent. No Lender shall be obligated to be a Reference Bank without its consent.

“Register” has the meaning assigned to such term in Section 9.04.

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

“Replacement Lender” has the meaning assigned to such term in Section 2.09(c).

“Required Lenders” means, subject to Section 2.24, at any time, Lenders having Revolving Credit Exposures and unused Commitments representing more than 50% of the sum of the Total Revolving Credit Exposure and unused Commitments at such time; provided that, for purposes of declaring the Loans to be due and payable pursuant to Article VII, and for all purposes after the Loans become due and payable pursuant to Article VII or the Commitments expire or terminate, then, as to each Lender, clause (a) of the definition of Swingline Exposure shall only be applicable for purposes of determining its Revolving Credit Exposure to the extent such Lender shall have funded its participation in the outstanding Swingline Loans to the extent required under Section 2.05(c).

“Retired Commitments” has the meaning assigned to such term in Section 2.09(c).

“Revolving Credit Exposure” means, with respect to any Lender at any time, the sum of the outstanding principal amount of such Lender’s Revolving Loans and its LC Exposure and Swingline Exposure at such time.

“Revolving Loan” means a Loan made pursuant to Section 2.03.

“S&P” means Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business.

“Sanctioned Country” means a country, region or territory which is at any relevant time subject to Sanctions (at the time of this Agreement, Crimea, Cuba, Iran, North Korea and Syria).

“Sanctions” means:

(a) economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the US government and administered by OFAC; and

(b) economic or financial sanctions imposed, administered or enforced from time to time by the US State Department, the US Department of Commerce, the US Department of the Treasury, the United Nations Security Council or other relevant sanctions authority.

“Sanctions List” means any of the lists of specifically designated nationals or designated persons or entities (or equivalent) held by the US government and administered by OFAC, the US State Department, the US Department of Commerce or the US Department of the Treasury or the United Nations Security Council or any similar list maintained by any other U.S. government entity or other relevant sanctions authority, in each case as the same may be amended, supplemented or substituted from time to time.

“SEC” means the Securities and Exchange Commission of the United States or such other Governmental Authority succeeding to the functions thereof.

“Securities Act” means the Securities Act of 1933.

“Securitized Indebtedness” means, with respect to any Person as of any date, the reasonably expected liability of such Person for the repayment of, or otherwise relating to, all accounts receivable, general intangibles, chattel paper or other financial assets and related rights and assets sold or otherwise transferred by such Person, or any subsidiary or affiliate thereof, on or prior to such date.

“Solvent” means (a) the fair value of the assets of the Company and its Subsidiaries, on a consolidated basis, at a fair valuation on a going concern basis, exceeds, on a consolidated basis, their debts and liabilities, subordinated, contingent or otherwise, (b) the present fair saleable value of the property of the Company and its Subsidiaries, on a consolidated and going concern basis, is greater than the amount that will be required to pay the probable liability, on a consolidated basis, of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured in the ordinary course of business, (c) the Company and its Subsidiaries, on a consolidated basis, are able to pay their debts and liabilities, subordinated, contingent or otherwise, as such liabilities become absolute and matured in the ordinary course of business and (d) the Company and its Subsidiaries are not engaged in businesses, and are not about to engage in businesses for which they have unreasonably small capital. For purposes of this definition, the amount of any contingent liability at any time shall be computed as the amount that, in light of all the facts and circumstances existing as of the date hereof, would reasonably be expected to become an actual and matured liability.

“SPE” means any bankruptcy-remote, special-purpose entity created in connection with the financing of settlement float with respect to customer funds or otherwise.

“Specified Acquisition” means the acquisition by the Company of First Data pursuant to the Acquisition Agreement.

“Specified Acquisition Arranger” has the meaning assigned to such term in Section 4.02(a).

“Specified Acquisition Closing Date” has the meaning assigned to such term in Section 4.02(a).

“Specified Acquisition Transactions” means (a) the consummation of the Specified Acquisition, (b) the execution and delivery of Amendment No. 1 and Amendment No. 2 and the borrowings hereunder on or in connection with the closing of the Specified Acquisition, (c) the refinancing of certain indebtedness of First Data and its subsidiaries in connection with the Specified Acquisition, (d) the issuance by the Company of senior unsecured notes or the incurrence by the Company of a senior unsecured term loan facility, or a combination of the foregoing, in connection with the Specified Acquisition, (e) to the extent the financing described in the foregoing clause (d) is not funded on the Specified Acquisition Closing Date, the incurrence by the Company of term loans under a senior unsecured bridge facility in connection with the Specified Acquisition, and (f) the payment of all fees and expenses incurred or paid in connection with the foregoing.

“Specified Representations” means the representations and warranties of the Company set forth in the following provisions of this Agreement: Section 3.01 (Existence and Power) (but solely with respect to the due organization, valid existence and good standing of the Company), the first sentence of Section 3.02 (Authority) (but solely with respect to the Company), Section 3.03 (Binding Agreements) (but solely with respect to the Company), the first sentence of Section 3.05(a) (No Conflicting Agreements or Laws) (but solely with respect to a default under this Agreement constituting an Event of Default under (1) clause (b) of Article VII hereof as a result of a failure to pay any fee that is due and payable hereunder, (2) clauses (h) or (i) of Article VII hereof or (3) clause (d)(i) of Article VII hereof as a result of a failure to observe or perform the covenant contained in Section 6.04 hereof (but solely with respect to a merger of the Company)), the first sentence of Section 3.05(b) (No Conflicting Agreements or Laws) (but solely with respect to any existing material mortgage, indenture, contract, agreement or instrument governing any Material Indebtedness (other than the Loans and Letters of Credit) (on a pro forma basis giving effect to the Specified Acquisition Transactions but without giving effect to the “Material Adverse Effect” qualification contained therein)), Section 3.07 (Investment Company Act), the first sentence of Section 3.08 (Federal Reserve Regulations), Section 3.16 (Use of Proceeds) and Section 3.19 (Solvency).

“Specified Letter of Credit” means that certain Letter of Credit issued by JPMorgan Chase Bank, N.A. under this Agreement having LC number S-788456, with a face amount of \$899,396.00 and with an expiration date of October 6, 2018.

“Statutory Reserve Rate” means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentage, liquid asset, fees or similar requirements (including any marginal, special, emergency or supplemental reserves or other requirements) established by any central bank, monetary authority, the Board, the Financial Conduct Authority, the Prudential Regulation Authority, the European Central Bank or other Governmental Authority for any category of deposits or liabilities customarily used to fund loans in the applicable currency, expressed in the case of each such requirement as a decimal. Such reserve, liquid asset, fees or similar requirements shall include those imposed pursuant to Regulation D of the Board. Eurocurrency Loans shall be deemed to be subject to such reserve, liquid asset, fee or similar

requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under any applicable law, rule or regulation, including Regulation D of the Board. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve, liquid asset or similar requirement, and the Administrative Agent shall notify the Company promptly of any such adjustment.

“Stock” means any and all shares, partnership interests, membership interests, warrants, options, rights of conversion, participations or other equivalents (however designated) of equity interests in a Person.

“subsidiary” means, with respect to any Person (the “parent”) at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent’s consolidated financial statements if such financial statements were prepared in accordance with GAAP (excluding any FIN 46 Entity, but only to the extent that the owners of such FIN 46 Entity’s Indebtedness have no recourse, directly or indirectly, to the Company or any of its Subsidiaries for the principal, premium, if any, and interest on such Indebtedness) as of such date, as well as any other corporation, limited liability company, partnership, association or other entity of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, Controlled or held.

“Subsidiary” means any subsidiary of the Company, other than Bastogne, Inc. and any other SPE.

“Subsidiary Borrower” means any Eligible Subsidiary that becomes a Subsidiary Borrower pursuant to Section 2.23 and that has not ceased to be a Subsidiary Borrower pursuant to such Section.

“Surviving Commitment” has the meaning assigned to such term in Section 2.09(c).

“Surviving Lender” has the meaning assigned to such term in Section 2.09(c).

“Swingline Exposure” means, at any time, the aggregate principal amount of all Swingline Loans outstanding at such time. The Swingline Exposure of any Lender at any time shall be the sum of (a) its Applicable Percentage of the total Swingline Exposure at such time other than with respect to any Swingline Loans made by such Lender in its capacity as a Swingline Lender and (b) the aggregate principal amount of all Swingline Loans made by such Lender as a Swingline Lender outstanding at such time (less the amount of participations funded by the other Lenders in such Swingline Loans).

“Swingline Lender” means JPMorgan Chase Bank, N.A. and each other Lender designated by the Company as a “Swingline Lender” hereunder that has agreed to such designation (and is reasonably acceptable to the Administrative Agent), each in its capacity as a lender of Swingline Loans hereunder.

“Swingline Loan” means a Loan made pursuant to Section 2.05.

“Swingline Sublimit” means, as to any Lender, (a) the amount as agreed upon between the Company and the applicable Swingline Lender, with notice to the Administrative Agent of the initial amount thereof or any subsequent increase or decrease thereof or (b) if such Lender has entered into an Assignment and Assumption, the amount set forth for such Lender as its Swingline Sublimit in the Register maintained by the Administrative Agent pursuant to Section 9.04(b)(iv) as may be increased or decreased from time to time as agreed between the Company and the applicable Swingline Lender, with notice to the Administrative Agent, in each case of the foregoing clauses (a) and (b) such amount in no event to exceed \$600,000,000.

“Syndication Agent” means (a) each of Bank of America, N.A., MUFG Bank, Ltd., U.S. Bank National Association and Wells Fargo Bank, National Association in its capacity as syndication agent for the credit facility evidenced by this Agreement and (b) each of Citibank, N.A., MUFG Bank, Ltd., PNC Bank, National Association, U.S. Bank National Association and Wells Fargo Bank, National Association in its capacity as syndication agent in connection with Amendment No. 2.

“TARGET2” means the Trans-European Automated Real-time Gross Settlement Express Transfer (TARGET2) payment system (or, if such payment system ceases to be operative, such other payment system (if any) reasonably determined by the Administrative Agent to be a suitable replacement) for the settlement of payments in euro.

“TARGET2 Day” means a day that TARGET2 is open for the settlement of payments in euro.

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

“Total Assets” means, as the date of any determination thereof, total assets of a Person calculated in accordance with GAAP on a consolidated basis as of such date.

“Total Revolving Credit Exposure” means, at any time, the sum of the outstanding principal amount of all Lenders’ Revolving Loans, their LC Exposure and their Swingline Exposure at such time; provided that clause (a) of the definition of Swingline Exposure shall only be applicable to the extent Lenders shall have funded their respective participations in the outstanding Swingline Loans.

“Trade Date” has the meaning assigned to such term in Section 9.04(e)(i) hereof.

“Transactions” means the execution, delivery and performance by the Loan Parties of this Agreement and the other Loan Documents, the borrowing of Loans, the use of the proceeds thereof and the issuance of Letters of Credit hereunder.

“Type,” when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBO Rate or the Alternate Base Rate.

“U.S. Lender” means a Lender that is not a Foreign Lender.

“U.S. Person” means a “United States person” within the meaning of Section 7701(a)(30) of the Code.

“UK Bankruptcy Event” means:

~~(a)~~ (a) a UK Relevant Entity is unable or admits inability to pay its debts (as defined in section 123(1)(a) of the Insolvency Act 1986) as they fall due or is deemed to or declared to be unable to pay its debts under applicable law, or suspends or threatens to suspend making payments on any of its debts or, by reason of actual or anticipated financial difficulties; or



~~(b)~~ any corporate action, legal proceedings or other formal procedure or formal step for (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganization (by way of voluntary arrangement, scheme of arrangement or otherwise) of any UK Relevant Entity; (ii) a composition, compromise, assignment or arrangement with any creditor of any UK Relevant Entity; or (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any UK Relevant Entity, or any of the assets of any UK Relevant Entity; save that this paragraph (b) shall not apply to any action, proceeding, procedure or formal step which is frivolous or vexatious and is discharged, stayed or dismissed within 14 days of commencement.

“UK Borrower” means any Subsidiary Borrower resident for tax purposes in England and Wales.

“UK Borrower DTTP Filing” means an HM Revenue & Customs’ Form DTTP2, duly completed and filed by the relevant UK Borrower, which:

(a) where it relates to a UK Treaty Lender that is a Lender on the day this Agreement is entered into (or any amendment hereto), contains the scheme reference number and jurisdiction of tax residence stated on such UK Treaty Lender’s signature page to this Agreement (or any amendment hereto) or as otherwise notified to the Company by that UK Treaty Lender in writing, and:

(i) where the UK Borrower is a Subsidiary Borrower on the day this Agreement (or any amendment hereto) is entered into, is filed with HM Revenue & Customs within 30 days after the date of this Agreement (or any amendment hereto); or

(ii) where the UK Borrower is not a Subsidiary Borrower on the day this Agreement is entered into, is filed with HM Revenue & Customs within 30 days after the date on which that UK Borrower becomes a Subsidiary Borrower; or

(b) where it relates to a UK Treaty Lender that is not a party to this Agreement on the date on which this Agreement (or any amendment hereto) is entered into, contains the scheme reference number and jurisdiction of tax residence stated in respect of that UK Treaty Lender in the relevant Assignment and Assumption, Increasing Lender Supplement or Augmenting Lender Supplement, as the case may be, or as otherwise notified to the Company in writing, and:

(i) where the UK Borrower is a Subsidiary Borrower as at the relevant assignment date or the date on which the increase to the Commitments and/or the Incremental Term Loans described in the relevant Increasing Lender Supplement or Augmenting Lender Supplement take effect (as applicable) is filed with HM Revenue & Customs within 30 days after that date; or

(ii) where the UK Borrower is not a Subsidiary Borrower as at the relevant assignment date or the date on which the increase to the Commitments and/or the Incremental Term Loans described in the relevant Increasing Lender Supplement or Augmenting Lender Supplement take effect (as applicable) is filed with HM Revenue & Customs within 30 days after the date on which that UK Borrower becomes a Borrower.

“UK Companies Act” means the Companies Act 2006 of the United Kingdom.

“UK CTA 2009” means the United Kingdom Corporation Tax Act 2009.

“UK ITA 2007” means the United Kingdom Income Tax Act 2007.

“UK Loan Party” means any UK Borrower.

“UK Qualifying Lender” means (a) a Lender that is beneficially entitled to interest payable to that Lender in respect of an advance under a Loan Document and is (i) a Lender (A) that is a bank (as defined for the purpose of section 879 of the UK ITA 2007) making an advance under a Loan Document and is within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance or would be within such charge as respects such payments apart from section 18A of the UK CTA 2009; or (B) in respect of an advance made under a Loan Document by a person that was a bank (as defined for the purpose of section 879 of the UK ITA 2007) at the time that that advance was made and within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance; or (ii) a Lender that is: (A) a company resident in the United Kingdom for United Kingdom tax purposes; (B) a partnership each member of which is (x) a company so resident in the United Kingdom or (y) a company not so resident in the United Kingdom that carries on a trade in the United Kingdom through a permanent establishment and that brings into account in computing its chargeable profits (within the meaning of section 19 of the UK CTA 2009) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the UK CTA 2009; or (C) a company not so resident in the United Kingdom that carries on a trade in the United Kingdom through a permanent establishment and that brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the UK CTA 2009) of that company; or (iii) a UK Treaty Lender, or (b) a Lender that is a building society (as defined for the purposes of section 880 of the UK ITA 2007) making an advance under a Loan Document.

“UK Relevant Entity” means any Borrower or Material Subsidiary that is incorporated in England and Wales, or any other Borrower or Material Subsidiary capable of becoming subject of an order for winding-up or administration under the Insolvency Act 1986.

“UK Tax Confirmation” means a confirmation by a Lender that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Loan Document is either (a) a company resident in the United Kingdom for United Kingdom tax purposes or (b) a partnership each member of which is (i) a company so resident in the United Kingdom; (ii) a company not so resident in the United Kingdom that carries on a trade in the United Kingdom through a permanent establishment and that brings into account in computing its chargeable profits (within the meaning of section 19 of the UK CTA 2009) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the UK CTA 2009; or (c) a company not so resident in the United Kingdom that carries on a trade in the United Kingdom through a permanent establishment and that brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the UK CTA 2009) of that company.

“UK Tax Deduction” means a deduction or withholding for, or on account of, Tax imposed by the United Kingdom from a payment under a Loan Document, other than a FATCA Deduction.

“UK Treaty” has the meaning assigned to such term in the definition of “UK Treaty State.”

“UK Treaty Lender” means a Lender that is (a) treated as a resident of a UK Treaty State for the purposes of the relevant UK Treaty, (b) does not carry on a business in the United Kingdom through a permanent establishment with which that Lender’s participation in the Loan is effectively connected, and (c) subject to the completion of procedural formalities, fulfills any other conditions that must be fulfilled under the relevant UK Treaty to obtain exemption from Tax imposed by the United Kingdom on payments of interest.

“UK Treaty State” means a jurisdiction having a double taxation agreement with the United Kingdom (a “UK Treaty”) that makes provision for full exemption from Tax imposed by the United Kingdom on interest.

“VAT” means (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in clause (a) above, or imposed elsewhere.

“Withdrawal Liability” means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

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

SECTION 1.02. Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (e.g., a “Revolving Loan”) or by Type (e.g., a “Eurocurrency Loan”) or by Class and Type (e.g., a “Eurocurrency Revolving Loan”). Borrowings also may be classified and referred to by Class (e.g., a “Revolving Borrowing”) or by Type (e.g., a “Eurocurrency Borrowing”) or by Class and Type (e.g., a “Eurocurrency Revolving Borrowing”).

SECTION 1.03. Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” The word “law” shall be construed as referring to all statutes, rules, regulations, codes and other laws (including official rulings and interpretations thereunder having the force of law or with which affected Persons customarily comply), and all judgments, orders and decrees, of all Governmental Authorities. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, supplemented or otherwise modified (subject to any restrictions on such amendments, restatements, supplements or modifications set forth herein), (b) any definition of or reference to any statute, rule or regulation shall be construed as referring thereto as from time to time amended, supplemented or otherwise modified (including by succession of comparable successor laws), (c) any reference herein to any Person shall be construed to include such Person’s successors and assigns (subject to any restrictions on assignment set forth herein) and, in the case of any Governmental Authority, any other Governmental Authority that shall have succeeded to any or all functions thereof, (d) the words “herein,” “hereof” and “hereunder,” and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (e) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement and (f) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

SECTION 1.04. Accounting Terms; GAAP. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that, if the Company notifies the Administrative Agent that the Company requests an amendment to any provision hereof to eliminate the effect of any change occurring after the

date hereof in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Company that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied without giving effect to such change until such notice shall have been withdrawn or such provision amended in accordance herewith. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein (including the computations and ratios referred to in Section 6.08) shall be made (i) without giving effect to any election under Accounting Standards Codification 825-10-25 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Company or any Subsidiary at "fair value," as defined therein, (ii) without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof and (iii) without giving effect to any change to, or modification of, or the phase-in of the effectiveness of any amendments to, GAAP which would require the capitalization of leases characterized as "operating leases" as of the Effective Date (it being understood and agreed, for the avoidance of doubt, that financial statements delivered pursuant to Sections 5.07(a) and 5.07(c) shall be prepared without giving effect to this sentence).

SECTION 1.05. Interest Rates. The Administrative Agent does not warrant or accept responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to the rates in the definition of "LIBO Rate" or with respect to any comparable or successor rate thereto, or replacement rate therefor (other than, for the avoidance of doubt, with respect to its obligation to apply the definition of such rate in accordance with its terms).

SECTION 1.06. Certain Calculations. No Default or Event of Default shall arise as a result of any limitation or threshold set forth in Dollars in Articles VI and VII under this Agreement being exceeded solely as a result of changes in currency exchange rates from those rates applicable on the last day of the fiscal quarter of the Company immediately preceding the fiscal quarter of the Company in which the applicable transaction or occurrence requiring a determination occurs.

SECTION 1.07. Amendment and Restatement of the Existing Credit Agreement. The parties to this Agreement agree that, upon (i) the execution and delivery by each of the parties hereto of this Agreement and (ii) satisfaction of the conditions set forth in Section 4.01, the terms and provisions of the Existing Credit Agreement shall be and hereby are amended, superseded and restated in their entirety by the terms and provisions of this Agreement. This Agreement is not intended to and shall not constitute a novation. All "Loans" (the "Existing Loans") made and "Obligations" incurred under the Existing Credit Agreement which are outstanding on the Effective Date shall continue as Loans and Obligations under (and shall be governed by the terms of) this Agreement and the other Loan Documents. Without limiting the foregoing, upon the effectiveness hereof: (a) all references in the "Loan Documents" (as defined in the Existing Credit Agreement) to the "Administrative Agent," the "Credit Agreement" and the "Loan Documents" shall be deemed to refer to the Administrative Agent, this Agreement and the Loan Documents, (b) the Existing Letters of Credit which remain outstanding on the Effective Date shall continue as Letters of Credit under (and shall be governed by the terms of) this Agreement, (c) the Administrative Agent shall make such reallocations, sales, assignments or other relevant actions in respect of each Lender's credit exposure under the Existing Credit Agreement as are necessary in order that each such Lender's Revolving Credit Exposure and outstanding Revolving Loans hereunder reflects such Lender's Applicable Percentage of the outstanding aggregate Revolving Credit Exposures on the Effective Date (without the necessity of executing and delivering any Assignment and Assumption or the payment of any processing or recordation

fee), (d) the Existing Loans of each Departing Lender shall be repaid in full (accompanied by any accrued and unpaid interest and fees thereon), each Departing Lender's "Commitment" under the Existing Credit Agreement shall be terminated and the Departing Lenders shall not be a Lender hereunder (provided, however, that the Departing Lenders shall continue to be entitled to the benefits of Sections 2.15, 2.16, 2.17 and 9.03) and (e) the Company hereby agrees to compensate each Lender (and the Departing Lenders) for any and all losses, costs and expenses incurred by such Lender in connection with the sale and assignment of any Eurocurrency Loans (including the "Eurocurrency Loans" under the Existing Credit Agreement) and such reallocation (and any repayment or prepayment of each Departing Lender's Loan) described above, in each case on the terms and in the manner set forth in Section 2.16 hereof.

SECTION 1.08. Luxembourg Terms. Notwithstanding any other provision of this Agreement to the contrary, in this Agreement where it relates to a Luxembourg Borrower, a reference to: (a) a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors, compulsory manager or other similar officer includes a *juge délégué, commissaire, juge-commissaire, mandataire ad hoc, administrateur provisoire, liquidateur* or *curateur*; (b) liquidation, bankruptcy, insolvency, reorganization, moratorium or any similar proceeding shall include (i) insolvency/bankruptcy (*faillite*) within the meaning of Articles 437 ff. of the Luxembourg Commercial Code, (ii) controlled management (*gestion contrôlée*) within the meaning of the grand ducal regulation of 24 May 1935 on controlled management, (iii) voluntary arrangement with creditors (*concordat préventif de la faillite*) within the meaning of the law of 14 April 1886 on arrangements to prevent insolvency, as amended, (iv) suspension of payments (*sursis de paiement*) within the meaning of Articles 593 ff. of the Luxembourg Commercial Code or (v) voluntary or compulsory winding-up pursuant to the law of 10 August 1915 on commercial companies, as amended; (c) a lien or security interest includes any *hypothèque, nantissement, gage, privilège, sûreté réelle, droit de rétention*, and any type of security in rem (*sûreté réelle*) or agreement or arrangement having a similar effect and any transfer of title by way of security; (d) a person being unable to pay its debts includes that person being in a state of cessation of payments (*cessation de paiements*) or having lost or meeting the criteria to lose its commercial creditworthiness (*ébranlement de crédit*); (e) attachments or similar creditors process means an executory attachment (*saisie exécutoire*) or conservatory attachment (*saisie arrêt*); and (f) a "set-off" includes, for purposes of Luxembourg law, legal set-off.

## ARTICLE II

### The Credits

SECTION 2.01. Commitments. Subject to the terms and conditions set forth herein, each Lender (severally and not jointly) agrees to make Revolving Loans to the Borrowers in Agreed Loan Currencies from time to time during the Availability Period in an aggregate principal amount that will not, subject to fluctuations in currency exchange rates and Section 2.11.2 and subject to any application of proceeds of such Borrowing to any Swingline Loans outstanding pursuant to Section 2.10(a), result in (a) subject to Section 2.04, the Dollar Amount of such Lender's Revolving Credit Exposure exceeding such Lender's Commitment or (b) subject to Section 2.04, the Dollar Amount of the Total Revolving Credit Exposure exceeding the Aggregate Commitment. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrowers may borrow, prepay and reborrow Revolving Loans.

### SECTION 2.02. Loans and Borrowings.

(a) Each Revolving Loan (other than a Swingline Loan) shall be made as part of a Borrowing consisting of Revolving Loans made by the Lenders ratably in accordance with their respective Commitments. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required. Any Swingline Loan shall be made in accordance with the procedures set forth in Section 2.05.

(b) Subject to Section 2.14, each Revolving Borrowing shall be comprised entirely of ABR Loans or Eurocurrency Loans as the relevant Borrower may request in accordance herewith; provided that each ABR Loan shall only be made in Dollars and no ABR Loan shall be made to a Designated Borrower. Each Lender at its option may make any Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan (and in the case of an Affiliate, the provisions of Sections 2.14, 2.15, 2.16 and 2.17 shall apply to such Affiliate to the same extent as to such Lender); provided that any exercise of such option shall not affect the obligation of any Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Eurocurrency Revolving Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of \$1,000,000 (or, if such Borrowing is denominated in a Foreign Currency, 1,000,000 units of such currency) and not less than \$5,000,000 (or, if such Borrowing is denominated in a Foreign Currency, 5,000,000 units of such currency). At the time that each ABR Revolving Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of \$100,000 and not less than \$1,000,000; provided that an ABR Revolving Borrowing may be in an aggregate amount that is equal to the entire unused balance of the Aggregate Commitment or that is required to finance the reimbursement of an LC Disbursement as contemplated by Section 2.06(e). Each Swingline Loan shall be in an amount that is an integral multiple of \$25,000 and not less than \$100,000. Borrowings of more than one Type and Class may be outstanding at the same time.

(d) Notwithstanding any other provision of this Agreement, no Borrower shall be entitled to request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date.

(e) Notwithstanding any provision of this Agreement to the contrary, any Credit Event to any Dutch Borrower shall at all times be provided by a Lender that is a Dutch Non-Public Lender.

SECTION 2.03. Requests for Revolving Borrowings. To request a Revolving Borrowing, the applicable Borrower, or the Company on behalf of the applicable Borrower, shall notify the Administrative Agent of such request (a) by irrevocable written notice (via a written Borrowing Request signed by the applicable Borrower, or the Company on behalf of the applicable Borrower) in the case of a Eurocurrency Borrowing, not later than 12:00 noon, Local Time, three (3) Business Days (in the case of a Eurocurrency Borrowing denominated in Dollars) or by irrevocable written notice (via a written Borrowing Request signed by such Borrower, or the Company on its behalf) not later than three (3) Business Days (in the case of a Eurocurrency Borrowing denominated in a Foreign Currency), in each case before the date of the proposed Borrowing or (b) by irrevocable written notice (via a written Borrowing Request signed by the applicable Borrower, or the Company on behalf of the applicable Borrower) or by telephone in the case of an ABR Borrowing, not later than 12:00 noon, Chicago time, on the Business Day of the proposed Borrowing. Each such telephonic Borrowing Request shall be irrevocable and shall be confirmed promptly by hand delivery, email or by telecopy to the Administrative Agent of a written Borrowing Request signed by the applicable Borrower, or the Company on behalf of the applicable Borrower. Each such telephonic and written Borrowing Request shall specify the following information in compliance with Section 2.02:

- (i) the name of the applicable Borrower;
- (ii) the aggregate principal amount of the requested Borrowing;

(iii) the date of such Borrowing, which shall be a Business Day;

(iv) whether such Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing;

(v) in the case of a Eurocurrency Borrowing, the Agreed Currency and initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and

(vi) the location and number of the account or accounts to which funds are to be disbursed, which shall comply with the requirements of Section 2.07.

If no election as to the Type of Revolving Borrowing is specified, then, in the case of a Borrowing denominated in Dollars (other than a Designated Loan), the requested Revolving Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurocurrency Revolving Borrowing, then the relevant Borrower shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

SECTION 2.04. Determination of Dollar Amounts. The Administrative Agent will determine the Dollar Amount of:

(a) each Eurocurrency Borrowing as of the date two (2) Business Days prior to the date of such Borrowing or, if applicable, the date of conversion/continuation of any Borrowing as a Eurocurrency Borrowing,

(b) the LC Exposure as of the date of each request for the issuance, amendment to increase, renewal or extension of any Letter of Credit, and

(c) all outstanding Credit Events on and as of the last Business Day of each calendar quarter and, during the continuation of an Event of Default, on any other Business Day elected by the Administrative Agent in its discretion or upon instruction by the Required Lenders.

Each day upon or as of which the Administrative Agent determines Dollar Amounts as described in the preceding clauses (a), (b) and (c) is herein described as a "Computation Date" with respect to each Credit Event for which a Dollar Amount is determined on or as of such day, and the Administrative Agent shall notify the Company of all such determinations and related computations on such Computation Date.

SECTION 2.05. Swingline Loans. (a) Subject to the terms and conditions set forth herein, each Swingline Lender may in its sole discretion make Swingline Loans in Dollars to the Company from time to time during the Availability Period, in an aggregate principal amount at any time outstanding that will not result in (i) the aggregate principal amount of outstanding Swingline Loans exceeding \$600,000,000, (ii) the amount of the aggregate principal amount of outstanding Swingline Loans made by such Swingline Lender exceeding such Swingline Lender's Swingline Sublimit, except to the extent otherwise agreed by such Swingline Lender and the Company with notice to the Administrative Agent, (iii) any Swingline Lender's Revolving Credit Exposure exceeding its Commitment and (iv) the Dollar Amount of the Total Revolving Credit Exposure exceeding the Aggregate Commitment; provided that a Swingline Lender shall not be required to make a Swingline Loan to refinance an outstanding Swingline Loan. Within the foregoing limits and subject to the terms and conditions set forth herein, the Company may borrow, prepay and reborrow Swingline Loans.

(b) To request a Swingline Loan, the Company shall notify the Administrative Agent of such request by irrevocable written notice (via a written Borrowing Request signed by the Company) or by telephone (confirmed by telecopy, email or hand delivery of a written Borrowing Request), not later than 12:00 noon, Chicago time, on the day of a proposed Swingline Loan. Each such notice shall be irrevocable and shall specify the requested date (which shall be a Business Day) and amount of the requested Swingline Loan and the Swingline Lender to make such Swingline Loan. The Administrative Agent will promptly advise such Swingline Lender of any such notice received from the Company. Unless otherwise directed by the Company, each Swingline Lender shall (subject to such Swingline Lender's discretion to make Swingline Loans as set forth in Section 2.05(a)) make each Swingline Loan to be made by it available to the Company by means of a credit to the general deposit account of the Company with the Swingline Lender (or, in the case of a Swingline Loan made to finance the reimbursement of an LC Disbursement as provided in Section 2.06(e), by remittance to the relevant Issuing Bank) by 3:00 p.m., Chicago time, on the requested date of such Swingline Loan.

(c) Any Swingline Lender may by written notice given to the Administrative Agent require the Lenders to acquire participations in all or a portion of its Swingline Loans outstanding. Such notice shall specify the aggregate amount of Swingline Loans in which Lenders will participate. Promptly upon receipt of such notice, the Administrative Agent will give notice thereof to each Lender, specifying in such notice such Lender's Applicable Percentage of such Swingline Loan or Loans. Each Lender hereby absolutely and unconditionally agrees, promptly upon receipt of such notice from the Administrative Agent (and in any event, if such notice is received by 12:00 noon, Chicago time, on a Business Day, no later than 4:00 p.m., Chicago time, on such Business Day and if received after 12:00 noon, Chicago time, on a Business Day, no later than 9:00 a.m., Chicago time, on the immediately succeeding Business Day), to pay to the Administrative Agent, for the account of the Swingline Lender, such Lender's Applicable Percentage of such Swingline Loan or Loans. Notwithstanding the foregoing, upon the occurrence of (i) the Maturity Date, (ii) any Event of Default described in clause (h) or (i) of Article VII, (iii) the date on which the Loans are accelerated, or (iv) the termination of the Commitments, each Lender shall be deemed to absolutely and unconditionally acquire participations in all of the Swingline Loans outstanding at such time in an amount equal to its Applicable Percentage of such Swingline Loans in each case without notice or any further action from any Swingline Lender, any Lender or the Administrative Agent (such occurrence an "Automatic Participation Event"). Upon the occurrence of an Automatic Participation Event, the Administrative Agent will give notice thereof to each Lender, specifying in such notice such Lender's Applicable Percentage of such Swingline Loan or Loans. Each Lender hereby absolutely and unconditionally agrees, promptly upon receipt of such notice from the Administrative Agent (and in any event, if such notice is received by 12:00 noon, Chicago time, on a Business Day, no later than 4:00 p.m., Chicago time, on such Business Day and if received after 12:00 noon, Chicago time, on a Business Day, no later than 9:00 a.m., Chicago time, on the immediately succeeding Business Day), to pay to the Administrative Agent, for the account of such Swingline Lender, such Lender's Applicable Percentage of such Swingline Loan or Loans. Each Lender acknowledges and agrees that its obligation to acquire participations in Swingline Loans pursuant to this paragraph is absolute and unconditional and shall not be affected by any circumstance whatsoever, including the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Lender shall comply with its obligation under this paragraph by wire transfer of immediately available funds, in the same manner as provided in Section 2.07 with respect to Loans made by such Lender (and Section 2.07 shall apply, mutatis mutandis, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to such Swingline Lender the amounts so received by it from the Lenders. The Administrative Agent shall notify the Company promptly of any participations in any Swingline Loan acquired pursuant to this paragraph, and thereafter payments in respect of such Swingline Loan shall be made to the Administrative Agent and not to such Swingline Lender. Any amounts received by a Swingline Lender from the Company (or other party on behalf of the Company) in respect of



a Swingline Loan after receipt by such Swingline Lender of the proceeds of a sale of participations therein shall be promptly remitted to the Administrative Agent; any such amounts received by the Administrative Agent shall be promptly remitted by the Administrative Agent to the Lenders that shall have made their payments pursuant to this paragraph and to such Swingline Lender, as their interests may appear; provided that any such payment so remitted shall be repaid to such Swingline Lender or to the Administrative Agent, as applicable, if and to the extent such payment is required to be refunded to the Company for any reason. The purchase of participations in a Swingline Loan pursuant to this paragraph shall not relieve the Company of any default in the payment thereof.

(d) Any Swingline Lender may be replaced at any time by written agreement among the Company, the Administrative Agent, the replaced Swingline Lender and the successor Swingline Lender. The Administrative Agent shall notify the Lenders of any such replacement of the relevant Swingline Lender. At the time any such replacement shall become effective, the Company shall pay all unpaid interest accrued for the account of the replaced Swingline Lender pursuant to Section 2.13(a). From and after the effective date of any such replacement, (i) the successor Swingline Lender shall have all the rights and obligations of the replaced Swingline Lender under this Agreement with respect to Swingline Loans made thereafter and (ii) references herein to the term "Swingline Lender" shall be deemed to refer to such successor or to any previous Swingline Lender, or to such successor and all previous Swingline Lenders, as the context shall require. After the replacement of a Swingline Lender hereunder, the replaced Swingline Lender shall remain a party hereto and shall continue to have all the rights and obligations of a Swingline Lender under this Agreement with respect to Swingline Loans made by it prior to its replacement, but shall not be required to make additional Swingline Loans.

(e) Subject to the appointment and acceptance of a successor Swingline Lender, any Swingline Lender may resign as a Swingline Lender at any time upon thirty (30) days' prior written notice to the Administrative Agent, the Company and the Lenders, in which case, such Swingline Lender shall be replaced in accordance with Section 2.05(d) above.

#### SECTION 2.06. Letters of Credit.

(a) General. Subject to the terms and conditions set forth herein, the Company may request the issuance of Letters of Credit (or the amendment, renewal or extension of any outstanding Letter of Credit) denominated in Agreed LC Currencies for its own account, as the applicant thereof for the support of its or its Subsidiaries' obligations, in a form reasonably acceptable to the Administrative Agent, the Company and the Issuing Bank issuing such Letter of Credit, at any time and from time to time during the Availability Period. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Company to, or entered into by the Company with, an Issuing Bank relating to any Letter of Credit, the terms and conditions of this Agreement shall control; provided, however, that if any Issuing Bank is requested to issue Letters of Credit with respect to a jurisdiction such Issuing Bank deems, in its reasonable judgment applied generally to substantially similar credit facilities for which it acts as an issuing bank, may at any time subject it to a New Money Credit Event or a Country Risk Event, the Issuing Bank shall promptly notify the Company of such determination prior to the issuance of any Letter of Credit, and the Company shall either withdraw its request to issue such Letter of Credit or, at the request of such Issuing Bank, guaranty and indemnify such Issuing Bank against any and all costs, liabilities and losses resulting from such New Money Credit Event or Country Risk Event, in each case in a form and substance reasonably satisfactory to such Issuing Bank. Notwithstanding anything herein to the contrary, no Issuing Bank shall have any obligation hereunder to issue, and shall not issue, any Letter of Credit the proceeds of which would be made available to any Person (i) to fund any activity or business of or with any Designated Person, or in any country or territory that, at the time of such funding, is the subject of any Sanctions, in each case to the extent prohibited for a Person required to comply with Sanctions, (ii) in any manner that would result in a

violation of any Sanctions by any party to this Agreement or (iii) in any manner that would result in a violation of one or more policies of such Issuing Bank applicable to letters of credit generally. The Company unconditionally and irrevocably agrees that, in connection with any Letter of Credit issued for the support of any Subsidiary's obligations as provided in the first sentence of this paragraph, the Company will be fully responsible for the reimbursement of LC Disbursements in accordance with the terms hereof, the payment of interest thereon and the payment of fees due under Section 2.12(b) to the same extent as if it were the sole account party in respect of such Letter of Credit (the Company hereby irrevocably waiving any defenses that might otherwise be available to it as a guarantor or surety of the obligations of such a Subsidiary that is an account party in respect of any such Letter of Credit). The letters of credit issued under the Existing Credit Agreement and identified on Schedule 2.06 shall be deemed to be "Letters of Credit" issued on the Effective Date for all purposes of the Loan Documents.

(b) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of a Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Company shall hand deliver, email or telecopy (or transmit by electronic communication, if arrangements for doing so have been approved by such Issuing Bank) to the applicable Issuing Bank (selected by the Company in its sole discretion) and the Administrative Agent (reasonably in advance of the requested date of issuance, amendment, renewal or extension, but in any event no less than three (3) Business Days in advance thereof unless a shorter period is acceptable to the applicable Issuing Bank in its sole discretion) a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, and specifying the date of issuance, amendment, renewal or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), the amount of such Letter of Credit, the Agreed LC Currency applicable thereto, the name and address of the beneficiary thereof and such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. If requested by any Issuing Bank, the Company also shall submit a letter of credit application in a form agreed to by the Company in connection with any request for a Letter of Credit. A Letter of Credit shall be issued, amended to increase the amount, renewed or extended only if (and upon issuance, amendment to increase the amount, renewal or extension of each Letter of Credit the Company shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension, but allowing for fluctuations in currency exchange rates and subject to Section 2.11.2, (i) subject to Section 2.04, the Dollar Amount of the LC Exposure shall not exceed \$250,000,000, (ii) subject to Section 2.04, the Dollar Amount of the aggregate face amount of all Letters of Credit issued and then outstanding by any Issuing Bank shall not exceed such Issuing Bank's Applicable LC Sublimit and (iii) subject to Section 2.04, the sum of the Dollar Amount of the Total Revolving Credit Exposure shall not exceed the Aggregate Commitment and (iv) subject to Section 2.04, the Dollar Amount each Lender's Revolving Credit Exposure shall not exceed such Lender's Revolving Commitment.

(c) Expiration Date. Each Letter of Credit shall expire (or, if set forth in such Letter of Credit, be subject to termination by notice from the Issuing Bank to the beneficiary thereof) at or prior to the close of business on the earlier of (i) the date two years after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, two years after such renewal or extension), unless the Required Lenders and the applicable Issuing Bank, in their discretion, have approved a later expiry date in writing and (ii) the date that is five (5) Business Days prior to the Maturity Date; provided that, upon the Company's request and subject to the approval, in its reasonable discretion, by the applicable Issuing Bank that has issued such Letter of Credit, any such Letter of Credit may have a later expiry date (but in any event not later than one (1) year after the Maturity Date) if cash collateralized or covered by standby letter(s) of credit in compliance with Section 2.06(j) below.

(d) Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) and without any further action on the part of any Issuing Bank or the Lenders, each Issuing Bank hereby grants to each Lender, and each Lender hereby acquires from such

Issuing Bank, a participation in such Letter of Credit equal to such Lender's Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit. In consideration and in furtherance of the foregoing, each Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of the relevant Issuing Bank, such Lender's Applicable Percentage of each LC Disbursement made by such Issuing Bank and not reimbursed by the Company on the date due as provided in paragraph (e) of this Section, or of any reimbursement payment required to be refunded to the Company for any reason. Each Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

(e) Reimbursement. If any Issuing Bank shall make any LC Disbursement in respect of a Letter of Credit, the Company shall reimburse such LC Disbursement by paying to the Administrative Agent in Dollars the Dollar Amount equal to such LC Disbursement, calculated as of the date such Issuing Bank made such LC Disbursement (or if such Issuing Bank shall so elect in its sole discretion by notice to the Company, in such other Agreed LC Currency which was paid by such Issuing Bank pursuant to such LC Disbursement in an amount equal to such LC Disbursement) not later than 12:00 noon, Local Time, on the date that such LC Disbursement is made, if the Company shall have received notice of such LC Disbursement prior to 10:00 a.m., Local Time, on such date, or, if such notice has not been received by the Company prior to such time on such date, then not later than 12:00 noon, Local Time, on (i) the Business Day that the Company receives such notice, if such notice is received prior to 10:00 a.m., Local Time, on the day of receipt, or (ii) the Business Day immediately following the day that the Company receives such notice, if such notice is not received prior to such time on the day of receipt; provided that, subject to the conditions to borrowing set forth herein, (i) to the extent such LC Disbursement was made in Dollars, such payment shall, automatically and without notice, be financed with (x) if the LC Disbursement is equal to or greater than \$1,000,000, an ABR Revolving Borrowing in Dollars or, at the Company's election, a Swingline Loan, or (y) if the LC Disbursement is equal to or greater than \$100,000 but less than \$1,000,000, a Swingline Loan, in each case in an amount equal to such LC Disbursement or (ii) to the extent such LC Disbursement was made in a Foreign Currency, the Company may request in accordance with Section 2.03 that such payment be financed with (i) an ABR Revolving Borrowing or Eurocurrency Revolving Borrowing in Dollars in the Dollar Amount of such LC Disbursement or (ii) to the extent that such LC Disbursement was made in a Foreign Currency, a Eurocurrency Revolving Borrowing in such Foreign Currency (in the event such Foreign Currency is an Agreed Loan Currency) in an amount equal to such LC Disbursement, and, in each case, to the extent so financed, the Company's obligation to make such payment shall be discharged and replaced by the resulting ABR Revolving Borrowing, Swingline Loan or Eurocurrency Revolving Borrowing, as applicable. If the Company fails to make such payment when due, the Administrative Agent shall notify each Lender of the applicable LC Disbursement, the payment then due from the Company in respect thereof and such Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Lender shall pay to the Administrative Agent its Applicable Percentage of the payment then due from the Company, in the same manner as provided in Section 2.07 with respect to Loans made by such Lender (and Section 2.07 shall apply, mutatis mutandis, to the payment obligations of the Lenders; provided that, with respect to any such payment in respect of a Letter of Credit denominated in an Agreed LC Currency that is not an Agreed Loan Currency, any Lender may make such payment in Dollars in the Dollar Amount of such LC Disbursement), and the Administrative Agent shall promptly pay to such Issuing Bank the amounts so received by it from the Lenders. Promptly following receipt by the Administrative Agent of any payment from the Company pursuant to this paragraph, the Administrative Agent shall distribute such payment to such Issuing Bank or, to the extent that Lenders have made payments pursuant to this paragraph to reimburse such Issuing Bank, then to such Lenders and such Issuing Bank as their interests may appear. Any payment made by a Lender pursuant to this paragraph to

reimburse any Issuing Bank for any LC Disbursement (other than the funding of ABR Revolving Loans, Eurocurrency Revolving Loans or a Swingline Loan as contemplated above) shall not constitute a Loan and shall not relieve the Company of its obligation to reimburse such LC Disbursement. If the Company's reimbursement of, or obligation to reimburse, any amounts in any Foreign Currency would subject the Administrative Agent, any Issuing Bank or any Lender to any stamp duty, ad valorem charge or similar tax that would not be payable if such reimbursement were made or required to be made in Dollars, the Administrative Agent shall promptly notify the Company prior to payment by the Company, and the Company shall, at its option, either (x) pay the amount of any such tax requested by the Administrative Agent, the relevant Issuing Bank or the relevant Lender or (y) reimburse each LC Disbursement made in such Foreign Currency in Dollars, in an amount equal to the Dollar Amount thereof calculated on the date such LC Disbursement is made.

(f) Obligations Absolute. The Company's obligation to reimburse LC Disbursements as provided in paragraph (e) of this Section shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision therein, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) any payment by any Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit, or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Company's obligations hereunder. Neither the Administrative Agent, the Lenders nor the Issuing Banks, nor any of their Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of an Issuing Bank; provided that the foregoing shall not be construed to excuse any Issuing Bank from liability to the Company to the extent of any direct damages (as opposed to special, indirect, consequential or punitive damages, claims in respect of which are hereby waived by the Company to the extent permitted by applicable law) suffered by the Company that are caused by such Issuing Bank's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of an Issuing Bank (as finally determined by a court of competent jurisdiction), such Issuing Bank shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, the relevant Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(g) Disbursement Procedures. Each Issuing Bank shall, within the time period stipulated by the terms and conditions of the applicable Letter of Credit following its receipt thereof (and, if no time period is so stipulated, promptly), examine all documents purporting to represent a demand for payment under a Letter of Credit. After such examination, such Issuing Bank shall promptly notify the Administrative Agent and the Company by telephone (confirmed by telecopy or e-mail in accordance with Section 9.01) of such demand for payment and whether such Issuing Bank has made or will make an LC

Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the Company of its obligation to reimburse such Issuing Bank and the Lenders with respect to any such LC Disbursement in accordance with Section 2.06(e).

(h) Interim Interest. If any Issuing Bank shall make any LC Disbursement, then, unless the Company shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the Company reimburses such LC Disbursement, at the rate per annum then applicable to ABR Revolving Loans (or in the case such LC Disbursement is denominated in a Foreign Currency, at the Overnight Foreign Currency Rate for such Agreed Currency plus the then effective Applicable Rate with respect to Eurocurrency Revolving Loans); provided that, if the Company fails to reimburse such LC Disbursement when due pursuant to paragraph (e) of this Section, then Section 2.13(b) shall apply. Interest accrued pursuant to this paragraph shall be for the account of the relevant Issuing Bank, except that interest accrued on and after the date of payment by any Lender pursuant to paragraph (e) of this Section to reimburse any Issuing Bank shall be for the account of such Lender to the extent of such payment.

(i) Replacement of Issuing Bank.

(i) Each Issuing Bank may be replaced at any time by written agreement among the Company, the Administrative Agent, the replaced Issuing Bank and the successor Issuing Bank. The Administrative Agent shall notify the Lenders of any such replacement of an Issuing Bank. At the time any such replacement shall become effective, the Company shall pay all unpaid fees accrued for the account of the replaced Issuing Bank pursuant to Section 2.12(b). From and after the effective date of any such replacement, (i) the successor Issuing Bank shall have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term "Issuing Bank" shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the replacement of an Issuing Bank hereunder, the replaced Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit then outstanding and issued by it prior to such replacement, but shall not be required to issue additional Letters of Credit.

(ii) Subject to the appointment and acceptance of a successor Issuing Bank, any Issuing Bank may resign as an Issuing Bank at any time upon thirty days' prior written notice to the Administrative Agent, the Company and the Lenders, in which case, such Issuing Bank shall be replaced in accordance with Section 2.06(i)(i) above.

(j) Cover. If (x) any Event of Default shall occur and be continuing, on the Business Day that the Company receives notice from the Administrative Agent or the Required Lenders (or, if the maturity of the Loans has been accelerated, Lenders with LC Exposure representing greater than 50% of the total LC Exposure) demanding the deposit of cash collateral pursuant to this paragraph or (y) the Company requests the issuance of a Letter of Credit with an expiry date that is later than the expiry date prescribed in clause (c) of this Section 2.06 (an "Extended Letter of Credit"), the Company shall either (A) cover by arranging for the issuance of one or more standby letters of credit issued by an issuer, and otherwise on terms and conditions, satisfactory to the Administrative Agent and the relevant Issuing Bank or (B) deposit cash in an account with the Administrative Agent, in each case in the name of the Administrative Agent and for the benefit of the Administrative Agent, the Issuing Banks and the Lenders, and in an amount equal to (1) with respect to a Letter of Credit denominated in Dollars, 100% and (2) with respect to a Foreign Currency Letter of Credit, 105%, in each case of the Dollar Amount of the LC Exposure in respect of such Extended Letter of Credit (in the case of the foregoing clause (y)) or in the aggregate (in the case of the

foregoing clause (x)) as of such date plus any accrued and unpaid interest thereon; provided that (i) the portions of such amount attributable to undrawn Foreign Currency Letters of Credit or LC Disbursements in a Foreign Currency that the Company is not late in reimbursing shall be covered or deposited in the applicable Foreign Currencies in an amount equal to 105% of the actual amounts of such undrawn Letters of Credit and LC Disbursements and (ii) the obligation to provide such letter(s) of credit cover or deposit such cash collateral shall become effective immediately, and such cover or deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Company described in clause (h) or (i) of Article VII. For the purposes of this paragraph, the Foreign Currency LC Exposure shall be calculated using the Dollar Amount thereof on the date notice demanding letter of credit cover or cash collateralization is delivered to the Company. The Company also shall deposit cash collateral pursuant to this paragraph as and to the extent required by Section 2.11.2. Any such deposits shall be held by the Administrative Agent as collateral for the payment and performance of the Obligations. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Such deposits shall bear interest, and such deposits shall be invested by the Administrative Agent in direct short term obligations of, or in other short term obligations which are unconditionally guaranteed with respect to all principal thereof and interest thereon by, the United States of America, in each case maturing no later than the expiry date of the Letter of Credit giving rise to LC Exposure. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse each Issuing Bank for LC Disbursements for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Company for the LC Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of Lenders with LC Exposure representing greater than 50% of the total LC Exposure), be applied to satisfy other Obligations; provided that at any time that the money remaining in such account exceeds the LC Exposure by \$100,000 or more, the Administrative Agent will, promptly after request therefor by the Company at any time that no Default shall exist, deliver such excess to the Company. If the Company is required to provide an amount of cash collateral or letter of credit cover hereunder as a result of the occurrence of an Event of Default, such amount or letter of credit (to the extent not applied as aforesaid) shall be returned to the Company or the issuer of such letter of credit (as applicable) within three (3) Business Days after all Events of Default have been cured or waived.

(k) Conversion. In the event that the Loans become immediately due and payable on any date pursuant to Article VII, all amounts (i) that the Company is at the time or thereafter becomes required to reimburse or otherwise pay to the Administrative Agent in respect of LC Disbursements made under any Foreign Currency Letter of Credit (other than amounts in respect of which the Company has provided letter of credit cover, or deposited cash collateral, pursuant to paragraph (j) above, if such letter of credit was issued, or cash collateral was deposited, in the applicable Foreign Currency to the extent so deposited or applied), (ii) that the Lenders are at the time or thereafter become required to pay to the Administrative Agent and the Administrative Agent is at the time or thereafter becomes required to distribute to any Issuing Bank pursuant to paragraph (e) of this Section in respect of unreimbursed LC Disbursements made under any Foreign Currency Letter of Credit and (iii) of each Lender's participation in any Foreign Currency Letter of Credit under which an LC Disbursement has been made shall, automatically and with no further action required, be converted into the Dollar Amount thereof, calculated on such date (or in the case of any LC Disbursement made after such date, on the date such LC Disbursement is made), of such amounts. On and after such conversion, all amounts accruing and owed to the Administrative Agent, any Issuing Bank or any Lender in respect of the obligations described in this paragraph shall accrue and be payable in Dollars at the rates otherwise applicable hereunder.

(l) Issuing Bank Agreements. Each Issuing Bank agrees that, unless otherwise requested by the Administrative Agent, such Issuing Bank shall report in writing to the Administrative Agent (i) on

the first Business Day of each week, the daily activity (set forth by day) in respect of Letters of Credit during the immediately preceding week, including all issuances, extensions, amendments and renewals, all expirations and cancellations and all disbursements and reimbursements, (ii) on or prior to each Business Day on which such Issuing Bank expects to issue, amend, renew or extend any Letter of Credit, the date of such issuance, amendment, renewal or extension, and the aggregate face amount of the Letters of Credit to be issued, amended, renewed or extended by it and outstanding after giving effect to such issuance, amendment, renewal or extension occurred (and whether the amount thereof changed), (iii) on each Business Day on which such Issuing Bank makes any LC Disbursement, the date of such LC Disbursement and the amount of such LC Disbursement, (iv) on any Business Day on which any Borrower fails to reimburse an LC Disbursement required to be reimbursed to such Issuing Bank on such day, the date of such failure and the amount and currency of such LC Disbursement and (v) on any other Business Day, such other information as the Administrative Agent shall reasonably request.

#### SECTION 2.07. Funding of Borrowings.

(a) Each Lender shall make each Loan to be made by it hereunder on the proposed date specified in accordance with the terms hereof in the Borrowing Request solely by wire transfer of immediately available funds (i) in the case of Loans denominated in Dollars (other than a Designated Loan), by 1:00 p.m., Chicago time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders and (ii) in the case of each Loan denominated in a Foreign Currency and Designated Loans, by 1:00 p.m., Local Time, in the city of the Administrative Agent's Eurocurrency Payment Office for such currency and at such Eurocurrency Payment Office for such currency; provided that Swingline Loans shall be made as provided in Section 2.05. Except in respect of the provisions of this Agreement covering the reimbursement of Letters of Credit, the Administrative Agent will make such Loans available to the relevant Borrower by promptly crediting, on the date specified in accordance with the terms hereof in the Borrowing Request, funds so received in the aforesaid account of the Administrative Agent to (x) the account or accounts designated by the Company or the relevant Borrower in the applicable Borrowing Request, in the case of Loans denominated in Dollars and (y) the account or accounts of the applicable Borrower maintained in the relevant jurisdiction and designated by such Borrower in the applicable Borrowing Request, in the case of Loans denominated in a Foreign Currency; provided that Revolving Loans made to finance the reimbursement of an LC Disbursement as provided in Section 2.06(e) shall be remitted by the Administrative Agent to the relevant Issuing Bank.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing (or in the case of an ABR Borrowing, prior to 1:00 p.m., Chicago time, 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 paragraph (a) of this Section and may, in reliance upon such assumption, make available to the relevant Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and such Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to such Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation (including the Overnight Foreign Currency Rate in the case of Loans denominated in a Foreign Currency) or (ii) in the case of such Borrower, the interest rate applicable to ABR Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing.

SECTION 2.08. Interest Elections.

(a) Each Revolving Borrowing initially shall be of the Type specified in the applicable Borrowing Request (or, if not so specified, as provided in Section 2.03) and, in the case of a Eurocurrency Revolving Borrowing, shall have an initial Interest Period as specified in such Borrowing Request (or, if not so specified, as provided in Section 2.03). Thereafter, the relevant Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Eurocurrency Revolving Borrowing, may elect Interest Periods therefor, all as provided in this Section. A Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing. This Section shall not apply to Swingline Borrowings, which may not be converted or continued.

(b) To make an election pursuant to this Section, a Borrower, or the Company on its behalf, shall notify the Administrative Agent of such election (by telephone or irrevocable written notice in the case of a Borrowing denominated in Dollars (other than Designated Loans) or by irrevocable written notice (via an Interest Election Request signed by such Borrower, or the Company on its behalf) in the case of a Borrowing denominated in a Foreign Currency or a Designated Loan) by the time that a Borrowing Request would be required under Section 2.03 if such Borrower were requesting a Revolving Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery, email or telecopy to the Administrative Agent of a written Interest Election Request signed by the relevant Borrower, or the Company on its behalf. Notwithstanding any contrary provision herein, this Section shall not be construed to permit any Borrower to (i) change the currency of any Borrowing, (ii) elect an Interest Period for Eurocurrency Loans that does not comply with Section 2.02(d) or (iii) convert any Borrowing to a Borrowing of a Type not available under the Class of Commitments pursuant to which such Borrowing was made.

(c) Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the name of the applicable Borrower and the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing; and

(iv) if the resulting Borrowing is a Eurocurrency Borrowing, the Interest Period and Agreed Currency to be applicable thereto after giving effect to such election, which Interest Period shall be a period contemplated by the definition of the term "Interest Period."

If any such Interest Election Request requests a Eurocurrency Borrowing but does not specify an Interest Period, then the applicable Borrower shall be deemed to have selected an Interest Period of one month's duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender of the details thereof and of such Lender's portion of each resulting Borrowing.



(e) If the relevant Borrower fails to deliver a timely Interest Election Request with respect to a Eurocurrency Revolving Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period (i) in the case of a Borrowing denominated in Dollars (other than Designated Loans), such Borrowing shall be converted to an ABR Borrowing; provided that if the Company shall have delivered to the Administrative Agent its customary standard documentation pre-authorizing automatic continuations, such Borrowing shall automatically continue as a Eurocurrency Borrowing in Dollars with an Interest Period of one month unless such Eurocurrency Borrowing is or was repaid in accordance with Section 2.11 and (ii) in the case of a Borrowing denominated in a Foreign Currency or a Designated Loan in respect of which the applicable Borrower shall have failed to deliver an Interest Election Request prior to the third (3<sup>rd</sup>) Business Day preceding the end of such Interest Period, such Borrowing shall automatically continue as a Eurocurrency Borrowing in the same Agreed Currency with an Interest Period of one month unless such Eurocurrency Borrowing is or was repaid in accordance with Section 2.11. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the Company, then, so long as an Event of Default is continuing (i) no outstanding Revolving Borrowing denominated in Dollars (other than Designated Loans) may be converted to or continued as a Eurocurrency Borrowing, (ii) unless repaid, each Eurocurrency Revolving Borrowing denominated in Dollars (other than Designated Loans) shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto and (iii) unless repaid, each Eurocurrency Revolving Borrowing denominated in a Foreign Currency and each Designated Loan shall automatically be continued as a Eurocurrency Borrowing with an Interest Period of one month.

SECTION 2.09. Termination and Reduction of Commitments.

(a) Unless previously terminated, the Commitments shall terminate on the Maturity Date (subject to Section 2.25).

(b) The Company may at any time terminate, or from time to time reduce, the Commitments; provided that (i) each reduction of the Commitments shall be in an amount that is an integral multiple of \$500,000 and not less than \$5,000,000 and (ii) the Company shall not terminate or reduce the Commitments if, after giving effect to any concurrent prepayment of the Loans in accordance with Section 2.11, the Dollar Amount of the Total Revolving Credit Exposure would exceed the Aggregate Commitment.

(c) Notwithstanding the foregoing, upon the acquisition of one Lender by another Lender, or the merger, consolidation or other combination of any two or more Lenders (any such acquisition, merger, consolidation or other combination being referred to hereinafter as a "Combination" and each Lender which is a party to such Combination being hereinafter referred to as a "Combined Lender"), the Company may notify the Administrative Agent that it desires to reduce the Commitment of the Lender surviving such Combination (the "Surviving Lender") to an amount equal to the Commitment of that Combined Lender which had the largest Commitment of each of the Combined Lenders party to such Combination (such largest Commitment being the "Surviving Commitment" and the Commitments of the other Combined Lenders being hereinafter referred to, collectively, as the "Retired Commitments"). If the Required Lenders (determined as set forth below) and the Administrative Agent agree to such reduction in the Surviving Lender's Commitment, then (i) the aggregate amount of the Commitments shall be reduced by the Retired Commitments effective upon the effective date of the Combination; provided that, on or before such date, the Borrowers have paid in full the outstanding principal amount of the Loans of each of the Combined Lenders other than the Combined Lender whose Commitment is the Surviving Commitment, (ii) from and after the effective date of such reduction, the Surviving Lender shall have no obligation with respect to the Retired Commitments, and (iii) the Company shall notify the Administrative Agent whether it wants such reduction to be a permanent reduction or a temporary reduction. If such reduction is to be a temporary reduction, then the Company shall be responsible for finding one or more financial institutions

(each, a “Replacement Lender”), acceptable to the Administrative Agent (such acceptance not to be unreasonably withheld, conditioned or delayed), willing to assume the obligations of a Lender hereunder with aggregate Commitments up to the amount of the Retired Commitments. The Administrative Agent may require the Replacement Lenders to execute such documents, instruments or agreements as the Administrative Agent reasonably deems necessary or desirable to evidence such Replacement Lenders’ agreement to become parties hereunder. For purposes of this Section 2.09(c), Required Lenders shall be determined as if the reduction in the aggregate amount of the Commitments requested by the Company had occurred (i.e., the Combined Lenders shall be deemed to have a single Commitment equal to the Surviving Commitment and the aggregate amount of the Commitments shall be deemed to have been reduced by the Retired Commitments).

(d) The Company shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) of this Section at least three (3) Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Company pursuant to this Section shall be irrevocable; provided that a notice of termination of the Commitments delivered by the Company may state that such notice is conditioned upon the effectiveness of other credit facilities or other matters specified therein, in which case such notice may be revoked by the Company (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments shall be permanent. Each reduction of the Commitments shall be made ratably among the Lenders in accordance with their respective Commitments.

#### SECTION 2.10. Repayment of Loans; Evidence of Debt.

(a) Each Borrower hereby unconditionally promises to pay (i) to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Revolving Loan made to such Borrower on the Maturity Date in the currency of such Loan and (ii) in the case of the Company, to the Administrative Agent for the account of the relevant Swingline Lender the then unpaid principal amount of each Swingline Loan on the earlier of the Maturity Date and the fifteenth Business Day after the date such Swingline Loan is made.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of each Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Class, Agreed Currency and Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from each Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender’s share thereof.

(d) The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein; provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of any Borrower to repay the Loans in accordance with the terms of this Agreement.

(e) Any Lender may request that Loans made by it to any Borrower be evidenced by a promissory note. In such event, the relevant Borrower shall prepare, execute and deliver to such Lender a

promissory note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in a form reasonably approved by the Administrative Agent and the Company. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form.

#### SECTION 2.11. Prepayment of Loans.

##### SECTION 2.11.1. Voluntary Prepayments.

(a) Any Borrower shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, subject to prior notice in accordance with paragraph (b) of this Section; provided that (i) each prepayment of a Eurocurrency Borrowing (other than in connection with a prepayment of all outstanding Eurocurrency Borrowings and/or a prepayment of a Eurocurrency Borrowing made to refinance the reimbursement of an LC Disbursement as contemplated by Section 2.06(e)) shall be in an amount that is an integral multiple of \$1,000,000 (or, if such Borrowing is denominated in a Foreign Currency, 1,000,000 units of such currency) and not less than \$5,000,000 (or, if such Borrowing is denominated in a Foreign Currency, 5,000,000 units of such currency) and (ii) each prepayment of an ABR Borrowing (other than in connection with a prepayment of all outstanding ABR Borrowings and/or a prepayment of an ABR Borrowing made to refinance the reimbursement of an LC Disbursement as contemplated by Section 2.06(e)) shall be in an amount that is an integral multiple of \$100,000 and not less than \$1,000,000.

(b) The applicable Borrower, or the Company on behalf of the applicable Borrower, shall notify the Administrative Agent by telephone (confirmed by telecopy or e-mail in accordance with Section 9.01) of any prepayment hereunder (other than a prepayment of a Swingline Loan) (i) in the case of prepayment of a Eurocurrency Revolving Borrowing and any Designated Loan, not later than 1:00 p.m., Local Time, three (3) Business Days before the date of prepayment, (ii) in the case of prepayment of an ABR Revolving Borrowing, not later than 1:00 p.m., Chicago time, on the date of prepayment or (iii) in the case of prepayment of a Swingline Loan, not later than 1:00 p.m., Chicago time, on the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; provided that, (A) if a notice of prepayment is given in connection with a conditional notice of termination of the Commitments as contemplated by Section 2.09, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.09 and (B) a notice of prepayment by any Borrower, or the Company on behalf of any Borrower, may state that such notice is conditioned upon the effectiveness of other credit facilities or other matters specified therein, in which case such notice may be revoked by the applicable Borrower, or the Company on behalf of the applicable Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Promptly following receipt of any such notice relating to a Revolving Borrowing, the Administrative Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Revolving Borrowing shall be in an amount that would be permitted in the case of an advance of a Revolving Borrowing of the same Type as provided in Section 2.02. Each prepayment of a Revolving Borrowing shall be applied ratably to the Loans included in the prepaid Borrowing. Prepayments shall be accompanied by (i) accrued interest to the extent required by Section 2.13 and (ii) break funding payments pursuant to Section 2.16.

