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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**FORM 10-Q**

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

For the quarterly period ended September 30, 2014

OR

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

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

Commission File Number: 001-12111

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**MEDNAX, INC.**

(Exact name of registrant as specified in its charter)

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**Florida**  
(State or other jurisdiction of  
Incorporation or organization)

**1301 Concord Terrace  
Sunrise, Florida**  
(Address of principal executive offices)

**26-3667538**  
(I.R.S. Employer  
Identification No.)

**33323**  
(Zip Code)

**(954) 384-0175**  
(Registrant's telephone number, including area code)

**Not Applicable**  
(Former name, former address and former fiscal year, if changed since last report)

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

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

Large accelerated filer ☒

Accelerated filer ☐

Non-accelerated filer ☐

Smaller reporting company ☐

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

On October 24, 2014, the registrant had outstanding 100,415,921 shares of Common Stock, par value \$.01 per share.

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**PART I - FINANCIAL INFORMATION**

**Item 1. Financial Statements**

**MEDNAX, INC.  
CONDENSED CONSOLIDATED BALANCE SHEETS  
(Unaudited)**

	<u>September 30, 2014</u>	<u>December 31, 2013</u>
	(in thousands)	
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 71,822	\$ 31,137
Short-term investments	7,281	6,457
Accounts receivable, net	345,169	285,397
Prepaid expenses	8,778	6,361
Deferred income taxes	37,193	30,766
Other assets	10,818	8,007
Total current assets	481,061	368,125
Investments	61,791	57,511
Property and equipment, net	63,596	59,911
Goodwill	2,659,331	2,393,731
Other assets, net	212,438	129,438
Total assets	\$ 3,478,217	\$ 3,008,716
<b>LIABILITIES AND EQUITY</b>		
Current liabilities:		
Accounts payable and accrued expenses	\$ 300,321	\$ 308,754
Current portion of long-term capital lease obligations	349	92
Income taxes payable	28,610	17,946
Total current liabilities	329,280	326,792
Line of credit	287,500	27,000
Long-term capital lease obligations	651	143
Long-term professional liabilities	148,942	139,367
Deferred income taxes	152,225	111,441
Other liabilities	54,507	60,985
Total liabilities	973,105	665,728
Commitments and contingencies		
Shareholders' equity:		
Preferred stock; \$.01 par value; 1,000 shares authorized; none issued	—	—
Common stock; \$.01 par value; 200,000 shares authorized; 100,346 and 101,207 shares issued and outstanding, respectively	1,003	1,012
Additional paid-in capital	898,560	857,953
Retained earnings	1,604,484	1,484,023
Total MEDNAX, Inc. shareholders' equity	2,504,047	2,342,988
Noncontrolling interests	1,065	—
Total equity	2,505,112	2,342,988
Total liabilities and equity	\$ 3,478,217	\$ 3,008,716

*The accompanying notes are an integral part of these Condensed Consolidated Financial Statements.*

**MEDNAX, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF INCOME**  
(in thousands, except per share data)  
(Unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2014	2013	2014	2013
Net revenue	\$626,506	\$554,730	\$1,788,389	\$1,586,625
Operating expenses:				
Practice salaries and benefits	394,794	346,879	1,139,050	1,008,002
Practice supplies and other operating expenses	21,570	19,445	65,452	58,361
General and administrative expenses	60,643	54,654	179,886	162,573
Depreciation and amortization	11,356	10,461	32,088	29,475
Total operating expenses	488,363	431,439	1,416,476	1,258,411
Income from operations	138,143	123,291	371,913	328,214
Investment and other income	563	372	2,533	1,170
Interest expense	(2,019)	(1,507)	(5,578)	(4,369)
Equity in earnings of unconsolidated affiliate	725	—	875	—
Total non-operating expenses	(731)	(1,135)	(2,170)	(3,199)
Income before income taxes	137,412	122,156	369,743	325,015
Income tax provision	51,174	45,198	140,820	123,472
Net income	86,238	76,958	228,923	201,543
Less: Net income attributable to noncontrolling interests	(31)	—	(40)	—
Net income attributable to MEDNAX, Inc.	<u>\$ 86,207</u>	<u>\$ 76,958</u>	<u>\$ 228,883</u>	<u>\$ 201,543</u>
Per common and common equivalent share data:				
Net income attributable to MEDNAX, Inc.:				
Basic	<u>\$ 0.87</u>	<u>\$ 0.77</u>	<u>\$ 2.32</u>	<u>\$ 2.04</u>
Diluted	<u>\$ 0.86</u>	<u>\$ 0.76</u>	<u>\$ 2.28</u>	<u>\$ 2.00</u>
Weighted average common shares:				
Basic	<u>99,088</u>	<u>99,506</u>	<u>98,791</u>	<u>99,022</u>
Diluted	<u>100,145</u>	<u>101,178</u>	<u>100,168</u>	<u>100,962</u>

*The accompanying notes are an integral part of these Condensed Consolidated Financial Statements.*

**MEDNAX, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(in thousands)  
(Unaudited)

	<b>Nine Months Ended September 30,</b>	
	<b>2014</b>	<b>2013</b>
Cash flows from operating activities:		
Net income	\$ 228,923	\$ 201,543
Adjustments to reconcile net income to net cash provided from operating activities:		
Depreciation and amortization	32,088	29,475
Net change in fair value of contingent consideration liabilities	(506)	1,316
Stock-based compensation expense	23,914	23,189
Equity in earnings of unconsolidated affiliate	(875)	—
Deferred income taxes	10,410	19,340
Changes in assets and liabilities:		
Accounts receivable	(49,996)	(24,748)
Prepaid expenses and other assets	(3,168)	(911)
Other assets	1,680	(3,008)
Accounts payable and accrued expenses	(12,573)	(3,343)
Income taxes payable	5,502	4,866
Payments of contingent consideration liabilities	(3,851)	(630)
Long-term professional liabilities	9,575	17,349
Other liabilities	2,711	1,711
Net cash provided from operating activities	<u>243,834</u>	<u>266,149</u>
Cash flows from investing activities:		
Acquisition payments, net of cash acquired	(346,071)	(193,545)
Purchases of investments	(19,604)	(18,866)
Proceeds from sales or maturities of investments	14,500	6,313
Purchases of property and equipment	(11,405)	(12,684)
Net cash used in investing activities	<u>(362,580)</u>	<u>(218,782)</u>
Cash flows from financing activities:		
Borrowings on line of credit	1,084,000	832,000
Payments on line of credit	(823,500)	(852,500)
Payments of contingent consideration liabilities	(9,550)	(5,680)
Payments on capital lease obligations	(84)	(76)
Excess tax benefit from exercises of stock options	11,159	10,357
Proceeds from issuance of common stock	24,140	15,357
Contribution from noncontrolling interests	1,025	—
Repurchases of common stock	(127,759)	(51,863)
Net cash provided from (used in) financing activities	<u>159,431</u>	<u>(52,405)</u>
Net increase (decrease) in cash and cash equivalents	40,685	(5,038)
Cash and cash equivalents at beginning of period	31,137	21,280
Cash and cash equivalents at end of period	<u>\$ 71,822</u>	<u>\$ 16,242</u>

*The accompanying notes are an integral part of these Condensed Consolidated Financial Statements.*

**MEDNAX, INC.**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**September 30, 2014**  
**(Unaudited)**

**1. Basis of Presentation and New Accounting Pronouncements:**

The accompanying unaudited Condensed Consolidated Financial Statements of the Company and the notes thereto presented in this Form 10-Q have been prepared in accordance with the rules and regulations of the Securities and Exchange Commission ("SEC") applicable to interim financial statements, and do not include all disclosures required by accounting principles generally accepted in the United States of America ("GAAP") for complete financial statements. In the opinion of management, these financial statements include all adjustments, consisting only of normal recurring adjustments, necessary for a fair statement of the results of interim periods. The financial statements include all the accounts of MEDNAX, Inc. and its consolidated subsidiaries (collectively, "MDX") together with the accounts of MDX's affiliated professional associations, corporations and partnerships (the "affiliated professional contractors"). MDX has contractual management arrangements with its affiliated professional contractors, which are separate legal entities that provide physician services in certain states and Puerto Rico. The terms "MEDNAX" and the "Company" refer collectively to MEDNAX, Inc., its subsidiaries and the affiliated professional contractors.

On June 1, 2014, the Company entered into a joint venture in which it owns a 75% economic interest. The Company has a management agreement with the joint venture and, based on the provisions within the agreement, the Company has determined that the joint venture is a variable interest entity for which the Company is the primary beneficiary as defined in the accounting guidance for consolidation. Accordingly, the financial results of the joint venture are fully consolidated into the Company's operating results. The equity interests of the outside investor in the equity and results of operations of this consolidated entity are accounted for and presented as noncontrolling interests.

On June 1, 2014, the Company entered into a second joint venture in which it owns a 37.5% economic interest. The Company accounts for this joint venture under the equity method of accounting because the Company exercises significant influence over, but does not control, this entity.

The consolidated results of operations for the interim periods presented are not necessarily indicative of the results to be experienced for the entire fiscal year. In addition, the accompanying unaudited Condensed Consolidated Financial Statements and the notes thereto should be read in conjunction with the Consolidated Financial Statements and the notes thereto included in the Company's most recent Annual Report on Form 10-K (the "Form 10-K").

Reclassifications have been made to certain prior period financial statements to conform with the current year presentation. Specifically, the Company reclassified \$40.7 million of its deferred tax assets as of December 31, 2013 from current deferred income taxes to long-term deferred income taxes. This revision represents the correction of an error in the classification of certain deferred tax assets in our prior period financial statements that the Company has determined to be immaterial.

All share and per share data set forth herein give effect to the two-for-one split of the Company's common stock that became effective on December 19, 2013.

**New Accounting Pronouncements**

In May 2014, the accounting guidance related to revenue recognition was amended to outline a single, comprehensive model for accounting for revenue from contracts with customers. While the new guidance supersedes existing revenue recognition guidance, it closely aligns with current GAAP. The new guidance will become effective for the Company on January 1, 2017, and early adoption is not permitted. The Company is currently evaluating the impact, if any, the adoption of this guidance will have on the Company's Condensed Consolidated Financial Statements.

**2. Cash Equivalents and Investments:**

As of September 30, 2014 and December 31, 2013, the Company's cash equivalents consisted entirely of money market funds with a fair value of \$5.5 million and \$5.3 million, respectively.

Investments consist of municipal debt securities, federal home loan securities and certificates of deposit. Investments with remaining maturities of less than one year are classified as short-term investments. Investments classified as long-term have maturities of one year to seven years.

The Company intends and has the ability to hold its held-to-maturity securities to maturity, and therefore carries such investments at amortized cost in accordance with the provisions of the accounting guidance for investments in debt and equity securities.

Investments held at September 30, 2014 and December 31, 2013 are summarized as follows (in thousands):

	September 30, 2014		December 31, 2013	
	Short-Term	Long-Term	Short-Term	Long-Term
Municipal debt securities	\$ 7,033	\$ 35,282	\$ 5,492	\$ 34,495
Federal home loan securities	—	26,016	—	22,520
Certificates of deposit	248	493	965	496
	<u>\$ 7,281</u>	<u>\$ 61,791</u>	<u>\$ 6,457</u>	<u>\$ 57,511</u>

### 3. Fair Value Measurements:

In accordance with the accounting guidance for fair value measurements and disclosures, the Company carries its money market funds included in cash and cash equivalents at fair value. In accordance with the three-tier fair value hierarchy under this guidance, the Company determined the fair value using quoted market prices, a Level 1 input as defined under the accounting guidance for fair value measurements. At September 30, 2014 and December 31, 2013, the Company's money market funds had a carrying amount of \$5.5 million and \$5.3 million, respectively.

The Company also carries the cash surrender value of life insurance related to its deferred compensation arrangements at fair value. The investments underlying the life insurance contracts consist primarily of exchange-traded equity securities and mutual funds with quoted prices in active markets. In accordance with the three-tier fair value hierarchy, the Company determined the fair value using the cash surrender value of the life insurance, a Level 2 input as defined under the accounting guidance for fair value measurements. At September 30, 2014 and December 31, 2013, the Company's cash surrender value of life insurance had a carrying amount of \$15.9 million and \$17.1 million, respectively.

In addition, the Company carries its contingent consideration liabilities related to acquisitions at fair value. In accordance with the three-tier fair value hierarchy, the Company determined the fair value of its contingent consideration liabilities using the income approach with assumed discount rates and payment probabilities. The income approach uses Level 3, or unobservable inputs as defined under the accounting guidance for fair value measurements. At September 30, 2014 and December 31, 2013, the Company's contingent consideration liabilities had a fair value of \$29.2 million and \$43.0 million, respectively. See Note 5 for more information regarding the Company's contingent consideration liabilities recorded and paid during the nine months ended September 30, 2014.

The carrying amounts of cash equivalents, short-term investments, accounts receivable and accounts payable and accrued expenses approximate fair value due to the short maturities of the respective instruments. The carrying values of long-term investments, line of credit and capital lease obligations approximate fair value. If the Company's line of credit were measured at fair value, it would be categorized as Level 2 in the fair value hierarchy.

### 4. Accounts Receivable:

Accounts receivable, net consists of the following (in thousands):

	September 30, 2014	December 31, 2013
Gross accounts receivable	\$ 1,202,549	\$ 997,682
Allowance for contractual adjustments and uncollectibles	(857,380)	(712,285)
	<u>\$ 345,169</u>	<u>\$ 285,397</u>

## 5. Business Acquisitions:

During the nine months ended September 30, 2014, the Company completed the acquisition of seven physician group practices, a complementary revenue cycle management company as well as a consulting services company for total consideration of \$346.8 million, consisting of \$346.1 million in cash and \$0.7 million of contingent consideration.

The Company's allocation of purchase price is as follows:

Current assets	\$ 11.8
Property and equipment	3.6
Goodwill	272.8
Other intangible assets	97.6
Current liabilities	(14.4)
Deferred income tax liabilities – long-term	(23.9)
Other long-term liabilities	(0.7)
	<u>\$346.8</u>

The physician practice acquisitions expanded the Company's national network of physician practices while the acquisitions of the complementary services businesses will function as support for the Company's physician practices as well as outsourced service capabilities.

Other intangible assets consist primarily of customer relationships, physician and hospital agreements and trade names. The Company has not yet completed the process of determining the fair value of intangible assets acquired during the three months ended September 30, 2014 and has recorded provisional estimates for such assets. This valuation will be completed within the measurement period, and management does not believe the additional adjustments will be material. The Company expects that \$108.6 million of the goodwill recorded during the nine months ended September 30, 2014 will be deductible for tax purposes.

The contingent consideration of \$0.7 million recorded during the nine months ended September 30, 2014 is related to shares of common stock that will vest and an additional cash amount that will become payable in each case based on the achievement of certain performance measures for up to four years ending after the acquisition date. Approximately \$0.7 million of the contingent consideration was recorded as equity with the remaining \$41,000 recorded as a liability, both at acquisition-date fair value.

In addition, during the nine months ended September 30, 2014, the Company paid \$13.4 million for contingent consideration related to certain prior-period acquisitions, of which all but the accretion recorded during 2014 was accrued as of December 31, 2013.

On June 1, 2014, the Company entered into two joint ventures. In connection with the joint venture in which it owns a 75% economic interest, the financial results of the joint venture are fully consolidated into the Company's operating results and are not material to the Condensed Consolidated Financial Statements. In connection with the joint venture in which the Company owns a 37.5% economic interest, the Company completed a nonmonetary exchange of certain operations with a fair value of \$7.7 million as contribution credit in the joint venture. The carrying value of the goodwill transferred of \$7.2 million and the fixed assets transferred of \$0.5 million approximated the fair value of the contribution to this joint venture, and accordingly no gain or loss was recognized on the transaction. The investment in this joint venture is included in other assets, net as presented in the Company's Condensed Consolidated Balance Sheet.



The following unaudited pro forma information combines the consolidated results of operations of the Company on a GAAP basis and the acquisitions completed during 2014 and 2013, including adjustments for pro forma amortization and interest expense, as if the transactions had occurred on January 1, 2013 and January 1, 2012, respectively (in thousands, except for per share data):

	Nine Months Ended September 30,	
	2014	2013
Net revenue	\$1,870,039	\$1,799,726
Net income	\$ 233,175	\$ 217,019
Net income per common share (1):		
Basic	\$ 2.36	\$ 2.19
Diluted	\$ 2.33	\$ 2.15
Weighted average shares (1):		
Basic	98,791	99,022
Diluted	100,168	100,962

- (1) The comparison of net income per share is affected by the change in the number of weighted average shares outstanding in each period. The basic and diluted weighted average shares outstanding for the nine months ended September 30, 2014 were 98.8 million and 100.2 million, respectively, as compared to 99.0 million and 101.0 million, respectively, for the nine months ended September 30, 2013.

The pro forma results do not necessarily represent results which would have occurred if the acquisitions had taken place at the beginning of the periods, nor are they indicative of the results of future combined operations.

#### 6. Accounts Payable and Accrued Expenses:

Accounts payable and accrued expenses consist of the following (in thousands):

	September 30, 2014	December 31, 2013
Accounts payable	\$ 22,174	\$ 18,605
Accrued salaries and bonuses	170,855	189,439
Accrued payroll taxes and benefits	51,585	44,131
Accrued professional liabilities	18,693	19,324
Accrued contingent consideration	14,916	19,833
Other accrued expenses	22,098	17,422
	<u>\$ 300,321</u>	<u>\$ 308,754</u>

The net decrease in accrued salaries and bonuses of \$18.6 million, from \$189.4 million at December 31, 2013 to \$170.8 million at September 30, 2014, is primarily due to the payment of performance-based incentive compensation, principally to the Company's physicians, partially offset by performance-based incentive compensation accrued during the nine months ended September 30, 2014. A majority of the Company's payments for performance-based incentive compensation is paid annually in the first quarter.

#### 7. Common and Common Equivalent Shares:

Basic net income per common share is calculated by dividing net income by the weighted average number of common shares outstanding during the period. Diluted net income per share is calculated by dividing net income by the weighted average number of common and potential common shares outstanding during the applicable period. Potential common shares consist of outstanding stock options and non-vested restricted and deferred stock calculated using the treasury stock method. Under the treasury stock method, the Company includes the assumed excess tax benefits related to the potential exercise or vesting of its stock-based awards using the difference between the average market price for the applicable period less the option price, if any, and the fair value of the stock-based award on the date of grant multiplied by the applicable tax rate.

The calculation of shares used in the basic and diluted net income per common share calculation for the three and nine months ended September 30, 2014 and 2013 is as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2014	2013	2014	2013
Weighted average number of common shares outstanding	99,088	99,506	98,791	99,022
Weighted average number of dilutive common share equivalents	1,057	1,672	1,377	1,940
Weighted average number of common and common equivalent shares outstanding	<u>100,145</u>	<u>101,178</u>	<u>100,168</u>	<u>100,962</u>
Antidilutive securities not included in the dilutive earnings per share calculation	<u>—</u>	<u>—</u>	<u>—</u>	<u>46</u>

## 8. Stock Incentive Plans and Stock Purchase Plan:

The Company's Amended and Restated 2008 Incentive Compensation Plan, as amended (the "Amended and Restated 2008 Incentive Plan") provides for grants of stock options, stock appreciation rights, restricted stock, deferred stock, and other stock-related awards and performance awards that may be settled in cash, stock or other property.

Under the Amended and Restated 2008 Incentive Plan, options to purchase shares of common stock may be granted at a price not less than the fair market value of the shares on the date of grant. The options must be exercised within 10 years from the date of grant and generally become exercisable on a pro rata basis over a three-year period from the date of grant. The Company issues new shares of its common stock upon exercise of its stock options. Restricted stock awards generally vest over periods of three years upon the fulfillment of specified service-based conditions and in certain instances performance-based conditions. Deferred stock awards vest upon the satisfaction of specified performance-based conditions through December 31, 2018. The Company recognizes compensation expense related to its restricted stock and deferred stock awards ratably over the corresponding vesting periods. During the nine months ended September 30, 2014, the Company granted 504,210 shares of restricted stock to its employees and 19,917 shares of restricted stock to its non-employee directors under the Amended and Restated 2008 Incentive Plan. At September 30, 2014, the Company had approximately 6.3 million shares available for future grants and awards under the Amended and Restated 2008 Incentive Plan.

Under the Company's 1996 Non-Qualified Employee Stock Purchase Plan, as amended (the "Non-Qualified Plan"), employees are permitted to purchase the Company's common stock at 85% of market value on January 1st, April 1st, July 1st and October 1st of each year. In accordance with the provisions of the accounting guidance for stock-based compensation, the Company recognizes stock-based compensation expense for the 15% discount received by participating employees. During the nine months ended September 30, 2014, 192,799 shares were issued under the Non-Qualified Plan. At September 30, 2014, the Company had approximately 401,900 shares reserved for issuance under the Non-Qualified Plan.

During the three and nine months ended September 30, 2014 and 2013, the Company recognized approximately \$8.1 million and \$23.9 million, and \$8.1 million and \$23.2 million, respectively, of stock-based compensation expense. The net excess tax benefit recognized in additional paid-in capital related to the exercise of stock options for the nine months ended September 30, 2014 was approximately \$11.2 million.

## 9. Common Stock Repurchases:

In July 2013, the Company's Board of Directors authorized the repurchase of shares of the Company's common stock up to an amount sufficient to offset the dilutive impact from the issuance of shares under the Stock Incentive Plans and Non-Qualified Plan. The share repurchase program allows the Company to make open market purchases from time-to-time based on general economic and market conditions and trading restrictions. During the nine months ended September 30, 2014, the Company repurchased approximately 2.2 million shares of its common stock for approximately \$127.8 million, including 18,282 shares withheld to satisfy minimum statutory tax withholding obligations of \$1.1 million in connection with the vesting of restricted stock units during the three months ended September 30, 2014. The repurchase program was also expanded to allow for the repurchase of shares of the Company's common stock to offset the dilutive impact from the issuance of shares, if any, related to the Company's acquisition program.

## **10. Commitments and Contingencies:**

The Company expects that audits, inquiries and investigations from government authorities and agencies will occur in the ordinary course of business. Such audits, inquiries and investigations and their ultimate resolutions, individually or in the aggregate, could have a material adverse effect on the Company's business, financial condition, results of operations, cash flows and the trading price of its common stock. The Company has not included an accrual for these matters as of September 30, 2014 in its Condensed Consolidated Financial Statements, as the variables affecting any potential eventual liability depend on the currently unknown facts and circumstances that arise out of, and are specific to, any particular future audit, inquiry and investigation and cannot be reasonably estimated at this time.

In the ordinary course of business, the Company becomes involved in pending and threatened legal actions and proceedings, most of which involve claims of medical malpractice related to medical services provided by the Company's affiliated physicians. The Company's contracts with hospitals generally require the Company to indemnify them and their affiliates for losses resulting from the negligence of the Company's affiliated physicians. The Company may also become subject to other lawsuits which could involve large claims and significant defense costs. The Company believes, based upon a review of pending actions and proceedings, that the outcome of such legal actions and proceedings will not have a material adverse effect on its business, financial condition or results of operations. The outcome of such actions and proceedings, however, cannot be predicted with certainty and an unfavorable resolution of one or more of them could have a material adverse effect on the Company's business, financial condition, results of operations, cash flows and the trading price of its common stock.

Although the Company currently maintains liability insurance coverage intended to cover professional liability and certain other claims, the Company cannot assure that its insurance coverage will be adequate to cover liabilities arising out of claims asserted against it in the future where the outcomes of such claims are unfavorable. With respect to professional liability risk, the Company generally self-insures a portion of this risk through its wholly owned captive insurance subsidiary. Liabilities in excess of the Company's insurance coverage, including coverage for professional liability and certain other claims, could have a material adverse effect on the Company's business, financial condition, results of operations, cash flows and the trading price of its common stock.

## **11. Subsequent Event:**

On October 29, 2014, the Company entered into a new credit agreement (the "New Credit Agreement"), which replaces the Company's amended and restated credit agreement. The New Credit Agreement provides for a \$1.3 billion unsecured revolving credit facility and a \$200 million term loan and includes a \$75 million sub-facility for swingline loans and a \$37.5 million sub-facility for the issuance of letters of credit. The new credit facility matures on October 29, 2019 and is guaranteed by substantially all of the Company's subsidiaries and affiliated professional associations and corporations. At the Company's option, borrowings under the New Credit Agreement (other than swingline loans) will bear interest at (i) the alternate base rate (defined as the higher of (a) the prime rate, (b) the Federal Funds Rate plus 1/2 of 1.00% and (c) LIBOR for an interest period of one month plus 1.00%) plus an applicable margin rate ranging from 0.125% to 0.750% based on the Company's consolidated leverage ratio or (ii) the LIBOR rate plus an applicable margin rate ranging from 1.125% to 1.750% based on the Company's consolidated leverage ratio. Swingline loans will bear interest at the alternate base rate plus the applicable margin. The New Credit Agreement also calls for other customary fees and charges, including an unused commitment fee ranging from 0.150% to 0.300% of the unused lending commitments, based on the Company's consolidated leverage ratio.