##### SECTION 2.11.2. Mandatory Prepayments.

If at any time, (a) other than as a result of fluctuations in currency exchange rates, the aggregate principal Dollar Amount of the Total Revolving Credit Exposure (calculated, with respect to those Credit Events denominated in Foreign Currencies, as of the most recent Computation Date with respect to each such Credit Event) exceeds the Aggregate Commitment or (b) solely as a result of

fluctuations in currency exchange rates, the aggregate principal Dollar Amount of the Total Revolving Credit Exposure (as so calculated) exceeds 105% of the Aggregate Commitment, the Borrowers shall, promptly after receipt of written notice from the Administrative Agent, repay Borrowings and, if no Borrowings are then outstanding, cash collateralize LC Exposure in an account with the Administrative Agent pursuant to Section 2.06(j), in an aggregate principal amount sufficient to eliminate any such excess.

#### SECTION 2.12. Fees.

(a) The Company agrees to pay to the Administrative Agent for the account of each Lender a facility fee, which shall accrue at the Applicable Rate on the average daily amount of the Commitment of such Lender (whether used or unused) during the period from and including the Effective Date to but excluding the date on which such Commitment terminates; provided that, if such Lender continues to have any Revolving Credit Exposure after its Commitment terminates, then such facility fee shall continue to accrue on the daily amount of such Lender's Revolving Credit Exposure from and including the date on which its Commitment terminates to but excluding the date on which such Lender ceases to have any Revolving Credit Exposure. Accrued facility fees shall be payable in arrears on the fifteenth Business Day following the last day of March, June, September and December of each year and on the date on which the Commitments terminate, commencing on the first such date to occur after the date hereof; provided that any facility fees accruing after the date on which the Commitments terminate shall be payable on demand. All facility fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(b) The Company agrees to pay (i) to the Administrative Agent for the account of each Lender a participation fee with respect to its participations in Letters of Credit, which shall accrue at the Applicable LC Fee Rate (as defined below) on the average daily Dollar Amount of such Lender's LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date on which such Lender's Commitment terminates and the date on which such Lender ceases to have any LC Exposure, and (ii) to each Issuing Bank for its own account a fronting fee, which shall accrue at a rate per annum separately agreed upon between the Company and such Issuing Bank on the average daily Dollar Amount of the LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) attributable to Letters of Credit issued by the relevant Issuing Bank during the period from and including the Effective Date to but excluding the date on which there ceases to be any LC Exposure, as well as such Issuing Bank's standard fees and commissions with respect to the issuance, amendment, cancellation, negotiation, transfer, presentment, renewal or extension of any Letter of Credit or processing of drawings thereunder. Participation fees and fronting fees accrued through and including the last day of March, June, September and December of each year shall be payable on the fifteenth Business Day following such last day, commencing on the first such date to occur after the Effective Date; provided that all such fees shall be payable on the date on which the Commitments terminate and any such fees accruing after the date on which the Commitments terminate shall be payable promptly after demand. Any other fees payable to any Issuing Bank pursuant to this paragraph shall be payable within 30 days after demand accompanied by an invoice in reasonable detail. All participation fees and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). Participation fees and fronting fees in respect of Letters of Credit denominated in Dollars shall be paid in Dollars, and participation fees and fronting fees in respect of Letters of Credit denominated in a Foreign Currency shall be paid in such Foreign Currency. As used above, "Applicable LC Fee Rate" means at any time (x) in the case of standby Letters of Credit (other than those described in the following clause (y)), the same Applicable Rate used to determine the interest rate applicable to Eurocurrency Revolving Loans at such time and (y) in the case of commercial Letters of Credit and standby Letters of Credit issued to ensure the performance of services and/or delivery of goods, in each case at a per annum rate equal to 50% of the Applicable Rate used to determine the interest rate applicable to Eurocurrency Revolving Loans at such time.

(c) The Company agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Company and the Administrative Agent.

(d) All fees payable hereunder shall be paid on the dates due, in immediately available funds in Dollars (except as expressly provided in this Section), to the Administrative Agent (or to the relevant Issuing Bank, in the case of fees payable to it) for distribution, in the case of facility fees and participation fees, to the Lenders. Fees paid shall not be refundable under any circumstances.

#### SECTION 2.13. Interest.

(a) The Loans comprising each ABR Borrowing (other than any Swingline Loan) shall bear interest at the Alternate Base Rate plus the Applicable Rate. Each Swingline Loan shall bear interest at a rate per annum agreed upon between the Company and the relevant Swingline Lender (or, if such a rate per annum is not agreed upon between the Company and the relevant Swingline Lender in respect of a Swingline Loan, such Swingline Loan shall bear interest at the Alternate Base Rate plus the Applicable Rate). The Loans comprising each Eurocurrency Borrowing shall bear interest at the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(b) Notwithstanding the foregoing, if any principal of or interest on any Loan or any fee payable by any Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, 2% plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section or (ii) in the case of any interest or fee, 2% plus the rate applicable to ABR Loans as provided in paragraph (a) of this Section.

(c) Accrued interest on each Revolving Loan shall be payable in arrears on each Interest Payment Date for such Revolving Loan and upon termination of the Commitments; provided that (i) interest accrued pursuant to paragraph (b) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Revolving Loan prior to the end of the Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Eurocurrency Revolving Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(d) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest (i) computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year) and (ii) for Borrowings denominated in Pounds Sterling shall be computed on the basis of a year of 365 days, and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate, Adjusted LIBO Rate or LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent demonstrable error.

#### SECTION 2.14. Alternate Rate of Interest.

(a) If at the time that the Administrative Agent shall seek to determine the LIBOR Screen Rate on the Quotation Day for any Interest Period for a Eurocurrency Borrowing the LIBOR Screen Rate shall not be available for such Interest Period and/or for the applicable currency with respect to such

Eurocurrency Borrowing for any reason, and the Administrative Agent shall reasonably determine that it is not possible to determine the Interpolated Rate (which conclusion shall be conclusive and binding absent demonstrable error), then the Reference Bank Rate shall be the LIBO Rate for such Interest Period for such Eurocurrency Borrowing; provided that if the Reference Bank Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement; provided, further, that if fewer than two Reference Banks shall supply a rate to the Administrative Agent for purposes of determining the LIBO Rate for such Eurocurrency Borrowing, (i) if such Borrowing shall be requested in Dollars (other than Designated Loans), then such Borrowing shall be made as an ABR Borrowing at the Alternate Base Rate (disregarding clause (c) of the definition thereof) and (ii) if such Borrowing shall be requested in any Foreign Currency or if such Borrowing is a Designated Loan, the LIBO Rate shall be equal to the rate determined by the Administrative Agent in its sole reasonable discretion and consented to in writing by the Company and the Required Lenders (the "Alternative Rate"); provided, however, that until such time as the Alternative Rate shall be determined and so consented to by the Company and the Required Lenders, Borrowings shall not be available in such Foreign Currency or as a Designated Loan, as the case may be. It is hereby understood and agreed that, notwithstanding the foregoing set forth in this Section 2.14(a), if at any time the conditions set forth in Section 2.14(c)(i) or (ii) are in effect, the provisions of this Section 2.14(a) shall no longer be applicable for any purpose of determining any alternative rate of interest under this Agreement and Section 2.14(c) shall instead be applicable for all purposes of determining any alternative rate of interest under this Agreement.

(b) If prior to the commencement of any Interest Period for a Eurocurrency Borrowing:

(i) the Administrative Agent determines (which determination shall be conclusive and binding absent demonstrable error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate or the LIBO Rate, as applicable (including, without limitation, because the LIBOR Screen Rate is not available or published on a current basis), for a Loan in the applicable currency or for the applicable Interest Period; or

(ii) the Administrative Agent is advised by the Required Lenders that the Adjusted LIBO Rate or the LIBO Rate, as applicable, for a Loan in the applicable currency or for the applicable Interest Period will not adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans included in such Borrowing for the applicable currency and such Interest Period;

then the Administrative Agent shall give notice (in reasonable detail) thereof to the applicable Borrower and the Lenders prior to the commencement of such Interest Period by telephone, telecopy or e-mail in accordance with Section 9.01 as promptly as practicable thereafter and, until the Administrative Agent notifies the applicable Borrower and the Lenders that the circumstances giving rise to such notice no longer exist (which notice the Administrative Agent hereby agrees to provide promptly after its determination of such circumstances ceasing to exist), (i) any Interest Election Request that requests the conversion of any Revolving Borrowing to, or continuation of any Revolving Borrowing as, a Eurocurrency Borrowing in the applicable currency or for the applicable Interest Period, as the case may be, shall be ineffective, (ii) if any Borrowing Request requests a Eurocurrency Revolving Borrowing in Dollars (other than a Designated Loan), such Borrowing shall be made as an ABR Borrowing, and (iii) if any Borrowing Request requests a Eurocurrency Borrowing in a Foreign Currency or a Designated Loan, then the LIBO Rate for such Eurocurrency Borrowing shall be the Alternative Rate; provided that if the circumstances giving rise to such notice affect only one Type of Borrowings, then the other Type of Borrowings shall be permitted.

(c) Notwithstanding the foregoing, if at any time the Administrative Agent determines (which determination shall be conclusive absent demonstrable error) that (i) the circumstances set forth in Section 2.14(b)(i) have arisen and such circumstances are unlikely to be temporary or (ii) the circumstances

set forth in Section 2.14(b)(i) have not arisen but (w) the supervisor for the administrator of the LIBOR Screen Rate has made a public statement that the administrator of the LIBOR Screen Rate is insolvent (and there is no successor administrator that will continue publication of the LIBOR Screen Rate), (x) the administrator of the LIBOR Screen Rate has made a public statement identifying a specific date after which the LIBOR Screen Rate will permanently or indefinitely cease to be published by it (and there is no successor administrator that will continue publication of the LIBOR Screen Rate), (y) the supervisor for the administrator of the LIBOR Screen Rate has made a public statement identifying a specific date after which the LIBOR Screen Rate will permanently or indefinitely cease to be published or (z) the supervisor for the administrator of the LIBOR Screen Rate or a Governmental Authority having jurisdiction over the Administrative Agent has made a public statement identifying a specific date after which the LIBOR Screen Rate shall no longer be used for determining interest rates for loans, then the Administrative Agent and the Company shall endeavor to establish an alternate rate of interest to the LIBO Rate that gives due consideration to the then prevailing market convention for determining a rate of interest for syndicated loans in the United States at such time, and shall enter into an amendment to this Agreement to reflect such alternate rate of interest and such other related changes to this Agreement as may be applicable; provided that, if such alternate rate of interest as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement. Notwithstanding anything to the contrary in Section 9.02, such amendment shall become effective without any further action or consent of any other party to this Agreement so long as the Administrative Agent shall not have received, within five (5) Business Days after the date notice of such alternate rate of interest is provided to the Lenders, a written notice from the Required Lenders stating that such Required Lenders object to such amendment. Notwithstanding anything to the contrary in this Agreement, until an alternate rate of interest shall be determined in accordance with this Section 2.14(c) (but, in the case of the circumstances described in clause (ii) of the first sentence of this Section 2.14(c), only to the extent the LIBOR Screen Rate for the applicable currency and such Interest Period is not available or published at such time on a current basis), (x) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurocurrency Borrowing in the applicable currency or for the applicable Interest Period, as the case may be, shall be ineffective, (y) if any Borrowing Request requests a Eurocurrency Borrowing in Dollars, such Borrowing shall be made as an ABR Borrowing and (z) if any Borrowing Request requests a Eurocurrency Borrowing in a Foreign Currency, then such request shall be ineffective.

#### SECTION 2.15. Increased Costs.

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, liquidity or similar requirement (including any compulsory loan requirement, insurance charge or other assessment) against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Adjusted LIBO Rate) or any Issuing Bank;

(ii) impose on any Lender or any Issuing Bank or the London interbank market any other condition affecting this Agreement or Loans made by such Lender or any Letter of Credit or participation therein; or

(iii) subject the Administrative Agent, any Lender or any Issuing Bank 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 of the type that such Lender has hereunder, or its deposits, reserves, other liabilities or capital attributable thereto

and the result of any of the foregoing shall be to increase the cost to the Administrative Agent or such Lender of making, continuing, converting into or maintaining any Loan or of maintaining its obligation to make any such Loan or to increase the cost to the Administrative Agent, such Lender or Issuing Bank of participating in, issuing or maintaining any Letter of Credit or to reduce the amount of any sum received or receivable by the Administrative Agent, such Lender or Issuing Bank hereunder, whether of principal, interest or otherwise, then the applicable Borrower will pay to the Administrative Agent, such Lender or Issuing Bank, as the case may be, such additional amount or amounts as will compensate the Administrative Agent, such Lender or Issuing Bank, as the case may be, for such additional costs incurred or reduction suffered as reasonably determined by such Lender or such Issuing Bank (which determination shall be made in good faith (and not on an arbitrary or capricious basis) and consistent with similarly situated customers of the applicable Lender or the applicable Issuing Bank under agreements having provisions similar to this Section 2.15 after consideration of such factors as such Lender or such Issuing Bank then reasonably determines to be relevant).

(b) If any Lender or Issuing Bank reasonably determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or Issuing Bank's capital or on the capital of such Lender's or Issuing Bank's holding company, if any, as a consequence of this Agreement or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such Issuing Bank, to a level below that which such Lender or Issuing Bank or such Lender's or Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or Issuing Bank's policies and the policies of such Lender's or Issuing Bank's holding company with respect to capital adequacy and liquidity), then from time to time the applicable Borrower will pay to such Lender or Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or Issuing Bank or such Lender's or Issuing Bank's holding company for any such reduction suffered as reasonably determined by such Lender or such Issuing Bank (which determination shall be made in good faith (and not on an arbitrary or capricious basis) and consistent with similarly situated customers of the applicable Lender or the applicable Issuing Bank under agreements having provisions similar to this Section 2.15 after consideration of such factors as such Lender or such Issuing Bank then reasonably determines to be relevant).

(c) A certificate of a Lender or an Issuing Bank setting forth in reasonable detail the computation of the amount or amounts necessary to compensate such Lender or Issuing Bank or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section shall be delivered to the Company contemporaneously with any demand for payment hereunder and shall be conclusive absent clearly demonstrable error. The Company shall pay, or cause the other Borrowers to pay, such Lender or Issuing Bank, as the case may be, the amount shown as due on any such certificate within 30 days after receipt thereof.

(d) Failure or delay on the part of any Lender or Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or Issuing Bank's right to demand such compensation; provided that the Company shall not be required to compensate a Lender or an Issuing Bank pursuant to this Section for any increased costs or reductions if such Lender or such Issuing Bank fails to notify the Company within 90 days after it obtains actual knowledge (or, in the exercise of ordinary due diligence, should have obtained actual knowledge) thereof, and such Lender and such Issuing Bank shall only be entitled to receive such compensation for any losses incurred by it or amounts to which it would otherwise be entitled from and after the date 90 days prior to the date such Lender or such Issuing Bank provided notice thereof to the Company of the Change in Law giving rise to such increased costs or reductions and of such Lender's or Issuing Bank's claim for compensation therefor; provided, further, that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 90-day period referred to above shall be extended to include the period of retroactive effect thereof.



SECTION 2.16. Break Funding Payments. In the event of (a) the payment of any principal of any Eurocurrency Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default or as a result of any prepayment pursuant to Section 2.11), (b) the conversion of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Eurocurrency Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.11(b) and is revoked in accordance therewith or otherwise) or (d) the assignment of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Company pursuant to Section 2.19 or 9.02(c), then, in any such event, the applicable Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. Such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted LIBO Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest which would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for deposits in the relevant currency of a comparable amount and period from other banks in the eurocurrency market. A certificate of any Lender setting forth the computation in reasonable detail of any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the applicable Borrower contemporaneously with the demand for payment and shall be conclusive absent manifest error. The applicable Borrower shall pay such Lender the amount shown as due on any such certificate within 30 days after receipt thereof.

SECTION 2.17. Taxes.

(a) Any and all payments by or on account of any obligation of each Borrower or any guarantor under any Loan Document shall be made free and clear of and without deduction for any Indemnified Taxes or Other Taxes; provided that if any Borrower or guarantor or the Administrative Agent shall be required (as determined in its reasonable good faith discretion) to deduct any Indemnified Taxes or Other Taxes from such payments, then (i) the sum payable by such Borrower or guarantor, as applicable, shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) the Administrative Agent, Lender, Issuing Bank, or any other recipient of such payments (as the case may be) receives an amount equal to the sum it would have received had no such deductions been made, (ii) such Borrower or guarantor or Administrative Agent shall make such deductions and (iii) such Borrower or guarantor or Administrative Agent shall pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law; provided, however, that in no event will a payment be increased under this clause (iii) by reason of a deduction on account of Taxes imposed by Luxembourg if on the date on which the payment falls due a deduction is required in respect of the Luxembourg law of 23 December 2005, as amended, introducing in Luxembourg a 20% withholding tax as regards Luxembourg resident individuals.

(b) In addition, each Borrower shall pay any Other Taxes related to such Borrower to the relevant Governmental Authority in accordance with applicable law.

(c) The relevant Borrower or guarantor shall indemnify the Administrative Agent, each Lender and each Issuing Bank, within 30 days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes paid by the Administrative Agent, such Lender or such Issuing Bank, as the case may be, on or with respect to any payment by or on account of any obligation of such Borrower or guarantor under any Loan Document (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) and any interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or

legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability together with a supporting document shall be delivered to the Company by a Lender or an Issuing Bank, or by the Administrative Agent on its own behalf or on behalf of a Lender or an Issuing Bank contemporaneously with any demand for payment, and shall be conclusive absent manifest error.

(d) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by any Borrower to a Governmental Authority, such Borrower shall deliver to the Administrative Agent the original or a copy of a receipt issued, if available, by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) (i) Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which a Borrower is located, or any treaty to which such jurisdiction is a party, with respect to payments under this Agreement shall deliver to such Borrower (with a copy to the Administrative Agent), at the time or times reasonably requested by such Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by applicable law or reasonably requested by such Borrower or Administrative Agent as will permit such payments to be made without withholding or at a reduced rate. In addition, any Lender, if reasonably requested by any Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by such Borrower or the Administrative Agent as will enable such 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 2.17(e)(ii)(A) and (ii)(B) below) shall not be required if in the 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. For the avoidance of doubt, this Section 2.17(e)(i) shall not apply to UK Treaty Lenders (to which the provisions of Section 2.17(j)(vi) shall apply).

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

(A) any U.S. Lender shall deliver to such 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 such Borrower or the Administrative Agent), executed copies 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 such 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 such 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 copies of IRS Form W-8BEN or IRS Form W-8BEN-E 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

or IRS Form W-8BEN-E 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) in the case of a Foreign Lender claiming that its extension of credit will generate U.S. effectively connected income, an executed copy of IRS Form W-8ECI or W-8EXP;

(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 J-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 such 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 copies of IRS Form W-8BEN or IRS Form W-8BEN-E; or

(4) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate substantially in the form of Exhibit J-2 or Exhibit J-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 J-4 on behalf of each such direct and indirect partner;

(5) for purposes of furnishing the U.S. Tax Compliance Certificate as described in the foregoing clauses (3) and (4), if a Foreign Lender (or a foreign Participant) is a Disregarded Entity, the Foreign Lender will submit such certificate based on the status of the Person that is treated for U.S. federal income tax purposes as being the sole owner of such Lender or Participant; and

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to such 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 such Borrower or the Administrative Agent), executed originals or certified copies 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 such Borrower or the Administrative Agent to determine the withholding or deduction required to be made.

(f) If the Administrative Agent or a Lender determines, in its discretion exercised reasonably and in good faith, that it has received a refund of any Taxes as to which it has been indemnified by the Borrowers or with respect to which a Borrower has paid additional amounts pursuant to this Section 2.17, it shall pay over such refund, net of all reasonable and documented out-of-pocket expenses (including Taxes) of the Administrative Agent or such Lender and without interest, to such Borrower (but only to the extent of the indemnity payments made under this Section 2.17 with respect to the Taxes giving rise to such refund). This Section shall not be construed to require the Administrative Agent or any Lender to make available its tax returns (or any other information relating to its taxes which it deems confidential) to any Borrower or any other Person.

(g) Each Lender shall severally indemnify (i) the Administrative Agent, within 30 days after demand therefor, for (A) any Indemnified Taxes or Other Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes or Other Taxes and without limiting the obligation of the Loan Parties to do so) and (B) any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.04(c) relating to the maintenance of a Participant Register and (ii) the Administrative Agent and the Loan Parties, within 30 days after demand therefor, for any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent or the applicable Loan Party (as applicable) 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 or the applicable Loan Party (as applicable) shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this Section 2.17(g).

(h) If a payment made to a Lender under any Loan Document would be subject to United States 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 Company and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Company 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 Company or the Administrative Agent as may be necessary for the Company 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 Section 2.17(h), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(i) For purposes of determining withholding Taxes imposed under FATCA the Loan Parties and the Administrative Agent shall treat (and the Lenders hereby authorize the Administrative Agent to treat) this Agreement and the Loans as not qualifying as "grandfathered obligations" within the meaning of Treasury Regulation Section 1.1471-2(b)(2)(i).

(j) United Kingdom Withholding Matters.

(i) If a UK Tax Deduction is required by law to be made by any Loan Party, the amount of the payment due from that Loan Party shall be increased to an amount that (after making any UK Tax Deduction) leaves an amount equal to the payment that would have been due if no UK Tax Deduction had been required.

(ii) The Company shall promptly upon becoming aware that a Loan Party must make a UK Tax Deduction (or that there is any change in the rate or the basis of a UK Tax Deduction) notify the Administrative Agent accordingly. Similarly, a Lender or Issuing Bank shall promptly notify the Administrative Agent on becoming so aware in respect of a payment payable to that Lender or Issuing Bank. If the Administrative Agent receives such notification from a Lender or Issuing Bank it shall promptly notify the Company. For the avoidance of doubt, any failure by a Lender or Issuing Bank to comply with this Section 2.17(j)(ii) shall not limit or otherwise affect any of such Lender's or Issuing Bank's rights under any Loan Document or any obligation of a Loan Party under any Loan Document.

(iii) In the case of a Lender advancing a Loan to a UK Borrower, a payment by a UK Borrower shall not be increased pursuant to Section 2.17(a) or Section 2.17(j)(i) by reason of a UK Tax Deduction on interest if on the date on which the payment falls due (A) the payment could have been made to the relevant Lender without a UK Tax Deduction if the Lender had been a UK Qualifying Lender, but on that date that Lender is not or has ceased to be a UK Qualifying Lender other than as a result of any change after the date it became a Lender under this Agreement in (or in the interpretation, administration, or application of) any law or UK Treaty, or any published practice or published concession of any relevant taxing authority or (B) the relevant Lender is a UK Treaty Lender and the UK Borrower making the payment is able to demonstrate that the payment could have been made to the Lender without the UK Tax Deduction had that Lender complied with its obligations under Section 2.17(j)(vi) or Section 2.17(j)(vii), as applicable, or (C) the relevant Lender is a UK Qualifying Lender solely by virtue of clause (a) (ii) of the definition of “UK Qualifying Lender” and (x) an officer of H.M. Revenue & Customs has given (and not revoked) a direction (a “Direction”) under section 931 of the UK ITA 2007 that relates to the payment and that Lender has received from the Borrower making the payment a certified copy of that Direction and (y) the payment could have been made to the Lender without any UK Tax Deduction if that Direction had not been made, or (D) the relevant Lender is a UK Qualifying Lender solely by virtue of clause (a)(ii) of the definition of “UK Qualifying Lender” and (x) the relevant Lender has not given a UK Tax Confirmation to the relevant UK Borrower or the Company and (y) the payment could have been made to the relevant Lender without any UK Tax Deduction if the Lender had given a UK Tax Confirmation to the relevant UK Borrower or the Company, on the basis that the UK Tax Confirmation would have enabled the UK Borrower to have formed a reasonable belief that the payment was an “excepted payment” for the purpose of section 930 of the UK ITA 2007.

(iv) Within thirty days after making either a UK Tax Deduction or any payment required in connection with that UK Tax Deduction, the Loan Party making that UK Tax Deduction shall deliver to the Administrative Agent for the Credit Party entitled to the payment a statement under section 975 of the UK ITA 2007 or other evidence reasonably satisfactory to such Credit Party that the UK Tax Deduction has been made or (as applicable) any appropriate payment paid to HM Revenue & Customs.

(v) If a Loan Party is required to make a UK Tax Deduction, that Loan Party shall make that UK Tax Deduction and any payment required in connection with that UK Tax Deduction within the time allowed and the minimum amount required by law.

(vi) In the case of a Lender advancing a Loan to a UK Borrower:

(A) Subject to (B) below, each UK Treaty Lender and each Loan Party that makes a payment to which that UK Treaty Lender is entitled shall cooperate in completing any procedural formalities necessary for such Loan Party to obtain authorization to make such payment without a UK Tax Deduction.

(B) (1) A UK Treaty Lender that becomes a party to this Agreement (a “Party”) on the day on which this Agreement (or any amendment hereto) is entered into that (x) holds a passport under the HM Revenue & Customs DT Treaty Passport scheme and (y) wishes such scheme to apply to this Agreement, shall confirm its scheme reference number and its jurisdiction of tax residence on its signature page to this Agreement (or any amendment hereto) or otherwise in writing to the Company; and

(2) a Lender that becomes a Lender hereunder after the day on which this Agreement (or any amendment hereto) is entered into that (x) holds a passport under the HM Revenue & Customs DT Treaty Passport scheme and (y) wishes such scheme to apply to this Agreement, shall provide its scheme reference number and its jurisdiction of tax residence in the Assignment and Assumption, Increasing Lender Supplement or Augmenting Lender Supplement, as the case may be, or otherwise in writing to the Company;

and having done so, that Lender shall not be under any obligation pursuant to paragraph (A) above.

(C) Upon satisfying either paragraph (A), (B)(1) or (B)(2) above, such Lender shall have satisfied its obligations under Section 2.17(e)(i) (in respect of a UK Tax Deduction).

(vii) If a UK Treaty Lender has confirmed its scheme reference number and its jurisdiction of tax residence in accordance with Section 2.17(j)(vi)(B) above, the UK Borrower(s) making payments to that UK Treaty Lender shall make a UK Borrower DTTP filing with respect to such Lender, and shall promptly provide such Lender with a copy of such filing; provided that, if a UK Borrower making a payment to that UK Treaty Lender has made a UK Borrower DTTP Filing in respect of that UK Treaty Lender but:

(A) such UK Borrower DTTP Filing has been rejected by HM Revenue & Customs; or

(B) HM Revenue & Customs has not given such UK Borrower authority to make payments to such Lender without a UK Tax Deduction within 60 days of the date of such UK Borrower DTTP Filing;

and in each case, such UK Borrower has notified that UK Treaty Lender in writing of either (A) or (B) above, then such UK Treaty Lender and such UK Borrower shall co-operate in completing any additional procedural formalities necessary for such UK Borrower to obtain authorization to make that payment without a UK Tax Deduction.

(viii) If a Lender has not confirmed its scheme reference number and jurisdiction of tax residence in accordance with Section 2.17(j)(vi)(B) above, no Loan Party shall make a UK Borrower DTTP Filing or file any other form relating to the HM Revenue & Customs DT Treaty Passport scheme in respect of that Lender's Commitment(s) or its participation in any Loan unless the Lender otherwise agrees.

(ix) Each Lender that becomes a Party after the date of this Agreement (a "New Lender") shall indicate in the relevant Assignment and Assumption, Increasing Lender Supplement or Augmenting Lender Supplement (as applicable) that it executes on becoming a Party, and for the benefit of the Administrative Agent and without liability to any Loan Party, which of the following categories it falls in: (i) not a UK Qualifying Lender; (ii) a UK Qualifying Lender (other than a UK Treaty Lender); or (iii) a UK Treaty Lender, and if the New Lender fails to indicate its status in accordance with this Section 2.17(j)(ix) then such New Lender shall be treated for the purposes of this Agreement (including by each Loan Party) as if it is not a UK Qualifying Lender

until such time as it notifies the Administrative Agent which category applies (and the Administrative Agent, upon receipt of such notification, shall inform the relevant UK Borrower). For the avoidance of doubt, an Assignment and Assumption, Increasing Lender Supplement or Augmenting Lender Supplement shall not be invalidated by any failure of a Lender to comply with this Section 2.17(j)(ix).

(x) Each UK Borrower shall pay and, within three (3) Business Days of demand, indemnify each Credit Party against any cost, loss or liability that Credit Party incurs in relation to all United Kingdom stamp duty, registration and other similar Taxes payable in respect of any Loan Document.

(k) VAT.

(i) All amounts set out or expressed in a Loan Document to be payable by any Party to any Credit Party that (in whole or in part) constitute the consideration for any supply or supplies for VAT purposes shall be deemed to be exclusive of any VAT which is chargeable on such supply or supplies, and accordingly, subject to Section 2.17(k)(ii) below, if VAT is or becomes chargeable on any supply made by any Credit Party to any Party under a Loan Document and such Credit Party is required to account to the relevant tax authority for the VAT, that Party shall pay to such Credit Party, as applicable, (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of such VAT (and such Credit Party, as applicable, shall promptly provide an appropriate VAT invoice to such Party).

(ii) If VAT is or becomes chargeable on any supply made by any Credit Party (the "Supplier") to any other Credit Party (the "VAT Recipient") under a Loan Document, and any Party other than the VAT Recipient (the "Subject Party") is required by the terms of any Loan Document to pay an amount equal to the consideration for such supply to the Supplier (rather than being required to reimburse the VAT Recipient in respect of that consideration):

(A) where the Supplier is the person required to account to the relevant tax authority for the VAT, the Subject Party shall also pay to the Supplier (in addition to and at the same time as paying such amount) an amount equal to the amount of such VAT. The VAT Recipient will, where this Section 2.17(k)(ii)(A) applies, promptly pay to the Subject Party an amount equal to any credit or repayment obtained by the VAT Recipient from the relevant tax authority which the VAT Recipient reasonably determines relates to the VAT chargeable on that supply; and

(B) where the VAT Recipient is the person required to account to the relevant tax authority for the VAT, the Subject Party shall promptly, following demand from the VAT Recipient, pay to the VAT Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the VAT Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.

(iii) Where a Loan Document requires any Party to reimburse or indemnify a Credit Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Credit Party for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that the Credit Party reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.

(iv) Any reference in this Section 2.17(k) to any Party shall, at any time when such Party is treated as a member of a group or unity (or fiscal unity) for VAT purposes, include (where

appropriate and unless the context otherwise requires) a reference to the person who is treated at that time as making the supply, or (as appropriate) receiving the supply, under the grouping rules (provided for in Article 11 of Council Directive 2006/112/EC (or as implemented by the relevant member state of the European Union) or any other similar provision in any jurisdiction which is not a member state of the European Union) so that a reference to a Party shall be construed as a reference to that Party or the relevant group or unity (or fiscal unity) of which that Party is a member for VAT purposes at the relevant time or the relevant representative member (or head) of that group or unity (or fiscal unity) at the relevant time (as the case may be).

(l) In relation to any supply made by a Credit Party to any Party under a Loan Document, if reasonably requested by such Credit Party, that Party must promptly provide details of its VAT registration and such other information as is reasonably requested in connection with such Credit Party's VAT reporting requirements in relation to such supply.

SECTION 2.18. Payments Generally; Pro Rata Treatment; Sharing of Set-offs.

(a) Each Borrower shall make each payment required to be made by it hereunder (whether of principal, interest, fees or reimbursement of LC Disbursements, or of amounts payable under Section 2.15, 2.16 or 2.17, or otherwise) prior to (i) in the case of payments denominated in Dollars (other than in respect of Designated Loans), 1:00 p.m., Chicago time and (ii) in the case of payments denominated in a Foreign Currency or in respect of Designated Loans, 1:00 p.m., Local Time, in the city of the Administrative Agent's Eurocurrency Payment Office for such currency or Designated Loan, as applicable, in each case on the date when due, in immediately available funds, without set-off, recoupment or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made (i) in the same currency in which the applicable Credit Event was made (or where such currency has been converted to euro, in euro) and (ii) to the Administrative Agent at its offices at 10 South Dearborn Street, Chicago, Illinois 60603 or, in the case of a Credit Event denominated in a Foreign Currency or a Designated Loan, the Administrative Agent's Eurocurrency Payment Office for such currency or Designated Loan, as applicable, except payments to be made directly to an Issuing Bank or a Swingline Lender as expressly provided herein and except that payments pursuant to Sections 2.15, 2.16, 2.17 and 9.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments denominated in the same currency received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. Notwithstanding the foregoing provisions of this Section, if, after the making of any Credit Event in any Foreign Currency, currency control or exchange regulations are imposed in the country that issues such currency with the result that the type of currency in which the Credit Event was made (the "Original Currency") no longer exists or any Borrower is not able to make payment to the Administrative Agent for the account of the Lenders in such Original Currency, then all payments to be made by such Borrower hereunder in such currency shall instead be made when due in Dollars in an amount equal to the Dollar Amount (as of the date of repayment) of such payment due, it being the intention of the parties hereto that the Borrowers take all risks of the imposition of any such currency control or exchange regulations.

(b) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, unreimbursed LC Disbursements, interest and fees then due hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) second, towards payment of principal and unreimbursed LC Disbursements then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and unreimbursed LC Disbursements then due to such parties.



(c) If any Lender shall, by exercising any right of set-off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Revolving Loans or participations in LC Disbursements or Swingline Loans resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Revolving Loans and participations in LC Disbursements and Swingline Loans and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Revolving Loans and participations in LC Disbursements and Swingline Loans of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Revolving Loans and participations in LC Disbursements and Swingline Loans; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by any Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in LC Disbursements and Swingline Loans to any assignee or participant, other than to the Company or any Subsidiary or Affiliate thereof (as to which the provisions of this paragraph shall apply). Each Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Borrower in the amount of such participation.

(d) Unless the Administrative Agent shall have received notice from the relevant Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or an Issuing Bank hereunder that such Borrower will not make such payment, the Administrative Agent may assume that such Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or such Issuing Bank, as the case may be, the amount due. In such event, if such Borrower has not in fact made such payment, then each of the Lenders or such Issuing Bank, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation (including the Overnight Foreign Currency Rate in the case of Loans denominated in a Foreign Currency).

(e) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.05(c), 2.06(d) or (e), 2.07(b), 2.18(d) or 9.03(c), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender and for the benefit of the Administrative Agent, the Swingline Lenders or the Issuing Banks to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid and/or (ii) hold any such amounts in a segregated account over which the Administrative Agent shall have exclusive control as cash collateral for, and application to, any future funding obligations of such Lender under any such Section; in the case of each of clauses (i) and (ii) above, in any order as determined by the Administrative Agent in its discretion; it being understood that the Administrative Agent shall, to the extent permitted by law, apply any cash collateral to such obligations when due.

**SECTION 2.19. Mitigation Obligations; Replacement of Lenders.** (a) If any Lender requests compensation under Section 2.15, or if any Borrower is required to pay any Indemnified Taxes or additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17 (other than amounts in respect of Other Taxes or VAT), then such Lender shall 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, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.15 or 2.17, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be materially disadvantageous to such Lender. The Company hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If (i) any Lender (or any of its Participants) requests compensation under Section 2.15, (ii) any Borrower is required to pay any Indemnified Taxes or additional amount to any Lender (or any of its Participants) or any Governmental Authority for the account of any Lender (or any of its Participants) pursuant to Section 2.17, (iii) any Lender (A) or any Lender Parent has become the subject of a Bail-In Action (or any case or other proceeding in which a Bail-In Action may occur), (B) is an EEA Financial Institution that is rated lower than BBB- by S&P and lower than Baa3 by Moody's, (C) is or becomes a Defaulting Lender or a Disqualified Institution, (D) is not a Dutch Non-Public Lender or (E) rejects the designation of an Agreed Currency or of a Subsidiary as an Eligible Subsidiary if, in each case, such Agreed Currency or designation of a Subsidiary as an Eligible Subsidiary has otherwise been approved by the Required Lenders, (iv) any Lender shall determine that any law, regulation or treaty or directive, or any change therein or in the interpretation or application thereof, shall make it unlawful for such Lender to make or maintain any Eurocurrency Loans as contemplated by this Agreement or (v) any Lender shall enter into, or purport to enter into, any assignment or participation with a Disqualified Institution in violation of this Agreement, then the Company may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights (other than its existing rights to payments pursuant to Section 2.15 or 2.17) and obligations under the Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (A) such Lender is reasonably acceptable to the Administrative Agent and (B) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in LC Disbursements and Swingline Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Company (in the case of all other amounts). Each party hereto agrees that (1) an assignment required pursuant to this paragraph may be effected pursuant to an Assignment and Assumption executed by the Company, the Administrative Agent and the assignee (or, to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Approved Electronic Platform as to which the Administrative Agent and such parties are participants), and (2) the Lender required to make such assignment need not be a party thereto in order for such assignment to be effective and shall be deemed to have consented to and be bound by the terms thereof; provided that, following the effectiveness of any such assignment, the other parties to such assignment agree to execute and deliver such documents necessary to evidence such assignment as reasonably requested by the applicable Lender, which assignment shall be without recourse to or warranty by the parties thereto. Notwithstanding any other provision of this Agreement to the contrary, if a Lender has become the subject of a Bail-In Action (or any case or other proceeding in which a Bail-In Action may occur) (each, a "Bail-In Lender"), then the Company may terminate such Bail-In Lender's Commitment hereunder; provided that (I) no Default or Event of Default shall have occurred and be continuing at the time of such Commitment termination, (II) in the case of a Bail-In Lender, the Company shall concurrently terminate the Commitment of each other Lender that is a Bail-In Lender at such time, (III) the Administrative Agent and the Required

Lenders shall have consented to each such Commitment termination (such consents not to be unreasonably withheld or delayed, but may include consideration of the adequacy of the liquidity of the Company and its Subsidiaries) and (IV) such Bail-In Lender shall have been paid all amounts then due to it under this Agreement and each other Loan Document (which, for the avoidance of doubt, the respective Borrowers may pay in connection with any such termination without making ratable payments to any other Lender (other than another Lender that has a Commitment that concurrently is being terminated under this Section 2.19(b))).

SECTION 2.20. Expansion Option. The Company may from time to time elect to increase the Commitments or enter into one or more tranches of term loans (each an "Incremental Term Loan"), in each case in a minimum amount of \$50,000,000 and minimum increments of \$10,000,000 in excess thereof, so long as, after giving effect thereto, the aggregate amount of such increases and all such Incremental Term Loans does not exceed \$1,500,000,000. The Company may arrange for any such increase or tranche to be provided by one or more Lenders (each Lender so agreeing to an increase in its Commitment, or to participate in such Incremental Term Loans, an "Increasing Lender"), or by one or more new banks, financial institutions or other entities (each such new bank, financial institution or other entity, an "Augmenting Lender"; provided that no Ineligible Institution may be an Augmenting Lender), which agree to increase their existing Commitments, or to participate in such Incremental Term Loans, or provide new Commitments, as the case may be; provided that (i) each Augmenting Lender shall be subject to the approval of the Company, the Administrative Agent, and in the case of an increase in the Commitments, each Issuing Bank and Swingline Lender (each such consent, not to be unreasonably withheld, conditioned or delayed) and (ii) (x) in the case of an Increasing Lender, the Company and such Increasing Lender execute an agreement substantially in the form of Exhibit C hereto, and (y) in the case of an Augmenting Lender, the Company and such Augmenting Lender execute an agreement substantially in the form of Exhibit D hereto. No consent of any Lender (other than the Lenders participating in the increase or any Incremental Term Loan) shall be required for any increase in Commitments or Incremental Term Loan pursuant to this Section 2.20. Increases and new Commitments and Incremental Term Loans created pursuant to this Section 2.20 shall become effective on the date agreed by the Company, the Administrative Agent and the relevant Increasing Lenders or Augmenting Lenders, and the Administrative Agent shall notify each Lender thereof. Notwithstanding the foregoing, no increase in the Commitments (or in the Commitment of any Lender) or tranche of Incremental Term Loans shall become effective under this paragraph unless, (i) on the proposed date of the effectiveness of such increase or Incremental Term Loans, (A) the conditions set forth in paragraphs (b)(i) and (ii) of Section 4.02 shall be satisfied or waived by the Required Lenders and the Administrative Agent shall have received a certificate to that effect dated such date and executed by a Financial Officer of the Company and (B) the Company shall be in compliance (on a pro forma basis) with the covenants contained in Section 6.08 and (ii) the Administrative Agent shall have received documents and opinions consistent with those delivered on the Effective Date as to the organizational power and authority of the Borrowers to borrow hereunder after giving effect to such increase or Incremental Term Loans, as the case may be; provided that, with respect to any Incremental Term Loans incurred for the purpose of financing an acquisition for which the Company has determined, in good faith, that limited conditionality is reasonably necessary (any such acquisition, a "Limited Conditionality Acquisition" and such Incremental Term Loans, "Acquisition-Related Incremental Term Loans"), (x) clause (i)(A) of this sentence shall be deemed to have been satisfied so long as (1) as of the date of execution of the definitive acquisition documentation in respect of a Limited Conditionality Acquisition (a "Limited Conditionality Acquisition Agreement") by the parties thereto, no Default or Event of Default shall have occurred and be continuing or would result from entry into such documentation, (2) as of the date of the borrowing of such Acquisition-Related Incremental Term Loans, no Event of Default under clause (a), (b), (h) or (i) of Article VII is in existence immediately before or immediately after giving effect (including on a pro forma basis) to such borrowing and to any concurrent transactions and any substantially concurrent use of proceeds thereof, (3) the representations and warranties set forth in Article III

shall be true and correct in all material respects (except that any representation and warranty that is qualified by materiality or Material Adverse Effect shall be true and correct in all respects) as of the date of execution of the applicable Limited Conditionality Acquisition Agreement by the parties thereto, except to the extent any such representation and warranty specifically refers to an earlier date, in which case such representation and warranty shall be true and correct in all material respects (except that any representation and warranty that is qualified by materiality or Material Adverse Effect shall be true and correct in all respects) as of such earlier date and (4) as of the date of the borrowing of such Acquisition-Related Incremental Term Loans, representations and warranties substantially consistent with the Specified Representations (with such representations and warranties to be reasonably determined by the Lenders providing such Acquisition-Related Incremental Term Loans) shall be true and correct in all material respects (except that any representation and warranty that is qualified by materiality or Material Adverse Effect shall be true and correct in all respects) immediately prior to, and immediately after giving effect to, the incurrence of such Acquisition-Related Incremental Term Loans, except to the extent any such representation and warranty specifically refers to an earlier date, in which case such representation and warranty shall be true and correct in all material respects (except that any representation and warranty that is qualified by materiality or Material Adverse Effect shall be true and correct in all respects) as of such earlier date and (y) clause (i)(B) of this sentence shall be deemed to have been satisfied so long as the Company shall be in compliance (on a pro forma basis) with the covenants contained in Section 6.08 as of the date of execution of the related Limited Conditionality Acquisition Agreement by the parties thereto. On the effective date of any increase in the Commitments, (i) each relevant Increasing Lender shall make available to the Administrative Agent such amounts in immediately available funds as the Administrative Agent shall determine, for the benefit of the other Lenders, as being required in order to cause, after giving effect to such increase and the use of such amounts to make payments to such other Lenders, each Lender's portion of the outstanding Revolving Loans of all the Lenders to equal its Applicable Percentage of such outstanding Revolving Loans, and (ii) the Borrowers shall be deemed to have repaid and reborrowed all outstanding Revolving Loans as of the date of any increase in the Commitments (with such reborrowing to consist of the Types of Revolving Loans, with related Interest Periods if applicable, specified in a notice delivered by the applicable Borrower, or the Company on behalf of the applicable Borrower, in accordance with the requirements of Section 2.03). The deemed payments made pursuant to clause (ii) of the immediately preceding sentence shall be accompanied by payment of all accrued interest on the amount prepaid and, in respect of each Eurocurrency Loan, shall be subject to indemnification by the Borrowers pursuant to the provisions of Section 2.16 if the deemed payment occurs other than on the last day of the related Interest Periods. The Incremental Term Loans (a) shall rank pari passu in right of payment with the Revolving Loans, (b) shall not mature earlier than the Maturity Date (but may have amortization prior to such date) and (c) shall be treated substantially the same as (and in any event no more favorably than) the Revolving Loans; provided that (i) the terms and conditions applicable to any tranche of Incremental Term Loans maturing after the Maturity Date may provide for material additional or different financial or other covenants or prepayment requirements applicable only during periods after the Maturity Date and (ii) the Incremental Term Loans may be priced differently than the Revolving Loans. Incremental Term Loans may be made hereunder pursuant to an amendment or restatement (an "Incremental Term Loan Amendment") of this Agreement and, as appropriate, the other Loan Documents, executed by the Borrowers, each Increasing Lender participating in such tranche, each Augmenting Lender participating in such tranche, if any, and the Administrative Agent. The Incremental Term Loan Amendment may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent, to effect the provisions of this Section 2.20. Nothing contained in this Section 2.20 shall constitute, or otherwise be deemed to be, a commitment on the part of any Lender to increase its Commitment hereunder, or provide Incremental Term Loans, at any time.

SECTION 2.21. Market Disruption. Notwithstanding the satisfaction of all conditions referred to in Article II and Article IV with respect to any Credit Event to be effected in any Foreign Currency, if (a) there shall occur on or prior to the date of such Credit Event any change in national or international financial, political or economic conditions or currency exchange rates or exchange controls which would in the reasonable opinion of the Administrative Agent, the relevant Issuing Bank (if such Credit Event is a Letter of Credit) or the Required Lenders make it impracticable for the Eurocurrency Borrowings or Letters of Credit comprising such Credit Event to be denominated in the Agreed Currency specified by the applicable Borrower or (b) a Dollar Amount of such currency is not readily calculable, then the Administrative Agent shall forthwith give notice thereof to such Borrower, the Lenders and, if such Credit Event is a Letter of Credit, the relevant Issuing Bank, and such Credit Events shall not be denominated in such Agreed Currency but shall, except as otherwise set forth in Section 2.07, be made on the date of such Credit Event in Dollars, (i) if such Credit Event is a Borrowing, in an aggregate principal amount equal to the Dollar Amount of the aggregate principal amount specified in the related request for a Credit Event or Interest Election Request, as the case may be, as ABR Loans, unless such Borrower notifies the Administrative Agent prior to the occurrence of such Credit Event that (A) it elects not to borrow on such date or (B) it elects to borrow on such date in a different Agreed Currency, as the case may be, in which the denomination of such Loans would in the reasonable opinion of the Administrative Agent and the Required Lenders be practicable and in an aggregate principal amount equal to the Dollar Amount of the aggregate principal amount specified in the related request for a Credit Event or Interest Election Request, as the case may be or (ii) if such Credit Event is a Letter of Credit, in a face amount equal to the Dollar Amount of the face amount specified in the related request or application for such Letter of Credit, unless such Borrower notifies the Administrative Agent prior to the occurrence of such Credit Event that (A) it elects not to request the issuance of such Letter of Credit on such date or (B) it elects to have such Letter of Credit issued on such date in a different Agreed Currency, as the case may be, in which the denomination of such Letter of Credit would in the reasonable opinion of the Issuing Bank which has issued such Letter of Credit, the Administrative Agent and the Required Lenders be practicable and in face amount equal to the Dollar Amount of the face amount specified in the related request or application for such Letter of Credit, as the case may be.

SECTION 2.22. Judgment Currency. If for the purposes of obtaining judgment in any court it is necessary to convert a sum due from any Borrower hereunder in the currency expressed to be payable herein (the “specified currency”) into another currency, the parties hereto agree, to the fullest extent that they may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the specified currency with such other currency at the Administrative Agent’s main New York City office on the Business Day preceding that on which final, non-appealable judgment is given. The obligations of each Borrower in respect of any sum due to any Lender or the Administrative Agent hereunder shall, notwithstanding any judgment in a currency other than the specified currency, be discharged only to the extent that on the Business Day following receipt by such Lender or the Administrative Agent (as the case may be) of any sum adjudged to be so due in such other currency such Lender or the Administrative Agent (as the case may be) may in accordance with normal, reasonable banking procedures purchase the specified currency with such other currency. If the amount of the specified currency so purchased is less than the sum originally due to such Lender or the Administrative Agent, as the case may be, in the specified currency, each Borrower agrees, to the fullest extent that it may effectively do so, as a separate obligation and notwithstanding any such judgment, to indemnify such Lender or the Administrative Agent, as the case may be, against such loss, and if the amount of the specified currency so purchased exceeds (a) the sum originally due to any Lender or the Administrative Agent, as the case may be, in the specified currency and (b) any amounts shared with other Lenders as a result of allocations of such excess as a disproportionate payment to such Lender under Section 2.18, such Lender or the Administrative Agent, as the case may be, agrees to remit such excess to such Borrower.

SECTION 2.23. Designation of Subsidiary Borrowers. The Company may at any time and from time to time designate any Eligible Subsidiary as a Subsidiary Borrower by delivery to the Administrative Agent of a Borrowing Subsidiary Agreement executed by such Subsidiary and the Company and the satisfaction of the other conditions precedent set forth in Section 4.03, and upon such delivery and satisfaction such Subsidiary shall for all purposes of this Agreement be a Subsidiary Borrower and a party to this Agreement until the Company shall have executed and delivered to the Administrative Agent a Borrowing Subsidiary Termination with respect to such Subsidiary, whereupon such Subsidiary shall cease to be a Subsidiary Borrower and a party to this Agreement. Notwithstanding the preceding sentence, no Borrowing Subsidiary Termination will become effective as to any Subsidiary Borrower at a time when any principal of or interest on any Loan to such Borrower shall be outstanding hereunder; provided that such Borrowing Subsidiary Termination shall be effective to terminate the right of such Subsidiary Borrower to make further Borrowings under this Agreement. As soon as practicable upon receipt of a Borrowing Subsidiary Agreement, the Administrative Agent shall furnish a copy thereof to each Lender. Notwithstanding any provision of this Agreement to the contrary, in order to accommodate the addition of an Eligible Subsidiary that is not a Domestic Subsidiary as a Subsidiary Borrower or the addition of a Foreign Currency as an Agreed Currency, in each case, where one or more Lenders are legally able and willing to lend Loans to, and participate in Letters of Credit issued for the account of, such Eligible Subsidiary or in such Foreign Currency, but other Lenders are not so able or willing, the Administrative Agent shall be permitted, with the consent of the Company, to effect such changes to the provisions of this Agreement (and not, for the avoidance of doubt, any change specified in clauses (i) through (vi) of Section 9.02(b) hereof, unless otherwise approved in accordance with Section 9.02(b)) as it reasonably believes are appropriate in order for such provisions to operate in a customary and usual manner for “multiple-currency” syndicated lending agreements to a corporation and certain of its foreign subsidiaries, all with the intention of providing procedures for the Lenders who are so able and willing to extend credit to such Eligible Subsidiaries and in such Foreign Currencies and for the other Lenders not to be required to do so (it being understood and agreed that the Lenders who are not so able and willing to extend credit to such Eligible Subsidiaries and/or in such Foreign Currencies shall not be obligated to do so). Prior to effecting any such changes, the Administrative Agent shall give all Lenders at least five Business Days’ notice thereof.

SECTION 2.24. Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) fees shall cease to accrue on the Commitment of such Defaulting Lender pursuant to Section 2.12(a);

(b) 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 or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 9.08 shall be applied at such time or times as may be reasonably determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent (but as promptly as commercially practicable) hereunder; second, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to any Issuing Bank or Swingline Lender hereunder; third, to cash collateralize the Issuing Banks’ LC Exposure with respect to such Defaulting Lender in accordance with this Section; fourth, as the Company 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 reasonably determined by the Administrative Agent; fifth, if so determined by the Administrative Agent and the Company, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender’s potential future funding obligations with respect to Loans under this Agreement and (y) cash collateralize the Issuing Banks’ future LC Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement,

in accordance with this Section; sixth, to the payment of any amounts owing to the Lenders, the Issuing Banks or Swingline Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender, the Issuing Banks or Swingline Lenders against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement or under any other Loan Document; seventh, so long as no Default or Event of Default exists, to the payment of any amounts owing to any Borrower as a result of any judgment of a court of competent jurisdiction obtained by such Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement or under any other Loan Document; and eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or LC Disbursements in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) 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 LC Disbursements owed to, all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or LC Disbursements owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in the Borrowers' obligations corresponding to such Defaulting Lender's LC Exposure and Swingline Loans are held by the Lenders pro rata in accordance with the Commitments without giving effect to clause (d) below. 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 shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto;

(c) the Commitment and Revolving Credit Exposure of such Defaulting Lender shall not be included in determining whether the Required Lenders have taken or may take any action hereunder (including any consent to any amendment, waiver or other modification pursuant to Section 9.02); provided, that, except as otherwise provided in Section 9.02, this clause (c) shall not apply to the vote of a Defaulting Lender in the case of an amendment, waiver or other modification requiring the consent of such Lender or each Lender directly affected thereby;

(d) if any Swingline Exposure or LC Exposure exists at the time such Lender becomes a Defaulting Lender then:

(i) all or any part of the Swingline Exposure and LC Exposure of such Defaulting Lender (other than the portion of such Swingline Exposure referred to in clause (b) of the definition of such term) shall be reallocated among the non-Defaulting Lenders in accordance with their respective Applicable Percentages but only to the extent the sum of all non-Defaulting Lenders' Revolving Credit Exposures plus such Defaulting Lender's Swingline Exposure and LC Exposure does not exceed the total of all non-Defaulting Lenders' Commitments;

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Company shall within one (1) Business Day following notice by the Administrative Agent (x) first, prepay such Swingline Exposure and (y) second, cash collateralize for the benefit of the Issuing Banks only the Borrowers' obligations corresponding to such Defaulting Lender's LC Exposure (after giving effect to any partial reallocation pursuant to clause (i) above) in accordance with the procedures set forth in Section 2.06(j) for so long as such LC Exposure is outstanding;

(iii) if the Company cash collateralizes any portion of such Defaulting Lender's LC Exposure pursuant to clause (ii) above, the Borrowers shall not be required to pay any fees to such Defaulting Lender pursuant to Section 2.12(b) with respect to such Defaulting Lender's LC Exposure during the period such Defaulting Lender's LC Exposure is cash collateralized;

(iv) if the LC Exposure of the non-Defaulting Lenders is reallocated pursuant to clause (i) above, then the fees payable to the Lenders pursuant to Section 2.12(b) shall be adjusted in accordance with such non-Defaulting Lenders' Applicable Percentages; and

(v) if all or any portion of such Defaulting Lender's LC Exposure is neither reallocated nor cash collateralized pursuant to clause (i) or (ii) above, then, without prejudice to any rights or remedies of any Issuing Bank or any other Lender hereunder, all facility fees that otherwise would have been payable to such Defaulting Lender (solely with respect to the portion of such Defaulting Lender's Commitment that was utilized by such LC Exposure) and letter of credit fees payable under Section 2.12(b) with respect to such Defaulting Lender's LC Exposure shall be payable to the Issuing Banks until and to the extent that such LC Exposure is reallocated and/or cash collateralized; and

(e) so long as such Lender is a Defaulting Lender, the Swingline Lenders shall not be required to fund any Swingline Loan and the Issuing Banks shall not be required to issue, amend or increase any Letter of Credit, unless it is satisfied that the related exposure and the Defaulting Lender's then outstanding LC Exposure will be 100% covered by the Commitments of the non-Defaulting Lenders and/or cash collateral will be provided by the Company in accordance with Section 2.24(d), and participating interests in any such newly made Swingline Loan or any newly issued or increased Letter of Credit shall be allocated among non-Defaulting Lenders in a manner consistent with Section 2.24(d)(i) (and such Defaulting Lender shall not participate therein).

(f) If (i) a Bankruptcy Event or a Bail-In Action with respect to a Lender Parent shall occur following the date hereof and for so long as such event shall continue or (ii) any Swingline Lender or any Issuing Bank has a good faith belief that any Lender has defaulted in fulfilling its obligations under one or more other agreements in which such Lender commits to extend credit, no Swingline Lender shall be required to fund any Swingline Loan and no Issuing Bank shall be required to issue, amend or increase any Letter of Credit, unless the Swingline Lenders or the Issuing Banks, as the case may be, shall have entered into arrangements with the Company or such Lender, satisfactory to each Swingline Lender or the Issuing Banks, as the case may be, to defease any risk to it in respect of such Lender hereunder.

(g) In the event that the Administrative Agent, the Company, each Swingline Lender and each Issuing Bank each agrees that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the Swingline Exposure and LC Exposure of the Lenders shall be readjusted to reflect the inclusion of such Lender's Commitment and on such date such Lender shall purchase at par such of the Loans of the other Lenders (other than Swingline Loans) as the Administrative Agent shall determine may be necessary in order for such Lender to hold such Loans in accordance with its Applicable Percentage.

#### SECTION 2.25. Extension of Maturity Date.

(a) Requests for Extension. The Company may, by notice to the Administrative Agent (who shall promptly notify the Lenders) during the Extension Availability Period, request that each Lender extend such Lender's Maturity Date to a date (the "Extended Maturity Date") that does not cause the tenor of any Lender's Commitment to exceed five (5) years from the date upon which the conditions precedent to the effectiveness of such extension of the Maturity Date set forth in clause (f) below have been satisfied (an "Extension Date").

(b) Lender Elections to Extend. Each Lender, acting in its sole and individual discretion, shall, by notice to the Administrative Agent (which shall be irrevocable unless the Company otherwise consents in writing in its sole discretion) given not later than the date that is 15 days after the date on which



the Administrative Agent received the Company's extension request (the "Lender Notice Date"), advise the Administrative Agent whether or not such Lender agrees to such extension (each Lender that determines to so extend its Maturity Date, an "Extending Lender"). Each Lender that determines not to so extend its Maturity Date (a "Non-Extending Lender") shall notify the Administrative Agent of such fact promptly after such determination (but in any event no later than the Lender Notice Date), and any Lender that does not so advise the Administrative Agent on or before the Lender Notice Date shall be deemed to be a Non-Extending Lender. The election of any Lender to agree to such extension shall not obligate any other Lender to so agree, and it is understood and agreed that no Lender shall have any obligation whatsoever to agree to any request made by the Company for extension of the Maturity Date.

(c) Notification by Administrative Agent. The Administrative Agent shall notify the Company of each Lender's determination under this Section promptly after the Administrative Agent's receipt thereof and, in any event, no later than the date that is 15 days prior to the applicable Extension Date (or, if such date is not a Business Day, on the next preceding Business Day).

(d) Additional Commitment Lenders. The Company shall have the right, but shall not be obligated, on or before the applicable Maturity Date for any Non-Extending Lender to replace such Non-Extending Lender with, and add as "Lenders" under this Agreement in place thereof, one or more banks, financial institutions or other entities that are not Ineligible Institutions (each, an "Additional Commitment Lender") approved by the Issuing Banks, the Swingline Lenders and Administrative Agent (such approval not to be unreasonably withheld, conditioned or delayed) in accordance with the procedures provided in Section 2.19(b), each of which Additional Commitment Lenders shall have entered into an Assignment and Assumption (in accordance with and subject to the restrictions contained in Section 9.04, with the Company or replacement Lender obligated to pay any applicable processing or recordation fee) with such Non-Extending Lender, pursuant to which such Additional Commitment Lenders shall, effective on or before the applicable Maturity Date for such Non-Extending Lender, assume a Commitment (and, if any such Additional Commitment Lender is already a Lender, its Commitment shall be in addition to such Lender's Commitment hereunder on such date). Prior to any Non-Extending Lender being replaced by one or more Additional Commitment Lenders pursuant hereto, such Non-Extending Lender may elect, in its sole discretion, by giving irrevocable notice thereof to the Administrative Agent and the Company (which notice shall set forth such Lender's new Maturity Date), to become an Extending Lender; provided that the Company consents thereto in writing in its sole discretion. The Administrative Agent may effect such amendments to this Agreement as are reasonably necessary to provide for any such extensions with the consent of the Company but without the consent of any other Lenders.

(e) Minimum Extension Requirement. If (and only if) the total of the Commitments of the Lenders that have agreed to extend their Maturity Date and the new or increased Commitments of any Additional Commitment Lenders is more than 50% of the aggregate amount of the Commitments in effect immediately prior to the applicable Extension Date, then, effective as of the applicable Extension Date, the Maturity Date of each Extending Lender and of each Additional Commitment Lender shall be extended to the Extended Maturity Date and each Additional Commitment Lender shall thereupon become a "Lender" for all purposes of this Agreement and shall be bound by the provisions of this Agreement as a Lender hereunder and shall have the obligations of a Lender hereunder.

(f) Conditions to Effectiveness of Extension. Notwithstanding the foregoing, (x) no more than two (2) extensions of the Maturity Date shall be permitted hereunder and (y) any extension of any Maturity Date pursuant to this Section 2.25 shall not be effective with respect to any Extending Lender unless:

(i) no Default or Event of Default shall have occurred and be continuing on the applicable Extension Date and immediately after giving effect thereto;

(ii) the representations and warranties of the Borrowers set forth in this Agreement (other than the representations contained in Sections 3.04(a), 3.12(b) and 3.18) shall be true and correct in all material respects (provided that any representation or warranty that is qualified by materiality or Material Adverse Effect shall be true and correct in all respects) on and as of the applicable Extension Date (or, if any such representation or warranty is expressly stated to have been made as of a specific date, as of such specific date); and

(iii) the Administrative Agent shall have received a certificate from the Company signed by a Financial Officer of the Company (A) certifying the accuracy of the foregoing clauses (i) and (ii) and (B) certifying and attaching the resolutions adopted by each Borrower approving or consenting to such extension.

(g) Maturity Date for Non-Extending Lenders. On the Maturity Date of each Non-Extending Lender, (i) the Commitment of each Non-Extending Lender shall automatically terminate and (ii) the Company shall repay such Non-Extending Lender in accordance with Section 2.10 (and shall pay to such Non-Extending Lender all of the other Obligations due and owing to it under this Agreement) and after giving effect thereto shall prepay any Revolving Loans outstanding on such date (and pay any additional amounts required pursuant to Section 2.16) to the extent necessary to keep outstanding Revolving Loans ratable with any revised Applicable Percentages of the respective Lenders effective as of such date, and the Administrative Agent shall administer any necessary reallocation of the Revolving Credit Exposures (without regard to any minimum borrowing, pro rata borrowing and/or pro rata payment requirements contained elsewhere in this Agreement).

(h) Conflicting Provisions. This Section shall supersede any provisions in Section 2.18 or Section 9.02 to the contrary.

### ARTICLE III

#### Representations and Warranties

Each Borrower represents and warrants to the Lenders that:

SECTION 3.01. Existence and Power. Such Borrower is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, has all requisite power and authority to own its Property and to carry on its business as now conducted, and such Borrower is in good standing (where applicable) and authorized to do business in each jurisdiction in which the failure to be in good standing or authorized to do business would reasonably be expected to have a Material Adverse Effect.

SECTION 3.02. Authority. Such Loan Party has full power and authority to enter into, execute, deliver and perform the terms of the Loan Documents to which it is a party, all of which have been duly authorized by all proper and necessary corporate or other entity action and are in full compliance with its certificate of incorporation, by-laws or other comparable documents. No consent or approval of, or other action by, shareholders or other equity owners of such Loan Party, any Governmental Authority or any other Person, which has not already been obtained, (a) is required to authorize the execution, delivery or performance by such Loan Party of the Loan Documents to which it is a party, (b) except for the filing of the Loan Documents with the SEC, is required of the Company or any Subsidiary in connection with the execution and delivery by the Company or such Subsidiary of the Loan Documents to which it is a party, or (c) is required as a condition to the enforceability against such Loan Party of the Loan Documents to which it is a party.

SECTION 3.03. Binding Agreements. The Loan Documents constitute the valid and legally binding obligations of such Loan Party, enforceable in accordance with their respective terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally, any mandatory applicable provisions of Luxembourg law of general application and by equitable principles relating to the availability of specific performance as a remedy.

SECTION 3.04. Litigation.

(a) Except as set forth in the reports of the Company or First Data on Form 10-K, 10-Q or 8-K, or in any Form S-4 of the Company or First Data filed with the SEC prior to the date of Amendment No. 2, there are no actions, suits or arbitration proceedings pending or, to the knowledge of the Company, threatened against the Company or any Subsidiary, at law or in equity, before any Governmental Authority that would reasonably be expected to have a Material Adverse Effect.