The New Credit Agreement contains customary covenants and restrictions, including covenants that require the Company to maintain a minimum interest charge ratio, not to exceed a specified consolidated leverage ratio and to comply with laws, and restrictions on the ability of the Company to pay dividends and make certain other distributions, as specified therein. Failure to comply with these covenants would constitute an event of default under the New Credit Agreement, notwithstanding the ability of the Company to meet its debt service obligations. The New Credit Agreement also includes various customary remedies for the lenders following an event of default, including the acceleration of repayment of outstanding amounts under the New Credit Agreement.

## Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following discussion highlights the principal factors that have affected our financial condition and results of operations, as well as our liquidity and capital resources, for the periods described. This discussion should be read in conjunction with the unaudited Condensed Consolidated Financial Statements and the notes thereto included in this Quarterly Report. In addition, reference is made to our audited consolidated financial statements and notes thereto and related Management's Discussion and Analysis of Financial Condition and Results of Operations included in our most recent Annual Report on Form 10-K. As used in this Quarterly Report, the terms "MEDNAX", the "Company", "we", "us" and "our" refer to the parent company, MEDNAX, Inc., a Florida corporation, and the consolidated subsidiaries through which its businesses are actually conducted (collectively, "MDX"), together with MDX's affiliated professional associations, corporations and partnerships ("affiliated professional contractors"). Certain subsidiaries of MDX have contracts with our affiliated professional contractors, which are separate legal entities that provide physician services in certain states and Puerto Rico.

### Overview

MEDNAX is a leading provider of physician services including newborn, anesthesia, maternal-fetal and other pediatric subspecialties. Our national network is composed of affiliated physicians, including those who provide neonatal clinical care in 34 states and Puerto Rico, primarily within hospital-based neonatal intensive care units, to babies born prematurely or with medical complications. We also have physicians who provide anesthesia care to patients in connection with surgical and other procedures as well as pain management. In addition, we have affiliated physicians who provide maternal-fetal and obstetrical medical care to expectant mothers experiencing complicated pregnancies in many areas where our affiliated neonatal physicians practice. In addition, our network includes other pediatric subspecialists, including those who provide pediatric cardiology care, pediatric intensive care, hospital-based pediatric care and pediatric surgical care. In addition to our national physician network, we recently added two complementary businesses that offer services to medical providers, including ours, consisting of a revenue cycle management company and a consulting services company.

During the nine months ended September 30, 2014, we completed the acquisition of seven physician group practices, consisting of six anesthesiology practices and one neonatology practice. We also completed the acquisition of two complementary services businesses, consisting of a revenue cycle management company and a consulting services company. Based on past results, we expect that we can improve the results of the acquired physician practices through improved managed care contracting, improved collections, identification of growth initiatives, as well as operating and cost savings, based upon the significant infrastructure we have developed. We also expect that the development of our services offerings will function as support for our own physician practices as well as an outsourced services capability. Our results of operations for the nine months ended September 30, 2014 include the results of operations for these acquisitions from their respective dates of acquisition and therefore are not comparable in some respects.

On June 1, 2014, we entered into a joint venture in which we own a 75% economic interest. The joint venture operates as a fully integrated physician practice within the specialties of pediatric cardiology providing services to certain hospital and clinical sites.

On June 1, 2014, we entered into a second joint venture in which we own a 37.5% economic interest. This joint venture operates as a provider-based venture on the campus of a hospital and will provide certain cardiology diagnostic services to inpatients and outpatients of the hospital.

See Note 1 to our Condensed Consolidated Financial Statements in this Quarterly Report for a discussion of our accounting treatment of these joint ventures.

In July 2013, our board of directors authorized the repurchase of shares of our common stock up to an amount sufficient to offset the dilutive impact from the issuance of shares under our equity compensation programs. The share repurchase program permits us to make open market purchases from time-to-time based upon general economic and market conditions and trading restrictions. During the nine months ended September 30, 2014, we repurchased approximately 2.2 million shares of our common stock for approximately \$127.8 million. This repurchase program was also expanded to allow for the repurchase of shares of our common stock to offset the dilutive impact from the issuance of shares, if any, related to our acquisition program.

On October 30, 2014, we announced that our board of directors had authorized the repurchase of up to \$600.0 million of shares of our common stock in addition to our existing share repurchase program. We intend to utilize various methods to effect the additional share repurchases, including, among others, open market purchases, which are expected to commence in the near term, as well as an accelerated share repurchase program. The amount and timing of repurchases will depend upon several factors, including general economic and market conditions and trading restrictions.

Although economic conditions in the United States have gradually improved, the number of unemployed and under-employed workers remains significant and economic growth has been slow. During the three months ended September 30, 2014, we experienced a slight shift toward services reimbursed under government-sponsored programs, from commercial-payor programs, as compared to the three months ended September 30, 2013. In other recent periods, we have experienced variability in our payor mix and there have been shifts toward commercial-sponsored programs. If economic conditions do not improve or if they deteriorate, we could experience shifts toward government-sponsored programs and patient volumes could decline. Payments received from government-sponsored programs are substantially less for equivalent services than payments received from commercial insurance payors. In addition, due to the rising costs of managed care premiums and patient responsibility amounts, coupled with the current economic environment, we may experience increased bad debt due to patients' inability to pay for certain services. Moreover, it remains too soon to assess the impact on our payor mix from the Patient Protection and Affordable Care Act (the "Affordable Care Act").

The Affordable Care Act contains a number of provisions that could affect us over the next several years. These provisions include the establishment of health insurance exchanges to facilitate the purchase of qualified health plans, expanding Medicaid eligibility, subsidizing insurance premiums and creating requirements and incentives for businesses to provide healthcare benefits, the effects of which are unpredictable and complex. Other provisions contain changes to healthcare fraud and abuse laws and expand the scope of the Federal False Claims Act. Additionally, in November 2012, the Centers for Medicare & Medicaid Services ("CMS") adopted a rule under the Affordable Care Act that generally allows physicians who provide eligible primary care services and some preventive health services to be paid at the Medicare reimbursement rates in effect in calendar years 2013 and 2014 instead of state-established Medicaid reimbursement rates ("parity revenue"). Generally, state Medicaid reimbursement rates are lower than federally-established Medicare rates. During the three and nine months ended September 30, 2014, we recognized \$17.2 million and \$48.2 million, respectively, in parity revenue that contributed approximately \$0.05 and \$0.15, respectively, to our net income per diluted share, reflecting the impacts from incentive compensation and income taxes.

The Affordable Care Act contains numerous other measures that could also affect us. For example, payment modifiers are to be developed that will differentiate payments to physicians under federal healthcare programs based on quality and cost of care. In addition, other provisions authorize voluntary demonstration projects relating to the bundling of payments for episodes of hospital care and the sharing of cost savings achieved under the Medicare program.

Many of the Affordable Care Act's most significant reforms, such as the establishment of state-based and federally facilitated insurance exchanges that provide a marketplace for eligible individuals and small employers to purchase healthcare insurance, only became effective in the beginning of 2014. Uninsured persons who did not enroll in healthcare insurance plans by March 31, 2014 were required to pay a penalty to the Internal Revenue Service, unless a hardship exception applied. The patient responsibility costs related to healthcare plans obtained through the insurance exchanges may be high and could increase in the future, and we may experience increased bad debt due to patients' inability to pay for certain services.

The Affordable Care Act also allows states to expand their Medicaid programs through an increase in the Medicaid eligibility income limit from a state's current eligibility levels to 133% of the federal poverty limit. It remains unclear to what extent states will expand their Medicaid programs by raising the income limit to 133% of the federal poverty level. As of September 2014, 23 states have expressed their intent not to expand Medicaid eligibility; however, several states are seeking approval to expand Medicaid eligibility in their states in a manner that is different than set forth under the Affordable Care Act. All of the states in which we operate, however, already cover children in the first year of life and pregnant women if their household income is at or below 133% of the federal poverty level.

Federal and state agencies are expected to continue to implement provisions of the Affordable Care Act. However, given the complexity and the number of changes expected as a result of the Affordable Care Act, as well as the implementation timetable for many of them, we cannot predict the ultimate impacts of the Affordable Care Act as they may not be known for several years. The Affordable Care Act also remains subject to continuing legislative and judicial scrutiny, including efforts by Congress to amend or repeal a number of its provisions. In addition, there have been lawsuits filed by various stakeholders pertaining to the Affordable Care Act that may have the effect of modifying or altering various parts of the law. As a result, we cannot predict with any assurance the ultimate effect of the Affordable Care Act on our Company, nor can we provide any assurance that its provisions will not have a material adverse effect on our business, financial condition, results of operations or cash flows.

Presently, Medicare pays for all physician services based upon a national fee schedule that contains a list of uniform rates. The fee schedule is adjusted annually based on a complex formula that is linked in part to the use of services by Medicare beneficiaries and the growth in gross domestic product (the "Sustainable Growth Rate formula"). Since 2002, this Sustainable Growth Rate formula has resulted in negative payment updates for physicians under the fee schedule that have grown larger, and Congress has had to take repeated legislative action to reverse scheduled payment reductions, most recently in March 2014,

when legislation was enacted to avert a rate reduction and temporarily increase Medicare physician payment rates through the end of March 2015. If Congress does not take further action to modify or repeal the Sustainable Growth Rate formula, payments for physician services under the Medicare fee schedule will be reduced by approximately 20% effective April 1, 2015. Fee reductions will continue to be scheduled annually and will grow to approximately 40% in cumulative reductions by 2016 unless Congress takes action in the future to modify or reform the mechanism by which payment rates are updated.

The following discussion contains forward-looking statements. Please see the Company's most recent Annual Report on Form 10-K, including Item 1A, Risk Factors, for a discussion of the uncertainties, risks and assumptions associated with these forward-looking statements. In addition, please see "Caution Concerning Forward-Looking Statements" below.

## Results of Operations

### *Three Months Ended September 30, 2014 as Compared to Three Months Ended September 30, 2013*

Our net revenue increased \$71.8 million, or 12.9%, to \$626.5 million for the three months ended September 30, 2014, as compared to \$554.7 million for the same period in 2013. Of this \$71.8 million increase, \$44.5 million, or 62.0%, was attributable to revenue generated from acquisitions completed after June 30, 2013. Same-unit net revenue increased \$27.2 million, or 5.0%, for the three months ended September 30, 2014. The change in same-unit net revenue was the result of an increase in revenue of \$15.9 million, or 2.9%, related to net reimbursement-related factors and an increase of approximately \$11.3 million, or 2.1%, from patient service volumes. The increase in revenue of \$15.9 million related to net reimbursement-related factors was primarily due to the favorable impact from the parity revenue recorded during the three months ended September 30, 2014 and continued modest improvements in managed care contracting, partially offset by a decrease in revenue caused by an increase in the percentage of our patients being enrolled in government-sponsored programs. The increase in revenue of \$11.3 million from patient service volumes is primarily related to solid growth in our hospital-based anesthesia and neonatology practices as well as in our other pediatric services, partially offset by decreases in our office-based practices. Same units are those units at which we provided services for the entire current period and the entire comparable period.

Practice salaries and benefits increased \$47.9 million, or 13.8%, to \$394.8 million for the three months ended September 30, 2014, as compared to \$346.9 million for the same period in 2013. This \$47.9 million increase was primarily attributable to increased costs associated with new physicians and other staff to support acquisition-related growth and growth at existing units, of which \$32.0 million was related to salaries and \$15.9 million was related to benefits and incentive compensation.

Practice supplies and other operating expenses increased \$2.2 million, or 10.9%, to \$21.6 million for the three months ended September 30, 2014, as compared to \$19.4 million for the same period in 2013. The increase was attributable to practice supply, rent and other costs of \$1.7 million related to our acquisitions and \$0.5 million at our existing units.

General and administrative expenses include all billing and collection functions and all other salaries, benefits, supplies and operating expenses not specifically related to the day-to-day operations of our physician group practices. General and administrative expenses increased \$5.9 million, or 11.0%, to \$60.6 million for the three months ended September 30, 2014, as compared to \$54.7 million for the same period in 2013. The increase of \$5.9 million is attributable to the overall growth of the Company including acquisition-related growth. General and administrative expenses as a percentage of net revenue was 9.7% for the three months ended September 30, 2014, as compared to 9.9% for the same period in 2013, and grew at a rate slower than the rate of revenue growth.

Depreciation and amortization expense increased \$0.9 million, or 8.6%, to \$11.4 million for the three months ended September 30, 2014, as compared to \$10.5 million for the same period in 2013. The increase was primarily attributable to the amortization of intangible assets related to acquisitions.

Income from operations increased \$14.8 million, or 12.0%, to \$138.1 million for the three months ended September 30, 2014, as compared to \$123.3 million for the same period in 2013. Our operating margin was 22.0% for the three months ended September 30, 2014, as compared to 22.2% for the same period in 2013, a decrease of 18 basis points.

Net non-operating expenses were \$0.7 million for the three months ended September 30, 2014, as compared to \$1.1 million for the same period in 2013 and were primarily related to interest expense, partially offset by equity in earnings of an unconsolidated affiliate and investment income. Interest expense consists of interest charges, commitment fees and amortized debt costs related to our \$800 million amended and restated revolving credit facility ("Line of Credit") and accretion expense related to our contingent consideration liabilities.

Our effective income tax rate was 37.2% for the three months ended September 30, 2014, as compared to 37.0% for the three months ended September 30, 2013.

Net income attributable to MEDNAX, Inc. increased by 12.0% to \$86.2 million for the three months ended September 30, 2014, as compared to \$77.0 million for the same period in 2013.

Diluted net income attributable to MEDNAX, Inc. per common and common equivalent share was \$0.86 on weighted average shares outstanding of 100.1 million for the three months ended September 30, 2014, as compared to \$0.76 on weighted average shares outstanding of 101.2 million for the same period in 2013. The decrease in the weighted average shares outstanding is related to the shares of common stock repurchased under our share repurchase program.

### ***Nine Months Ended September 30, 2014 as Compared to Nine Months Ended September 30, 2013***

Our net revenue increased \$201.8 million, or 12.7%, to \$1.8 billion for the nine months ended September 30, 2014, as compared to \$1.6 billion for the same period in 2013. Of this \$201.8 million increase, \$146.8 million, or 72.7%, was attributable to revenue generated from acquisitions completed after December 31, 2012. Same-unit net revenue increased \$55.0 million, or 3.6%, for the nine months ended September 30, 2014. The change in same-unit net revenue was the result of an increase of approximately \$40.4 million, or 2.6%, related to net reimbursement-related factors and an increase in revenue of \$14.6 million, or 1.0%, from patient service volumes. The increase in revenue of \$40.4 million related to net reimbursement-related factors was primarily due to the favorable impact from the parity revenue recorded during the nine months ended September 30, 2014, the flow through of revenue from modest price increases and continued modest improvements in managed care contracting, partially offset by a decrease in revenue caused by an increase in the percentage of our patients being enrolled in government-sponsored programs. The increase in revenue of \$14.6 million from patient service volumes is related to growth in our hospital-based anesthesia and neonatal practices as well as our other pediatric physician services, partially offset by decreases in our office-based practices. Same units are those units at which we provided services for the entire current period and the entire comparable period.

Practice salaries and benefits increased \$131.0 million, or 13.0%, to \$1.1 billion for the nine months ended September 30, 2014, as compared to \$1.0 billion for the same period in 2013. This \$131.0 million increase was primarily attributable to increased costs associated with new physicians and other staff to support acquisition-related growth and growth at existing units, of which \$95.2 million was related to salaries and \$35.8 million was related to benefits and incentive compensation.

Practice supplies and other operating expenses increased \$7.1 million, or 12.2%, to \$65.5 million for the nine months ended September 30, 2014, as compared to \$58.4 million for the same period in 2013. The increase was attributable to practice supply, rent and other costs of \$3.7 million at our existing units and \$3.4 million related to our acquisitions.

General and administrative expenses include all billing and collection functions and all other salaries, benefits, supplies and operating expenses not specifically related to the day-to-day operations of our physician group practices. General and administrative expenses increased \$17.3 million, or 10.7%, to \$179.9 million for the nine months ended September 30, 2014, as compared to \$162.6 million for the same period in 2013. This increase of \$17.3 million is attributable to the overall growth of the Company, including acquisition-related growth. General and administrative expenses as a percentage of net revenue was 10.1% for the nine months ended September 30, 2014, as compared to 10.2% for the nine months ended September 30, 2013, and grew at a rate slower than the rate of revenue growth.

Depreciation and amortization expense increased \$2.6 million, or 8.9%, to \$32.1 million for the nine months ended September 30, 2014, as compared to \$29.5 million for the same period in 2013. The increase was primarily attributable to the amortization of intangible assets related to acquisitions.

Income from operations increased \$43.7 million, or 13.3%, to \$371.9 million for the nine months ended September 30, 2014, as compared to \$328.2 million for the same period in 2013. Our operating margin increased by 11 basis points to 20.8% for the nine months ended September 30, 2014, as compared to 20.7% for the same period in 2013.

Net non-operating expenses were \$2.2 million for the nine months ended September 30, 2014, as compared to \$3.2 million for the same period in 2013 and were primarily related to interest expense, partially offset by other income, investment income and equity in earnings of an unconsolidated affiliate. Interest expense consists of interest charges, commitment fees and amortized debt costs related to our Line of Credit and accretion expense. Other income during the nine months ended September 30, 2014 included the favorable settlement of litigation.

Our effective income tax rate was 38.1% for the nine months ended September 30, 2014, as compared to 38.0% for the nine months ended September 30, 2013.

Net income attributable to MEDNAX, Inc. increased by 13.6% to \$228.9 million for the nine months ended September 30, 2014, as compared to \$201.5 million for the same period in 2013.

Diluted net income attributable to MEDNAX, Inc. per common and common equivalent share was \$2.28 on weighted average shares outstanding of 100.2 million for the nine months ended September 30, 2014, as compared to \$2.00 on weighted average shares outstanding of 101.0 million for the same period in 2013. The decrease in the weighted average shares outstanding is related to the shares of common stock repurchased under our share repurchase program.

## **Liquidity and Capital Resources**

As of September 30, 2014, we had \$71.8 million of cash and cash equivalents on hand as compared to \$31.1 million at December 31, 2013. In addition, we had working capital of \$151.8 million at September 30, 2014, an increase of \$110.5 million from working capital of \$41.3 million at December 31, 2013. This net increase in working capital is primarily due to net borrowings on our Line of Credit, year-to-date earnings and proceeds from the issuance of common stock under our stock incentive and stock purchase plans, partially offset by the use of funds for acquisitions and repurchases of our common stock.

Our net cash provided from operating activities was \$243.8 million for the nine months ended September 30, 2014, as compared to \$266.1 million for the same period in 2013. This net decrease of \$22.3 million for the nine months ended September 30, 2014 is primarily due to (i) a net decrease in cash flow related to accounts receivable and (ii) a net decrease in cash flow related to changes in the components of our accounts payable and accrued expenses; partially offset by (iii) improved operating results.

During the nine months ended September 30, 2014, accounts receivable increased by \$59.8 million, as compared to an increase of \$24.7 million for the same period in 2013. The net increases in accounts receivable for the nine months ended September 30, 2014 and 2013 are primarily due to increases in accounts receivable related to acquisitions as well as increases in revenue at our existing units, including accrued parity revenue.

Our accounts receivable are principally due from managed care payors, government payors, and other third-party insurance payors. We track our collections from these sources, monitor the age of our accounts receivable, and make all reasonable efforts to collect outstanding accounts receivable through our systems, processes and personnel at our corporate and regional billing and collection offices. We use customary collection practices, including the use of outside collection agencies, for accounts receivable due from private pay patients when appropriate. Almost all of our accounts receivable adjustments consist of contractual adjustments due to the difference between gross amounts billed and the amounts allowed by our payors. Any amounts written off related to private pay patients are based on the specific facts and circumstances related to each individual patient account.

Days sales outstanding (“DSO”) is one of the key factors that we use to evaluate the condition of our accounts receivable and the related allowances for contractual adjustments and uncollectibles. DSO reflects the timeliness of cash collections on billed revenue and the level of reserves on outstanding accounts receivable. Our DSO was 50.7 days at September 30, 2014 as compared to 46.3 days at December 31, 2013. The increase in DSO is primarily related to the integration of acquired practices.

During the nine months ended September 30, 2014, our net cash used in investing activities of \$362.6 million included acquisition payments of \$346.1 million, capital expenditures of \$11.4 million and net purchases of \$5.1 million related to the purchase and maturity of investments. Our capital expenditures were for medical equipment, computer equipment, software, leasehold and other improvements and furniture and fixtures at our office-based practices and our corporate and regional offices.

During the nine months ended September 30, 2014, our net cash provided from financing activities of \$159.4 million consisted primarily of net borrowings on our Line of Credit of \$260.5 million, proceeds from the exercise of employee stock options and the issuance of common stock under our stock purchase plans of \$24.1 million and excess tax benefits related to the exercise of employee stock options of \$11.2 million, partially offset by the repurchase of \$127.8 million of our common stock and the payment of \$9.6 million for contingent consideration liabilities.

At September 30, 2014, we had an outstanding principal balance of \$287.5 million on our Line of Credit. We also had outstanding letters of credit associated with our professional liability insurance program of \$0.1 million which reduced the amount available on our Line of Credit to \$512.4 million at September 30, 2014. At September 30, 2014, we believe we were in compliance, in all material respects, with the financial covenants and other restrictions applicable to us under our Line of Credit. On October 29, 2014, we entered into a new credit agreement that replaced our Line of Credit (the “New Credit Agreement”); see Item 5. of Part II of this Quarterly Report on Form 10-Q for more information regarding our New Credit Agreement, which is incorporated herein by reference.

We maintain professional liability insurance policies with third-party insurers, subject to self-insured retention, exclusions and other restrictions. We self-insure our liabilities to pay self-insured retention amounts under our professional liability insurance coverage through a wholly owned captive insurance subsidiary. We record liabilities for self-insured amounts



and claims incurred but not reported based on an actuarial valuation using historical loss information, claim emergence patterns and various actuarial assumptions. Our total liability related to professional liability risks at September 30, 2014 was \$167.6 million, of which \$18.7 million is classified as a current liability within accounts payable and accrued expenses in the Condensed Consolidated Balance Sheets.

On October 30, 2014, we announced that our board of directors had authorized the repurchase of up to \$600.0 million of shares of our common stock in addition to our existing share repurchase program. We intend to utilize various methods to effect the additional share repurchases, including, among others, open market purchases, which are expected to commence in the near term, as well as an accelerated share repurchase program. The amount and timing of repurchases will depend upon several factors, including general economic and market conditions and trading restrictions.

We anticipate that funds generated from operations, together with our current cash on hand and funds available under our New Credit Agreement, will be sufficient to finance our working capital requirements, fund anticipated acquisitions and capital expenditures, fund our share repurchase program and meet our contractual obligations for at least the next 12 months.

### **Caution Concerning Forward-Looking Statements**

Certain information included or incorporated by reference in this Quarterly Report may be deemed to be “forward-looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995, Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Forward-looking statements may include, but are not limited to, statements relating to our objectives, plans and strategies, and all statements (other than statements of historical facts) that address activities, events or developments that we intend, expect, project, believe or anticipate will or may occur in the future are forward-looking statements. These statements are often characterized by terminology such as “believe,” “hope,” “may,” “anticipate,” “should,” “intend,” “plan,” “will,” “expect,” “estimate,” “project,” “positioned,” “strategy” and similar expressions and are based on assumptions and assessments made by our management in light of their experience and their perception of historical trends, current conditions, expected future developments and other factors they believe to be appropriate. Any forward-looking statements in this Quarterly Report are made as of the date hereof, and we undertake no duty to update or revise any such statements, whether as a result of new information, future events or otherwise. Forward-looking statements are not guarantees of future performance and are subject to risks and uncertainties. Important factors that could cause actual results, developments and business decisions to differ materially from forward-looking statements are described in the Company’s most recent Annual Report on Form 10-K, including the section entitled “Risk Factors.”

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**Item 3. Quantitative and Qualitative Disclosures about Market Risk**

Our Line of Credit was and our New Credit Agreement is subject to market risk and interest rate changes. The outstanding principal balance on our Line of Credit was \$287.5 million at September 30, 2014. Considering this total outstanding balance, a 1.0% change in interest rates would result in an impact to income before taxes of approximately \$2.9 million per year. See Item 5. of Part II of this Quarterly Report on Form 10-Q for more information regarding our New Credit Agreement.

**Item 4. Controls and Procedures****Evaluation of Disclosure Controls and Procedures**

The Company maintains disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended) that are designed to provide reasonable assurance that information required to be disclosed by the Company in reports it files or submits under the Exchange Act is (i) recorded, processed, summarized and reported within the time periods specified in SEC rules and forms and (ii) accumulated and communicated to the Company's management, including its principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure.