(b) There are no proceedings pending or, to the knowledge of the Company, threatened against the Company or any Subsidiary (i) that call into question the validity or enforceability of, or otherwise seek to invalidate, any Loan Document, or (ii) that would reasonably be expected to, individually or in the aggregate, materially and adversely affect any of the financing transactions contemplated by any Loan Document.

SECTION 3.05. No Conflicting Agreements or Laws.

(a) Neither the Company nor any Subsidiary is in default under any existing mortgage, indenture, contract, or agreement to which it is a party or by which it or any of its Property is bound the effect of which would reasonably be expected to have a Material Adverse Effect.

(b) No provision of any existing mortgage, indenture, contract, agreement or instrument evidencing Indebtedness, in each case binding on the Company or any Material Subsidiary or affecting the Property of the Company or any Material Subsidiary, and no provision of any statute, rule, regulation, judgment, decree or order binding on the Company or any Material Subsidiary or affecting the Property of the Company or any Material Subsidiary conflicts with, or requires any consent which has not already been obtained under, or would in any way prevent the execution, delivery or performance by such Loan Party of the terms of, any Loan Document, except, in each case, to the extent any such circumstance would not reasonably be expected to have a Material Adverse Effect. The execution, delivery or performance by such Loan Party of the terms of each Loan Document to which it is a party will not constitute a default under, or result in the creation or imposition of, or obligation to create, any Lien (other than any Lien permitted under Section 6.02) upon the Property of the Company or any Material Subsidiary pursuant to the terms of any mortgage, indenture, contract, agreement or instrument evidencing Indebtedness binding on the Company or any Material Subsidiary or affecting the Property of the Company or any Material Subsidiary that, in each case, would reasonably be expected to have a Material Adverse Effect.

SECTION 3.06. Taxes. The Company and each Subsidiary has filed or caused to be filed all tax returns, and has paid, or has made adequate provision for the payment of, all taxes shown to be due and payable on said returns or in any assessments made against them, the failure of which to file or pay would reasonably be expected to have a Material Adverse Effect. Under the laws of Luxembourg it is not necessary that the Loan Documents be filed, recorded or enrolled with any court or other authority in any jurisdiction or that any stamp, registration or similar Taxes be paid on or in relation to the Loan Documents or the transactions contemplated by the Loan Documents, except (a) where the Loan Documents are physically attached (*annexé(s)*) to a public deed or to any other document subject to mandatory registration, in which case either a nominal registration duty or an *ad valorem* duty (of, for instance, 0.24 per cent. of

the amount of the payment obligation mentioned in the document so registered) will be payable depending on the nature of the document to be registered, and (b) in the case of voluntary registration of the Loan Documents. Each Loan Party represents that it is resident for Tax purposes only in its jurisdiction of incorporation.

SECTION 3.07. Investment Company Act. Neither the Company nor any Subsidiary is required to register as an investment company under the Investment Company Act of 1940.

SECTION 3.08. Federal Reserve Regulations; Use of Loan Proceeds. None of the Borrowers is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any Margin Stock. After giving effect to the making of each Loan, and the issuance of each Letter of Credit, Margin Stock will constitute less than 25% of the assets (as determined by any reasonable method) of the Company and the Subsidiaries. None of the Borrowers have used or will use the proceeds of the Loans (i) for any purpose other than their respective general corporate purposes (including refinancing existing Indebtedness, Acquisitions, capital expenditures and, in the case of the Company, repurchases of the Company's Stock, in each case to the extent not inconsistent with the terms hereof) or (ii) for any purpose that would constitute unlawful financial assistance within the meaning of sections 678 or 679 of the UK Companies Act 2006. Anything in this Agreement to the contrary notwithstanding, no Lender shall be obligated to extend credit to the Company (i) in violation of any limitation or prohibition provided by any applicable law, regulation or statute, including Regulations U or X of the Board or (ii) to fund any tender offer for, or other Acquisition of, Stock issued by any other Person with a view towards attaining Control of such other Person at a time when the board of directors, another similar managing body of such Person, or a party to whom the board of directors has delegated approval authority shall not have approved of such attainment of Control.

SECTION 3.09. Disclosure. None of the Information Memorandum, any Loan Document or any material information delivered hereunder or thereunder (as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading in any material respect on the date when made or furnished, and when taken as a whole; provided that the foregoing shall not apply to projections, estimates and other forward-looking materials and information of a general economic or industry specific nature. With respect to projections, estimates and other forward-looking information, the Company represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time made, it being understood and agreed by the Lenders that (a) such projections, estimates and forward-looking information relate to future events, are not to be viewed as fact and are subject to significant uncertainties and contingencies, many of which are beyond the control of the Company and (b) no assurance can be given that any particular projections, estimates or forward-looking information will be realized and actual results during the period or periods covered by such projections, estimates and forward-looking information may differ from the projected results set forth therein and such differences may be material. As of the Effective Date, to the best knowledge of the Company, the information included in the Beneficial Ownership Certification provided on or prior to the Effective Date to any Lender in connection with this Agreement is true and correct in all material respects.

SECTION 3.10. Plans. Each Employee Benefit Plan of the Company, each Subsidiary and each ERISA Affiliate is in compliance with ERISA and the Code, where applicable, except to the extent that non-compliance would not reasonably be expected to have a Material Adverse Effect. The Company, each Subsidiary and each ERISA Affiliate have complied with the requirements of Section 515 of ERISA with respect to each Pension Plan which is a Multiemployer Plan, except to the extent that non-compliance would not reasonably be expected to have a Material Adverse Effect. The Company, each Subsidiary and each ERISA Affiliate has, as of the date hereof, made all contributions or payments to or under each such

Pension Plan required by law or the terms of such Pension Plan or any contract or agreement, except to the extent that non-compliance would not reasonably be expected to have a Material Adverse Effect. No liability to the PBGC has been, or is expected by the Company, any Subsidiary or any ERISA Affiliate to be, incurred by the Company, any Subsidiary or any ERISA Affiliate, except to the extent that such liability, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. Liability, as referred to in this Section 3.10, includes any joint and several liability. Each Employee Benefit Plan which is a group health plan within the meaning of Section 5000(b)(1) of the Code is in material compliance with the continuation of health care coverage requirements of Section 4980B and 4980D of the Code, except to the extent that non-compliance would not reasonably be expected to have a Material Adverse Effect.

SECTION 3.11. Environmental Matters. Except as would not reasonably be expected to have a Material Adverse Effect, (a) the Company and each Subsidiary possess all Environmental Permits currently required under applicable Environmental Laws to conduct their respective businesses and are, and within applicable statutes of limitation, have been, in compliance with the terms and conditions of such Environmental Permits, nor has the Company or any Subsidiary received written notice that any Environmental Permits possessed by any of them will be revoked, suspended or will not be renewed; (b) the Company and each Subsidiary is currently, and within applicable statutes of limitation, have been, in compliance with all applicable Environmental Laws; (c)(i) the Company has not received notice of any civil, criminal or administrative action, suit, demand, claim, hearing, notice of violation, investigation, notice or demand letter or request for information pending or threatened under any Environmental Law against the Company or any Subsidiary, and (ii) the Company has not received notice of actual or potential liability under any Environmental Law that has not been resolved, including, but not limited to, any liability that the Company or any Subsidiary may have retained or assumed either contractually or by operation of law; (d) as of the date hereof, no property or facility currently, or to the Company's knowledge, formerly owned, operated or leased by the Company or any present or former Subsidiary, or by any respective predecessor in interest, is listed or proposed for listing on the National Priorities List or CERCLIS, both promulgated under the CERCLA, or on any comparable foreign or state list established under any Environmental Law; (e)(i) there has been no disposal, spill, discharge or release of any Hazardous Material generated, used, owned, stored or controlled by the Company, any Subsidiary or respective predecessors in interest, on, at or under any property presently or formerly owned, leased or operated by the Company, any Subsidiary or any predecessor in interest; and (ii) there are no Hazardous Materials located in, at, on or under such facility or property, or at any other location, in either case, that could reasonably be expected to require investigation, removal, remedial or corrective action by the Company or that would reasonably likely result in liabilities of, or losses, damages or costs to the Company under any Environmental Law; (f)(i) there has not been any underground or aboveground storage tank or other underground storage receptacle or related piping, or any impoundment or other disposal area in each case containing Hazardous Materials located on any facility or property owned, leased or operated by the Company, any Subsidiary or respective predecessors in interest except in compliance with Environmental Laws during the period of such ownership, lease or operation, and (ii) no asbestos or polychlorinated biphenyls have been used or disposed of, or have been located at, on or under any such facility or property during the period of such ownership, lease or operation, except in compliance with Environmental Laws; and (g) no lien has been recorded against any properties, assets or facilities currently owned, leased or operated by the Company or any Subsidiary under any Environmental Law.

SECTION 3.12. Financial Statements.

(a) The Company has heretofore delivered to the Lenders copies of its audited Consolidated Balance Sheet as of December 31, 2017, and the related Consolidated Statement of Income and Consolidated Statement of Cash Flows, for the fiscal year then ended (collectively, together with the related notes and schedules, the "Financial Statements"). The Financial Statements fairly present in all

material respects the Consolidated financial condition and results of the operations of the Company and the Subsidiaries as of the dates and for the periods indicated therein and have been prepared in conformity with GAAP as then in effect.

(b) Since December 31, 2017, there has been no material adverse change in the financial condition, operations, business or assets of the Company and its Subsidiaries on a Consolidated basis (except for specific events (and not general economic or industry conditions) specifically applicable to the Company and/or its Subsidiaries as disclosed in the reports of the Company or First Data on Form 10-K, 10-Q or 8-K, or in any Form S-4 of the Company or First Data filed with the SEC prior to the date of Amendment No. 2).

SECTION 3.13. Material Subsidiaries. As of the date of this Agreement, each Material Subsidiary of the Company is set forth on Schedule 3.13.

SECTION 3.14. OFAC and Anti-Corruption Laws.

(a) The Company and, to its knowledge, its controlled Affiliates and their respective directors, officers, employees, and agents are conducting their business in compliance in all material respects with Anti-Corruption Laws and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws in all material respects.

(b) None of the Company or, to its knowledge, its controlled Affiliates or their respective directors, officers, employees or agents acting or directly benefiting in any capacity in connection with the Credit Events:

(i) is a Designated Person;

(ii) is a Person that is 50% or greater owned or controlled by one or more Designated Persons or by a Sanctioned Country;

(iii) is located, organized or resident in a Sanctioned Country; or

(iv) is (or, except as disclosed in writing to the Administrative Agent prior to the Effective Date, has, to the Company's knowledge, within the year preceding the Effective Date) directly or, to the Company's knowledge, indirectly engaged in, any dealings or transactions, in each case in violation of any Sanctions, (1) with any Designated Person or (2) in any Sanctioned Country to the extent that after giving effect to such dealings or transactions the Company and its Subsidiaries have more than 5% of their consolidated assets in Sanctioned Countries or derive more than 5% of their consolidated revenues from investments in, or transactions with, Sanctioned Countries.

SECTION 3.15. EEA Financial Institutions. Such Borrower is not an EEA Financial Institution.

SECTION 3.16. Domiciliation; Centre of Main Interests.

(a) Each UK Loan Party incorporated or organized in an EU jurisdiction represents and warrants to the Lenders that its centre of main interest (as that term is used in Article 3(1) of the Insolvency Regulation) is in its jurisdiction of incorporation and it has no establishment (as that term is used in Article 2(10) of the Insolvency Regulation) in any other jurisdiction. Each UK Loan Party incorporated in England and Wales represents and warrants to the Lenders that its centre of main interest (as that term is used in Article 3(1) of the Insolvency Regulation) is in England and Wales and it has no establishment (as that term is used in Article 2(10) of the Insolvency Regulation) in any other jurisdiction.

(b) In the case of a Luxembourg Borrower, (i) it complies in all material respects with all legal requirements of the Luxembourg law of 31 May 1999, as amended, regarding the domiciliation of companies and (ii) its head office (*administration centrale*) and the place of its effective management (*siège de direction effective*) are located at the place of its registered office (*siège statutaire*) in Luxembourg and, for the purposes of the Insolvency Regulation, its centre of main interests (*centre des intérêts principaux*) is located at the place of its registered office (*siège statutaire*) in Luxembourg.

SECTION 3.17. Works Council. There is no works council with jurisdiction over the transaction as envisaged by any Loan Document to which a Dutch Borrower is a party and there is no obligation for a Dutch Borrower to establish a works council pursuant to the Dutch Works Council Act (*Wet op de Ondernemingsraden*), or, if a works council is established, such Dutch Borrower (or the Company on its behalf) has delivered to the Administrative Agent a confirmation that all consultation obligations in respect of such works council have been complied with and that positive unconditional advice has been obtained, attaching a copy of such advice and a copy of the request for such advice.

SECTION 3.18. Use of Proceeds. The Company will not, directly or, to its knowledge, indirectly, use any part of the proceeds of any Loan in violation of Anti-Corruption Laws, applicable Sanctions or the PATRIOT Act. No proceeds of any Loans will be used directly or indirectly to purchase or carry any Margin Stock, or to extend credit to others for the purpose of purchasing or carrying any Margin Stock, in violation of Regulation U of the Board, as amended. The Company will use the proceeds of the Loans funded on the Specified Acquisition Closing Date for the Specified Acquisition Transactions.

SECTION 3.19. Solvency. On the Specified Acquisition Closing Date and immediately after giving effect to the Specified Acquisition and the transactions to occur on the Specified Acquisition Closing Date, the Company and its Subsidiaries, on a consolidated basis, are Solvent.

## ARTICLE IV

### Conditions

SECTION 4.01. Effective Date. The obligations of the Lenders to make Loans and of the Issuing Banks to issue Letters of Credit hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(a) The Administrative Agent (or its counsel) shall have received from each party hereto either (i) a counterpart of this Agreement signed on behalf of such party or (ii) written evidence satisfactory to the Administrative Agent (which may include telecopy or electronic transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement.

(b) The Administrative Agent shall have received a favorable written opinion (addressed to the Administrative Agent and the Lenders and dated the Effective Date) of (i) Foley & Lardner LLP, special counsel for the Company and (ii) Lynn S. McCreary, Chief Legal Officer of the Company, substantially in the form of Exhibits B-1 and B-2, respectively, and covering such other matters relating to the Company, this Agreement or the Transactions as the Administrative Agent shall reasonably request. The Company hereby requests such counsels to deliver such opinions.

(c) The Administrative Agent shall have received such documents and certificates as the Administrative Agent or its counsel may reasonably request relating to the organization, existence and good standing of the Company, the authorization of the Transactions and any other legal matters relating to the Company, the Loan Documents or the Transactions, all in form and substance satisfactory to the Administrative Agent and its counsel and as further described in the list of closing documents attached as Exhibit E.

(d) The Administrative Agent shall have received a certificate, dated the Effective Date and signed by the President, a Vice President or a Financial Officer of the Company, certifying (i) compliance with the conditions set forth in paragraphs (a) and (b) of Section 4.02 and (ii) that since December 31, 2017, there has been no material adverse change in the financial condition, operations, business or assets of the Company and its Subsidiaries on a Consolidated basis (except for specific events (and not general economic or industry conditions) specifically applicable to the Company and/or its Subsidiaries as disclosed in the Company's reports on Form 10-K, 10-Q or 8-K filed with the SEC prior to the Effective Date).

(e) (i) The Administrative Agent shall have received, at least five (5) days prior to the Effective Date, all documentation and other information regarding the Company requested in connection with applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act, to the extent requested in writing of the Company at least ten (10) days prior to the Effective Date and (ii) to the extent the Company qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, at least five (5) days prior to the Effective Date, any Lender that has requested, in a written notice to the Company at least ten (10) days prior to the Effective Date, a Beneficial Ownership Certification in relation to the Company shall have received such Beneficial Ownership Certification (provided that, upon the execution and delivery by such Lender of its signature page to this Agreement, the condition set forth in this clause (e) shall be deemed to be satisfied).

(f) The Administrative Agent shall have received all fees and other amounts due and payable on or prior to the Effective Date, including, to the extent invoiced (in reasonable detail) at least one (1) Business Day prior to the Effective Date, reimbursement or payment of all out-of-pocket expenses required to be reimbursed or paid by the Company hereunder.

The Administrative Agent shall notify the Company and the Lenders of the Effective Date, and such notice shall be conclusive and binding.

#### SECTION 4.02. Each Credit Event.

(a) The obligation of each Lender to make a Loan, and of the Issuing Banks to issue, increase, renew or extend any Letter of Credit, on the date of the consummation of the Specified Acquisition (the "Specified Acquisition Closing Date") is subject solely to the satisfaction (or waiver in accordance with Section 9.02) of the following conditions:

(i) Each of the Acquisition Agreement Representations and the Specified Representations shall be true and correct in all material respects (in the case of the Acquisition Agreement Representations, to the extent required pursuant to the definition thereof) at the time of, and after giving effect to, the making of the Loans on such date.

(ii) The Administrative Agent shall have received a solvency certificate from the Chief Financial Officer of the Company substantially in the form set forth in Exhibit K hereto.



(iii) The Specified Acquisition shall have been consummated substantially concurrently with the making of the Loans on such date, in all material respects in accordance with the Acquisition Agreement after giving effect to any modifications, amendments, supplements, consents or waivers, other than those modifications, amendments, supplements, consents or waivers by the Company that are materially adverse to JPMorgan Chase Bank, N.A. in its capacity as arranger and lender in connection with the financing for the Specified Acquisition Transactions (in such capacity, the “Specified Acquisition Arranger”) or the Lenders (in their capacities as such) without the Specified Acquisition Arranger’s prior written consent (such consent not to be unreasonably withheld, delayed or conditioned); provided that any change in the Merger Consideration (as defined in the Acquisition Agreement) shall not be deemed to be materially adverse to the interests of the Lenders or the Specified Acquisition Arranger and shall not require the consent of the Specified Acquisition Arranger if such change results in the number of shares of Parent Common Stock (as defined in the Acquisition Agreement) for which each share of Company Common Stock (as defined in the Acquisition Agreement), other than any Exception Shares (as defined in the Acquisition Agreement), may be converted pursuant to the Acquisition Agreement increasing or decreasing by 7.5% or less.

(iv) Since January 16, 2019, no event or events shall have occurred that have had or would reasonably be likely to have, either individually or in the aggregate, a Material Adverse Effect (as defined in the Acquisition Agreement as in effect on January 16, 2019) on First Data.

(v) The Administrative Agent and the Lenders shall have received (i) all fees required to be paid under this Agreement on or prior to the Specified Acquisition Closing Date and, to the extent payable to the Lenders under this Agreement or their Affiliates on or prior to the Specified Acquisition Closing Date, all fees required to be paid pursuant to the terms of (A) the Permanent Loan Financing Fee Letter, dated as of January 16, 2019, by and between the Company and the Specified Acquisition Arranger (the “Permanent Financing Fee Letter”) and (B) the Bridge Facility Fee Letter, dated as of January 16, 2019, by and between the Company and the Specified Acquisition Arranger or the definitive documentation in respect of the Bridge Facility (as such term is used in such Bridge Facility Fee Letter), in each case, on or prior to the Specified Acquisition Closing Date, and (ii) to the extent invoiced at least three (3) Business Days prior to the Specified Acquisition Closing Date, expenses required to be paid hereunder on or prior to the Specified Acquisition Closing Date.

(vi) All obligations (other than contingent obligations (including indemnification obligations) that by their terms are to survive the termination of the relevant loan documentation and debt instruments evidencing third party debt) for borrowed money of First Data and its subsidiaries under the instruments set forth on Schedule 4.02(a)(vi) shall have been (or substantially concurrently with the making of the Loans on such date shall be) repaid or satisfied and discharged, and in connection therewith all guarantees and liens shall have been released, on or prior to the Specified Acquisition Closing Date.

(vii) The Administrative Agent shall have received a certificate from a responsible officer of the Company certifying as to the satisfaction of the condition precedent contained in Section 4.02(a)(i) (solely with respect to the Specified Representations), (iii) and (iv).

(b) The obligation of each Lender to make a Loan, and of the Issuing Banks to issue, increase, renew or extend any Letter of Credit, other than on the date of the consummation of the Specified Acquisition, is subject to the satisfaction (or waiver in accordance with Section 9.02) of the following conditions:

(i) The representations and warranties of the Borrowers set forth in this Agreement (other than the representations contained in Sections 3.04(a), 3.12(b) and 3.18) shall be true and correct in all material respects (provided that any representation or warranty that is qualified by materiality or Material Adverse Effect shall be true and correct in all respects) on and as of the date of such Loan (or, if any such representation or warranty is expressly stated to have been made as of a specific date, as of such specific date) or the date of issuance, amendment to increase, renewal or extension of such Letter of Credit, as applicable.

(ii) At the time of and immediately after giving effect to such Loan or the issuance, amendment to increase, renewal or extension of such Letter of Credit, as applicable, no Default shall have occurred and be continuing.

Each Loan and each issuance, amendment to increase, renewal or extension of a Letter of Credit pursuant to this Section 4.02(b) shall be deemed to constitute a representation and warranty by the Borrowers on the date thereof as to the matters specified in paragraphs (i) and (ii) of this Section 4.02(b).

SECTION 4.03. Designation of a Subsidiary Borrower. The designation of a Subsidiary Borrower pursuant to Section 2.23 is subject to the conditions precedent that the Company or such proposed Subsidiary Borrower shall have furnished or caused to be furnished to the Administrative Agent:

(a) Copies, certified by the Secretary or Assistant Secretary (or other appropriate officer, manager or director) of such Subsidiary, of its board of directors' (or other applicable governing body's) resolutions (and resolutions of other bodies, if any are deemed necessary by counsel for the Administrative Agent) approving the Borrowing Subsidiary Agreement and any other Loan Documents to which such Subsidiary is becoming a party and such documents and certificates as the Administrative Agent or its counsel may reasonably request relating to the organization, existence and good standing of such Subsidiary;

(b) An incumbency certificate, executed by the Secretary or Assistant Secretary (or other appropriate officer, manager or director) of such Subsidiary, which shall identify by name and title and bear the signature of the officers or other representatives of such Subsidiary authorized to request Borrowings hereunder and sign the Borrowing Subsidiary Agreement and the other Loan Documents to which such Subsidiary is becoming a party, upon which certificate the Administrative Agent and the Lenders shall be entitled to rely until informed of any change in writing by the Company or such Subsidiary;

(c) In respect of any Luxembourg Borrower, (i) an excerpt (*extrait*) issued by the Luxembourg Trade and Companies Register dated as of the date of its designation, (ii) a non-registration certificate (*certificat de non-inscription d'une décision judiciaire*) issued by the Luxembourg Trade and Companies Register regarding the absence of judicial proceedings dated as of the date of its designation and (iii) in the event such Luxembourg Borrower has established its offices at the premises of a Luxembourg domiciliation agent, a domiciliation certificate dated as of the date of its designation.

(d) Opinions of counsel to such Subsidiary (which may include inside counsel to such Subsidiary for certain matters), in form and substance reasonably satisfactory to the Administrative Agent and its counsel, with respect to the laws of its jurisdiction of organization and such other matters as are reasonably requested by counsel to the Administrative Agent and addressed to the Administrative Agent and the Lenders;

(e) Any promissory notes requested by any Lender, and any other instruments and documents reasonably requested by the Administrative Agent or any Lender (including in connection with applicable "know-your-customer" and anti-money laundering rules and regulations, including the Patriot Act and the Beneficial Ownership Regulation); and

(f) The Administrative Agent shall have received evidence satisfactory to it that all of such Subsidiary Borrower's then existing credit facilities shall have been cancelled and terminated and all indebtedness thereunder shall have been fully repaid (except to the extent being so repaid with the initial Revolving Loans to such Borrower or otherwise permitted to be outstanding pursuant to Section 6.01).

## ARTICLE V

### Affirmative Covenants

Until the Commitments have expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full and all Letters of Credit shall have expired, terminated, been collateralized or otherwise been covered by a letter of credit as permitted herein and all LC Disbursements shall have been reimbursed, each Borrower covenants and agrees with the Lenders that such Borrower will:

SECTION 5.01. Legal Existence. Except as may otherwise be permitted by Sections 6.03 and 6.04, maintain and cause each of its Subsidiaries to maintain, its corporate existence in good standing (i) in the jurisdiction of its incorporation or formation and (ii) in each other jurisdiction in which such Person does business, except, in each case (other than in respect of the Company in the case of clause (i)), to the extent the failure so to do would not reasonably be expected to have a Material Adverse Effect.

SECTION 5.02. Taxes. Pay and discharge when due, and cause each of its Subsidiaries so to do, all taxes, assessments, governmental charges, license fees and levies upon or with respect to the Company and each such Subsidiary, and upon the income, profits and Property thereof unless, and only to the extent, that (a)(i) such taxes, assessments, governmental charges, license fees and levies shall be contested in good faith and by appropriate proceedings diligently conducted by the Company or any such Subsidiary, and (ii) such reserve or other appropriate provision as shall be required by GAAP shall have been made therefor, or (b) the failure so to do would not reasonably be expected to have a Material Adverse Effect.

SECTION 5.03. Insurance. Maintain, and cause each of its Material Subsidiaries to maintain, insurance with financially sound insurance carriers against at least such risks, and in at least such amounts, as are usually insured against by similar businesses, including business interruption, public liability (bodily injury and property damage), fidelity, workers' compensation and property insurance, except to the extent that the failure so to do would not reasonably be expected to have a Material Adverse Effect.

SECTION 5.04. Performance of Obligations. Pay and discharge promptly when due, and cause each of its Subsidiaries so to do, all lawful Indebtedness, obligations and claims for labor, materials and supplies or otherwise which, if unpaid, would reasonably be expected to have a Material Adverse Effect; provided that neither the Company nor any such Subsidiary shall be required to pay or discharge or cause to be paid or discharged any such Indebtedness, obligation or claim so long as (i) the validity thereof shall be contested in good faith and by appropriate proceedings diligently conducted by the Company or any such Subsidiary, and (ii) such reserve or other appropriate provision as shall be required by GAAP shall have been made therefor.

SECTION 5.05. Condition of Property. Except as permitted by Sections 6.03 and 6.04 and for ordinary wear and tear, at all times, maintain, protect and keep in good repair, working order and

condition, all Property used or useful in the operation of its business (other than Property which is replaced with similar Property), and cause each of its Subsidiaries so to do, except to the extent that the failure to do so would not reasonably be expected to have a Material Adverse Effect.

SECTION 5.06. Observance of Legal Requirements. Observe and comply in all material respects, and cause each of its Subsidiaries so to do, with all laws, ordinances, orders, judgments, rules, regulations, certifications, franchises, permits, licenses, directions and requirements of all Governmental Authorities, which now or at any time hereafter may be applicable to it or to any such Subsidiary, a violation of which would reasonably be expected to have a Material Adverse Effect.

SECTION 5.07. Financial Statements and Other Information. Furnish to the Administrative Agent:

(a) As soon as available and, in any event, within 90 days after the close of each fiscal year, a copy of (x) the Company's 10-K in respect of such fiscal year, and (y) (i) the Company's Consolidated Balance Sheet as of the end of such fiscal year, and (ii) the related Consolidated Statement of Income and Consolidated Statement of Cash Flows, as of and through the end of such fiscal year, setting forth in each case in comparative form the corresponding figures in respect of the previous fiscal year, all in reasonable detail, and accompanied by a report of the Company's auditors, which report shall state that (A) such auditor has audited such financial statements, (B) such audit was made in accordance with generally accepted auditing standards in effect at the time and provides a reasonable basis for such opinion, and (C) said financial statements have been prepared in accordance with GAAP (provided that, notwithstanding the foregoing, such report may be with reference to such financial statements which have given effect to the consolidation of any FIN 46 Entities with the Company);

(b) [reserved];

(c) As soon as available, and in any event within 45 days after the end of each of the first three fiscal quarters of each fiscal year, a copy of (x) the Company's 10-Q in respect of such fiscal quarter, and (y) (i) the Company's Consolidated Balance Sheet as of the end of such quarter, and (ii) the related Consolidated Statement of Income and Consolidated Statement of Cash Flows for (A) such quarter, and (B) the period from the beginning of the then current fiscal year to the end of such quarter, in each case in comparable form with the prior fiscal year, all in reasonable detail and prepared in accordance with GAAP (without footnotes and subject to normal year-end and audit adjustments);

(d) Simultaneously with the delivery of the financial statements required by Section 5.07(a) or 5.07(c), as the case may be, a Compliance Certificate, as of the fiscal period then ended, certified by a Financial Officer of the Company, which shall certify that no Default or Event of Default shall have occurred and be continuing or, if so, specifying all such Defaults and Events of Default, and setting forth computations in reasonable detail demonstrating compliance with Section 6.08;

(e) Upon a Financial Officer of the Company becoming aware thereof, prompt written notice of: (i) any citation, summons, subpoena, order to show cause or other order naming the Company or any Subsidiary a party to any proceeding before any Governmental Authority which would reasonably be expected to have a Material Adverse Effect, and include with such notice a copy of such citation, summons, subpoena, order to show cause or other order, (ii) any lapse or other termination of any license, permit, franchise or other authorization issued to the Company or any Subsidiary by any Governmental Authority, (iii) any refusal by any Governmental Authority to renew or extend any license, permit, franchise or other authorization, and (iv) any dispute between the Company or any Subsidiary and any Governmental Authority, which lapse, termination, refusal or dispute, referred to in clause (ii), (iii) or (iv) above, would reasonably be expected to have a Material Adverse Effect;

(f) Upon a Financial Officer of the Company becoming aware thereof, prompt written notice of the occurrence of (i) each Default, and (ii) the occurrence of any event or circumstance that would reasonably be expected to have a Material Adverse Effect;

(g) Upon the forwarding thereof to the shareholders of the Company generally, copies of all financial statements, reports and proxy statements so furnished;

(h) Promptly after either rating agency providing a rating for the Index Debt pursuant to the definition of "Applicable Rate" shall have publicly announced a change in the rating established or deemed to have been established for the Index Debt, written notice of such rating change;

(i) Promptly after request therefor, such other information relating to the financial condition or business of the Company, the Subsidiaries and the FIN 46 Entities, as the Administrative Agent, any Issuing Bank, any Swingline Lender or any Lender at any time or from time to time may reasonably request (it being understood and agreed that neither the Company nor any of its Subsidiaries shall be required to disclose or discuss, or permit the inspection, examination or making of extracts of, any records, books, information or account or other matter (1) in respect of which disclosure to the Administrative Agent, any Lender or their representatives is then prohibited by applicable law or any agreement binding on the Company or its Subsidiaries; (2) that is protected from disclosure by the attorney-client privilege or the attorney work product privilege or (3) constitutes non-financial trade secrets or non-financial proprietary information); and

(j) Promptly after request therefor, information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act and the Beneficial Ownership Regulation.

Each report and other document required to be delivered by the Company pursuant to subparagraphs (a), (c), (d) and (g) of this Section 5.07 shall be deemed to have been delivered on the date upon which (i) other than in the case of the Compliance Certificate, the Company files such documents with the SEC via the EDGAR filing system (or any successor system), to the extent such documents are publicly available, or (ii) the Company notifies the Administrative Agent that such report or other document has been posted at a site (the address of which shall be contained in such notice) on the internet, which site is accessible by a widely held nationally recognized internet browser, from which such report or document may be readily viewed. The Administrative Agent shall promptly furnish to each Lender a copy (in the form received) of each notice or other information provided to the Administrative Agent under this Section 5.07.

If any financial materials and related certificates required to be delivered pursuant to Sections 5.07(a), (c) and/or (d) shall be required to be delivered pursuant to the terms of such Section(s) on a day that is not a Business Day, the required date for such delivery shall be extended to the next succeeding Business Day.

**SECTION 5.08. Records.** At all reasonable times, upon reasonable prior notice and at the sole cost and expense of the Administrative Agent and the Lenders, permit representatives of the Administrative Agent and each Lender to discuss the affairs of the Company and its Subsidiaries with appropriate members of management thereof, and to meet and discuss the affairs of the Company and its Subsidiaries with the Company's auditors.

**SECTION 5.09. Authorizations.** Maintain and cause each of its Subsidiaries to maintain, in full force and effect, all copyrights, patents, trademarks, trade names, franchises, licenses, permits, applications, reports, and other authorizations and rights, except where the failure so to do would not reasonably be expected to have a Material Adverse Effect.

SECTION 5.10. Loan Party Location. Maintain and cause each of its Subsidiaries incorporated in England and Wales to cause its centre of main interest (as that term is used in Article 3(1) of the Insolvency Regulation) to be situated solely in England and Wales and not to have an establishment (as that term is used in Article 2(10) of the Insolvency Regulation) situated outside its jurisdiction of incorporation.

SECTION 5.11. Fiscal Unity for Dutch Tax Purposes. Ensure that any fiscal unity (*fiscale eenheid*) for Dutch corporate income tax purposes as defined in the Dutch Corporate Income Tax Act 1969 (*Wet op de vennootschapsbelasting 1969*) or a fiscal unity (*fiscale eenheid*) for VAT purposes as defined in the Dutch VAT Act 1968 (*Wet op de omzetbelasting 1968*), if any, that includes any Dutch Borrower shall consist of Dutch Borrowers only, unless with the prior written consent of the Administrative Agent.

## ARTICLE VI

### Negative Covenants

Until the Commitments have expired or terminated and the principal of and interest on each Loan and all fees payable hereunder have been paid in full and all Letters of Credit have expired, terminated, been collateralized or otherwise been covered by a letter of credit as permitted herein and all LC Disbursements shall have been reimbursed, each Borrower covenants and agrees with the Lenders that it will not:

SECTION 6.01. Subsidiary Indebtedness. Permit any Material Subsidiary to create, incur, assume or suffer to exist any Indebtedness, except any one or more of the following types of Indebtedness:

(a) (i) the Obligations and any other Indebtedness created under the Loan Documents and (ii) any other Indebtedness if the Loans are guaranteed on a pari passu basis by each Subsidiary that has incurred such Indebtedness; provided that any such guarantee may, at the option of the Company, be automatically released if the Subsidiary providing such guarantee is no longer liable in respect of such Indebtedness;

(b) Indebtedness existing on the Effective Date and set forth on Schedule 6.01;

(c) Indebtedness in respect of capital and operating leases, and Permitted Sale-Leaseback Transactions;

(d) purchase money Indebtedness in connection with the acquisition of fixed or capital assets;

(e) Indebtedness to the Company or any Subsidiary, and Guarantees by any Subsidiary of Indebtedness of another Subsidiary or the Company to the extent that such Indebtedness is not prohibited hereby;

(f) other Indebtedness; provided that, immediately after giving effect thereto, (i) the aggregate sum of all Indebtedness (without duplication) under this Section 6.01(f) would not exceed the greater of (x) \$1,000,000,000 and (y) 15.0% of Net Worth as determined at the time of, and immediately after giving effect to, the incurrence of such Indebtedness and (ii) to the extent such Indebtedness is secured by Liens, such Liens would be permitted under Section 6.02(l), (m), (o), (p) and/or (r);

(g) Indebtedness assumed in connection with any Acquisition or of a Person that becomes a Subsidiary after the date hereof and not incurred in contemplation thereof; ~~and~~

(h) Any (i) Securitized Indebtedness and (ii) Indebtedness in respect of any receivables factoring, discounting, facilities or securitizations, which, in the case of any such Indebtedness described in this clause (ii), imposes obligations that are non-recourse (except for (A) representations, warranties, covenants, repurchase obligations and indemnities made in connection with any such Indebtedness that the Company determines in good faith to be customary for Indebtedness of such type, (B) guarantees given in connection with such Indebtedness and (C) servicing obligations related to such Indebtedness) to the Company and its Subsidiaries (other than any Subsidiary formed for the purpose of facilitating or entering into such Indebtedness and that in each case engages only in activities reasonably related or incidental thereto) (any such receivables factoring, discounting, facility or securitization, a "Permitted Securitization"), in the aggregate principal amount outstanding under this Section 6.01(h) not to exceed the greater of (x) \$500,000,000 and (y) 15.0% of Net Worth as determined at the time of, and immediately after giving effect to, the incurrence of such Indebtedness; and

(i) ~~(H)~~ any extensions, renewals, refinancings, amendments, restatements, supplements, refundings, modifications or replacements of any Indebtedness permitted by this Section 6.01 (and, in the case of guarantees, guarantees in respect of any extension, renewal, refinancing, amendment, restatement, supplement, refunding, modification or replacement of the guaranteed indebtedness), to the extent that the principal amount thereof shall not be increased other than increases related to required premiums, accrued interest and reasonable fees and expenses in connection with such extensions, renewals, refinancings, amendments, restatements, supplements, refundings, modifications or replacements.

SECTION 6.02. Liens. Create, incur, assume or suffer to exist any Lien against or on any Property now owned or hereafter acquired by the Company or any Material Subsidiary, or permit any Material Subsidiary so to do, except any one or more of the following types of Liens:

(a) Liens in connection with workers' compensation, unemployment insurance or other social security obligations (which phrase shall not be construed to refer to ERISA or the minimum funding obligations under Section 412 of the Code);

(b) Liens to secure the performance of bids, tenders, letters of credit, contracts (other than contracts for the payment of Indebtedness), leases, statutory obligations, surety, customs, appeal, performance and payment bonds and other obligations of a similar nature, in each such case arising in the ordinary course of business;

(c) mechanics', workmen's, carriers', warehousemen's, materialmen's, landlords', or other similar Liens arising in the ordinary course of business with respect to obligations which (i) are not more than 30 days' past due, or (ii) are being contested in good faith and by appropriate action;

(d) Liens for taxes, assessments, fees or governmental charges or levies which (i) are not delinquent, (ii) are payable without material penalty, or (iii) are being contested in good faith and by appropriate action;

(e) judgment Liens in respect of judgments that do not constitute an Event of Default under clause (k) of Article VII and other Liens consisting of attachments, judgments or awards against the Company or any Subsidiary with respect to which an appeal or proceeding for review shall be pending or a stay of execution shall have been obtained, or which are otherwise being contested in good faith and by appropriate action, and in respect of which adequate reserves shall have been established in accordance with GAAP on the books of the Company or any Subsidiary;

(f) easements, rights of way, restrictions, leases of Property to others, easements for installations of public utilities, title imperfections and restrictions, zoning ordinances and other similar encumbrances affecting Property which in the aggregate do not materially adversely affect the value of such Property or materially impair its use for the operation of the business of the Company or any Subsidiary;

(g) Liens existing on the Effective Date and securing Indebtedness or other obligations of the Company or, to the extent permitted by Section 6.01, of the Subsidiaries;

(h) statutory Liens in favor of lessors arising in connection with Property leased to the Company or any Subsidiary;

(i) Liens on Margin Stock to the extent that a prohibition on such Liens pursuant to this Section 6.02 would violate Regulation U of the Board, as amended;

(j) purchase money Liens on Property hereafter acquired by the Company or any Subsidiary created within 270 days of such acquisition (or in the case of real property, completion of construction including any improvements or the commencement of operation of the property, whichever occurs later) to secure or provide for the payment or financing of all or any part of the purchase price thereof, provided that the Lien secured thereby shall attach only to the Property so acquired and related assets (except that individual financings by one Person (or an Affiliate thereof) may be cross-collateralized to other financings provided by such Person and its Affiliates that are permitted by this clause (j));

(k) Liens in respect of capital leases permitted by Section 6.01 and Permitted Sale-Leaseback Transactions;

(l) (i) Liens on the Property of a Person that becomes a Subsidiary after the date hereof; provided that (A) such Liens existed at the time such Person becomes a Subsidiary and were not created in anticipation thereof, (B) any such Lien does not by its terms cover any Property after the time such Person becomes a Subsidiary that was not covered immediately prior thereto and (C) any such Lien does not by its terms secure any Indebtedness other than Indebtedness existing immediately prior to the time such Person becomes a Subsidiary, and (ii) Liens on the proceeds of Indebtedness constituting debt securities included in clause (a)(i) of the definition of "Leverage Ratio" incurred to finance an acquisition, investment or refinancing pursuant to customary escrow or similar arrangements to the extent such proceeds (A) secure such Indebtedness or is otherwise restricted in favor of the holders of such debt securities and (B) will be required to repay such Indebtedness if such acquisition, investment or refinancing is not consummated;

(m) Liens on Property existing at the time of acquisition thereof and not created in contemplation thereof;

(n) Liens (i) of a collecting bank arising under Section 4-208 of the Uniform Commercial Code on the items in the course of collection, (ii) in favor of a banking institution arising as a matter of law encumbering deposits (including the right of set off) and which are within the general parameters customary in the banking industry and (iii) Liens on assets in order to secure defeased and/or discharged indebtedness;

(o) Liens securing (i) Securitized Indebtedness; and (ii) Permitted Securitizations; provided that, the aggregate sum of all obligations and Indebtedness secured by Liens permitted under this Section 6.02(o) would not exceed the greater of (i) \$500,000,000 and (ii) 15.0% of Net Worth as determined at the time of, and immediately after giving effect to, the issuance of such Lien, provided, further, that, in the case of this clause (o)(ii), such Liens shall apply only to the receivables (which may include lease payments) of the Company or any Subsidiary, as applicable, subject to the Permitted Securitization, and any assets related thereto, including the equity interests in any Subsidiary formed for the purpose of facilitating or entering into one or more Permitted Securitizations;



(p) any extension, renewal, refinancing, substitution or replacement (or successive extensions, renewals, refinancings, substitutions or replacements), as a whole or in part, of any of the Liens referred to in paragraphs (g), (j), (l), (m) and (r) of this Section 6.02, to the extent that the principal amount secured by such Lien at such time is not increased (other than increases related to required premiums, accrued interest and reasonable fees and expenses in connection with such extensions, renewals, refinancings, substitutions or replacements); and provided that such extension, renewal, refinancing substitution or replacement Lien shall be limited to all or any part of substantially the same property or assets that secured the Lien extended, renewed, refinanced, substituted or replaced (plus improvements on such property and proceeds thereof);

(q) Liens on proceeds of any of the assets permitted to be the subject of any Lien or assignment permitted by this Section 6.02; and

(r) other Liens; provided that, without duplication, the aggregate sum of all obligations and Indebtedness secured by Liens permitted under this Section 6.02(r) would not exceed the greater of (i) \$1,000,000,000 and (ii) 15.0% of Net Worth as determined at the time of, and immediately after giving effect to, the issuance of such Lien.

SECTION 6.03. Asset Sales. Other than in connection with Permitted Sale-Leaseback Transactions or one or more transactions contemplated by Sections 6.04(a) or 6.04(b), sell, assign (other than a collateral assignment intended for security), transfer or otherwise dispose of, in one transaction or a series of related transactions and whether effected pursuant to a Division or otherwise, or permit any Material Subsidiary so to do, all or substantially all of the consolidated assets of the Company and the Subsidiaries taken as a whole.

SECTION 6.04. Mergers and Acquisitions. Consolidate or merge into or with any Person, or make any Acquisition or consummate a Division as the Dividing Person, or permit any Material Subsidiary so to do, except as follows:

(a) any Subsidiary may consolidate or merge with or into, or be Acquired by, a Loan Party; provided that (i) such Loan Party is the survivor or transferee thereof (and in a transaction involving the Company, the Company is the survivor or transferee thereof), and (ii) immediately before and after giving effect thereto no Default or Event of Default shall or would exist;

(b) any Subsidiary may consolidate or merge with or into, or be Acquired by, another Subsidiary;

(c) Acquisitions of one or more Operating Entities or Properties; provided that either (i) if such Acquisition constitutes a Limited Conditionality Acquisition, such Acquisition shall be subject to the conditions set forth in the proviso contained in the fifth sentence of Section 2.20 or (ii) immediately before and after giving effect to each such Acquisition under this Section 6.04(c), (A) no Default shall or would exist, and (B) all of the representations and warranties contained in Article III (other than Sections 3.04(a), 3.12 and 3.18) shall be true and correct as if then made (except to the extent such representations and warranties refer to an earlier date, in which case they shall be true and correct as of such date);

(d) any Subsidiary may consolidate or merge with or into, or be Acquired by, any Person (other than a Loan Party or a Subsidiary); provided that (i) such transaction is not prohibited by Section 6.03 and (ii) immediately before and after giving effect thereto no Default or Event of Default shall or would exist; and

(e) any Subsidiary may consummate a Division as a Dividing Person if, immediately upon the consummation of the Division, the assets of the applicable Dividing Person are held by one or more Subsidiaries at such time, or, with respect to assets not so held by one or more Subsidiaries, such Division, in the aggregate, would otherwise result in a Disposition permitted by Section 6.03; provided that, notwithstanding anything to the contrary in this Agreement, any Subsidiary which is a Division Successor resulting from a Division of assets of a Material Subsidiary shall not cease to be a Material Subsidiary solely as a result of the applicable Division.

SECTION 6.05. Pari Passu Obligations. The obligations of each Loan Party under the Loan Documents shall at all times rank not lower than pari passu as to priority of payment and in all other respects with all other unsecured and unsubordinated obligations of such Loan Party, except for those obligations that are mandatorily preferred by law, including by operation of bankruptcy, insolvency, liquidation or similar laws of general application.

SECTION 6.06. Transactions with Affiliates. Become, or permit any Material Subsidiary to become, a party to any transaction with any Affiliate of the Company (excluding any direct or indirect wholly-owned Subsidiary of the Company) on a basis materially less favorable to the Company or such Material Subsidiary in any material respect than if such transaction were not with an Affiliate of the Company, except for (a) any transaction not prohibited under Section 6.04, (b) transactions effected as part of a securitization transaction permitted hereunder, (c) the declaration or payment of any dividend, distribution, premium or liquidation preference on any class of Stock, and (d) the redemption, retirement, purchase or acquisition of, or sinking fund or other similar payment in respect of, any class of Stock.

SECTION 6.07. [Intentionally Omitted].

SECTION 6.08. Financial Covenants.

(a) Maximum Leverage Ratio. Permit the Leverage Ratio at the end of any fiscal quarter to be greater than: 3.5 to 1.0; provided that the Company may, by written notice to the Administrative Agent for distribution to the Lenders, elect to increase the maximum Leverage Ratio permitted under this Section 6.08(a) to (i) 4.0 to 1.0 as of the end of any fiscal quarter of the Company during which a Qualified Acquisition has been consummated and the three (3) consecutive fiscal quarters ending immediately following such fiscal quarter (each such period of four (4) consecutive fiscal quarters, a "Qualified Acquisition Adjusted Covenant Period") and (ii) 4.5 to 1.0 as of the end of any fiscal quarter of the Company during which an Additional Qualified Acquisition has been consummated and the eight (8) consecutive fiscal quarters ending immediately following such fiscal quarter (each such period of nine (9) consecutive fiscal quarters, an "Additional Qualified Acquisition Adjusted Covenant Period"); provided, further, that in the case of this clause (a)(ii), the applicable maximum Leverage Ratio shall be reduced by 0.25:1.00 at the end of the second, fourth, sixth and eighth full fiscal quarters ending after the fiscal quarter in which the Additional Qualified Acquisition is consummated. Notwithstanding the foregoing, (x) during any five consecutive year term of this Agreement, the Company may elect no more than two Qualified Acquisition Adjusted Covenant Periods and no more than one Additional Qualified Acquisition Adjusted Covenant Period, and (y) the Company may not elect any Adjusted Covenant Period for at least two fiscal quarters following the end of an Adjusted Covenant Period before a new Adjusted Covenant Period is available again pursuant to clauses (a)(i) or (a)(ii) (it being understood and agreed that at the end of an Adjusted Covenant Period, the maximum Leverage Ratio permitted under this Section 6.08(a) shall revert to 3.5 to 1.0 as of the end of each subsequent fiscal quarter unless and until another Adjusted Covenant Period is elected pursuant to the terms and conditions described above); or

(b) Minimum Interest Coverage Ratio. Permit the Interest Coverage Ratio at the end of any fiscal quarter to be less than 3.0 to 1.0.

SECTION 6.09. OFAC and Anti-Corruption Laws.

(a) The Company shall not, and shall ensure that none of its controlled Affiliates will, directly or, to the Company's knowledge, indirectly use the proceeds of Credit Events hereunder:

(i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws;

(ii) to fund or finance any activities, business or transaction of or with any Designated Person or in any Sanctioned Country, in either case, to the extent such activities, business or transaction would violate Sanctions (assuming, for purposes of this covenant only, that each Subsidiary Borrower were a Domestic Subsidiary for purposes of determining its compliance with Sanctions); or

(iii) in any other manner that will result in liability to the Administrative Agent or any Lender under any applicable Sanctions or a breach by the Administrative Agent or any Lenders of any Sanctions.

(b) The Company shall not, and shall ensure that none of its controlled Affiliates will, use funds or assets obtained directly or, to the Company's knowledge, indirectly from transactions with or from (i) Designated Persons or (ii) any Sanctioned Country, in either case, in violation of Sanctions (assuming, for purposes of this covenant only, that each Subsidiary Borrower were a Domestic Subsidiary for purposes of determining its compliance with Sanctions), to pay or repay any amount owing to the Administrative Agent or any Lender under any Loan Document.

(c) The Company shall, and shall ensure that each of its controlled Affiliates will:

(i) conduct its business in compliance with Anti-Corruption Laws in all material respects;

(ii) maintain policies and procedures designed to promote and achieve compliance in all material respects with Anti-Corruption Laws; and

(iii) have reasonable controls and safeguards in place designed to prevent any proceeds of any Credit Event hereunder from being used contrary to the representations and undertakings set forth herein.

ARTICLE VII

Events of Default

If any of the following events ("Events of Default") shall occur:

(a) any Borrower shall fail to pay any principal of any Loan or any reimbursement obligation in respect of any LC Disbursement when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;

(b) any Borrower shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in clause (a) of this Article) payable under this Agreement, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of five (5) Business Days;

(c) any representation or warranty of any Loan Party in this Agreement or any other Loan Document or any amendment or modification thereof or waiver thereunder, or in any final version of any certificate delivered on or after the date hereof, shall prove to have been incorrect in any material respect when made;

(d) (i) any Borrower shall fail to observe or perform any covenant or agreement contained in Section 5.01 or in Article VI or (ii) except as permitted herein, any Loan Document shall for any reason not be or shall cease to be in full force and effect or is declared to be null and void by any Loan Party, or the Company or any Subsidiary takes any action (other than payment in full) for the purpose of terminating, repudiating or rescinding any Loan Document or any of its obligations thereunder;

(e) any Borrower shall fail to observe or perform any covenant or agreement contained in this Agreement (other than those specified in clause (a), (b) or (d) of this Article) or any other Loan Document, and such failure shall continue unremedied for a period of 30 days after (i) in the case of Section 5.07(e), a Financial Officer of the Company being aware of such failure and (ii) otherwise, notice thereof from the Administrative Agent to the Company;

(f) the Company or any Subsidiary shall fail to make any payment (whether of principal, interest or otherwise and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable (after giving effect to any applicable grace period), and such failure to pay shall not have been remedied or waived by or on behalf of the holder or holders of such Material Indebtedness;

(g) any event or condition occurs that (i) results in any Material Indebtedness becoming or being declared due prior to its scheduled maturity, and, in the case of this clause (i), such declaration is not rescinded, or (ii) enables or permits the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due prior to its scheduled maturity, and, in the case of this clause (ii), such event or condition shall not have been remedied or waived by or on behalf of the holder or holders of such Material Indebtedness; provided that this clause (g) shall not apply to any of the following events unless such event results in the acceleration of other Material Indebtedness: (1) secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness or a casualty or similar event, (2) any change of control offer made within 60 days after an Acquisition with respect to, and effectuated pursuant to, Indebtedness of an acquired business, (3) any default under Indebtedness of an acquired business if such default is cured, or such Indebtedness is repaid, within 60 days after the Acquisition of such business so long as no other creditor accelerates or commences any kind of enforcement action in respect of such Indebtedness, (4) mandatory prepayment requirements arising from the receipt of net cash proceeds from debt, dispositions (including casualty losses, governmental takings and other involuntary dispositions), equity issuances or excess cash flow, in each case pursuant to Indebtedness of an acquired business, (5) prepayments required by the terms of Indebtedness as a result of customary provisions in respect of illegality, replacement of lenders and gross-up provisions for Taxes, increased costs, capital adequacy and other similar customary requirements and (6) any voluntary prepayment, redemption or other satisfaction of Indebtedness that becomes mandatory in accordance with the terms of such Indebtedness solely as the result of the Company or any Material Subsidiary delivering a prepayment, redemption or similar notice with respect to such prepayment, redemption or other satisfaction;

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief (including, in the case of any Luxembourg Person, any

Luxembourg Relief) in respect of the Company or any Material Subsidiary or its debts, or of a substantial part of its assets, under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Company or any Material Subsidiary or for a substantial part of its assets, and, in any such case except if a bankruptcy is declared (*faillissement is uitgesproken*) under the Dutch Bankruptcy Act (*Faillissementswet*), such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered; or a UK Bankruptcy Event occurs with respect to any UK Relevant Entity;

(i) the Company or any Material Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief (including, in the case of any Luxembourg Person, any Luxembourg Relief) under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (h) of this Article, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Company or any Material Subsidiary or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any corporate action for the purpose of effecting any of the foregoing;

(j) the Company or any Material Subsidiary shall become unable, admit in writing its inability or fail generally to pay its debts as they become due;

(k) one or more judgments for the payment of money in an aggregate amount in excess of \$300,000,000 shall be rendered against the Company or any Subsidiary and the same shall remain unpaid, unstayed on appeal, undischarged, unbonded or undismissed for a period of 60 consecutive days;

(l) an ERISA Event shall have occurred that, when taken together with all other ERISA Events that have occurred, would have a Material Adverse Effect; or

(m) a Change in Control shall occur;

then, and in every such event (other than an event with respect to any Borrower described in clause (h) or (i) of this Article), and at any time thereafter during the continuance of such event, the Administrative Agent, with the consent of the Required Lenders, may and, at the request of the Required Lenders, shall, by notice to the Company, take any or all of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the Commitments shall terminate immediately, (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other Obligations of the Borrowers accrued hereunder and under the other Loan Documents, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrowers and (iii) require cash collateral for the LC Exposure in accordance with Section 2.06(j); and in case of any event with respect to any Borrower described in clause (h) or (i) of this Article, the Commitments shall automatically terminate and the principal of the Loans then outstanding and cash collateral for the LC Exposure, together with accrued interest thereon and all fees and other Obligations accrued hereunder and under the other Loan Documents, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrowers.

ARTICLE VIII

The Administrative Agent

SECTION 8.01. Authorization and Action.

(a) Each Lender and each Issuing Bank hereby irrevocably appoints the entity named as Administrative Agent in the preamble to this Agreement and its successors and assigns to serve as the administrative agent under the Loan Documents and each Lender and each Issuing Bank authorizes the Administrative Agent to take such actions as agent on its behalf and to exercise such powers under this Agreement and the other Loan Documents as are delegated to the Administrative Agent under such agreements and to exercise such powers as are reasonably incidental thereto. Without limiting the foregoing, each Lender and each Issuing Bank hereby authorizes the Administrative Agent to execute and deliver, and to perform its obligations under, each of the Loan Documents to which the Administrative Agent is a party, to exercise all rights, powers and remedies that the Administrative Agent may have under such Loan Documents.

(b) As to any matters not expressly provided for herein and in the other Loan Documents (including enforcement or collection), the Administrative Agent shall not be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the written instructions of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, pursuant to the terms in the Loan Documents), and, unless and until revoked in writing, such instructions shall be binding upon each Lender and each Issuing Bank; provided, however, that the Administrative Agent shall not be required to take any action that (i) the Administrative Agent reasonably and in good faith believes exposes it to liability unless the Administrative Agent receives an indemnification satisfactory to it from the Lenders and the Issuing Banks with respect to such action or (ii) is contrary to this Agreement or any other Loan Document or applicable law, including any action that may be in violation of the automatic stay under any requirement of law relating to bankruptcy, insolvency or reorganization or relief of debtors or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any requirement of law relating to bankruptcy, insolvency or reorganization or relief of debtors; provided, further, that the Administrative Agent may seek clarification or direction from the Required Lenders prior to the exercise of any such instructed action and may refrain from acting until such clarification or direction has been provided. Except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Company, any Subsidiary or any Affiliate of any of the foregoing that is communicated to or obtained by the Person serving as Administrative Agent or any of its Affiliates in any capacity. Nothing in this Agreement shall require the Administrative Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(c) In performing its functions and duties hereunder and under the other Loan Documents, the Administrative Agent is acting solely on behalf of the Lenders and the Issuing Banks (except in limited circumstances expressly provided for herein relating to the maintenance of the Register), and its duties are entirely mechanical and administrative in nature. Without limiting the generality of the foregoing:

(i) the Administrative Agent does not assume and shall not be deemed to have assumed any obligation or duty or any other relationship as the agent, fiduciary or trustee of or for any Lender, Issuing Bank or holder of any other Obligation other than as expressly set forth herein and in the other Loan Documents, regardless of whether a Default or an Event of Default has

occurred and is continuing (and it is understood and agreed that the use of the term “agent” (or any similar term) herein or in any other Loan Document with reference to the Administrative Agent is not intended to connote any fiduciary duty or other implied (or express) obligations arising under agency doctrine of any applicable law, and that such term is used as a matter of market custom and is intended to create or reflect only an administrative relationship between contracting parties); additionally, each Lender agrees that it will not assert any claim against the Administrative Agent based on an alleged breach of fiduciary duty by the Administrative Agent in connection with this Agreement and the transactions contemplated hereby;

(ii) to the extent that English law is applicable to the duties of the Administrative Agent under any of the Loan Documents, Section 1 of the Trustee Act 2000 of the United Kingdom shall not apply to the duties of the Administrative Agent in relation to the trusts constituted by that Loan Document; where there are inconsistencies between the Trustee Act 1925 or the Trustee Act 2000 of the United Kingdom and the provisions of this Agreement or such Loan Document, the provisions of this Agreement shall, to the extent permitted by applicable law, prevail and, in the case of any inconsistency with the Trustee Act 2000 of the United Kingdom, the provisions of this Agreement shall constitute a restriction or exclusion for the purposes of that Act; and

(iii) nothing in this Agreement or any Loan Document shall require the Administrative Agent to account to any Lender for any sum or the profit element of any sum received by the Administrative Agent for its own account.

(d) The Administrative Agent may perform any 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 of their respective duties and exercise their respective rights and powers through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities pursuant to this Agreement. The Lenders acknowledge that the Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agent except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agent.

(e) None of any Syndication Agent, any Documentation Agent or any Arranger shall have obligations or duties whatsoever in such capacity under this Agreement or any other Loan Document (excluding, for the avoidance of doubt, any commitment and fee letters) and shall incur no liability hereunder or thereunder in such capacity, but all such persons shall have the benefit of the indemnities provided for hereunder.

(f) In case of the pendency of any proceeding with respect to any Loan Party under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, the Administrative Agent (irrespective of whether the principal of any Loan or any 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 any Loan Party) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

(i) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, LC Disbursements and all other 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 Issuing Banks and the Administrative Agent (including any claim under Sections 2.12, 2.13, 2.15, 2.17 and 9.03) allowed in such judicial proceeding; and

(ii) 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 proceeding is hereby authorized by each Lender and each Issuing Bank 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 Issuing Banks, to pay to the Administrative Agent any amount due to it, in its capacity as the Administrative Agent, under the Loan Documents (including under Section 9.03). 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 Issuing Bank any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or Issuing Bank or to authorize the Administrative Agent to vote in respect of the claim of any Lender or Issuing Bank in any such proceeding.

(g) The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the Issuing Banks, and, except solely to the extent of the Company's rights to consent pursuant to and subject to the conditions set forth in this Article, none of the Company or any Subsidiary, or any of their respective Affiliates, shall have any rights as a third party beneficiary under any such provisions. Each party that is a holder of Obligations, whether or not a party hereto, will be deemed, by its acceptance of the benefits of the guarantees of the Obligations provided under the Loan Documents, to have agreed to the provisions of this Article.

#### SECTION 8.02. Administrative Agent's Reliance, Indemnification, Etc.

(a) Neither the Administrative Agent nor any of its Related Parties shall be (i) liable for any action taken or omitted to be taken by it under or in connection with this Agreement or the other Loan Documents (x) with the consent of 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 reasonably believe in good faith to be necessary, under the circumstances as provided in the Loan Documents) or (y) in the absence of its own gross negligence or willful misconduct (such absence to be presumed unless otherwise determined by a court of competent jurisdiction by a final and nonappealable judgment) or (ii) responsible in any manner to any of the Lenders for any recitals, statements, representations or warranties made by any Loan Party or any officer thereof contained in this Agreement or any other Loan Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement or any other Loan Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or for any failure of any Loan Party to perform its obligations hereunder or thereunder.

(b) The Administrative Agent shall be deemed not to have knowledge of any Default unless and until written notice thereof (stating that it is a "notice of default") is given to the Administrative Agent by the Company, a Lender or an Issuing Bank, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered thereunder or in connection therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document or the occurrence of any Default, (iv) the sufficiency, validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, or (v) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent or satisfaction of any condition that expressly refers to the matters described therein being acceptable or satisfactory to the Administrative Agent.



(c) Without limiting the foregoing, the Administrative Agent (i) may treat the payee of any promissory note as its holder until such promissory note has been assigned in accordance with Section 9.04, (ii) may rely on the Register to the extent set forth in Section 9.04(b), (iii) may consult with legal counsel (including counsel to the Company), independent public accountants and other experts selected by it, and shall not be liable for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts, (iv) makes no warranty or representation to any Lender or Issuing Bank and shall not be responsible to any Lender or Issuing Bank for any statements, warranties or representations made by or on behalf of any Loan Party in connection with this Agreement or any other Loan Document, (v) in determining compliance with any condition hereunder to the making of a Loan, or the issuance of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or an Issuing Bank, may presume that such condition is satisfactory to such Lender or Issuing Bank unless the Administrative Agent shall have received notice to the contrary from such Lender or Issuing Bank sufficiently in advance of the making of such Loan or the issuance of such Letter of Credit and (vi) shall be entitled to rely on, and shall incur no liability under or in respect of this Agreement or any other Loan Document by acting upon, any notice, consent, certificate or other instrument or writing (which writing may be a fax, any electronic message, Internet or intranet website posting or other distribution) or any statement made to it orally or by telephone and reasonably and in good faith believed by it to be genuine and signed or sent or otherwise authenticated by the proper party or parties (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the maker thereof).

#### SECTION 8.03. Posting of Communications.

(a) The Company agrees that the Administrative Agent may, but shall not be obligated to, make any Communications available to the Lenders and the Issuing Banks by posting the Communications on IntraLinks™, DebtDomain, SyndTrak, ClearPar or any other similar electronic platform chosen by the Administrative Agent reasonably and in good faith to be its electronic transmission system and used by it for such purpose with respect to its credit facilities generally (the “Approved Electronic Platform”).

(b) Although the Approved Electronic Platform and its primary web portal are secured with generally-applicable security procedures and policies implemented or modified by the Administrative Agent from time to time (including, as of the Effective Date, a user ID/password authorization system) and the Approved Electronic Platform is secured through a per-deal authorization method whereby each user may access the Approved Electronic Platform only on a deal-by-deal basis, each of the Lenders, each of the Issuing Banks and the Company acknowledges and agrees that the distribution of material through an electronic medium is not necessarily secure and that there are confidentiality and other risks associated with such distribution. Each of the Lenders, each of the Issuing Banks and the Company hereby approves distribution of the Communications through the Approved Electronic Platform and understands and assumes the risks of such distribution, other than risks arising from the gross negligence, bad faith or willful misconduct of any of the foregoing parties (as determined by a court of competent jurisdiction by a final and nonappealable judgment).

(c) THE APPROVED ELECTRONIC PLATFORM AND THE COMMUNICATIONS ARE PROVIDED “AS IS” AND “AS AVAILABLE.” THE APPLICABLE PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS, OR THE ADEQUACY OF THE APPROVED ELECTRONIC PLATFORM AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS OR OMISSIONS IN THE APPROVED ELECTRONIC PLATFORM AND THE COMMUNICATIONS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY THE APPLICABLE PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE APPROVED ELECTRONIC

PLATFORM. IN NO EVENT SHALL THE ADMINISTRATIVE AGENT, ANY ARRANGER, ANY DOCUMENTATION AGENT, ANY SYNDICATION AGENT OR ANY OF THEIR RESPECTIVE RELATED PARTIES (COLLECTIVELY, “APPLICABLE PARTIES”) HAVE ANY LIABILITY TO ANY LOAN PARTY, ANY LENDER, ANY ISSUING BANK OR ANY OTHER PERSON OR ENTITY FOR DAMAGES OF ANY KIND, INCLUDING DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF ANY LOAN PARTY’S OR THE ADMINISTRATIVE AGENT’S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET OR THE APPROVED ELECTRONIC PLATFORM, OTHER THAN DIRECT ACTUAL DAMAGES ARISING FROM THE GROSS NEGLIGENCE, BAD FAITH OR WILLFUL MISCONDUCT OF ANY APPLICABLE PARTY (AS DETERMINED BY A COURT OF COMPETENT JURISDICTION BY A FINAL AND NONAPPEALABLE JUDGMENT).