We carried out an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended). Based upon that evaluation, the Chief Executive Officer and Chief Financial Officer have concluded that our disclosure controls and procedures were effective at the reasonable assurance level as of the end of the period covered by this report.

**Changes in Internal Controls Over Financial Reporting**

No changes in our internal control over financial reporting occurred during the quarter ended September 30, 2014 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

## PART II - OTHER INFORMATION

### Item 1. Legal Proceedings

We expect that audits, inquiries and investigations from government authorities and agencies will occur in the ordinary course of business. Such audits, inquiries and investigations and their ultimate resolutions, individually or in the aggregate, could have a material adverse effect on our business, financial condition, results of operations, cash flows and the trading price of our common stock.

In the ordinary course of our business, we become involved in pending and threatened legal actions and proceedings, most of which involve claims of medical malpractice related to medical services provided by our affiliated physicians. Our contracts with hospitals generally require us to indemnify them and their affiliates for losses resulting from the negligence of our affiliated physicians. We may also become subject to other lawsuits that could involve large claims and significant defense costs. We believe, based upon a review of pending actions and proceedings, that the outcome of such legal actions and proceedings will not have a material adverse effect on our business, financial condition or results of operations. The outcome of such actions and proceedings, however, cannot be predicted with certainty and an unfavorable resolution of one or more of them could have a material adverse effect on our business, financial condition, results of operations, cash flows and the trading price of our common stock.

Although we currently maintain liability insurance coverage intended to cover professional liability and certain other claims, we cannot assure that our insurance coverage will be adequate to cover liabilities arising out of claims asserted against us in the future where the outcomes of such claims are unfavorable to us. With respect to professional liability risk, we self-insure a significant portion of this risk through our wholly owned captive insurance subsidiary. Liabilities in excess of our insurance coverage, including coverage for professional liability and certain other claims, could have a material adverse effect on our business, financial condition, results of operations, cash flows and the trading price of our common stock.

### Item 1A. Risk Factors

There have been no material changes to the risk factors previously disclosed in the Company's most recent Annual Report on Form 10-K.

### Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

During the three months ended September 30, 2014, 18,282 shares of our common stock were withheld to satisfy minimum statutory tax withholding obligations in connection with the vesting of restricted stock units. During the three months ended September 30, 2014, we did not repurchase any shares of our common stock under the share repurchase program that was approved by our board of directors in July 2013.

On October 30, 2014, we announced that our board of directors had authorized the repurchase of up to \$600.0 million of shares of our common stock in addition to our existing share repurchase program. We intend to utilize various methods to effect the additional share repurchases, including, among others, open market purchases, which are expected to commence in the near term, as well as an accelerated share repurchase program. The amount and timing of repurchases will depend upon several factors, including general economic and market conditions and trading restrictions.

Period	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as part of a Publicly Announced Program	Approximate Dollar Value of Shares that May Yet Be Purchased Under the Repurchase Program
July 1 – July 31, 2014	18,282	\$ 58.18	—	(a)
August 1 – August 31, 2014	—	\$ —	—	(a)
September 1 – September 30, 2014	—	\$ —	—	(a)
Total	18,282	\$ 58.18	—	(a)

- (a) The repurchase program approved by our board of directors in July 2013 allows us to repurchase shares of our common stock up to an amount sufficient to offset the dilutive impact from the issuance of shares under our equity compensation programs, which is estimated to be approximately 2.0 million shares per year.

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**Item 5. Other Information**

On October 29, 2014, the Company entered into a New Credit Agreement, which replaces the Company's Line of Credit. The New Credit Agreement provides for a \$1.3 billion unsecured revolving credit facility and a \$200 million term loan and includes a \$75 million sub-facility for swingline loans and a \$37.5 million sub-facility for the issuance of letters of credit. The Company may increase the credit facility to up to \$1.8 billion on an unsecured basis, subject to the satisfaction of specified conditions. The new credit facility matures on October 29, 2019 and is guaranteed by substantially all of the Company's subsidiaries and affiliated professional associations and corporations. At the Company's option, borrowings under the New Credit Agreement (other than swingline loans) will bear interest at (i) the alternate base rate (defined as the higher of (a) the prime rate, (b) the Federal Funds Rate plus 1/2 of 1.00% and (c) LIBOR for an interest period of one month plus 1.00%) plus an applicable margin rate ranging from 0.125% to 0.750% based on the Company's consolidated leverage ratio or (ii) the LIBOR rate plus an applicable margin rate ranging from 1.125% to 1.750% based on the Company's consolidated leverage ratio. Swingline loans will bear interest at the alternate base rate plus the applicable margin. The New Credit Agreement also calls for other customary fees and charges, including an unused commitment fee ranging from 0.150% to 0.300% of the unused lending commitments, based on the Company's consolidated leverage ratio.

The New Credit Agreement contains customary covenants and restrictions, including covenants that require the Company to maintain a minimum interest charge ratio, not to exceed a specified consolidated leverage ratio and to comply with laws, and restrictions on the ability of the Company to pay dividends and make certain other distributions, as specified therein. Failure to comply with these covenants would constitute an event of default under the New Credit Agreement, notwithstanding the ability of the Company to meet its debt service obligations. The New Credit Agreement also includes various customary remedies for the lenders following an event of default, including the acceleration of repayment of outstanding amounts under the New Credit Agreement.

The New Credit Agreement was provided by a syndicate of banks with JPMorgan Chase Bank, N.A. as Administrative Agent, Wells Fargo Bank, National Association, U.S. Bank National Association and Bank of America, N.A., as Co-Syndication Agents, and BBVA Compass, Citizens Bank, N.A., Fifth Third Bank, SunTrust Bank and The Bank of Tokyo-Mitsubishi UFJ, Ltd. as Co-Documentation Agents. J.P. Morgan Securities LLC, Wells Fargo Securities, LLC, U.S. Bank National Association and Merrill Lynch, Pierce, Fenner & Smith Incorporated acted as Joint Lead Arrangers and Joint Bookrunners.

The foregoing description of the New Credit Agreement is only a summary and is qualified in its entirety by reference to the full text of the New Credit Agreement, which is filed as Exhibit 10.1 to this Quarterly Report on Form 10-Q and is incorporated herein by reference.

On October 30, 2014, we announced that our board of directors had authorized the repurchase of up to \$600.0 million of shares of our common stock in addition to our existing share repurchase program. We intend to utilize various methods to effect the additional share repurchases, including, among others, open market purchases, which are expected to commence in the near term, as well as an accelerated share repurchase program. The amount and timing of repurchases will depend upon several factors, including general economic and market conditions and trading restrictions.

**Item 6. Exhibits**

See Exhibit Index.

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## SIGNATURES

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

### **MEDNAX, INC.**

Date: October 30, 2014

By: /s/ Roger J. Medel, M.D.  
Roger J. Medel, M.D.  
Chief Executive Officer  
(Principal Executive Officer)

Date: October 30, 2014

By: /s/ Vivian Lopez-Blanco  
Vivian Lopez-Blanco  
Chief Financial Officer and Treasurer  
(Principal Financial Officer and  
Principal Accounting Officer)

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## EXHIBIT INDEX

<u>Exhibit No.</u>	<u>Description</u>
10.1+	Credit Agreement, dated as of October 29, 2014, among MEDNAX, Inc., certain of its domestic subsidiaries from time to time party thereto as Guarantors, the Lender parties thereto, JPMorgan Chase Bank, N.A., as Administrative Agent and Wells Fargo Bank, National Association, U.S. Bank National Association and Bank of America, N.A. as Co-Syndication Agents and BBVA Compass, Citizens Bank, N.A., Fifth Third Bank, SunTrust Bank and The Bank of Tokyo-Mitsubishi UFJ, Ltd. as Co-Documentation Agents.
31.1+	Certification of Chief Executive Officer pursuant to Securities Exchange Act Rule 13a-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2+	Certification of Chief Financial Officer pursuant to Securities Exchange Act Rule 13a-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32+	Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS+	XBRL Instance Document.
101.SCH+	XBRL Taxonomy Extension Schema Document.
101.CAL+	XBRL Taxonomy Extension Calculation Linkbase Document.
101.DEF+	XBRL Taxonomy Extension Definition Linkbase Document.
101.LAB+	XBRL Taxonomy Extension Label Linkbase Document.
101.PRE+	XBRL Taxonomy Extension Presentation Linkbase Document.

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+ Filed herewith.

\$1,500,000,000

CREDIT AGREEMENT

among

MEDNAX, INC.,  
as Borrower,

CERTAIN DOMESTIC SUBSIDIARIES OF THE BORROWER  
FROM TIME TO TIME PARTY HERETO,  
as Guarantors,

THE LENDERS PARTY HERETO,

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

WELLS FARGO BANK, NATIONAL ASSOCIATION,  
as Co-Syndication Agent,

U.S. BANK NATIONAL ASSOCIATION,  
as Co-Syndication Agent,

BANK OF AMERICA, N.A.,  
as Co-Syndication Agent

and

BBVA COMPASS,  
CITIZENS BANK, N.A.,  
FIFTH THIRD BANK,  
SUNTRUST BANK,  
THE BANK OF TOKYO-MITSUBISHI UFJ, LTD.,  
as Co-Documentation Agents

Dated as of October 29, 2014

J.P. MORGAN SECURITIES LLC,  
WELLS FARGO SECURITIES, LLC,  
U.S. BANK NATIONAL ASSOCIATION

and

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,  
as Joint Lead Arrangers and Joint Bookrunners

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**THIS CREDIT AGREEMENT**, dated as of October 29, 2014, is by and among **MEDNAX, INC.**, a Florida corporation (the “**Borrower**”), the Guarantors (as hereinafter defined), the Lenders (as hereinafter defined) and **JPMORGAN CHASE BANK, N.A.**, as administrative agent for the Lenders hereunder (in such capacity, the “**Administrative Agent**”).

## ARTICLE I

### DEFINITIONS

#### Section 1.1 **Defined Terms.**

As used in this Agreement, terms defined in the preamble to this Agreement have the meanings therein indicated, and the following terms have the following meanings:

“**Account Designation Notice**” shall mean the Account Designation Notice dated as of the Closing Date from the Borrower to the Administrative Agent in substantially the form attached hereto as **Exhibit 1.1(a)**.

“**Additional Credit Party**” shall mean each Person that becomes a Guarantor by execution of a Joinder Agreement in accordance with Section 5.10.

“**Additional Revolving Loan**” shall have the meaning set forth in Section 2.2.

“**Administrative Agent**” or “**Agent**” shall have the meaning set forth in the first paragraph of this Agreement and shall include any successors in such capacity.

“**Administrative Questionnaire**” shall mean an Administrative Questionnaire in a form supplied by the Administrative Agent.

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

“**Agent Parties**” shall have the meaning set forth in Section 9.2(d)(ii).

“**Agreement**” or “**Credit Agreement**” shall mean this Agreement, as amended, modified, extended, restated, replaced, or supplemented from time to time in accordance with its terms.

“**Alternate Base Rate**” shall mean, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate in effect on such day **plus** 1/2 of 1% and (c) the sum of (i) LIBOR (as determined pursuant to the definition of LIBOR), for an Interest Period of one (1) month commencing on such day **plus** (ii) 1.00%, in each instance as of such date of determination. If for any reason the Administrative Agent shall have determined (which determination shall be conclusive in the absence of manifest error) that it is unable to ascertain the Federal Funds Effective Rate, for any reason, including the inability or failure of the Administrative Agent to obtain sufficient quotations in accordance with the terms set forth in the definition of Federal Funds Effective Rate, the Alternate Base Rate shall be determined without regard to clause (b) of the first sentence of this definition, as appropriate, until the circumstances giving rise to such inability no longer exist. Any change in the Alternate Base Rate due to a change in any of the foregoing will become effective on the date of such change in the Federal Funds Rate, the Prime Rate or LIBOR for an Interest Period of one (1) month. Notwithstanding anything contained herein to the contrary, to the extent that the provisions of Section 2.13 shall be in effect in determining LIBOR pursuant to clause (c) hereof, the Alternate Base Rate shall be the greater of (i) the Prime Rate in effect on such day and (ii) the Federal Funds Effective Rate in effect on such day **plus** 1/2 of 1%.

“**Alternate Base Rate Loans**” shall mean Loans that bear interest at an interest rate based on the Alternate Base Rate.

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

“Anti-Terrorism Order” shall mean that certain Executive Order 13224 signed into law on September 23, 2001.

“Applicable Margin” shall mean, for any day, with respect to (i) Revolving Loans and Commitment Fees, the rate per annum set forth below opposite the applicable level then in effect (based on the Consolidated Leverage Ratio), it being understood that the Applicable Margin for (a) Revolving Loans that are Alternate Base Rate Loans shall be the percentage set forth under the column “Alternate Base Rate Margin,” (b) Revolving Loans that are LIBOR Rate Loans shall be the percentage set forth under the column “LIBOR Margin & L/C Fee,” (c) the Letter of Credit Fee shall be the percentage set forth under the column “LIBOR Margin & L/C Fee,” and (d) the Unused Commitment Fee shall be the percentage set forth under the column “Unused Commitment Fee” and (ii) the Term Loan, the rate per annum set forth below opposite the applicable level then in effect (based on the Consolidated Leverage Ratio), it being understood that the Applicable Margin for (a) that portion of the Term Loan consisting of Alternate Base Rate Loans shall be the percentage set forth under the column “Alternate Base Rate Margin,” and (b) that portion of the Term Loan consisting of LIBOR Rate Loans shall be the percentage set forth under the column “LIBOR Margin & L/C Fee”:

Level	Applicable Margin			
	Consolidated Leverage Ratio	LIBOR Margin & L/C Fee	Alternate Base Rate Margin	Unused Commitment Fee
I	> 2.75 to 1.0	1.750%	0.750%	0.300%
II	£ 2.75 to 1.0			
	and			
	> 2.00 to 1.0	1.500%	0.500%	0.250%
III	£ 2.00 to 1.0			
	and			
	> 1.25 to 1.0	1.375%	0.375%	0.200%
IV	£ 1.25 to 1.0	1.125%	0.125%	0.150%

The Applicable Margin shall, in each case, be determined quarterly on the date five (5) Business Days after the date on which the Administrative Agent has received from the Borrower the quarterly financial information (in the case of the first three fiscal quarters of the Borrower’s fiscal year), the annual financial information (in the case of the fourth fiscal quarter of the Borrower’s fiscal year) and the certifications required to be delivered to the Administrative Agent and the Lenders in accordance with the provisions of Sections 5.1(a), 5.1(b) and 5.2(b) (each an “Interest Determination Date”). Such Applicable Margin shall be effective from such Interest Determination Date until the next such Interest Determination Date. After the Closing Date, if the Credit Parties shall fail to provide the financial information or certifications in accordance with the provisions of Sections 5.1(a), 5.1(b) and 5.2(b), the Applicable Margin shall, on the date five (5) Business Days after the date by which the Credit Parties were so required to provide such financial information or certifications to the Administrative Agent and the Lenders, be based on Level I until such time as such information or certifications or corrected information or corrected certificates are provided, whereupon the Level shall be determined by the then current Consolidated Leverage Ratio. Notwithstanding the foregoing, the initial Applicable Margin shall be set at Level III until the financial information and certificates required to be delivered pursuant to Section 5 for the period ending December 31, 2014 have been delivered to the Administrative Agent. In the event that any financial statement or certification delivered pursuant to Sections 5.1 or 5.2 is shown to be inaccurate (regardless of whether this Agreement or the Commitments are in effect when such inaccuracy is discovered), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Margin for any period (an “Applicable Period”) than the Applicable Margin applied for such Applicable Period, the Borrower shall promptly (a) deliver to the Administrative Agent a corrected compliance certificate for such Applicable Period, (b) determine the Applicable Margin for such Applicable Period based upon the corrected

compliance certificate, and (c) promptly pay to the Administrative Agent for the benefit of the Lenders the accrued additional interest and other fees owing as a result of such increased Applicable Margin for such Applicable Period, which payment shall be promptly distributed by the Administrative Agent to the Lenders entitled thereto. It is acknowledged and agreed that nothing contained herein shall limit the rights of the Administrative Agent and the Lenders under the Credit Documents, including their rights under Sections 2.8 and 7.1.

“Approved Bank” shall have the meaning set forth in the definition of “Cash Equivalents.”

“Approved Fund” shall mean any Fund that is Controlled or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that Controls or manages a Lender.

“Arrangers” shall mean JPMS, Wells Fargo Securities, LLC, U.S. Bank National Association and Merrill Lynch, Pierce, Fenner & Smith Incorporated.

“Assignment and Assumption” shall mean an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 9.6), and accepted by the Administrative Agent, in substantially the form of Exhibit 1.1(b) or any other form approved by the Administrative Agent.

“Bank Product” shall mean any of the following products, services or facilities extended to any Credit Party or any Subsidiary by any Bank Product Provider: (a) Cash Management Services; (b) products under any Hedging Agreement (other than obligations with respect to any such Credit Party’s Hedging Agreements that constitute Excluded Swap Obligations solely with respect to such Credit Party); and (c) commercial credit card, purchase card and merchant card services. Any Bank Product established from and after the time that the Lenders have received written notice from the Borrower or the Administrative Agent that an Event of Default exists, until such Event of Default has been waived in accordance with Section 9.1, shall not be included as “Credit Party Obligations” for purposes of a distribution under Section 2.11(b).

“Bank Product Debt” shall mean the Indebtedness and other obligations of any Credit Party or Subsidiary relating to Bank Products.

“Bank Product Provider” shall mean any Person that provides Bank Products to a Credit Party or any Subsidiary to the extent that (a) such Person is a Lender, an Affiliate of a Lender or any other Person that was a Lender (or an Affiliate of a Lender) at the time it entered into the Bank Product but has ceased to be a Lender (or whose Affiliate has ceased to be a Lender) under the Credit Agreement or (b) such Person is a Lender or an Affiliate of a Lender on the Closing Date and the Bank Product was entered into on or prior to the Closing Date (even if such Person ceases to be a Lender or such Person’s Affiliate ceased to be a Lender).

“Bankruptcy Code” shall mean the Bankruptcy Code in Title 11 of the United States Code, as amended, modified, succeeded or replaced from time to time.

“Bankruptcy Event” shall mean any of the events described in Section 7.1(f).

“Borrower” shall have the meaning set forth in the first paragraph of this Agreement.

“Borrowing Date” shall mean, in respect of any Loan, the date such Loan is made.

“Business” shall have the meaning set forth in Section 3.10.

“Business Day” shall mean any day other than a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by law to close; provided, however, that when used in connection with a rate determination, borrowing or payment in respect of a LIBOR Rate Loan, the term “Business Day” shall also exclude any day on which banks in London, England are not open for dealings in Dollar deposits in the London interbank market.

“Capital Lease” shall mean any lease of property, real or personal, the obligations with respect to which are required to be capitalized on a balance sheet of the lessee in accordance with GAAP; provided that for purposes of calculating Indebtedness hereunder, and notwithstanding Section 1.3 hereof, the term “Capital Lease” shall not include any Capital Lease that was classified as an Operating Lease on the Closing Date or would have been classified as an Operating Lease had such agreement been in effect on the Closing Date prior to a relevant change in law or change in GAAP (from GAAP as in effect on the Closing Date) which has the effect of re-classifying such agreement as a Capital Lease.

“Capital Lease Obligations” shall mean the capitalized lease obligations, determined in accordance with GAAP, relating to a Capital Lease.

“Cash Collateralize” shall mean to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the Issuing Lender or Swingline Lender (as applicable) and the Lenders, as collateral for LOC Obligations, obligations in respect of Swingline Loans, or obligations of Lenders to fund participations in respect of either thereof (as the context may require), cash or deposit account balances or, if the Issuing Lender or Swingline Lender benefiting from such collateral shall agree in its sole discretion, other credit support, in each case pursuant to documentation in form and substance reasonably satisfactory to (a) the Administrative Agent and (b) the Issuing Lender or the Swingline Lender. “Cash Collateral” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“Cash Equivalents” shall mean (a) securities issued or directly and fully guaranteed or insured by the United States of America or any agency or instrumentality thereof (provided that the full faith and credit of the United States of America is pledged in support thereof) having maturities of not more than twelve months from the date of acquisition (“Government Obligations”), (b) Dollar denominated time deposits, certificates of deposit, Eurodollar time deposits and Eurodollar certificates of deposit of (i) any domestic commercial bank of recognized standing having capital and surplus in excess of \$500,000,000, (ii) any U.S. branch or agency of a non-U.S. commercial bank of internationally recognized standing, having capital and surplus in excess of \$500,000,000 or (iii) any bank whose short-term commercial paper rating is at least A-2 or the equivalent thereof from S&P or at least P-2 or the equivalent thereof from Moody’s (any such bank being an “Approved Bank”), in each case with maturities of not more than three hundred sixty-four (364) days from the date of acquisition, (c) commercial paper and variable or fixed rate notes issued by any Approved Bank (or by the parent company thereof) or any variable rate notes issued by, or guaranteed by any domestic corporation rated A-2 (or the equivalent thereof) or better by S&P or P-2 (or the equivalent thereof) or better by Moody’s and maturing within six months of the date of acquisition, (d) repurchase agreements with a term of not more than thirty (30) days with a bank or trust company (including a Lender) or a recognized securities broker dealer having capital and surplus in excess of \$500,000,000 for direct obligations issued by or fully guaranteed by the United States of America, (e) obligations of any state of the United States or any political subdivision thereof for the payment of the principal and redemption price of and interest on which there shall have been irrevocably deposited Government Obligations maturing as to principal and interest at times and in amounts sufficient to provide such payment, (f) money market accounts subject to Rule 2a-7 of the Investment Company Act of 1940 (“Rule 2a-7”) which consist primarily of cash and cash equivalents set forth in clauses (a) through (e) above and of which 95% shall at all times be comprised of First Tier Securities (as defined in Rule 2a-7) and any remaining amount shall at all times be comprised of Second Tier Securities (as defined in Rule 2a-7) and (g) shares of any so-called “money market fund”; provided that such fund is registered under the Investment Company Act of 1940, has net assets of at least \$500,000,000 and has an investment portfolio with an average maturity of three hundred sixty-five (365) days or less.

“Cash Management Services” shall mean any services provided from time to time to any Credit Party or Subsidiary in connection with operating, collections, payroll, trust, or other depository or disbursement accounts, including automatic clearinghouse, controlled disbursement, depository, electronic funds transfer, information reporting, lockbox, stop payment, overdraft and/or wire transfer services and all other treasury and cash management services.

“Change in Law” shall mean the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by

any Governmental Authority; provided, that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or 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 or issued.

“Change of Control” shall mean at any time, the occurrence of any of the following events: (a) any “person” or “group” (as such terms are used in Section 13(d) and 14(d) of the Exchange Act), is or becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Exchange Act, except that a person shall be deemed to have “beneficial ownership” of all securities that such person has the right to acquire, whether such right is exercisable immediately or only after the passage of time), directly or indirectly, of thirty-five percent (35%) or more of the then outstanding Voting Stock of the Borrower; (b) during any period of 12 consecutive months, a majority of the members of the board of directors or other equivalent governing body of the Borrower shall cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body (excluding, in the case of both clause (ii) and clause (iii), any individual whose initial nomination for, or assumption of office as, a member of that board or equivalent governing body occurs as a result of an actual or threatened solicitation of proxies or consents for the election or removal of one or more directors by any person or group other than a solicitation for the election of one or more directors by or on behalf of the board of directors); or (c) any Person or two or more Persons acting in concert shall have entered into a contract or arrangement that, upon consummation thereof, would result in the occurrence of an event that would violate either (a) or (b) above.

“Closing Date” shall mean the date of this Agreement.

“CMS” shall mean the Centers for Medicare and Medicaid Services.

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

“Collateral” shall mean, (a) 100% of the Equity Interests of each Guarantor, (b) Equity Interests in any Foreign Subsidiary or FSHCO up to but not in excess of 65% of the voting Equity Interests and 100% of the non-voting Equity Interests of such Foreign Subsidiary or FSHCO, as applicable and (c) all tangible and intangible personal property of any Credit Party (including but not limited to accounts receivable, inventory, equipment, general intangibles (including contract rights), deposit and securities accounts, investment property, intellectual property, intercompany notes, instruments, chattel paper and documents, letter of credit rights, commercial tort claims and proceeds of the foregoing), other than Excluded Assets.

“Collateral Agreement” shall mean an agreement among each of the Credit Parties and the Administrative Agent, whereby the perfected first-priority security interests required by the definition of “Collateral Event” are granted to the Administrative Agent on behalf of each of the Lenders and Bank Product Providers.