(d) Each Lender and each Issuing Bank agrees that notice to it (as provided in the next sentence) specifying that Communications have been posted to the Approved Electronic Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Loan Documents. Each Lender and Issuing Bank agrees (i) to notify the Administrative Agent in writing (which could be in the form of electronic communication) from time to time of such Lender’s or Issuing Bank’s (as applicable) email address to which the foregoing notice may be sent by electronic transmission and (ii) that the foregoing notice may be sent to such email address.

(e) Each of the Lenders, each of the Issuing Banks and the Company agrees that the Administrative Agent may, but (except as may be required by applicable law) shall not be obligated to, store the Communications on the Approved Electronic Platform in accordance with the Administrative Agent’s generally applicable document retention procedures and policies.

(f) Nothing herein shall prejudice the right of the Administrative Agent, any Lender or any Issuing Bank to give any notice or other communication pursuant to any Loan Document in any other manner specified in such Loan Document.

SECTION 8.04. The Administrative Agent Individually. With respect to its Commitment, Loans and Letters of Credit, the Person serving as the Administrative Agent shall have and may exercise the same rights and powers hereunder and is subject to the same obligations and liabilities as and to the extent set forth herein for any other Lender or Issuing Bank, as the case may be. The terms “Issuing Banks,” “Lenders,” “Required Lenders” and any similar terms shall, unless the context clearly otherwise indicates, include the Administrative Agent in its individual capacity as a Lender, Issuing Bank or as one of the Required Lenders, as applicable. The Person serving as the Administrative Agent and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust or other business with, the Company, any Subsidiary or any Affiliate of any of the foregoing as if such Person was not acting as the Administrative Agent and without any duty to account therefor to the Lenders or the Issuing Banks.

SECTION 8.05. Successor Administrative Agent.

(a) The Administrative Agent may resign at any time by giving 30 days’ prior written notice thereof to the Lenders, the Issuing Banks and the Company, whether or not a successor Administrative Agent has been appointed. Upon any such resignation, the Required Lenders shall have the right, in consultation with (and, so long as no Event of Default shall then exist, the consent of, such consent not to be unreasonably withheld) the Company, to appoint a successor Administrative Agent. If no successor Administrative Agent shall have been so appointed by the Required Lenders, and shall have accepted such appointment, within 30 days after the retiring Administrative Agent’s giving of notice of

resignation, then the retiring Administrative Agent may, on behalf of the Lenders and the Issuing Banks, appoint a successor Administrative Agent, which shall be a bank with an office in New York, New York or an Affiliate of any such bank. In both cases, such appointment shall be subject to the prior written approval of the Company (which approval may not be unreasonably withheld and shall not be required while an Event of Default has occurred and is continuing). Upon the acceptance of any appointment as Administrative Agent by a successor Administrative Agent, such successor Administrative Agent shall succeed to, and become vested with, all the rights, powers, privileges and duties of the retiring Administrative Agent. Upon the acceptance of appointment as Administrative Agent by a successor Administrative Agent, the retiring Administrative Agent shall be discharged from its duties and obligations under this Agreement and the other Loan Documents. Prior to any retiring Administrative Agent's resignation hereunder as Administrative Agent, the retiring Administrative Agent shall take such action as may be reasonably necessary to assign to the successor Administrative Agent its rights as Administrative Agent under the Loan Documents.

(b) Notwithstanding paragraph (a) of this Section, in the event no successor Administrative Agent shall have been so appointed and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its intent to resign, the retiring Administrative Agent may give notice of the effectiveness of its resignation to the Lenders, the Issuing Banks and the Company, whereupon, on the date of effectiveness of such resignation stated in such notice, (i) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents and (ii) the Required Lenders shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent; provided that (A) all payments required to be made hereunder or under any other Loan Document to the Administrative Agent for the account of any Person other than the Administrative Agent shall be made directly to such Person and (B) all notices and other communications required or contemplated to be given or made to the Administrative Agent shall directly be given or made to each Lender and each Issuing Bank. Following the effectiveness of the Administrative Agent's resignation from its capacity as such, the provisions of this Article and Section 9.03, as well as any exculpatory, reimbursement and indemnification provisions set forth in any other Loan Document, 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.

#### SECTION 8.06. Acknowledgement of Lenders.

(a) Each Lender represents that it is engaged in making, acquiring or holding commercial loans in the ordinary course of its business and that it has, independently and without reliance upon the Administrative Agent, any Arranger or any other Lender, or any of the Related Parties of any of the foregoing, and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement as a Lender, and to make, acquire or hold Loans hereunder. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent, any Arranger or any other Lender, or any of the Related Parties of any of the foregoing, and based on such documents and information (which may contain material, non-public information within the meaning of the United States securities laws concerning the Company and its Affiliates) as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

(b) Each Lender, by delivering its signature page to this Agreement on the Effective Date, or delivering its signature page to an Assignment and Assumption or any other Loan Document pursuant to which it shall become a Lender hereunder, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be delivered to, or be approved by or satisfactory to, the Administrative Agent or the Lenders on the Effective Date.

SECTION 8.07. Certain ERISA Matters.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Company or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using “plan assets” (within the meaning of the Plan Asset Regulations) of one or more Benefit Plans with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments or this Agreement,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, and the conditions for exemptive relief thereunder are and will continue to be satisfied in connection therewith;

(iii) (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement; or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Company or any other Loan Party, that the Administrative Agent is not a fiduciary with respect to the assets of such Lender involved in such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

ARTICLE IX

Miscellaneous

SECTION 9.01. Notices. (a) Except in the case of notices and other communications expressly permitted to be given by telephone or other means permitted hereunder (and subject to paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopy, as follows:

(i) if to any Borrower, to it c/o Fiserv, Inc., 255 Fiserv Drive, Brookfield, Wisconsin 53045, Attention of Robert Hau, Chief Financial Officer, and Russell Kohl, Senior Vice President, Tax & Treasury (Facsimile No. (262) 879-5318; email: Russ.Kohl@fiserv.com), with a copy to, in the case of any notice of Default or Event of Default, (A) Lynn S. McCreary, Chief Legal Officer (Facsimile No. (262) 879-5532; email: Lynn.McCreary@Fiserv.com) and (B) Neal McKnight, Sullivan & Cromwell LLP (Facsimile No. (212) 291-9097; email: mcknightn@sullcrom.com);

(ii) if to the Administrative Agent, (A) in the case of Borrowings denominated in Dollars, (other than Designated Loans) to JPMorgan Chase Bank, N.A., 10 South Dearborn, Floor L2, Chicago, Illinois 60603, Attention of Leonida Mischke (Telecopy No. (888) 292-9533; email: jpm.agency.cri@jpmorgan.com), (B) in the case of Borrowings denominated in Foreign Currencies and Designated Loans, to J.P. Morgan Europe Limited, 25 Bank Street, Canary Wharf, London E14 5JP, Attention of The Manager, Loan & Agency Services (Telecopy No. 44 207 777 2360; email: loan\_and\_agency\_london@jpmorgan.com), and in each case of the foregoing clauses (A) and (B), with a copy to JPMorgan Chase Bank, N.A., 560 Mission Street, 19<sup>th</sup> Floor, San Francisco, California 94105, Attention of Min Park (Telecopy No. (415) 226-0799; email: min.park@jpmorgan.com) and (C) in the case of a notification of the DQ List, to JPMDQ\_Contact@jpmorgan.com;

(iii) if to an Issuing Bank, to it at (a) JPMorgan Chase Bank, N.A., 10 South Dearborn, 7<sup>th</sup> Floor, Chicago, Illinois 60603, Abhishek Singh (email: chicago.lc.agency.activity.team@jpmorgan.com) or (b) in the case of any other Issuing Bank, to it at the address and telecopy number specified from time to time by such Issuing Bank to the Company and the Administrative Agent;

(iv) if to the Swingline Lender, to it at JPMorgan Chase Bank, N.A., 10 South Dearborn, Floor L2, Chicago, Illinois 60603, Attention of Leonida Mischke (Telecopy No. (844) 460-5663; email: jpm.agency.cri@jpmorgan.com); and

(v) if to any other Lender, to it at its address (or telecopy number) set forth in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile 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 delivered through Approved Electronic Platforms, to the extent provided in paragraph (b) below, shall be effective as provided in said paragraph (b).

(b) Notices and other communications to the Lenders and the Issuing Banks hereunder may be delivered or furnished by using Approved Electronic Platforms pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Article II unless otherwise agreed by the Administrative Agent and the applicable Lender. The Administrative Agent or the Company may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

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

(d) Any party hereto may change its address or telecopy number for notices and other communications hereunder by notice to the other parties hereto.

SECTION 9.02. Waivers; Amendments. (a) No failure or delay by the Administrative Agent, any Issuing Bank or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Banks and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by any Borrower therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, any Lender or any Issuing Bank may have had notice or knowledge of such Default at the time.

(b) Except as provided in Section 2.25 with respect to the extension of the Maturity Date, or as provided in Section 2.20 with respect to an Incremental Term Loan Amendment or as provided in Section 2.14(c), neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Borrowers and the Required Lenders or by the Borrowers and the Administrative Agent with the consent of the Required Lenders; provided that no such agreement shall (i) increase the Commitment of any Lender without the written consent of such Lender (provided that an amendment, modification, waiver or consent with respect to any condition precedent, covenant, mandatory prepayment pursuant to Section 2.11.2, Event of Default or Default shall not constitute an increase in the Commitment of any Lender), (ii) reduce the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon (other than waivers or amendments with respect to the application of a default rate of interest pursuant to Section 2.13(b)), or reduce any fees payable hereunder, without the written consent of each Lender directly affected thereby (except that no

amendment entered into pursuant to the terms of Section 2.14(c) shall constitute a reduction in the rate of interest or fees for purposes of this clause (ii)), (iii) postpone the scheduled date of payment of the principal amount of any Loan or LC Disbursement, or any interest thereon, or any fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender directly affected thereby (other than any reduction of the amount of, or any extension of the payment date for, the mandatory prepayments required under Section 2.11.2, in each case which shall only require the approval of the Required Lenders), (iv) change Section 2.18(b) or (c) in a manner that would alter the pro rata sharing of payments required thereby, without the written consent of each Lender directly affected thereby, (v) change any of the provisions of this Section or the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender (it being understood that, solely with the consent of the parties prescribed by Section 2.20 to be parties to an Incremental Term Loan Amendment, Incremental Term Loans may be included in the determination of Required Lenders on substantially the same basis as the Commitments and the Revolving Loans are included on the Effective Date) or (vi) release the Company from its obligations under Article X (other than with respect to any Borrower ceasing to be a Borrower in accordance with this Agreement) without the written consent of each Lender; provided, further, that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent, any Issuing Bank or any Swingline Lender hereunder without the prior written consent of the Administrative Agent, such Issuing Bank or such Swingline Lender, as the case may be (it being understood that any change to Section 2.24 shall require the consent of the Administrative Agent, the Issuing Banks and the Swingline Lenders). Notwithstanding the foregoing, (A) no consent with respect to any amendment, waiver or other modification of this Agreement shall be required of any Defaulting Lender, except with respect to any amendment, waiver or other modification referred to in clause (i), (ii) or (iii) of the first proviso of this paragraph and then only in the event such Defaulting Lender shall be directly and adversely affected by such amendment, waiver or other modification, and (B) as to any amendment, amendment and restatement or other modification otherwise approved in accordance with this Section, it shall not be necessary to obtain the consent or approval of any Lender that, upon giving effect to such amendment, amendment and restatement or other modification, would have no Commitment or outstanding Loans, so long as such Lender receives payment in full of the principal of and interest on each Loan made by, and all other amounts owing to, such Lender or accrued for the account of such Lender under this Agreement and the other Loan Documents at the time such amendment, amendment and restatement or other modification becomes effective.

(c) If, in connection with any proposed amendment, waiver or consent requiring the consent of "each Lender" or "each Lender directly affected thereby," the consent of the Required Lenders is obtained, but the consent of other necessary Lenders is not obtained (any such Lender whose consent is necessary but not obtained being referred to herein as a "Non-Consenting Lender"), then the Company may elect to replace a Non-Consenting Lender as a Lender party to this Agreement; provided that, concurrently with such replacement, (i) another bank or other entity which is reasonably satisfactory to the Company and the Administrative Agent shall agree, as of such date, to purchase for cash the Loans and other Obligations due to the Non-Consenting Lender pursuant to an Assignment and Assumption and to become a Lender for all purposes under this Agreement and to assume all obligations of the Non-Consenting Lender to be terminated as of such date and to comply with the requirements of clause (b) of Section 9.04, and (ii) each Borrower shall pay to such Non-Consenting Lender in same day funds on the day of such replacement (1) all interest, fees and other amounts then accrued but unpaid to such Non-Consenting Lender by such Borrower hereunder to and including the date of termination, including without limitation payments due to such Non-Consenting Lender under Sections 2.15 and 2.17, and (2) an amount, if any, equal to the payment which would have been due to such Lender on the day of such replacement under Section 2.16 had the Loans of such Non-Consenting Lender been prepaid on such date rather than sold to the replacement

Lender. Each party hereto agrees that (1) an assignment required pursuant to this paragraph may be effected pursuant to an Assignment and Assumption executed by the Company, the Administrative Agent and the assignee (or, to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Approved Electronic Platform as to which the Administrative Agent and such parties are participants), and (2) the Lender required to make such assignment need not be a party thereto in order for such assignment to be effective and shall be deemed to have consented to and be bound by the terms thereof; provided that, following the effectiveness of any such assignment, the other parties to such assignment agree to execute and deliver such documents necessary to evidence such assignment as reasonably requested by the applicable Lender; provided that any such documents shall be without recourse to or warranty by the parties thereto.

(d) Notwithstanding the foregoing, this Agreement and any other Loan Document may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Borrowers (i) to add one or more credit facilities (in addition to the Incremental Term Loans pursuant to an Incremental Term Loan Amendment) to this Agreement and to permit extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Revolving Loans, Incremental Term Loans and the accrued interest and fees in respect thereof and (ii) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders and Lenders.

(e) Notwithstanding the foregoing, (i) if the Administrative Agent and the Company acting together identify any ambiguity, omission, mistake, typographical error or other defect in any provision of this Agreement or any other Loan Document, then the Administrative Agent and the Company shall be permitted to amend, modify or supplement such provision to cure such ambiguity, omission, mistake, typographical error or other defect, and such amendment shall become effective without any further action or consent of any other party to this Agreement and (ii) this Agreement and any other Loan Document may be amended (or amended and restated) by the Administrative Agent and the Company to reflect an alternative rate of interest and make related changes as provided in Section 2.14(c).

(f) Notwithstanding anything to the contrary in this Agreement, without the consent of the Required Lenders or any other Person, the Company and the Administrative Agent may amend this Agreement to effect any change contemplated by the definition of "Approved Jurisdictions" or Section 2.23.

SECTION 9.03. Expenses; Indemnity; Damage Waiver. (a) The Company shall pay (i) all reasonable, documented and invoiced out-of-pocket expenses incurred by the Administrative Agent and its Affiliates, including the reasonable, documented and invoiced fees, charges and disbursements of one primary counsel (and one additional local counsel in each applicable jurisdiction) for the Administrative Agent, in connection with the syndication and distribution (including, without limitation, via the internet or through a service such as Intralinks) of the credit facilities provided for herein, the preparation, 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); provided that, in advance of contacting outside counsel of the Administrative Agent regarding matters concerning the administration of this Agreement in respect of which the Administrative Agent will expect to be reimbursed by the Company, the Administrative Agent will notify the Company of its intent to contact such outside counsel, (ii) all reasonable, documented and invoiced out-of-pocket expenses incurred by any Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all reasonable, documented and invoiced out-of-pocket expenses incurred by the Administrative Agent, any Issuing Bank or any Lender, including the reasonable, documented and invoiced fees, charges and disbursements of one primary counsel (and one local counsel in each applicable jurisdiction) for the Administrative Agent and



all of the Lenders, taken as a whole, and additional counsel to the extent reasonably determined by the Administrative Agent or any Lender or group of Lenders to be necessary to avoid actual or potential conflicts of interest or the availability of different claims or defenses (solely to the extent the Company is informed in writing of such conflict or different claim or defense in advance of hiring additional counsel), in connection with the enforcement or protection of its rights in connection with this Agreement and any other Loan Document at any time during a Default, including its rights under this Section, or in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations during an Event of Default in respect of such Loans or Letters of Credit.

(b) The Company shall indemnify the Administrative Agent, each Arranger, each Issuing Bank and each Lender, 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, penalties and related reasonable, documented and invoiced costs and expenses, including the reasonable, documented and invoiced fees, charges and disbursements of one primary counsel (and one local counsel in each applicable jurisdiction) for the Indemnitees, taken as a whole, and additional counsel to the extent reasonably determined by any Indemnitee or group of Indemnitees to be necessary to avoid actual or potential conflicts of interest or the availability of different claims or defenses (solely to the extent the Company is informed in writing of such conflict or different claim or defense in advance of hiring additional counsel), as and when incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of any Loan Document or any agreement or instrument contemplated thereby, or the performance by the parties hereto of their respective obligations thereunder or the consummation of the Transactions or any other transactions contemplated hereby, (ii) any Loan or Letter of Credit or the use of the proceeds therefrom (including any refusal by any Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Company or any of its Subsidiaries, or any Environmental Liability related in any way to the Company or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Company or any of its Subsidiaries 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 non-appealable judgment to have resulted from (a) the gross negligence, bad faith, material breach of the Loan Documents or willful misconduct of such Indemnitee or any of its Affiliates, (b) a dispute among the Indemnitees not arising from a Default (other than a dispute involving a claim against an Indemnitee for its acts or omissions in its capacity as an arranger, bookrunner, agent or similar role in respect of the credit facility evidenced by this Agreement, except, with respect to this clause (b), to the extent such acts or omissions are determined by a court of competent jurisdiction by final and non-appealable judgment to have constituted the gross negligence, bad faith, material breach of the Loan Documents or willful misconduct of such Indemnitee in such capacity) or (c) such Indemnitee’s or any of its Affiliates’ material breach of the Loan Documents. Notwithstanding the foregoing, (x) each Indemnitee shall promptly repay to the Company any and all amounts previously paid by the Company pursuant to the foregoing indemnification provisions to the extent such Indemnitee or any of its Affiliates is found by a final, non-appealable judgment of a court of competent jurisdiction not to be entitled to indemnification hereunder as contemplated by the immediately preceding proviso, and (y) the Company shall not be liable for any settlement of any claim, litigation, investigation, arbitration or proceeding (each, a “Proceeding”) effectuated without the Company’s consent (which consent shall not be unreasonably withheld, conditioned or delayed), but if settled with the written consent of the Company or if there is a final and non-appealable judgment for the plaintiff in any such Proceeding, the Company agrees to indemnify and hold harmless each Indemnitee from and against any and all losses,

claims, damages, liabilities and reasonable and documented out-of-pocket expenses by reason of such settlement or judgment in accordance with this Section 9.03(b). The Company shall not, without the prior written consent of any Indemnitee (which consent shall not be unreasonably withheld, delayed or conditioned), effect any settlement of any pending or threatened Proceeding in respect of which indemnity could have been sought hereunder by such Indemnitee unless such settlement (a) includes an unconditional release of such Indemnitee from all liability arising out of such Proceeding, (b) does not include any statement as to, or any admission of, fault, culpability, wrongdoing or a failure to act by or on behalf of such Indemnitee or any injunctive relief or other non-monetary remedy and (c) contains customary confidentiality and non-disparagement provisions. This Section 9.03(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims or damages arising from any non-Tax claim.

(c) To the extent that the Company fails to pay any amount required to be paid by it to the Administrative Agent, any Issuing Bank or the Swingline Lender under paragraph (a) or (b) of this Section, each Lender severally agrees to pay to the Administrative Agent, such Issuing Bank or the Swingline Lender, as the case may be, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount (it being understood that the Company's failure to pay any such amount shall not relieve the Company of any default in the payment thereof); provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent, such Issuing Bank or the Swingline Lender in its capacity as such.

(d) To the extent permitted by applicable law, the Company shall not assert, and hereby waives, any claim against any Indemnitee, (i) for any damages arising from the use by others of information or other materials obtained through telecommunications, electronic or other information transmission systems (including the Internet), other than for direct or actual damages determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnitee or (ii) on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the Transactions, any Loan, any Letter of Credit or the use of the proceeds thereof.

(e) All amounts due under this Section shall be payable not later than 30 days after written demand therefor accompanied by a reasonably detailed calculation of the amount demanded.

SECTION 9.04. Successors and Assigns. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of an Issuing Bank that issues any Letter of Credit), except that (i) no Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by any Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section (and any attempted assignment or transfer by any Lender in violation of this Section 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 (including any Affiliate of an Issuing Bank that issues any Letter of Credit), Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the Issuing Banks and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more Persons (other than an Ineligible Institution) all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time

owing to it) with the prior written consent (such consent not to be unreasonably withheld, conditioned or delayed, it being understood that in the case of any assignment that requires the Company's consent, without limiting any other factors that may be reasonable, it shall be reasonable for the Company to consider a proposed assignee's right to require reimbursement for increased costs when determining whether to consent to such an assignment) of:

(A) the Company (provided that the Company shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within fifteen (15) Business Days after having received notice thereof); provided that no consent of the Company shall be required (but notice to the Company, either prior to or promptly after such assignment, shall be required) for an assignment to (1) a Lender, an Affiliate of a Lender or an Approved Fund (provided, further, that notwithstanding the preceding clause (1), the consent of the Company shall be required if, after giving effect to such assignment, the assignee, collectively with its affiliated Lenders and affiliated Approved Funds, would, as a result of such assignment, hold more than fifteen percent (15%) of the aggregate amounts of Loans and unused Commitments), or, (2) if an Event of Default under clause (a), (b), (h) or (i) of Article VII has occurred and is continuing, any other assignee; and

(B) the Administrative Agent;

(C) the Issuing Banks; and

(D) the Swingline Lenders.

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

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans of any Class, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$5,000,000 unless each of the Company and the Administrative Agent otherwise consent; provided that no such consent of the Company shall be required if an Event of Default under clause (a), (b), (h) or (i) of Article VII has occurred and is continuing;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement; provided that this clause shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender's rights and obligations in respect of one Class of Commitments or Loans;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent (x) an Assignment and Assumption or (y) to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Approved Electronic Platform as to which the Administrative Agent and the parties to the Assignment and Assumption are participants, together with a processing and recordation fee of \$3,500, such fee to be paid by either the assigning Lender or the assignee Lender or shared between such Lenders;

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

(E) without the prior written consent of the Administrative Agent, no assignment shall be made to a prospective assignee that bears a relationship to the Company described in Section 108(e)(4) of the Code;

(F) the assignee shall not be the Company or any Subsidiary or Affiliate of the Company; and

(G) any assignment or transfer to or assumption by any Person of all or a portion of a Lender's rights and obligations under this Agreement (including all or a portion of its Commitments or Loans) with respect to a Dutch Borrower shall only be permitted if such Person is a Dutch Non-Public Lender.

For the purposes of this Section 9.04(b), the term "Approved Fund" and "Ineligible Institution" have the following meanings:

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

"Ineligible Institution" means (a) a natural person, (b) a Defaulting Lender or its Lender Parent, (c) the Company, any of its Subsidiaries or any of its Affiliates, (d) a company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person or relative(s) thereof or (e) a Disqualified Institution.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.15, 2.16, 2.17 and 9.03). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 9.04 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section.

(iv) The Administrative Agent, acting for this purpose as a non-fiduciary agent of each Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amount (and stated interest) of the Loans and LC Disbursements owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries

in the Register shall be conclusive absent manifest error, and the Borrowers, the Administrative Agent, the Issuing Banks and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Company, any Issuing Bank and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of (x) a duly completed Assignment and Assumption executed by an assigning Lender and an assignee or (y) to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Approved Electronic Platform as to which the Administrative Agent and the parties to the Assignment and Assumption are participants, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; provided that, if either the assigning Lender or the assignee shall have failed to make any payment required to be made by it pursuant to Section 2.05(c), 2.06(d) or (e), 2.07(b), 2.18(d) or 9.03(c), the Administrative Agent shall have no obligation to accept such Assignment and Assumption and record the information therein in the Register unless and until such payment shall have been made in full, together with all accrued interest thereon. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c) (i) Any Lender may, without the consent of the Company, the Administrative Agent, any Issuing Bank or any Swingline Lender, sell participations to one or more banks or other entities (a "Participant"), other than an Ineligible Institution, in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (C) the Borrowers, the Administrative Agent, the Issuing Banks and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and (D) without the prior written consent of the Administrative Agent, no participation shall be sold to a prospective participant that bears a relationship to the Company described in Section 108(e)(4) of the Code. 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 the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 9.02(b) or in clause (i) of Section 9.04(a) that affects such Participant. Subject to paragraph (c)(ii) of this Section, each Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.15, 2.16 and 2.17 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender; provided such Participant agrees to be subject to Section 2.18(c) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrowers, 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 Treasury Regulations Section 5f.103-1(c) and Proposed Treasury Regulations Section 1.163-5(b) (or any amended or successor version). 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.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.15 or 2.17 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Company's prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 2.17 unless the Company is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Company, to comply with Section 2.17(e) and (h) as though it were a Lender.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(e) Disqualified Institutions.

(i) No assignment or participation shall be made to any Person that was a Disqualified Institution as of the date (the "Trade Date") on which the assigning Lender entered into a binding agreement to sell and assign or grant a participation in all or a portion of its rights and obligations under this Agreement to such Person (unless the Company has consented to such assignment or participation in writing in its sole and absolute discretion, in which case such Person will not be considered a Disqualified Institution for the purpose of such assignment or participation). For the avoidance of doubt, with respect to any assignee or Participant that becomes a Disqualified Institution after the applicable Trade Date (including as a result of the delivery of a notice pursuant to, and/or the expiration of the notice period referred to in, the definition of "Disqualified Institution"), (x) such assignee or Participant shall not retroactively be disqualified from being a Lender or Participant and (y) the execution by the Company of an Assignment and Assumption with respect to such assignee will not by itself result in such assignee no longer being considered a Disqualified Institution. Any assignment or participation in violation of this clause (e)(i) shall not be void, but the other provisions of this clause (e) shall apply.

(ii) (If any assignment or participation is made to any Disqualified Institution without the Company's prior written consent in violation of clause (i) above, or if any Person becomes a Disqualified Institution after the applicable Trade Date, the Company may, at its sole expense and effort, upon notice to the applicable Disqualified Institution and the Administrative Agent, require such Disqualified Institution to assign, without recourse (in accordance with and subject to the restrictions contained in this Section 9.04), all of its interest, rights and obligations under this Agreement to one or more Persons (other than an Ineligible Institution) at the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Institution paid to acquire such interests, rights and obligations in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder.

(iii) Notwithstanding anything to the contrary contained in this Agreement, Disqualified Institutions to whom an assignment or participation is made in violation of clause (i) above (A) will not have the right to (x) receive information, reports or other materials provided to Lenders by the Company, the Administrative Agent or any other Lender, (y) attend or participate in meetings attended by the Lenders (or any of them) and the Administrative Agent, or (z) access any electronic site established for the Lenders or confidential communications from counsel to or financial advisors of the Administrative Agent or the Lenders and (B) for purposes of any consent to any amendment, waiver or modification of, or any action under, and for the purpose of any direction to the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) under this Agreement or any other Loan Document, each Disqualified Institution will be deemed to have consented in the same proportion as the Lenders that are not Disqualified Institutions consented to such matter.

(iv) The Administrative Agent shall have the right, and the Company hereby expressly authorizes the Administrative Agent, to (A) post the list of Disqualified Institutions provided by the Company and any updates thereto from time to time (collectively, the “DQ List”) on an Approved Electronic Platform, including that portion of such Approved Electronic Platform that is designated for “public side” Lenders and/or (B) provide the DQ List to each Lender or potential Lender requesting the same.

(v) The Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Disqualified Institutions. Without limiting the generality of the foregoing, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a Disqualified Institution or (y) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information, by any other Person to any Disqualified Institution.

(f) EEA Financial Institutions. Notwithstanding anything to the contrary in this Section 9.04, or elsewhere in this Agreement, the consent of the Company shall be required (such consent not to be unreasonably withheld or delayed) for an assignment to an assignee that is an EEA Financial Institution unless a Default shall have occurred and be continuing at the time of such assignment.

SECTION 9.05. Survival. All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, any Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect in accordance with their terms as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement or any other Loan Document is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Commitments have not expired or terminated. The provisions of Sections 2.15, 2.16, 2.17, 9.03 and 9.12 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any other Loan Document or any provision hereof or thereof.

SECTION 9.06. Counterparts; Integration; Effectiveness; Electronic Execution. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each

of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and any separate letter agreements with respect to fees payable to the Administrative Agent constitute the entire contract among the parties relating to the subject matter hereof and thereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof and thereof. 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 which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by telecopy, e-mailed .pdf or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to any document to be signed in connection with this Agreement and the transactions contemplated hereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 9.07. Severability. Any provision of any Loan Document held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 9.08. Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender, each Issuing Bank, and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, but excluding deposits held in a trustee, fiduciary, agency or similar capacity or otherwise for the benefit of a third party) at any time held, and other obligations at any time owing, by such Lender, such Issuing Bank or any such Affiliate, to or for the credit or the account of any Borrower against any and all of the obligations of such Borrower now or hereafter existing under this Agreement or any other Loan Document to such Lender or such Issuing Bank or their respective Affiliates, irrespective of whether or not such Lender, Issuing Bank or Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of such Borrower may be contingent or unmatured or are owed to a branch office or Affiliate of such Lender or such Issuing Bank 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, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.24 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 Issuing Banks, and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, each Issuing Bank and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, such Issuing Bank or their respective Affiliates may have. Each Lender and Issuing Bank agrees to notify the Company 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 9.09. Governing Law; Jurisdiction; Consent to Service of Process.

(a) This Agreement shall be construed in accordance with and governed by the law of the State of New York; provided that (a) the interpretation of the definition of “Material Adverse Effect” and the determination of whether there shall have occurred a “Material Adverse Effect” under the Acquisition Agreement, (b) the determination of whether the Specified Acquisition has been consummated in accordance with the terms of the Acquisition Agreement and (c) the determination of whether the Acquisition Agreement Representations are accurate and whether as a result of any inaccuracy thereof the Company (or its affiliates) has the right (taking into account any applicable cure provisions) to decline to consummate the Specified Acquisition or to terminate its (or their) obligations (or otherwise do not have an obligation to close) under the Acquisition Agreement shall, in each case be governed by and construed and interpreted in accordance with the laws of the State of Delaware without regard to principles of conflicts of laws that would result in the application of the laws of another jurisdiction.

(b) Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to only the jurisdiction of (i) the Supreme Court of the State of New York sitting in New York County, Borough of Manhattan, and of the United States District Court for the Southern District of New York sitting in the Borough of Manhattan and (ii) any U.S. federal or, in the case of the Company only, Illinois state court sitting in Chicago, Illinois, and in each case any appellate court from any thereof, in any action or proceeding arising out of or relating to any Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York state, such Illinois state (if applicable) or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or any other Loan Document shall affect any right that the Administrative Agent, any Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against any Borrower or its properties in the courts of any jurisdiction.

(c) Each party hereto hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Each Subsidiary Borrower irrevocably designates and appoints the Company, as its authorized agent, to accept and acknowledge on its behalf, service of any and all process which may be served in any suit, action or proceeding of the nature referred to in Section 9.09(b) in any federal, New York State or Illinois State court sitting in New York City or Chicago. The Company hereby represents, warrants and confirms that the Company has agreed to accept such appointment. Said designation and appointment shall be irrevocable by each such Subsidiary Borrower until all Loans, all reimbursement obligations, interest thereon and all other amounts payable by such Subsidiary Borrower hereunder and under the other Loan Documents shall have been paid in full in accordance with the provisions hereof and thereof and such Subsidiary Borrower shall have been terminated as a Borrower hereunder pursuant to Section 2.23. Each Subsidiary Borrower hereby consents to process being served in

any suit, action or proceeding of the nature referred to in Section 9.09(b) in any federal, New York State or Illinois State court sitting in New York City or Chicago by service of process upon the Company as provided in this Section 9.09(d); provided that, to the extent lawful and possible, notice of said service upon such agent shall be mailed by registered or certified air mail, postage prepaid, return receipt requested, to the Company and (if applicable to) such Subsidiary Borrower at its address set forth in the Borrowing Subsidiary Agreement to which it is a party or to any other address of which such Subsidiary Borrower shall have given written notice to the Administrative Agent (with a copy thereof to the Company). Each Subsidiary Borrower irrevocably waives, to the fullest extent permitted by law, all claim of error by reason of any such service in such manner and agrees that such service shall be deemed in every respect effective service of process upon such Subsidiary Borrower in any such suit, action or proceeding and shall, to the fullest extent permitted by law, be taken and held to be valid and personal service upon and personal delivery to such Subsidiary Borrower. To the extent any Subsidiary Borrower has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether from service or notice, attachment prior to judgment, attachment in aid of execution of a judgment, execution or otherwise), each Subsidiary Borrower hereby irrevocably waives such immunity in respect of its obligations under the Loan Documents. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 9.10. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, 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 PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 9.11. Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 9.12. Confidentiality. Each of the Administrative Agent, the Swingline Lenders, the Issuing Banks and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors on a need-to-know basis (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 to the same extent as if they were parties hereto and the disclosing Administrative Agent, Swingline Lender, Issuing Bank or Lender shall be responsible for any violation of the provisions of this Section 9.12 by any such Person), (b) to the extent requested by any regulatory authority having jurisdiction over such Person (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required (i) by applicable laws or regulations or (ii) by any subpoena or similar compulsory legal process, (d) to any other party to this Agreement, (e) in connection with the exercise of any remedies under this Agreement or any other Loan Document or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement (it

being understood that the DQ List may be disclosed to any assignee or Participant, or prospective assignee or Participant, in reliance on and subject to the terms of this clause (f)(i) or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to any Borrower and its obligations, (g) on a confidential basis to the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the credit facilities provided for herein, (h) with the prior written consent of the Company or (i) to the extent such Information (A) becomes publicly available other than as a result of a breach of this Section or (B) becomes available to the Administrative Agent, any Issuing Bank or any Lender on a non-confidential basis from a source other than the Company or any of its Subsidiaries that the Administrative Agent, such Issuing Bank or such Lender, as applicable, reasonably believes is not prohibited from disclosing such information to such party in violation of a duty or contractual obligation of confidentiality to the Company or any of its Subsidiaries. In the event of disclosure pursuant to clause (C)(i) or (ii) above, the applicable disclosing Person shall, (x) to the extent not prohibited by applicable law, rule or regulation, as promptly as practicable notify the Company in writing of such required disclosure and if possible, prior to any such required disclosure, so as to provide the Company, at its sole expense, the reasonable opportunity to obtain a protective order or other comparable relief regarding such disclosure, (y) if the Company is unable to successfully obtain a protective order or other comparable relief, so furnish only that portion of the Information which such disclosing Person reasonably determines (which may be in reliance on the advice of legal counsel) it is legally required to disclose and (z) use commercially reasonable efforts to ensure that any such Information so disclosed is accorded confidential treatment. For the purposes of this Section, "Information" means all information which is received from or on behalf of the Company relating to the Company, its Subsidiaries or Affiliates or their respective business, other than any such information that is available to the Administrative Agent, any Issuing Bank or any Lender on a non-confidential basis prior to disclosure by the Company and other than information pertaining to this Agreement routinely provided by arrangers to data service providers, including league table providers, that serve the lending industry. 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 but in no event less than a reasonable degree of care.

**EACH LENDER ACKNOWLEDGES THAT INFORMATION AS DEFINED IN THE IMMEDIATELY PRECEDING PARAGRAPH FURNISHED TO IT PURSUANT TO THIS AGREEMENT MAY INCLUDE MATERIAL NON-PUBLIC INFORMATION CONCERNING THE COMPANY AND ITS RELATED PARTIES OR THEIR RESPECTIVE SECURITIES, AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MATERIAL NON-PUBLIC INFORMATION AND THAT IT WILL HANDLE SUCH MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.**

**ALL INFORMATION, INCLUDING REQUESTS FOR WAIVERS AND AMENDMENTS, FURNISHED BY OR ON BEHALF OF THE COMPANY OR THE ADMINISTRATIVE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT WILL BE SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION ABOUT THE COMPANY, THE OTHER LOAN PARTIES AND THEIR RELATED PARTIES OR THEIR RESPECTIVE SECURITIES. ACCORDINGLY, EACH LENDER REPRESENTS TO THE COMPANY AND THE ADMINISTRATIVE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE QUESTIONNAIRE A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW AND AGREES TO UPDATE SUCH**

**CREDIT CONTACT BY NOTICE TO THE COMPANY AND THE ADMINISTRATIVE AGENT FROM TIME TO TIME AS NECESSARY TO CAUSE THE FOREGOING REPRESENTATION TO BE TRUE AT ALL TIMES.**

SECTION 9.13. USA PATRIOT Act. Each Lender that is subject to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Patriot Act") hereby notifies each Loan Party that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies such Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender to identify such Loan Party in accordance with the Patriot Act.

SECTION 9.14. Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively the "Charges"), shall exceed the maximum lawful rate (the "Maximum Rate") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the NYFRB Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.15. No Advisory or Fiduciary Responsibility. Each Loan Party acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that no Credit Party will have any obligations except those obligations expressly set forth herein and in the other Loan Documents and each Credit Party is acting solely in the capacity of an arm's length contractual counterparty to such Loan Party with respect to the Loan Documents and the transaction contemplated therein and not as a financial advisor or a fiduciary to, or an agent of, such Loan Party or any other person. Each Loan Party agrees that it will not assert any claim against any Credit Party based on an alleged breach of fiduciary duty by such Credit Party in connection with this Agreement and the transactions contemplated hereby. Additionally, each Loan Party acknowledges and agrees that no Credit Party is advising such Loan Party as to any legal, tax, investment, accounting, regulatory or any other matters in any jurisdiction in connection with this Agreement, the other Loan Documents and the credit facilities evidenced hereby.

Each Loan Party shall consult with its own advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated hereby, and the Credit Parties shall have no responsibility or liability to any Loan Party with respect thereto. Each Loan Party further acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that each Credit Party is a full service securities or banking firm engaged in securities trading and brokerage activities as well as providing investment banking and other financial services. In the ordinary course of business, any Credit Party may provide investment banking and other financial services to, and/or acquire, hold or sell, for its own accounts and the accounts of customers, equity, debt and other securities and financial instruments (including bank loans and other obligations) of, such Loan Party, its Subsidiaries and other companies with which such Loan Party or any of its Subsidiaries may have commercial or other relationships. With respect to any securities and/or financial instruments so held by any Credit Party or any of its customers, all rights in respect of such securities and financial instruments, including any voting rights, will be exercised by the holder of the rights, in its sole discretion.

In addition, each Loan Party acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that each Credit Party and its affiliates may be providing debt financing, equity capital or

other services (including financial advisory services) to other companies in respect of which such Loan Party or any of its Subsidiaries may have conflicting interests regarding the transactions described herein and otherwise. No Credit Party will use Information obtained from the Loan Party by virtue of the transactions contemplated by the Loan Documents or its other relationships with the Loan Party in connection with the performance by such Credit Party of services for other companies, and no Credit Party will furnish any such Information to other companies. Each Loan Party also acknowledges that no Credit Party has any obligation to use in connection with the transactions contemplated by the Loan Documents, or to furnish to such Loan Party or any of its Subsidiaries, confidential information obtained from other companies.

SECTION 9.16. Attorney Representation. If a Dutch Borrower is represented by an attorney in connection with the signing and/or execution of the Agreement and/or any other Loan Document it is hereby expressly acknowledged and accepted by the parties to the Agreement and/or any other Loan Document that the existence and extent of the attorney's authority and the effects of the attorney's exercise or purported exercise of his or her authority shall be governed by the laws of the Netherlands.

SECTION 9.17. Acknowledgement and Consent to Bail-In of EEA Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document may be subject to the Write-Down and Conversion Powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

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

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

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

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

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

To the extent not prohibited by applicable law, rule or regulation, each Lender shall notify the Company and the Administrative Agent if it has become the subject of a Bail-In Action (or any case or other proceeding in which a Bail-In Action may occur).

## ARTICLE X

### Company Guarantee

In order to induce the Lenders to extend credit to the other Borrowers hereunder, the Company hereby irrevocably and unconditionally guarantees, as a primary obligor and not merely as a surety, the payment when and as due, subject to the notice provisions contained in this Article X, of the

Obligations of such other Borrowers. The Company further agrees that the due and punctual payment of such Obligations may be extended or renewed, in whole or in part, without notice to or further assent from it, and that it will remain bound upon its guarantee hereunder notwithstanding any such extension or renewal of any such Obligation.

The Company waives presentment to, demand of payment from and protest to any Borrower of any of the Obligations, and also waives, other than as set forth in this Article X, notice of acceptance of its obligations and notice of protest for nonpayment. The obligations of the Company under this Article X shall not be affected by: (a) the failure of the Administrative Agent, any Issuing Bank or any Lender to assert any claim or demand or to enforce any right or remedy against any Borrower under the provisions of this Agreement, any other Loan Document or otherwise; (b) any extension or renewal of any of the Obligations; (c) any rescission, waiver, amendment or modification of, or release from, any of the terms or provisions of this Agreement, or any other Loan Document or agreement (other than to the extent provided for in any express, written release, amendment, modification or waiver with respect to any of this Article X made in accordance with Section 9.02); (d) any default, failure or delay, willful or otherwise, in the performance of any of the Obligations; (e) the failure of the Administrative Agent to take any steps to perfect and maintain any security interest in, or to preserve any rights to, any security or collateral for the Obligations, if any; (f) any change in the corporate, partnership or other existence, structure or ownership of any Borrower or any other guarantor of any of the Obligations; (g) the enforceability or validity of the Obligations or any part thereof or the genuineness, enforceability or validity of any agreement relating thereto or with respect to any collateral securing the Obligations or any part thereof, or any other invalidity or unenforceability relating to or against any Borrower or any other guarantor of any of the Obligations, for any reason related to this Agreement, any other Loan Document, or any provision of applicable law, decree, order or regulation of any jurisdiction purporting to prohibit the payment by such Borrower or any other guarantor of the Obligations, of any of the Obligations or otherwise affecting any term of any of the Obligations; or (h) any other act, omission or delay to do any other act which may or might in any manner or to any extent vary the risk of the Company or otherwise operate as a discharge of a guarantor as a matter of law or equity or which would impair or eliminate any right of the Company to subrogation.

The Company further agrees that its agreement hereunder constitutes a guarantee of payment when due (whether or not any bankruptcy or similar proceeding shall have stayed the accrual or collection of any of the Obligations or operated as a discharge thereof) and not merely of collection, and waives any right to require that any resort be had by the Administrative Agent, any Issuing Bank or any Lender to any balance of any deposit account or credit on the books of the Administrative Agent, any Issuing Bank or any Lender in favor of any Borrower or any other Person.

The obligations of the Company hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason, and shall not be subject to any defense or set-off, counterclaim, recoupment or termination whatsoever, by reason of the invalidity, illegality or unenforceability of any of the Obligations, any impossibility in the performance of any of the Obligations or otherwise.

The Company further agrees that its obligations hereunder shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of any Obligation is rescinded or must otherwise be restored by the Administrative Agent, any Issuing Bank or any Lender upon the bankruptcy or reorganization of any Borrower or otherwise.

In furtherance of the foregoing and not in limitation of any other right which the Administrative Agent, any Issuing Bank or any Lender may have at law or in equity against the Company by virtue hereof, upon the failure of any other Borrower to pay any Obligation when and as the same shall become due, whether at maturity, by acceleration, after notice of prepayment or otherwise, the Company hereby promises to and will, promptly but in any event within two (2) Business Days following receipt of written demand by the Administrative Agent, any Issuing Bank or any Lender, forthwith pay, or cause to be paid, to the Administrative Agent, any Issuing Bank or any Lender in cash an amount equal to the unpaid

principal amount of such Obligations then due, together with accrued and unpaid interest thereon. The Company further agrees that if payment in respect of any Obligation shall be due in a currency other than Dollars and/or at a place of payment other than New York, Chicago or any other Eurocurrency Payment Office and if, by reason of any Change in Law, disruption of currency or foreign exchange markets, war or civil disturbance or other similar event, payment of such Obligation in such currency or at such place of payment shall be impossible or, in the reasonable judgment of the Administrative Agent, any Issuing Bank or any Lender, disadvantageous to the Administrative Agent, any Issuing Bank or any Lender in any material respect, then, at the election of the Administrative Agent, the Company shall make payment of such Obligation in Dollars (based upon the applicable Equivalent Amount in effect on the date of payment) and/or in New York, Chicago or such other Eurocurrency Payment Office as is designated by the Administrative Agent and, as a separate and independent obligation, shall indemnify the Administrative Agent, any Issuing Bank and any Lender against any losses or reasonable out-of-pocket expenses that it shall sustain as a result of such alternative payment.

Upon payment by the Company of any sums as provided above, all rights of the Company against any Borrower arising as a result thereof by way of right of subrogation or otherwise shall in all respects be subordinated and junior in right of payment to the prior indefeasible payment in full in cash of all the Obligations owed by such Borrower to the Administrative Agent, the Issuing Banks and the Lenders.

Any obligation of the Borrowers under Section 2.17 to pay any additional amounts to, or indemnify, any Lender or Issuing Bank for any taxes that are required to be withheld or deducted from payments made to any Lender or to pay for, or indemnify any Lender for, any stamp and other similar taxes, shall apply mutatis mutandis (and without duplication) to the Company with respect to this Article X and payments made hereunder.

Nothing shall discharge or satisfy the liability of the Company hereunder except the full performance and payment in cash of the Obligations.

[Signature Pages Follow]

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

FISERV, INC., as the Company

By \_\_\_\_\_  
Name:  
Title:

JPMORGAN CHASE BANK, N.A., individually as a Lender, as a Swingline Lender, as an Issuing Bank and as Administrative Agent

By \_\_\_\_\_  
Name:  
Title:

Jurisdiction of tax residence:  
Treaty Passport scheme reference number:

BANK OF AMERICA, N.A., individually as a Lender, as an Issuing Bank and as a Syndication Agent

By \_\_\_\_\_  
Name:  
Title:

Jurisdiction of tax residence:  
Treaty Passport scheme reference number:

MUFG BANK, LTD., individually as a Lender, as an Issuing Bank and as a Syndication Agent

By \_\_\_\_\_  
Name:  
Title:

Jurisdiction of tax residence:  
Treaty Passport scheme reference number:

U.S. BANK NATIONAL ASSOCIATION, individually as a Lender, as an Issuing Bank and as a Syndication Agent

By \_\_\_\_\_  
Name:  
Title:



Jurisdiction of tax residence:  
Treaty Passport scheme reference number:

WELLS FARGO BANK, NATIONAL ASSOCIATION,  
individually as a Lender, as an Issuing Bank and as a  
Syndication Agent

By \_\_\_\_\_  
Name:  
Title:

Jurisdiction of tax residence:  
Treaty Passport scheme reference number:

The undersigned Departing Lender hereby acknowledges  
and agrees that, from and after the Effective Date, it is no  
longer a party to the Existing Credit Agreement or any of the  
“Loan Documents” (as defined therein) and is not a party to  
this Agreement other than for the sole purpose of provisions  
of Section 1.07 expressly applicable to it.

[ \_\_\_\_\_ ]

By \_\_\_\_\_  
Name:  
Title:

## COMMITMENTS

<u>LENDER</u>	<u>COMMITMENT</u>
JPMORGAN CHASE BANK, N.A.	\$ 275,000,000
CITIBANK, N.A.	\$ 260,000,000
MUFG BANK, LTD.	\$ 260,000,000
PNC BANK, NATIONAL ASSOCIATION	\$ 260,000,000
U.S. BANK NATIONAL ASSOCIATION	\$ 260,000,000
WELLS FARGO BANK, NATIONAL ASSOCIATION	\$ 260,000,000
BANK OF AMERICA, N.A.	\$ 210,000,000
BANK OF MONTREAL, CHICAGO BRANCH	\$ 185,000,000
SUNTRUST BANK	\$ 155,000,000
THE TORONTO-DOMINION BANK, NEW YORK BRANCH	\$ 155,000,000
CAPITAL ONE, NATIONAL ASSOCIATION	\$ 115,000,000
CITIZENS BANK, N.A.	\$ 115,000,000
CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH	\$ 115,000,000
NATIONAL WESTMINSTER BANK PLC	\$ 115,000,000
MIZUHO BANK, LTD.	\$ 105,000,000
SANTANDER BANK, N.A.	\$ 105,000,000
BRANCH BANKING AND TRUST COMPANY	\$ 90,000,000
FIRST NATIONAL BANK OF PENNSYLVANIA	\$ 85,000,000
KEYBANK NATIONAL ASSOCIATION	\$ 85,000,000
THE BANK OF NOVA SCOTIA	\$ 85,000,000
THE NORTHERN TRUST COMPANY	\$ 80,000,000
THE HUNTINGTON NATIONAL BANK	\$ 60,000,000
COMERICA BANK	\$ 35,000,000
ASSOCIATED BANK, N.A.	\$ 30,000,000
<b>AGGREGATE COMMITMENT</b>	<b>\$3,500,000,000</b>

SCHEDULE 2.06

EXISTING LETTERS OF CREDIT

<u>Number</u>	<u>Amount</u>	<u>Issuing Bank</u>	<u>Account Party</u>	<u>Expiry Date</u>
CPCS-756201	\$ 12,500,000.00	JPMorgan Chase Bank, N.A.	Fiserv, Inc.	10/5/2019
NUSCGS019246	\$ 7,500,000.00	JPMorgan Chase Bank, N.A.	Fiserv Solutions, LLC	9/3/2019
CPCS-849931	\$ 1,000,000	JPMorgan Chase Bank, N.A.	Fiserv Solutions, LLC	8/3/2019

LIST OF MATERIAL SUBSIDIARIES

Material Subsidiaries:

CheckFree Services Corporation, a Delaware corporation

Fiserv Solutions, LLC, a Wisconsin limited liability company

LIST OF FIRST DATA DEBT INSTRUMENTS

1. The Credit Agreement, dated as of September 24, 2007, among First Data Corporation, as borrower, the several lenders from time to time party thereto, Credit Suisse, Cayman Islands Branch, as administrative agent, swingline lender and letter of credit issuer, Citibank, N.A. as syndication agent, and the other parties party thereto, as amended, modified and supplemented through January 16, 2019.
2. The Indenture, dated August 11, 2015, among First Data Corporation, the guarantors named therein and Wells Fargo Bank, National Association, as trustee, related to the 5.375% Senior Secured Notes Due 2023, as amended, modified and supplemented through January 16, 2019.
3. The Indenture, dated November 25, 2015, by and among First Data Corporation, the guarantors named therein and Wells Fargo Bank, National Association, as trustee, related to the 5.000% Senior Secured First Lien Notes Due 2024, as amended, modified and supplemented through January 16, 2019.
4. The Indenture, dated November 25, 2015, among First Data Corporation, the guarantors named therein and Wells Fargo Bank, National Association, as trustee, related to the 5.750% Senior Secured Second Lien Notes Due 2024, as amended, modified or supplemented through January 16, 2019.
5. ~~The Receivables Financing Agreement, dated as of December 31, 2015, by and among First Data Corporation, First Data Receivables, LLC and the other persons party thereto, as amended, modified and supplemented through January 16, 2019.~~

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SCHEDULE 6.01

LIST OF EXISTING INDEBTEDNESS

None.

EXHIBIT A

FORM OF ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (the "Assignment" and "Assumption") is dated as of the Effective Date set forth below and is entered into by and between [*Insert name of Assignor*] (the "Assignor") and [*Insert name of Assignee*] (the "Assignee"). Capitalized terms used but not defined herein shall have the meanings given to them in the Third Amended and Restated Credit Agreement identified below (as amended, restated, supplemented or otherwise modified from time to time, 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 Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, 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 (i) all of the Assignor's rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the respective facilities identified below (including any letters of credit, guarantees, and swingline loans included in such facilities) and (ii) 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) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including 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 (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as the "Assigned Interest"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. Assignor: \_\_\_\_\_
2. Assignee: \_\_\_\_\_  
[and is an Affiliate/Approved Fund of [identify Lender]<sup>1</sup>]
3. Borrowers: Fiserv, Inc. and certain Subsidiary Borrowers
4. Administrative Agent: JPMorgan Chase Bank, N.A., as the administrative agent under the Credit Agreement
5. Credit Agreement: The Third Amended and Restated Credit Agreement dated as of September 19, 2018 among Fiserv, Inc., the Subsidiary Borrowers from time to time parties thereto, the Lenders parties thereto, JPMorgan Chase Bank, N.A., as Administrative Agent, and the other agents parties thereto

<sup>1</sup> Select as applicable.

6. Assigned Interest:

<u>Aggregate Amount of Commitment/Loans for all Lenders</u>	<u>Amount of Commitment/ Loans Assigned</u>	<u>Percentage Assigned of Commitment/Loans<sup>2</sup></u>
\$ _____	\$ _____	%
\$ _____	\$ _____	%
\$ _____	\$ _____	%

Effective Date: \_\_\_\_\_, 20 [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The Assignee agrees to deliver to the Administrative Agent a completed Administrative Questionnaire in which the Assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Company, the other Loan Parties and/or their Related Parties and/or their respective securities) will be made available and who may receive such information in accordance with the Assignee's compliance procedures and applicable laws, including federal and state securities laws.

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR

[NAME OF ASSIGNOR]

By: \_\_\_\_\_  
Title:

ASSIGNEE

[NAME OF ASSIGNEE]

By: \_\_\_\_\_  
Title:

Consented to and Accepted:

JPMORGAN CHASE BANK, N.A., as Administrative  
Agent [and an Issuing Bank and a Swingline Lender]

By: \_\_\_\_\_  
Title:

[Consented to:]<sup>3</sup>

<sup>2</sup> Set forth, so at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.

<sup>3</sup> To be added only if the consent of the Issuing Banks and the Swingline Lenders is required by the terms of the Credit Agreement.



[OTHER ISSUING BANKS AND SWINGLINE  
LENDERS]

[Consented to:]<sup>4</sup>

FISERV, INC.

By: \_\_\_\_\_

Title:

\_\_\_\_\_  
<sup>4</sup> To be added only if the consent of the Company is required by the terms of the Credit Agreement.

STANDARD TERMS AND CONDITIONS FOR  
ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim 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 Company, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document, (iv) any requirements under applicable law for the Assignee to become a lender under the Credit Agreement or to charge interest at the rate set forth therein from time to time or (v) the performance or observance by the Company, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee. The 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 satisfies the requirements, if any, specified in the Credit Agreement that are required to be satisfied by it in order to acquire the Assigned Interest and become a Lender, (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 5.07 thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent, any arranger of the credit facilities evidenced by the Credit Agreement or any other Lender and their respective Related Parties, (v) attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee, (vi) it does not bear a relationship to any Borrower described in Section 108(e)(4) of the Code and (vii) it meets all the requirements to be an assignee under Section 9.04 of the Credit Agreement; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, any arranger of the credit facilities evidenced by the Credit Agreement, the Assignor or any other Lender and their respective Related Parties, 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 Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the 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. Acceptance and adoption of the terms of this Assignment and Assumption by the Assignee and the Assignor by Electronic Signature or delivery of an executed counterpart of a signature page of this Assignment and Assumption by any Approved Electronic Platform 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.

4. [The Assignee confirms for the benefit of the Administrative Agent and the Loan Parties but without liability to any Loan Party, that it is [not a UK Qualifying Lender] [a UK Qualifying Lender (other than a UK Treaty Lender)] [(a UK Treaty Lender)].<sup>1</sup>

5. [The Assignee confirms that the person beneficially entitled to interest payable to that Assignee in respect of an advance under a Loan Document is either (a) a company resident in the United Kingdom for United Kingdom tax purposes or (b) a partnership each member of which is (i) a company so resident in the United Kingdom or (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the UK CTA 2009) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the UK CTA 2009 or (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the UK CTA 2009) of that company.]<sup>2</sup>

1. [The Assignee confirms that it holds a passport under the HM Revenue and Customs DT Treaty Passport scheme (reference number [ ]) and is tax resident in [ ]<sup>3</sup>, so that interest payable to it by borrowers is generally subject to full exemption from United Kingdom withholding tax and requests that the Company notify:

(i) each UK Borrower which is a party to the Credit Agreement as a Borrower as at the date of this Assignment and Assumption; and

(ii) each UK Borrower which becomes a Borrower after the date of this Assignment and Assumption,

that it wishes that scheme to apply to the Credit Agreement.]<sup>4</sup>

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<sup>1</sup> Delete as applicable – each Assignee is required to confirm which of these three categories it falls within.

<sup>2</sup> Insert if comes within clause (a)(ii) of the definition of UK Qualifying Lender.

<sup>3</sup> Insert jurisdiction of tax residence.

<sup>4</sup> Include if the Assignee holds a passport under the HM Revenue and Customs DT Treaty Passport scheme and wishes that scheme to apply to the Credit Agreement.

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**EXHIBIT B-1**

**FORM OF OPINION OF FOLEY & LARDNER LLP**

[ATTACHED]

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EXHIBIT B-2

FORM OF OPINION OF CHIEF LEGAL OFFICER OF THE COMPANY

[ATTACHED]

EXHIBIT C

FORM OF INCREASING LENDER SUPPLEMENT

INCREASING LENDER SUPPLEMENT, dated \_\_\_\_\_, 20\_\_\_\_ (this "Supplement"), by and among each of the signatories hereto, to the Third Amended and Restated Credit Agreement dated as of September 19, 2018 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Fiserv, Inc. (the "Company"), the Subsidiary Borrowers from time to time party thereto, the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent").

W I T N E S S E T H

WHEREAS, pursuant to Section 2.20 of the Credit Agreement, the Company has the right, subject to the terms and conditions thereof, to effectuate from time to time an increase in the Aggregate Commitment and/or one or more tranches of Incremental Term Loans under the Credit Agreement by requesting one or more Lenders to increase the amount of its Commitment and/or to participate in such a tranche;

WHEREAS, the Company has given notice to the Administrative Agent of its intention to [increase the Aggregate Commitment] [and] [enter into a tranche of Incremental Term Loans] pursuant to such Section 2.20; and

WHEREAS, pursuant to Section 2.20 of the Credit Agreement, the undersigned Increasing Lender now desires to [increase the amount of its Commitment] [and] [participate in a tranche of Incremental Term Loans] under the Credit Agreement by executing and delivering to the Company and the Administrative Agent this Supplement;

NOW, THEREFORE, each of the parties hereto hereby agrees as follows:

1. The undersigned Increasing Lender agrees, subject to the terms and conditions of the Credit Agreement, that on the date of this Supplement it shall [have its Commitment increased by \$[\_\_\_\_], thereby making the aggregate amount of its total Commitments equal to \$[\_\_\_\_] [and] [participate in a tranche of Incremental Term Loans with a commitment amount equal to \$[\_\_\_\_] with respect thereto].

[[\_\_\_\_]]. The undersigned Increasing Lender confirms for the benefit of the Administrative Agent and the Loan Parties but without liability to any Loan Party, that it is [not a UK Qualifying Lender] [a UK Qualifying Lender (other than a UK Treaty Lender)] [(a UK Treaty Lender).]<sup>1</sup>

[[\_\_\_\_]]. The undersigned Increasing Lender confirms that the person beneficially entitled to interest payable to that Increasing Lender in respect of an advance under a Loan Document is either (a) a company resident in the United Kingdom for United Kingdom tax purposes or (b) a partnership each member of which is (i) a company so resident in the United Kingdom or (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the UK CTA 2009) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the UK CTA 2009 or (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the UK CTA 2009) of that company.]<sup>2</sup>

<sup>1</sup> Delete as applicable – each Increasing Lender is required to confirm which of these three categories it falls within.

<sup>2</sup> Insert if comes within clause (a)(ii) of the definition of UK Qualifying Lender.

[ [ ]. The undersigned Increasing Lender confirms that it holds a passport under the HM Revenue and Customs DT Treaty Passport scheme (reference number [ ]) and is tax resident in [ ]<sup>3</sup>, so that interest payable to it by borrowers is generally subject to full exemption from United Kingdom withholding tax and requests that the Company notify:

- (i) each UK Borrower which is a party to the Credit Agreement as a Borrower as at the date of this Assignment and Assumption; and
  - (ii) each UK Borrower which becomes a Borrower after the date of this Assignment and Assumption,
- that it wishes that scheme to apply to the Credit Agreement.]<sup>4</sup>

2. The Company hereby represents and warrants that no Default or Event of Default has occurred and is continuing on and as of the date hereof.

3. Terms defined in the Credit Agreement shall have their defined meanings when used herein.

4. This Supplement shall be governed by, and construed in accordance with, the laws of the State of New York.

5. This Supplement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same document.

IN WITNESS WHEREOF, each of the undersigned has caused this Supplement to be executed and delivered by a duly authorized officer on the date first above written.

[INSERT NAME OF INCREASING LENDER]

By: \_\_\_\_\_  
Name:  
Title:

<sup>3</sup> Insert jurisdiction of tax residence.

<sup>4</sup> Include if the Increasing Lender holds a passport under the HM Revenue and Customs DT Treaty Passport scheme and wishes that scheme to apply to the Credit Agreement.

Accepted and agreed to as of the date first written above:

FISERV, INC.

By: \_\_\_\_\_

Name:

Title:

Acknowledged as of the date first written above:

JPMORGAN CHASE BANK, N.A.

as Administrative Agent

By: \_\_\_\_\_

Name:

Title:



EXHIBIT D

FORM OF AUGMENTING LENDER SUPPLEMENT

AUGMENTING LENDER SUPPLEMENT, dated \_\_\_\_\_, 20\_\_\_\_ (this "Supplement"), by and among each of the signatories hereto, to the Third Amended and Restated Credit Agreement dated as of September 19, 2018 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Fiserv, Inc. (the "Company"), the Subsidiary Borrowers from time to time party thereto, the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent").

W I T N E S S E T H

WHEREAS, the Credit Agreement provides in Section 2.20 thereof that any bank, financial institution or other entity may [extend Commitments] [and] [participate in tranches of Incremental Term Loans] under the Credit Agreement subject to the approval of the Company and the Administrative Agent, by executing and delivering to the Company and the Administrative Agent a supplement to the Credit Agreement in substantially the form of this Supplement; and

WHEREAS, the undersigned Augmenting Lender was not an original party to the Credit Agreement but now desires to become a party thereto;

NOW, THEREFORE, each of the parties hereto hereby agrees as follows:

1. The undersigned Augmenting Lender agrees to be bound by the provisions of the Credit Agreement and agrees that it shall, on the date of this Supplement, become a Lender for all purposes of the Credit Agreement to the same extent as if originally a party thereto, with a [Commitment with respect to Revolving Loans of \$[ ]] [and] [a commitment with respect to Incremental Term Loans of \$[ ]].

[[ ]. The undersigned Augmenting Lender confirms for the benefit of the Administrative Agent and the Loan Parties but without liability to any Loan Party, that it is [not a UK Qualifying Lender] [a UK Qualifying Lender (other than a UK Treaty Lender)] [(a UK Treaty Lender)].<sup>1</sup>

[[ ]. The undersigned Augmenting Lender confirms that the person beneficially entitled to interest payable to that Augmenting Lender in respect of an advance under a Loan Document is either (a) a company resident in the United Kingdom for United Kingdom tax purposes or (b) a partnership each member of which is (i) a company so resident in the United Kingdom or (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the UK CTA 2009) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the UK CTA 2009 or (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the UK CTA 2009) of that company.]<sup>2</sup>

<sup>1</sup> Delete as applicable – each Augmenting Lender is required to confirm which of these three categories it falls within.

<sup>2</sup> Insert if comes within clause (a)(ii) of the definition of UK Qualifying Lender.

[ [ ] ]. The undersigned Augmenting Lender confirms that it holds a passport under the HM Revenue and Customs DT Treaty Passport scheme (reference number [ ] ) and is tax resident in [ ]<sup>3</sup>, so that interest payable to it by borrowers is generally subject to full exemption from United Kingdom withholding tax and requests that the Company notify:

- (i) each UK Borrower which is a party to the Credit Agreement as a Borrower as at the date of this Assignment and Assumption; and
- (ii) each UK Borrower which becomes a Borrower after the date of this Assignment and Assumption,

that it wishes that scheme to apply to the Credit Agreement.]<sup>4</sup>

2. The undersigned Augmenting Lender (a) represents and warrants that it is legally authorized to enter into this Supplement; (b) confirms that it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 5.07 thereof, as applicable, and has reviewed such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Supplement; (c) agrees that it will, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit Agreement or any other instrument or document furnished pursuant hereto or thereto; (d) appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers and discretion under the Credit Agreement or any other instrument or document furnished pursuant hereto or thereto as are delegated to the Administrative Agent by the terms thereof, together with such powers as are incidental thereto; (e) agrees that it will be bound by the provisions of the Credit Agreement and will perform in accordance with its terms all the obligations which by the terms of the Credit Agreement are required to be performed by it as a Lender; and (f) represents and warrants that (A) it is not a Disqualified Institution, and (B) it is not (and immediately upon giving effect hereto will not be) a Defaulting Lender.