“Collateral Event” shall mean the date, if any, upon which each of the following events has occurred (it being understood that the decision whether or not to cause any of the following events to occur shall be within the Borrower’s sole discretion, but that no “Collateral Event” shall have occurred until all of the following are completed or the completion thereof is waived by the Administrative Agent):

(a) the Administrative Agent shall have received from each Credit Party, a counterpart of the Collateral Agreement duly executed and delivered on behalf of such Credit Party, which Collateral Agreement, when taken together with the other requirements of this definition of “Collateral Event” shall grant first priority security interests in favor of the Administrative Agent in all of the Collateral;



(b) the Administrative Agent for the benefit of the Lenders and Bank Product Providers shall have received all certificates (if any) representing the Equity Interests pledged as Collateral, together with stock powers or other instruments of transfer with respect thereto endorsed in blank;

(c) all Indebtedness having, in the case of each instance of Indebtedness, an aggregate principal amount in excess of \$5,000,000 (other than to the extent that a pledge of such promissory note or instrument would violate applicable law) that is owing to any Credit Party and evidenced by a promissory note or an instrument and constitutes Collateral shall have been pledged pursuant to the Collateral Agreement, and the Administrative Agent shall have received all such promissory notes or instruments, together with note powers or other instruments of transfer with respect thereto endorsed in blank;

(d) the Administrative Agent shall have received from each Credit Party, a counterpart of the Global Intercompany Note, duly executed and delivered on behalf of such Credit Party;

(e) except as contemplated by any Security Document or otherwise agreed by the Administrative Agent, all documents and instruments, including Uniform Commercial Code financing statements and filings with the United States Copyright Office and the United States Patent and Trademark Office, and all other actions required by law or reasonably requested by the Administrative Agent to be filed, registered or recorded to create the Liens intended to be created by the Security Documents (in each case, including any supplements thereto) and perfect such Liens to the extent required by, and with the priority required by, the Security Documents, shall have been filed, registered or recorded or delivered to the Administrative Agent for filing, registration or the recording concurrently with, or promptly following, the execution and delivery of each such Security Document and at all times thereafter (it being understood and agreed that (A) control agreements shall not be required with respect to any deposit accounts, securities accounts or commodities accounts and (B) no perfection actions shall be required with respect to (x) commercial tort claims not exceeding \$5,000,000, (y) motor vehicles and other assets subject to certificates of title, and (z) letter of credit rights, except to the extent constituting a support obligation for other Collateral as to which perfection is accomplished solely by the filing of a Uniform Commercial Code financing statement or equivalent);

(f) the Administrative Agent shall have received insurance certificates from the Borrower's insurance broker or other evidence reasonably satisfactory to it that all insurance required to be maintained pursuant to this Credit Agreement is in full force and effect and such certificates shall comply with the requirements set forth in this Credit Agreement;

(g) the Administrative Agent shall (i) have received (A) searches of Uniform Commercial Code filings in the jurisdiction of incorporation or formation, as applicable, of each Credit Party and each jurisdiction where any Collateral is located or where a filing would need to be made in order to perfect the Administrative Agent's security interest in the Collateral, copies of the financing statements on file in such jurisdictions and evidence that no Liens exist other than Permitted Liens and (B) tax lien and judgment searches and (ii) evidence of the release of Liens that are not Permitted Liens;

(h) the Administrative Agent shall have received, for the benefit of the Lenders and Bank Product Providers, an opinion or opinions (including, if relevant, local counsel opinions) of counsel for the Credit Parties, dated as of the date of the Collateral Event, and addressed to the Administrative Agent and the Lenders, in customary form and substance reasonably acceptable to the Administrative Agent (which shall include opinions regarding the validity and perfection of the Liens granted in connection with the Collateral Event).

“Commitment” shall mean the Revolving Commitments, the LOC Commitment, the Swingline Commitment, any Increased Revolver Commitment, the Term Loan Commitment, and/or any Increased Term Loan Commitment, individually or collectively, as appropriate.

“Commitment Percentage” shall mean the Revolving Commitment Percentage and/or the Term Loan Commitment Percentage, individually or collectively, as appropriate.

“Commitment Period” shall mean (a) with respect to Revolving Loans and Swingline Loans, the period from and including the Closing Date to but excluding the Maturity Date and (b) with respect to Letters of Credit, the period from and including the Closing Date to but excluding the date that is thirty (30) days prior to the Maturity Date.

“Committed Funded Exposure” shall mean, as to any Lender at any time, the aggregate principal amount at such time of its outstanding Loans, LOC Obligations and Participation Interests at such time.

“Commonly Controlled Entity” shall mean an entity, whether or not incorporated, which is under common control with the Borrower within the meaning of Section 4001(b)(1) of ERISA or is part of a group which includes the Borrower and which is treated as a single employer under Section 414(b) or 414(c) of the Code or, solely for purposes of Section 412 of the Code to the extent required by such Section, Section 414(m) or 414(o) of the Code.

“Communications” shall mean, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of the Borrower pursuant to any Credit Document or the transactions contemplated therein which is distributed to the Administrative Agent, any Lender or the Issuing Lender by means of electronic communications pursuant to Section 9.2, including through the Platform.

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

“Consolidated Assets” shall mean, as of any date of determination, the Consolidated assets of the Credit Parties and their Subsidiaries at such date, as determined in accordance with GAAP.

“Consolidated EBITDA” shall mean, as of any date of determination for the four consecutive fiscal quarter period ending on such date, without duplication, (a) Consolidated Net Income for such period plus (b) the sum of the following to the extent deducted in calculating Consolidated Net Income for such period: (i) Consolidated Interest Expense for such period, (ii) tax expense (including, without limitation, any federal, state, local and foreign income and similar taxes) of the Credit Parties and their Subsidiaries for such period, (iii) depreciation and amortization expense of the Credit Parties and their Subsidiaries for such period, (iv) non-cash expenses of the Borrower and its Subsidiaries related to the equity compensation of any current or former employee or director of the Borrower or any Subsidiary or pursuant to any equity compensation plan of the Borrower and (v) other non-recurring non-cash charges (excluding reserves for future cash charges) of the Credit Parties and their Subsidiaries for such period and (vi) actual fees and expenses incurred in connection with the transactions relating to this Agreement during the period ending on the 30<sup>th</sup> day following the Closing Date minus (c) federal, state, local and foreign income tax credits of the Borrower and its Subsidiaries for such period minus (d) all non-cash items increasing Consolidated Net Income for such period minus (e) non-cash charges previously added back to Consolidated Net Income in determining Consolidated EBITDA to the extent such non-cash charges have become cash charges during such period.

“Consolidated Funded Debt” shall mean, as of any date of determination, Funded Debt of the Credit Parties and their Subsidiaries on a Consolidated basis.

“Consolidated Interest Expense” shall mean, as of any date of determination for the four consecutive fiscal quarter period ending on such date, all interest expense (excluding amortization of debt discount and premium, but including the interest component under Capital Leases and synthetic leases, tax retention operating leases, off-balance sheet loans and similar off-balance sheet financing products) for such period of the Credit Parties and their Subsidiaries on a Consolidated basis.

“Consolidated Leverage Ratio” shall mean, as of the last day of any fiscal quarter of the Borrower, for the Credit Parties and their Subsidiaries on a Consolidated basis, the ratio of (a) Consolidated Funded Debt of the Credit Parties and their Subsidiaries on such date to (b) Consolidated EBITDA.

“Consolidated Leverage Ratio Increase Election” shall have the meaning set forth in Section 5.9(a).

“Consolidated Leverage Ratio Increase Period” shall have the meaning set forth in Section 5.9(a).

“Consolidated Net Income” shall mean, as of any date of determination for the four consecutive fiscal quarter period ending on such date, for the Credit Parties and their Subsidiaries on a Consolidated basis, the net income of the Credit Parties and their Subsidiaries (excluding extraordinary gains, including the write-up of assets, but including extraordinary losses) for that period, minus the income of any Subsidiary of the Borrower (including income of a Subsidiary of such Subsidiary attributed thereto) to the extent the payment of such income in the form of a Restricted Payment or repayment of Indebtedness to the Borrower or to another Subsidiary not so restricted is not permitted on account of any provision of any organization document, Contractual Obligation or law applicable to such Subsidiary. Consolidated Net Income shall exclude any income or loss attributable to a Permitted JV (other than dividends or distributions received in cash or Cash Equivalents from such Permitted JV by a Credit Party or Subsidiary (other than another Permitted JV)) to the extent the financial results of such Permitted JV are not Consolidated with the financial results of the Borrower and its Subsidiaries.

“Contractual Obligation” shall mean, as to any Person, any obligations or liabilities of such Person arising under any provision of any security issued by such Person or of any contract, agreement, instrument or undertaking to which such Person is a party or by which it or any of its property is bound.

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

“Copyright Licenses” shall mean any agreement, whether written or oral, providing for the grant by or to a Person of any right under any Copyright.

“Copyrights” shall mean all copyrights in all Works, all registrations and recordings thereof, and all applications in connection therewith, including, without limitation, registrations, recordings and applications in the United States Copyright Office or in any similar office or agency of the United States, any state thereof or any other country or any political subdivision thereof, or otherwise and all renewals thereof.

“Credit Documents” shall mean this Agreement, each of the Notes, any Joinder Agreement, the Letters of Credit, the LOC Documents and the Security Documents, if any, and all other agreements, documents, certificates and instruments delivered to the Administrative Agent or any Lender by any Credit Party in connection therewith (other than any agreement, document, certificate or instrument related to a Bank Product).

“Credit Party” shall mean any of the Borrower or the Guarantors.

“Credit Party Obligations” shall mean, without duplication, (a) the Obligations and (b) for purposes of the Guaranty, the sharing thereof and/or payments from proceeds thereof, all Bank Product Debt.

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

“Default” shall mean any of the events specified in Section 7.1, whether or not any requirement for the giving of notice or the lapse of time, or both, or any other condition, has been satisfied.

“Default Rate” shall mean (a) when used with respect to the Loans, an interest rate equal to (i) for Alternate Base Rate Loans (A) the Alternate Base Rate plus (B) the Applicable Margin, if any, applicable to Alternate Base Rate Loans plus (C) 2% per annum and (ii) for LIBOR Rate Loans, (A) the LIBOR Rate plus (B) the Applicable Margin applicable to LIBOR Rate Loans plus (C) 2% per annum, (b) when used with respect to Letter of Credit Fees, a rate equal to the Applicable Margin plus 2% per annum and (c) when used with respect to any other fee, overdue interest or any other Obligations or amount due hereunder, an interest rate equal to (A) the Alternate Base Rate plus (B) the Applicable Margin, if any, applicable to Alternate Base Rate Loans plus (C) 2% per annum.

“Defaulting Lender” shall mean, subject to Section 2.21(b) any Lender that, (a) has failed to (i) fund all or any portion of its Revolving Loans, any Term Loan, participations in LOC Obligations or participations in Swingline Loans required to be funded by it hereunder within two (2) Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, the Issuing Lender, the Swingline Lender or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit or Swingline Loans) within two (2) Business Days of the date when due, (b) has notified the Borrower, the Administrative Agent or the Issuing Lender or Swingline Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender’s obligation to fund a Loan hereunder and states that such position is based on such Lender’s determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three (3) Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, or (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.21(b)) upon delivery of written notice of such determination to the Borrower, the Issuing Lender, the Swingline Lender and each Lender.

“Disposition” shall have the meaning set forth in Section 6.4.

“Dollars” and “\$” shall mean dollars in lawful currency of the United States of America.

“Domestic Lending Office” shall mean, initially, the office of each Lender designated as such Lender’s Domestic Lending Office shown in such Lender’s Administrative Questionnaire; and thereafter, such other office of such Lender as such Lender may from time to time specify to the Administrative Agent and the Borrower as the office of such Lender at which Alternate Base Rate Loans of such Lender are to be made.

“Domestic Subsidiary” shall mean any Subsidiary that is organized under the laws of the United States or any state thereof or under the laws of the District of Columbia.

“Eligible Assignee” shall mean (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund and (d) any other Person (other than a natural person) approved by (i) the Administrative Agent, (ii) in the case of any assignment of a Revolving Commitment, the Issuing Lender and (iii) unless an Event of Default has occurred and is continuing and so long as the Primary Syndication of the Loans has been completed as determined by JPMCB, the Borrower (each such approval not to be unreasonably withheld or delayed); provided that notwithstanding the foregoing, “Eligible Assignee” shall not include (A) any Credit Party or any of the Credit Party’s Affiliates or Subsidiaries, (B) any Person holding Subordinated Debt of the Credit Parties or (C) any Defaulting Lender.

“Environmental Laws” shall mean any and all applicable foreign, federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, requirements of any Governmental Authority or other Requirement of Law (including common law) regulating, relating to or imposing liability or standards of conduct concerning protection of the environment, as now or may at any time be in effect during the term of this Agreement.

“Equity Holder” shall mean any Person that owns the Equity Interests in any Practice that is a party to any Management Agreement.

“Equity Interests” shall mean (a) in the case of a corporation, capital stock, (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of capital stock, (c) in the case of a partnership, partnership interests (whether general, preferred or limited), (d) in the case of a limited liability company, membership interests and (e) any other interest or participation that confers or could confer on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, without limitation, options, warrants and any other “equity security” as defined in Rule 3a11-1 of the Exchange Act.

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

“Eurodollar Reserve Percentage” shall mean for any day, the percentage (expressed as a decimal and rounded upwards, if necessary, to the next higher 1/100th of 1%) which is in effect for such day as prescribed by the Board of Governors of the Federal Reserve System (the “Board”) (or any successor) for determining the maximum reserve requirement (including, without limitation, any basic, supplemental or emergency reserves) in respect of Eurocurrency liabilities, as defined in Regulation D of the Board as in effect from time to time, or any similar category of liabilities for a member bank of the Federal Reserve System in New York City.

“Event of Default” shall mean any of the events specified in Section 7.1; provided, however, that any requirement for the giving of notice or the lapse of time, or both, or any other condition, has been satisfied.

“Exchange Act” shall mean the Securities Exchange Act of 1934, as amended.

“Excluded Assets” shall mean (i) any real property (including real property leasehold interests), (ii) any governmental licenses or state or local franchises, charters or authorizations, to the extent a security interest in any such licenses, franchise, charter or authorization would be prohibited or restricted thereby (including any legally effective prohibition or restriction), (iii) any assets the pledge of which, or the ownership of which by any Person other than a licensed physician, would be prohibited by applicable law, rule or regulation, (iv) margin stock, (v) any intent-to-use trademark application prior to the filing of a “Statement of Use” or “Amendment to Allege Use” with respect thereto, (vi) any lease, license or other agreement or contract or any property subject to a purchase money security interest, capital lease obligation or similar arrangement to the extent that a grant of a security interest therein would violate or invalidate such lease, license or agreement or contract or purchase money, capital lease or similar arrangement or create a right of termination in favor of any other party thereto (other than the Borrower or any of its affiliates) after giving effect to the applicable anti-assignment provisions of the Uniform Commercial Code or other similar applicable law, other than proceeds and receivables thereof, the assignment of which is expressly deemed effective under the Uniform Commercial Code or other similar applicable law notwithstanding such prohibition, (vii) Equity Interests in any Foreign Subsidiary or FSHCO that would not qualify as “Collateral,” and (viii) assets held by any Foreign Subsidiaries of the Borrower. The Collateral may also exclude those assets as to which the Administrative Agent and the Borrower reasonably agree in writing that the cost of obtaining such a security interest or perfection thereof is excessive in relation to the benefit to the Lenders of the security to be afforded thereby.

“Excluded Swap Obligation” shall mean, with respect to any Guarantor, any obligation to pay or perform under any agreement, contract, or transaction that constitutes a “swap” within the meaning of section 1a(47) of the Commodity Exchange Act (any such obligation, a “Swap Obligation”), if, and to the extent that, all or a portion of the guarantee of such Guarantor pursuant to the Guarantee of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any guarantee pursuant to the Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation, or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof).

“Excluded Taxes” shall mean, with respect to the Administrative Agent, any Lender, the Issuing Lender or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder or under any other Credit Document, (a) taxes imposed on or measured by its net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by any jurisdiction (or any political subdivision thereof)

as a result of such recipient being organized under the laws of or having its principal office or, in the case of any Lender, an applicable lending office in the jurisdiction imposing such Tax (or any political subdivision thereof) or as a result of any other present or former connection other than a connection resulting at least in part from this Agreement, any other Credit Document, or any actions related thereto, (b) any branch profits taxes imposed by the United States of America, or any similar tax, imposed by any jurisdiction described in (a), (c) any United States federal backup withholding tax imposed under Section 3406 of the Code, (d) in the case of a Foreign Lender (other than a Foreign Lender becoming a party hereto pursuant to the Borrower's request under Section 2.19), any United States federal withholding tax that is imposed on amounts payable to such Foreign Lender pursuant to a law in effect at the time such Foreign Lender becomes a party hereto (or designates a new lending office), except to the extent that such Foreign Lender (or its assignor, if any) was entitled, immediately prior to the time of designation of a new lending office (or assignment), to receive additional amounts from the Borrower with respect to such withholding tax pursuant to Section 2.16, (e) any withholding tax attributable to a Lender's failure to comply with Section 2.16(e) or (f), and (f) any withholding tax to the extent imposed pursuant to FATCA.

"Existing Credit Agreement" means the Amended and Restated Credit Agreement, dated as of November 19, 2012, among the Borrower, the guarantors party thereto, the lenders party thereto and Wells Fargo Bank, National Association, as administrative agent.

"Existing Lenders" means the lenders party to the Existing Credit Agreement.

"Existing Letter of Credit" shall mean each of the letters of credit described by applicant, date of issuance, letter of credit number, amount, beneficiary and the date of expiry on Schedule 1.1(c) hereto.

"Extension of Credit" shall mean, as to any Lender, the making of a Loan by such Lender, any conversion of a Loan from one Type to another Type, any extension of any Loan or the issuance, extension or renewal of, or participation in, a Letter of Credit or Swingline Loan by such Lender.

"Facility" shall mean an Incremental Facility, the Revolving Facility and/or the Term Loan Facility, as appropriate.

"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 or any agreements entered into pursuant to Section 1471(b)(1) of the Code) and any current or future regulations or official interpretations thereof.

"Federal Funds Effective Rate" means, for any day, the weighted average (rounded upwards, if necessary, to the next 1/100 of 1%) of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day for such transactions received by the Administrative Agent from three Federal funds brokers of nationally recognized standing selected by it; provided, that, if the Federal Funds Effective Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"Fee Letter" shall mean the letter agreement dated October 13, 2014, addressed to the Borrower from JPMCB, as amended, modified, extended, restated, replaced, or supplemented from time to time.

"Foreign Lender" shall mean any Lender that is not a "United States person" as defined in Section 7701(a)(30) of the Code.

"Foreign Subsidiary" shall mean any Subsidiary that is not a Domestic Subsidiary.

"Fronting Exposure" shall mean, at any time there is a Defaulting Lender, (a) with respect to the Issuing Lender, such Defaulting Lender's Revolving Commitment Percentage of the outstanding LOC Obligations with respect to Letters of Credit issued by such Issuing Lender other than LOC Obligations as to which such Defaulting

Lender's participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof, and (b) with respect to the Swingline Lender, such Defaulting Lender's Revolving Commitment Percentage of outstanding Swingline Loans made by such Swingline Lender other than Swingline Loans as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof.

"FSHCO" shall mean any Domestic Subsidiary that owns no material assets other than the capital stock of one or more Foreign Subsidiaries that are "controlled foreign corporations" within the meaning of Section 957 of the Code.

"Fund" shall mean any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business.

"Funded Debt" shall mean, with respect to any Person, without duplication, all Indebtedness of such Person (other than Indebtedness set forth in clauses (e) and (i) of such definition).

"GAAP" shall mean generally accepted accounting principles in effect in the United States of America (or, in the case of Foreign Subsidiaries with significant operations outside the United States of America, generally accepted accounting principles in effect from time to time in their respective jurisdictions of organization or formation) applied on a consistent basis, subject, however, in the case of determination of compliance with the financial covenants set out in Section 5.9 to the provisions of Section 1.3.

"Global Intercompany Note" shall mean a promissory note, in form and substance satisfactory to the Administrative Agent, evidencing all intercompany loans at any time owed by any Credit Party to the Borrower or any of its Subsidiaries, declaring such loans to be subordinate in all respects to the payment of the Obligations at any time owing to the Lenders.

"Government Acts" shall have the meaning set forth in Section 2.17.

"Government Obligations" shall have the meaning set forth in the definition of "Cash Equivalents."

"Government Reimbursement Program" shall mean (to the extent that any Credit Party participates in one or more of the following): (a) Medicare, the Federal Employees Health Benefit Program under 5 U.S.C. §§ 8902 *et seq.*, the TRICARE program established by the Department of Defense under 10 U.S.C. §§ 1071 *et seq.* or the Civilian Health and Medical Program of the Uniformed Services under 10 U.S.C. §§ 1079 and 1086, (b) Medicaid or (c) any agent, administrator, intermediary or carrier for any of the foregoing.

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

"Guarantor" shall mean the Domestic Subsidiaries of the Borrower as are, or may from time to time become parties to this Agreement.

"Guaranty" shall mean the guaranty of the Guarantors set forth in Article X.

"Guaranty Obligations" shall mean, with respect to any Person, without duplication, any obligations of such Person (other than endorsements in the ordinary course of business of negotiable instruments for deposit or collection) guaranteeing or intended to guarantee any Indebtedness of any other Person in any manner, whether direct or indirect,

and including, without limitation, any obligation, whether or not contingent, (a) to purchase any such Indebtedness or any property constituting security therefor, (b) to advance or provide funds or other support for the payment or purchase of any such Indebtedness or to maintain working capital, solvency or other balance sheet condition of such other Person (including, without limitation, keep well agreements, maintenance agreements, comfort letters or similar agreements or arrangements) for the benefit of any holder of Indebtedness of such other Person, (c) to lease or purchase property, securities or services primarily for the purpose of assuring the holder of such Indebtedness, or (d) to otherwise assure or hold harmless the holder of such Indebtedness against loss in respect thereof. The amount of any Guaranty Obligation hereunder shall (subject to any limitations set forth therein) be deemed to be an amount equal to the outstanding principal amount (or maximum principal amount, if larger) of the Indebtedness in respect of which such Guaranty Obligation is made.

“Healthcare Laws” shall mean, collectively, any and all federal, state or local laws, rules, regulations and to the extent publicly available to providers, administrative manuals, orders, guidelines and requirements issued under or in connection with Medicare, Medicaid or any Government Reimbursement Program, or any law governing the licensure of or regulating healthcare providers, professionals, facilities or payors or otherwise governing or regulating the provision of, or payment for, medical services, including, without limitation, the delivery of home healthcare services by the Credit Parties and any other medical, nursing or other patient-related services now or hereafter provided by the Credit Parties. Healthcare Laws include, but are not limited to, HIPAA 31 U.S.C. Section 3729, *et seq.* (the “Federal False Claims Act”); 42 U.S.C. Section 1320a-7(b) (the “Federal Anti-Kickback Statute”); and 42 U.S.C. 1395nn (the “Physician Self Referral Statute” or “Stark Law”).

“Hedging Agreements” shall mean, with respect to any Person, any agreement entered into to protect such Person against fluctuations in interest rates, or currency or raw materials values, including, without limitation, any interest rate swap, cap or collar agreement or similar arrangement between such Person and one or more counterparties, any foreign currency exchange agreement, currency protection agreements, commodity purchase or option agreements or other interest or exchange rate hedging agreements.

“HIPAA” shall mean the (a) Health Insurance Portability and Accountability Act of 1996; (b) the Health Information Technology for Economic and Clinical Health Act (Title XIII of the American Recovery and Reinvestment Act of 2009); and (c) any state and local laws regulating the privacy and/or security of individually identifiable information, including state laws providing for notification of breach of privacy or security of individually identifiable information, in each case with respect to the laws described in clauses (a), (b) and (c) of this definition, as the same may be amended, modified or supplemented from time to time, any successor statutes thereto, any and all rules or regulations promulgated from time to time thereunder.

“Holder Purchase Grant” shall have the meaning set forth in Section 9.23(a).

“Increased Revolver Commitment” shall have the meaning set forth in Section 2.22(a).

“Increased Term Loan” shall have the meaning set forth in Section 2.22(c).

“Increased Term Loan Commitment” shall have the meaning set forth in Section 2.22(a).

“Incremental Facility” shall have the meaning set forth in Section 2.22(a).

“Incremental Lender” shall have the meaning set forth in Section 2.22(d).

“Incremental Loans” shall have the meaning set forth in Section 2.22(a).

“Incremental Commitments” shall have the meaning set forth in Section 2.22(a).