3. The undersigned's address for notices for the purposes of the Credit Agreement is as follows:

[ ]

4. The Company hereby represents and warrants that no Default or Event of Default has occurred and is continuing on and as of the date hereof.

5. Terms defined in the Credit Agreement shall have their defined meanings when used herein.

6. This Supplement shall be governed by, and construed in accordance with, the laws of the State of New York.

7. This Supplement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same document.

---

<sup>3</sup> Insert jurisdiction of tax residence.

<sup>4</sup> Include if the Augmenting Lender holds a passport under the HM Revenue and Customs DT Treaty Passport scheme and wishes that scheme to apply to the Credit Agreement.

IN WITNESS WHEREOF, each of the undersigned has caused this Supplement to be executed and delivered by a duly authorized officer on the date first above written.

[INSERT NAME OF AUGMENTING LENDER]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Accepted and agreed to as of the date first written above:

FISERV, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Acknowledged as of the date first written above:

JPMORGAN CHASE BANK, N.A.  
as Administrative Agent

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

EXHIBIT E

LIST OF CLOSING DOCUMENTS

**FISERV, INC.  
CERTAIN SUBSIDIARY BORROWERS**

**CREDIT FACILITIES**

September 19, 2018

LIST OF CLOSING DOCUMENTS<sup>1</sup>

**A. LOAN DOCUMENTS**

1. Third Amended and Restated Credit Agreement (the "Credit Agreement") by and among Fiserv, Inc., a Wisconsin corporation (the "Company"), the Subsidiary Borrowers from time to time parties thereto (collectively with the Company, the "Borrowers"), the institutions from time to time parties thereto as Lenders (the "Lenders") and JPMorgan Chase Bank, N.A., in its capacity as Administrative Agent for itself and the other Lenders (the "Administrative Agent"), evidencing a revolving credit facility to the Borrowers from the Lenders in an initial aggregate principal amount of \$2,000,000,000.

SCHEDULES

Schedule 2.01	—	Commitments
<b>Schedule 2.06</b>	—	<b><i>Existing Letters of Credit</i></b>
<b>Schedule 3.13</b>	—	<b><i>List of Material Subsidiaries</i></b>
<b>Schedule 6.01</b>	—	<b><i>List of Existing Indebtedness</i></b>

EXHIBITS

Exhibit A	—	Form of Assignment and Assumption
Exhibit B-1	—	Form of Opinion of Foley & Lardner LLP
Exhibit B-2	—	Form of Opinion of Chief Legal Officer of the Company
Exhibit C	—	Form of Increasing Lender Supplement
Exhibit D	—	Form of Augmenting Lender Supplement
Exhibit E	—	List of Closing Documents
Exhibit F-1	—	Form of Borrowing Subsidiary Agreement
Exhibit F-2	—	Form of Borrowing Subsidiary Termination
Exhibit G	—	[Intentionally Omitted]
Exhibit H	—	Form of Compliance Certificate
Exhibit I-1	—	Form of Borrowing Request
Exhibit I-2	—	Form of Interest Election Request
Exhibits J-1-4	—	Form of U.S. Tax Certificates

<sup>1</sup> Each capitalized term used herein and not defined herein shall have the meaning assigned to such term in the above-defined Credit Agreement. Items appearing in **bold** and *italics* shall be prepared and/or provided by the Company and/or Company's counsel

2. Notes executed by the Company in favor of each of the Lenders, if any, which has requested a note pursuant to Section 2.10(d) of the Credit Agreement.

#### B. CORPORATE DOCUMENTS

3. *Certificate of the Secretary or an Assistant Secretary of the Company certifying (i) that there have been no changes in the Certificate of Incorporation or other charter document of the Company, as attached thereto and as certified as of a recent date by the Secretary of State (or other applicable governmental authority) of the jurisdiction of its organization, since the date of the certification thereof by such secretary of state (or other authority), (ii) the By-Laws or other applicable organizational document, as attached thereto, of the Company as in effect on the date of such certification, (iii) resolutions of the Board of Directors or other governing body of the Company authorizing the execution, delivery and performance of each Loan Document to which it is a party, and (iv) the names and true signatures of the incumbent officers of the Company authorized to sign the Loan Documents to which it is a party, and authorized to request Borrowings and/or the issuance of a Letter of Credit under the Credit Agreement.*
4. *Good Standing Certificate for the Company from the Secretary of State (or other applicable governmental authority) of the jurisdiction of its organization.*

#### C. OPINIONS

5. *Opinion of Foley & Lardner LLP, counsel for the Company.*
6. *Opinion of Lynn S. McCreary, Chief Legal Officer for the Company.*

#### D. CLOSING CERTIFICATES AND MISCELLANEOUS

7. *A Certificate signed by the President, a Vice President or a Financial Officer of the Company certifying the following: (i) all of the representations and warranties of the Company set forth in the Credit Agreement are true and correct and (ii) no Default has occurred and is then continuing.*

## BORROWING SUBSIDIARY AGREEMENT

BORROWING SUBSIDIARY AGREEMENT dated as of [ ], among Fiserv, Inc., a Wisconsin corporation (the “Company”), [Name of Subsidiary Borrower], a [ ] (the “New Borrowing Subsidiary”), and JPMorgan Chase Bank, N.A. as Administrative Agent (the “Administrative Agent”).

Reference is hereby made to the Third Amended and Restated Credit Agreement dated as of September 19, 2018 (as amended, supplemented or otherwise modified from time to time, the “Credit Agreement”), among the Company, the Subsidiary Borrowers from time to time party thereto, the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A. as Administrative Agent. Capitalized terms used herein but not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement. Under the Credit Agreement, the Lenders have agreed, upon the terms and subject to the conditions therein set forth, to make Loans to certain Subsidiary Borrowers (collectively with the Company, the “Borrowers”), and the Company and the New Borrowing Subsidiary desire that the New Borrowing Subsidiary become a Subsidiary Borrower. In addition, the New Borrowing Subsidiary hereby authorizes the Company to act on its behalf as and to the extent provided for in Article II of the Credit Agreement. [Notwithstanding the preceding sentence, the New Borrowing Subsidiary hereby designates the following officers as being authorized to request Borrowings under the Credit Agreement on behalf of the New Subsidiary Borrower and sign this Borrowing Subsidiary Agreement and the other Loan Documents to which the New Borrowing Subsidiary is, or may from time to time become, a party: [ ].]

Each of the Company and the New Borrowing Subsidiary represents and warrants that the representations and warranties of the Company in the Credit Agreement relating to the New Borrowing Subsidiary and this Agreement (other than the representations contained in Sections 3.04(a), 3.12(b) and 3.18) shall be true and correct in all material respects (provided that any representation or warranty that is qualified by materiality or Material Adverse Effect shall be true and correct in all respects) on and as of the date hereof, other than representations given as of a particular date, in which case they shall be true and correct as of that date. [INSERT OTHER PROVISIONS REASONABLY REQUESTED BY ADMINISTRATIVE AGENT OR ITS COUNSELS] The Company agrees that the guarantee of the Company contained in the Credit Agreement will apply to the Obligations of the New Borrowing Subsidiary. Upon execution of this Agreement by each of the Company, the New Borrowing Subsidiary and the Administrative Agent, the New Borrowing Subsidiary shall be a party to the Credit Agreement and shall constitute a “Subsidiary Borrower” for all purposes thereof, and the New Borrowing Subsidiary hereby agrees to be bound by all provisions of the Credit Agreement.

This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their authorized officers as of the date first appearing above.

FISERV, INC.

By: \_\_\_\_\_  
Name:  
Title:

[NAME OF NEW BORROWING SUBSIDIARY]

By: \_\_\_\_\_  
Name:  
Title:

JPMORGAN CHASE BANK, N.A. as Administrative  
Agent

By: \_\_\_\_\_  
Name:  
Title:

BORROWING SUBSIDIARY TERMINATION

JPMorgan Chase Bank, N.A.  
as Administrative Agent  
for the Lenders referred to below  
[            ]  
[            ]  
Attention: [            ]

[Date]

Ladies and Gentlemen:

The undersigned, Fiserv, Inc. (the "Company"), refers to the Third Amended and Restated Credit Agreement dated as of September 19, 2018 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among the Company, the Subsidiary Borrowers from time to time party thereto and JPMorgan Chase Bank, N.A., as Administrative Agent. Capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

The Company hereby terminates the status of [            ] (the "Terminated Borrowing Subsidiary") as a Subsidiary Borrower under the Credit Agreement. [The Company represents and warrants that no Loans made to the Terminated Borrowing Subsidiary are outstanding as of the date hereof and that all amounts payable by the Terminated Borrowing Subsidiary in respect of interest and/or fees (and, to the extent notified by the Administrative Agent or any Lender, any other amounts payable under the Credit Agreement) pursuant to the Credit Agreement have been paid in full on or prior to the date hereof.] [The Company acknowledges that the Terminated Borrowing Subsidiary shall continue to be a Borrower until such time as all Loans made to the Terminated Borrowing Subsidiary shall have been prepaid and all amounts payable by the Terminated Borrowing Subsidiary in respect of interest and/or fees (and, to the extent notified by the Administrative Agent or any Lender, any other amounts payable by the Terminated Borrowing Subsidiary under the Credit Agreement) pursuant to the Credit Agreement shall have been paid in full, provided that the Terminated Borrowing Subsidiary shall not have the right to make further Borrowings under the Credit Agreement.]

[Signature Page Follows]



This instrument shall be construed in accordance with and governed by the laws of the State of New York.

Very truly yours,

FISERV, INC.

By: \_\_\_\_\_  
Name:  
Title:

Copy to: JPMorgan Chase Bank, N.A.  
10 South Dearborn Street  
Chicago, Illinois 60603

---

EXHIBIT G

[INTENTIONALLY OMITTED]

EXHIBIT H

FORM OF COMPLIANCE CERTIFICATE

JPMorgan Chase Bank, N.A.,  
as Administrative Agent

[                    ]

[                    ]

Attention: [                    ]

Re: Third Amended and Restated Credit Agreement, dated as of September 19, 2018, by and among Fiserv, Inc., the Lenders party thereto and JPMorgan Chase Bank, N.A., as Administrative Agent (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement")

Capitalized terms used herein which are not otherwise defined herein shall have the respective meanings ascribed thereto in the Credit Agreement.

With respect to the financial statements delivered herewith, I hereby certify, to my knowledge, that such financial statements have been prepared in accordance with GAAP (without footnotes and subject to audit and year-end adjustments in the case of quarterly financial statements).

Attached is a worksheet containing calculations required to establish the following as of the fiscal quarter ended                   , 20   :

Leverage Ratio is   .   :1.00.

Interest Coverage Ratio is   .   :1.00.

In addition, I hereby certify that, to my knowledge, no condition or event has occurred and is continuing which would constitute a Default or an Event of Default, **except as follows:**

**SPECIFY ALL SUCH VIOLATIONS, CONDITIONS AND EVENTS AND THE NATURE AND STATUS THEREOF]**

FISERV, INC.

By: \_\_\_\_\_  
Name:  
Title:

---

**WORKSHEET**

[The form of the Worksheet to be agreed to by the Company and the Administrative Agent]

EXHIBIT I-1

FORM OF BORROWING REQUEST

JPMorgan Chase Bank, N.A.,  
as Administrative Agent  
for the Lenders referred to below

[10 South Dearborn  
Chicago, Illinois 60603  
Attention: [            ] ]  
Facsimile: [            ] ]<sup>1</sup>

With a copy to:

[            ] ]  
[            ] ]  
Attention: [            ] ]  
Facsimile: [            ] ]

Re: Fiserv, Inc.

[Date]

Ladies and Gentlemen:

Reference is hereby made to the Third Amended and Restated Credit Agreement dated as of September 19, 2018 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Fiserv, Inc. (the "Company"), the Subsidiary Borrowers from time to time party thereto, the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent"). Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Credit Agreement. The [undersigned Borrower][Company, on behalf of [Subsidiary Borrower],] hereby gives you notice pursuant to Section 2.03 of the Credit Agreement that it requests a Revolving Borrowing under the Credit Agreement, and in that connection the [undersigned Borrower][Company, on behalf of [Subsidiary Borrower],] specifies the following information with respect to such Revolving Borrowing requested hereby:

1. Name of Borrower:
2. Aggregate principal amount of Borrowing:<sup>2</sup>
3. Date of Borrowing (which shall be a Business Day):
4. Type of Borrowing (ABR or Eurocurrency):

<sup>1</sup> If request is in respect of Revolving Loans in a Foreign Currency, please replace this address with the London address from Section 9.01(a)(ii).  
<sup>2</sup> Not less than applicable amounts specified in Section 2.02(c).

- 
5. Interest Period and the last day thereof (if a Eurocurrency Borrowing):<sup>3</sup>
  6. Agreed Currency:
  7. Location and number of the Borrower's account or any other account agreed upon by the Administrative Agent and the Borrower to which proceeds of Borrowing are to be disbursed:

[Signature Page Follows]

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<sup>3</sup> Which must comply with the definition of "Interest Period" and end not later than the Maturity Date.

The undersigned hereby represents and warrants that the conditions to lending specified in Section [4.02(a)][4.02(b)] of the Credit Agreement are satisfied as of the date hereof.

Very truly yours,

[FISERV, INC.,  
as the Company]  
[SUBSIDIARY BORROWER,  
as a Borrower]

By: \_\_\_\_\_  
Name:  
Title:

FORM OF INTEREST ELECTION REQUEST

JPMorgan Chase Bank, N.A.,  
as Administrative Agent  
for the Lenders referred to below

[10 South Dearborn  
Chicago, Illinois 60603  
Attention: [        ]  
Facsimile: ([    ]) [    ]-[        ]]<sup>1</sup>

Re: Fiserv, Inc.

[Date]

Ladies and Gentlemen:

Reference is hereby made to the Third Amended and Restated Credit Agreement dated as of September 19, 2018 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Fiserv, Inc. (the "Company"), the Subsidiary Borrowers from time to time party thereto, the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent"). Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Credit Agreement. The [undersigned Borrower][Company, on behalf of [Subsidiary Borrower],] hereby gives you notice pursuant to Section 2.08 of the Credit Agreement that it requests to convert an existing Revolving Borrowing under the Credit Agreement, and in that connection the [undersigned Borrower][Company, on behalf of [Subsidiary Borrower],] specifies the following information with respect to such conversion requested hereby:

1. List Borrower, date, Type, principal amount, Agreed Currency and Interest Period (if applicable) of existing Borrowing;
2. Aggregate principal amount of resulting Borrowing;
3. Effective date of interest election (which shall be a Business Day);
4. Type of Borrowing (ABR or Eurocurrency);
5. Interest Period and the last day thereof (if a Eurocurrency Borrowing):<sup>2</sup>
6. Agreed Currency;

[Signature Page Follows]

---

<sup>1</sup> If request is in respect of Revolving Loans in a Foreign Currency, please replace this address with the London address from Section 9.01(a)(ii).  
<sup>2</sup> Which must comply with the definition of "Interest Period" and end not later than the Maturity Date.



---

Very truly yours,

[FISERV, INC.,  
as the Company]  
[SUBSIDIARY BORROWER,  
as a Borrower]

By: \_\_\_\_\_  
Name:  
Title:

EXHIBIT J-1

[FORM OF]

U.S. TAX COMPLIANCE CERTIFICATE

(For A Foreign Lender That, For U.S. Federal Income Tax Purposes, Is Neither Treated As A Partnership Nor Treated As A Disregarded Entity That Is Owned By A Partnership)

Reference is hereby made to the Third Amended and Restated Credit Agreement dated as of September 19, 2018 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Fiserv, Inc. (the "Company"), the Subsidiary Borrowers from time to time party thereto (collectively with the Company, the "Borrowers"), the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent").

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) 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, (ii) it (or, in the event that it is a Disregarded Entity, the Person that is treated for U.S. federal income tax purposes as being the sole owner of the undersigned) is (a) not a bank within the meaning of Section 881(c)(3)(A) of the Code, (b) not a ten percent shareholder of any applicable Borrower within the meaning of Section 871(h)(3)(B) of the Code and (c) not a controlled foreign corporation related to any applicable Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and applicable Borrower with a certificate of the non-U.S. person status of the undersigned (or, in the event that the undersigned is a Disregarded Entity, the Person that is treated for U.S. federal income tax purposes as being the sole owner of the undersigned) on IRS Form W-8BEN or IRS Form W-8BEN-E. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrowers and the Administrative Agent and (2) the undersigned shall have at all times furnished the Borrowers 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: , 20[ ]

U.S. TAX COMPLIANCE CERTIFICATE

(For A Foreign Participant That, For U.S. Federal Income Tax Purposes, Is Neither Treated As A Partnership Nor Treated As A Disregarded Entity That Is Owned By A Partnership)

Reference is hereby made to the Third Amended and Restated Credit Agreement dated as of September 19, 2018 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Fiserv, Inc. (the "Company"), the Subsidiary Borrowers from time to time party thereto (collectively with the Company, the "Borrowers"), the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent").

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it (or, in the event that it is a Disregarded Entity, the Person that is treated for U.S. federal income tax purposes as being the sole owner of the undersigned) is (a) not a bank within the meaning of Section 881(c)(3)(A) of the Code, (b) not a ten percent shareholder of any applicable Borrower within the meaning of Section 871(h)(3)(B) of the Code and (c) not a controlled foreign corporation related to any applicable Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with a certificate of the non-U.S. person status of the undersigned (or, in the event that the undersigned is a Disregarded Entity, the Person that is treated for U.S. federal income tax purposes as being the sole owner of the undersigned) on IRS Form W-8BEN or IRS Form W-8BEN-E. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (2) 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: , 20[ ]

U.S. TAX COMPLIANCE CERTIFICATE

(For A Foreign Participant That, For U.S. Federal Income Tax Purposes, Is Either Treated As A Partnership Or Treated As A Disregarded Entity That Is Owned By A Partnership)

Reference is hereby made to the Third Amended and Restated Credit Agreement dated as of September 19, 2018 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Fiserv, Inc. (the "Company"), the Subsidiary Borrowers from time to time party thereto (collectively with the Company, the "Borrowers"), the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent").

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) it is the sole beneficial owner of such participation for purposes other than U.S. federal income tax purposes, (iii) it (or, in the event that it is a Disregarded Entity, the Person that is treated for U.S. federal income tax purposes as being the sole owner of the undersigned) is not 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, and (iv) none of the members of the undersigned (or, in the event that the undersigned is a Disregarded Entity, none of the members of the Person that is treated for U.S. federal income tax purposes as being the sole owner of the undersigned) is (a) 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, (b) a ten percent shareholder of any applicable Borrower within the meaning of Section 871(h)(3)(B) of the Code, or (c) a controlled foreign corporation related to any applicable 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 the members of the undersigned (or, in the event that the undersigned is a Disregarded Entity, from each of the members of the Person that is treated for U.S. federal income tax purposes as being the sole owner of the undersigned) claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or IRS Form W-8BEN-E from each of such member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (2) 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: , 20[ ]

U.S. TAX COMPLIANCE CERTIFICATE

(For A Foreign Lender That, For U.S. Federal Income Tax Purposes, Is Either Treated As A Partnership Or Treated As A Disregarded Entity That Is Owned By A Partnership)

Reference is hereby made to the Third Amended and Restated Credit Agreement dated as of September 19, 2018 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Fiserv, Inc. (the "Company"), the Subsidiary Borrowers from time to time party thereto (collectively with the Company, the "Borrowers"), the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent").

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) 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, (ii) it is the sole beneficial owner of such Loan(s) (as well as any Note(s) evidencing such Loan(s)) for purposes other than U.S. federal income tax purposes, (iii) it (or, in the event that the undersigned is a Disregarded Entity, the Person that is treated for U.S. federal income tax purposes as being the sole owner of the undersigned) is not 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, and (iv) none of the members of the undersigned (or, in the event that the undersigned is a Disregarded Entity, none of the members of the Person that is treated for U.S. federal income tax purposes as being the sole owner of the undersigned) is (a) 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, (b) a ten percent shareholder of any such Borrower within the meaning of Section 871(h)(3)(B) of the Code, or (c) a controlled foreign corporation related to any applicable Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the applicable Borrower with IRS Form W-8IMY accompanied by one of the following forms from each of the members of the undersigned (or, in the event that the undersigned is a Disregarded Entity, from each of the members of the Person that is treated for U.S. federal income tax purposes as being the sole owner of the undersigned) claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or IRS Form W-8BEN-E from each of such member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrowers and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrowers 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:           , 20[    ]

**Form of Solvency Certificate**

[DATE]

This Solvency Certificate (“**Certificate**”) of Fiserv, Inc. (the “**Company**”) and its Subsidiaries is delivered pursuant to Section 4.02(a)(ii) of the Third Amended and Restated Credit Agreement, dated as of September 19, 2018 (as amended, restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), by and among the Company, the Subsidiary Borrowers from time to time party thereto, the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as Administrative Agent. Unless otherwise defined herein, capitalized terms used in this Certificate shall have the meanings set forth in the Credit Agreement.

I, [ ], the duly elected, qualified and acting Chief Financial Officer of the Company, DO HEREBY CERTIFY that I have reviewed the Credit Agreement and the other Loan Documents referred to therein and have made such investigation as I have deemed necessary to enable me to express a reasonably informed opinion as to the matters referred to herein.

I HEREBY FURTHER CERTIFY, in my capacity as Chief Financial Officer and not in my individual capacity, that as of the date hereof, immediately after giving effect to the Specified Acquisition Transactions:

1. The fair value of the assets of the Company and its Subsidiaries, on a consolidated basis, at a fair valuation on a going concern basis, exceeds, on a consolidated basis, their debts and liabilities, subordinated, contingent or otherwise.
2. The present fair saleable value of the property of the Company and its Subsidiaries, on a consolidated and going concern basis, is greater than the amount that will be required to pay the probable liability, on a consolidated basis, of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured in the ordinary course of business.
3. The Company and its Subsidiaries, on a consolidated basis, are able to pay their debts and liabilities, subordinated, contingent or otherwise, as such liabilities become absolute and matured in the ordinary course of business.
4. The Company and its Subsidiaries are not engaged in businesses, and are not about to engage in businesses for which they have unreasonably small capital.

For purposes of this Certificate, the amount of any contingent liability at any time shall be computed as the amount that, in light of all the facts and circumstances existing as of the date hereof, would reasonably be expected to become an actual and matured liability.

For the purpose of the foregoing, I have assumed there is no default under the Credit Agreement on the date hereof and will be no default under the Credit Agreement after giving effect to the funding under the Credit Agreement.

[Remainder of page intentionally left blank]



255 Fiserv Drive  
Brookfield, WI 53045  
262-879-5000  
www.fiserv.com

July 29, 2019

Fiserv, Inc.,  
255 Fiserv Drive  
Brookfield, Wisconsin 53045

Re: Fiserv, Inc. Prospectus Supplement Relating to Registration Statement on Form S-3

Ladies and Gentlemen:

I am Chief Legal Officer and Secretary of Fiserv, Inc., a Wisconsin corporation (the "Company"). My opinion has been requested with respect to the Prospectus Supplement filed pursuant to Rule 424(b)(5) promulgated under the Securities Act of 1933 (the "Act") relating to the Registration Statement on Form S-3 (File No. 333-227436) (as it may be amended from time to time, the "Registration Statement"), which is being filed in connection with the registration under the Act of 873,750 shares (the "Shares") of the Company's common stock, par value \$0.01 per share (the "Common Stock"), issuable upon the vesting, settlement or exercise of certain outstanding equity awards with respect to shares of common stock of First Data Corporation ("First Data") held by former employees and consultants of First Data (or their respective legal successors) that were assumed by the Company and converted into corresponding awards with respect to shares of the Company's Common Stock in connection with the merger of First Data with and into 300 Holdings, Inc., a direct, wholly owned subsidiary of the Company, with First Data surviving as a direct, wholly owned subsidiary of the Company. The Company is filing the Prospectus Supplement with the U.S. Securities and Exchange Commission with respect to the Shares.

In connection with the foregoing, I have examined such corporate records, certificates and other documents, and such questions of law, as I have considered necessary or appropriate for the purposes of this opinion. Upon the basis of such examination, it is my opinion that, when the Shares have been duly issued as contemplated by the Prospectus Supplement relating to the Shares, the Shares will be validly issued, fully paid and nonassessable.

In rendering the foregoing opinion, I am not passing upon, and assume no responsibility for, any disclosure in any registration statement or any related prospectus or other offering material relating to the offer and sale of the Shares.

The foregoing opinion is limited to the Federal laws of the United States and the laws of the State of Wisconsin, and I am expressing no opinion as to the effect of the laws of any other jurisdiction.

I have relied as to certain factual matters on information obtained from public officials, officers of the Company and other sources believed by me to be responsible.

I hereby consent to the filing of this opinion as an exhibit to a Current Report on Form 8-K to be incorporated by reference into the Registration Statement and to the reference to me under the heading "Legal Matters" in the Prospectus Supplement relating to the Shares. In giving such consent, I do not thereby admit that I am in the category of persons whose consent is required under Section 7 of the Act.

---

Sincerely,

/s/ Lynn S. McCreary

Lynn S. McCreary

Chief Legal Officer and Secretary

*[Signature Page (Exhibit 5 Opinion—Form S-3 Prospectus Supplement)]*



## AMENDED AND RESTATED EMPLOYMENT AGREEMENT

This Amended and Restated Employment Agreement (this "Agreement") made and entered into this 16th day of January, 2019, by and between Fiserv, Inc., a Wisconsin corporation (the "Company"), and Frank Bisignano (the "Executive").

## WITNESSETH:

**WHEREAS**, the Executive is currently the Chairman and Chief Executive Officer of First Data Corporation, a Delaware Corporation (the "Target") pursuant to that certain Employment Agreement, dated as of September 18, 2015, by and between the Target and the Executive (the "Prior Agreement");

**WHEREAS**, the Company and the Target have entered into that certain Agreement and Plan of Merger, dated as of January 16, 2019 (as amended or modified from time to time, the "Merger Agreement"), pursuant to which, among other things, the Target will become a wholly owned subsidiary of the Company (the "Transaction");

**WHEREAS**, subject to and conditioned upon the occurrence of the "Effective Time" (as defined in the Merger Agreement), the Executive and the Company desire to amend and restate the Prior Agreement; and

**WHEREAS**, upon and following the Effective Time, the Company wishes to employ the Executive pursuant to the terms and conditions set forth in this Agreement, and the Executive desires to become so employed.

**NOW THEREFORE**, in consideration of the mutual covenants hereinafter set forth, the parties agree that, effective as of the Effective Time, the Prior Agreement shall be amended and restated in its entirety as follows:

1. Term of Employment.

1.1 The Executive shall commence employment with the Company at the Effective Time (the "Employment Date").

1.2 Commencing on the Employment Date, the Company agrees to employ the Executive, and the Executive agrees to accept such continued employment and serve the Company, in such capacities, with such duties and authority, for such period, at such level of compensation and with such benefits, and upon such other terms and subject to such other conditions, as are hereinafter set forth. The term of Executive's employment shall commence on the Employment Date, and end on the second (2<sup>nd</sup>) anniversary thereof, subject to earlier termination or further renewal as provided in this Agreement (the "Term of Employment").

1.3 Renewal. Executive's Term of Employment shall automatically renew for subsequent one (1) year periods, subject to the terms of this Agreement, unless either party gives written notice 90 days or more prior to the expiration of the then existing Term of Employment of Executive's or the Company's decision not to renew. A decision by the Company not to renew other than as a result of Executive's death or Disability (as defined below), and other than in circumstances which would give rise to a termination for Cause (as defined below), shall be treated as a Termination by the Company without Cause and so

governed by Paragraph 6.3.5 below. A decision by the Executive not to renew, other than for Good Reason (as defined below), shall be treated as a Voluntary Resignation, and so governed by the provisions of Paragraph 6.3.4 below.

1.4 Effectiveness. The effectiveness of this Agreement is expressly subject to, and conditioned upon, the occurrence of the Transaction. This Agreement shall automatically terminate and be null and void *ab initio* if the Merger Agreement is terminated in accordance with its terms, or your employment with the Target terminates for any reason prior to the Employment Date, and none of the Company, the Executive, nor any other person or entity shall have any liability hereunder if the Effective Time does not occur for any reason.

2. Capacities, Duties and Authority.

2.1 During the Term of Employment, the Executive shall serve as the Company's President and Chief Operating Officer. The Executive shall report directly to the Company's Chief Executive Officer and shall have such duties, functions, and responsibilities as contemplated by the Company's by-laws and as the Chief Executive Officer and the Company's Board of Directors (the "Board") shall designate, provided, that such duties, functions, and responsibilities are commensurate with the Executive's positions of President and Chief Operating Officer.

2.2 The Executive shall serve the Company faithfully, conscientiously, and to the best of the Executive's ability and shall promote the interests and reputation of the Company. Unless prevented by sickness or Disability or during a period of vacation or other approved leave of absence, the Executive shall devote substantially all of the Executive's time, attention, knowledge, energy, and skills, during normal working hours, and at such other times as the Executive's duties may reasonably require, to the duties of the Executive's employment; provided, however, that it shall not be a breach of this Agreement for the Executive to manage his own private financial investments or to serve on civic or charitable boards, to continue to serve on the corporate boards on which Executive serves as of the Employment Date or to be a member of the board of directors of other companies which do not compete with the Company, so long as such directorships have been expressly disclosed to, and approved by, the Board, and provided, further, that all such activities do not materially interfere with the Executive's performance of his duties hereunder, cause harm or concern to the Company's operations, profitability or reputation, or otherwise violate this Agreement.

2.3 As of the Employment Date, the Executive shall be appointed as a member of the Board. Following the Employment Date, the Company shall designate and nominate the Executive for election by the Company's shareholders to the Board in accordance with Article IX, Section 2(a) of the Company's By-Laws, as amended in connection with the Transaction.

2.4 The Executive represents and warrants that he is not a party to, or otherwise bound by, any agreement, covenant, or other restriction that would in any way conflict with or limit his ability to perform his duties hereunder.

3. Compensation.

3.1 The Executive shall be paid a base salary at the annual rate of \$1,320,000, payable semi-monthly and otherwise in accordance with the regular payroll practices of the Company. At least annually, during the Term of Employment, the Company's Compensation Committee shall consider and appraise the contributions of the Executive to the Company, at such time as the contributions of other senior executives of the Company and adjustments to base compensation are considered or made, and due consideration shall be given to the upward adjustment of the Executive's annual base salary, which evaluation and adjustment to base compensation shall be done at such time as the salaries of the other senior executives of the Company are evaluated. During the Term of Employment, Executive's base salary shall not be decreased.

3.2 Incentive Compensation. Each year during the Term of Employment, the Executive's total annual target compensation, consisting of the Executive's annual base salary, target annual bonus opportunity, and annual long-term equity awards granted under the Plan (as defined below), shall be targeted between \$10,000,000 and \$15,000,000 (the "Total Target Compensation") in the aggregate for each such year (which Total Target Compensation, for the avoidance of doubt, shall not take into account the Initial Grant, the Prior Awards, or the CIC Payment, each as defined below); provided, however, in respect of any year during the Term of Employment, in no event shall the Executive be granted annual long-term equity awards with an aggregate grant date fair value of less than (i) \$10,000,000 minus (ii) the base salary paid in respect of such year and any cash bonus paid in respect of such year (in each case, inclusive of any amounts electively deferred by Executive), provided, further that the amount of such minimum grant shall be equitably adjusted downward to account for any partial years worked (such that the amount in (i) would be \$5,000,000 if the Executive were employed by the Company from January 1 to June 30 of a calendar year). Consistent with the foregoing, the Board (or the Company's Compensation Committee) shall annually award to the Executive an annual cash incentive bonus opportunity and long-term equity incentive grant at the same time and on consistent terms as such bonuses and grants are awarded to other similarly situated senior executive officers of the Company.

3.3 Equity and Long-Term Grants. The Executive shall receive from the Company equity and long-term grants as follows:

3.3.1 Immediately following the Employment Date, the Executive shall receive from the Company an initial equity grant (the "Initial Grant"), allocated as follows: (i) the Executive shall receive an initial grant of restricted stock units with a grant date fair value of \$15,000,000, which will vest over a three (3) year period, in equal installments on each of the first three (3) anniversaries of the Employment Date, based solely on the Executive's continued employment with the Company on each such vesting date, and (ii) the Executive shall receive an initial grant of performance stock units with a target value of \$15,000,000, which will vest based on the achievement of performance goals and the Executive's continued employment over the three (3) year period following the Employment Date, with such goals to be established by the Board, consistent with those applicable to other similarly situated senior executive officers of the Company, including the Company's Chief Executive Officer; provided, that the senior management team of the Company (including the Executive) shall have an opportunity to make recommendations to the Board regarding applicable performance metrics. The Initial Grant shall be subject to any acceleration of vesting as provided in this Agreement.

3.3.2 The grants set forth in Paragraph 3.3.1 shall be made under the Company's Amended and Restated 2007 Omnibus Incentive Plan or any successor plan thereto (the "Plan") and evidenced by award agreements substantially in the form provided to similarly situated senior executive officers of the Company.

3.3.3 Waiver of Single Trigger Vesting. The Executive hereby waives any accelerated vesting of outstanding equity and equity-based awards, including stock options and shares of restricted stock, granted under the 2007 Stock Incentive Plan for Key Employees of First Data Corporation and its Affiliates or the First Data Corporation 2015 Omnibus Incentive Plan (together, the "Prior Awards") that would have otherwise occurred solely as a result of the consummation of the Transaction. The Prior Awards will be subject to the provisions of Section 1.8 of the Merger Agreement and continue to vest in accordance with their existing terms and Section 1.8 of the Merger Agreement, subject to (x) the Executive's continued employment on the applicable vesting dates, (y) any acceleration of vesting as provided in this Agreement, and (z) the Executive's waiver described in the foregoing sentence. The Target is an express third-party beneficiary of this Section 3.3.3, entitled to enforce it in accordance with its terms.

3.3.4 Cash CIC Payment. The Company shall pay to the Executive a one-time cash change in control payment in an aggregate amount of \$9,500,000, payable in a single lump sum on the Employment Date (the "CIC Payment").

3.4 The Executive shall be entitled to take annual vacation without loss or diminution of compensation, not exceeding five (5) weeks, such vacation to be taken at such time or times, and as a whole or in increments, as the Executive shall elect, consistent with the reasonable needs of the Company's business and such vacation policies as may be established by the Board. The Executive shall further be entitled to the number of paid holidays, and leaves for illness or temporary disability in accordance with the policies of the Company for its senior executives, as the Company may amend or terminate such policies from time to time in its sole discretion.

#### 4. Employee Benefit Programs.

4.1 During the Term of Employment, the Executive shall be eligible to participate in and shall have the benefit of all the Company's group medical, dental, and vision plans and programs, group life and disability insurance plans, the Company's 401(k) plan, and other employee benefit plans and standard benefits as are or may be generally made available to senior executives of the Company.

4.2 The Executive shall be entitled to receive such executive perquisites, fringe, and other benefits as are provided to senior executives of the Company and their families generally under any of the Company's plans and/or programs in effect from time to time and such other benefits as are customarily available to executives of the Company and their families. In addition, the Executive shall be provided with the following perquisites: (i) travel on a private aircraft when the Executive travels on business on behalf of the Company, (ii) reasonable non-exclusive use of the Company's private aircraft for personal travel for the Executive and his spouse (any income from which shall be imputed to the Executive at

Standard Industry Fare Level rates in accordance with Treasury Regulation Section 1.61-21(g)(5)), (iii) use of a car and driver, and (iv) financial planning. The Company shall additionally provide the Executive with payments equal to the amount, on an after-tax basis, of any federal, state, or local taxes imposed on the Executive as a result of receiving the foregoing perquisites, such payments to be made no later than thirty (30) days after the end of the taxable year following the taxable year in which the perquisites to which they relate were received by the Executive. The Target may purchase a policy or policies prior to the Effective Time (and if so purchased, the Target shall maintain pursuant to its or their terms) to provide Executive with the "Retiree Benefits," as defined in Section 9(a)(i)(B) of the Prior Agreement, following a termination of employment for any reason other than for Cause, and continuing until the Executive's death or the date that the Executive is eligible for reasonably comparable health insurance from a subsequent employer.

4.3 Except as otherwise expressly provided in this Agreement, nothing in this Section 4 shall be construed to require the Company to establish, maintain, or continue any compensation or benefit plan, program, or arrangement.

4.4 Except as otherwise expressly provided by their terms, such compensation or benefit plans, programs, or arrangements are subject to modification or termination by the Company at any time.

5. Change in Control of the Company.

5.1 Simultaneous with his execution of this Agreement, Executive will execute a Key Executive Employment and Severance Agreement (the "KEESA"). In the event of a "Change in Control of the Company," as defined under the KEESA, during the Term of Employment, the Executive shall be entitled to the benefits of the KEESA, provided that if the benefits under the KEESA are duplicative of benefits provided under this Agreement, the Executive shall receive only the most favorable benefits (determined on a benefit-by-benefit basis) under the KEESA and this Agreement (it being understood that a benefit that is provided under one agreement and not the other shall be deemed the "most favorable" for these purposes).

6. Termination of Employment.

6.1 The Executive's employment hereunder shall terminate:

6.1.1 upon the death of the Executive;

6.1.2 upon the Disability (as defined below) of the Executive, effective upon the giving of a written Notice of Termination in accordance with Paragraph 6.2 below, if and only if, during the Term of Employment, as a result of the Executive's disability due to physical or mental illness or injury (regardless of whether such illness or injury is job-related) which qualifies as a disability under the Company's long term disability plan ("Disability"), the Executive shall have been absent from the Executive's duties hereunder on a full-time basis for a period of six consecutive months, and, within thirty days after the Company notifies the Executive in writing that it intends to terminate the Executive's employment (which notice shall not constitute the Notice of Termination described in Paragraph 6.2), the Executive shall not have returned to the performance of the Executive's duties hereunder on a full-time basis;

6.1.3 at the option of the Company, and subject to the Executive's rights to notice and opportunity to cure as set forth in Paragraph 6.2 below, for Cause, effective on a date specified in the Notice of Termination. For purposes of this Agreement, "Cause" shall mean any of the following:

- (a) the Executive's dishonesty or similar serious misconduct directly related to the performance of Executive's duties and responsibilities hereunder, which results from a willful act or omission and which is materially injurious to the operations, financial condition or business reputation of the Company;
- (b) the Executive's conviction of a misdemeanor involving moral turpitude or of a felony;
- (c) Executive's drug or alcohol abuse which materially impairs the performance of his duties and responsibilities as set forth herein;
- (d) substantial continuing willful and unreasonable inattention to, neglect of, or refusal by Executive to perform Executive's duties and responsibilities under this Agreement;
- (e) the Executive's willful or intentional material violation of a material provision of the Company's Code of Conduct, as it may be amended from time to time, or other material Company policies in effect from time to time; or
- (f) any other willful or intentional material breach or breaches of this Agreement by Executive.

6.1.4 at the option of the Company, for a reason other than death, Disability or Cause, effective upon the giving of a Notice of Termination in accordance with Paragraph 6.2 of this Agreement; provided, however that no such termination may occur prior to the Company's Chief Executive Officer's consultation with the independent directors of the Board;

6.1.5 at the option of the Executive, and subject to the Company's rights to notice and opportunity to cure as set forth in Paragraph 6.2(d) below, for Good Reason. For purposes of this Agreement "Good Reason" shall mean the occurrence at any time of any of the following without the Executive's prior written consent:

- (a) any breach of this Agreement by the Company, other than an insubstantial and inadvertent failure not occurring in bad faith that the Company remedies promptly after receipt of notice thereof given by the Executive;
- (b) any reduction in the Executive's base salary, percentage of base salary available as incentive compensation or bonus opportunity;
- (c) the removal of the Executive from, or any failure to reelect or reappoint the Executive to, any of the positions set forth in Paragraph 2.1, except in the event that such removal or failure to reelect or reappoint relates to the termination by the Company of the Executive's employment for Cause or by reason of Disability;

(d) a good faith determination by the Executive that there has been a material adverse change, without the Executive's written consent, in the Executive's working conditions or status with the Company, including but not limited to (A) a significant change in the nature or scope of the Executive's authority, powers, functions, duties or responsibilities as contemplated by Section 2, or (B) a significant reduction in the level of support services, staff, secretarial and other assistance, office space and accoutrements, but in each case excluding for this purpose an isolated, insubstantial and inadvertent event not occurring in bad faith that the Company remedies within ten (10) days after receipt of notice thereof given by the Executive;

(e) the relocation of the Executive's principal place of employment to a location more than 35 miles from the greater New York, New York metropolitan area; or

(f) the failure by the Company to obtain an agreement from any successor to the Company to assume this Agreement.

6.1.6 at the option of the Executive, effective thirty (30) days after the giving of written notice to the Company of the exercise of such option for a reason other than Good Reason as set forth in Paragraph 6.1.5, above ("Voluntary Resignation");

6.1.7 at the option of the Executive for any reason, effective ninety (90) days after the giving of written notice to the Company of the exercise of such option, during the period beginning on the second (2<sup>nd</sup>) anniversary of the Employment Date and ending six (6) months following such second (2<sup>nd</sup>) anniversary of the Employment Date (the "Resignation Option").

6.2 Termination Notice and Procedure. Any termination by the Company or the Executive shall be communicated by a written notice of termination ("Notice of Termination") to the Executive, if such Notice is given by the Company, and to the Company, if such Notice is given by the Executive, all in accordance with the following procedures:

(a) if such termination is for Disability, Cause, or Good Reason, the Notice of Termination shall indicate in reasonable detail the facts and circumstances alleged to provide a basis for such termination. No Notice of Termination for Cause shall be delivered unless the Board has made a good faith determination, after providing the Executive with the opportunity to appear before the Board and be heard, that the conduct or acts of the Executive specified in the Notice of Termination occurred and constitute Cause (as defined in Paragraph 6.1.3), and such Notice of Termination provides the Executive with an opportunity to cure such conduct or acts as contemplated by Paragraph 6.2(d), below;

(b) any Notice of Termination by the Company shall have been approved, prior to the giving thereof to the Executive, by a resolution duly adopted by a majority of the directors of the Company (or any successor corporation) then in office;

(c) if the Notice of Termination is given by the Executive for Good Reason, the Executive may cease performing his duties hereunder, subject to the Company's opportunity to cure below. If the Notice of Termination is given by the Company for Cause, then the Executive may cease performing his duties hereunder, subject to the Executive's opportunity to cure pursuant to Paragraph 6.2(d) below;

(d) the Executive shall have thirty days, or such longer period as the Company may determine to be appropriate, to cure any conduct or act, if curable, alleged to provide grounds for termination of employment for Cause. The Company shall have thirty days, or such longer period as the Executive may determine to be appropriate, to cure any conduct or act, if curable, alleged to provide grounds for termination of employment for Good Reason; and

(e) the recipient of any Notice of Termination shall personally deliver or mail in accordance with Paragraph 10.6 below written notice of any dispute relating to such Notice of Termination to the party giving such Notice of Termination within fifteen days after receipt thereof; provided, however, that if the Executive's conduct or act alleged to provide grounds for termination by the Company for Cause is curable, then such period shall be thirty days. After the expiration of such period, the contents of the Notice of Termination shall become final and not subject to dispute.

### 6.3 Obligations of the Company upon Termination of Employment.

6.3.1 Death. In the event of the Executive's death during the Term of Employment, the Term of Employment shall end as of the date of the Executive's death and his estate and/or beneficiaries, as the case may be, shall receive the following, as soon as practicable (unless otherwise provided herein) following the date of Executive's death:

(a) (i) all accrued but unpaid base salary for the time period ending with the date of termination; (ii) reimbursement for any and all monies advanced by Executive for the time period ending with the termination date for all expenses reimbursable by the Company under this Agreement; and (iii) notwithstanding any provision of any bonus or incentive compensation plan applicable to the Executive, but subject to any irrevocable deferral election then in effect, a lump sum amount, in cash, equal to the amount of any bonus or incentive compensation that has been allocated or awarded to the Executive for a fiscal year or other measuring period under the plan that ends prior to the date of termination but has not yet been paid (collectively, "Earned Amounts");

(b) such additional benefits, if any, to which the Executive is expressly eligible following the termination of the Executive's employment on account of death, as may be provided by the then-existing plans, programs, and/or arrangements of the Company; and

(c) full vesting of all equity and long-term grants and awards (including, without limitation, the Initial Grant and the Prior Awards); provided, that all awards with performance goals or metrics will be deemed achieved at the "target" level (the "Accelerated Equity Vesting").

6.3.2 Disability. If the Executive's employment is terminated due to Disability during the Term of Employment, either by the Company or by the Executive, the Term of Employment shall end as of the date of the termination of the Executive's employment (as provided in Paragraph 6.1.2 of this Agreement) and the Executive shall receive the following, as soon as practicable (unless otherwise provided herein) following the date of termination:

(a) Earned Amounts;



(b) such additional benefits, if any, to which the Executive is expressly eligible following the termination of the Executive's employment on account of Disability, as may be provided by the then-existing plans, programs, and/or arrangements of the Company; and

(c) the Accelerated Equity Vesting.

6.3.3 Cause. If the Company terminates the Executive's employment for Cause in accordance with the terms set forth in Paragraph 6.1.3 above, the Term of Employment shall end as of the effective date of termination and the Executive shall receive the following, as soon as practicable (unless otherwise provided herein) following the Executive's date of termination:

(a) Earned Amounts; and

(b) such additional benefits, if any, to which the Executive is expressly eligible following the termination of the Executive's employment for Cause, as may be provided by the then-existing plans, programs, and/or arrangements of the Company.

6.3.4 Voluntary Resignation. If the Executive terminates his employment by Voluntary Resignation, in accordance with the terms set forth in Paragraph 6.1.6 above, the Term of Employment shall end as of the effective date of termination; and the Executive shall receive the following, as soon as practicable following the Executive's date of termination:

(a) Earned Amounts; and

(b) such additional benefits, if any, to which the Executive is expressly eligible following the termination of the Executive's employment by Voluntary Resignation, as may be provided by the then-existing plans, programs, and/or arrangements of the Company.

6.3.5 Without Cause, With Good Reason or the Resignation Option. If the Executive's employment is terminated by the Company (other than for death, Disability, or Cause) in accordance with the terms set forth in Paragraph 6.1.4 above, or is deemed to have been so terminated pursuant to Paragraph 1.3 above, if the Executive terminates his employment with Good Reason in accordance with the terms set forth in Paragraph 6.1.5 above, or if the Executive terminates his employment pursuant to the Resignation Option in accordance with the terms set forth in Paragraph 6.1.7 above, the Term of Employment shall end as of the effective date of termination and the Executive shall receive the following as soon as practicable (unless otherwise provided herein) following the Executive's date of termination:

(a) Earned Amounts;

(b) subject to the Executive's execution of a Separation Agreement and Release of all claims related to the Executive's employment or the termination thereof, in a

form substantially similar to that used for similarly situated senior executive officers of the Company, within sixty (60) days following termination (the “Release Requirement”): (i) a lump sum cash payment in an amount equal to the sum of (x) five and one-half times the Executive’s then current annual base salary, and (y) a prorated portion of the cash value of the difference of (I) the Total Target Compensation applicable to the calendar year of such termination (which, if the Executive’s Total Target Compensation for an applicable calendar year has not yet been established, shall be deemed to be \$10,000,000 for this purpose), less (II) the base salary paid to the Executive in respect of such calendar year, with such proration based on the number of days in such calendar year that the Executive remained employed; (ii) the Accelerated Equity Vesting, as well as the right to exercise any outstanding stock options for not less than one (1) year, following the date of termination of his employment, but in no event longer than ten (10) years from the date of grant, or if earlier, the latest date the option could have been exercised had Executive remained in employment; (iii) reimbursement by the Company to the Executive for any expenses incurred by the Executive for payment of COBRA premiums or other health insurance premiums for two (2) years following the date of termination of his employment, or until the Executive obtains health care coverage through subsequent employment, whichever is earlier; and

(c) such other benefits, if any, to which the Executive is expressly eligible following the termination of the Executive’s employment by the Company without Cause or by the Executive with Good Reason, as may be provided by the then existing plans, programs, and/or arrangements of the Company (other than any severance payments payable under the terms of any benefit plan).

6.4 Except as expressly provided by Paragraph 6.3, any payment or benefit provided under Paragraph 6.3 hereof shall be in lieu of any other severance, bonus, or other payments, perquisites, or benefits, including any further accruals or vesting thereof, to which the Executive might then or, in the future, be eligible pursuant to this Agreement or any statutory or common law claim. In order to preserve the parties’ respective legal rights in the event of a dispute, the Executive acknowledges and agrees that in the event the parties dispute whether the Executive shall be eligible for a payment hereunder, such payment shall not be deemed to be earned or otherwise vest hereunder until such time as the dispute is determined by a final judgment of a court of competent jurisdiction or otherwise resolved. The foregoing shall not be deemed to prohibit a court of competent jurisdiction from awarding prejudgment interest under circumstances in which it may deem it appropriate to do so.

6.5 The Termination Payment shall be paid to the Executive in cash equivalent on the first day of the seventh month following the month in which the Executive’s Separation from Service occurs (or, if earlier, the date of the Executive’s death), without interest thereon; provided, that, if on the date of the Executive’s Separation from Service, neither the Company nor any other entity that is considered a “service recipient” with respect to the Executive within the meaning of Code Section 409A has any stock which is publicly traded on an established securities market (within the meaning of Treasury Regulation Section 1.897-1(m)) or otherwise, then the Termination Payment shall be paid to the Executive in cash equivalent within ten (10) business days after the Executive’s Separation from Service.

For purposes hereof, the term “Separation from Service” shall have the same meaning as ascribed to such term in the KEESA.

With regard to the benefits described in Paragraph 6.3.5(b)(iii), following the end of the COBRA continuation period, if such benefits are provided under a health plan that is subject to Section 105(h) of the Code, benefits payable under such health plan shall comply with the requirements of Treasury regulation section 1.409A-3(i)(1)(iv) and, if necessary, the Company shall amend such health plan to comply therewith.

7. Acknowledgements; Confidential Information; Competitive Activities; Non-Solicitation.

7.1 The Executive acknowledges and agrees as follows:

7.1.1 The Company is in the business of providing information management solutions to the financial industry-servicing clients in the United States, and throughout the world.

7.1.2 Since the Company and its subsidiaries (collectively and individually referred to in this Section 7 as the “Fiserv Group Companies”) would suffer irreparable harm if the Executive left the Company’s employ and solicited the business and/or employees of the Fiserv Group Companies, or otherwise interfered with business relationships of the Fiserv Group Companies, it is reasonable to protect the Fiserv Group Companies against such activities by the Executive for a limited period of time after the Executive leaves the Company.

7.1.3 The covenants contained in Paragraphs 7.2, 7.3, and 7.4 below are reasonably necessary for the protection of the Fiserv Group Companies and are reasonably limited with respect to the activities they prohibit, their duration, their geographical scope, and their effect on the Executive and the public. The purpose and effect of the covenants simply are to protect the Fiserv Group Companies for a limited period of time from unfair competition by the Executive.

7.2 For the purposes of this Agreement, all confidential or proprietary information concerning the business and affairs of the Fiserv Group Companies, including, without limitation, all trade secrets, know-how and other information generally retained on a confidential basis by the Fiserv Group Companies concerning their designs, products, methods, know-how, techniques, systems, engineering data, software codes and specifications, formulae, processes, inventions and discoveries, business strategies, sales, marketing and business plans, acquisition prospects and targets, capital expenditure forecasts or plans, investor initiatives, incentive plans, targets or MBOs, business assessments or evaluations, HR assessments or plans, litigation strategies, approaches or theories and settlement plans with regard thereto, organization plans, tax strategies, financial models, public financial disclosure discussions, concerns, approaches or related issues, international market assessments and strategies, pricing, product plans and the identities of, and the nature of the Fiserv Group Companies’ dealings with, their suppliers and customers, whether or not such information shall, in whole or in part, be subject to or capable of being protected by patent, copyright or trademark laws, shall constitute “Confidential Information.” The Executive acknowledges that he has had and will from time to time have access to and has obtained and will in the future obtain knowledge of certain Confidential Information, and that improper use or revelation thereof by the Executive, during or after the termination of his employment by the Company, could cause serious injury to the business of the Fiserv Group Companies. Accordingly, the Executive agrees that, unless otherwise required by law, he will

forever keep secret and inviolate all Confidential Information which shall have come or shall hereafter come into his possession, and that he will not use the same for his own private benefit, or directly or indirectly for the benefit of others, and that he will not disclose such Confidential Information to any other person. If the Executive is legally compelled (by deposition, interrogatory, request for documents, subpoena, civil investigative demand, or similar process) to disclose any of the Confidential Information, he shall provide the Company with prompt prior written notice of such legal requirement, so that the Fiserv Group Companies may seek a protective order or other appropriate remedy and/or waive compliance with the terms of this Paragraph. In any event, the Executive may furnish only that portion of the Confidential Information which the Executive is advised by legal counsel is required, and he shall exercise his best efforts to obtain an order or assurance that confidential treatment will be accorded such Confidential Information as is disclosed. Notwithstanding anything contained herein which may be to the contrary, the term "Confidential Information" does not include any information which at the time of disclosure or thereafter is generally available to and known by the public, other than as a result of a disclosure directly or indirectly by the Executive.

Notwithstanding anything to the contrary contained herein, nothing in this Agreement shall prohibit the Executive from reporting possible violations of federal law or regulation to or otherwise cooperating with or providing information requested by any governmental agency or entity, including, but not limited to, the Department of Justice, the Securities and Exchange Commission, the Congress, and any agency Inspector General, or making other disclosures that are protected under the whistleblower provisions of federal law or regulation. The Executive does not need the prior authorization of the Company to make any such reports or disclosures and the Executive is not required to notify the Company that the Executive has made such reports or disclosures.

7.3 In addition to the acknowledgments by the Executive set forth in Paragraph 7.1 above, the Executive acknowledges that the services provided by him for the Company are a significant factor in the creation of valuable, special and unique assets which are expected to provide the Fiserv Group Companies with a competitive advantage. Accordingly, the Executive agrees as follows:

7.3.1 Commencing on the Employment Date, and thereafter for a period ending twelve (12) months following Executive's date of termination, the Executive shall not, directly or indirectly, on his behalf or on behalf of any other individual, association, or entity, as agent or otherwise:

(a) contact any of the clients of any of the Fiserv Group Companies for whom Executive directly performed any services or had any direct business contact for the purpose of soliciting business or inducing such client to acquire any product or service that at any time during the term of this Agreement is provided or under development by the Fiserv Group Companies from any entity other than the Fiserv Group Companies;

(b) contact any of the clients or prospective clients of any of the Fiserv Group Companies whose identity or other client specific information the Executive discovered or gained access to as a result of his access to the Fiserv Group Companies' Confidential Information for the purpose of soliciting or inducing any of such clients or prospective clients to acquire any product or service that at any time during the term of this Agreement is provided or under development by any of the Fiserv Group Companies from any entity other than the Fiserv Group Companies;

(c) use the Fiserv Group Companies' Confidential Information to solicit, influence, or encourage any clients or potential clients of any of the Fiserv Group Companies to divert or direct their business to the Executive or any other person, association, or entity by or with whom the Executive is employed, associated, engaged as agent, or otherwise affiliated; or

(d) encourage, induce, or entice any employee of any of the Fiserv Group Companies with access to or possession of Confidential Information of the Fiserv Group Companies to leave the employment of the Fiserv Group Companies.

7.3.2 Commencing on the Employment Date, and for a period ending twelve (12) months following Executive's date of termination, without the prior written approval of the Company's Board of Directors, the Executive shall not participate in the management of, be employed by, or own any business enterprise at a location within the United States that engages in substantial competition with the Company or any of its subsidiaries in the business described in Paragraph 7.1.1 above, where such enterprise's revenues from any competitive activities amount to 10% or more of such enterprise's net revenues and sales for its most recently completed fiscal year; provided, however, that nothing in this Paragraph shall prohibit the Executive from owning stock or other securities of a competitor amounting to less than five percent of the outstanding capital stock of such competitor; provided, further, that if the Executive's termination is by the Company without Cause, by the Executive for Good Reason or through the Resignation Option, or because of the Executive's Disability, and the Company reasonably believes the Executive is preparing to associate, or has commenced association with a business enterprise that would otherwise be prohibited by this Paragraph 7.3.2, then, the Board shall consider such association in good faith and such association shall be deemed to be competitive and prohibited by this Paragraph 7.3.2 only if so unanimously determined by the Board.

7.4 The Executive acknowledges and agrees as follows:

7.4.1 The Executive agrees to promptly disclose to the Company any and all discoveries, developments, inventions, products, services, processes, formulas, and improvements thereof ("Inventions"), whether or not patentable, relating to the products, services, or commercial or other endeavors of the Fiserv Group Companies, which the Executive may invent, discover, develop, or learn in connection with Executive's employment. The Executive agrees that such inventions are the exclusive and absolute property of the Company and that the Company will be the sole and absolute owner of all intellectual property rights, including patent and any and all other rights in connection therewith. The Executive agrees to give all reasonable assistance in the preparation and/or execution of any papers the Company may request to reflect such interest and to secure patent or other protection for such Inventions.

7.4.2 The Executive understands that in the course of employment, the Executive may prepare writings, drawings, diagrams, designs, specifications, manuals, instructions and other materials, and computer code and programs ("Works"). Such Works are "works made for hire" under United States copyright law and the Company shall be the owner of the Executive's entire right of authorship in such Works. If such Works are deemed by operation of law not to be "works made for hire," the Executive hereby assigns to the Company the Executive's entire right of authorship, including copyright ownership, in such Works and agrees to execute any document deemed necessary by the Company in connection therewith.

7.4.3 The Executive is hereby notified that the immunity provisions in Section 1833 of title 18 of the United States Code provide that an individual cannot be held criminally or civilly liable under any federal or state trade secret law for any disclosure of a trade secret that is made (1) in confidence to federal, state or local government officials, either directly or indirectly, or to an attorney, and is solely for the purpose of reporting or investigating a suspected violation of the law, (2) under seal in a complaint or other document filed in a lawsuit or other proceeding, or (3) to the Executive's attorney in connection with a lawsuit for retaliation for reporting a suspected violation of law (and the trade secret may be used in the court proceedings for such lawsuit) as long as any document containing the trade secret is filed under seal and the trade secret is not disclosed except pursuant to court order.

7.5 In the event of a judicial determination that the Executive has breached his obligations under Paragraphs 7.2, 7.3, or 7.4, in addition to any damages or other relief otherwise available to the Fiserv Group Companies, the Executive shall be obligated to reimburse the Company for any payments to the Executive under Paragraph 6.3.5(b)(i) and (iii). In addition, following a judicial determination, the prevailing party shall be entitled to be reimbursed by the non-prevailing party for reasonable legal fees and expenses incurred by the prevailing party in connection with the judicial proceeding seeking to enforce the provisions of Section 7 hereof.

7.6 For the purposes of this Agreement, the period of restriction of confidentiality or proprietary information and competition is intended to limit disclosure and competition by the Executive to the maximum extent permitted by law. If it shall be finally determined by any court of competent jurisdiction ruling on this Agreement that the scope or duration of any limitation contained in this Agreement is too extensive to be legally enforceable, then the parties hereby agree that the provisions hereof shall be construed to be confined to such scope or duration (not greater than that provided for herein) as shall be legally enforceable, and the Executive hereby consents to the enforcement of such limitations as so modified.

7.7 The Executive acknowledges that any violation by him of the provisions of this Section 7 would cause serious and irreparable damage to the Fiserv Group Companies. He further acknowledges that it might not be possible to measure such damage in money. Accordingly, the Executive agrees that, in the event of a breach or threatened breach by the Executive of the provisions of this Section, the Fiserv Group Companies may seek, in addition to any other rights or remedies, including money damages or specific performance, an injunction or restraining order, without the need to post any bond or other security, prohibiting the Executive from doing or continuing to do any acts constituting such breach or threatened breach.

7.8 The non-competition, non-solicitation, confidentiality, and intellectual property covenants in this Section 7 entirely supersede and are in lieu of (and, for the avoidance of doubt, are not in addition to) any non-competition, non-solicitation, confidentiality, intellectual property, or similar covenants or restrictions under the Prior Agreement, or any other agreement entered into prior to the Employment Date, in each case that run in favor of the Company and its affiliates and by which the Executive is bound (whether or not such other covenants or restrictions purport to survive for a longer period of time or to cover a greater geographic area than the covenants contained herein).

8. Reimbursement of Business Expenses.

During the Term of Employment, subject to and in accordance with the Company's policies with regard to such matters applicable to the Executive, the Executive is authorized to incur reasonable business expenses in carrying out his duties and responsibilities under the Agreement, and the Company shall promptly reimburse him for all such properly documented business expenses incurred in accordance with the Company's travel and business expense reimbursement policy applicable to the Executive in connection with carrying out the business of the Company.

9. Directors and Officers Liability Coverage, Indemnification.

Executive shall be entitled to coverage under such directors and officers liability insurance policies maintained from time to time by the Company for the benefit of its directors and officers. The Company shall indemnify and hold Executive harmless, to the fullest extent permitted by the laws of the State of Wisconsin, from and against all costs, charges, and expenses (including reasonable attorneys' fees), and shall, consistent with the laws of the State of Wisconsin, provide for the reimbursement of expenses, incurred or sustained in connection with any action, suit, or proceeding to which the Executive or his legal representatives may be made a party by reason of the Executive's being or having been a director, officer, or employee of the Company or any of its affiliates or employee benefit plans. Such reimbursement shall be made promptly (but in no event later than the end of the calendar year following the year in which the expense was incurred) following Executive's written request to the Company for reimbursement. The provisions of this Section 9 shall not be deemed exclusive of any other rights to which the Executive seeking indemnification may have under any by-law, agreement, vote of stockholders or directors, or otherwise. The provisions of this Section 9 shall survive the termination of this Agreement for any reason.

10. Miscellaneous.

10.1 This Agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin without reference to principles of conflict of laws. Any legal suit, action, or proceeding against any party hereto arising out of or relating to this Agreement shall be instituted in a federal or state court in the State of Wisconsin, and each party hereto waives any objection which it may now or hereafter have to the laying of venue of any such suit, action, or proceeding and each party hereto irrevocably submits to the jurisdiction of any such court in any suit, action, or proceeding.

10.2 Upon the Employment Date, this Agreement and the KEESA shall incorporate the complete understanding and agreement between the parties with respect to the subject matter hereof and thereof and supersede any and all other prior or contemporaneous agreements, written or oral, between the Executive and the Company or any predecessor thereof, with respect to such subject matter; provided, however, that Section 8 of the First Data Corporation Severance/Change In Control Policy (Management Committee Level) as in effect on the date hereof shall continue to apply to this Transaction (but shall not apply to any subsequent change in control after the Effective Time) but shall only apply with respect to the CIC Payment and the equity awards outstanding immediately prior to the Effective Time (and shall not apply with respect to any equity awards granted on or after the Effective Time or to any severance payments made after the Effective Time). No provision hereof may be modified or waived except by a written instrument duly executed by the Executive and the Company.

10.3 It is intended that any amounts payable under this Agreement and the Company's and Executive's exercise of authority or discretion hereunder shall comply with Section 409A of the Code (including the Treasury regulations and other published guidance relating thereto) so as not to subject Executive to the payment of any interest or additional tax imposed under Section 409A of the Code. In furtherance of this intent, to the extent that any Treasury regulations, guidance, or changes to Section 409A after the date of this Agreement would result in the Executive becoming subject to interest and additional tax under Section 409A of the Code, the Company and Executive agree to amend this Agreement in order to bring this Agreement into compliance with Code Section 409A.

10.4 The Company shall be eligible to deduct and withhold from all compensation payable to the Executive pursuant to this Agreement all amounts required to be deducted and withheld therefrom pursuant to any present or future law, regulation, or ordinance of the United States of America or any state or local jurisdiction therein or any foreign taxing jurisdiction. In addition, if prior to the date of payment of the Termination Payment or other deferred compensation payments or benefits hereunder, the Federal Insurance Contributions Act (FICA) tax imposed under Sections 3101, 3121(a), and 3121(v)(2) of the Code, where applicable, becomes due with respect to any payment or benefit to be provided hereunder, the Company may provide for an immediate payment of the amount needed to pay the Executive's portion of such tax (plus an amount equal to the taxes that will be due on such amount) and the Executive's Termination Payment shall be reduced accordingly.

10.5 Section headings are included in this Agreement for convenience of reference only and shall not affect the interpretation of the text hereof.

10.6 Notices given pursuant to this Agreement shall be in writing and, except as otherwise provided by Paragraph 6.2 of this Agreement, shall be deemed given when actually received by the Executive or actually received by the Company's Secretary or any officer of the Company other than the Executive. If mailed, such notices shall be mailed by United States registered or certified mail, return receipt requested, addressee only, postage prepaid, if to the Company, to Fiserv, Inc., Attention: Secretary, 255 Fiserv Drive, Brookfield, Wisconsin 53045, or if to the Executive, to the most recent address shown on the records of the Company, or to such other address as the party to be notified shall have theretofore given to the other party in writing.

10.7 This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which together shall constitute one and the same instrument.

10.8 This Agreement may be assigned by the Company to, and shall inure to the benefit of, any successor to substantially all the assets and business of the Company as a going concern, whether by merger, consolidation, or purchase of substantially all of the assets of the Company or otherwise, provided, that such successor shall assume the Company's obligations under this Agreement.



10.9 To the extent that the terms of this Agreement conflict with the terms of any agreement governing any equity award granted to the Executive, this Agreement shall prevail (unless the operative instrument expressly, with specific reference to this Agreement, states otherwise) and, to the extent that the benefits provided by this Agreement are inconsistent with benefits provided under an equity agreement, the Executive shall receive the more favorable benefit.

10.10 The Executive shall be eligible to be reimbursed by the Target for the reasonable legal fees and expenses (as agreed between the Executive and the Target) incurred in connection with negotiating and documenting this Agreement, subject to (x) receiving customary back-up documentation regarding such fees and expenses, (y) an aggregate cap of \$100,000 and (z) the payment being made prior to the Effective Time.

IN WITNESS WHEREOF, each of the Company and the Executive has executed this Agreement to become effective on the Employment Date.

EXECUTIVE

FISERV, INC.

By: /s/ Frank Bisignano  
Frank Bisignano

By: /s/ Jeffery Yabuki  
Name: Jeffery Yabuki  
Title: President and CEO

Attest: /s/ Lynn McCreary  
Its: CLO

*[Signature Page to Employment Agreement]*

**KEY EXECUTIVE EMPLOYMENT AND SEVERANCE AGREEMENT**

THIS AGREEMENT, made and entered into as of the 16th day of January, 2019, by and between Fiserv, Inc., a Wisconsin corporation (hereinafter referred to as the “Company”), and Frank J. Bisignano (hereinafter referred to as the “Executive”).

**WITNESSETH**

WHEREAS, the Executive is currently the Chairman and Chief Executive Officer of First Data Holdings, Inc. (“First Data”);

WHEREAS, the Company and First Data have entered into that certain Agreement and Plan of Merger, dated as of January 16, 2019 (as amended or modified from time to time, the “Merger Agreement”), pursuant to which, among other things, upon the Effective Time (as defined in the Merger Agreement), First Data will become a wholly owned subsidiary of the Company (the Company and First Data, hereinafter referred to collectively as the “Employer”);

WHEREAS, simultaneously with his Execution of this Agreement, the Executive will execute an Amended and Restated Employment Agreement with the Company (the “Employment Agreement”) and subject to and conditioned upon the occurrence of the Effective Time, the Executive shall become the President and Chief Operating Officer of the Company;

WHEREAS, the Executive’s services are valuable to the conduct of the business of the Company and the Company desires to continue to attract and retain dedicated and skilled management employees in a period of industry consolidation, consistent with achieving the best possible value for its shareholders in any change in control of the Company;

WHEREAS, the Company recognizes that circumstances may arise in which a change in control of the Company occurs, through acquisition or otherwise, thereby causing a potential conflict of interest between the Company’s needs for the Executive to remain focused on the Company’s business and for the necessary continuity in management prior to and following a change in control, and the Executive’s reasonable personal concerns regarding future employment with the Employer and economic protection in the event of loss of employment as a consequence of a change in control;

WHEREAS, the Company and the Executive are desirous that any proposal for a change in control or acquisition of the Company will be considered by the Executive objectively and with reference only to the best interests of the Company and its shareholders;

WHEREAS, the Executive will be in a better position to consider the Company’s best interests if the Executive is afforded reasonable economic security, as provided in this Agreement, against altered conditions of employment which could result from any such change in control or acquisition;

WHEREAS, the Executive possesses intimate knowledge of the business and affairs of the Company and has acquired certain confidential information and data with respect to the Company; and

WHEREAS, the Company desires to insure, insofar as possible, that it will continue to have the benefit of the Executive’s services and to protect its confidential information and goodwill.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter set forth, the parties hereto mutually covenant and agree as follows:

1. Definitions.

(a) 409A Affiliate. The term “409A Affiliate” means each entity that is required to be included in the Company’s controlled group of corporations within the meaning of Section 414(b) of the Code, or that is under common control with the Company within the meaning of Section 414(c) of the Code; *provided, however*, that the phrase “at least 50 percent” shall be used in place of the phrase “at least 80 percent” each place it appears therein or in the regulations thereunder.

(b) Accrued Benefits. The term “Accrued Benefits” shall include the following amounts, payable as described herein: (i) all base salary for the time period ending with the Termination Date; (ii) reimbursement for any and all monies advanced in connection with the Executive’s employment for reasonable and necessary expenses incurred by the Executive on behalf of the Employer for the time period ending with the Termination Date; (iii) any and all other cash earned through the Termination Date and deferred at the election of the Executive or pursuant to any deferred compensation plan then in effect; (iv) notwithstanding any provision of any bonus or incentive compensation plan applicable to the Executive, but subject to any irrevocable deferral election then in effect, a lump sum amount, in cash, of any bonus or incentive compensation that has been allocated or awarded to the Executive for a fiscal year or other measuring period under the plan that ends prior to the Termination Date but has not yet been paid (pursuant to Section 5(f) or otherwise); and (v) all other payments and benefits to which the Executive (or in the event of the Executive’s death, the Executive’s surviving spouse or other beneficiary) may be entitled on the Termination Date as compensatory fringe benefits or under the terms of any benefit plan of the Employer, excluding severance payments under any Employer severance policy, practice or agreement in effect on the Termination Date. Payment of Accrued Benefits shall be made promptly in accordance with the Company’s prevailing practice with respect to clauses (i) and (ii) or, with respect to clauses (iii), (iv) and (v), pursuant to the terms of the benefit plan or practice establishing such benefits.

(c) Act. The term “Act” means the Securities Exchange Act of 1934, as amended.

(d) Affiliate and Associate. The terms “Affiliate” and “Associate” shall have the respective meanings ascribed to such terms in Rule 12b-2 of the General Rules and Regulations under the Act.

(e) Annual Cash Compensation. The term “Annual Cash Compensation” shall mean the sum of (i) the Executive’s Annual Base Salary (determined as of the time of the Change in Control of the Company or, if higher, immediately prior to the date the Notice of Termination is given) plus (ii) an amount equal to (A) if the Executive has been employed by the Company for at least 36 continuous months prior to the Change in Control of the Company, the highest annual incentive bonus the Executive earned with respect to any of the three fiscal years prior to the fiscal year in which the Change in Control of the Company occurs, or (B) if the Executive has not been employed by the Company for at least 36 continuous months prior to the Change in Control of the Company, the greater of (x) 60% of the Executive’s Annual Base Salary as of the time of the Change in Control of the Company or (y) the highest annual incentive bonus the Executive earned with respect to any of the two fiscal years prior to the fiscal year in which the Change in Control of the Company occurs.

(f) Beneficial Owner. A Person shall be deemed to be the “Beneficial Owner” of any securities:

(i) which such Person or any of such Person’s Affiliates or Associates has the right to acquire (whether such right is exercisable immediately or only after the passage of time) pursuant to any agreement, arrangement or understanding, or upon the exercise of conversion rights, exchange rights, rights, warrants or options, or otherwise; *provided, however, that* a Person shall not be deemed the Beneficial Owner of, or to beneficially own, (A) securities tendered

pursuant to a tender or exchange offer made by or on behalf of such Person or any of such Person's Affiliates or Associates until such tendered securities are accepted for purchase, or (B) securities issuable upon exercise of any rights issued pursuant to the terms of any shareholder rights agreement that the Company may adopt at any time before the issuance of such securities;

(ii) which such Person or any of such Person's Affiliates or Associates, directly or indirectly, has the right to vote or dispose of or has "beneficial ownership" of (as determined pursuant to Rule 13d-3 of the General Rules and Regulations under the Act), including pursuant to any agreement, arrangement or understanding; *provided, however, that* a Person shall not be deemed the Beneficial Owner of, or to beneficially own, any security under this clause (ii) as a result of an agreement, arrangement or understanding to vote such security if the agreement, arrangement or understanding: (A) arises solely from a revocable proxy or consent given to such Person in response to a public proxy or consent solicitation made pursuant to, and in accordance with, the applicable rules and regulations under the Act and (B) is not also then reportable on a Schedule 13D under the Act (or any comparable or successor report); or

(iii) which are beneficially owned, directly or indirectly, by any other Person with which such Person or any of such Person's Affiliates or Associates has any agreement, arrangement or understanding for the purpose of acquiring, holding, voting (except pursuant to a revocable proxy as described in clause (ii) above) or disposing of any voting securities of the Company.

(g) Cause. "Cause" for termination by the Employer of the Executive's employment shall be limited to (i) the engaging by the Executive in intentional conduct not taken in good faith that the Company establishes, by clear and convincing evidence, has caused demonstrable and serious financial injury to the Employer, as evidenced by a determination in a binding and final judgment, order or decree of a court or administrative agency of competent jurisdiction, in effect after exhaustion or lapse of all rights of appeal, in an action, suit or proceeding, whether civil, criminal, administrative or investigative; (ii) conviction of a felony, as evidenced by binding and final judgment, order or decree of a court of competent jurisdiction, in effect after exhaustion of all rights of appeal, which substantially impairs the Executive's ability to perform his duties or responsibilities; or (iii) continuing willful and unreasonable refusal by the Executive to perform the Executive's duties or responsibilities, unless significantly changed without the Executive's consent.

(h) Change in Control of the Company. A "Change in Control of the Company" shall be deemed to have occurred if an event set forth in any one of the following paragraphs shall have occurred:

(i) any Person (other than (A) the Company or any of its subsidiaries, (B) a trustee or other fiduciary holding securities under any employee benefit plan of the Company or any of its subsidiaries, (C) an underwriter temporarily holding securities pursuant to an offering of such securities or (D) a corporation owned, directly or indirectly, by the shareholders of the Company in substantially the same proportions as their ownership of stock in the Company ("Excluded Persons")) is or becomes the Beneficial Owner, directly or indirectly, of securities of the Company (not including in the securities beneficially owned by such Person any securities acquired directly from the Company or its Affiliates after the date of this Agreement, pursuant to express authorization by the Board that refers to this exception) representing 20% or more of either the then outstanding shares of common stock of the Company or the combined voting power of the Company's then outstanding voting securities; or

(ii) the following individuals cease for any reason to constitute a majority of the number of directors of the Company then serving: (A) individuals who, on the date of this

Agreement constituted the Board and (B) any new director (other than a director whose initial assumption of office is in connection with an actual or threatened election contest, including but not limited to a consent solicitation, relating to the election of directors of the Company) whose appointment or election by the Board or nomination for election by the Company's shareholders was approved by a vote of at least two-thirds (2/3) of the directors then still in office who either were directors on the date of this Agreement, or whose appointment, election or nomination for election was previously so approved (collectively the "Continuing Directors"); *provided, however, that* individuals who are appointed to the Board pursuant to or in accordance with the terms of an agreement relating to a merger, consolidation, or share exchange involving the Company (or any direct or indirect subsidiary of the Company) shall not be Continuing Directors for purposes of this Agreement until after such individuals are first nominated for election by a vote of at least two-thirds (2/3) of the then Continuing Directors and are thereafter elected as directors by the shareholders of the Company at a meeting of shareholders held following consummation of such merger, consolidation, or share exchange; and, *provided further, that* in the event the failure of any such persons appointed to the Board to be Continuing Directors results in a Change in Control of the Company, the subsequent qualification of such persons as Continuing Directors shall not alter the fact that a Change in Control of the Company occurred; or

(iii) the shareholders of the Company approve a merger, consolidation or share exchange of the Company with any other corporation or approve the issuance of voting securities of the Company in connection with a merger, consolidation or share exchange of the Company (or any direct or indirect subsidiary of the Company) pursuant to applicable stock exchange requirements, other than (A) a merger, consolidation or share exchange which would result in the voting securities of the Company outstanding immediately prior to such merger, consolidation or share exchange continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity or any parent thereof) at least 50% of the combined voting power of the voting securities of the Company or such surviving entity or any parent thereof outstanding immediately after such merger, consolidation or share exchange, or (B) a merger, consolidation or share exchange effected to implement a recapitalization of the Company (or similar transaction) in which no Person (other than an Excluded Person) is or becomes the Beneficial Owner, directly or indirectly, of securities of the Company (not including in the securities beneficially owned by such Person any securities acquired directly from the Company or its Affiliates after the date of this Agreement, pursuant to express authorization by the Board that refers to this exception) representing 20% or more of either the then outstanding shares of common stock of the Company or the combined voting power of the Company's then outstanding voting securities; or

(iv) the shareholders of the Company approve of a plan of complete liquidation or dissolution of the Company or an agreement for the sale or disposition by the Company of all or substantially all of the Company's assets (in one transaction or a series of related transactions within any period of 24 consecutive months), other than a sale or disposition by the Company of all or substantially all of the Company's assets to an entity at least 75% of the combined voting power of the voting securities of which are owned by Persons in substantially the same proportions as their ownership of the Company immediately prior to such sale.

Notwithstanding the foregoing, no "Change in Control of the Company" shall be deemed to have occurred if there is consummated any transaction or series of integrated transactions immediately following which the record holders of the common stock of the Company immediately prior to such transaction or series of transactions continue to own, directly or indirectly, in the same proportions as their ownership in the Company, an entity that owns all or substantially all of the assets or voting securities of the Company immediately following such transaction or series of transactions.

(i) Code. The term “Code” means the Internal Revenue Code of 1986, including any amendments thereto or successor tax codes thereof. Any reference to a particular provision of the Code shall be deemed to include reference to any successor provision thereto.

(j) Covered Termination. Subject to Section 2(b), the term “Covered Termination” means any Termination of Employment during the Employment Period where the Termination Date, or the date Notice of Termination is delivered, is any date prior to the end of the Employment Period.

(k) Employment Period. Subject to Section 2(b), the term “Employment Period” means a period commencing on the date of a Change in Control of the Company, and ending at 11:59 p.m. Central Time on the third anniversary of such date.

(l) Good Reason. The Executive shall have “Good Reason” for termination of employment in the event of:

(i) any breach of this Agreement by the Employer, including specifically any breach by the Employer of the agreements contained in Section 3(b), Section 4, Section 5, or Section 6, other than an isolated, insubstantial and inadvertent failure not occurring in bad faith that the Employer remedies promptly after receipt of notice thereof given by the Executive;

(ii) any reduction in the Executive’s base salary, percentage of base salary available as incentive compensation or bonus opportunity or benefits, in each case relative to those most favorable to the Executive in effect at any time during the 180-day period prior to the Change in Control of the Company or, to the extent more favorable to the Executive, those in effect at any time during the Employment Period;

(iii) the removal of the Executive from, or any failure to reelect or reappoint the Executive to, any of the positions held with the Employer on the date of the Change in Control of the Company or any other positions with the Employer to which the Executive shall thereafter be elected, appointed or assigned, except in the event that such removal or failure to reelect or reappoint relates to the termination by the Employer of the Executive’s employment for Cause or by reason of disability pursuant to Section 12;

(iv) a good faith determination by the Executive that there has been a material adverse change, without the Executive’s written consent, in the Executive’s working conditions or status with the Employer relative to the most favorable working conditions or status in effect during the 180-day period prior to the Change in Control of the Company, or, to the extent more favorable to the Executive, those in effect at any time during the Employment Period, including but not limited to (A) a significant change in the nature or scope of the Executive’s authority, powers, functions, duties or responsibilities, or (B) a significant reduction in the level of support services, staff, secretarial and other assistance, office space and accoutrements, but in each case excluding for this purpose an isolated, insubstantial and inadvertent event not occurring in bad faith that the Employer remedies within ten (10) days after receipt of notice thereof given by the Executive;

(v) the relocation of the Executive’s principal place of employment to a location more than 35 miles from the Executive’s principal place of employment on the date 180 days prior to the Change in Control of the Company;

(vi) the Employer requires the Executive to travel on Employer business 20% in excess of the average number of days per month the Executive was required to travel during the 180-day period prior to the Change in Control of the Company;

(vii) failure by the Company to obtain the Agreement referred to in Section 17(a) as provided therein; or

(viii) any voluntary termination of employment by the Executive where the Notice of Termination is delivered during the six (6) months following the first six (6) months after the Change in Control of the Company.

(m) Person. The term "Person" shall mean any individual, firm, partnership, corporation or other entity, including any successor (by merger or otherwise) of such entity, or a group of any of the foregoing acting in concert.

(n) Prorated Bonus. The term "Prorated Bonus" shall mean an amount equal to the sum of the following with respect to each contingent bonus or incentive compensation award made to the Executive for all uncompleted periods as of the Termination Date: (i) the value of such award, calculated as if the goals with respect to such award had been attained (at the target level, if applicable), multiplied by a fraction, the numerator of which is the number of days that have elapsed from the first day of the period to which the award relates to the Termination Date and the denominator of which is the total number of days in the period to which the award relates (without regard to the Termination Date), reduced by (ii) any amounts previously paid with respect to such award or that will be paid (without regard to this Agreement).

(o) Retirement. The term "Retirement" means the cessation of service as an employee of the Company and its Affiliates for any reason other than death, disability (as provided in Section 12), or termination for Cause, if at the time of such cessation of service either (1) the Executive is age 60 and his age plus years of service for the Company and its Affiliates is equal to or greater than 70, or (2) the Executive is age 65 or older.

(p) Separation from Service. For purposes of this Agreement, the term "Separation from Service" means the Executive's Termination of Employment, or if the Executive continues to provide services following his or her Termination of Employment, such later date as is considered a separation from service from the Company and its 409A Affiliates within the meaning of Code Section 409A. Specifically, if the Executive continues to provide services to the Company or a 409A Affiliate in a capacity other than as an employee, such shift in status is not automatically a Separation from Service.

(q) Termination of Employment. For purposes of this Agreement, the Executive's "Termination of Employment" shall be presumed to occur when the Company and the Executive reasonably anticipate that no further services will be performed by the Executive for the Company and its 409A Affiliates or that the level of bona fide services the Executive will perform as an employee of the Company and its 409A Affiliates will permanently decrease to no more than 20% of the average level of bona fide services performed by the Executive (whether as an employee or independent contractor) for the Company and its 409A Affiliates over the immediately preceding 36-month period (or such lesser period of services). Whether the Executive has experienced a Termination of Employment shall be determined by the Employer in good faith and consistent with Section 409A of the Code. Notwithstanding the foregoing, if the Executive takes a leave of absence for purposes of military leave, sick leave or other bona fide reason, the Executive will not be deemed to have experienced a Termination of Employment for the first six (6) months of the leave of absence, or if longer, for so long as the Executive's right to reemployment is provided either by statute or by contract, including this Agreement;



*provided that* if the leave of absence is due to a medically determinable physical or mental impairment that can be expected to result in death or last for a continuous period of not less than six (6) months, where such impairment causes the Executive to be unable to perform the duties of his or her position of employment or any substantially similar position of employment, the leave may be extended by the Employer for up to 29 months without causing a Termination of Employment.

(r) Termination Date. Except as otherwise provided in Section 2(b), Section 10(b), and Section 17(a), the term "Termination Date" means (i) if the Executive's Termination of Employment is by the Executive's death, the date of death; (ii) if the Executive's Termination of Employment is by reason of Retirement, the date of such retirement; (iii) if the Executive's Termination of Employment is by reason of disability pursuant to Section 12, the earlier of 30 days after the Notice of Termination is given or one day prior to the end of the Employment Period; (iv) if the Executive's Termination of Employment is by the Executive voluntarily (other than for Good Reason), the date the Notice of Termination is given; and (v) if the Executive's Termination of Employment is by the Employer (other than by reason of disability pursuant to Section 12) or by the Executive for Good Reason, the earlier of 30 days after the Notice of Termination is given or one day prior to the end of the Employment Period. Notwithstanding the foregoing,

(A) If termination is for Cause pursuant to Section 1(g)(iii) and if the Executive has cured the conduct constituting such Cause as described by the Employer in its Notice of Termination within such 30-day or shorter period, then the Executive's employment hereunder shall continue as if the Employer had not delivered its Notice of Termination.

(B) If the Executive shall in good faith give a Notice of Termination for Good Reason and the Employer notifies the Executive that a dispute exists concerning the termination within the 15-day period following receipt thereof, then the Executive may elect to continue his or her employment during such dispute and the Termination Date shall be determined under this paragraph. If the Executive so elects and it is thereafter determined that Good Reason did exist, the Termination Date shall be the earliest of (1) the date on which the dispute is finally determined, either (x) by mutual written agreement of the parties or (y) in accordance with Section 22, (2) the date of the Executive's death or (3) one day prior to the end of the Employment Period. If the Executive so elects and it is thereafter determined that Good Reason did not exist, then the employment of the Executive hereunder shall continue after such determination as if the Executive had not delivered the Notice of Termination asserting Good Reason and there shall be no Termination Date arising out of such Notice. In either case, this Agreement continues, until the Termination Date, if any, as if the Executive had not delivered the Notice of Termination except that, if it is finally determined that Good Reason did exist, the Executive shall in no case be denied the benefits described in Section 9 (including a Termination Payment) based on events occurring after the Executive delivered his Notice of Termination.

(C) Except as provided in Section 1(q)(B), if the party receiving the Notice of Termination notifies the other party that a dispute exists concerning the termination within the appropriate period following receipt thereof and it is finally determined that the reason asserted in such Notice of Termination did not exist, then (1) if such Notice was delivered by the Executive, the Executive will be deemed to have voluntarily terminated his employment and the Termination Date shall be the earlier of the date 15 days after the Notice of Termination is given or one day prior to the end of the Employment Period and (2) if delivered by the Company, the Company will be deemed to have terminated the Executive other than by reason of death, disability or Cause.

2. Termination or Cancellation Prior to Change in Control.

(a) Subject to Section 2(b), the Employer and the Executive shall each retain the right to terminate the employment of the Executive at any time prior to a Change in Control of the Company. Subject to Section 2(b), in the event the Executive's employment is terminated prior to a Change in Control of the Company, this Agreement shall be terminated and cancelled and of no further force and effect, and any and all rights and obligations of the parties hereunder shall cease.

(b) Anything in this Agreement to the contrary notwithstanding, if a Change in Control of the Company occurs and if the Executive's employment is terminated (other than a termination due to the Executive's death or as a result of the Executive's disability) during the period of 180 days prior to the date on which the Change in Control of the Company occurs, and if it is reasonably demonstrated by the Executive that such termination of employment (i) was at the request of a third party who has taken steps reasonably calculated to effect a Change in Control of the Company or (ii) otherwise arose in connection with or in anticipation of a Change in Control of the Company, then for all purposes of this Agreement such termination of employment shall be deemed a "Covered Termination," "Notice of Termination" shall be deemed to have been given, and the "Employment Period" shall be deemed to have begun on the date of such termination which shall be deemed to be the "Termination Date" and the date of the Change in Control of the Company for purposes of this Agreement.

3. Employment Period; Vesting of Certain Benefits.

(a) If a Change in Control of the Company occurs when the Executive is employed by the Employer, the Employer will continue thereafter to employ the Executive during the Employment Period, and the Executive will remain in the employ of the Employer in accordance with and subject to the terms and provisions of this Agreement. Any Termination of Employment during the Employment Period, whether by the Company or the Employer, shall be deemed a termination by the Company for purposes of this Agreement.

(b) If a Change in Control of the Company occurs when the Executive is employed by the Employer, (i) the Company shall cause all restrictions on restricted stock awards made to the Executive prior to the Change in Control of the Company to lapse such that the Executive is fully and immediately vested in the Executive's restricted stock upon such a Change in Control of the Company; and (ii) the Company shall cause all stock options granted to the Executive prior to the Change in Control of the Company pursuant to the Company's stock option plan(s) to be fully and immediately vested upon such a Change in Control of the Company.

4. Duties. During the Employment Period, the Executive shall, in the same capacities and positions held by the Executive at the time of the Change in Control of the Company or in such other capacities and positions as may be agreed to by the Employer and the Executive in writing, devote the Executive's best efforts and all of the Executive's business time, attention and skill to the business and affairs of the Employer, as such business and affairs now exist and as they may hereafter be conducted; provided, however, that the Executive shall be entitled (a) to serve as director of other corporations and (b) to devote time to personal and financial activities, in each case so long as such activities do not materially affect the Executive's ability to perform the Executive's duties hereunder.

5. Compensation. During the Employment Period, the Executive shall be compensated as follows:

(a) The Executive shall receive, at reasonable intervals (but not less often than monthly) and in accordance with such standard policies as may be in effect immediately prior to the Change in Control of the Company, an annual base salary in cash equivalent of not less than twelve times the Executive's highest monthly base salary for the twelve-month period immediately preceding the month in which the Change in Control of the Company occurs or, if higher, an annual base salary at the rate in effect immediately prior to the Change in Control of the Company (which base salary shall, unless otherwise agreed in writing by the Executive and subject to any irrevocable deferral election then in effect, include the current receipt by the Executive of any amounts which, prior to the Change in Control of the Company, the Executive had elected to defer, whether such compensation is deferred under Section 401(k) of the Code or otherwise), subject to adjustment as hereinafter provided in Section 6 (such salary amount as adjusted upward from time to time is hereafter referred to as the "Annual Base Salary").

(b) The Executive shall receive fringe benefits at least equal in value to the highest value of such benefits provided for the Executive at any time during the 180-day period immediately prior to the Change in Control of the Company or, if more favorable to the Executive, those provided generally at any time during the Employment Period to any executives of the Employer of comparable status and position to the Executive; and shall be reimbursed, at such intervals and in accordance with such standard policies that are most favorable to the Executive that were in effect at any time during the 180-day period immediately prior to the Change in Control of the Company, for any and all monies advanced in connection with the Executive's employment for reasonable and necessary expenses incurred by the Executive on behalf of the Employer, including travel expenses.

(c) The Executive and/or the Executive's family, as the case may be, shall be included, to the extent eligible thereunder (which eligibility shall not be conditioned on the Executive's salary grade or on any other requirement which excludes persons of comparable status to the Executive unless such exclusion was in effect for such plan or an equivalent plan at any time during the 180-day period immediately prior to the Change in Control of the Company), in any and all plans providing benefits for the Employer's salaried employees in general, including but not limited to group life insurance, hospitalization, medical, dental, profit sharing and stock bonus plans; *provided, that*, (i) in no event shall the aggregate level of benefits under such plans in which the Executive is included be less than the aggregate level of benefits under plans of the Employer of the type referred to in this Section 5(c) in which the Executive was participating at any time during the 180-day period immediately prior to the Change in Control of the Company and (ii) in no event shall the aggregate level of benefits under such plans be less than the aggregate level of benefits under plans of the type referred to in this Section 5(c) provided at any time after the Change in Control of the Company to any executive of the Employer of comparable status and position to the Executive.

(d) The Executive shall annually be entitled to not less than the amount of paid vacation and not fewer than the highest number of paid holidays to which the Executive was entitled annually at any time during the 180-day period immediately prior to the Change in Control of the Company or such greater amount of paid vacation and number of paid holidays as may be made available annually to other executives of the Employer of comparable status and position to the Executive at any time during the Employment Period.

(e) The Executive shall be included in all plans providing additional benefits to executives of the Employer of comparable status and position to the Executive, including but not limited to deferred compensation, split-dollar life insurance, supplemental retirement, stock option, stock appreciation, stock bonus and similar or comparable plans; *provided, that*, (i) in no event shall the aggregate level of benefits

under such plans be less than the highest aggregate level of benefits under plans of the Employer of the type referred to in this Section 5(e) in which the Executive was participating at any time during the 180-day period immediately prior to the Change in Control of the Company; (ii) in no event shall the aggregate level of benefits under such plans be less than the aggregate levels of benefits under plans of the type referred to in this Section 5(e) provided at any time after the Change in Control of the Company to any executive of the Employer comparable in status and position to the Executive; and (iii) the Employer's obligation to include the Executive in bonus or incentive compensation plans shall be determined by Section 5(f).

(f) To assure that the Executive will have an opportunity to earn incentive compensation after a Change in Control of the Company, the Executive shall be included in a bonus plan of the Employer which shall satisfy the standards described below (such plan, the "Bonus Plan"). Bonuses under the Bonus Plan shall be payable with respect to achieving such financial or other goals reasonably related to the business of the Employer as the Employer shall establish (the "Goals"), all of which Goals shall be attainable, prior to the end of the Employment Period, with approximately the same degree of probability as the most attainable goals under the Employer's bonus plan or plans as in effect at any time during the 180-day period immediately prior to the Change in Control of the Company (whether one or more, the "Company Bonus Plan") and in view of the Employer's existing and projected financial and business circumstances applicable at the time. The amount of the bonus (the "Bonus Amount") that the Executive is eligible to earn under the Bonus Plan shall be no less than the amount of the Executive's maximum award provided in such Company Bonus Plan (such bonus amount herein referred to as the "Targeted Bonus"), and in the event the Goals are not achieved such that the entire Targeted Bonus is not payable, the Bonus Plan shall provide for a payment of a Bonus Amount equal to a portion of the Targeted Bonus reasonably related to that portion of the Goals which were achieved. Payment of the Bonus Amount shall not be affected by any circumstance occurring subsequent to the end of the Employment Period, including the Executive's Termination of Employment.

6. Annual Compensation Adjustments. During the Employment Period, the Board of Directors of the Company (or an appropriate committee thereof) will consider and appraise, at least annually, the contributions of the Executive to the Company, and in accordance with the Company's practice prior to the Change in Control of the Company, due consideration shall be given to the upward adjustment of the Executive's Annual Base Salary, at least annually, (a) commensurate with increases generally given to other executives of the Company of comparable status and position to the Executive, and (b) as the scope of the Company's operations or the Executive's duties expand.

7. Termination For Cause or Without Good Reason. If there is a Covered Termination for Cause or due to the Executive's voluntarily terminating his employment other than for Good Reason (any such terminations to be subject to the procedures set forth in Section 13), then the Executive shall be entitled to receive only Accrued Benefits.

8. Termination Giving Rise to a Termination Payment. If there is a Covered Termination by the Executive for Good Reason, or by the Company other than by reason of (i) death, (ii) disability pursuant to Section 12, or (iii) Cause (any such terminations to be subject to the procedures set forth in Section 13), then the Executive shall be entitled to receive, and the Company shall promptly pay, Accrued Benefits and, in lieu of further base salary for periods following the Termination Date, as liquidated damages and additional severance pay and in consideration of the covenant of the Executive set forth in Section 14(a), the Termination Payment and the Prorated Bonus.

9. Payments Upon Termination.

(a) Termination Payment.

(i) Subject to Section 9(a)(iii), the "Termination Payment" shall be an amount equal to the Annual Cash Compensation times two (2).

(ii) The Termination Payment and the Prorated Bonus shall be paid to the Executive in cash equivalent on the first day of the seventh month following the month in which the Executive's Separation from Service occurs, without interest thereon; *provided that*, if on the date of the Executive's Separation from Service, neither the Company nor any other entity that is considered a "service recipient" with respect to the Executive within the meaning of Code Section 409A has any stock which is publicly traded on an established securities market (within the meaning of Treasury Regulation Section 1.897-1(m)) or otherwise, then the Termination Payment and the Prorated Bonus shall be paid to the Executive in cash equivalent within ten (10) business days after the Termination Date, or if the Executive's Termination Date is pursuant to Section 2(b), within ten (10) business days after the date of the Change in Control of the Company (as defined without reference to Section 2(b)). Such lump sum payment shall not be reduced by any present value or similar factor, and the Executive shall not be required to mitigate the amount of the Termination Payment and Prorated Bonus by securing other employment or otherwise, nor will such Termination Payment and Prorated Bonus be reduced by reason of the Executive securing other employment or for any other reason. The Termination Payment and Prorated Bonus shall be in lieu of, and acceptance by the Executive of the Termination Payment and Prorated Bonus shall constitute the Executive's release of any rights of the Executive to, any other cash severance payments under any Company severance policy, practice or agreement.

(iii) Subject to Section 26 of this Agreement, notwithstanding any other provision of this Agreement, if any portion of the Termination Payment or any other payment under this Agreement, or under any other agreement with or plan of the Employer (in the aggregate, "Total Payments"), would constitute an "excess parachute payment," then the Executive shall have the option to have the Total Payments to be made to the Executive reduced such that the value of the aggregate Total Payments that the Executive is entitled to receive shall be One Dollar (\$1) less than the maximum amount which the Executive may receive without becoming subject to the tax imposed under Section 4999 of the Code. For purposes of this Agreement, the terms "excess parachute payment" and "parachute payments" shall have the meanings assigned to them in Section 280G of the Code and such "parachute payments" shall be valued as provided therein. Present value for purposes of this Agreement shall be calculated in accordance with Section 1274(b)(2) of the Code. Within 40 days following a Covered Termination or notice by one party to the other of its belief that there is a payment or benefit due the Executive that will result in an "excess parachute payment" as defined in Section 280G of the Code, the Executive and the Company, at the Company's expense, shall obtain the opinion (which need not be unqualified) of nationally recognized tax counsel ("National Tax Counsel") selected by the Company's independent auditors and reasonably acceptable to the Executive (which may be regular outside counsel to the Company), which opinion sets forth (A) the amount of the Base Period Income, (B) the amount and present value of Total Payments, (C) the amount and present value of any excess parachute payments determined without regard to any reduction of Total Payments pursuant to this Section 9(a)(ii) and (D) the net after-tax proceeds to the Executive, taking into account the tax imposed under Section 4999 of the Code if (x) the Total Payments were reduced in accordance with the first sentence of this Section 9(a)(iii) or (y) the Total Payments were not so reduced. As used in this Agreement, the term "Base Period Income" means an amount equal to the Executive's "annualized includable compensation for the base period" as

defined in Section 280G(d)(1) of the Code. For purposes of such opinion, the value of any noncash benefits or any deferred payment or benefit shall be determined by the Company's independent auditors in accordance with the principles of Section 280G(d)(3) and (4) of the Code, which determination shall be evidenced in a certificate of such auditors addressed to the Company and the Executive. The opinion of National Tax Counsel shall be addressed to the Company and the Executive and shall be binding upon the Company and the Executive. If such National Tax Counsel opinion determines that there would be an excess parachute payment, then, at the Executive's sole discretion, the Termination Payment hereunder or any other payment or benefit determined by such counsel to be includable in Total Payments may be reduced or eliminated as specified by the Executive in writing delivered to the Company within thirty days of his receipt of such opinion so that under the bases of calculations set forth in such opinion there will be no excess parachute payment. If such National Tax Counsel so requests in connection with the opinion required by this Section 9(a), the Executive and the Company shall obtain, at the Company's expense, and the National Tax Counsel may rely on, the advice of a firm of recognized executive compensation consultants as to the reasonableness of any item of compensation to be received by the Executive solely with respect to its status under Section 280G of the Code and the regulations thereunder.

(iv) The Company agrees to bear all costs associated with, and to indemnify and hold harmless, the National Tax Counsel of and from any and all claims, damages, and expenses resulting from or relating to its determinations pursuant to this Section 9(a), except for claims, damages or expenses resulting from the gross negligence or willful misconduct of such firm.

(b) Additional Benefits. If there is a Covered Termination and the Executive is entitled to Accrued Benefits, the Termination Payment and the Prorated Bonus, then the Company shall provide to the Executive the following additional benefits:

(i) The Executive shall receive, until the end of the second calendar year following the calendar year in which the Executive's Separation from Service occurs, at the expense of the Company, outplacement services, on an individualized basis at a level of service commensurate with the Executive's status with the Company immediately prior to the date of the Change in Control of the Company (or, if higher, immediately prior to the Executive's Termination of Employment), provided by a nationally recognized executive placement firm selected by the Company; *provided that* the cost to the Company of such services shall not exceed 10% of the Executive's Annual Base Salary.

(ii) Until the earlier of the end of the Employment Period or such time as the Executive has obtained new employment and is covered by benefits which in the aggregate are at least equal in value to the following benefits:

(A) The Executive shall continue to be covered, at the expense of the Company, by the same or equivalent hospitalization, medical and dental coverage as was required hereunder with respect to the Executive immediately prior to the date the Notice of Termination is given. If, following the end of the COBRA continuation period, such hospitalization, medical or dental coverage is provided under a health plan that is subject to Section 105(h) of the Code, then benefits payable under such health plan shall comply with the requirements of Treasury regulation section 1.409A-3(i)(1)(iv) and, if necessary, the Company shall amend such health plan to comply therewith. If, following the end of the COBRA continuation period, the Company's health plan does not permit continued coverage by Executive and his covered dependents, then the Company may satisfy its obligations hereunder by purchasing an individual insurance policy on Executive's and

his covered dependents' behalf or enrolling Executive and his covered dependents in a state-sponsored high risk health pool if individual insurance is not able to be obtained, all at the Company's expense.

(B) If the Executive elects to convert his group life insurance to an individual policy, then the Company shall pay the Executive's premiums for such conversion policies. Notwithstanding the foregoing, if the Executive's Termination Payment is delayed for six (6) months following his Separation from Service, then during the first six (6) months following the Executive's Separation from Service, the Executive shall pay the conversion premiums and after the end of such six (6) month period, the Company shall make a cash equivalent payment to the Executive equal to the aggregate premiums paid by the Executive for such coverage, without interest thereon.

If the Executive is entitled to the Termination Payment pursuant to Section 2(b), then within ten (10) days following the Change in Control of the Company (determined without regard to Section 2(b)), the Company shall reimburse the Executive for any COBRA premiums the Executive paid for his hospitalization, medical and dental coverage under COBRA from the Executive's Termination Date through the date of the Change in Control of the Company (determined without regard to Section 2(b)).

(iii) The Company shall reimburse the Executive for up to \$15,000 in the aggregate of fees and expenses of consultants and/or legal or accounting advisors engaged by the Executive to advise the Executive as to matters relating to the computation of benefits due and payable under this Section 9.

#### 10. Death.

(a) Except as provided in Section 10(b), in the event of a Covered Termination due to the Executive's death, the Executive's estate, heirs and beneficiaries shall receive all the Executive's Accrued Benefits through the Termination Date and, no later than 90 days after the Executive's death, the Prorated Bonus.

(b) In the event the Executive dies after a Notice of Termination is given (i) by the Company or (ii) by the Executive for Good Reason, the Executive's estate, heirs and beneficiaries shall be entitled to the benefits described in Section 10(a) and, subject to the provisions of this Agreement, to such Termination Payment as the Executive would have been entitled to had the Executive lived, except that the Termination Payment shall be paid within 90 days following the date of the Executive's death. For purposes of this Section 10(b), the Termination Date shall be the earlier of 30 days following the giving of the Notice of Termination, subject to extension pursuant to Section 1(m), or one day prior to the end of the Employment Period.

11. Retirement. If, during the Employment Period, the Executive and the Employer shall execute an agreement providing for the early retirement of the Executive from the Employer, or the Executive shall otherwise give notice that he is voluntarily choosing to retire early from the Employer, the Executive shall receive Accrued Benefits through the Termination Date; *provided that* if the Executive's employment is terminated by the Executive for Good Reason or by the Company other than by reason of death, disability or Cause and the Executive also, in connection with such termination, elects voluntary early retirement, then the Executive shall also be entitled to receive a Termination Payment and the Prorated Bonus pursuant to Section 8.

12. Termination for Disability. If, during the Employment Period, as a result of the Executive's disability due to physical or mental illness or injury (regardless of whether such illness or injury is job-related), the Executive shall have been absent from the Executive's duties hereunder on a full-time basis for a period of six (6) consecutive months and, within 30 days after the Company notifies the Executive in writing that it intends to terminate the Executive's employment (which notice shall not constitute the Notice of Termination contemplated below), the Executive shall not have returned to the performance of the Executive's duties hereunder on a full-time basis, the Company may terminate the Executive's employment for purposes of this Agreement pursuant to a Notice of Termination given in accordance with Section 13. If the Executive's employment is terminated on account of the Executive's disability in accordance with this Section, the Executive shall receive Accrued Benefits through the Termination Date and, no later than 90 days after the Executive's Separation from Service, the Prorated Bonus, and shall remain eligible for all benefits provided by any long term disability programs of the Employer in effect at the time of such termination.

13. Termination Notice and Procedure. Any Covered Termination by the Company or the Executive (other than a termination of the Executive's employment that is a Covered Termination by virtue of Section 2(b)) shall be communicated by a written notice of termination ("Notice of Termination") to the Executive, if such Notice is given by the Company, and to the Company, if such Notice is given by the Executive, all in accordance with the following procedures and those set forth in Section 24:

(a) If such termination is for disability, Cause or Good Reason, the Notice of Termination shall indicate in reasonable detail the facts and circumstances alleged to provide a basis for such termination.

(b) Any Notice of Termination by the Company shall have been approved, prior to the giving thereof to the Executive, by a resolution duly adopted by a majority of the directors of the Company (or any successor corporation) then in office.

(c) If the Notice is given by the Executive for Good Reason, the Executive may cease performing his duties hereunder on or after the date 15 days after the delivery of Notice of Termination and shall in any event cease employment on the Termination Date. If the Notice is given by the Company, then the Executive may cease performing his duties hereunder on the date of receipt of the Notice of Termination, subject to the Executive's rights hereunder.

(d) The Executive shall have 30 days, or such longer period as the Company may determine to be appropriate, to cure any conduct or act, if curable, alleged to provide grounds for termination of the Executive's employment for Cause under this Agreement pursuant to Section 1(g)(iii).

(e) The recipient of any Notice of Termination shall personally deliver or mail in accordance with Section 24 written notice of any dispute relating to such Notice of Termination to the party giving such Notice within 15 days after receipt thereof; *provided, however, that* if the Executive's conduct or act alleged to provide grounds for termination by the Company for Cause is curable, then such period shall be 30 days. After the expiration of such period, the contents of the Notice of Termination shall become final and not subject to dispute.

14. Further Obligations of the Executive.

(a) Competition. The Executive agrees that, in the event of any Covered Termination (other than a termination by the Company for Cause or by the Executive without Good Reason), the Executive shall not, for a period expiring six (6) months after the Termination Date, without the prior written



approval of the Company's Board of Directors, participate in the management of, be employed by or own any business enterprise at a location within the United States that engages in substantial competition with the Company or its subsidiaries, where such enterprise's revenues from any competitive activities amount to 10% or more of such enterprise's net revenues and sales for its most recently completed fiscal year; *provided, however, that* nothing in this Section 14(a) shall prohibit the Executive from owning stock or other securities of a competitor amounting to less than five percent of the outstanding capital stock of such competitor; *provided, further,* that if the Company reasonably believes the Executive is preparing to associate, or has commenced association with a business enterprise that would otherwise be prohibited by this Section 14(a), then, the Board shall consider such association in good faith and such association shall be deemed to be competitive and prohibited by this Section 14(a) only if so unanimously determined by the Board. In the event of any Covered Termination (other than a termination by the Company for Cause or by the Executive without Good Reason), the provisions of this Section 14(a) shall supersede Paragraph 7.3.2 of the Employment Agreement.

(b) Confidentiality. During and following the Executive's employment by the Company, the Executive shall hold in confidence and not directly or indirectly disclose or use or copy or make lists of any confidential information or proprietary data of the Company (including that of the Employer), except to the extent authorized in writing by the Board of Directors of the Company or required by any court or administrative agency, other than to an employee of the Company or a person to whom disclosure is reasonably necessary or appropriate in connection with the performance by the Executive of duties as an executive of the Company. Confidential information shall not include any information known generally to the public or any information of a type not otherwise considered confidential by persons engaged in the same business or a business similar to that of the Company. All records, files, documents and materials, or copies thereof, relating to the business of the Company which the Executive shall prepare, or use, or come into contact with, shall be and remain the sole property of the Company and shall be promptly returned to the Company upon termination of employment with the Company.

(c) No Solicitation. The Executive agrees that, in the event of any Covered Termination where the Executive is entitled to Accrued Benefits, the Termination Payment and the Prorated Bonus, the Executive shall not, for a period expiring two years after the Termination Date, without the prior written approval of the Company's Board of Directors, hire or solicit for employment any person who is or was employed by the Company during the then immediately preceding 12 months, other than pursuant to a general published solicitation of employment.

15. Expenses and Interest. If, after a Change in Control of the Company, (a) a dispute arises with respect to the enforcement of the Executive's rights under this Agreement or (b) any legal or arbitration proceeding shall be brought to enforce or interpret any provision contained herein or to recover damages for breach hereof, in either case so long as the Executive is not acting in bad faith, then the Company shall reimburse the Executive for any reasonable attorneys' fees and necessary costs and disbursements incurred as a result of the dispute, legal or arbitration proceeding ("Expenses"), and prejudgment interest on any money judgment or arbitration award obtained by the Executive calculated at the rate of interest announced by The Bank of New York, from time to time at its prime or base lending rate from the date that payments to him or her should have been made under this Agreement. Within ten (10) days after the Executive's written request therefor (but in no event later than the end of the calendar year following the calendar year in which such Expense is incurred), the Company shall reimburse the Executive, or such other person or entity as the Executive may designate in writing to the Company, the Executive's reasonable Expenses.

16. Payment Obligations Absolute. The Company's obligation during and after the Employment Period to pay the Executive the amounts and to make the benefit and other arrangements provided herein shall be absolute and unconditional and shall not be affected by any circumstances,

including, without limitation, any setoff, counterclaim, recoupment, defense or other right which the Company may have against him or anyone else. Except as provided in Section 15, all amounts payable by the Company hereunder shall be paid without notice or demand. Each and every payment made hereunder by the Company shall be final, and the Company will not seek to recover all or any part of such payment from the Executive, or from whomsoever may be entitled thereto, for any reason whatsoever.

17. Successors.

(a) If the Company sells, assigns or transfers all or substantially all of its business and assets to any Person or if the Company merges into or consolidates or otherwise combines (where the Company does not survive such combination) with any Person (any such event, a "Sale of Business"), then the Company shall assign all of its right, title and interest in this Agreement as of the date of such event to such Person, and the Company shall cause such Person, by written agreement in form and substance reasonably satisfactory to the Executive, to expressly assume and agree to perform from and after the date of such assignment all of the terms, conditions and provisions imposed by this Agreement upon the Company. Failure of the Company to obtain such agreement prior to the effective date of such Sale of Business shall be a breach of this Agreement constituting "Good Reason" hereunder, except that for purposes of implementing the foregoing the date upon which such Sale of Business becomes effective shall be deemed the Termination Date. In case of such assignment by the Company and of assumption and agreement by such Person, as used in this Agreement, "Company" shall thereafter mean such Person which executes and delivers the agreement provided for in this Section 17 or which otherwise becomes bound by all the terms and provisions of this Agreement by operation of law, and this Agreement shall inure to the benefit of, and be enforceable by, such Person. The Executive shall, in his or her discretion, be entitled to proceed against any or all of such Persons, any Person which theretofore was such a successor to the Company and the Company (as so defined) in any action to enforce any rights of the Executive hereunder. Except as provided in this Section 17(a), this Agreement shall not be assignable by the Company. This Agreement shall not be terminated by the voluntary or involuntary dissolution of the Company.

(b) This Agreement and all rights of the Executive shall inure to the benefit of and be enforceable by the Executive's personal or legal representatives, executors, administrators, heirs and beneficiaries. All amounts payable to the Executive under Sections 7, 8, 9, 10, 11, 12 and 15 if the Executive had lived shall be paid, in the event of the Executive's death, to the Executive's estate, heirs and representatives; *provided, however, that* the foregoing shall not be construed to modify any terms of any benefit plan of the Employer, as such terms are in effect on the date of the Change in Control of the Company, that expressly govern benefits under such plan in the event of the Executive's death.

18. Severability. The provisions of this Agreement shall be regarded as divisible, and if any of said provisions or any part hereof are declared invalid or unenforceable by a court of competent jurisdiction, the validity and enforceability of the remainder of such provisions or parts hereof and the applicability thereof shall not be affected thereby.

19. Contents of Agreement; Waiver of Rights; Amendment. This Agreement sets forth the entire understanding between the parties hereto with respect to the subject matter hereof, and the Executive hereby waives all rights under, any prior or other agreement or understanding between the parties with respect to such subject matter. This Agreement may not be amended or modified at any time except by written instrument executed by the Company and the Executive.

20. Withholding. The Company shall be entitled to withhold from amounts to be paid to the Executive hereunder any federal, state or local withholding or other taxes or charges which it is from time to time required to withhold; *provided that* the amount so withheld shall not exceed the minimum amount

required to be withheld by law unless otherwise elected by the Executive in writing. In addition, if prior to the date of payment of the Termination Payment or Prorated Bonus hereunder, the Federal Insurance Contributions Act (FICA) tax imposed under Sections 3101, 3121(a) and 3121(v)(2) of the Code, where applicable, becomes due with respect to any payment or benefit to be provided hereunder, the Company may provide for an immediate payment of the amount needed to pay the Executive's portion of such tax (plus an amount equal to the taxes that will be due on such amount) and the Executive's Termination Payment or Prorated Bonus shall be reduced accordingly. The Company shall be entitled to rely on an opinion of the National Tax Counsel if any question as to the amount or requirement of any such withholding shall arise.

21. Certain Rules of Construction. No party shall be considered as being responsible for the drafting of this Agreement for the purpose of applying any rule construing ambiguities against the drafter or otherwise. No draft of this Agreement shall be taken into account in construing this Agreement. Any provision of this Agreement which requires an agreement in writing shall be deemed to require that the writing in question be signed by the Executive and an authorized representative of the Company.

22. Governing Law; Resolution of Disputes. This Agreement and the rights and obligations hereunder shall be governed by and construed in accordance with the laws of the State of Wisconsin, without reference to conflict of law principles thereof. Any dispute arising out of this Agreement shall, at the Executive's election, be determined by arbitration under the rules of the American Arbitration Association then in effect (in which case both parties shall be bound by the arbitration award) or by litigation. Whether the dispute is to be settled by arbitration or litigation, the venue for the arbitration or litigation shall be Milwaukee, Wisconsin or, at the Executive's election, if the Executive is not then residing or working in the Milwaukee, Wisconsin metropolitan area, in the judicial district encompassing the city in which the Executive resides; *provided, that*, if the Executive is not then residing in the United States, the election of the Executive with respect to such venue shall be either Milwaukee, Wisconsin or in the judicial district encompassing that city in the United States among the thirty cities having the largest population (as determined by the most recent United States Census data available at the Termination Date) which is closest to the Executive's residence. The parties consent to personal jurisdiction in each trial court in the selected venue having subject matter jurisdiction notwithstanding their residence or situs, and each party irrevocably consents to service of process in the manner provided hereunder for the giving of notices.

23. Additional Section 409A Provisions.

(a) If, after the date of a Change in Control of the Company, any payment amount or the value of any benefit under this Agreement is required to be included in the Executive's income prior to the date such amount is actually paid or the benefit provided as a result of the failure of this Agreement (or any other arrangement that is required to be aggregated with this Agreement under Code Section 409A) to comply with Code Section 409A, then the Executive shall receive a distribution, in a lump sum, within 90 days after the date it is finally determined that the Agreement (or such other arrangement that is required to be aggregated with this Agreement) fails to meet the requirements of Section 409A of the Code; such distribution shall equal the amount required to be included in the Executive's income as a result of such failure and shall reduce the amount of payments or benefits otherwise due hereunder.

(b) The Company and the Executive intend the terms of this Agreement to be in compliance with Section 409A of the Code. The Company does not guarantee the tax treatment or tax consequences associated with any payment or benefit, including but not limited to consequences related to Section 409A of the Code. To the maximum extent permissible, any ambiguous terms of this Agreement shall be interpreted in a manner that avoids a violation of Section 409A of the Code.

(c) If the Executive believes he is entitled to a payment or benefit pursuant to the terms of this Agreement that was not timely paid or provided, and such payment or benefit is considered deferred compensation subject to the requirements of Section 409A of the Code, the Executive acknowledges that to avoid an additional tax on such payment or benefit pursuant to the provisions of Section 409A of the Code, the Executive must make a reasonable, good faith effort to collect such payment or benefit **no later than 90 days** after the latest date upon which the payment could have been timely made or benefit timely provided without violating Section 409A of the Code, and if not paid or provided, must take further enforcement measures **within 180 days** after such latest date.

24. Notice. Notices given pursuant to this Agreement shall be in writing and, except as otherwise provided by Section 13(d), shall be deemed given when actually received by the Executive or actually received by the Company's Secretary or any officer of the Company other than the Executive. If mailed, such notices shall be mailed by United States registered or certified mail, return receipt requested, addressee only, postage prepaid, if to the Company, to Fiserv, Inc., Attention: Secretary (or President, if the Executive is then Secretary), 255 Fiserv Drive, Brookfield, Wisconsin 53045, or if to the Executive, at the address set forth below the Executive's signature to this Agreement, or to such other address as the party to be notified shall have theretofore given to the other party in writing.

25. No Waiver. No waiver by either party at any time of any breach by the other party of, or compliance with, any condition or provision of this Agreement to be performed by the other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same time or any prior or subsequent time.

26. Coordination with Employment Agreement. This Agreement is the "KEESA" referred to in Paragraph 5.1 of the Employment Agreement. In the event of a Change in Control of the Company, as defined in this Agreement, the Executive shall be entitled to the benefits of this Agreement, subject to the non-duplication and other provisions of said Paragraph 5.1.

27. Headings. The headings herein contained are for reference only and shall not affect the meaning or interpretation of any provision of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

FISERV, INC.

By: /s/ Jeffery Yabuki  
Name: Jeffery Yabuki  
Title: President and CEO

Attest: /s/ Lynn McCreary  
Its: CLO

EXECUTIVE:

/s/ Frank Bisignano

**Consent of Independent Registered Public Accounting Firm**

We consent to the incorporation by reference in the Registration Statement Nos. 333-145599, 333-143191, 333-163636, 333-188795 and 333-231868 on Form S-8, No. 333-229689 on Form S-4, and No. 333-227436 on Form S-3 of Fiserv, Inc. of our report dated February 26, 2019, with respect to the consolidated financial statements and schedule of First Data Corporation incorporated by reference in this Current Report on Form 8-K of Fiserv, Inc.

/s/ Ernst & Young LLP

Atlanta, Georgia  
July 25, 2019

**Consent of Independent Registered Public Accounting Firm**

The Executive Sponsors  
Wells Fargo Merchant Services, LLC:

We consent to the incorporation by reference in the Form 8-K of Fiserv, Inc. dated July 29, 2019 and the Registration Statement Nos. 333-145599, 333-143191, 333-163636, 333-188795 and 333-231868 on Form S-8, No. 333-229689 on Form S-4, and No. 333-227436 on Form S-3 of Fiserv, Inc. of our report dated February 15, 2019, with respect to the balance sheets of Wells Fargo Merchant Services, LLC as of December 31, 2018 and 2017, the related statements of revenues and expenses, members' equity, and cash flows for each of the years in the three-year period ended December 31, 2018, and the related notes, which report appears in the Form 8-K of Fiserv, Inc. dated July 29, 2019.

/s/ KPMG LLP

San Francisco, California  
July 25, 2019

## Fiserv Completes Combination With First Data Further Cementing Industry Leadership

BROOKFIELD, Wis. — July 29, 2019 — Fiserv, Inc. (NASDAQ: FISV), a leading global provider of financial services technology solutions, today announced that it has completed its acquisition of First Data Corporation. With the transaction complete, Fiserv is one of the world's leading payments and financial technology providers with the ability to deliver unique value to financial institutions, corporate and merchant clients, and consumers.

“The completion of this transformative combination is a major milestone in the evolution of our companies,” said Jeffery Yabuki, Chairman and Chief Executive Officer, Fiserv. “We have continued to identify ways in which we can deliver differentiated value to clients, associates and shareholders, and are excited to work together on fulfilling the promise of the combination. We are confident that our people are the best in the industry and will push the boundaries of excellence and innovation for the benefit of all of our stakeholders.”

As a global leader in technology and payments that enables commerce, banking and the safe and secure movement of money, Fiserv has the breadth of capabilities and depth of expertise to deliver unmatched value to clients. As a result of the combination, clients will have access to a more comprehensive set of solutions and innovations, an extensive range of end-to-end capabilities and integrated delivery, which enable differentiated value for their customers.

“As a newly combined company, we will leverage our technology expertise and integrate our solutions to serve client needs in ways no one else can match,” said Frank Bisignano, President and Chief Operating Officer, Fiserv. “We are focused on innovating to enable our clients to better serve their customers and end users so they can succeed in a rapidly changing world.”

As previously announced, First Data shareholders will receive 0.303 of a Fiserv share for each share of First Data common stock they own prior to market open as of July 29, 2019. The all-stock transaction is intended to be tax-free to First Data shareholders. The combined company will carry the Fiserv brand and will continue to trade on The Nasdaq Global Select Market under the ticker symbol FISV. As of July 29, 2019, First Data common stock is no longer listed for trading on the New York Stock Exchange.

### About Fiserv

Fiserv, Inc. (NASDAQ: FISV) aspires to move money and information in a way that moves the world. As a global leader in payments and financial technology, the company helps clients achieve best-in-class results through a commitment to innovation and excellence in areas including account processing and digital banking solutions; card issuer processing and network services; payments; e-commerce; merchant acquiring and processing; and the Clover™ cloud-based point-of-sale solution. Fiserv is a member of the S&P 500® Index and the FORTUNE®500, and is among the FORTUNE Magazine World's Most Admired Companies®. Visit [fiserv.com](http://fiserv.com) and follow on social media for more information and the latest company news.

### Forward-Looking Statements

This press release contains “forward-looking statements” intended to qualify for the safe harbor from liability established by the Private Securities Litigation Reform Act of 1995. Forward-looking statements include those that express a plan, belief, expectation, estimation, anticipation, intent, contingency, future development or similar expression, and can generally be identified as forward-looking because they include words such as “believes,” “anticipates,” “expects,” “could,” “should” or words of similar meaning. Statements that describe our future plans, objectives or goals are also forward-looking statements. The forward-looking statements in this press release involve significant risks and



uncertainties, and a number of factors, both foreseen and unforeseen, could cause actual results to differ materially from our current expectations. The factors that may affect our results include, among others: pricing and other actions by competitors; the capacity of our technology to keep pace with a rapidly evolving marketplace; the impact of a security breach or operational failure on our business; the effect of legislative and regulatory actions in the United States and internationally; our ability to comply with government regulations; our ability to successfully identify, complete and integrate acquisitions, and to realize the anticipated benefits associated with the same; the impact of our strategic initiatives; the impact of market and economic conditions on the financial services industry; and other factors identified in our Annual Report on Form 10-K for the year ended December 31, 2018 and in other documents that we file with the SEC. You should consider these factors carefully in evaluating forward-looking statements and are cautioned not to place undue reliance on such statements, which speak only as of the date of this press release. We undertake no obligation to update forward-looking statements to reflect events or circumstances occurring after the date of this press release.

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**Audited consolidated financial statements of Wells Fargo Merchant Services, LLC  
as of December 31, 2018 and 2017 and for each of the fiscal years ended December 31, 2018, 2017 and 2016.  
Index to Consolidated Financial Statements**

**WELLS FARGO MERCHANT SERVICES, LLC**  
(A Joint Venture)  
Financial Statements  
For the years ended December 31, 2018 and 2017  
(With Independent Auditors' Report Thereon)



**KPMG LLP**  
Suite 1400  
55 Second Street  
San Francisco, CA 94105

## **Independent Auditors' Report**

The Executive Sponsors  
Wells Fargo Merchant Services, LLC:

We have audited the accompanying financial statements of Wells Fargo Merchant Services, LLC (the Company), which comprise the balance sheets as of December 31, 2018 and 2017, and the related statements of revenue and expenses, members' equity, and cash flows for the years in the three-year period ended December 31, 2018, and the related notes to the financial statements.

### ***Management's Responsibility for the Financial Statements***

Management is responsible for the preparation and fair presentation of these financial statements in accordance with U.S. generally accepted accounting principles; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### ***Auditors' Responsibility***

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.



**Opinion**

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Wells Fargo Merchant Services, LLC as of December 31, 2018 and 2017, and the results of its operations and its cash flows for each of the years in the three-year period ended December 31, 2018 in accordance with U.S. generally accepted accounting principles.

**KPMG LLP**

San Francisco, California February 15, 2019

KPMG LLP is a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity.

**WELLS FARGO MERCHANT SERVICES, LLC**  
(A Joint Venture)  
Balance Sheets

December 31, 2018 and 2017

(Dollars in thousands)

	2018	2017
<b>Assets</b>		
Cash and cash equivalents	\$ 34,700	\$ 41,455
Restricted cash	70,307	78,011
Settlement assets	1,751,911	3,560,362
Accounts receivable, net of reserve for merchant credit and fee losses \$4.4 million in 2018 and \$5.4 million 2017	640,585	569,143
Intangibles	488	751
Other assets	275	614
Total assets	<u>\$2,498,266</u>	<u>\$4,250,336</u>
<b>Liabilities and Members' Equity</b>		
Settlement liabilities	\$1,701,614	\$3,576,837
Accounts payable and accrued expenses	86,406	71,376
Interchange payable to Wells Fargo Bank, N.A.	589,124	478,819
Related party payable to First Data Merchant Services Corporation	16,021	7,973
Distribution payable to Wells Fargo Bank, N.A.	60,305	66,444
Distribution payable to First Data Merchant Services Corporation	40,205	44,296
Total liabilities	2,493,675	4,245,745
Members' equity	4,591	4,591
Total liabilities and members' equity	<u>\$2,498,266</u>	<u>\$4,250,336</u>

See accompanying notes to the financial statements.

**WELLS FARGO MERCHANT SERVICES, LLC**

(A Joint Venture)

## Statements of Revenues and Expenses

December 31, 2018, 2017 and 2016

(Dollars in thousands)

	<u>2018</u>	<u>2017</u>	<u>2016</u>
<b>Revenues:</b>			
Card services revenue, net of \$8.2, \$6.8 and \$5.5 billion in interchange and assessments in 2018, 2017 and 2016, respectively	\$702,870	\$731,843	\$786,803
Product sales revenue	23,794	29,032	50,359
Other revenue	87,771	84,951	69,030
Net revenue	<u>814,435</u>	<u>845,826</u>	<u>906,192</u>
<b>Expenses:</b>			
Cost of card services	248,088	249,362	222,790
Cost of product sold	10,299	12,016	15,536
Selling, general and administrative	136,457	135,964	135,546
Other expenses	15,022	11,819	9,721
Total expenses	<u>409,866</u>	<u>409,161</u>	<u>383,593</u>
Net operating income	404,569	436,665	522,599
Interest income	4,787	1,528	788
Net income	<u>\$409,356</u>	<u>\$438,193</u>	<u>\$523,387</u>

See accompanying notes to the financial statements.

**WELLS FARGO MERCHANT SERVICES, LLC**

(A Joint Venture)

## Statement of Members' Equity

December 31, 2018, 2017 and 2016

(Dollars in thousands)

	<b>Wells Fargo Bank, N.A.</b>	<b>First Data Merchant Services Corporation</b>	<b>Total</b>
Members' equity at December 31, 2015	\$ 2,755	\$ 1,836	\$ 4,591
Net income	314,032	209,355	523,387
Distributions to members	(314,032)	(209,355)	(523,387)
Members' equity at December 31, 2016	2,755	1,836	4,591
Net income	262,916	175,277	438,193
Distributions to members	(262,916)	(175,277)	(438,193)
Members' equity at December 31, 2017	2,755	1,836	4,591
Net income	245,614	163,741	409,356
Distributions to members	(245,614)	(163,741)	(409,356)
Members' equity at December 31, 2018	<u>\$ 2,755</u>	<u>\$ 1,836</u>	<u>\$ 4,591</u>

See accompanying notes to the financial statements.