“Indebtedness” shall mean, with respect to any Person, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, or upon which interest payments are customarily made, (c) all obligations of such Person under conditional sale or other title retention agreements relating to property purchased by such Person (other than customary reservations or retentions



of title under agreements with suppliers entered into in the ordinary course of business), (d) all obligations (including, without limitation, earnout obligations) of such Person incurred, issued or assumed as the deferred purchase price of property or services purchased by such Person (other than trade debt incurred in the ordinary course of business and due within six months of the incurrence thereof) which would appear as liabilities on a balance sheet of such Person, (e) all obligations of such Person under take-or-pay or similar arrangements or under commodities agreements, (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on, or payable out of the proceeds of production from, property owned or acquired by such Person, whether or not the obligations secured thereby have been assumed, (g) all Guaranty Obligations of such Person with respect to Indebtedness of another Person, (h) the principal portion of all Capital Lease Obligations plus any accrued interest thereon, (i) the Swap Termination Value of all Hedging Agreements of such Person, (j) the maximum amount of all letters of credit issued or bankers' acceptances facilities created for the account of such Person and, without duplication, all drafts drawn thereunder (to the extent unreimbursed), (k) all preferred Equity Interest issued by such Person and which by the terms thereof could be (at the request of the holders thereof or otherwise) subject to mandatory sinking fund payments, redemption or other acceleration, (l) the principal balance outstanding under any synthetic lease, tax retention operating lease, off-balance sheet loan or similar off-balance sheet financing product plus any accrued interest thereon and (m) all obligations of any partnership or unincorporated joint venture in which such Person is a general partner or a joint venturer to the extent such Indebtedness is recourse to such Person.

“Indemnified Taxes” shall mean all Taxes imposed on or with respect to any payment made by or on account of any obligation of any Credit Party under any Credit Document, other than Excluded Taxes.

“Indemnatee” shall have the meaning set forth in Section 9.5(b).

“Insolvency” shall mean, with respect to any Multiemployer Plan, the condition that such Plan is insolvent within the meaning of such term as used in Section 4245 of ERISA.

“Intellectual Property” shall mean, collectively, all Copyrights, Copyright Licenses, Patents, Patent Licenses, Trademarks and Trademark Licenses of the Credit Parties and their Subsidiaries, all goodwill associated therewith and all rights to sue for infringement thereof.

“Interest Coverage Ratio” shall mean, as of the last day of any fiscal quarter of the Borrower, for the Credit Parties and their Subsidiaries on a Consolidated basis, the ratio of (a) Consolidated EBITDA to (b) Consolidated Interest Expense paid or payable in cash during the four consecutive fiscal quarter period ending on such date.

“Interest Determination Date” shall have the meaning specified in the definition of “Applicable Margin.”

“Interest Payment Date” shall mean (a) as to any Alternate Base Rate Loan, the last Business Day of each March, June, September and December, (b) as to any LIBOR Rate Loan having an Interest Period of three months or less, the last day of such Interest Period, (c) as to any LIBOR Rate Loan having an Interest Period longer than three months, (i) each three (3) month anniversary following the first day of such Interest Period and (ii) the last day of such Interest Period, (d) as to any Loan which is the subject of a mandatory prepayment required pursuant to Section 2.7(b), the date on which such mandatory prepayment is due, and (e) as to any Loan then outstanding, on the Maturity Date.

“Interest Period” shall mean, with respect to any LIBOR Rate Loan,

(a) initially, the period commencing on the Borrowing Date or conversion date, as the case may be, with respect to such LIBOR Rate Loan and ending one, two, three or six months thereafter, subject to availability to all applicable Lenders, as selected by the Borrower in the Notice of Borrowing or Notice of Conversion given with respect thereto; and

(b) thereafter, each period commencing on the last day of the immediately preceding Interest Period applicable to such LIBOR Rate Loan and ending one, two, three or six months thereafter, subject to availability to all applicable Lenders, as selected by the Borrower by irrevocable notice to the Administrative Agent not less than three (3) Business Days prior to the last day of the then current Interest Period with respect thereto; provided that the foregoing provisions are subject to the following:

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

(ii) any Interest Period pertaining to a LIBOR Rate Loan that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the relevant calendar month;

(iii) if the Borrower shall fail to give notice as provided above, the Borrower shall be deemed to have selected an Alternate Base Rate Loan to replace the affected LIBOR Rate Loan;

(iv) no Interest Period in respect of any Revolving Loans, Swingline Loans or the Term Loan shall extend beyond the Maturity Date; and

(v) no more than ten (10) LIBOR Rate Loans may be in effect at any time. For purposes hereof, LIBOR Rate Loans with different Interest Periods shall be considered as separate LIBOR Rate Loans, even if they shall begin on the same date, although borrowings, extensions and conversions may, in accordance with the provisions hereof, be combined at the end of existing Interest Periods to constitute a new LIBOR Rate Loan with a single Interest Period.

“Investment” shall mean (a) the acquisition (whether for cash, property, services, assumption of Indebtedness, securities or otherwise) of shares of Equity Interest, other ownership interests or other securities of any Person or bonds, notes, debentures or all or substantially all of the assets of any Person, (b) any deposit with, or advance, loan or other extension of credit to, any Person (other than deposits made in the ordinary course of business) or (c) any other capital contribution to or investment in any Person, including, without limitation, any Guaranty Obligation (including any support for a letter of credit issued on behalf of such Person) incurred for the benefit of such Person.

“Issuing Lender” shall mean, with respect to all Letters of Credit, JPMCB, together with any successor, and any issuing lender under an Existing Letter of Credit or any successor issuing lender thereunder.

“Issuing Lender Fees” shall have the meaning set forth in Section 2.5(c).

“Joinder Agreement” shall mean a Joinder Agreement in substantially the form of Exhibit 1.1(c), executed and delivered by an Additional Credit Party in accordance with the provisions of Section 5.10.

“Joint Commission” shall mean the Joint Commission (formerly known as the Joint Commission on Accreditation of Healthcare Organizations).

“JPMCB” shall mean JPMorgan Chase Bank, N.A., together with its successors and/or assigns.

“JPMS” shall mean J.P. Morgan Securities LLC, together with its successors and assigns.

“Lender” shall mean any of the several banks and other financial institutions as are, or may from time to time become parties to this Agreement; provided that notwithstanding the foregoing, “Lender” shall not include any Credit Party or any of the Credit Party’s Affiliates or Subsidiaries.

“Lender Consent” shall mean any lender consent delivered by a Lender on the Closing Date in the form of Exhibit 4.1(a).

“Letter of Credit” shall mean (a) any letter of credit issued by the Issuing Lender pursuant to the terms hereof, as such letter of credit may be amended, modified, restated, extended, renewed, increased, replaced or supplemented from time to time and (b) any Existing Letter of Credit, in each case as such letter of credit may be amended, modified, extended, renewed or replaced from time to time.

“Letter of Credit Facing Fee” shall have the meaning set forth in Section 2.5(c).

“Letter of Credit Fee” shall have the meaning set forth in Section 2.5(b).

“LIBOR” shall mean, for any LIBOR Rate Loan for any Interest Period therefor, the rate per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) appearing on pages LIBOR01 or LIBOR02 of the Reuters screen (or any successor page) as the London interbank offered rate as administered by ICE Benchmark Association (or any other Person that takes over the administration of such rate) for deposits in Dollars at approximately 11:00 A.M. (London time) two (2) Business Days prior to the first day of such Interest Period; provided that if the rate per annum appearing on pages LIBOR01 or LIBOR02 of the Reuters screen (or any successor page) shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement. If for any reason such rate is not available, then “LIBOR” shall mean the rate per annum at which, as determined by the Administrative Agent in accordance with its customary practices, Dollars in an amount comparable to the Loans then requested are being offered to leading banks at approximately 11:00 A.M. London time, two (2) Business Days prior to the commencement of the applicable Interest Period for settlement in immediately available funds by leading banks in the London interbank market for a period equal to the Interest Period selected.

“LIBOR Lending Office” shall mean, initially, the office(s) of each Lender designated as such Lender’s LIBOR Lending Office in such Lender’s Administrative Questionnaire; and thereafter, such other office of such Lender as such Lender may from time to time specify to the Administrative Agent and the Borrower as the office of such Lender at which the LIBOR Rate Loans of such Lender are to be made.

“LIBOR Rate” shall mean, for any Interest Period, a rate per annum (rounded upwards, if necessary, to the next higher 1/100th of 1%) determined by the Administrative Agent pursuant to the following formula:

$$\text{LIBOR Rate} = \frac{\text{LIBOR}}{1.0 \text{ minus the Eurodollar Reserve Percentage}}$$

“LIBOR Rate Loan” shall mean Loans the rate of interest applicable to which is based on the LIBOR Rate.

“LIBOR Tranche” shall mean the collective reference to LIBOR Rate Loans whose Interest Periods begin and end on the same day.

“Lien” shall mean any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest or any preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including, without limitation, (a) any conditional sale or other title retention agreement and any Capital Lease having substantially the same economic effect as any of the foregoing and (b) the filing of, or the agreement to give, any UCC financing statement).

“Loan” or “Loans” shall mean a Revolving Loan, the Term Loan, a Swingline Loan and/or an Incremental Loan, as appropriate.

“LOC Commitment” shall mean the commitment of the Issuing Lender to issue Letters of Credit and with respect to each Revolving Lender, the commitment of such Revolving Lender to purchase Participation Interests in the Letters of Credit up to such Revolving Lender’s Revolving Commitment Percentage of the LOC Committed Amount.

“LOC Committed Amount” shall have the meaning set forth in Section 2.3(a).

“LOC Documents” shall mean, with respect to each Letter of Credit, such Letter of Credit, any amendments thereto, any documents delivered in connection therewith, any application therefor, and any agreements, instruments, guarantees or other documents (whether general in application or applicable only to such Letter of Credit) governing or providing for (a) the rights and obligations of the parties concerned or (b) any collateral for such obligations.

“LOC Obligations” shall mean, at any time, the sum of (a) the maximum amount which is, or at any time thereafter may become, available to be drawn under Letters of Credit then outstanding, assuming compliance with all requirements for drawings referred to in such Letters of Credit plus (b) the aggregate amount of all drawings under Letters of Credit honored by the Issuing Lender but not theretofore reimbursed.

“Management Agreement” shall mean (a) each Amended and Restated Exclusive Management and Administrative Services Agreement by and between the applicable Manager and the applicable Practice and (b) each other similar agreement pursuant to which a Manager agrees to provide certain administrative services to a Practice.

“Manager” shall mean, with respect to any particular Management Agreement, the Borrower or its applicable Subsidiary that is a party to such Management Agreement as the administrative manager of the relevant medical practice or practices.

“Mandatory LOC Borrowing” shall have the meaning set forth in Section 2.3(e).

“Mandatory Swingline Borrowing” shall have the meaning set forth in Section 2.4(b)(ii).

“Material Adverse Effect” shall mean a material adverse effect on (a) the business, operations, property, assets or financial condition of the Credit Parties and their Subsidiaries taken as a whole, (b) the ability of the Credit Parties and their Subsidiaries taken as a whole to perform their obligations, when such obligations are required to be performed, under this Agreement, any of the Notes or any other Credit Document or (c) the validity or enforceability of this Agreement, any of the Notes, any Joinder Agreement, any of the Letters of Credit or LOC Documents or the rights or remedies of the Administrative Agent or the Lenders hereunder or thereunder. The inclusion of any dollar amount threshold in any representation, warranty, covenant, notice provision, Default or Event of Default or any other provision of this Agreement shall not be deemed to constitute a mutual agreement as to a standard that is determinative of whether a Material Adverse Effect exists or may exist.

“Material Acquisition” shall mean any Permitted Acquisition by the Borrower or any other Credit Party involving aggregate consideration (inclusive of Indebtedness refinanced, assumed, or remaining in place in connection with or following such Permitted Acquisition and the value of contingent consideration accrued pursuant to GAAP) in excess of \$500,000,000.

“Material Contract” shall mean (a) any Management Agreement and any Restrictive Agreement and (b) any other contract, agreement, permit or license, written or oral, of the Credit Parties or any of their Subsidiaries as to which the breach, nonperformance, cancellation or failure to renew by any party thereto, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

“Material Domestic Subsidiary” shall mean any Domestic Subsidiary of the Borrower that, together with its Subsidiaries, (a) generated more than 10% of the net revenues (whether denominated in the financial statements of the Credit Parties as net patient service revenues or similar nomenclature) of the Credit Parties on a Consolidated basis for the four (4) fiscal quarter period most recently ended or (b) owns more than 10% of the Consolidated Assets as of the last day of the most recently ended fiscal quarter of the Borrower; provided, however, that if at any time there are Domestic Subsidiaries which are not classified as “Material Domestic Subsidiaries” but which collectively (i) generated more than 20% of the net revenues (whether denominated in the financial statements of the Credit Parties as net patient service revenues or similar nomenclature) of the Credit Parties on a Consolidated basis for the four (4) fiscal quarters most recently ended or (ii) own more than 20% of the Consolidated Assets as of the last day of the most recently ended fiscal quarter of the Borrower, then the Borrower shall promptly, and in any event within thirty (30) days after the financial statements for such fiscal quarter become available, designate one or more of such Domestic Subsidiaries as Material Domestic Subsidiaries and cause any such Domestic Subsidiaries to

comply with the provisions of Section 5.10 such that, after such Domestic Subsidiaries become Guarantors hereunder, the Domestic Subsidiaries that are not Guarantors shall (iii) generate less than 20% of the net revenues (whether denominated in the financial statements of the Credit Parties as net patient service revenues or similar nomenclature) of the Credit Parties and (iv) own less than 20% of the Consolidated Assets. For purposes of determining whether or not any newly formed or acquired Subsidiary is a “Material Domestic Subsidiary,” the foregoing calculations shall be performed at the time of such acquisition or formation (including any asset contributions made to such Subsidiary concurrently with such acquisition or formation) giving effect to such acquisition or formation (including any asset contributions made to such Subsidiary concurrently with such acquisition or formation) on a Pro Forma Basis as of the last day of the most recently ended fiscal quarter of the Borrower. It is understood and agreed that in no event shall PMG be considered a Material Domestic Subsidiary.

“Materials of Environmental Concern” shall mean any gasoline or petroleum (including crude oil or any extraction thereof) or petroleum products or any hazardous or toxic substances, materials or wastes, defined or regulated as such in or under any Environmental Law, including, without limitation, asbestos, perchlorate, polychlorinated biphenyls and urea-formaldehyde insulation.

“Maturity Date” shall mean the date that is five (5) years following the Closing Date; provided, however, if such date is not a Business Day, the Maturity Date shall be the next preceding Business Day.

“Medicaid” means the medical assistance programs administered by state agencies and approved by CMS pursuant to the terms of Title XIX of the Social Security Act, codified at 42 U.S.C. 1396 *et seq.*

“Medicare” means the program of health benefits for the aged and disabled administered by CMS pursuant to the terms of Title XVIII of the Social Security Act, codified at 42 U.S.C. 1395 *et seq.*

“Moody’s” shall mean Moody’s Investors Service, Inc.

“Multiemployer Plan” shall mean a Plan that is a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

“Non-Consenting Lender” shall mean any Lender (other than JPMCB) that does not approve any consent, waiver or amendment that has been obtained as to one or more Lenders and that is not effective with respect to an affected Lender not approving such consent, waiver or amendment in accordance with the terms of Section 9.1.

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

“Note” or “Notes” shall mean the Revolving Notes, the Swingline Note and/or the Term Loan Notes, collectively or individually, as appropriate.

“Notice of Borrowing” shall mean a request for a Revolving Loan borrowing pursuant to Section 2.1(b)(i) or a request for a Swingline Loan borrowing pursuant to Section 2.4(b)(i), as appropriate. A Form of Notice of Borrowing is attached as Exhibit 1.1(d).

“Notice of Conversion/Extension” shall mean the written notice of conversion of a LIBOR Rate Loan to an Alternate Base Rate Loan or an Alternate Base Rate Loan to a LIBOR Rate Loan, or extension of a LIBOR Rate Loan, in each case substantially in the form of Exhibit 1.1(e).

“Obligations” shall mean, collectively, all of the obligations, Indebtedness and liabilities of the Credit Parties to the Lenders (including the Issuing Lender) and the Administrative Agent, whenever arising, under this Agreement, the Notes or any of the other Credit Documents, including principal, interest, fees, costs, charges, expenses, professional fees, reimbursements, all sums chargeable to the Credit Parties or for which any Credit Party is liable as an indemnitor and whether or not evidenced by a note or other instrument and indemnification obligations and other amounts (including, but not limited to, any interest accruing after the occurrence of a filing of a petition of bankruptcy under the Bankruptcy Code with respect to any Credit Party, regardless of whether such interest is an allowed claim under the Bankruptcy Code). Obligations with respect to any Guarantor shall in no event include any Excluded Swap Obligations of such Guarantor.

“Operating Lease” shall mean, as to any Person as determined in accordance with GAAP, any lease of property (whether real, personal or mixed) by such Person as lessee which is not a Capital Lease, or which is classified as an operating lease under the definition of “Capital Lease.”

“Other Taxes” shall mean all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or under any other Credit Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Credit Document.

“Participant” has the meaning assigned to such term in clause (d) of Section 9.6.

“Participant Register” has the meaning assigned to such term in clause (d) of Section 9.6.

“Participation Interest” shall mean a participation interest purchased by a Revolving Lender in LOC Obligations as provided in Section 2.3(c) and in Swingline Loans as provided in Section 2.4.

“Patent Licenses” shall mean any agreement, whether written or oral, providing for the grant by or to a Person of any right to manufacture, use or sell any invention covered by a Patent.

“Patents” shall mean (a) all letters patent of the United States or any other country, now existing or hereafter arising, and all improvement patents, reissues, reexaminations, patents of additions, renewals and extensions thereof and (b) all applications for letters patent of the United States or any other country and all provisionals, divisions, continuations and continuations-in-part and substitutes thereof.

“Patriot Act” shall mean Title III of The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)), as amended or modified from time to time.

“Payment Event of Default” shall mean an Event of Default specified in Section 7.1(a).

“PBGC” shall mean the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA.

“Permitted Acquisition” shall mean an acquisition or any series of related acquisitions by a Credit Party of (a) all or substantially all of the assets or a majority of the outstanding Voting Stock or economic interests of a Person that is incorporated, formed or organized in the United States, (b) a Person that is incorporated, formed or organized in the United States by a merger, amalgamation or consolidation or any other combination with such Person or (c) any division, line of business or other business unit of a Person that is incorporated, formed or organized in the United States (such Person or such division, line of business or other business unit of such Person shall be referred to herein as the “Target”), in each case that is a type of business (or assets used in a type of business) permitted to be engaged in by the Credit Parties and their Subsidiaries pursuant to Section 6.3, in each case so long as:

(i) no Default or Event of Default shall then exist or would exist after giving effect thereto;

(ii) the Credit Parties shall have furnished to the Administrative Agent within fifteen (15) Business Days after the consummation of such acquisition (A) Consolidated pro forma financial statements of the Borrower (giving pro forma effect to all acquisitions made during the previous four fiscal quarter period as if they had occurred on the first day of such period) as of the most recent date that financial statements have been furnished pursuant to Section 5.1(a) or (b) demonstrating that, after giving effect to the acquisition on a Pro Forma Basis, the Credit Parties are in compliance with each of the financial covenants set forth in Section 5.9 and (B) a certificate substantially in the form of Exhibit 1.1(f) executed by a Responsible Officer of the Borrower certifying that such Permitted Acquisition complies with the requirements of this Agreement;

(iii) the Target, if a Person, shall have executed a Joinder Agreement to the extent required by the terms of Section 5.10 within the applicable time period specified in Section 5.10; and

(iv) the Target does not oppose such acquisition (other than in the case of an acquisition pursuant to a Holder Purchase Grant).

“Permitted Investments” shall mean:

(a) cash and Cash Equivalents;

(b) Investments existing as of the Closing Date as set forth on Schedule 1.1(a), and any renewals, refinancings or extensions thereof in a principal amount not in excess of that outstanding as of the date of such renewal, refinancing or extension;

(c) receivables owing to the Credit Parties or any of their Subsidiaries or any receivables and advances to suppliers, in each case if created, acquired or made in the ordinary course of business and payable or dischargeable in accordance with customary trade terms;

(d) Investments in and loans to any Credit Party;

(e) Investments in and loans to Subsidiaries of Credit Parties (other than Credit Parties) and Permitted JV Investments in an aggregate amount not to exceed at any one time 15% of Consolidated total shareholders' equity as determined in accordance with GAAP and as set forth on the then most recent Consolidated balance sheet of the Borrower and its Consolidated Subsidiaries furnished to the Administrative Agent pursuant to Section 5.1 (for the avoidance of doubt, the calculation of the aggregate amount of all Permitted JV Investments shall not include any accretion (or reduction) for equity in income (loss) in any Permitted JV to the extent the financial results of such Permitted JV are not Consolidated with the financial results of the Borrower and its Subsidiaries except to the extent of dividends or distributions received in cash or Cash Equivalents from a Permitted JV by a Credit Party or Subsidiary (other than another Permitted JV));

(f) loans and advances to employees; provided that such loans and advances shall comply with all applicable Requirements of Law (including Sarbanes-Oxley);

(g) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of suppliers and customers and in settlement of delinquent obligations of, and other disputes with, customers and suppliers arising in the ordinary course of business;

(h) Investments, acquisitions or transactions permitted under Section 6.4(b) and Guaranty Obligations permitted under Section 6.1;

(i) Permitted Acquisitions;

(j) Hedging Agreements to the extent permitted hereunder;

(k) Investments by PMG in accordance with applicable law and past practices; and

(l) Investments in PMG (in addition to Investments in PMG outstanding on the Closing Date and set forth on Schedule 1.1(a)) not to exceed \$300,000,000 in the aggregate at any time outstanding; and

(m) additional loans, advances and/or Investments of a nature not contemplated by the foregoing clauses hereof so long as after giving effect to each such additional loans, advances and/or Investments on a Pro Forma basis the Consolidated Total Leverage Ratio of the Credit Parties would be less than or equal to 3.25 to 1.0, increasing to 3.50 to 1.0 during a Consolidated Leverage Ratio Increase Period.

“Permitted JV” shall mean a Person that is (a) not a wholly-owned Subsidiary of the Borrower and (b) a type of business (or assets used in a type of business) permitted to be engaged in by the Credit Parties and their Subsidiaries pursuant to Section 6.3.

“Permitted JV Investment” shall mean an Investment after the Closing Date in a Permitted JV (other than an Investment pursuant to clause (b) of the definition of Permitted Investment) so long as no Default or Event of Default shall then exist or would exist after giving effect thereto.

“Permitted Liens” shall mean:

(a) Liens created by or otherwise existing under or in connection with this Agreement or the other Credit Documents in favor of the Administrative Agent on behalf of the Lenders;

(b) Liens in favor of a Bank Product Provider in connection with a Bank Product; provided that such Liens shall secure the Credit Party Obligations on a ratable and pari passu basis;

(c) Liens securing purchase money Indebtedness and Capital Lease Obligations (and refinancings thereof) to the extent permitted under Section 6.1(c); provided, that (i) any such Lien attaches to such property concurrently with or within thirty (30) days after the acquisition thereof and (ii) such Lien attaches solely to the property so acquired in such transaction;

(d) Liens for taxes, assessments, charges or other governmental levies not yet due or as to which the period of grace (not to exceed sixty (60) days), if any, related thereto has not expired or which are being contested in good faith by appropriate proceedings; provided that adequate reserves with respect thereto are maintained on the books of any Credit Party or its Subsidiaries, as the case may be, in conformity with GAAP;

(e) statutory Liens such as carriers’, warehousemen’s, mechanics’, materialmen’s, landlords’, repairmen’s or other like Liens arising in the ordinary course of business which are not overdue for a period of more than one hundred twenty (120) days or which are being contested in good faith by appropriate proceedings;

(f) pledges or deposits in connection with workers’ compensation, unemployment insurance and other social security legislation (other than any Lien imposed by ERISA) and deposits securing liability to insurance carriers under insurance or self-insurance arrangements in accordance with historical practice and in the ordinary course of business;

(g) deposits to secure the performance of bids, trade contracts (other than for borrowed money), leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(h) easements, rights of way, restrictions and other similar encumbrances affecting real property which, in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person;

(i) Liens existing on the Closing Date and set forth on Schedule 1.1(b); provided that (i) no such Lien shall at any time be extended to cover property or assets other than the property or assets subject thereto on the Closing Date and subsequent improvements thereon, (ii) the principal amount of the Indebtedness secured by such Lien shall not be extended, renewed, refunded or refinanced except as permitted by Section 6.1(b) and (iii) the direct or any contingent obligor with respect thereto is not changed;



(j) any extension, renewal or replacement (or successive extensions, renewals or replacements), in whole or in part, of any Lien referred to in this definition (other than Liens set forth on Schedule 1.1(b)); provided that such extension, renewal or replacement Lien shall be limited to all or a part of the property which secured the Lien so extended, renewed or replaced (plus subsequent improvements on such property);

(k) Liens arising in the ordinary course of business by virtue of any contractual, statutory or common law provision relating to (i) landlord's Liens arising under leases of real property in the ordinary course of business and (ii) banker's Liens, rights of set-off or similar rights and remedies covering deposit or securities accounts (including funds or other assets credited thereto) or other funds maintained with a depository institution or securities intermediary;

(l) any zoning, building or similar laws or rights reserved to or vested in any Governmental Authority;

(m) restrictions on transfers of securities imposed by applicable Securities Laws or laws governing the practice of medicine;

(n) Liens arising out of judgments or awards not resulting in an Event of Default; provided that the applicable Credit Party or Subsidiary shall in good faith be prosecuting an appeal or proceedings for review;

(o) Liens on the property of a Person existing at the time such Person becomes a Subsidiary of a Credit Party in a transaction permitted hereunder securing Indebtedness in an aggregate principal amount not to exceed \$50,000,000 for all such Persons; provided, however, that any such Lien may not extend to any other property of any Credit Party or any other Subsidiary that is not a Subsidiary of such Person; provided, further, that any such Lien was not created in anticipation of or in connection with the transaction or series of transactions pursuant to which such Person became a Subsidiary of a Credit Party;

(p) any interest or title of a lessor, licensor or sublessor under any lease, license or sublease entered into by any Credit Party or any Subsidiary thereof in the ordinary course of its business and covering only the assets so leased, licensed or subleased;

(q) assignments of insurance or condemnation proceeds provided to landlords (or their mortgagees) pursuant to the terms of any lease and Liens or rights reserved in any lease for rent or for compliance with the terms of such lease;

(r) Liens arising under Restrictive Agreements; and

(s) additional Liens so long as the principal amount of Indebtedness and other obligations secured thereby does not exceed \$100,000,000 in the aggregate.