**WELLS FARGO MERCHANT SERVICES, LLC**

(A Joint Venture)

## Statement of Cash Flows

December 31, 2018, 2017 and 2016

(Dollars in thousands)

	<u>2018</u>	<u>2017</u>	<u>2016</u>
Cash flows from operating activities:			
Net income	\$ 409,356	\$ 438,193	\$ 523,387
Adjustments to reconcile net income to net cash provided by operating activities:			
Amortization of intangibles	406	398	322
Provisions for credit and fee losses	7,971	12,361	12,220
Changes in operating assets and liabilities:			
Settlement assets	1,808,451	(1,268,387)	(1,143,147)
Accounts receivable, net of reserve for merchant credit and fee losses	(79,413)	(90,838)	(102,059)
Other assets	339	424	(895)
Settlement liabilities	(1,875,223)	1,248,632	1,156,390
Accounts payable and accrued expenses	15,030	8,985	18,439
Interchange Payable to Wells Fargo Bank, N.A.	110,305	64,697	73,685
Related Party Payable to First Data Merchant Services Corporation	8,048	(322)	(14,905)
Net cash provided by operating activities	<u>405,270</u>	<u>414,143</u>	<u>523,437</u>
Cash flows from investing activities:			
Signing bonus on executed contract	(143)	(352)	(662)
Net cash used in investing activities	<u>(143)</u>	<u>(352)</u>	<u>(662)</u>
Cash flows from financing activities:			
Distributions to members	(419,586)	(453,951)	(524,442)
Net cash used in financing activities	<u>(419,586)</u>	<u>(453,951)</u>	<u>(524,442)</u>
Increase/(Decrease) in cash and cash equivalents	(14,459)	(40,160)	(1,667)
Cash, cash equivalents, and restricted cash at beginning of year	119,466	159,626	161,293
Cash, cash equivalents, and restricted cash at end of year	<u>\$ 105,007</u>	<u>\$ 119,466</u>	<u>\$ 159,626</u>

See accompanying notes to the financial statements.



# WELLS FARGO MERCHANT SERVICES, LLC

(A Joint Venture)

Notes to the Financial Statements

December 31, 2018, 2017 and 2016

(Dollars in thousands, unless otherwise noted)

## (1) Business Description

Wells Fargo Merchant Services, LLC (the “Company”), a limited liability company, is a joint venture between First Data Merchant Services Corporation (“FDMS”) and Wells Fargo Bank, N.A. (“Wells Fargo”), with a forty percent and sixty percent equity ownership, respectively. FDMS is a fully owned subsidiary of First Data Corporation. The Company is established pursuant to the terms of amended and restated alliance agreements (the “Membership Agreement”) dated as of December 31, 2008, as amended. The Membership Agreement will terminate on December 31, 2024. FDMS and Wells Fargo are here-in-after referred to, individually, as a “Member” or, collectively, as “Members”.

The Company is engaged in processing and funds transfer services related to the authorization, processing, and settlement of credit and debit card transactions for merchants. A majority of its revenue is based on the dollar amount of transactions processed. The Company primarily provides services to merchant customers within all 50 states, with a significant concentration in California. The Company is operationally dependent on both FDMS and Wells Fargo. The Company’s primary operations are conducted through FDMS. The Company’s funding and settlement are primarily conducted through Wells Fargo. The majority of the bank accounts used for daily operations are with Wells Fargo.

## (2) Summary of Significant Accounting Policies

### (a) Use of Estimates

The preparation of financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from the estimates. Items subject to such estimates and assumptions include the reserve for merchant credit and fee losses.

### (b) Settlement Assets and Liabilities

The Company has a fiduciary responsibility to its merchant customers as it relates to the transfer of funds from a cardholder’s issuing bank, via the VISA, MasterCard, American Express or Discover card companies (the “Card Networks”) and the Accel, AFFN, ATH, CULIANCE, Interlink, Jeanie, Maestro, NYCE, Pulse, NETS, Shazam, and Star Debit Networks (the “Debit Networks”). The Company records such amounts due from the issuing banks, Card Networks and Debit Networks within the balance sheet caption settlement assets while the related liability, settlement liabilities, represents amounts due to merchants. Pursuant to the Card Networks’ and Debit Networks’ rules, such fiduciary funds are not available to support the operations of the Company.

When a cardholder or a credit issuing institution disputes a transaction, within the Card Network guidelines, the Company’s merchant customers have a liability for the disputed charges. However, in the case of merchant fraud, insolvency or bankruptcy, the Company may also be liable. Fee receivables that are ultimately deemed as uncollectable are charged-off against the merchant credit and fee loss reserve. The Company’s determination of the level of the reserve is calculated based on the level of sales volumes multiplied by loss factors taking into consideration charge-offs, recoveries and merchant collateral and rests upon various judgments and assumptions, including the review of historical data and a specific analysis of receivables due from merchants. Our charge-off policy is to fully charge down the balance when the receivable is 60 days past due. The reserve for merchant credit and fee losses is a valuation allowance for probable losses inherent as of the balance sheet date. The Company considers the reserve for merchant credit and fee losses adequate to cover losses inherent in the portfolio as of December 31, 2018 and 2017. Merchant collateral is categorized as Restricted cash on the Balance Sheet.

**WELLS FARGO MERCHANT SERVICES, LLC**

(A Joint Venture)

Notes to the Financial Statements

December 31, 2018, 2017 and 2016

(Dollars in thousands, unless otherwise noted)

**(c) Cash and Cash Equivalents**

The Company considers all highly liquid investments with a maturity of three months or less when purchased to be cash equivalents. At December 31, 2018 and 2017, the majority of the Company's cash and cash equivalents were held in Wells Fargo accounts.

**(d) Restricted Cash**

The Company requires cash deposits, guarantees, letters of credit or other types of collateral by certain merchants to minimize its credit risk. Included in the Balance Sheet's Restricted cash is \$70.3 million and \$78.0 million in Merchant collateral, as of December 31, 2018 and 2017, respectively. Merchant collateral represents restricted cash held by the Company in a Wells Fargo bank account.

**(e) Accounts Receivable**

Accounts receivable balances are stated net of allowance for doubtful accounts. The company records allowances for doubtful accounts when it is probable that the accounts receivable balance will not be collected.

**(f) Intangibles**

The Company capitalizes initial payments for new contracts, contract renewals and conversion costs associated with customer processing relationships to the extent recoverable through future operations, contractual minimums and/or penalties in the case of early termination. The Company's accounting policy is to limit the amount of capitalized costs for a given contract to the lesser of the estimated ongoing future cash flows from the contract or the termination fees the Company would receive in the event of early termination of the contract by the customer. The company amortizes intangibles over the period of the contract.

**(g) Accounts Payable and Accrued Expenses**

The Company accrues for certain expenses that have been incurred. These estimates are classified within accounts payable and accrued expenses in the balance sheet.

**WELLS FARGO MERCHANT SERVICES, LLC**

(A Joint Venture)

Notes to the Financial Statements

December 31, 2018, 2017 and 2016

(Dollars in thousands, unless otherwise noted)

**(h) Income Taxes**

No provision is made in the accounts of the Company for federal or state income taxes because all items of income and expense and other items affecting taxable income are allocated to the Members for inclusion in their income tax returns.

In accounting for income taxes, the Company follows the guidance in FASB ASC 740 (formerly FASB Interpretation No. 48), as amended by ASU 2009-06, Accounting for Uncertainty in Income Taxes. ASC 740 requires the Company to determine whether a tax position of the Company is more likely than not to be sustained upon examination by the applicable taxing authority, including resolution of any related appeals or litigation processes, based on the technical merits of the position. The tax benefit to be recognized is measured as the largest amount of benefit that is greater than fifty percent likely of being realized upon ultimate settlement which could result in the Company recording a tax liability that would reduce net assets. ASC 740 also provides guidance on thresholds, measurement, de-recognition, classification, interest and penalties, accounting in interim periods, disclosure, and transition that is intended to provide better financial statement comparability among different entities. As an LLC and pass-through entity, the Company does not incur tax expense and is not required to record a tax provision related to uncertain tax positions, in accordance with the recognition, measurement, classification, and disclosure requirements of ASC 740-10. The U.S. is the major tax jurisdiction for the Company. The tax returns of the Company can be examined by the relevant taxing authorities until the applicable statute of limitations has expired, which is generally three to four years from the date the return is initially filed, depending on the specific jurisdiction. Based on analysis by the Company, there were no material positions identified which did not meet the “more likely than not” standard as of and for the years ended December 31, 2018 and 2017.

**(i) Members' Equity**

An equity account is maintained for each Member. In certain instances, the Members may be required to make additional contributions to the Company. Such contributions will be determined on a pro-rata basis in accordance with each Member's membership interest at the time of the request and will be added to the Member's equity account. Membership interest is defined as the ownership percentage of the Company by each member.

**WELLS FARGO MERCHANT SERVICES, LLC**

(A Joint Venture)

Notes to the Financial Statements

December 31, 2018, 2017 and 2016

(Dollars in thousands, unless otherwise noted)

**(j) Revenue Recognition**

The Company recognizes card services revenues primarily from its transaction processing and authorization services as such services are performed. The revenues from transaction processing and authorization services are included in card services revenue in the statement of revenue and expenses. The Company recognizes revenue when the price is fixed or determinable, persuasive evidence of an arrangement exists, the service is performed and collectability of the resulting receivable is reasonably assured. Certain revenues are recorded net of certain costs not controlled by the Company, including interchange and assessment fees charged by the Card Networks. These revenues totaled \$8.7 billion, \$7.1 billion, and \$6.0 billion for the years ended December 31, 2018, 2017, and 2016 and associated costs totaled \$8.2 billion, \$6.8 billion, and \$5.5 billion, respectively.

Debit revenues are recorded gross and are included within card services revenue in the statement of revenues and expenses. Debit network fees are recorded within cost of card services in the statement of revenues and expenses. Debit revenues are recognized as such services are performed. Debit network fees totaled \$127.0 million, \$121.9 million, and \$110.1 million for the years ended December 31, 2018, 2017, and 2016 and associated revenues totaled \$159.1 million, \$153.8 million, and \$139.5 million, respectively. The Company recognizes product revenue from merchant referred leases, rentals and sales as such services are performed. These revenues totaled \$23.8 million, \$29.0 million, and \$50.4 million for the years ended December 31, 2018, 2017, and 2016 and are classified within product revenue. The Company records expense associated with the corresponding charge from affiliates of FDMS. These expenses totaled \$10.3 million, \$12.0 million, and \$15.5 million for the years ended December 31, 2018, 2017, and 2016 and are classified within Cost of product sold.

In addition to the above, the Company recognizes other fees for services as such services are performed. These revenues totaled \$87.8 million, \$85.0 million, and \$69.0 million for the years ended December 31, 2018, 2017, and 2016 and are classified within Other revenue. The other revenue caption on the statement of revenues and expenses includes relevant items such as monthly fees, new account fees, income from cash advances, chargeback fees and early termination fees.

**(k) Comprehensive Income**

For the year ended December 31, 2018, 2017, and 2016 net income equals comprehensive income.

**(l) New Accounting Pronouncements**

**Revenue Recognition**

In May 2014, the Financial Accounting Standards Board (FASB) issued Accounting Standards Codification (ASC) 606 and ASC 340-40 (collectively, the New Revenue Standard) that requires companies to recognize revenue to depict the transfer of goods or services to customers in amounts that reflect the consideration to which the company expects to be entitled in an exchange for those goods or services. It also requires enhanced disclosures about revenue, provides guidance for transactions that were not previously addressed comprehensively, and improves guidance for multiple-element arrangements. The FASB has subsequently issued several amendments to the standard, including clarification on accounting for licenses, identifying performance obligations, and principal versus agent consideration (reporting revenue gross vs. net).

The Company will adopt the New Revenue Standard using a modified retrospective basis on January 1, 2019. The Company does not expect the adoption of the New Revenue Standard to result in a material or significant cumulative-effect adjustment to retained earnings. The Company's accounting policies did not change materially since the principles of revenue recognition from the New Revenue Standard are largely consistent with the prior guidance and practices applied by our business. Accordingly, the Company does not have material changes to the timing or amount of revenue recognition. Under the modified retrospective basis, the Company will not restate the prior consolidated financial statements presented for these effects.

**WELLS FARGO MERCHANT SERVICES, LLC**

(A Joint Venture)

Notes to the Financial Statements

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(Dollars in thousands, unless otherwise noted)

The Company currently expects the most significant ongoing impact of adopting the New Revenue Standard in 2019 to be driven by changes in principal versus agent considerations, with the majority of the change overall in total revenues attributable to WFMS reflecting our debit transactions on a net basis prospectively, as opposed to our gross presentation of debit network fees of \$127.0 million and associated revenues of \$159.1 million as included in the current financial statements. The Company does not expect the adoption of the New Revenue Standard to have a material impact on net income.

***Leases***

In February 2016, the FASB issued guidance which requires lessees to recognize most leases on their balance sheets. The guidance also modifies the classification criteria and the accounting for sales-type and direct financing leases for lessors and provides new presentation and disclosure requirements for both lessees and lessors. The standard is effective for financial statements issued for fiscal years beginning after December 15, 2018. The Company will adopt the New Leasing Standard on January 1, 2019, however, the Company has evaluated the impact of the new guidance on its consolidated financial statements and determined that there will not be a material impact.

***Credit Losses***

In June 2016, the FASB issued guidance that will change the accounting for credit impairment. Under the new guidance, companies are required to measure all expected credit losses for financial instruments held at the reporting date based on historical experience, current conditions and reasonable supportable forecasts. This replaces the existing incurred loss model and is applicable to the measurement of credit losses on financial assets measured at amortized cost and applies to some off-balance sheet credit exposures. This new guidance will be effective for public business entities for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years. Early adoption is permitted for fiscal years beginning after December 15, 2018.

***Statement of Cash Flows***

In November 2016, the FASB issued guidance that will change the presentation of restricted cash and restricted cash equivalents on the statement of cash flows. Under the new guidance, companies will be required to include restricted cash and restricted cash equivalents with the cash and cash equivalents line item when reconciling beginning-of-period and end-of-period total amounts shown on the statement of cash flows. Given this change, transfers between cash, cash equivalents, and restricted cash and cash equivalents will not be reported as cash flow activities on the statement of cash flows. In addition, the guidance requires entities to disclose information about the nature of restrictions on its cash and cash equivalents, including restricted cash and cash equivalents. The new guidance will be effective for public business entities for fiscal years beginning after December 15, 2017. This change was implemented in 2018 and Merchant Collateral is presented on the Balance Sheet as Restricted cash and presented on the Statement of Cash Flows.

***(m) Reclassifications***

The company has reclassified certain amounts relating to its prior period results to conform to its current period presentation. These reclassification have no changed the results of operations of prior periods.

**WELLS FARGO MERCHANT SERVICES, LLC**

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Notes to the Financial Statements

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(Dollars in thousands, unless otherwise noted)

**(3) Intangibles**

Following is a summary of the Company's intangibles for the years ended December 31, 2018, 2017 and 2016:

	Intangible Assets, Gross of Accumulated Amortization	Accumulated Amortization	Intangible Assets, Net of Accumulated Amortization
Beginning balance as of January 1, 2018	\$ 2,896	\$ (2,145)	\$ 751
Additions	143	—	143
Retirements	(532)	532	—
Amortization	—	(406)	(406)
Ending balance as of December 31, 2018	<u>\$ 2,507</u>	<u>\$ (2,019)</u>	<u>\$ 488</u>
Beginning balance as of January 1, 2017	\$ 2,544	\$ (1,747)	\$ 797
Additions	352	—	352
Retirements	—	—	—
Amortization	—	(398)	(398)
Ending balance as of December 31, 2017	<u>\$ 2,896</u>	<u>\$ (2,145)</u>	<u>\$ 751</u>
Beginning balance as of January 1, 2016	\$ 2,266	\$ (1,809)	\$ 457
Additions	662	—	662
Retirements	(384)	384	—
Amortization	—	(322)	(322)
Ending balance as of December 31, 2016	<u>\$ 2,544</u>	<u>\$ (1,747)</u>	<u>\$ 797</u>

For the years ended December 31, 2018, 2017 and 2016, amortization expense of \$406, \$398, and \$322, respectively, is included in other expenses in the statement of revenues and expenses.

**(4) Related Party Transactions**

The Company's primary operations are conducted through FDMS. FDMS charges the Company fees for services provided pursuant to an operating agreement (the "Operating Agreement") dated January 31, 2000, as amended and restated. The Members also agreed to perform certain additional management functions (the "Additional Services") of the Company, for which they will be reimbursed by the Company. These fees are included in cost of card services, cost of product sold (including expenses associated with merchant referred leases, rentals and sales from affiliates of FDMS) and selling, general and administrative expenses within the statement of revenue and expense for both Members. The financial statements may not necessarily be indicative of the financial position that would have existed, or the results of operations or cash flows that would have occurred had the Company operated as an independent enterprise.

**WELLS FARGO MERCHANT SERVICES, LLC**

(A Joint Venture)

Notes to the Financial Statements

December 31, 2018, 2017 and 2016

(Dollars in thousands, unless otherwise noted)

During the years ended December 31, 2018, 2017, and 2016, the Company reimbursed FDMS and Wells Fargo for performing the additional services as follows:

	2018	
	First Data Merchant Services, Corporation	Wells Fargo Bank, NA
Cost of card services	\$ 106,784	\$ —
Cost of product sold	10,299	—
Selling, general and administrative	7,983	128,474
Total	<u>\$ 125,066</u>	<u>\$ 128,474</u>

  

	2017	
	First Data Merchant Services, Corporation	Wells Fargo Bank, NA
Cost of card services	\$ 107,971	\$ —
Cost of product sold	12,016	—
Selling, general and administrative	7,997	127,967
Total	<u>\$ 127,984</u>	<u>\$ 127,967</u>

  

	2016	
	First Data Merchant Services, Corporation	Wells Fargo Bank, NA
Cost of card services	\$ 92,161	\$ —
Cost of product sold	15,536	—
Selling, general and administrative	11,766	123,780
Total	<u>\$ 119,463</u>	<u>\$ 123,780</u>

Included in the balance sheets at December 31, 2018 and 2017 is a payable to FDMS of \$16,021 and \$7,973, respectively. These balances primarily consist of selling, general and administrative costs, cost of card services, and cost of product sold owed to FDMS which are partially offset by net revenue owed to WFMS for the contributed portfolio. These balances are settled monthly, one month in arrears.

Included in the balance sheets at December 31, 2018 and 2017 is a payable to Wells Fargo of \$589,124 and \$478,819, respectively, which is primarily attributable to non-interest bearing advances, made by Wells Fargo to the Company, to fund interchange settlements with Card Networks. These payable amounts are settled monthly, one month in arrears.

**(5) Allocation and Distribution of Income to Members**

Profits and losses of the Company are allocated in accordance with each Member's Interest. Distributions of allocated income to the Members are made on a quarterly basis, subject to consent of the Members. Income distributed shall equal 100% of the distributable funds, as defined in the Membership Agreement, unless a smaller percentage is agreed to by the Members.

**WELLS FARGO MERCHANT SERVICES, LLC**

(A Joint Venture)

Notes to the Financial Statements

December 31, 2018, 2017 and 2016

(Dollars in thousands, unless otherwise noted)

**(6) Termination of Company**

The Company can be terminated in the event of certain termination events, set forth in the Membership Agreement. These include certain mergers or acquisitions of either of the Members, and various other identified performance criteria.

**(7) Limited Liability of Members**

The Members of a Delaware limited liability company are generally not liable for the acts and omissions of the Company, much in the same manner as the shareholders, officers and directors of a corporation are generally not liable for the acts and omissions of the corporation. Such liability is generally limited by the provisions of the Delaware Limited Liability Company Act and by applicable case law.

**(8) Fair Value of Financial Instruments**

FASB ASC 825, Financial Instruments, requires the disclosure of the fair value of financial instruments, including assets and liabilities recognized in the balance sheets. Management estimates that the aggregate fair value of financial instruments recognized in the balance sheets (including receivables, payables and merchant collateral) approximates their carrying value as such financial instruments are short-term in nature or carry floating rates of interest.

**(9) Guarantees and Reserve for Merchant Credit and Fee Losses**

Under the card companies' rules, when a merchant processor acquires card transactions, it has certain liabilities for the transactions. This liability arises from disputes between cardholders and merchants due to the cardholders' dissatisfaction with merchandise quality or the merchants' service, which are not resolved with the merchant. In such cases, the transactions are "charged back" to the respective merchants and the related purchase amounts are refunded to the cardholders by the card issuer. If the merchant does not fund the refund due to insolvency, bankruptcy or other extraneous reasons, the Company, in certain circumstances is liable for the full amount of the transaction. This liability is considered a guarantee under FASB ASC 460, Guarantees.

The Company's legal obligation under these rules is to settle any individual chargeback for which an individual merchant fails to fulfill as noted above. Contractually, the maximum exposure for this obligation is the total amount of transactions processed for the preceding four month period for all merchants, which in the case of the Company is in the billions of dollars. It should be noted that the Company has not experienced material chargeback loss activity as a result of merchant processing activities and advises that caution should be used when assessing the maximum exposure described above. The Company records a provision for this estimated obligation based upon a number of factors which include historical losses, credit risk of specific customers and other relevant factors. As shown below, for the years ended December 2018, 2017, and 2016, the Company incurred aggregate merchant credit and fee losses of \$8,990, \$12,367, and \$11,982, net of recoveries, on total processed volumes. The Company calculates its provision and evaluates the appropriateness of its reserves on a monthly basis.



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December 31, 2018, 2017 and 2016

(Dollars in thousands, unless otherwise noted)

The following is the activity related to the reserve for merchant credit and fee losses for the years ended December 31, 2018, 2017, and 2016:

Beginning balance as of January 1, 2018	\$ 5,417
Provisions for credit and fee loss	7,971
Charge-offs, net of recoveries of \$892	(8,990)
Ending balance as of December 31, 2018	<u>\$ 4,398</u>
Beginning balance as of January 1, 2017	\$ 5,423
Provisions for credit and fee loss	12,361
Charge-offs, net of recoveries of \$840	(12,367)
Ending balance as of December 31, 2017	<u>\$ 5,417</u>
Beginning balance as of January 1, 2016	\$ 5,185
Provisions for credit and fee loss	12,220
Charge-offs, net of recoveries of \$797	(11,982)
Ending balance as of December 31, 2016	<u>\$ 5,423</u>

**(10) Commitments and Contingencies**

The Company is involved in various legal proceedings. Accruals have been made with respect to these matters, where appropriate, which are reflected in the Company's financial statements. The Company may enter into discussions regarding settlement of these matters and may enter into settlement agreements, if it believes settlement is in the best interest of the Company. The matters discussed below, if decided adversely to or settled by the Company, individually or in the aggregate, may result in a liability material to the Company's financial condition and/or results of operations. There are asserted claims against the Company where an unfavorable outcome is considered to be reasonably possible. These claims can generally be categorized as matters related to our merchant business.

The Company's estimates of the possible ranges of losses in excess of any amounts accrued are \$0 to \$20 million for merchant and other matters. The estimated range of reasonably possible losses was based on information currently available and involves elements of judgment and significant uncertainties. As additional information becomes available and the resolution of the uncertainties becomes more apparent, it is possible that actual losses may exceed the high end of the estimated range.

**(11) Subsequent Events**

The Company has evaluated the subsequent events from the balance sheet date through February 15, 2019, the date at which the financial statements were available to be issued. On January 16, 2019, First Data Corporation ("FDC"), the parent company of FDMS, and Fiserv, Inc. ("Fiserv"), entered into an agreement and plan of merger, under which FDC will merge (the "Merger") with a subsidiary of Fiserv.

**Interim unaudited consolidated financial statements of First Data Corporation  
as of June 30, 2019 and for the three and six months ended June, 2019 and 2018**

**FIRST DATA CORPORATION  
CONSOLIDATED STATEMENTS OF INCOME  
(Unaudited)**

<u>(in millions, except per share amounts)</u>	<u>Three months ended June 30,</u>		<u>Six months ended June 30,</u>	
	<u>2019</u>	<u>2018</u>	<u>2019</u>	<u>2018</u>
<b>Revenues:</b>				
Revenues excluding reimbursable items <sup>(a)</sup>	\$ 2,289	\$ 2,244	\$ 4,413	\$ 4,328
Reimbursable items	196	204	388	402
Total revenues	<u>2,485</u>	<u>2,448</u>	<u>4,801</u>	<u>4,730</u>
<b>Expenses:</b>				
Cost of revenues (exclusive of items shown below)	757	751	1,514	1,530
Selling, general, and administrative	688	683	1,348	1,330
Depreciation and amortization	253	255	499	505
Other operating expenses, net	24	17	60	77
Total expenses excluding reimbursable items	<u>1,722</u>	<u>1,706</u>	<u>3,421</u>	<u>3,442</u>
Reimbursable items	196	204	388	402
Total expenses	<u>1,918</u>	<u>1,910</u>	<u>3,809</u>	<u>3,844</u>
Operating profit	<u>567</u>	<u>538</u>	<u>992</u>	<u>886</u>
Interest expense, net	(202)	(234)	(405)	(467)
Loss on debt extinguishment	(2)	(1)	(3)	(1)
Other (expense) income	(8)	2	(35)	(1)
Income before income taxes and equity earnings in affiliates	<u>355</u>	<u>305</u>	<u>549</u>	<u>417</u>
Income tax expense (benefit)	85	(37)	114	(10)
Equity earnings in affiliates	64	60	116	109
Net income	<u>334</u>	<u>402</u>	<u>551</u>	<u>536</u>
Less: Net income attributable to noncontrolling interests and redeemable noncontrolling interest	<u>59</u>	<u>61</u>	<u>107</u>	<u>94</u>
Net income attributable to First Data Corporation	<u>\$ 275</u>	<u>\$ 341</u>	<u>\$ 444</u>	<u>\$ 442</u>
<b>Net income attributable to First Data Corporation per share:</b>				
Basic	\$ 0.29	\$ 0.37	\$ 0.47	\$ 0.48
Diluted	\$ 0.28	\$ 0.36	\$ 0.46	\$ 0.47
<b>Weighted-average common shares outstanding:</b>				
Basic	943	928	940	926
Diluted	971	954	969	950

(a) Includes processing fees, administrative service fees, and other fees charged to merchant alliances accounted for under the equity method of \$48 million and \$96 million for the three and six months ended June 30, 2019, respectively, and \$51 million and \$103 million for the comparable periods in 2018.

See notes to unaudited consolidated financial statements.

**FIRST DATA CORPORATION**  
**CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME**  
(Unaudited)

<u>(in millions)</u>	<u>Three months ended June 30,</u>		<u>Six months ended June 30,</u>	
	<u>2019</u>	<u>2018</u>	<u>2019</u>	<u>2018</u>
Net income	\$ 334	\$ 402	\$ 551	\$ 536
Other comprehensive income (loss):				
Foreign currency translation adjustment	1	(174)	60	(84)
Pension liability adjustments	—	—	2	—
Derivative instruments	(50)	(9)	(78)	—
Total other comprehensive income, net of tax	(49)	(183)	(16)	(84)
Comprehensive income	285	219	535	452
Less: Comprehensive income attributable to noncontrolling interests and redeemable noncontrolling interest	59	53	107	90
Comprehensive income attributable to First Data Corporation	<u>\$ 226</u>	<u>\$ 166</u>	<u>\$ 428</u>	<u>\$ 362</u>

See notes to unaudited consolidated financial statements.

**FIRST DATA CORPORATION**  
**CONSOLIDATED BALANCE SHEETS**  
(Unaudited)

(in millions, except par value)	As of June 30, 2019	As of December 31, 2018
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 544	\$ 555
Accounts receivable, net of allowance for doubtful accounts of \$46 and \$46	2,162	2,217
Settlement assets	23,929	11,423
Prepaid expenses and other current assets	323	319
Total current assets	26,958	14,514
Property and equipment, net of accumulated depreciation of \$1,781 and \$1,647	922	905
Goodwill	17,508	17,460
Customer relationships, net of accumulated amortization of \$5,682 and \$5,509	1,641	1,763
Other intangibles, net of accumulated amortization of \$2,450 and \$2,271	1,935	1,893
Investment in affiliates	1,078	1,055
Other long-term assets	989	737
Total assets	\$ 51,031	\$ 38,327
<b>LIABILITIES AND EQUITY</b>		
Current liabilities:		
Accounts payable and accrued liabilities	\$ 1,727	\$ 1,636
Short-term and current portion of long-term borrowings	1,150	1,170
Settlement obligations	23,929	11,423
Total current liabilities	26,806	14,229
Long-term borrowings	15,811	16,429
Deferred tax liabilities	94	97
Other long-term liabilities	807	528
Total liabilities	43,518	31,283
Commitments and contingencies (See note 13)		
Redeemable noncontrolling interest	92	77
First Data Corporation stockholders' equity:		
Class A Common stock, \$0.01 par value; 1,600 shares authorized as of June 30, 2019 and December 31, 2018, 597 shares and 584 shares issued as of June 30, 2019 and December 31, 2018, respectively; and 577 shares and 568 shares outstanding as of June 30, 2019 and December 31, 2018, respectively	6	6
Class B Common stock, \$0.01 par value; 448 shares authorized as of June 30, 2019 and December 31, 2018; 369 shares issued and outstanding as of June 30, 2019 and December 31, 2018	4	4
Preferred stock, \$0.01 par value; 100 shares authorized as of June 30, 2019 and December 31, 2018; no shares issued and outstanding as of June 30, 2019 and December 31, 2018	—	—
Class A Treasury stock, at cost, 20 shares and 16 shares as of June 30, 2019 and December 31, 2018, respectively	(347)	(251)
Additional paid-in capital	13,933	13,791
Accumulated loss	(7,617)	(8,067)
Accumulated other comprehensive loss	(1,326)	(1,310)
Total First Data Corporation stockholders' equity	4,653	4,173
Noncontrolling interests	2,768	2,794
Total equity	7,421	6,967
Total liabilities and equity	\$ 51,031	\$ 38,327

See notes to unaudited consolidated financial statements.

**FIRST DATA CORPORATION**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
**(Unaudited)**

<u>(in millions)</u>	<u>Six months ended June 30,</u>	
	<u>2019</u>	<u>2018</u>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Net income	\$ 551	\$ 536
Adjustments to reconcile to net cash provided by operating activities:		
Depreciation and amortization (including amortization netted against equity earnings in affiliates and revenues)	525	546
Deferred income taxes	57	(80)
Charges related to other operating expenses, net and other (expense) income	95	78
Loss on debt extinguishment	3	1
Stock-based compensation expense	115	133
Other non-cash and non-operating items, net	4	12
Increase (decrease) in cash, excluding the effects of acquisitions and dispositions, resulting from changes in:		
Accounts receivable, current and long-term	100	50
Other assets, current and long-term	(18)	(1)
Accounts payable and other liabilities, current and long-term	(123)	(139)
Income tax accounts	19	2
Net cash provided by operating activities	<u>1,328</u>	<u>1,138</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Additions to property and equipment	(211)	(139)
Payments to obtain customer contracts, including outlays for conversion, and capitalized systems development costs	(173)	(151)
Acquisitions, net of cash acquired	(73)	(17)
Proceeds from the maturity of net investment hedges	—	26
Other investing activities, net	(29)	(9)
Net cash used in investing activities	<u>(486)</u>	<u>(290)</u>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>		
Short-term borrowings, net	(38)	(364)
Principal payments on long-term debt	(616)	(246)
Payment of taxes related to net settlement of equity awards	(118)	(79)
Distributions and dividends paid to noncontrolling interests and redeemable noncontrolling interest	(133)	(128)
Other financing activities, net	67	33
Net cash used in financing activities	<u>(838)</u>	<u>(784)</u>
Effect of exchange rate changes on cash, cash equivalents, and restricted cash	(1)	(18)
Change in cash, cash equivalents, and restricted cash	<u>3</u>	<u>46</u>
Cash, cash equivalents, and restricted cash at beginning of period <sup>(a)</sup>	583	525
Cash, cash equivalents, and restricted cash at end of period <sup>(a)</sup>	<u>\$ 586</u>	<u>\$ 571</u>
<b>NON-CASH TRANSACTIONS</b>		
Finance leases, net of trade-ins	\$ 2	\$ 15

(a) The Company held \$42 million and \$28 million in restricted cash within “Other long-term assets” in the unaudited consolidated balance sheets as of June 30, 2019 and December 31, 2018, respectively.

See notes to unaudited consolidated financial statements.

**FIRST DATA CORPORATION**  
**CONSOLIDATED STATEMENTS OF EQUITY**  
**(Unaudited)**

(in millions)	First Data Corporation Stockholders										
	Common Stock				Treasury Stock		Additional Paid-In Capital	Accumulated Loss	Accumulated Other Comprehensive Loss	Noncontrolling Interest	Total
	Class A		Class B		Class A						
	Shares	Amount	Shares	Amount	Shares	Amount					
Balance, December 31, 2018	568	\$ 6	369	\$ 4	16	\$ (251)	\$ 13,791	\$ (8,067)	\$ (1,310)	\$ 2,794	\$6,967
Adoption of New Lease Standard	—	—	—	—	—	—	—	6	—	—	6
Dividends and distributions paid to noncontrolling interests <sup>(a)</sup>	—	—	—	—	—	—	—	—	—	(45)	(45)
Net income <sup>(b)</sup>	—	—	—	—	—	—	—	169	—	40	209
Other comprehensive income	—	—	—	—	—	—	—	—	33	—	33
Adjustments to redemption value of redeemable noncontrolling interest	—	—	—	—	—	—	(15)	—	—	—	(15)
Stock compensation expense	—	—	—	—	—	—	64	—	—	—	64
Stock activity under stock compensation plans and other	7	—	—	—	4	(87)	32	—	—	—	(55)
Balance, March 31, 2019	575	\$ 6	369	\$ 4	20	\$ (338)	\$ 13,872	\$ (7,892)	\$ (1,277)	\$ 2,789	\$7,164
Dividends and distributions paid to noncontrolling interests <sup>(a)</sup>	—	—	—	—	—	—	—	—	—	(73)	(73)
Net income <sup>(b)</sup>	—	—	—	—	—	—	—	275	—	52	327
Other comprehensive income	—	—	—	—	—	—	—	—	(49)	—	(49)
Stock compensation expense	—	—	—	—	—	—	59	—	—	—	59
Stock activity under stock compensation plans and other	2	—	—	—	—	(9)	2	—	—	—	(7)
Balance, June 30, 2019	577	\$ 6	369	\$ 4	20	\$ (347)	\$ 13,933	\$ (7,617)	\$ (1,326)	\$ 2,768	\$7,421

- (a) The total distribution presented in the unaudited consolidated statements of equity for the three and six months ended June 30, 2019 excludes \$8 million and \$15 million, respectively, in distributions paid to redeemable noncontrolling interest not included in equity.
- (b) The total net income presented in the unaudited consolidated statements of equity for the three and six months ended June 30, 2019 is \$7 million and \$15 million, respectively, different than the amounts presented in the unaudited consolidated statements of income due to the net income attributable to the redeemable noncontrolling interest not included in equity.

See notes to unaudited consolidated financial statements.

(in millions)	First Data Corporation Stockholders										
	Common Stock				Treasury Stock		Additional Paid-In Capital	Accumulated Loss	Accumulated Other Comprehensive Loss	Noncontrolling Interest	Total
	Class A		Class B		Class A						
	Shares	Amount	Shares	Amount	Shares	Amount					
Balance, December 31, 2017	482	\$ 5	443	\$ 4	11	\$ (149)	\$ 13,495	\$ (9,059)	\$ (1,144)	\$ 2,862	\$6,014
Adoption of New Revenue Standard	—	—	—	—	—	—	—	(13)	—	—	(13)
Dividends and distributions paid to noncontrolling interests(a)	—	—	—	—	—	—	—	—	—	(44)	(44)
Net income(b)	—	—	—	—	—	—	—	101	—	25	126
Other comprehensive income	—	—	—	—	—	—	—	—	95	4	99
Adjustments to redemption value of redeemable noncontrolling interest	—	—	—	—	—	—	(6)	—	—	—	(6)
Stock compensation expense	—	—	—	—	—	—	74	—	—	—	74
Stock activity under stock compensation plans and other	3	—	1	—	3	(53)	15	—	—	—	(38)
Balance, March 31, 2018	485	\$ 5	444	\$ 4	14	\$ (202)	\$ 13,578	\$ (8,971)	\$ (1,049)	\$ 2,847	\$6,212
Dividends and distributions paid to noncontrolling interests(a)	—	—	—	—	—	—	—	—	—	(68)	(68)
Net income(b)	—	—	—	—	—	—	—	341	—	53	394
Other comprehensive income	—	—	—	—	—	—	—	—	(175)	(8)	(183)
Stock compensation expense	—	—	—	—	—	—	59	—	—	—	59
Stock activity under stock compensation plans and other	6	—	(1)	—	1	(18)	11	—	—	—	(7)
Balance, June 30, 2018	491	\$ 5	443	\$ 4	15	\$ (220)	\$ 13,648	\$ (8,630)	\$ (1,224)	\$ 2,824	\$6,407

- (a) The total distribution presented in the unaudited consolidated statements of equity for the three and six months ended June 30, 2018 excludes \$8 million and \$16 million, respectively, in distributions paid to redeemable noncontrolling interest not included in equity.
- (b) The total net income presented in the unaudited consolidated statements of equity for the three and six months ended June 30, 2018 is \$8 million and \$16 million, respectively, different than the amounts presented in the unaudited consolidated statements of income due to the net income attributable to the redeemable noncontrolling interest not included in equity.

See notes to unaudited consolidated financial statements.

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**Note 1: Basis of Presentation and Summary of Significant Accounting Policies**

**Business Description**

First Data Corporation (FDC, First Data, or the Company) is a global leader in commerce-enabling technology and solutions for merchants, financial institutions, and card issuers. The Company provides merchant transaction processing and acquiring; credit, retail, and debit card processing; prepaid and payroll services; check verification; settlement and guarantee services; and statement printing as well as solutions to help clients grow their businesses including the Company's *Clover* line of payment solutions and related applications.

**Basis of Presentation**

The accompanying unaudited consolidated financial statements of the Company should be read in conjunction with the Company's Annual Report on Form 10-K for the year ended December 31, 2018. Significant accounting policies disclosed therein have not changed, except for those disclosed below in the recently adopted section.

The accompanying consolidated financial statements are unaudited; however, in the opinion of management, they include all normal recurring adjustments necessary for a fair presentation of the consolidated financial position of the Company, the consolidated results of the Company's operations, comprehensive income, consolidated cash flows and changes in equity as of and for the periods presented. Results of operations reported for interim periods are not necessarily indicative of results for the entire year due in part to the seasonality of certain business units.

For the six months ended June 30, 2019 the Company recorded expenses of \$23 million for an out of period adjustment, which impacted multiple years, related to correction of a lease classification error. The Company does not believe this adjustment will be material to the financial statements for the year ended December 31, 2019 and it is not material to previously reported financial statements. Effective January 1, 2019, initial direct costs associated with hardware revenue are now recorded in costs of products sold within "Cost of revenues (exclusive of items shown below)".

**Pending Merger with Fiserv, Inc.**

On January 16, 2019, First Data and Fiserv, Inc. (Fiserv), and 300 Holdings, Inc. (Merger Sub), a wholly-owned subsidiary of Fiserv, entered into an agreement and plan of merger (Merger Agreement), pursuant to which the Company will merge into Merger Sub (the Merger). The terms are subject to the conditions set forth in the Merger Agreement, which states at closing each share of the Company's common stock issued and outstanding will be converted into the right to receive 0.303 (Exchange Ratio) of a share of common stock, par value \$0.01 per share, of Fiserv. First Data's equity awards will generally be converted into Fiserv equity awards after giving effect to the Exchange Ratio and appropriate adjustments and be governed by the same terms and conditions as applicable to First Data's corresponding equity awards. For additional information see Form 425 and Form 8-K filed with the Securities and Exchange Commission dated January 16, 2019 and available through the "Investor Relations" portion of our website at <http://investor.firstdata.com>.

On March 15, 2019, First Data, following the declaration by the U.S. Securities and Exchange Commission on March 14, 2019 that the Registration Statement of Fiserv became effective, received the written consent of New Omaha Holdings L.P. ( New Omaha), with respect to 364,441,146 shares of Class B common stock of First Data, to approve (i) the adoption of the Merger Agreement and (ii) the adoption of a resolution regarding certain Merger-related executive officer compensation payments that will or may be made to First Data's named executive officers in connection with the Merger.

As of July 23, 2019, the Company and Fiserv received the final required regulatory approvals and non-objections needed to complete the proposed combination. The Company and Fiserv expect to close the proposed acquisition on or about July 29, 2019.

**Use of Estimates**

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the amounts reported in the unaudited consolidated financial statements and accompanying notes. Actual results could differ from those estimates.



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**Presentation**

Depreciation and amortization, presented as a separate line item on the Company's unaudited consolidated statements of income, does not include amortization of payments for customer contracts which is recorded as contra-revenue within "Revenues excluding reimbursable items." Also not included is amortization related to equity method investments which is netted within "Equity earnings in affiliates."

The following table presents the amounts associated with such amortization for the three and six months ended June 30, 2019 and 2018:

<u>(in millions)</u>	<u>Three months ended June 30,</u>		<u>Six months ended June 30,</u>	
	<u>2019</u>	<u>2018</u>	<u>2019</u>	<u>2018</u>
Amortization of payments for customers contracts	\$ 10	\$ 13	\$ 24	\$ 26
Amortization related to equity method investments	1	7	2	15

**Leases**

Effective January 1, 2019, the Company determines if an arrangement is a lease at inception. Right-of-use (ROU) assets represent the Company's right to use an underlying asset for the lease term and lease liabilities represent the Company's obligation to make lease payments arising from the lease. Operating lease ROU assets and liabilities are recognized at the lease commencement date based on the present value of lease payments over the lease term. In determining the present value of lease payments, the Company uses its incremental borrowing rate based on the information available at the lease commencement date. When applicable, the operating lease ROU asset also includes initial direct costs, lease prepayments, and is reduced by lease incentives received and accrued lease payments. The Company's lease terms include periods covered by an option to extend the lease when it is reasonably certain that the Company will exercise that option as well as periods covered by options to terminate the lease when the Company is reasonably certain not to exercise that option. Lease expense for operating leases is recognized on a straight-line basis over the lease term.

Operating lease ROU assets are included in "Other long-term assets" and the corresponding lease liabilities are included in "Accounts payable and accrued liabilities" and "Other long-term liabilities" in the Company's unaudited consolidated balance sheet. Finance leases ROU assets are included in "Property and equipment" and the corresponding lease liabilities are included in "Short-term and current portion of long-term borrowings", and "Long-term borrowings" in the Company's unaudited consolidated balance sheet.

**Reclassifications**

Certain amounts for prior years have been reclassified to conform with the current year financial statement presentation.

**New Accounting Guidance**

***Recently Adopted Accounting Guidance***

*Leases*

In February 2016, the Financial Accounting Standards Board (FASB) issued guidance which requires lessees to recognize most leases on their balance sheets but recognize expenses in the income statement in a manner similar to historical accounting and adds new presentation and disclosure requirements for both lessees and lessors (New Lease Standard). The accounting guidance for lessors remains largely unchanged. Adoption of the guidance resulted in recognition on the unaudited consolidated balance sheet of assets and liabilities arising out of operating leases. The Company recognizes ROU assets for the underlying leased property during the lease term and recognizes liabilities for the corresponding financial obligation to make lease payments to the lessor.

The Company adopted the new standard on January 1, 2019 using a modified retrospective approach that permits an entity to use the effective date as the date of initial application through the recognition of a cumulative effect adjustment to the opening balance of retained earnings upon adoption. The Company elected the transition package of practical expedients permitted within the standard, which eliminates the requirements to reassess prior conclusions about lease identification, lease classification, and initial

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direct costs. Further, the Company elected a short-term lease exception policy, permitting the Company to not apply the recognition requirements of this standard to leases with terms of 12 months or less, and elected an accounting policy to account for lease and non-lease components as a single lease component for certain classes of assets. The adoption of the new guidance did not have a material impact to the consolidated financial statements. The adoption resulted in a decrease to the January 1, 2019 balance of accumulated loss of \$6 million for the cumulative effect of applying the New Lease Standard. Additionally, adoption of the guidance did not impact any debt covenants or result in significant changes to the internal processes, including the internal control over financial reporting. See note 4 “Leases” in the Company’s unaudited consolidated financial statements in Exhibit 99.4 to this Current Report on Form 8-K.

*Internal-Use Software*

In August 2018, the FASB issued guidance to align the requirements for capitalizing certain implementation costs incurred in a cloud computing arrangement that is a service contract with the requirements for capitalizing implementation costs incurred to develop or obtain internal-use software. The guidance provides flexibility in adoption, allowing for either retrospective adjustment or prospective adjustment for all implementation costs incurred after the date of adoption. The Company adopted the new guidance on a prospective basis on January 1, 2019 with no material impact to the consolidated financial statements.

*Securities and Exchange Commission Disclosure Requirements*

In August 2018, the Securities and Exchange Commission (SEC) issued a final rule that amends certain disclosure requirements that were duplicative, outdated or superseded. In addition, the final rule expanded the financial reporting requirements for changes in stockholders’ equity for interim reporting periods. The Company adopted the new guidance on January 1, 2019 with no material impact to the consolidated financial statements.

*Derivatives and Hedging*

In October 2018, the FASB issued guidance which expands the list of U.S. benchmark interest rates permitted in the application of hedge accounting. The amendments permit the use of the overnight index swap rate based on the Secured Overnight Financing Rate to be used as a U.S. benchmark interest rate for hedge accounting purposes under Topic 815. The Company adopted the new guidance on January 1, 2019 with no material impact to the consolidated financial statements.

*Comprehensive Income*

In February 2018, the FASB issued guidance that permits a reclassification from accumulated other comprehensive income to accumulated loss for stranded tax effects resulting from the Tax Cuts and Jobs Act. The amendments also require certain disclosures about stranded tax effects. The Company adopted the new guidance on January 1, 2019 with no material impact to the consolidated financial statements. The Company did not elect to reclassify the income tax effects of the Tax Cuts and Jobs Act from accumulated other comprehensive income to accumulated loss.

***Recently Issued Accounting Guidance***

*Credit Losses*

In June 2016, the FASB issued guidance that will change the accounting for credit loss impairment. Under the new guidance, companies are required to measure all expected credit losses for financial instruments held at the reporting date based on historical experience, current conditions and reasonable supportable forecasts. This replaces the existing incurred loss model and is applicable to the measurement of credit losses on financial assets measured at amortized cost and applies to some off-balance sheet credit exposures. This new guidance will be effective for public companies for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years. Early adoption is permitted for fiscal years beginning after December 15, 2018. The Company is currently evaluating the impact of the new guidance on its consolidated financial statements.

*Fair Value Measurements*

In August 2018, the FASB issued guidance that modified the disclosures on fair value measurements by removing the requirement to disclose the amount and reasons for transfers between Level 1 and Level 2 of the fair value hierarchy and the policy for timing of such transfers. The new guidance also expands disclosure requirements for Level 3 fair value measurements, primarily focused

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on changes in unrealized gains and losses included in other comprehensive income. The standard is effective for financial statements issued for fiscal years beginning after December 15, 2019, with early adoption permitted. The Company is in the process of evaluating the impact of the guidance on its consolidated financial statements.

**Note 2: Borrowings**

The following table presents borrowings as of June 30, 2019 and December 31, 2018:

<b>(in millions)</b>	<b>As of June 30, 2019</b>	<b>As of December 31, 2018</b>
<b>Short-term borrowings:</b>		
Lines of credit	\$ 117	\$ 224
Senior Secured Revolving Credit Facility	250	250
Receivable securitized loan	542	472
Unamortized deferred financing costs <sup>(a)</sup>	(2)	(3)
Total short-term borrowings	<u>907</u>	<u>943</u>
<b>Current portion of long-term borrowings:</b>		
Senior secured term loan facility due 2023	148	119
Finance lease obligations and other arrangements	95	108
Total current portion of long-term borrowings	<u>243</u>	<u>227</u>
Total short-term and current portion of long-term borrowings	<u>1,150</u>	<u>1,170</u>
<b>Long-term borrowings:</b>		
Senior secured term loan facility due 2022	2,018	2,518
Senior secured term loan facility due 2023	4,542	4,631
Senior secured term loan facility due 2024	3,892	3,892
5.375% Senior secured first lien notes due 2023	1,210	1,210
5.0% Senior secured first lien notes due 2024	1,883	1,883
5.75% Senior secured second lien notes due 2024	2,176	2,176
Unamortized discount and unamortized deferred financing costs <sup>(a)</sup>	(78)	(91)
Finance lease obligations and other arrangements	168	210
Total long-term borrowings <sup>(b)</sup>	<u>15,811</u>	<u>16,429</u>
Total borrowings	<u>\$ 16,961</u>	<u>\$ 17,599</u>

- (a) Unamortized deferred financing costs and certain lenders' fees associated with debt transactions were capitalized as discounts and are amortized on a straight-line basis, which approximates the effective interest method, over the remaining term of the respective debt.
- (b) As of June 30, 2019 and December 31, 2018, the fair value of the Company's long-term borrowings, excluding finance lease obligations and other arrangements, was \$16.0 billion and \$15.7 billion, respectively. The estimated fair value of the Company's long-term borrowings was primarily based on market trading prices and is considered to be a Level 2 measurement.

**Lines of Credit**

As of June 30, 2019 and December 31, 2018, the Company had \$329 million and \$516 million, respectively, available under short-term lines of credit with foreign banks and alliance partners primarily to fund settlement activity. As of June 30, 2019 and December 31, 2018, this included a \$125 million and \$290 million, respectively, committed line of credit for one of the Company's consolidated alliances. The remainder of these arrangements are primarily associated with international operations and are in various functional currencies, the most significant of which are the Australian dollar, the Polish zloty, and the euro. Of the amounts outstanding as of June 30, 2019 and December 31, 2018, \$27 million and \$13 million, respectively, were uncommitted. As of June 30, 2019 and December 31, 2018, the weighted average interest rate associated with foreign lines of credit was 8.9% and 2.6%, respectively.

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**Senior Secured Revolving Credit Facility**

The Company has a \$1.25 billion senior secured revolving credit facility maturing on October 26, 2023. Up to \$250 million of the senior secured revolving credit facility is available for letters of credit, of which \$5 million of letters of credit were issued under the facilities as of June 30, 2019 and December 31, 2018. As of June 30, 2019, \$995 million remained available.

**Senior Unsecured Revolving Credit Facility**

The Company has a \$33 million senior unsecured revolving credit facility maturing December 20, 2019, available for letters of credit. The interest rate associated with the credit facility is 1.85%. As of June 30, 2019 and December 31, 2018, the Company had \$30 million of outstanding letters of credit, for both periods presented.

**Receivable Securitization Agreement**

The Company has a consolidated wholly-owned subsidiary, First Data Receivables, LLC (FDR). FDR and FDC entered into an agreement where certain wholly-owned subsidiaries of FDC agreed to transfer and contribute receivables to FDR. FDR's assets are not available to satisfy obligations of any other entities or affiliates of FDC. FDR's creditors will be entitled, upon its liquidation, to be satisfied out of FDR's assets prior to any assets or value in FDR becoming available to FDC. As of June 30, 2019 and December 31, 2018, the Company transferred \$746 million and \$726 million, respectively, in receivables to FDR as part of the securitization program. As of June 30, 2019, the maximum borrowing capacity, subject to collateral availability, under the agreement is \$600 million. FDR utilized the receivables as collateral in borrowings of \$542 million and \$472 million as of June 30, 2019 and December 31, 2018, respectively. As of June 30, 2019 and December 31, 2018, the receivables held by FDR are recorded within "Accounts receivable, net" in the Company's unaudited consolidated balance sheets. The weighted average interest rate on the securitization facility borrowings was 3.55% and 3.65% as of June 30, 2019 and December 31, 2018, respectively. The term of the receivables securitization agreement is through July 2021.

**Note 3: Revenue Recognition**

**Transaction and Processing Services**

Revenue is comprised of fees charged to the Company's customers, net of interchange fees and assessments charged by the credit card associations and debit networks, which are pass-through charges collected on behalf of the card issuers and payment networks. Interchange fees and assessments charged by credit card and debit networks to the Company's consolidated subsidiaries were as follows for the three and six months ended June 30, 2019 and 2018:

<u>(in millions)</u>	<u>Three months ended June 30,</u>		<u>Six months ended June 30,</u>	
	<u>2019</u>	<u>2018</u>	<u>2019</u>	<u>2018</u>
Interchange fees and assessments	\$ 7,573	\$ 7,164	\$ 14,371	\$ 13,640
Debit network fees	975	903	1,846	1,721

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**Disaggregation of Revenue**

The following tables present revenues disaggregated by primary geographical regions for the three and six months ended June 30, 2019 and 2018:

<u>(in millions)</u>	<b>Three months ended June 30, 2019</b>			<b>Total</b>
	<b>Global Business Solutions</b>	<b>Global Financial Solutions</b>	<b>Network &amp; Security Solutions</b>	
North America	\$ 1,216	\$ 413	\$ 362	\$1,991
EMEA	173	92	4	269
LATAM	103	35	1	139
APAC	55	30	1	86
<b>Total Revenue(a)(b)</b>	<b>\$ 1,547</b>	<b>\$ 570</b>	<b>\$ 368</b>	<b>\$2,485</b>

- (a) See note 7 “Segment Information” for the reconciliation to segment revenues.  
(b) Global Business Solutions includes non wholly-owned entities and Global Financial Solutions includes reimbursable items, which includes postage and customized orders.

<u>(in millions)</u>	<b>Three months ended June 30, 2018</b>			<b>Total</b>
	<b>Global Business Solutions</b>	<b>Global Financial Solutions</b>	<b>Network &amp; Security Solutions</b>	
North America	\$ 1,161	\$ 432	\$ 359	\$1,952
EMEA	172	121	5	298
LATAM	84	37	1	122
APAC	50	25	1	76
<b>Total Revenue(a)(b)</b>	<b>\$ 1,467</b>	<b>\$ 615</b>	<b>\$ 366</b>	<b>\$2,448</b>

- (a) See note 7 “Segment Information” for the reconciliation to segment revenues.  
(b) Global Business Solutions includes non wholly-owned entities and Global Financial Solutions includes reimbursable items, which includes postage and customized orders.

<u>(in millions)</u>	<b>Six months ended June 30, 2019</b>			<b>Total</b>
	<b>Global Business Solutions</b>	<b>Global Financial Solutions</b>	<b>Network &amp; Security Solutions</b>	
North America	\$ 2,304	\$ 823	\$ 713	\$3,840
EMEA	334	177	7	518
LATAM	203	68	1	272
APAC	107	62	2	171
<b>Total Revenue(a)(b)</b>	<b>\$ 2,948</b>	<b>\$ 1,130</b>	<b>\$ 723</b>	<b>\$4,801</b>

- (a) See note 7 “Segment Information” for the reconciliation to segment revenues.  
(b) Global Business Solutions includes non wholly-owned entities and Global Financial Solutions includes reimbursable items, which includes postage and customized orders.

<u>(in millions)</u>	<b>Six months ended June 30, 2018</b>			<b>Total</b>
	<b>Global Business Solutions</b>	<b>Global Financial Solutions</b>	<b>Network &amp; Security Solutions</b>	
North America	\$ 2,194	\$ 855	\$ 710	\$3,759
EMEA	334	233	7	574
LATAM	171	68	1	240
APAC	98	56	3	157
<b>Total Revenue(a)(b)</b>	<b>\$ 2,797</b>	<b>\$ 1,212</b>	<b>\$ 721</b>	<b>\$4,730</b>

- (a) See note 7 “Segment Information” for the reconciliation to segment revenues.  
(b) Global Business Solutions includes non wholly-owned entities and Global Financial Solutions includes reimbursable items, which includes postage and customized orders.

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The following table presents revenues disaggregated by product types for the three and six months ended June 30, 2019 and 2018:

<u>(in millions)</u>	<u>Three months ended June 30,</u>		<u>Six months ended June 30,</u>	
	<u>2019</u>	<u>2018</u>	<u>2019</u>	<u>2018</u>
Transaction and processing services	\$ 2,197	\$ 2,160	\$ 4,239	\$ 4,171
Hardware, Professional Services, and Other	288	288	562	559
<b>Total Revenue</b>	<b>\$ 2,485</b>	<b>\$ 2,448</b>	<b>\$ 4,801</b>	<b>\$ 4,730</b>

**Contract Balances**

*Accounts Receivable*

As of June 30, 2019 and December 31, 2018, long-term accounts receivable, net of allowance for doubtful accounts, included within “Other long-term assets” in the unaudited consolidated balance sheets was \$191 million and \$220 million, respectively.

*Contract Liabilities*

The following table presents the changes in deferred revenue for the six months ended June 30, 2019 and 2018:

<u>(in millions)</u>	<u>Six months ended June 30,</u>	
	<u>2019</u>	<u>2018</u>
Balance, beginning of the period	\$ 298	\$ 344
New Revenue Standard adjustments	—	(39)
Deferral of revenue	81	120
Recognition of unearned revenue	(96)	(109)
Other (primarily foreign currency translation)	(9)	(22)
Balance, end of period	<u>\$ 274</u>	<u>\$ 294</u>

**Remaining Performance Obligation**

Over 95% of the Company’s performance obligations relate to transaction and processing services or hardware that are subject to a practical expedient (e.g., variable consideration) or point in time recognition, respectively. The Company’s contracts with customers typically do not specify fixed revenues to be realized. Certain customer contracts contain fixed minimums and non-refundable up-front fees (fixed price guarantees). However, the amounts which are considered fixed price guarantees are not material to “Total revenues”. The Company’s contracts with Small Medium Business (SMB) merchants within the Global Business Solutions segment typically have a contractual duration of less than one year. Larger contracts in the Global Business Solutions, Global Financial Solutions, and Network & Security Solutions segments typically have contractual terms ranging from one to fifteen years with variability being resolved on a daily basis.

**Costs to Obtain and Fulfill a Contract**

The Company capitalizes incremental costs to obtain new contracts and contract renewals and amortizes these costs on a straight-line basis as a reduction of revenue over the benefit period, which is generally the contract term, unless a commensurate payment is not expected at renewal. As of June 30, 2019 and December 31, 2018, the Company had \$175 million and \$152 million, respectively, of capitalized contract costs included within “Other intangibles, net” on the unaudited consolidated balance sheets. The Company had contra-revenue related to these costs for the three and six months ended June 30, 2019 of \$10 million and \$24 million, respectively, and \$13 million and \$26 million for the three and six months ended June 30, 2018, respectively.

The Company expenses sales commissions as incurred for the Company’s sales commission plans that are paid on recurring monthly revenues, portfolios of existing customers, or have a substantive stay requirement prior to payment.

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The Company capitalizes conversion related costs associated with enabling customers to receive its processing services. These costs are amortized on a straight-line basis over the expected benefit period of seven years based on the related services being provided, and are reflected within “Depreciation and amortization” in the Company’s unaudited consolidated statement of income. As of June 30, 2019 and December 31, 2018, the Company had \$183 million and \$172 million, respectively, of capitalized conversion costs, net of amortization, included within “Other intangibles, net” on the unaudited consolidated balance sheets. The Company had amortization expense related to these costs for the three and six months ended June 30, 2019 of \$9 million and \$18 million, respectively, and \$10 million and \$20 million for the three and six months ended June 30, 2018, respectively.

**Note 4: Leases**

The Company has leases for office space, land, data centers, computer hardware, airplanes, and other equipment. Certain of the Company’s leases include lessee options to extend the lease term from one to 15 years or to terminate the lease prior to its contractual end date.

For leases of properties, the Company uses the practical expedient to account for lease and non-lease components as a single lease component. Accordingly, the financial information presented below includes charges for common area maintenance, utilities, and other miscellaneous costs incurred under property leases. For leases with an initial term of 12 months or less, the Company recognizes lease expense on a straight-line basis over the lease term.

The following table presents supplemental balance sheet information as of June 30, 2019:

<b>(in millions)</b>	<b>As of June 30, 2019</b>
<b>Finance leases</b>	
Assets under finance leases	\$ 542
Accumulated depreciation	(374)
Assets under finance lease, net	\$ 168
Current finance lease liabilities	\$ 63
Non-current finance lease liabilities	127
Total finance lease liabilities	\$ 190
<b>Operating leases</b>	
Operating lease ROU assets	\$ 303
Current operating lease liabilities	\$ 66
Non-current operating lease liabilities	253
Total operating lease liabilities	\$ 319

**Note 5: Stock Compensation Plans**

The Company provides stock-based compensation awards to its employees. Total stock-based compensation expense recognized in the “Cost of revenues”, “Selling, general, and administrative”, and “Other operating expenses, net” line items of the unaudited consolidated statements of income resulting from stock options, non-vested restricted stock awards, and non-vested restricted stock units was as follows for the three and six months ended June 30, 2019 and 2018:

<b>(in millions)</b>	<b>Three months ended June 30,</b>		<b>Six months ended June 30,</b>	
	<b>2019</b>	<b>2018</b>	<b>2019</b>	<b>2018</b>
Cost of revenues	\$ 14	\$ 11	\$ 29	\$ 27
Selling, general, and administrative	45	48	86	106
Other operating expenses, net	—	—	8	—
Total stock-based compensation expense	\$ 59	\$ 59	\$ 123	\$ 133

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The Company's employees are granted restricted stock awards or units on an annual basis, which generally vest 20% on the first anniversary, 40% on the second anniversary, and the remaining 40% on the third anniversary. For the six months ended June 30, 2019, approximately six million restricted stock awards and units were granted at a weighted average price per share of \$24.94. For the six months ended June 30, 2018, approximately ten million restricted stock awards and units were granted at a weighted average price per share of \$15.55.

As of June 30, 2019, there was \$17 million and \$276 million of total unrecognized compensation expense related to non-vested stock options and restricted stock awards and units, respectively.

The Company paid approximately \$21 million and \$23 million for the three months ended June 30, 2019 and 2018, respectively, and \$118 million and \$79 million for the six months ended June 30, 2019 and 2018, respectively, for taxes related to the settlement of vested stock-based awards.

For additional information on the Company's stock compensation plans, see note 5 "Stock Compensation Plans" in "Item 8. Financial Statements and Supplementary Data" in Exhibit 99.2 to this Current Report on Form 8-K.

**Note 6: Net Income Per Share Attributable to First Data Corporation**

Basic net income per share is calculated by dividing net income attributable to FDC by the weighted-average shares outstanding during the period, without consideration for any potential dilutive shares. Diluted net income per share has been computed to give effect to the impact, if any, of shares issuable upon the assumed exercise of the Company's common stock equivalents, which consist of outstanding stock options and unvested restricted stock. The dilutive effect of potentially dilutive securities is reflected in net income per share by application of the treasury stock method. Under the treasury stock method, an increase in the fair value of the Company's common stock can result in a greater dilutive effect from potentially dilutive securities. Both Class A and B common stock are included in the net income per share attributable to First Data Corporation calculation because they have the same rights other than voting.

The following table sets forth the computation of the Company's basic and diluted net income attributable to First Data Corporation per share for the three and six months ended June 30, 2019 and 2018:

<u>(in millions, except per share amounts)</u>	<u>Three months ended June 30,</u>		<u>Six months ended June 30,</u>	
	<u>2019</u>	<u>2018</u>	<u>2019</u>	<u>2018</u>
<b>Numerator:</b>				
Net income attributable to First Data Corporation	\$ 275	\$ 341	\$ 444	\$ 442
<b>Denominator:</b>				
Weighted average shares used in computing net income per share, basic	943	928	940	926
Effect of dilutive securities	28	26	29	24
Total dilutive securities	971	954	969	950
<b>Net income attributable to First Data Corporation per share:</b>				
Basic	\$ 0.29	\$ 0.37	\$ 0.47	\$ 0.48
Diluted(a)	\$ 0.28	\$ 0.36	\$ 0.46	\$ 0.47
Anti-dilutive shares excluded from diluted net income per share	1	7	1	9

(a) Potentially dilutive securities whose effect would have been anti-dilutive are excluded from the computation of diluted earnings per share for all periods presented.



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**Note 7: Segment Information**

For a detailed discussion of the Company's accounting principles and its reportable segments see note 8 "Segment Information" in the Company's consolidated financial statements in "Item 8. Financial Statements and Supplementary Data" and "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations" in Exhibit 99.2 to this Current Report on Form 8-K.