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

“Plan” shall mean, as of any date of determination, any employee benefit plan which is covered by Title IV of ERISA and in respect of which any Credit Party or a Commonly Controlled Entity is (or, if such plan were terminated at such time, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Platform” shall have the meaning set forth in Section 9.2(d)(i).

“PMG” means PMG Indemnity Ltd., a corporation organized under the laws of Grand Cayman, British West Indies, and a Subsidiary of the Borrower.

“Practice” shall mean that Person party to any Management Agreement that is not the Manager under such Management Agreement and that engages in the practice of providing medical services or of owning the Equity Interests of other Persons engaged in the practice of medical services.

“Primary Syndication” shall mean any assignments by the Administrative Agent in order to effectuate the initial post-closing syndication made on or prior to the earlier of (a) the date that is ninety (90) days after the Closing Date and (b) the completion of all assignments relating to the completion of a successful syndication.

“Prime Rate” means the rate of interest per annum publicly announced from time to time by JPMCB as its prime rate in effect at its office located at 270 Park Avenue, New York, New York, or any successor office announced by JPMCB; each change in the Prime Rate shall be effective from and including the date such change is publicly announced as being effective.

“Private Payor” means any insurance company, health maintenance organization, preferred provider organization or similar entity that is obligated to make payments for goods or services provided to a patient, but shall not include a Government Reimbursement Program.

“Private Payor Arrangement” means a written agreement or arrangement with a Private Payor pursuant to which the Private Payor pays all or a portion of the charges of any Credit Party for providing goods and services to a patient.

“Pro Forma Basis” shall mean, with respect to any transaction, that such transaction shall be deemed to have occurred as of the first day of the four-quarter period ending as of the Borrower’s most recent fiscal quarter end preceding the date of such transaction.

“Properties” shall have the meaning set forth in Section 3.10(a).

“Qualified ECP Guarantor” means, in respect of any Swap Obligation, each Credit Party that has total assets exceeding \$10,000,000 at the time the relevant Guaranty or grant of the relevant security interest becomes or would become effective with respect to such Swap Obligation or such other person as constitutes an “eligible contract participant” under the Commodity Exchange Act or any regulations promulgated thereunder and can cause another person to qualify as an “eligible contract participant” at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

“Recipient” shall mean (a) the Administrative Agent, (b) any Lender and (c) the Issuing Lender, as applicable.

“Recovery Event” shall mean the receipt by any Credit Party or its Subsidiaries of any cash insurance proceeds or condemnation award payable by reason of theft, loss, physical destruction or damage, taking or similar event with respect to any of their respective property or assets.

“Register” shall have the meaning set forth in Section 9.6(c).

“Reimbursement Obligation” shall mean the obligation of the Borrower to reimburse the Issuing Lender pursuant to Section 2.3(d) for amounts drawn under Letters of Credit.

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

“Reorganization” shall mean, with respect to any Multiemployer Plan, the condition that such Plan is in reorganization within the meaning of such term as used in Section 4241 of ERISA.

“Reportable Event” shall mean any of the events set forth in Section 4043(c) of ERISA, other than those events as to which the thirty-day notice period is waived under PBGC Reg. §4043.

**“Required Facility Lenders”** shall mean, as of any date of determination, either (as the context may require) (a) Term Loan Lenders holding at least a majority of the outstanding Term Loans under the Term Loan Facility, (b) Revolving Lenders holding at least a majority of the outstanding Revolving Commitments and if the Revolving Commitments have been terminated, the outstanding Revolving Loans and Participation Interests, under the Revolving Facility; provided, however, that if any Lender shall be a Defaulting Lender at such time, then there shall be excluded from the determination of Required Facility Lenders, Obligations (including Participation Interests) owing to such Defaulting Lender and such Defaulting Lender’s Commitments, or (c) Incremental Lenders holding at least a majority of the outstanding Loans and/or Commitments under an Incremental Facility.

**“Required Lenders”** shall mean, as of any date of determination, Lenders holding at least a majority of (a) the outstanding Revolving Commitments and outstanding Term Loans or (b) if the Revolving Commitments have been terminated, the outstanding Revolving Loans, Term Loans and Participation Interests; **provided, however,** that if any Lender shall be a Defaulting Lender at such time, then there shall be excluded from the determination of Required Lenders, Obligations (including Participation Interests) owing to such Defaulting Lender and such Defaulting Lender’s Revolving Commitments.

**“Requirement of Law”** shall mean, as to any Person, (a) all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes, executive orders, and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority (in each case whether or not having the force of law) and (b) all Healthcare Laws; in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

**“Responsible Officer”** shall mean, for any Credit Party, any duly authorized officer or authorized signatory thereof and as to whom the Administrative Agent has received an incumbency certificate that has not been terminated or revoked indicating such officer or authorized signatory is a duly authorized officer thereof.

**“Restricted Payment”** shall mean (a) any dividend or other distribution, direct or indirect, on account of any shares (or equivalent) of any class of Equity Interest of any Credit Party or any of its Subsidiaries, now or hereafter outstanding, (b) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any shares (or equivalent) of any class of Equity Interest of any Credit Party or any of its Subsidiaries, now or hereafter outstanding, (c) any payment made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any class of Equity Interest of any Credit Party or any of its Subsidiaries, now or hereafter outstanding, (d) any payment with respect to any earnout obligation, (e) any payment or prepayment of principal of, premium, if any, or interest on, redemption, purchase, retirement, defeasance, sinking fund or similar payment with respect to, any Subordinated Debt of any Credit Party or any of its Subsidiaries, (f) the payment by any Credit Party or any of its Subsidiaries of any management, advisory or consulting fee to any Person (other than such fees incurred in the ordinary course of business) or (g) the payment of any extraordinary salary, bonus or other form of compensation for services to any Person who is directly or indirectly a significant partner, shareholder, owner or executive officer of any such Person, to the extent such extraordinary salary, bonus or other form of compensation is not or would not be an expense reflected on such Person’s financial statements in accordance with GAAP.

**“Restrictive Agreement”** shall have the meaning set forth in Section 9.23(a).

**“Revolving Commitment”** shall mean, with respect to each Revolving Lender, the commitment of such Revolving Lender to make Revolving Loans in an aggregate principal amount at any time outstanding up to an amount equal to such Revolving Lender’s Revolving Commitment Percentage of the Revolving Committed Amount.

**“Revolving Commitment Percentage”** shall mean for each Revolving Lender, the percentage identified as its Revolving Commitment Percentage on Schedule 2.1(a) or in the Assignment and Assumption pursuant to which such Revolving Lender became a Revolving Lender hereunder, as such percentage may be modified after the Closing Date in accordance with the provisions of this Credit Agreement.

**“Revolving Committed Amount”** shall have the meaning set forth in Section 2.1(a).

“Revolving Facility” shall have the meaning set forth in Section 2.1(a).

“Revolving Lender” shall mean, as of any date of determination, a Lender holding a Revolving Commitment, a Revolving Loan or a Participation Interest on such date.

“Revolving Loans” shall have the meaning set forth in Section 2.1.

“Revolving Note” or “Revolving Notes” shall mean the promissory notes of the Borrower provided pursuant to Section 2.1(e) in favor of any of the Revolving Lenders evidencing the Revolving Loan provided by any such Revolving Lender pursuant to Section 2.1(a), individually or collectively, as appropriate, as such promissory notes may be amended, modified, extended, restated, replaced, or supplemented from time to time.

“S&P” shall mean Standard & Poor’s Ratings Services, a division of The McGraw Hill Companies, Inc.

“Sale and Leaseback Transaction” shall mean any arrangement pursuant to which any Credit Party or Subsidiary, directly or indirectly, becomes liable as lessee, guarantor or other surety with respect to any lease, whether an Operating Lease or a Capital Lease, of any property or assets (a) which a Credit Party or Subsidiary has sold or transferred (or is to sell or transfer) to a Person which is not a Credit Party or Subsidiary or (b) which such Credit Party or Subsidiary intends to use for substantially the same purpose as any other property or assets which have been sold or transferred (or is to be sold or transferred) by a Credit Party or Subsidiary to another Person which is not a Credit Party or Subsidiary in connection with such lease.

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

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

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, (b) the government of Canada or (c) the United Nations Security Council, the European Union or Her Majesty’s Treasury of the United Kingdom

“Sarbanes-Oxley” shall mean the Sarbanes-Oxley Act of 2002.

“SEC” shall mean the Securities and Exchange Commission or any successor Governmental Authority.

“Securities Act” shall mean the Securities Act of 1933, together with any amendment thereto or replacement thereof and any rules or regulations promulgated thereunder.

“Securities Laws” shall mean the Securities Act, the Exchange Act, Sarbanes-Oxley and the applicable accounting and auditing principles, rules, standards and practices promulgated, approved or incorporated by the SEC or the Public Company Accounting Oversight Board, as each of the foregoing may be amended and in effect on any applicable date hereunder.

“Security Documents” shall mean the Collateral Agreement and each of the security agreements, pledge agreements and other instruments and documents executed and delivered pursuant to the occurrence of the Collateral Event or pursuant to Section 5.13.

“Single Employer Plan” shall mean any Plan that is not a Multiemployer Plan.

“Subordinated Debt” shall mean any Indebtedness incurred by any Credit Party which by its terms is specifically subordinated in right of payment to the prior payment of the Credit Party Obligations and contains subordination and other terms acceptable to the Administrative Agent.

“Subsidiary” shall mean, as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, limited liability company, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person; provided, that notwithstanding the foregoing, each Practice and each of its Subsidiaries shall constitute a Subsidiary of the Borrower for the purposes of the Credit Documents. Unless otherwise qualified, all references to a “Subsidiary” or to “Subsidiaries” in this Agreement shall refer to a Subsidiary or Subsidiaries of the Borrower.

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

“Swingline Commitment” shall mean the commitment of the Swingline Lender to make Swingline Loans in an aggregate principal amount at any time outstanding up to the Swingline Committed Amount, and the commitment of the Revolving Lenders to purchase participation interests in the Swingline Loans as provided in Section 2.4(b)(ii), as such amounts may be reduced from time to time in accordance with the provisions hereof.

“Swingline Committed Amount” shall mean the amount of the Swingline Lender’s Swingline Commitment as specified in Section 2.4(a).

“Swingline Exposure” means, with respect to any Lender, an amount equal to the Revolving Commitment Percentage of such Lender multiplied by the principal amount of outstanding Swingline Loans.

“Swingline Lender” shall mean JPMCB and any successor swingline lender.

“Swingline Loan” shall have the meaning set forth in Section 2.4(a).

“Swingline Note” shall mean the promissory note of the Borrower in favor of the Swingline Lender evidencing the Swingline Loans provided pursuant to Section 2.4(d), as such promissory note may be amended, modified, extended, restated, replaced, or supplemented from time to time.

“Target” shall have the meaning set forth in the definition of “Permitted Acquisition.”

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

“Term Loan” shall have the meaning set forth in Section 2.2(a).

“Term Loan Commitment” shall mean, with respect to each Term Loan Lender, the commitment of such Term Loan Lender to make its portion of the Term Loan in a principal amount equal to such Term Loan Lender’s Term Loan Commitment Percentage of the Term Loan Committed Amount.

“Term Loan Commitment Percentage” shall mean for each Term Loan Lender, the percentage identified as its Term Loan Commitment Percentage on Schedule 2.1(a) or in the Assignment and Assumption pursuant to which such Term Loan Lender became a Term Loan Lender hereunder, as such percentage may be modified after the Closing Date in accordance with the provisions of this Credit Agreement.

“Term Loan Committed Amount” shall have the meaning set in Section 2.2(a).

“Term Loan Facility” shall have the meaning set in Section 2.2(a).

“Term Loan Lender” shall mean, as of any date of determination, any Lender that holds a portion of the outstanding Term Loan on such date.

“Term Loan Note” or “Term Loan Notes” shall mean the promissory notes of the Borrower in favor of each of the Term Loan Lenders evidencing the portion of the Term Loan provided pursuant to Section 2.2(d), individually or collectively, as appropriate, as such promissory notes may be amended, modified, restated, supplemented, extended, renewed or replaced from time to time

“Trademark License” shall mean any agreement, whether written or oral, providing for the grant by or to a Person of any right to use any Trademark.

“Trademarks” shall mean (a) all trademarks, trade names, corporate names, company names, business names, fictitious business names, service marks, elements of package or trade dress of goods or services, logos and other source or business identifiers, together with the goodwill associated therewith, all registrations and recordings thereof, and all applications in connection therewith, whether in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof or any other country or any political subdivision thereof and (b) all renewals thereof.

“Transactions” shall mean the closing of this Agreement and the other Credit Documents and the other transactions contemplated hereby to occur in connection with such closing (including, without limitation, the initial borrowings under the Credit Documents and the payment of fees and expenses in connection with all of the foregoing).

“Transfer Effective Date” shall have the meaning set forth in each Assignment and Assumption.

“Type” shall mean, as to any Loan, its nature as an Alternate Base Rate Loan or LIBOR Rate Loan, as the case may be.

“UCC” shall mean the Uniform Commercial Code from time to time in effect in any applicable jurisdiction.

“United States” shall mean the United States of America and the states, territories and possessions thereof, including, without limitation, Puerto Rico.

“Unused Commitment Fee” shall have the meaning set forth in Section 2.5(a).

“U.S. Lender” shall mean any Lender that is a “United States person” as defined in Section 7701(a)(30) of the Code.

“Voting Stock” shall mean, with respect to any Person, Equity Interest issued by such Person the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of directors (or persons performing similar functions) of such Person, even though the right so to vote may be or have been suspended by the happening of such a contingency.

“Works” shall mean all works which are subject to copyright protection pursuant to Title 17 of the United States Code.

## **Section 1.2 Other Definitional Provisions.**

The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise (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, amended and restated or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (c) 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 of this Agreement, (d) 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, (e) any reference to any law or regulation herein shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, (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 and (g) all terms defined in this Agreement shall have the defined meanings when used in any other Credit Document or any certificate or other document made or delivered pursuant hereto. The phrase, “to the actual knowledge,” “to the best knowledge,” “to the knowledge” or similar uses of “knowledge” of a Responsible Officer of the Borrower or other specified Credit Party with respect to any statement made herein means that no information that would give such Responsible Officer current actual knowledge of the inaccuracy of such statement has come to the attention of such Responsible Officer, nor, except as otherwise expressly indicated, that such Responsible Officer has undertaken any independent investigation to determine the accuracy of such statement other than due inquiry of other executive employees of such Credit Party who have management responsibilities with respect to the subject matter of such statement in the ordinary course of such employees’ duties.

## **Section 1.3 Accounting Terms.**

Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared in accordance with GAAP applied on a basis consistent with the most recent audited Consolidated financial statements of the Borrower delivered to the Lenders. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Credit Document, and either the Borrower or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided, that, until so amended, (a) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (b) the Borrower shall provide to the Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

The Borrower shall deliver to the Administrative Agent and each Lender at the same time as the delivery of any annual or quarterly financial statements given in accordance with the provisions of Section 5.1, (a) a description in reasonable detail of any material change in the application of accounting principles employed in the preparation of such financial statements from those applied in the most recently preceding quarterly or annual financial statements as to which no objection shall have been made in accordance with the provisions above and (b) a reasonable estimate of the effect on the financial statements on account of such changes in application.

## **Section 1.4 Time References.**

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

## **Section 1.5 Execution of Documents.**

Unless otherwise specified, all Credit Documents and all other certificates executed in connection therewith must be signed by a Responsible Officer.

## **ARTICLE II**

### **THE LOANS; AMOUNT AND TERMS**

#### **Section 2.1 Revolving Loans.**

(a) Revolving Commitment. During the Commitment Period, subject to the terms and conditions hereof, each Revolving Lender severally, but not jointly, shall make revolving credit loans in Dollars ("Revolving Loans") to the Borrower from time to time in an aggregate principal amount not at any time exceeding the total of Revolving Commitments of all the Lenders, which amount on the Closing Date shall equal **ONE BILLION, THREE HUNDRED MILLION DOLLARS (\$1,300,000,000)** (as increased from time to time as provided in Section 2.22 and as such aggregate maximum amount may be reduced from time to time as provided in Section 2.6, the "Revolving Committed Amount") for the purposes hereinafter set forth (the "Revolving Facility"); provided, however, that (i) with regard to each Revolving Lender individually, the sum of such Revolving Lender's Revolving Commitment Percentage of the aggregate principal amount of outstanding Revolving Loans plus such Revolving Lender's Revolving Commitment Percentage of outstanding Swingline Loans plus such Revolving Lender's Revolving Commitment Percentage of outstanding LOC Obligations shall not exceed such Revolving Lender's Revolving Commitment and (ii) with regard to the Revolving Lenders collectively, the sum of the aggregate principal amount of outstanding Revolving Loans plus the aggregate principal amount of outstanding Swingline Loans plus the aggregate principal amount of outstanding LOC Obligations shall not exceed the Revolving Committed Amount then in effect. Revolving Loans may consist of Alternate Base Rate Loans or LIBOR Rate Loans, or a combination thereof, as the Borrower may request, and may be repaid and reborrowed in accordance with the provisions hereof; provided, however, the Revolving Loans made on the Closing Date or any of the three (3) Business Days following the Closing Date, may only consist of Alternate Base Rate Loans unless the Borrower delivers a funding indemnity letter, substantially in the form of Exhibit 2.1(a), reasonably acceptable to the Administrative Agent on or before the Closing Date, in which case LIBOR Rate Loans are available to the Borrower. LIBOR Rate Loans shall be made by each Revolving Lender at its LIBOR Lending Office and Alternate Base Rate Loans at its Domestic Lending Office.

#### **(b) Revolving Loan Borrowings.**

(i) Notice of Borrowing. The Borrower shall request a Revolving Loan borrowing by delivering a written Notice of Borrowing (or telephone notice promptly confirmed in writing by delivery of a written Notice of Borrowing, which delivery may be by fax) to the Administrative Agent not later than noon on the Business Day of the requested borrowing in the case of Alternate Base Rate Loans, and on the third Business Day prior to the date of the requested borrowing in the case of LIBOR Rate Loans. Each such Notice of Borrowing shall be irrevocable and shall specify (A) that a Revolving Loan is requested, (B) the date of the requested borrowing (which shall be a Business Day), (C) the aggregate principal amount to be borrowed and (D) whether the borrowing shall be comprised of Alternate Base Rate Loans, LIBOR Rate Loans or a combination thereof, and if LIBOR Rate Loans are requested, the Interest Period(s) therefor. If the Borrower shall fail to specify in any such Notice of Borrowing (1) an applicable Interest Period in the case of a LIBOR Rate Loan, then such notice shall be deemed to be a request for an Interest Period of one month, or (2) the Type of Revolving Loan requested, then such notice shall be deemed to be a request for an Alternate Base Rate Loan hereunder. The Administrative Agent shall give notice to each Revolving Lender promptly upon receipt of each Notice of Borrowing, the contents thereof and each such Revolving Lender's share thereof.

(ii) Minimum Amounts. Each Revolving Loan that is made as an Alternate Base Rate Loan shall be in a minimum aggregate amount of \$1,000,000 and in integral multiples of \$500,000 in excess thereof (or the remaining amount of the Revolving Committed Amount, if less). Each Revolving Loan that is made as a LIBOR Rate Loan shall be in a minimum aggregate amount of \$1,000,000 and in integral multiples of \$500,000 in excess thereof (or the remaining amount of the Revolving Committed Amount, if less).



(iii) Advances. Each Revolving Lender will make its Revolving Commitment Percentage of each Revolving Loan borrowing available to the Administrative Agent for the account of the Borrower at the office of the Administrative Agent specified in Section 9.2, or at such other office as the Administrative Agent may designate in writing, by 1:00 P.M. on the date specified in the applicable Notice of Borrowing, in Dollars and in funds immediately available to the Administrative Agent. Such borrowing will then be made available to the Borrower by the Administrative Agent by crediting the account of the Borrower on the books of such office (or such other account that the Borrower may designate in writing to the Administrative Agent) with the aggregate of the amounts made available to the Administrative Agent by the Revolving Lenders and in like funds as received by the Administrative Agent.

(c) Repayment. Subject to the terms of this Agreement, Revolving Loans may be borrowed, repaid and reborrowed during the Commitment Period. The principal amount of all Revolving Loans shall be due and payable in full on the Maturity Date, unless accelerated sooner pursuant to Section 7.2. The Borrower shall have the right to repay Revolving Loans in whole or in part from time to time in accordance with Section 2.7.

(d) Interest. Subject to the provisions of Section 2.8, Revolving Loans shall bear interest as follows:

(i) Alternate Base Rate Loans. During such periods as any Revolving Loans shall be composed of Alternate Base Rate Loans, each such Alternate Base Rate Loan shall bear interest at a per annum rate equal to the sum of the Alternate Base Rate plus the Applicable Margin; and

(ii) LIBOR Rate Loans. During such periods as Revolving Loans shall be composed of LIBOR Rate Loans, each such LIBOR Rate Loan shall bear interest at a per annum rate equal to the sum of the LIBOR Rate plus the Applicable Margin.

Interest on Revolving Loans shall be payable in arrears on each Interest Payment Date.

(e) Revolving Notes; Covenant to Pay. The Borrower's obligation to pay each Revolving Lender shall be evidenced by this Agreement and, upon such Revolving Lender's request, by a duly executed promissory note of the Borrower to such Revolving Lender in substantially the form of Exhibit 2.1(e). The Borrower covenants and agrees to pay the Revolving Loans in accordance with the terms of this Agreement.

## **Section 2.2 Term Loan.**

(a) Term Loan. On the Closing Date, subject to the terms and conditions in the Agreement and in reliance upon the representations and warranties set forth therein, each Term Loan Lender severally agrees to make available to the Borrower such Term Loan Lender's Term Loan Commitment Percentage of a term loan in Dollars (the "Term Loan") in the aggregate principal Dollar Amount of **TWO HUNDRED MILLION DOLLARS (\$200,000,000)** (the "Term Loan Committed Amount") for the purposes hereinafter set forth (the "Term Loan Facility"). The Term Loan may consist of Alternate Base Rate Loans or LIBOR Rate Loans, or a combination thereof, as the Borrower may request; provided, however, the Term Loans made on the Closing Date or any of the three (3) Business Days following the Closing Date, may only consist of Alternate Base Rate Loans unless the Borrower delivers a funding indemnity letter, substantially in the form of Exhibit 2.1(a), reasonably acceptable to the Administrative Agent on or before the Closing Date, in which case LIBOR Rate Loans shall be available to the Borrower. LIBOR Rate Loans shall be made by each Term Loan Lender at its LIBOR Lending Office and Alternate Base Rate Loans at its Domestic Lending Office. Amounts repaid or prepaid on the Term Loan may not be reborrowed.

(b) Repayment of Term Loan. The principal amount of the Term Loan shall be repaid in twenty (20) consecutive quarterly installments in the amounts as set forth below, unless accelerated sooner pursuant to Section 7.2:

Principal Amortization Payment Dates	Term Loan Principal Amortization Payments (in \$)
January 31, 2015	2,500,000
April 30, 2015	2,500,000
July 31, 2015	2,500,000
October 31, 2015	2,500,000
January 31, 2016	2,500,000
April 30, 2016	2,500,000
July 31, 2016	2,500,000
October 31, 2016	2,500,000
January 31, 2017	5,000,000
April 30, 2017	5,000,000
July 31, 2017	5,000,000
October 31, 2017	5,000,000
January 31, 2018	7,500,000
April 30, 2018	7,500,000
July 31, 2018	7,500,000
October 31, 2018	7,500,000
January 31, 2019	10,000,000
April 30, 2019	10,000,000
July 31, 2019	10,000,000
Maturity Date	Outstanding principal amount of the Term Loan

(c) Interest on the Term Loan. Subject to the provisions of Sections 2.8 and 2.10, the Term Loan shall bear interest as follows:

(i) Alternate Base Rate Loans. During such periods as the Term Loan shall be composed of Alternate Base Rate Loans, each such Alternate Base Rate Loan shall bear interest at a per annum rate equal to the sum of the Alternate Base Rate plus the Applicable Margin; and

(ii) LIBOR Rate Loans. During such periods as the Term Loan shall be composed of LIBOR Rate Loans, each such LIBOR Rate Loan shall bear interest at a per annum rate equal to the sum of the LIBOR Rate plus the Applicable Margin.

Interest on the Term Loan shall be payable in arrears on each Interest Payment Date.

(d) Term Loan Notes. The Borrower's obligation to pay each Term Loan Lender's Term Loan shall be evidenced, upon such Term Loan Lender's request, by a Term Loan Note made payable to such Lender in substantially the form of Exhibit 2.2(d) to the Agreement. The Borrower covenants and agrees to pay the Term Loans in accordance with the terms of this Agreement.

### **Section 2.3 Letter of Credit Subfacility.**

(a) Issuance. Subject to the terms and conditions hereof and of the LOC Documents, if any, and any other terms and conditions which the Issuing Lender may reasonably require, during the Commitment Period the Issuing Lender shall issue, and the Revolving Lenders shall participate in, Letters of Credit for the account of the Borrower from time to time upon request in a form acceptable to the Issuing Lender; provided, however, that (i) the aggregate amount of LOC Obligations shall not at any time exceed **THIRTY-SEVEN MILLION, FIVE HUNDRED THOUSAND DOLLARS (\$37,500,000)** (the "LOC Committed Amount"), (ii) the sum of the aggregate principal amount of outstanding Revolving Loans plus the aggregate principal amount of outstanding Swingline Loans plus outstanding LOC Obligations shall not at any time exceed the Revolving Committed Amount then in effect, (iii) all Letters of Credit shall be denominated in Dollars and (iv) Letters of Credit shall be issued for any lawful corporate purposes and may be issued as standby letters of credit, including in connection with workers' compensation and other insurance programs and commercial letters of credit. Except as otherwise expressly agreed upon by all the Revolving Lenders, no Letter of Credit shall have an original expiry date more than twelve (12) months from the date of issuance; provided, however, so long as no Default or Event of Default has occurred and is

continuing and subject to the other terms and conditions to the issuance of Letters of Credit hereunder, the expiry dates of Letters of Credit may be extended annually or periodically from time to time on the request of the Borrower or by operation of the terms of the applicable Letter of Credit to a date not more than twelve (12) months from the date of extension; provided, further, that no Letter of Credit, as originally issued or as extended, shall have an expiry date extending beyond the date that is thirty (30) days prior to the Maturity Date. Each Letter of Credit shall comply with the related LOC Documents. The issuance and expiry date of each Letter of Credit shall be a Business Day. Each Letter of Credit issued hereunder shall be in a minimum original face amount of \$100,000 or such lesser amount as approved by the Issuing Lender. The Borrower's Reimbursement Obligations in respect of each Existing Letter of Credit, and each Revolving Lender's participation obligations in connection therewith, shall be governed by the terms of this Credit Agreement. JPMCB shall be the Issuing Lender on all Letters of Credit issued after the Closing Date. The Existing Letters of Credit shall, as of the Closing Date, be deemed to have been issued as Letters of Credit hereunder and subject to and governed by the terms of this Agreement.

(b) Notice and Reports. The request for the issuance of a Letter of Credit shall be submitted to the Issuing Lender at least five (5) Business Days prior to the requested date of issuance. The Issuing Lender will promptly upon request provide to the Administrative Agent for dissemination to the Revolving Lenders a detailed report specifying the Letters of Credit which are then issued and outstanding and any activity with respect thereto which may have occurred since the date of any prior report, and including therein, among other things, the account party, the beneficiary, the face amount, expiry date as well as any payments or expirations which may have occurred. The Issuing Lender will further provide to the Administrative Agent promptly upon request copies of the Letters of Credit. The Issuing Lender will provide to the Administrative Agent promptly upon request a summary report of the nature and extent of LOC Obligations then outstanding.

(c) Participations. Each Revolving Lender, (i) on the Closing Date with respect to each Existing Letter of Credit and (ii) upon issuance of a Letter of Credit, shall be deemed to have purchased without recourse a risk participation from the Issuing Lender in such Letter of Credit and the obligations arising thereunder, in each case in an amount equal to its Revolving Commitment Percentage of the obligations under such Letter of Credit and shall absolutely, unconditionally and irrevocably assume, as primary obligor and not as surety, and be obligated to pay to the Issuing Lender therefor and discharge when due, its Revolving Commitment Percentage of the obligations arising under such Letter of Credit; provided that any Person that becomes a Revolving Lender after the Closing Date shall be deemed to have purchased a Participation Interest in all outstanding Letters of Credit on the date it becomes a Lender hereunder and any Letter of Credit issued on or after such date, in each case in accordance with the foregoing terms. Without limiting the scope and nature of each Revolving Lender's participation in any Letter of Credit, to the extent that the Issuing Lender has not been reimbursed as required hereunder or under any LOC Document, each such Revolving Lender shall pay to the Issuing Lender its Revolving Commitment Percentage of such unreimbursed drawing in same day funds pursuant to and in accordance with the provisions of subsection (d) hereof. The obligation of each Revolving Lender to so reimburse the Issuing Lender shall be absolute and unconditional and shall not be affected by the occurrence of a Default, an Event of Default or any other occurrence or event. Any such reimbursement shall not relieve or otherwise impair the obligation of the Borrower to reimburse the Issuing Lender under any Letter of Credit, together with interest as hereinafter provided.

(d) Reimbursement. In the event of any drawing under any Letter of Credit, the Issuing Lender will promptly notify the Borrower and the Administrative Agent. The Borrower shall reimburse the Issuing Lender on the day of drawing under any Letter of Credit if notified prior to 3:00 P.M. on a Business Day or, if after 3:00 P.M., on the following Business Day (either with the proceeds of a Revolving Loan obtained hereunder or otherwise) in same day funds as provided herein or in the LOC Documents. If the Borrower shall fail to reimburse the Issuing Lender as provided herein, the unreimbursed amount of such drawing shall bear interest at a per annum rate equal to the Default Rate. Unless the Borrower shall immediately notify the Issuing Lender and the Administrative Agent of its intent to otherwise reimburse the Issuing Lender, the Borrower shall be deemed to have requested a Mandatory LOC Borrowing (as defined in Section 2.3(e)) in the amount of the drawing as provided in subsection (e) hereof, the proceeds of which will be used to satisfy the Reimbursement Obligations. The Borrower's Reimbursement Obligations hereunder shall be absolute and unconditional under all circumstances irrespective of any rights of set-off, counterclaim or defense to payment the Borrower may claim or have against the Issuing Lender, the Administrative Agent, the Lenders, the beneficiary of the Letter of Credit drawn upon or any other Person, including, without limitation, any defense based on any failure of the Borrower to receive consideration or the legality, validity, regularity or unenforceability of the Letter of Credit. The Issuing Lender will promptly notify the other Revolving Lenders of

the amount of any unreimbursed drawing and each Revolving Lender shall promptly pay to the Administrative Agent for the account of the Issuing Lender, in Dollars and in immediately available funds, the amount of such Revolving Lender's Revolving Commitment Percentage of such unreimbursed drawing. Such payment shall be made on the Business Day such notice is received by such Revolving Lender from the Issuing Lender if such notice is received at or before 2:00 P.M., otherwise such payment shall be made at or before noon on the Business Day next succeeding the Business Day such notice is received. If such Revolving Lender does not pay such amount to the Issuing Lender in full upon such request, such Revolving Lender shall, on demand, pay to the Administrative Agent for the account of the Issuing Lender interest on the unpaid amount during the period from the date of such drawing until such Revolving Lender pays such amount to the Issuing Lender in full at a rate per annum equal to, if paid within two (2) Business Days of the date of drawing, the Federal Funds Effective Rate and thereafter at a rate equal to the Alternate Base Rate. Each Revolving Lender's obligation to make such payment to the Issuing Lender, and the right of the Issuing Lender to receive the same, shall be absolute and unconditional, shall not be affected by any circumstance whatsoever and without regard to the termination of this Agreement or the Commitments hereunder, the existence of a Default or Event of Default or the acceleration of the Obligations hereunder and shall be made without any offset, abatement, withholding or reduction whatsoever.

(e) Repayment with Revolving Loans. On any day on which the Borrower shall have requested, or been deemed to have requested, a Revolving Loan to reimburse a drawing under a Letter of Credit, the Administrative Agent shall give notice to the Revolving Lenders that a Revolving Loan has been requested or deemed requested in connection with a drawing under a Letter of Credit, in which case a Revolving Loan borrowing comprised entirely of Alternate Base Rate Loans (each such borrowing, a "Mandatory LOC Borrowing") shall be made (without giving effect to any termination of the Commitments pursuant to Section 7.2) pro rata based on each Revolving Lender's respective Revolving Commitment Percentage (determined before giving effect to any termination of the Commitments pursuant to Section 7.2) and the proceeds thereof shall be paid directly to the Issuing Lender for application to the respective LOC Obligations. Each Revolving Lender hereby irrevocably agrees to make such Revolving Loans on the day such notice is received by the Revolving Lenders from the Administrative Agent if such notice is received at or before 2:00 P.M., otherwise such payment shall be made at or before noon on the Business Day next succeeding the day such notice is received, in each case notwithstanding (i) the amount of Mandatory LOC Borrowing may not comply with the minimum amount for borrowings of Revolving Loans otherwise required hereunder, (ii) whether any conditions specified in Section 4.2 are then satisfied, (iii) whether a Default or an Event of Default then exists, (iv) failure for any such request or deemed request for Revolving Loan to be made by the time otherwise required in Section 2.1(b), (v) the date of such Mandatory LOC Borrowing, or (vi) any reduction in the Revolving Committed Amount after any such Letter of Credit may have been drawn upon. In the event that any Mandatory LOC Borrowing cannot for any reason be made on the date otherwise required above (including, without limitation, as a result of the occurrence of a Bankruptcy Event), then each such Revolving Lender hereby agrees that it shall forthwith fund its Participation Interests in the outstanding LOC Obligations on the Business Day such notice to fund is received by such Revolving Lender from the Administrative Agent if such notice is received at or before 2:00 P.M., otherwise such payment shall be made at or before 12:00 Noon on the Business Day next succeeding the Business Day such notice is received; provided, further, that in the event any Revolving Lender shall fail to fund its Participation Interest as required herein, then the amount of such Revolving Lender's unfunded Participation Interest therein shall automatically bear interest payable by such Revolving Lender to the Administrative Agent for the account of the Issuing Lender upon demand, at the rate equal to, if paid within two (2) Business Days of such date, the Federal Funds Effective Rate, and thereafter at a rate equal to the Alternate Base Rate.

(f) Modification, Extension. The issuance of any supplement, modification, amendment, renewal, or extension to any Letter of Credit shall, for purposes hereof, be treated in all respects the same as the issuance of a new Letter of Credit hereunder.

(g) ISP98 and UCP. Unless otherwise expressly agreed by the Issuing Lender and the Borrower, when a Letter of Credit is issued, (i) the rules of the "International Standby Practices 1998," published by the Institute of International Banking Law & Practice (or such later version thereof as may be in effect at the time of issuance) shall apply to each standby Letter of Credit, and (ii) the rules of The Uniform Customs and Practice for Documentary Credits, as most recently published by the International Chamber of Commerce at the time of issuance, shall apply to each commercial Letter of Credit.

(h) Conflict with LOC Documents. In the event of any conflict between this Agreement and any LOC Document (including any letter of credit application and any LOC Documents relating to the Existing Letters of Credit), this Agreement shall control.

(i) Designation of Subsidiaries as Account Parties. Notwithstanding anything to the contrary set forth in this Agreement, including, without limitation, Section 2.3(a), a Letter of Credit issued hereunder may contain a statement to the effect that such Letter of Credit is issued for the account of a Subsidiary of the Borrower; provided that, notwithstanding such statement, the Borrower shall be the actual account party for all purposes of this Agreement for such Letter of Credit and such statement shall not affect the Borrower's Reimbursement Obligations hereunder with respect to such Letter of Credit.

(j) Cash Collateral. At any point in time in which there is a Defaulting Lender, the Issuing Lender may require the Borrower to Cash Collateralize the LOC Obligations pursuant to Section 2.20.

#### **Section 2.4 Swingline Loan Subfacility.**

(a) Swingline Commitment. During the Commitment Period, subject to the terms and conditions hereof, the Swingline Lender, in its individual capacity, may make certain revolving credit loans to the Borrower in its sole discretion (each a "Swingline Loan" and, collectively, the "Swingline Loans") for the purposes hereinafter set forth; provided, however, (i) the aggregate principal amount of Swingline Loans outstanding at any time shall not exceed **SEVENTY-FIVE MILLION DOLLARS (\$75,000,000)** (the "Swingline Committed Amount"), and (ii) the sum of the aggregate principal amount of outstanding Revolving Loans plus the aggregate principal amount of outstanding Swingline Loans plus the aggregate principal amount of outstanding LOC Obligations shall not exceed the Revolving Committed Amount then in effect. Swingline Loans hereunder may be repaid and reborrowed in accordance with the provisions hereof.

#### **(b) Swingline Loan Borrowings.**

(i) Notice of Borrowing and Disbursement. Upon receiving a Notice of Borrowing from the Borrower not later than 2:00 P.M. on any Business Day requesting that a Swingline Loan be made, the Swingline Lender shall make Swingline Loans available to the Borrower on the same Business Day such request is received by the Administrative Agent. Swingline Loan borrowings hereunder shall be made in minimum amounts of \$100,000 (or the remaining available amount of the Swingline Committed Amount if less) and in integral amounts of \$100,000 in excess thereof.

(ii) Repayment of Swingline Loans. Each Swingline Loan borrowing shall be due and payable on the Maturity Date. The Swingline Lender may, at any time, in its sole discretion, by written notice to the Borrower and the Administrative Agent, demand repayment of its Swingline Loans by way of a Revolving Loan borrowing, in which case the Borrower shall be deemed to have requested a Revolving Loan borrowing comprised entirely of Alternate Base Rate Loans in the amount of such Swingline Loans; provided, however, that, in the following circumstances, any such demand shall also be deemed to have been given one Business Day prior to each of (A) the Maturity Date, (B) the occurrence of any Bankruptcy Event, (C) upon acceleration of the Obligations hereunder, whether on account of a Bankruptcy Event or any other Event of Default, and (D) the exercise of remedies in accordance with the provisions of Section 7.2 hereof (each such Revolving Loan borrowing made on account of any such deemed request therefor as provided herein being hereinafter referred to as "Mandatory Swingline Borrowing"). Each Revolving Lender hereby irrevocably agrees to make such Revolving Loans promptly upon any such request or deemed request on account of each Mandatory Swingline Borrowing in the amount and in the manner specified in the preceding sentence on the date such notice is received by the Revolving Lenders from the Administrative Agent if such notice is received at or before 2:00 P.M., otherwise such payment shall be made at or before 12:00 P.M. on the Business Day next succeeding the date such notice is received notwithstanding (1) the amount of Mandatory Swingline Borrowing may not comply with the minimum amount for borrowings of Revolving Loans otherwise required hereunder, (2) whether any conditions specified in Section 4.2 are then satisfied, (3) whether a Default or an Event of Default then exists, (4) failure of any such request or deemed request for Revolving Loans to be made by the time otherwise required in Section 2.1(b)(i), (5) the date of such Mandatory Swingline Borrowing, or (6) any reduction in the Revolving Committed Amount or termination of the Revolving Commitments immediately prior to such Mandatory Swingline Borrowing or contemporaneously therewith. In the event that any Mandatory Swingline

Borrowing cannot for any reason be made on the date otherwise required above (including, without limitation, as a result of the commencement of a proceeding under the Bankruptcy Code), then each Revolving Lender hereby agrees that it shall forthwith purchase (as of the date the Mandatory Swingline Borrowing would otherwise have occurred, but adjusted for any payments received from the Borrower on or after such date and prior to such purchase) from the Swingline Lender such Participation Interest in the outstanding Swingline Loans as shall be necessary to cause each such Revolving Lender to share in such Swingline Loans ratably based upon its respective Revolving Commitment Percentage (determined before giving effect to any termination of the Commitments pursuant to Section 7.2); provided that (x) all interest payable on the Swingline Loans shall be for the account of the Swingline Lender until the date as of which the respective Participation Interest is purchased, and (y) at the time any purchase of a Participation Interest pursuant to this sentence is actually made, the purchasing Revolving Lender shall be required to pay to the Swingline Lender interest on the principal amount of such Participation Interest purchased for each day from and including the day upon which the Mandatory Swingline Borrowing would otherwise have occurred to but excluding the date of payment for such Participation Interest, at the rate equal to, if paid within two (2) Business Days of the date of the Mandatory Swingline Borrowing, the Federal Funds Effective Rate, and thereafter at a rate equal to the Alternate Base Rate. The Borrower shall have the right to repay the Swingline Loan in whole or in part from time to time subject to Section 2.15 but otherwise without premium or penalty; provided, however; that each partial repayment of a Swingline Loan shall be in a minimum principal amount of \$100,000 and integral multiples of \$100,000 in excess thereof (or the remaining outstanding principal amount).

(c) Interest on Swingline Loans. Subject to the provisions of Section 2.8, Swingline Loans shall bear interest at a per annum rate equal to the Alternate Base Rate plus the Applicable Margin for Revolving Loans that are Alternate Base Rate Loans. Interest on Swingline Loans shall be payable in arrears on each Interest Payment Date.

(d) Swingline Note; Covenant to Pay. The Swingline Loans shall be evidenced by this Agreement and, upon request of the Swingline Lender, by a duly executed promissory note of the Borrower in favor of the Swingline Lender in the original amount of the Swingline Committed Amount and substantially in the form of Exhibit 2.4(d). The Borrower covenants and agrees to pay the Swingline Loans in accordance with the terms of this Agreement.

(e) Cash Collateral. At any point in time in which there is a Defaulting Lender, the Swingline Lender may require the Borrower to Cash Collateralize the outstanding Swingline Loans pursuant to Section 2.20.

## **Section 2.5 Fees.**

(a) Unused Commitment Fee. Subject to Section 2.21, in consideration of the Revolving Commitments, the Borrower agrees to pay to the Administrative Agent, for the ratable benefit of the Revolving Lenders, a commitment fee (the "Unused Commitment Fee") at an annual rate equal to the Applicable Margin multiplied by the average daily unused amount of the Revolving Committed Amount. For purposes of computation of the Unused Commitment Fee, LOC Obligations shall be considered usage of the Revolving Committed Amount but Swingline Loans shall not be considered usage of the Revolving Committed Amount. The Unused Commitment Fee shall be calculated by the Administrative Agent and shall be payable by the Borrower quarterly in arrears on the last Business Day of each calendar quarter.

(b) Letter of Credit Fees. Subject to Section 2.21, in consideration of the LOC Commitments, the Borrower agrees to pay to the Administrative Agent, for the ratable benefit of the Revolving Lenders, a fee (the "Letter of Credit Fee") equal to the Applicable Margin for Revolving Loans that are LIBOR Rate Loans per annum on the average daily maximum amount available to be drawn under each Letter of Credit from the date of issuance to the date of expiration. The Letter of Credit Fee shall be calculated by the Administrative Agent and shall be payable by the Borrower quarterly in arrears on the last Business Day of each calendar quarter.

(c) Issuing Lender Fees. In addition to the Letter of Credit Fees payable pursuant to subsection (b) hereof, the Borrower shall pay to the Issuing Lender for its own account without sharing by the other Lenders the reasonable and customary charges from time to time of the Issuing Lender with respect to the amendment, transfer, administration, cancellation and conversion of, and drawings under, such Letters of Credit (collectively, the "Issuing Lender Fees"). The Issuing Lender may charge, and retain for its own account without sharing by the other Lenders,

an additional facing fee (the “Letter of Credit Facing Fee”) of 0.125% per annum on the average daily maximum amount available to be drawn under each such Letter of Credit issued by it. The Issuing Lender Fees and the Letter of Credit Facing Fee shall be calculated by the Administrative Agent and shall be payable by the Borrower quarterly in arrears on the last Business Day of each calendar quarter.

(d) Administrative Fee. The Borrower agrees to pay to the Administrative Agent the annual administrative fee as described in the Fee Letter.

## **Section 2.6 Revolving Commitment Reductions.**

(a) Voluntary Reductions. The Borrower shall have the right to terminate or permanently reduce the unused portion of the Revolving Committed Amount at any time or from time to time subject to Section 2.15 but otherwise without premium or penalty upon not less than five (5) Business Days’ prior written notice to the Administrative Agent (which shall notify the Lenders thereof as soon as practicable) of each such termination or reduction, which notice shall specify the effective date thereof and the amount of any such reduction which shall be in a minimum amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof and shall be irrevocable and effective upon receipt by the Administrative Agent; provided that no such reduction or termination shall be permitted if after giving effect thereto, and to any prepayments of the Revolving Loans made on the effective date thereof, the sum of the aggregate principal amount of outstanding Revolving Loans plus the aggregate principal amount of outstanding Swingline Loans plus the aggregate principal amount of outstanding LOC Obligations would exceed the Revolving Committed Amount then in effect.

(b) LOC Committed Amount. If the Revolving Committed Amount is reduced below the then current LOC Committed Amount, the LOC Committed Amount shall automatically be reduced by an amount such that the LOC Committed Amount equals the Revolving Committed Amount.

(c) Swingline Committed Amount. If the Revolving Committed Amount is reduced below the then current Swingline Committed Amount, the Swingline Committed Amount shall automatically be reduced by an amount such that the Swingline Committed Amount equals the Revolving Committed Amount.

(d) Maturity Date. The Revolving Commitments, the Swingline Commitment and the LOC Commitment shall automatically terminate on the Maturity Date.

## **Section 2.7 Repayments.**

(a) Optional Repayments. The Borrower shall have the right to repay Term Loans or Revolving Loans in whole or in part from time to time; provided, however, that each partial repayment of (i) Alternate Base Rate Loans shall be in a minimum principal amount of \$1,000,000 and integral multiples of \$500,000 in excess thereof (or the remaining outstanding principal amount), (ii) LIBOR Rate Loans shall be in a minimum principal amount of \$1,000,000 and integral multiples of \$500,000 in excess thereof (or the remaining outstanding principal amount). The Borrower shall give three (3) Business Days’ irrevocable notice of repayment in the case of LIBOR Rate Loans and same-day irrevocable notice on any Business Day in the case of Alternate Base Rate Loans, to the Administrative Agent (which shall notify the applicable Lenders thereof as soon as practicable). Within the foregoing parameters, repayments under this Section shall be applied first to Alternate Base Rate Loans and then to LIBOR Rate Loans in direct order of Interest Period maturities. All repayments under this Section shall be subject to Section 2.15, but otherwise without premium or penalty. Interest on the principal amount repaid shall be payable on the next occurring Interest Payment Date that would have occurred had such loan not been repaid or, at the request of the Administrative Agent, interest on the principal amount repaid shall be payable on any date that a repayment is made hereunder through the date of repayment.

(b) Mandatory Repayments.

(i) Revolving Committed Amount. If at any time after the Closing Date, the sum of the aggregate principal amount of outstanding Revolving Loans plus the aggregate principal amount of outstanding Swingline Loans plus the aggregate principal amount of outstanding LOC Obligations shall exceed the Revolving Committed

Amount, the Borrower shall immediately repay the Revolving Loans and Swingline Loans or (after all Revolving Loans and Swingline Loans have been repaid) Cash Collateralize the LOC Obligations in an amount sufficient to eliminate such excess (such repayment to be applied as set forth in clause (ii) below) and on terms and conditions reasonably satisfactory to the Administrative Agent.

(ii) Application of Mandatory Repayments. All amounts required to be paid pursuant to this Section shall be applied (1) *first* to the outstanding Swingline Loans, (2) *second* to the outstanding Revolving Loans and (3) *third* to cash collateralize the LOC Obligations.

Within the parameters of the applications set forth above, repayments shall be applied first to Alternate Base Rate Loans and then to LIBOR Rate Loans in direct order of Interest Period maturities. All repayments under this Section shall be subject to Section 2.15 and be accompanied by interest on the principal amount repaid through the date of repayment, but otherwise without premium or penalty.