The following tables present the Company's reportable segment results including EBITDA (earnings before net interest expense, income taxes, depreciation, and amortization) for the three and six months ended June 30, 2019 and 2018:

<b>(in millions)</b>	<b>Three months ended June 30, 2019</b>				
	<b>Global Business Solutions</b>	<b>Global Financial Solutions</b>	<b>Network &amp; Security Solutions</b>	<b>Corporate</b>	<b>Total</b>
<b>Revenues:</b>					
Revenues	\$ 1,521	\$ 375	\$ 375	\$ —	\$2,271
Equity earnings in affiliates	6	1	—	—	7
<b>Total segment revenues</b>	<b>\$ 1,527</b>	<b>\$ 376</b>	<b>\$ 375</b>	<b>\$ —</b>	<b>\$2,278</b>
Depreciation and amortization	\$ 126	\$ 83	\$ 28	\$ —	\$ 237
Segment EBITDA	564	157	216	(44)	893

<b>(in millions)</b>	<b>Three months ended June 30, 2018</b>				
	<b>Global Business Solutions</b>	<b>Global Financial Solutions</b>	<b>Network &amp; Security Solutions</b>	<b>Corporate</b>	<b>Total</b>
<b>Revenues:</b>					
Revenues	\$ 1,439	\$ 413	\$ 371	\$ —	\$2,223
Equity earnings in affiliates	10	1	—	—	11
<b>Total segment revenues</b>	<b>\$ 1,449</b>	<b>\$ 414</b>	<b>\$ 371</b>	<b>\$ —</b>	<b>\$2,234</b>
Depreciation and amortization	\$ 125	\$ 88	\$ 30	\$ 3	\$ 246
Segment EBITDA	544	176	193	(49)	864

<b>(in millions)</b>	<b>Six months ended June 30, 2019</b>				
	<b>Global Business Solutions</b>	<b>Global Financial Solutions</b>	<b>Network &amp; Security Solutions</b>	<b>Corporate</b>	<b>Total</b>
<b>Revenues:</b>					
Total revenues	\$ 2,900	\$ 745	\$ 736	\$ —	\$4,381
Equity earnings in affiliates	14	—	—	—	14
<b>Total segment revenues</b>	<b>\$ 2,914</b>	<b>\$ 745</b>	<b>\$ 736</b>	<b>\$ —</b>	<b>\$4,395</b>
Depreciation and amortization	\$ 248	\$ 166	\$ 56	\$ —	\$ 470
Segment EBITDA	1,035	304	411	(103)	1,647

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<b>(in millions)</b>	Six months ended June 30, 2018				
	Global Business Solutions	Global Financial Solutions	Network & Security Solutions	Corporate	Total
Revenues:					
Total revenues	\$ 2,749	\$ 814	\$ 733	\$ —	\$4,296
Equity earnings in affiliates	18	—	—	—	18
Total segment revenues	<u>\$ 2,767</u>	<u>\$ 814</u>	<u>\$ 733</u>	<u>\$ —</u>	<u>\$4,314</u>
Depreciation and amortization	\$ 250	\$ 176	\$ 59	\$ 3	\$ 488
Segment EBITDA	978	342	368	(94)	1,594

The following table presents a reconciliation of reportable segment amounts to the Company's consolidated balances for the three and six months ended June 30, 2019 and 2018:

<b>(in millions)</b>	Three months ended June 30,		Six months ended June 30,	
	2019	2018	2019	2018
Total segment revenues	\$ 2,278	\$ 2,234	\$ 4,395	\$ 4,314
Adjustments:				
Non wholly-owned entities <sup>(a)</sup>	11	10	18	14
Reimbursable items	196	204	388	402
Consolidated revenues	<u>\$ 2,485</u>	<u>\$ 2,448</u>	<u>\$ 4,801</u>	<u>\$ 4,730</u>
Total segment EBITDA	\$ 893	\$ 864	\$ 1,647	\$ 1,594
Adjustments:				
Non wholly-owned entities <sup>(a)</sup>	15	4	28	22
Depreciation and amortization	(253)	(255)	(499)	(505)
Interest expense, net	(202)	(234)	(405)	(467)
Loss on debt extinguishment	(2)	(1)	(3)	(1)
Other items <sup>(b)</sup>	(32)	(15)	(95)	(78)
Stock-based compensation	(59)	(59)	(115)	(133)
Income tax (expense) benefit	(85)	37	(114)	10
Net income attributable to First Data Corporation	<u>\$ 275</u>	<u>\$ 341</u>	<u>\$ 444</u>	<u>\$ 442</u>

- (a) Net adjustment to reflect the Company's proportionate share of the results of the Company's investments in businesses accounted for under the equity method and consolidated subsidiaries with noncontrolling ownership interests. Segment revenue for the Company's significant affiliates is reflected based on the Company's proportionate share of the results of the Company's investments in businesses accounted for under the equity method and consolidated subsidiaries with noncontrolling ownership interests. For other affiliates, the Company includes equity earnings in affiliates, excluding amortization expense, in segment revenue.
- (b) See "Other operating expenses, net" and "Other (expense) income" in the Company's unaudited consolidated statements of income.

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The following table presents a reconciliation of reportable segment depreciation and amortization expense to the amounts in the consolidated balances in the unaudited consolidated statements of cash flows and unaudited consolidated statements of income for the three and six months ended June 30, 2019 and 2018:

<b>(in millions)</b>	<b>Three months ended June 30,</b>		<b>Six months ended June 30,</b>	
	<b>2019</b>	<b>2018</b>	<b>2019</b>	<b>2018</b>
Segment depreciation and amortization	\$ 237	\$ 246	\$ 470	\$ 488
Adjustments for non wholly-owned entities	17	16	31	32
Amortization of payments for customer contracts <sup>(a)</sup>	10	13	24	26
Total consolidated depreciation and amortization per unaudited consolidated statements of cash flows	264	275	525	546
Amortization of equity method investments <sup>(b)</sup>	(1)	(7)	(2)	(15)
Amortization of payments for customer contracts <sup>(a)</sup>	(10)	(13)	(24)	(26)
Total consolidated depreciation and amortization per unaudited consolidated statements of income	\$ 253	\$ 255	\$ 499	\$ 505

(a) Included in “Revenues excluding reimbursable items” as contra-revenue in the Company’s unaudited consolidated statements of income.

(b) Included in “Equity earnings in affiliates” in the Company’s unaudited consolidated statements of income.

**Note 8: Income Taxes**

The following table presents the Company’s income tax expense (benefit) and effective income tax rate for the three and six months ended June 30, 2019 and 2018:

<b>(in millions)</b>	<b>Three months ended June 30,</b>		<b>Six months ended June 30,</b>	
	<b>2019</b>	<b>2018</b>	<b>2019</b>	<b>2018</b>
Income tax expense (benefit)	\$ 85	\$ (37)	\$ 114	\$ (10)
Effective income tax rate	20%	(10)%	17%	(2)%

The effective tax rate for the three and six months ended June 30, 2019 was lower than the U.S. federal statutory rate of 21% primarily due to net tax benefits of \$2 million and \$25 million, respectively, which includes equity compensation related tax benefits, tax benefits associated with prior years’ refund claims, reductions to the liability for unrecognized tax benefits, and no tax expense recorded on income associated with noncontrolling interests from pass through entities. These benefits were partially offset by state income taxes, disallowed tax benefit on certain executive compensation deductions, and current U.S. taxation on certain non-U.S. income.

The effective tax rate for the three and six months ended June 30, 2018 was lower than the U.S. federal statutory rate of 21% primarily due to net tax benefits of \$113 million and \$120 million, respectively, which includes reductions to the liability for unrecognized tax benefits and interest primarily associated with the closure of the 2005 through 2007 federal tax years, equity compensation related tax benefits, tax benefits associated with the 2018 and 2017 research and development credits, remeasurement of certain state and foreign deferred tax assets and liabilities, and no tax expense recorded on income associated with noncontrolling interests from pass through entities. These benefits were partially offset by expenses associated with state income taxes, disallowed tax benefit on certain executive compensation deductions, and current U.S. taxation on certain non-U.S. income.

The Company’s liability for unrecognized tax benefits was approximately \$82 million as of June 30, 2019. The Company believes it is reasonably possible that the liability for unrecognized tax benefits may decrease by up to \$12 million over the next twelve months beginning July 1, 2019 as a result of possible closure of federal tax audits, potential settlements with certain states and foreign countries, and the lapse of the statute of limitations in various state and foreign jurisdictions.

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**Note 9: Redeemable Noncontrolling Interest**

One of the Company's noncontrolling interests is redeemable at the option of the holder and is presented outside of equity and carried at its estimated redemption value.

The following table presents a summary of the redeemable noncontrolling interest activity during the six months ended June 30, 2019 and 2018:

<u>(in millions)</u>	<u>Six months ended June 30,</u>	
	<u>2019</u>	<u>2018</u>
Balance as of January 1,	\$ 77	\$ 72
Distributions	(15)	(16)
Share of income	15	16
Adjustment to redemption value of redeemable noncontrolling interest	15	6
Balance as of June 30,	<u>\$ 92</u>	<u>\$ 78</u>

**Note 10: Other Operating Expenses, Net**

The following table details the components of "Other operating expenses, net" in the unaudited consolidated statements of income for the three and six months ended June 30, 2019 and 2018:

<u>(in millions)</u>	<u>Three months ended June 30,</u>		<u>Six months ended June 30,</u>	
	<u>2019</u>	<u>2018</u>	<u>2019</u>	<u>2018</u>
Restructuring, net	\$ (2)	\$ 16	\$ 1	\$ 48
Deal and deal integration costs	13	(4)	46	3
Merchant matters	11	5	11	25
Other	2	—	2	1
Other operating expenses, net	<u>\$ 24</u>	<u>\$ 17</u>	<u>\$ 60</u>	<u>\$ 77</u>

**Restructuring**

During the three and six months ended June 30, 2019 and 2018, the Company recorded restructuring charges in connection with ongoing expense management initiatives. The Company has ongoing initiatives, which are expected to result in approximately \$10 million of additional costs over the next twelve months. The Company continues to evaluate operating efficiencies and could incur further restructuring costs beyond these initiatives.

A summary of net pretax charges for restructuring costs incurred by segment was as follows for the three and six months ended June 30, 2019 and 2018:

<u>(in millions)</u>	<u>Three months ended June 30,</u>		<u>Six months ended June 30,</u>	
	<u>2019</u>	<u>2018</u>	<u>2019</u>	<u>2018</u>
Global Business Solutions	\$ —	\$ 3	\$ 3	\$ 8
Global Financial Solutions	—	2	—	4
Network & Security Solutions	(1)	4	(1)	20
Corporate	(1)	7	(1)	16
Restructuring, net	<u>\$ (2)</u>	<u>\$ 16</u>	<u>\$ 1</u>	<u>\$ 48</u>

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The following table summarizes the Company's utilization of restructuring accruals for the six months ended June 30, 2019:

<u>(in millions)</u>	<u>Employee Severance</u>	<u>Other</u>	<u>Total</u>
Remaining accrual as of January 1, 2019	\$ 9	\$ 7	\$ 16
Employee expense	1	—	1
Cash payments and other	(7)	(2)	(9)
Remaining accrual as of June 30, 2019	<u>\$ 3</u>	<u>\$ 5</u>	<u>\$ 8</u>

**Deal and Deal Integration Costs**

The Company incurred \$13 million and \$46 million in deal and deal integration costs for the three and six months ended June 30, 2019, respectively, which is primarily related to the previously announced Fiserv transaction.

A summary of net pretax charges for deal and deal integration costs incurred by segment was as follows for the three and six months ended June 30, 2019 and 2018:

<u>(in millions)</u>	<u>Three months ended June 30,</u>		<u>Six months ended June 30,</u>	
	<u>2019</u>	<u>2018</u>	<u>2019</u>	<u>2018</u>
Global Business Solutions	\$ 2	\$ (4)	\$ 4	\$ 2
Global Financial Solutions	—	—	1	—
Network & Security Solutions	1	—	2	—
Corporate	10	—	39	1
Deal and deal integration costs	<u>\$ 13</u>	<u>\$ (4)</u>	<u>\$ 46</u>	<u>\$ 3</u>

**Merchant Matters**

During both the three and six months ended June 30, 2019 the Company incurred \$11 million in costs related to customer matters. During the three and six months ended June 30, 2018 the Company incurred \$5 million and \$25 million, respectively, in costs related to customer matters.

**Note 11: Acquisitions**

In March 2019, the Company acquired 100% of Software Express. Software Express provides technology solutions to merchants, including multi-acquirer EFT, multi-acquirer EFT POS, reconciliation, a payment gateway, and automated recurring payments in Brazil. The purchase price was \$79 million in cash, net of cash acquired, and Software Express is reported as part of the Company's Global Business Solutions segment. The Company is holding \$12 million in restricted cash that will be paid to the seller over a six years period. The acquisition was accounted for as a business combination and the accounting is currently incomplete. The acquisition of Software Express had an immaterial impact on revenue and operating income.

**Note 12: Derivative Financial Instruments**

The Company enters into the following types of derivatives:

- Interest rate contracts: The Company uses a combination of floating to fixed interest rate swaps and collars to mitigate its exposure to interest rate fluctuations on interest payments related to variable rate debt. For interest rate swaps, floating rate payments are received in exchange for fixed-rate payments. For interest rate collar contracts, no payments or receipts are exchanged unless interest rates rise or fall in excess of a predetermined ceiling or floor rate. The Company uses these contracts in a qualifying hedging relationship.
- Foreign exchange contracts: The Company uses cross-currency swaps to protect the net investment in certain foreign subsidiaries and/or affiliates with respect to changes in foreign currency exchange rates. The Company uses these contracts in qualifying hedging relationships.

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The Company held the following derivative instruments as of June 30, 2019 and December 31, 2018:

(in millions)	Notional Currency	As of June 30, 2019			As of December 31, 2018		
		Notional Value	Assets(a)	Liabilities(a)	Notional Value	Assets(a)	Liabilities(a)
<b>Derivatives designated as hedges of net investments in foreign operations:</b>							
Foreign exchange contracts	EUR	915	\$ —	\$ 12	915	\$ —	\$ 19
Foreign exchange contracts	GBP	150	7	—	150	6	—
Foreign exchange contracts	CAD	95	2	—	95	5	—
			9	12		11	19
<b>Derivatives designated as cash flow hedges:</b>							
Interest rate collar contracts(b)	USD	1,500	2	—	2,800	10	—
Interest rate swap contracts (c)	USD	6,500	—	114	7,250	—	44
			2	114		10	44
			\$ 11	\$ 126		\$ 21	\$ 63

- (a) The Company's derivatives are subject to master netting agreements to the extent that the swaps are with the same counterparty. The terms of those agreements require that the Company net settle the outstanding positions at the option of the counterparty upon certain events of default.
- (b) The interest rate collar with a notional value of \$1.3 billion matured in January 2019. The remaining interest rate collar with a notional value of \$1.5 billion will mature in September 2019.
- (c) The interest rate swap with a notional value of \$4.75 billion decreased to \$4.0 billion in June 2019.

The maximum length of time over which the Company is hedging its currency exposure of net investments in foreign operations, through utilization of foreign exchange contracts, is through June 2020.

The maximum length of time over which the Company is hedging its exposure to the variability in future cash flows for forecasted transactions related to the payment of variable interest on existing financial instruments is through May 2021.

As of June 30, 2019, the Company has not posted any collateral related to any of its derivative financial instruments.

**Fair Value Measurement**

The carrying amounts for the Company's derivative financial instruments are the estimated fair value of the financial instruments. The Company's derivatives are not exchange listed and therefore the fair value is estimated under an income approach using Bloomberg analytics models that are based on readily observable market inputs. These models reflect the contractual terms of the derivatives, such as notional value and expiration date, as well as market-based observables including interest and foreign currency exchange rates, yield curves, and the credit quality of the counterparties. The models also incorporate the Company's creditworthiness in order to appropriately reflect non-performance risk. Inputs to the derivative pricing models are generally observable and do not contain a high level of subjectivity and, accordingly, the Company's derivatives were classified within Level 2 of the fair value hierarchy. While the Company believes its estimates result in a reasonable reflection of the fair value of these instruments, the estimated values may not be representative of actual values that could have been realized or that will be realized in the future.

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**Effect of Derivative Instruments on the Unaudited Consolidated Financial Statements**

Derivative gains and (losses) were as follows for the three and six months ended June 30, 2019 and 2018:

<u>(in millions, pretax)</u>	<u>Three months ended June 30,</u>				<u>Six months ended June 30,</u>			
	<u>2019</u>		<u>2018</u>		<u>2019</u>		<u>2018</u>	
	<u>Interest Rate Contracts</u>	<u>Foreign Exchange Contracts</u>	<u>Interest Rate Contracts</u>	<u>Foreign Exchange Contracts</u>	<u>Interest Rate Contracts</u>	<u>Foreign Exchange Contracts</u>	<u>Interest Rate Contracts</u>	<u>Foreign Exchange Contracts</u>
<b>Derivatives designated as hedging instruments:</b>								
Gain recognized in "Foreign currency translation adjustment" in the unaudited consolidated statements of comprehensive income (effective portion)	\$ —	\$ —	\$ —	\$ 86	\$ —	\$ 24	\$ —	\$ 56
(Loss) recognized in "Derivative instruments" in the unaudited consolidated statements of comprehensive income (effective portion)	\$ (50)	\$ —	\$ (9)	\$ —	\$ (78)	\$ —	\$ —	\$ —
<b>Derivatives not designated as hedging instruments:</b>								
(Loss) recognized in "Other (expense) income" in the unaudited consolidated statements of income	\$ —	\$ —	\$ —	\$ (4)	\$ —	\$ —	\$ —	\$ (4)

**Accumulated Derivative Gains and Losses**

The following table summarizes activity in other comprehensive income related to derivative instruments classified as cash flow hedges and net investment hedges held by the Company for the three and six months ended June 30, 2019 and 2018:

<u>(in millions, after tax)</u>	<u>Three months ended June 30,</u>		<u>Six months ended June 30,</u>	
	<u>2019</u>	<u>2018</u>	<u>2019</u>	<u>2018</u>
Accumulated gain included in other comprehensive income at beginning of the period	\$ 162	\$ 105	\$ 165	\$ 121
(Decrease) increase in fair value of derivatives that qualify for hedge accounting, net of tax <sup>(a)</sup> <sup>(b)</sup>	(38)	58	(41)	42
Accumulated gain included in other comprehensive income at end of the period	<u>\$ 124</u>	<u>\$ 163</u>	<u>\$ 124</u>	<u>\$ 163</u>

- (a) (Losses) gains are included in "Derivative instruments" and "Foreign currency translation adjustment" in the unaudited consolidated statements of comprehensive income.
- (b) Net of tax of \$(12) million and \$19 million for the three months ended June 30, 2019 and 2018, respectively, and \$(13) million and \$14 million for the six months ended June 30, 2019 and 2018, respectively.

**Note 13: Commitments and Contingencies**

The Company is involved in various legal proceedings. Accruals have been made with respect to these matters, where appropriate, which are reflected in the Company's unaudited consolidated financial statements. The Company may enter into discussions regarding settlement of these matters and may enter into settlement agreements, if it believes settlement is in the best interest of the Company. The matters discussed below, if decided adversely to or settled by the Company, individually or in the aggregate, may result in liability material to the Company's financial condition and/or results of income.

There are asserted claims against the Company where an unfavorable outcome is considered to be reasonably possible. These claims can generally be categorized in the following areas: (1) patent infringement which results from claims that the Company is using technology that has been patented by another party; (2) merchant matters often associated with alleged processing errors or disclosure issues and claims that one of the subsidiaries of the Company has violated a federal or state requirement regarding credit reporting or collection in connection with its check verification guarantee and collection activities or other claims arising

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from its merchant business; and (3) other matters which may include issues such as employment and indemnification obligations to purchasers of former subsidiaries. The Company's estimates of the possible ranges of losses in excess of any amounts accrued are \$0 to \$5 million for patent infringement, \$0 to \$81 million for merchant matters, and \$0 to \$5 million for other matters, resulting in a total estimated range of possible losses of \$0 to \$91 million for all of the matters described above.

The estimated range of reasonably possible losses is based on information currently available and involves elements of judgment and significant uncertainties. As additional information becomes available and the resolution of the uncertainties becomes more apparent, it is possible that actual losses may exceed the high end of the estimated range.

**Note 14: Investment in Affiliates**

Segment results include the Company's proportionate share of income from affiliates, which consist of unconsolidated investments accounted for under the equity method of accounting. The most significant of these affiliates are related to the Company's merchant bank alliance program.

As of June 30, 2019, the Company had no unconsolidated significant subsidiaries that were not required to be consolidated, but represented more than 20% of the Company's pretax income. As of June 30, 2018, the company had one unconsolidated significant subsidiary that was not required to be consolidated, but represented more than 20% of the Company's pretax income. Summarized unaudited financial information for this affiliate is presented below for the three and six months ended June 30, 2019 and 2018:

<u>(in millions)</u>	<u>Three months ended June 30,</u>		<u>Six months ended June 30,</u>	
	<u>2019</u>	<u>2018</u>	<u>2019</u>	<u>2018</u>
Net operating revenues	\$ 203	\$ 213	\$ 395	\$ 408
Operating expenses	103	102	206	203
Operating income	\$ 100	\$ 111	\$ 189	\$ 205
Net income	\$ 102	\$ 112	\$ 192	\$ 206
FDC equity earnings	41	40	77	73



## UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL STATEMENTS

On July 29, 2019, pursuant to the Agreement and Plan of Merger dated January 16, 2019 (the “Merger Agreement”), by and among Fiserv, Inc. (“Fiserv”), 300 Holdings, Inc. (“Merger Sub”), a wholly owned subsidiary of Fiserv, and First Data Corporation (“First Data”), Merger Sub merged with and into First Data, with First Data as the surviving entity and a wholly owned subsidiary of Fiserv (the “Merger”).

In connection with the Merger, Fiserv entered into a bridge facility commitment letter, pursuant to which it obtained commitments for a 364-day senior unsecured bridge term loan facility in an aggregate principal amount of \$17,000 million. Subsequently, on February 15, 2019, Fiserv entered into a new term loan credit agreement with a syndicate of financial institutions pursuant to which such financial institutions committed to provide Fiserv with a senior unsecured term loan facility in an aggregate principal amount of \$5,000 million. In addition, on June 24, 2019, Fiserv completed an offering of \$9,000 million aggregate principal amount of U.S. dollar-denominated senior notes, and on July 1, 2019, Fiserv completed an offering of approximately \$3,000 million aggregate principal amount of euro- and sterling-denominated senior notes, comprised of €1,500 million and £1,050 million aggregate principal amount of senior notes, respectively. The aggregate principal amount of the commitments under the term loan credit agreement and senior notes replaced the commitments in respect of the bridge facility in accordance with the terms of the bridge facility commitment letter. As a result, there are no bridge facility commitments remaining.

In addition, Fiserv entered into amendments to its existing revolving credit facility (as amended, the “revolving credit facility”) to modify certain provisions in order to facilitate the Merger and borrowings under the existing revolving credit facility in connection with the Merger, increase the commitments available thereunder by \$1,500 million and make certain additional amendments to facilitate the operation of the combined business following the Merger. Refer to Note 4 for a summary of the impact the financing arrangements are expected to have on the short-term and long-term debt balances and refer to Note 5 for details on the impact these financing arrangements are expected to have on the unaudited pro forma condensed combined statements of income.

The following unaudited pro forma condensed combined financial statements give effect to the Merger and include adjustments for the following:

- certain reclassifications to conform historical financial statement presentation of Fiserv and First Data;
- application of the acquisition method of accounting under the provisions of the Financial Accounting Standards Board (FASB) Accounting Standards Codification, which we refer to as ASC 805, “Business Combinations,” to reflect estimated Merger consideration of approximately \$43.6 billion (\$27.3 billion in share consideration based on the closing price of Fiserv common stock on July 22, 2019, and \$16.3 billion (which includes accrued interest and prepayment penalties associated with the First Data debt) in repayment of First Data debt) in exchange for 100% of all outstanding First Data common stock;
- the proceeds and uses of the new and amended financing arrangements entered into and incurred in connection with the Merger; and
- transaction costs in connection with the Merger.

The following unaudited pro forma condensed combined financial statements and related notes are based on and should be read in conjunction with (i) the historical unaudited consolidated financial statements of Fiserv and related notes included in Fiserv’s Quarterly Report on Form 10-Q for the six months ended June 30, 2019, (ii) the historical audited consolidated financial statements of Fiserv and the related notes included in Fiserv’s Annual Report on Form 10-K for the year ended December 31, 2018, (iii) the historical unaudited consolidated financial statements of First Data and related notes included in First Data’s Quarterly Report on Form 10-Q for the six months ended June 30, 2019, which financial statements were filed as Exhibit 99.4 to this Current Report on Form 8-K and (iv) the historical audited consolidated financial statements of First Data and the related notes included in First Data’s Annual Report on Form 10-K for the year ended December 31, 2018, which financial statements were filed as Exhibit 99.2 to this Current Report on Form 8-K.

The unaudited pro forma condensed combined statements of income for the six months ended June 30, 2019 and for the year ended December 31, 2018 combine the historical consolidated statements of income of Fiserv and First Data, giving effect to the Merger as if it had been completed on January 1, 2018. The accompanying unaudited pro forma condensed combined balance sheet as of June 30, 2019 combines the historical consolidated balance sheets of Fiserv and First Data, giving effect to the Merger as if it had been completed on June 30, 2019.

The historical consolidated financial information has been adjusted in the unaudited pro forma condensed combined financial statements to give effect to pro forma events that are (i) directly attributable to the Merger, (ii) factually supportable and (iii) with respect to the unaudited pro forma condensed combined statements of income, expected to have a continuing effect on the combined results of Fiserv and First Data. The unaudited pro forma condensed combined financial statements contained herein do not reflect the costs of any integration activities or benefits that may result from the realization of future cost savings from operating efficiencies, or any other synergies that may result from the Merger.

The statements and related notes are being provided for illustrative purposes only and do not purport to represent what the combined company's actual results of operations or financial position would have been had the Merger been completed on the dates indicated, nor are they necessarily indicative of the combined company's future results of operations or financial position for any future period.

As of the date of this Current Report on Form 8-K, Fiserv has not completed the valuation analysis and calculations in sufficient detail necessary to arrive at the required estimates of the fair market value of the First Data assets to be acquired or liabilities to be assumed, other than a preliminary estimate for intangible assets. Accordingly, apart from intangible assets, First Data assets and liabilities are presented at their respective carrying amounts and should be treated as preliminary values. A final determination of the fair value of First Data's assets and liabilities, including intangible assets with both indefinite or finite lives, will be based on First Data's actual assets and liabilities as of the closing date. In addition, the value of the total Merger consideration will be determined based on (i) the closing price of Fiserv common stock on the closing date and the number of issued and outstanding shares of First Data common stock immediately prior to the closing, and (ii) the outstanding debt repaid on the closing date, which may differ from the amount of debt outstanding as of June 30, 2019. Actual adjustments may differ from the amounts reflected in the unaudited pro forma condensed combined financial statements, and the differences may be material.

Fiserv has not identified all adjustments necessary to conform First Data's accounting policies to Fiserv's accounting policies. As more information becomes available, Fiserv will perform a more detailed review of First Data's accounting policies. As a result of that review, differences could be identified between the accounting policies of the two companies that, when conformed, could have a material impact on the combined company's financial information. Further, there were no material intercompany transactions and balances between Fiserv and First Data as of and for the six months ended June 30, 2019 and for the year ended December 31, 2018.

As a result of the foregoing, the pro forma adjustments are preliminary and are subject to change as additional information becomes available and as additional analysis is performed. The preliminary pro forma adjustments have been made solely for the purpose of providing the unaudited pro forma condensed combined financial statements. Fiserv estimated the fair value of First Data's assets and liabilities based on a preliminary valuation analysis, due diligence information, information presented in First Data's SEC filings and other publicly available information.

A final determination of the fair value of First Data's assets acquired and liabilities assumed will be performed based on First Data's actual assets and liabilities as of the closing date. Any changes in the fair values of the net assets or total purchase consideration as compared with the information shown in the unaudited pro forma condensed combined financial statements may change the amount of the total purchase consideration allocated to goodwill and other assets and liabilities and may impact the combined company statement of income. The final purchase consideration allocation may be materially different than the preliminary purchase consideration allocation presented in the unaudited pro forma condensed combined financial statements.

**FISERV, INC.**  
**UNAUDITED PRO FORMA CONDENSED COMBINED BALANCE SHEET**  
**As of June 30, 2019**  
*(in millions)*

	Historical Fiserv	Historical First Data	Pro Forma Reclassification Adjustments (Note 2)	Pro Forma Adjustments	(Note 4)	Pro Forma Condensed Combined
<b>Assets</b>						
Cash and cash equivalents	\$ 8,441	\$ 544	\$ —	\$ (7,765)	(a)	\$ 1,220
Trade accounts receivable, net	989	2,162	—	—		3,151
Prepaid expenses and other current assets	779	323	—	—		1,102
Settlement assets	—	23,929	—	—		23,929
Total current assets	10,209	26,958	—	(7,765)		29,402
Property and equipment, net	418	922	—	—		1,340
Intangible assets, net	2,102	—	3,218	14,182	(b)	19,502
Goodwill	5,702	17,508	—	11,883	(c)	35,093
Customer relationships, net	—	1,641	(1,641)	—		—
Other intangibles, net	—	1,935	(1,935)	—		—
Contract costs, net	445	—	183	—		628
Investment in affiliates	—	1,078	(1,078)	—		—
Other long-term assets	764	989	1,253	—		3,006
Total assets	<u>\$ 19,640</u>	<u>\$ 51,031</u>	<u>\$ —</u>	<u>\$ 18,300</u>		<u>\$ 88,971</u>
<b>Liabilities and Shareholders' Equity</b>						
Accounts payable and accrued expenses	\$ 1,685	\$ 1,727	\$ (115)	\$ (146)	(a)	\$ 3,151
Short-term and current maturities of long-term debt	9	1,150	—	(146)	(d)	1,013
Contract liabilities	360	—	115	—		475
Settlement obligations	—	23,929	—	—		23,929
Total current liabilities	2,054	26,806	—	(292)		28,568
Long-term debt	13,747	15,811	—	(7,169)	(d)	22,389
Deferred income taxes	713	94	—	3,262	(e)	4,069
Long-term contract liabilities	106	—	159	—		265
Other long-term liabilities	474	807	(159)	—		1,122
Total liabilities	<u>17,094</u>	<u>43,518</u>	<u>—</u>	<u>(4,199)</u>		<u>56,413</u>
Commitments and contingencies						
Redeemable noncontrolling interest	—	92	—	—		92
<b>Shareholders' equity:</b>						
Total Fiserv equity	2,546	—	—	27,152	(f)	29,698
Total First Data equity	—	4,653	—	(4,653)	(f)	—
Total shareholders' equity	2,546	4,653	—	22,499		29,698
Noncontrolling interests	—	2,768	—	—		2,768
Total equity	2,546	7,421	—	22,499	(f)	32,466
Total liabilities and equity	<u>\$ 19,640</u>	<u>\$ 51,031</u>	<u>\$ —</u>	<u>\$ 18,300</u>		<u>\$ 88,971</u>

See accompanying Notes to the Unaudited Pro Forma Condensed Combined Financial Statements.

**FISERV, INC.**  
**UNAUDITED PRO FORMA CONDENSED COMBINED STATEMENT OF INCOME**  
**For the six months ended June 30, 2019**  
*(in millions, except per share data)*

	Historical Fiserv	Historical First Data	Pro Forma Reclassification Adjustments (Note 2)	Pro Forma Adjustments	(Note 5)	Pro Forma Condensed Combined	(Note 5)
<b>Revenue:</b>							
Revenues excluding reimbursable items	\$ —	\$ 4,413	\$ (4,413)	\$ —		\$ —	
Processing and services	2,621	—	3,856	—		6,477	
Product	393	—	945	—		1,338	
Reimbursable items	—	388	(388)	—		—	
Total revenue	<u>3,014</u>	<u>4,801</u>	<u>—</u>	<u>—</u>		<u>7,815</u>	
<b>Expenses:</b>							
Cost of revenues (exclusive of items shown below)	—	1,514	(1,514)	—		—	
Cost of processing and services	1,241	—	1,729	753	(a)	3,723	
Cost of product	342	—	598	—		940	
Selling, general and administrative	684	1,348	134	(79)	(b)	2,087	
Gain on sale of business	(10)	—	—	—		(10)	
Depreciation and amortization	—	499	(499)	—		—	
Other operating expenses, net	—	60	(60)	—		—	
Reimbursable items	—	388	(388)	—		—	
Total expenses	<u>2,257</u>	<u>3,809</u>	<u>—</u>	<u>674</u>		<u>6,740</u>	
Operating income	757	992	—	(674)		1,075	
Interest expense	(123)	—	123	—		—	
Interest expense, net	—	(405)	(116)	119	(c)	(402)	
Debt financing activities	(96)	—	—	96	(b)	—	
Loss on early debt extinguishment	—	(3)	—	—		(3)	
Non-operating income	11	—	(11)	—		—	
Other income (expense)	—	(35)	4	—		(31)	
Income before income taxes and income (loss) from investments in unconsolidated affiliates	549	549	—	(459)		639	
Income tax provision	(91)	(114)	—	106	(d)	(99)	
Income (loss) from investments in unconsolidated affiliates	(10)	116	—	—		106	
Net income	<u>448</u>	<u>551</u>	<u>—</u>	<u>(353)</u>		<u>646</u>	
Less: Net income attributable to noncontrolling interests and redeemable noncontrolling interest	—	107	—	(113)	(a)	(6)	
Net income attributable to shareholders	<u>\$ 448</u>	<u>\$ 444</u>	<u>\$ —</u>	<u>\$ (240)</u>		<u>\$ 652</u>	
Net income attributable to shareholders per share – basic	\$ 1.14	\$ 0.47				\$ 0.96	
Net income attributable to shareholders per share – diluted	\$ 1.12	\$ 0.46				\$ 0.95	
<b>Shares used in computing net income per share:</b>							
Basic	392.1	940				678.7	(e)
Diluted	399.4	969				686.0	(e)

See accompanying Notes to the Unaudited Pro Forma Condensed Combined Financial Statements.

**FISERV, INC.**  
**UNAUDITED PRO FORMA CONDENSED COMBINED STATEMENT OF INCOME**  
**For the year ended December 31, 2018**  
*(in millions, except per share data)*

	Historical Fiserv	Historical First Data	Pro Forma Reclassification Adjustments (Note 2)	Pro Forma Adjustments	(Note 5)	Pro Forma Condensed Combined	(Note 5)
<b>Revenue:</b>							
Revenues excluding reimbursable items	\$ —	\$ 8,679	\$ (8,679)	\$ —		\$ —	
Processing and services	4,975	—	7,606	—		12,581	
Product	848	—	1,892	—		2,740	
Reimbursable items	—	819	(819)	—		—	
Total revenue	<u>5,823</u>	<u>9,498</u>	<u>—</u>	<u>—</u>		<u>15,321</u>	
<b>Expenses:</b>							
Cost of revenues (exclusive of items shown below)	—	3,005	(3,005)	—		—	
Cost of processing and services	2,324	—	3,494	1,581	(a)	7,399	
Cost of product	745	—	1,187	—		1,932	
Selling, general and administrative	1,228	2,651	271	—		4,150	
Gain on sale of businesses	(227)	—	(197)	—		(424)	
Depreciation and amortization	—	1,009	(1,009)	—		—	
Other operating expenses, net	—	119	(119)	—		—	
Reimbursable items	—	819	(819)	—		—	
Total expenses	<u>4,070</u>	<u>7,603</u>	<u>(197)</u>	<u>1,581</u>		<u>13,057</u>	
Operating income	1,753	1,895	197	(1,581)		2,264	
Interest expense	(193)	—	193	—		—	
Interest expense, net	—	(917)	(189)	353	(c)	(753)	
Loss on early debt extinguishment	(14)	(153)	—	—		(167)	
Non-operating income	9	—	(9)	—		—	
Other income (expense)	—	201	(192)	—		9	
Income before income taxes and income from investments in unconsolidated affiliates	1,555	1,026	—	(1,228)		1,353	
Income tax provision	(378)	(49)	—	283	(d)	(144)	
Income from investments in unconsolidated affiliates	10	221	—	—		231	
Net income	<u>1,187</u>	<u>1,198</u>	<u>—</u>	<u>(945)</u>		<u>1,440</u>	
Less: Net income attributable to noncontrolling interests and redeemable noncontrolling interest	—	193	—	(196)	(a)	(3)	
Net income attributable to shareholders	<u>\$ 1,187</u>	<u>\$ 1,005</u>	<u>\$ —</u>	<u>\$ (749)</u>		<u>\$ 1,443</u>	
Net income attributable to shareholders per share – basic	\$ 2.93	\$ 1.08				\$ 2.08	
Net income attributable to shareholders per share – diluted	\$ 2.87	\$ 1.05				\$ 2.06	
<b>Shares used in computing net income per share:</b>							
Basic	405.5	929				692.1	(e)
Diluted	413.7	957				700.3	(e)

See accompanying Notes to the Unaudited Pro Forma Condensed Combined Financial Statements.

**1. Basis of pro forma presentation**

The accompanying unaudited pro forma condensed combined financial statements and related notes were prepared in accordance with Article 11 of Regulation S-X. The unaudited pro forma condensed combined statements of income for the six months ended June 30, 2019 and for the year ended December 31, 2018 combine the historical consolidated statements of income of Fiserv and First Data, giving effect to the Merger as if it had been completed on January 1, 2018. The accompanying unaudited pro forma condensed combined balance sheet as of June 30, 2019 combines the historical consolidated balance sheets of Fiserv and First Data, giving effect to the Merger as if it had been completed on June 30, 2019.

Fiserv's and First Data's historical financial statements were prepared in accordance with U.S. GAAP and presented in U.S. dollars. As discussed in Note 2, certain reclassifications were made to align Fiserv's and First Data's financial statement presentation. Fiserv has not identified all adjustments necessary to conform First Data's accounting policies to Fiserv's accounting policies. As more information becomes available, Fiserv will perform a more detailed review of First Data's accounting policies. As a result of that review, differences could be identified between the accounting policies of the two companies that, when conformed, could have a material impact on the combined company's financial information. Further, there were no material intercompany transactions and balances between Fiserv and First Data as of and for the six months ended June 30, 2019 and for the year ended December 31, 2018.

The accompanying unaudited pro forma condensed combined financial statements and related notes were prepared using the acquisition method of accounting under the provisions of ASC 805, with Fiserv considered the acquirer of First Data. ASC 805 requires, among other things, that the assets acquired and liabilities assumed in a business combination be recognized at their fair values as of the acquisition date. For purposes of the unaudited pro forma condensed combined balance sheet, the purchase consideration has been allocated to the assets acquired and liabilities assumed of First Data based upon management's preliminary estimate of their fair values as of June 30, 2019. Fiserv has not completed the valuation analysis and calculations in sufficient detail necessary to arrive at the required estimates of the fair market value of the First Data assets acquired or liabilities assumed, other than a preliminary estimate for intangible assets. Accordingly, apart from intangible assets, First Data assets and liabilities are presented at their respective carrying amounts and should be treated as preliminary values. Any differences between the fair value of the consideration transferred and the fair value of the assets acquired and liabilities assumed will be recorded as goodwill. Accordingly, the purchase price allocation and related adjustments reflected in these unaudited pro forma condensed combined financial statements are preliminary and subject to revision based on a final determination of fair value.

All amounts presented within these Notes to the Unaudited Pro Forma Condensed Combined Financial Statements are in millions, except per share data.

**2. First Data and Fiserv reclassification adjustments**

During the preparation of these unaudited pro forma condensed combined financial statements, management performed a preliminary analysis of First Data's financial information to identify differences in accounting policies as compared to those of Fiserv and differences in financial statement presentation as compared to the presentation of Fiserv. At the time of preparing these unaudited pro forma condensed combined financial statements, Fiserv had not identified all adjustments necessary to conform First Data's accounting policies to Fiserv's accounting policies. The below adjustments represent Fiserv's best estimates based upon the information currently available to Fiserv and could be subject to change once more detailed information is available.

Refer to the table below for a summary of reclassification adjustments made to present First Data's balance sheet as of June 30, 2019 to conform with that of Fiserv:

<b>Balance Sheet</b> <b>As of June 30, 2019 (in millions)</b>	<b>(a)</b>	<b>(b)</b>	<b>(c)</b>	<b>(d)</b>	<b>(e)</b>	<b>(f)</b>	<b>Pro Forma Reclassification Adjustments</b>
Intangible assets, net	\$ 1,641	\$ 1,577	\$ —	\$ —	\$ —	\$ —	\$ 3,218
Customer relationships, net	(1,641)	—	—	—	—	—	(1,641)
Other intangibles, net	—	(1,577)	(183)	(175)	—	—	(1,935)
Contract costs, net	—	—	183	—	—	—	183
Investment in affiliates	—	—	—	—	(1,078)	—	(1,078)
Other long-term assets	—	—	—	175	1,078	—	1,253
Accounts payable and accrued expenses	—	—	—	—	—	(115)	(115)
Contract liabilities	—	—	—	—	—	115	115
Long-term contract liabilities	—	—	—	—	—	159	159
Other long-term liabilities	—	—	—	—	—	(159)	(159)

- (a) Represents a reclassification of customer relationship intangible assets to conform with Fiserv's presentation.  
(b) Represents a reclassification of other intangible assets to conform with Fiserv's presentation.  
(c) Represents a reclassification of contract costs to conform with Fiserv's presentation.  
(d) Represents a reclassification of contract assets to conform with Fiserv's presentation.  
(e) Represents a reclassification of investment in affiliates to conform with Fiserv's presentation.  
(f) Represents a reclassification of current and long-term contract liabilities to conform with Fiserv's presentation.

Refer to the table below for a summary of reclassification adjustments made to Fiserv's and First Data's statement of income for the six months ended June 30, 2019 to conform presentation:

<b>Statement of Income</b> <b>For the six months ended June 30, 2019 (in millions)</b>	<b>(a)</b>	<b>(b)</b>	<b>(c)</b>	<b>(d)</b>	<b>(e)</b>	<b>(f)</b>	<b>(g)</b>	<b>(h)</b>	<b>Pro Forma Reclassification Adjustments</b>
Revenues excluding reimbursable items	\$(4,413)	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$ (4,413)
Processing and services	3,856	—	—	—	—	—	—	—	3,856
Product	557	388	—	—	—	—	—	—	945
Reimbursable items	—	(388)	—	—	—	—	—	—	(388)
Cost of revenues (exclusive of items shown below)	—	—	(1,514)	—	—	—	—	—	(1,514)
Cost of processing and services	—	—	1,322	—	396	11	—	—	1,729
Cost of product	—	—	192	388	18	—	—	—	598
Selling, general and administrative	—	—	—	—	85	49	—	—	134
Depreciation and amortization	—	—	—	—	(499)	—	—	—	(499)
Other operating expenses, net	—	—	—	—	—	(60)	—	—	(60)
Reimbursable items	—	—	—	(388)	—	—	—	—	(388)
Interest expense	—	—	—	—	—	—	123	—	123
Interest expense, net	—	—	—	—	—	—	(116)	—	(116)
Non-operating income	—	—	—	—	—	—	(7)	(4)	(11)
Other income (expense)	—	—	—	—	—	—	—	4	4

- (a) Represents a reclassification of First Data revenue to processing and services revenue and product revenue to conform with Fiserv's presentation.  
(b) Represents a reclassification of First Data reimbursable items recorded in revenue to conform with Fiserv's presentation.  
(c) Represents a reclassification of First Data cost of revenues to conform with Fiserv's presentation.  
(d) Represents a reclassification of First Data reimbursable items recorded in expense to conform with Fiserv's presentation.  
(e) Represents a reclassification of First Data depreciation and amortization to conform with Fiserv's presentation.  
(f) Represents a reclassification of First Data other operating expenses, net to conform with Fiserv's presentation.  
(g) Represents a net presentation of Fiserv's and First Data's interest income and expense amounts.  
(h) Represents a presentation of Fiserv non-operating income within other income (expense).

Refer to the table below for a summary of reclassification adjustments made to Fiserv's and First Data's statement of income for the year ended December 31, 2018 to conform presentation:

Statement of Income For the year ended December 31, 2018 (in millions)	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	Pro Forma Reclassification Adjustments
Revenues excluding reimbursable items	\$ (8,679)	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$ (8,679)
Processing and services	7,606	—	—	—	—	—	—	—	—	7,606
Product	1,073	819	—	—	—	—	—	—	—	1,892
Reimbursable items	—	(819)	—	—	—	—	—	—	—	(819)
Cost of revenues (exclusive of items shown below)	—	—	(3,005)	—	—	—	—	—	—	(3,005)
Cost of processing and services	—	—	2,673	—	801	20	—	—	—	3,494
Cost of product	—	—	332	819	36	—	—	—	—	1,187
Selling, general and administrative	—	—	—	—	172	99	—	—	—	271
Gain on sale of businesses	—	—	—	—	—	—	(197)	—	—	(197)
Depreciation and amortization	—	—	—	—	(1,009)	—	—	—	—	(1,009)
Other operating expenses, net	—	—	—	—	—	(119)	—	—	—	(119)
Reimbursable items	—	—	—	(819)	—	—	—	—	—	(819)
Interest expense	—	—	—	—	—	—	—	193	—	193
Interest expense, net	—	—	—	—	—	—	—	(189)	—	(189)
Non-operating income	—	—	—	—	—	—	—	(4)	(5)	(9)
Other income (expense)	—	—	—	—	—	—	(197)	—	5	(192)

- (a) Represents a reclassification of First Data revenue to processing and services revenue and product revenue to conform with Fiserv's presentation.
- (b) Represents a reclassification of First Data reimbursable items recorded in revenue to conform with Fiserv's presentation.
- (c) Represents a reclassification of First Data cost of revenues to conform with Fiserv's presentation.
- (d) Represents a reclassification of First Data reimbursable items recorded in expense to conform with Fiserv's presentation.
- (e) Represents a reclassification of First Data depreciation and amortization to conform with Fiserv's presentation.
- (f) Represents a reclassification of First Data other operating expenses, net to conform with Fiserv's presentation.
- (g) Represents a reclassification of First Data gain on sale of businesses to conform with Fiserv's presentation.
- (h) Represents a net presentation of Fiserv's and First Data's interest income and expense amounts.
- (i) Represents a presentation of Fiserv non-operating income within other income (expense).

### 3. Preliminary purchase price allocation

Refer to the table below for the preliminary calculation of estimated Merger consideration:

Preliminary calculation of estimated Merger consideration (in millions)	Note	Amount
<b>Share consideration</b>		
Shares of First Data as of June 30, 2019	(i)	945.8
Exchange ratio		0.303
Fiserv common stock to be issued		286.6
Share price on July 22, 2019	(i)	<u>\$95.30</u>
Estimated value of Fiserv common shares to be issued to First Data stockholders pursuant to the Merger Agreement		<u>\$27,313</u>
Estimated repayment of First Data's debt (including prepayment penalties and accrued interest) as of June 30, 2019	(ii)	<u>16,328</u>
Preliminary fair value of estimated total Merger consideration	(iii)	<u>\$43,641</u>

- (i) Under the terms of the Merger Agreement, at close, First Data stockholders received a fixed exchange ratio of 0.303 of a share of Fiserv common stock, par value \$0.01 per share, for each share of First Data common stock. For purposes of the unaudited pro forma condensed combined balance sheet, the estimated Merger consideration is based on the total First Data common stock issued and outstanding as of June 30, 2019 and the closing price per share of Fiserv common stock on July 22, 2019. A 10% change in the closing price per share of Fiserv common stock would increase or decrease the estimated fair value of share consideration transferred by approximately \$2.7 billion.



- (ii) On the closing date, all of the outstanding historical debt of First Data (excluding debt reflected as receivable securitized loans, finance lease obligations and other arrangements and lines of credit) was repaid in connection with the Merger. For purposes of the unaudited pro forma condensed combined balance sheet, based on the amounts of First Data debt reflected as outstanding on the First Data balance sheet as of June 30, 2019, the assumed closing date for purposes of the unaudited pro forma condensed combined balance sheet, a total of \$16,039 million was estimated to be repaid, comprising short-term debt of \$396 million and long-term debt of \$15,643 million. In addition, prepayment penalties and accrued interest of approximately \$143 million and \$146 million, respectively, associated with the First Data debt were estimated to be paid in connection with such repayment. Amounts outstanding under the various First Data financing arrangements changed between the date of the First Data balance sheet as of June 30, 2019 used for purposes of these unaudited pro forma condensed combined financial statements and the closing date. Accordingly, the amount of First Data debt actually repaid on the closing date differed from the amount estimated to be repaid as of June 30, 2019.
- (iii) In connection with the Merger, Fiserv agreed to convert certain equity awards held by First Data employees into Fiserv equity awards. At this time, Fiserv has not completed its analysis and calculations related to eligible employees and vesting schedules in sufficient detail necessary to arrive at fair value; however, the impact is not expected to be material in the context of the transaction. Any corresponding adjustment may result in the recognition of an incremental component of purchase consideration transferred, which is not currently reflected in the preliminary estimate of Merger consideration.

The preliminary estimated Merger consideration as shown in the table above is allocated to the tangible and intangible assets acquired and liabilities assumed of First Data based on their preliminary estimated fair values. As mentioned above in Note 1, Fiserv has not completed the valuation analysis and calculations in sufficient detail necessary to arrive at the required estimates of the fair market value of the First Data assets acquired or liabilities assumed, other than a preliminary estimate for intangible assets. Accordingly, assets acquired and liabilities assumed are presented at their respective carrying amounts and should be treated as preliminary values. The fair value assessments are preliminary and are based upon available information and certain assumptions, which Fiserv believes are reasonable under the circumstances. Actual results may differ materially from the assumptions within the unaudited pro forma condensed combined financial statements.

The following table sets forth a preliminary allocation of the estimated Merger consideration to the fair value of the identifiable tangible and intangible assets acquired and liabilities assumed of First Data using First Data's unaudited consolidated balance sheet as of June 30, 2019, with the excess recorded to goodwill:

<b>Description (in millions)</b>	<b>Amount</b>
Preliminary fair value of estimated total Merger consideration	<u>\$ 43,641</u>
<b>Assets</b>	
Cash and cash equivalents	544
Trade accounts receivable	2,162
Prepaid expenses and other current assets	323
Settlement assets	23,929
Property and equipment	922
Intangible assets	17,400
Contract costs	183
Other long-term assets	2,242
Total assets	<u>47,705</u>
<b>Liabilities</b>	
Accounts payable and accrued expenses	(1,466)
Short-term other arrangements and finance lease obligations	(754)
Contract liabilities	(115)
Settlement obligations	(23,929)
Long-term other arrangements and finance lease obligations	(168)
Deferred income taxes	(3,356)
Long-term contract liabilities	(159)
Other long-term liabilities	(648)
Total liabilities	<u>(30,595)</u>
Redeemable noncontrolling interest	(92)
Noncontrolling interests	(2,768)
Less: Net assets	<u>14,250</u>
Goodwill	<u>\$ 29,391</u>

#### 4. Adjustments to the unaudited pro forma condensed combined balance sheet

Refer to the items below for a reconciliation of the pro forma adjustments reflected in the unaudited pro forma condensed combined balance sheet:

(a) Reflects the sources and uses of funds relating to the Merger as follows:

<u>Description (in millions)</u>	<u>Note</u>	<u>Amount</u>
<b>Sources:</b>		
Proceeds from senior notes offering completed on June 24, 2019	(i)	\$ 9,000
Proceeds from senior notes offering completed on July 1, 2019	(i)	3,000
Proceeds from term loans	(i)	5,000
Less: Capitalized debt issuance costs and original issue discount	(ii)	<u>(149)</u>
Total proceeds from term loans and senior notes		16,851
<b>Uses:</b>		
Transaction costs	(iii)	(161)
Estimated repayment of First Data debt (including prepayment penalties and accrued interest) as of June 30, 2019	(iv)	<u>(16,328)</u>
		<u>(16,489)</u>
Less: Net proceeds from senior notes offering completed on June 24, 2019	(v)	<u>(8,127)</u>
Pro forma net adjustment to cash and cash equivalents		<u>\$ (7,765)</u>

- (i) To fund amounts payable in connection with the Merger, Fiserv incurred borrowings, which we refer to as the term loans, in an aggregate principal amount of \$5,000 million under its new term loan credit agreement that was entered into on February 15, 2019 with a syndicate of financial institutions. In addition, Fiserv issued new senior debt securities, which we refer to as the senior notes, in an aggregate principal amount of approximately \$12,000 million.
- (ii) Reflects debt issuance costs and original issue discount of approximately \$149 million incurred in connection with the approximately \$12,000 million issuance of senior notes, the \$5,000 million incurrence of term loans, and the \$1,500 million increase in commitments to Fiserv's existing revolving credit facility. Does not include estimated cash paid for transaction costs to be incurred as of June 30, 2019, including bridge facility financing fees. Also does not include prepayment penalties associated with the First Data debt.
- (iii) Reflects the remaining estimated cash paid for transaction costs to be incurred as of June 30, 2019 by Fiserv and First Data, including bridge facility financing fees. Does not include prepayment penalties associated with the First Data debt.
- (iv) On the closing date, all of the outstanding historical debt of First Data (excluding debt reflected as receivable securitized loans, finance lease obligations and other arrangements and lines of credit) was repaid in connection with the Merger. For purposes of the unaudited pro forma condensed combined balance sheet, based on the amounts of First Data debt reflected as outstanding on the First Data balance sheet as of June 30, 2019, the assumed closing date for purposes of the unaudited pro forma condensed combined balance sheet, a total of \$16,039 million was estimated to be repaid, comprising short-term debt of \$396 million and long-term debt of \$15,643 million. In addition, prepayment penalties and accrued interest of approximately \$143 million and \$146 million, respectively, associated with the First Data debt were estimated to be paid in connection with such repayment. Amounts outstanding under the various First Data financing arrangements changed between the date of the First Data balance sheet as of June 30, 2019 used for purposes of these unaudited pro forma condensed combined financial statements and the closing date. Accordingly, the amount of First Data debt actually repaid on the closing date differed from the amount estimated to be repaid as of June 30, 2019.
- (v) On June 24, 2019, Fiserv completed an offering of \$9,000 million aggregate principal amount of senior notes. A portion of the net proceeds from the aforementioned offering was used to repay all outstanding borrowings totaling \$790 million under Fiserv's revolving credit facility. Remaining proceeds were invested in a highly liquid institutional bank deposit and were recorded as cash equivalents on the consolidated balance sheet as of June 30, 2019.

- (b) Reflects an adjustment to intangible assets, net based on a preliminary fair value assessment:

<u>Description (in millions)</u>	<u>Note</u>	<u>Amount</u>
Fair value of intangible assets acquired	(i)	\$17,400
Removal of First Data's historical intangible assets		(3,218)
Pro forma net adjustment to intangible assets, net		<u>\$14,182</u>

- (i) Fiserv determined a preliminary estimate of intangible assets. The intangible assets, including customer relationships, technology and tradenames, have been amortized based on estimated useful lives of seven to fifteen years.

- (c) Reflects an adjustment to goodwill based on the preliminary purchase price allocation:

<u>Description (in millions)</u>	<u>Note</u>	<u>Amount</u>
Fair value of consideration transferred in excess of the preliminary fair value of assets acquired and liabilities assumed	(i)	\$ 29,391
Removal of First Data's historical goodwill		(17,508)
Pro forma net adjustment to goodwill		<u>\$ 11,883</u>

- (i) Goodwill represents the excess of the estimated Merger consideration over the preliminary fair value of the underlying assets acquired and liabilities assumed. Refer to the preliminary estimated Merger consideration allocation in Note 3 above for more details.

- (d) In connection with the Merger, Fiserv incurred term loan borrowings in an aggregate principal amount of \$5,000 million. In addition, Fiserv completed offerings of \$9,000 million aggregate principal amount of U.S. dollar-denominated senior notes and approximately \$3,000 million aggregate principal amount of euro- and sterling-denominated senior notes on June 24, 2019 and July 1, 2019, respectively. Fiserv also entered into amendments to its existing revolving credit facility to modify certain provisions in order to facilitate the Merger and borrowings under the existing revolving credit facility in connection with the Merger, increase the commitments available thereunder by \$1,500 million and make certain additional amendments to facilitate the operation of the combined business following the Merger. Refer to the table below for a summary of the impact the financing arrangements were estimated to have on the short-term and long-term debt balances, and refer to Note 5 for details on the impact these financing arrangements are expected to have on the unaudited pro forma condensed combined statements of income.

<u>Description (in millions)</u>	<u>Note</u>	<u>Amount</u>
Proceeds from senior notes offering completed on June 24, 2019	(i)	\$ 9,000
Proceeds from senior notes offering completed on July 1, 2019	(i)	3,000
Proceeds from term loans	(i)	5,000
Less: Capitalized debt issuance costs and original issue discount	(ii)	(149)
Total proceeds from term loans and senior notes		16,851
<i>Repayments:</i>		
Estimated repayment of First Data's debt as of June 30, 2019	(iii)	(16,039)
Less: Net proceeds from senior notes offering completed on June 24, 2019	(iv)	(8,127)
Pro forma net adjustment to debt		<u>\$ (7,315)</u>
Pro forma net adjustment to short-term and current maturities of long-term debt		\$ (146)
Pro forma net adjustment to long-term debt		<u>\$ (7,169)</u>

- (i) As mentioned in Note 4(a)(i), Fiserv incurred \$5,000 million in aggregate principal amount of term loans under its new term loan credit agreement that was entered into on February 15, 2019 with a syndicate of financial institutions. In addition, Fiserv issued the senior notes in an aggregate principal amount of approximately \$12,000 million.
- (ii) As mentioned in Note 4(a)(ii), reflects debt issuance costs and original issue discount of approximately \$149 million incurred in connection with the approximately \$12,000 million issuance of the senior notes, the \$5,000 million incurrence of the term loans, and the \$1,500 million increase in commitments to Fiserv's existing revolving credit facility. Does not include estimated cash paid for transaction costs to be incurred as of June 30, 2019. Also does not include prepayment penalties associated with the First Data debt.

- (iii) On the closing date, all of the outstanding historical debt of First Data (excluding debt reflected as receivable securitized loans, finance lease obligations and other arrangements and lines of credit) was repaid in connection with the Merger. For purposes of the unaudited pro forma condensed combined balance sheet, based on the amounts of First Data debt reflected as outstanding on the First Data balance sheet as of June 30, 2019, the assumed closing date for purposes of the unaudited pro forma condensed combined balance sheet, a total of \$16,039 million was estimated to be repaid, comprising short-term debt of \$396 million and long-term debt of \$15,643 million. Amounts outstanding under the various First Data financing arrangements changed between the date of the First Data balance sheet as of June 30, 2019 used for purposes of these unaudited pro forma condensed combined financial statements and the closing date. Accordingly, the amount of First Data debt actually repaid on the closing date differed from the amount estimated to be repaid as of June 30, 2019.
- (iv) On June 24, 2019, Fiserv completed an offering of \$9,000 million aggregate principal amount of senior notes. A portion of the net proceeds from the aforementioned offering was used to repay all outstanding borrowings totaling \$790 million under Fiserv's revolving credit facility. Remaining proceeds were invested in a highly liquid institutional bank deposit and were recorded as cash equivalents on the consolidated balance sheet as of June 30, 2019.
- (e) Reflects a deferred income tax liability resulting from preliminary fair value adjustments to intangible assets. The estimate of the deferred tax liability was determined based on the book and tax basis difference using a blended federal and state statutory income tax rate of Fiserv of 23%. This estimate of the deferred income tax liability is preliminary and is subject to change based upon Fiserv's final determination of the fair values of identifiable intangible assets acquired by jurisdiction.
- (f) Reflects an adjustment to Fiserv and First Data equity based on the following:

<u>Description (in millions)</u>	<u>Note</u>	<u>Amount</u>
Fair value of common stock issued to the sellers	(i)	\$27,313
Transaction costs	(ii)	(161)
Removal of First Data's historical shareholders' equity		(4,653)
Pro forma net adjustment to total equity		<u>\$22,499</u>

- (i) As disclosed in Note 3(i), the estimated value of Fiserv common shares to be issued pursuant to the Merger Agreement is \$27,313 million.
- (ii) As disclosed in Note 4(a)(iii), represents the remaining estimated transaction costs to be incurred by Fiserv and First Data, including bridge facility financing fees. Does not include prepayment penalties associated with the First Data debt.

#### 5. Adjustments to the unaudited pro forma condensed combined statements of income

Refer to the items below for a reconciliation of the adjustments reflected in the unaudited pro forma condensed combined statements of income:

- (a) The newly acquired intangible assets have been amortized based on estimated useful lives of seven to fifteen years. Pro forma amortization expense includes amortization expense for the newly identified intangible assets less the amortization expense on First Data's historical intangible assets. The pro forma adjustments also reflect the amortization expense, net of tax, attributed to the noncontrolling interests of \$113 million and \$196 million for the six months ended June 30, 2019 and the year ended December 31, 2018, respectively, based on the ratio of First Data's historical net income attributable to noncontrolling interests to net income for the six months ended June 30, 2019 and the year ended December 31, 2018, and as such, actual amortization expense attributable to noncontrolling interests may differ materially. Fiserv is still in the process of evaluating the fair value of the intangible assets. Any resulting change in the fair value would have a direct impact to amortization expense.

<u>Description (in millions)</u>	<u>Estimated Fair Value</u>	<u>Estimated Useful Life</u>	<u>Six months ended June 30, 2019</u>	<u>Year ended December 31, 2018</u>
Amortization expense for intangible assets	\$ 17,400	7 - 15 years	\$ 948	\$ 2,001
Less: Historical First Data amortization			(195)	(420)
Pro forma net adjustment to cost of processing and services			<u>\$ 753</u>	<u>\$ 1,581</u>

- (b) Reflects the adjustments to reverse non-recurring transaction costs, which were recorded in Fiserv's selling, general and administrative expenses and debt financing activities, and in First Data's other operating expenses, net (reclassified to selling, general, and administrative expenses for pro forma purposes) for the six months ended June 30, 2019.
- (c) Historical interest expense has been adjusted as follows:

<u>Description (in millions)</u>	<u>Principal balance</u>	<u>Note</u>	<u>Six months ended June 30, 2019</u>	<u>Year ended December 31, 2018</u>
<i>Increases to interest expense:</i>				
Senior notes	\$ 12,000	(i)	\$ 190	\$ 379
Term loans	5,000	(ii)	84	178
Amortization of capitalized debt issuance costs and discounts		(iii)	9	18
		(iv)	283	575
<i>Decreases to interest expense:</i>				
Historical interest expense of First Data for debt being repaid			\$ (402)	\$ (928)
Pro forma net adjustment to interest expense, net		(v)	\$ (119)	\$ (353)

- (i) As mentioned in Note 4(a)(i), Fiserv issued senior notes in an aggregate principal amount of approximately \$12,000 million. The senior notes were issued at fixed rates of interest in various currencies and with various maturities. In addition, included in the adjustments to interest expense for the senior notes is the effect of treasury locks, which were entered into in connection with the senior notes and were designated as cash flow hedges.
- (ii) As mentioned in Note 4(a)(i), Fiserv incurred \$5,000 million in aggregate principal amount of term loans under its new term loan credit agreement. The term loans bear variable rates of interest based on the LIBO rate plus a spread.
- (iii) Aggregate debt issuance costs and original issue discount resulting from the issuance of the senior notes, the incurrence of the term loans, and the increase of commitments under Fiserv's existing revolving credit facility were estimated to amount to \$149 million. Such amount does not include estimated cash paid for transaction costs to be incurred by Fiserv as of June 30, 2019, including bridge facility financing fees, nor does it include prepayment penalties associated with the First Data debt.
- (iv) The senior notes and term loans have a blended weighted-average interest rate of 3.4%, which is subject to change as the term loans bear variable rates of interest based on the LIBO rate plus a spread.
- (v) A 0.125% change in the term loan variable interest rates would increase or decrease interest expense on a pro forma basis by \$3.2 million and \$6.3 million for the six months ended June 30, 2019 and for the year ended December 31, 2018, respectively.
- (d) To record the income tax impact of the pro forma adjustments utilizing a blended federal and state statutory income tax rate of 23% for the six months ended June 30, 2019 and for the year ended December 31, 2018.
- (e) The pro forma basic and diluted earnings per share calculations are based on the basic and diluted weighted average shares of Fiserv plus shares issued as part of the Merger. The pro forma basic and diluted weighted average shares outstanding are a combination of historical weighted average shares of Fiserv common stock and the share impact as part of the Merger. In connection with the Merger, Fiserv agreed to convert certain equity awards held by First Data employees into Fiserv equity awards. At this time, Fiserv has not completed its analysis and calculations related to eligible employees and vesting schedules in sufficient detail necessary to arrive at fair value; however, the impact is not expected to be material in the context of the transaction and thus has not been reflected in the diluted weighted average shares. Weighted average shares outstanding are as follows:

<u>Pro forma basic weighted average shares (in millions)</u>	<u>Six months ended June 30, 2019</u>	<u>Year ended December 31, 2018</u>
Historical Fiserv weighted average shares outstanding—basic	392.1	405.5
Shares of Fiserv common stock to be issued to First Data stockholders pursuant to the Merger	286.6	286.6
Pro forma weighted average shares—basic	678.7	692.1

<u>Pro forma diluted weighted average shares (in millions)</u>	<u>Six months ended June 30, 2019</u>	<u>Year ended December 31, 2018</u>
Historical Fiserv weighted average shares outstanding—diluted	399.4	413.7
Shares of Fiserv common stock to be issued to First Data stockholders pursuant to the Merger	286.6	286.6
Pro forma weighted average shares—diluted	686.0	700.3