(c) Bank Products Unaffected. Any repayment made pursuant to this Section shall not affect the Borrower's obligation to continue to make payments under any Bank Product, which shall remain in full force and effect notwithstanding such repayment, subject to the terms of such Bank Product.

#### **Section 2.8 Default Rate and Payment Dates.**

(a) If all or a portion of the principal amount of any Loan which is a LIBOR Rate Loan shall not be paid when due or continued as a LIBOR Rate Loan in accordance with the provisions of Section 2.9 (whether at the stated maturity, by acceleration or otherwise), such overdue principal amount of such Loan shall be converted to an Alternate Base Rate Loan at the end of the Interest Period applicable thereto.

(b) Upon the occurrence, and during the continuance, of any Event of Default hereunder, the principal of and, to the extent permitted by law, interest on the Loans and any other amounts owing hereunder or under the other Credit Documents shall bear interest, payable on demand, at a per annum rate which is equal to the Default Rate.

(c) Interest on each Loan shall be payable in arrears on each Interest Payment Date; provided that interest accruing pursuant to paragraph (b) of this Section shall be payable from time to time on demand.

#### **Section 2.9 Conversion Options.**

(a) The Borrower may elect from time to time to convert Alternate Base Rate Loans to LIBOR Rate Loans or to continue LIBOR Rate Loans, by delivering a Notice of Conversion/Extension to the Administrative Agent at least three (3) Business Days prior to the proposed date of conversion or continuation. In addition, the Borrower may elect from time to time to convert all or any portion of a LIBOR Rate Loan to an Alternate Base Rate Loan by giving the Administrative Agent irrevocable written notice thereof by 11:00 A.M. one (1) Business Day prior to the proposed date of conversion. If the date upon which an Alternate Base Rate Loan is to be converted to a LIBOR Rate Loan is not a Business Day, then such conversion shall be made on the next succeeding Business Day and during the period from such last day of an Interest Period to such succeeding Business Day such Loan shall bear interest as if it were an Alternate Base Rate Loan. LIBOR Rate Loans may only be converted to Alternate Base Rate Loans on the last day of the applicable Interest Period. If the date upon which a LIBOR Rate Loan is to be converted to an Alternate Base Rate Loan is not a Business Day, then such conversion shall be made on the next succeeding Business Day and during the period from such last day of an Interest Period to such succeeding Business Day such Loan shall bear interest as if it were an Alternate Base Rate Loan. All or any part of outstanding Alternate Base Rate Loans may be converted as provided herein; provided that (i) no Loan may be converted into a LIBOR Rate Loan when any Default or Event of Default has occurred and is continuing and (ii) partial conversions shall be in an aggregate principal amount of \$1,000,000 or a whole multiple of \$1,000,000 in excess thereof. All or any part of outstanding LIBOR Rate Loans may be converted as provided herein; provided that partial conversions shall be in an aggregate principal amount of \$1,000,000 or a whole multiple of \$1,000,000 in excess thereof.



(b) Any LIBOR Rate Loans may be continued as such upon the expiration of an Interest Period with respect thereto by compliance by the Borrower with the notice provisions contained in Section 2.9(a); provided, that no LIBOR Rate Loan may be continued as such when any Default or Event of Default has occurred and is continuing, in which case such Loan shall be automatically converted to an Alternate Base Rate Loan at the end of the applicable Interest Period with respect thereto. If the Borrower shall fail to give timely notice of an election to continue a LIBOR Rate Loan, or the continuation of LIBOR Rate Loans is not permitted hereunder, such LIBOR Rate Loans shall be automatically converted to Alternate Base Rate Loans at the end of the applicable Interest Period with respect thereto.

#### **Section 2.10 Computation of Interest and Fees; Usury.**

(a) Interest payable hereunder with respect to any Alternate Base Rate Loan based on the Prime Rate shall be calculated on the basis of a year of three hundred sixty-five (365) days (or three hundred sixty-six (366) days, as applicable) for the actual days elapsed. All other fees, interest and all other amounts payable hereunder shall be calculated on the basis of a three hundred sixty (360) day year for the actual days elapsed. The Administrative Agent shall as soon as practicable notify the Borrower and the Lenders of each determination of a LIBOR Rate on the Business Day of the determination thereof. Any change in the interest rate on a Loan resulting from a change in the Alternate Base Rate shall become effective as of the opening of business on the day on which such change in the Alternate Base Rate shall become effective. The Administrative Agent shall as soon as practicable notify the Borrower and the Lenders of the effective date and the amount of each such change.

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

(c) It is the intent of the Lenders and the Credit Parties to conform to and contract in strict compliance with applicable usury law from time to time in effect. All agreements between the Lenders and the Credit Parties are hereby limited by the provisions of this subsection which shall override and control all such agreements, whether now existing or hereafter arising and whether written or oral. In no way, nor in any event or contingency (including, but not limited to, prepayment or acceleration of the maturity of any Obligation), shall the interest taken, reserved, contracted for, charged, or received under this Agreement, under the Notes or otherwise, exceed the maximum nonusurious amount permissible under applicable law. If, from any possible construction of any of the Credit Documents or any other document, interest would otherwise be payable in excess of the maximum nonusurious amount, any such construction shall be subject to the provisions of this paragraph and such interest shall be automatically reduced to the maximum nonusurious amount permitted under applicable law, without the necessity of execution of any amendment or new document. If any Lender shall ever receive anything of value which is characterized as interest on the Loans under applicable law and which would, apart from this provision, be in excess of the maximum nonusurious amount, an amount equal to the amount which would have been excessive interest shall, without penalty, be applied to the reduction of the principal amount owing on the Loans and not to the payment of interest, or refunded to the Borrower or the other payor thereof if and to the extent such amount which would have been excessive exceeds such unpaid principal amount of the Loans. The right to demand payment of the Loans or any other Indebtedness evidenced by any of the Credit Documents does not include the right to receive any interest which has not otherwise accrued on the date of such demand, and the Lenders do not intend to charge or receive any unearned interest in the event of such demand. All interest paid or agreed to be paid to the Lenders with respect to the Loans shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term (including any renewal or extension) of the Loans so that the amount of interest on account of such Indebtedness does not exceed the maximum nonusurious amount permitted by applicable law.

#### **Section 2.11 Pro Rata Treatment and Payments.**

(a) Allocation of Payments Prior to Exercise of Remedies. Each borrowing of Revolving Loans and any reduction of the Revolving Commitments shall be made pro rata according to the respective Revolving Commitment Percentages of the Revolving Lenders. Each borrowing of Term Loans and any repayment of Term Loans shall be made pro rata according to the respective Term Loan Commitment Percentages of the Term Loan Lenders. Unless otherwise required by the terms of this Agreement, each payment under this Agreement or any Note shall be

applied, first, to any fees then due and owing by the Borrower pursuant to Section 2.5, second, to interest then due and owing hereunder and under the Notes of the Borrower and, third, to principal then due and owing hereunder and under the Notes of the Borrower. Each payment on account of any fees pursuant to Section 2.5 shall be made pro rata in accordance with the respective amounts due and owing (except as to the Letter of Credit Facing Fees and the Issuing Lender Fees). Each payment or prepayment by the Borrower on account of principal of and interest on the Revolving Loans and on the Term Loans shall be applied to such Loans, as applicable, on a pro rata basis. Each mandatory prepayment on account of principal of the Loans as required by Section 2.7(b)(i) shall be applied in accordance with Section 2.7(b)(ii). All payments (including prepayments) to be made by the Borrower on account of principal, interest and fees shall be made without defense, set-off or counterclaim (except as provided in Section 2.16(b)) and shall be made to the Administrative Agent for the account of the Lenders at the Administrative Agent's office specified in Section 9.2 in Dollars and in immediately available funds not later than 1:00 P.M. on the date when due. The Administrative Agent shall distribute such payments to the Lenders entitled thereto promptly upon receipt in like funds as received. If any payment hereunder (other than payments on the LIBOR Rate Loans) becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day, and, with respect to payments of principal, interest thereon shall be payable at the then applicable rate during such extension. If any payment on a LIBOR Rate Loan becomes due and payable on a day other than a Business Day, such payment date shall be extended to the next succeeding Business Day unless the result of such extension would be to extend such payment into another calendar month, in which event such payment shall be made on the immediately preceding Business Day.

(b) Allocation of Payments After Exercise of Remedies. Notwithstanding any other provisions of this Agreement to the contrary, after the exercise of remedies (other than the invocation of default interest pursuant to Section 2.8) by the Administrative Agent or the Lenders pursuant to Section 7.2 (or after the Commitments shall automatically terminate and the Loans (with accrued interest thereon) and all other amounts under the Credit Documents (including, without limitation, the maximum amount of all contingent liabilities under Letters of Credit) shall automatically become due and payable in accordance with the terms of such Section), all amounts collected or received by the Administrative Agent or any Lender on account of the Credit Party Obligations or any other amounts outstanding under any of the Credit Documents shall be paid over or delivered as follows (irrespective of whether the following costs, expenses, fees, interest, premiums, scheduled periodic payments or Credit Party Obligations are allowed, permitted or recognized as a claim in any proceeding resulting from the occurrence of a Bankruptcy Event):

FIRST, to the payment of all reasonable out-of-pocket costs and expenses (including, without limitation, reasonable attorneys' fees) of the Administrative Agent in connection with enforcing the rights of the Lenders under the Credit Documents;

SECOND, to the payment of any fees owed to the Administrative Agent and the Issuing Lender;

THIRD, to the payment of all reasonable out-of-pocket costs and expenses (including, without limitation, reasonable attorneys' fees) of each of the Lenders in connection with enforcing its rights under the Credit Documents or otherwise with respect to the Credit Party Obligations owing to such Lender;

FOURTH, to the payment of all of the Credit Party Obligations consisting of accrued fees and interest, and including, with respect to any Bank Product, any fees, premiums and scheduled periodic payments due under such Bank Product (other than payments on account of principal) and any interest accrued thereon;

FIFTH, to the payment of the outstanding principal amount of the Credit Party Obligations and the payment or cash collateralization of the outstanding LOC Obligations, and including with respect to any Bank Product, any breakage, termination or other payments due under such Bank Product;

SIXTH, to all other Credit Party Obligations and other obligations which shall have become due and payable under the Credit Documents or otherwise and not repaid pursuant to clauses "FIRST" through "FIFTH" above; and

SEVENTH, to the payment of the surplus, if any, to whoever may be lawfully entitled to receive such surplus.

In carrying out the foregoing, (a) amounts received shall be applied in the numerical order provided until exhausted prior to application to the next succeeding category; (b) each of the Lenders and any Bank Product Provider shall receive an amount equal to its pro rata share (based on the proportion that the then outstanding Loans and LOC Obligations held by such Lender or the outstanding obligations payable to such Bank Product Provider bears to the aggregate then outstanding Loans and LOC Obligations and obligations payable under all Bank Products) of amounts available to be applied pursuant to clauses "THIRD," "FOURTH," "FIFTH" and "SIXTH" above; and (c) to the extent that any amounts available for distribution pursuant to clause "FIFTH" above are attributable to the issued but undrawn amount of outstanding Letters of Credit, such amounts shall be held by the Administrative Agent in a cash collateral account and applied (i) first, to reimburse the Issuing Lender from time to time for any drawings under such Letters of Credit and (ii) then, following the expiration of all Letters of Credit, to all other obligations of the types described in clauses "FIFTH" and "SIXTH" above in the manner provided in this Section. Notwithstanding the foregoing terms of this Section, (x) only payments under the Guaranty (as opposed to ordinary course principal, interest and fee payments hereunder) shall be applied to obligations under any Bank Product and (y) Excluded Swap Obligations with respect to any Guarantor shall not be paid with amounts received from such Guarantor or its assets, but appropriate adjustments shall be made with respect to payments from other Credit Parties to preserve the allocation to Credit Party Obligations otherwise set forth above in this Section.

#### **Section 2.12 Non-Receipt of Funds by the Administrative Agent.**

(a) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received written notice from a Lender prior to the proposed time of any Extension of Credit that such Lender will not make available to the Administrative Agent such Lender's share of such Extension of Credit, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with this Agreement and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Extension of Credit available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of a payment to be made by such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation and (ii) in the case of a payment to be made by the Borrower, the interest rate applicable to Alternate Base Rate Loans. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Extension of Credit to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Extension of Credit. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(b) Payments by Borrower; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the Issuing Lender hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the Issuing Lender, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or the Issuing Lender, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or the Issuing 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 Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

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

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

(d) Obligations of Lenders Several. The obligations of the Lenders hereunder to make Revolving Loans, to fund participations in Letters of Credit and Swingline Loans and to make payments pursuant to Section 9.5(c) are several and not joint. The failure of any Lender to make any Loan, to fund any such participation or to make any such payment under Section 9.5(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan, to purchase its participation or to make its payment under Section 9.5(c).

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

### **Section 2.13 Inability to Determine Interest Rate.**

Notwithstanding any other provision of this Agreement, if (a) the Administrative Agent shall reasonably determine (which determination shall be conclusive and binding absent manifest error) that, by reason of circumstances affecting the relevant market, reasonable and adequate means do not exist for ascertaining the LIBOR Rate for such Interest Period, or (b) the Required Facility Lenders under the applicable Facility shall reasonably determine (which determination shall be conclusive and binding absent manifest error) that the LIBOR Rate does not adequately and fairly reflect the cost to such Lenders of funding LIBOR Rate Loans that the Borrower has requested be outstanding as a LIBOR Tranche during such Interest Period, the Administrative Agent shall forthwith give telephone notice of such determination, confirmed in writing, to the Borrower, and the Term Loan Lenders, the Incremental Lenders or Revolving Lenders, as applicable, at least two (2) Business Days prior to the first day of such Interest Period. Unless the Borrower shall have notified the Administrative Agent upon receipt of such telephone notice that it wishes to rescind or modify its request regarding such LIBOR Rate Loans, any Loans that were requested to be made as LIBOR Rate Loans shall be made as Alternate Base Rate Loans and any Loans that were requested to be converted into or continued as LIBOR Rate Loans shall remain as or be converted into Alternate Base Rate Loans. Until any such notice has been withdrawn by the Administrative Agent, no further Loans shall be made as, continued as, or converted into, LIBOR Rate Loans for the Interest Periods so affected.

### **Section 2.14 Yield Protection.**

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

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

(ii) subject any Recipient to any Taxes (other than Indemnified Taxes and Excluded Taxes) on or with respect to its loans, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital actually attributable thereto; or

(iii) impose on any Lender or the Issuing Lender or the London interbank market any other condition, cost or expense affecting this Agreement or LIBOR Rate Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender or such other Recipient of making, converting to, continuing or maintaining any LIBOR Rate Loan or of maintaining its obligation to make any such

Loan, or to increase the cost to such Lender, such Issuing Lender or such other Recipient of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender, Issuing Lender or other Recipient hereunder (whether of principal, interest or any other amount) then, upon request of such Lender, Issuing Lender or other Recipient, the Borrower will pay to such Lender, Issuing Lender or other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender, Issuing Lender or other Recipient, as the case may be, for such additional costs incurred or reduction suffered. The agreements in this Section shall survive termination of this Agreement and payment of the Credit Party Obligations.

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

(c) Certificates for Reimbursement. Subject to Section 2.14(d) below, each Lender or the Issuing Lender shall promptly notify the Borrower and the Administrative Agent of any event of which it has knowledge, occurring after the date hereof, which will entitle such Lender or the Issuing Lender, as the case may be, to compensation pursuant to this Section. Any Lender or the Issuing Lender claiming compensation under this Section shall furnish to the Borrower and the Administrative Agent a certificate of such Lender or the Issuing Lender, as the case may be, setting forth the amount or amounts necessary to compensate such Lender or the Issuing Lender or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section, which shall be conclusive absent manifest error. The Borrower shall pay such Lender or the Issuing Lender, as the case may be, the amount shown as due on any such certificate within ten (10) days after receipt thereof.

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

(e) Notwithstanding any other provision of this Section 2.14, no Lender shall demand compensation for any increased costs under this Section 2.14 if it shall not be the general policy or practice of such Lender to demand such compensation in similar circumstances and unless such demand is generally consistent with such Lender's treatment of comparable borrowers of such Lender in the United States with respect to similarly affected commitments or loans

## **Section 2.15 Indemnity.**

The Credit Parties hereby agree to indemnify each Lender and to hold such Lender harmless from any actual funding loss or expense which such Lender may sustain or incur as a consequence of (a) the failure by the Borrower to pay the principal amount of or interest on any Loan by such Lender in accordance with the terms hereof, (b) the failure by the Borrower to accept a borrowing after the Borrower has given a notice in accordance with the terms hereof, (c) default by the Borrower in making any prepayment after the Borrower has given a notice in accordance with the terms hereof, (d) any assignment of a LIBOR Rate Loan on a day other than the last day of the interest

Period therefore as a result of a request by the Borrower pursuant to Section 2.19 and/or (e) the making by the Borrower of a prepayment of a LIBOR Rate Loan, or the conversion thereof, on a day which is not the last day of the Interest Period with respect thereto, in each case including, but not limited to, any such loss or expense arising from interest or fees payable by such Lender to lenders of funds obtained by it in order to maintain its LIBOR Rate Loans hereunder. A certificate setting forth in reasonable detail as to any additional amounts payable pursuant to this Section submitted by any Lender, through the Administrative Agent, to the Borrower (which certificate must be delivered to the Administrative Agent within thirty (30) days following such default, prepayment, conversion or assignment) shall be conclusive in the absence of manifest error. The agreements in this Section shall survive termination of this Agreement and payment of the Credit Party Obligations.

#### **Section 2.16 Taxes.**

(a) Payments Free of Taxes. Except as otherwise required by applicable law, any and all payments by or on account of any obligation of the Borrower hereunder or under any other Credit Document shall be made free and clear of and without reduction or withholding for any Taxes, provided that if any applicable withholding agent shall be required by applicable law to deduct any Taxes from such payments, then (i) if such Taxes are Indemnified Taxes (including any Other Taxes), the sum payable 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, any Lender or Issuing Lender, as the case may be, receives an amount equal to the sum it would have received had no such deductions been made, (ii) the applicable withholding agent shall make such deductions and (iii) the applicable withholding agent shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

(b) Payment of Other Taxes by the Borrower. Without limiting the provisions of paragraph (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent, each Lender and the Issuing Lender, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid by the Administrative Agent, such Lender or the Issuing Lender, as the case may be, and any penalties, 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 (setting forth in reasonable detail the basis for such demand) delivered to the Borrower by a Lender or the Issuing Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender or the Issuing Lender, shall be conclusive absent manifest error.

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

(e) Status of Lenders. Each Lender that is entitled to an exemption from or reduction of any applicable withholding tax with respect to payments hereunder or under any other Credit Document shall deliver to the Borrower (with a copy to the Administrative Agent), at the time or times prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by applicable law as will permit such payments to be made without withholding or at a reduced rate of withholding. Each such Lender shall, whenever a lapse in time or change in circumstances renders any such documentation (including any specific documentation required below in Section 2.16(f)) obsolete, expired or inaccurate in any respect, deliver promptly to the Borrower and the Administrative Agent updated or other appropriate documentation (including any new documentation reasonably requested by the Borrower or the Administrative Agent) or promptly notify the Borrower and the Administrative Agent in writing of its legal ineligibility to do so. In addition, any Lender, if requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements.

(f) Without limiting the generality of the foregoing,

(i) each U.S. Lender shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such U.S. Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of the Borrower or the Administrative Agent) duly completed copies of Internal Revenue Service Form W-9 certifying that such U.S. Lender is exempt from United States federal backup withholding.

(ii) each Foreign Lender shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(A) duly completed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E (or any successor forms) claiming eligibility for benefits of an income tax treaty to which the United States of America is a party,

(B) duly completed copies of Internal Revenue Service Form W-8ECI (or any successor forms),

(C) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under section 881(c) of the Code, (i) a certificate to the effect that such Foreign Lender is not (A) a “bank” within the meaning of section 881(c)(3)(A) of the Code, (B) a “10 percent shareholder” of the Borrower within the meaning of section 881(c)(3)(B) of the Code, or (C) a “controlled foreign corporation” described in section 881(c)(3)(C) of the Code and that no payments in connection with any Credit Document are effectively connected with such Lender’s conduct of a United States trade or business (a “United States Tax Compliance Certificate”) and (ii) duly completed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E (or any successor forms),

(D) to the extent a Foreign Lender is not the beneficial owner of a Loan (for example, where the Foreign Lender is a partnership or a participating Lender), Internal Revenue Service Form W-8IMY (or any successor forms) of the Foreign Lender, accompanied by a Form W-8ECI, W-8BEN or W-8BEN-E, United States Tax Compliance Certificate, Form W-9, Form W-8IMY or any other required information (or any successor forms) from each beneficial owner that would be required under this Section 5.11(d) if such beneficial owner were a Lender, as applicable (provided that if the Foreign Lender is a partnership (and not a participating Lender) and one or more direct or indirect partners are claiming the portfolio interest exemption, the United States Tax Compliance Certificate may be provided by such Foreign Lender on behalf of such direct or indirect partner(s)), or

(E) any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in United States federal withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower or Administrative Agent to determine the withholding or deduction required to be made.

(iii) If a payment made to a Lender under any Credit 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 Sections 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply

with their FATCA obligations, to determine whether such Lender has or has not complied with such Lender's FATCA obligations and to determine the amount, if any, to deduct and withhold from such payment; provided, however, that the Borrower shall have no obligation to request any documentation or take any other action to decrease any withholding obligation under FATCA.

(iv) Notwithstanding any other provision of these Sections 2.16(e) and (f), a Lender shall not be required to deliver any documentation that such Lender is not legally eligible to deliver.

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

(h) For the avoidance of doubt, the term "Lender" shall, for purposes of this Section 2.16, include any Issuing Lender and any Swingline Lender.

#### **Section 2.17 Indemnification; Nature of Issuing Lender's Duties.**

(a) In addition to its other obligations under Section 2.3, the Credit Parties hereby agree to protect, indemnify, pay and save the Issuing Lender and each Lender harmless from and against any and all claims, demands, liabilities, damages, losses, costs, charges and expenses (including reasonable attorneys' fees) that the Issuing Lender or such Lender may incur or be subject to as a consequence, direct or indirect, of (i) the issuance of any Letter of Credit or (ii) the failure of the Issuing Lender to honor a drawing under a Letter of Credit as a result of any act or omission, whether rightful or wrongful, of any present or future de jure or de facto government or Governmental Authority (all such acts or omissions, herein called "Government Acts").

(b) As among the Credit Parties, the Issuing Lender and each Lender, the Credit Parties shall assume all risks of the acts, omissions or misuse of any Letter of Credit by the beneficiary thereof. In the absence of their gross negligence or willful misconduct, neither the Issuing Lender nor any Lender shall be responsible: (i) for the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for and issuance of any Letter of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged; (ii) for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, that may prove to be invalid or ineffective for any reason; (iii) for failure of the beneficiary of a Letter of Credit to comply fully with conditions required in order to draw upon a Letter of Credit; (iv) for errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex or otherwise, whether or not they be in cipher; (v) for errors in interpretation of technical terms; (vi) for any loss or delay in the transmission or otherwise of any document required in order to make a drawing under a Letter of Credit or of the proceeds thereof; and (vii) for any consequences arising from causes beyond the control of the Issuing Lender or any Lender, including, without limitation, any Government Acts. None of the above shall affect, impair, or prevent the vesting of the Issuing Lender's rights or powers hereunder.

(c) In furtherance and extension and not in limitation of the specific provisions hereinabove set forth, any action taken or omitted by the Issuing Lender or any Lender, under or in connection with any Letter of Credit or the related certificates, if taken or omitted in the absence of gross negligence or willful misconduct, shall not put such Issuing Lender or such Lender under any resulting liability to the Credit Parties. It is the intention of the parties



that this Agreement shall be construed and applied to protect and indemnify the Issuing Lender and each Lender against any and all risks involved in the issuance of the Letters of Credit, all of which risks are hereby assumed by the Credit Parties, including, without limitation, any and all risks of the acts or omissions, whether rightful or wrongful, of any Government Authority. The Issuing Lender and the Lenders shall not, in any way, be liable for any failure by the Issuing Lender or anyone else to pay any drawing under any Letter of Credit as a result of any Government Acts or any other cause beyond the control of the Issuing Lender and the Lenders.

(d) Nothing in this Section is intended to limit the Reimbursement Obligation of the Borrower contained in Section 2.3(d) hereof. The obligations of the Credit Parties under this Section shall survive the termination of this Agreement. No act or omissions of any current or prior beneficiary of a Letter of Credit shall in any way affect or impair the rights of the Issuing Lender and the Lenders to enforce any right, power or benefit under this Agreement.

(e) Notwithstanding anything to the contrary contained in this Section, the Credit Parties shall have no obligation to indemnify the Issuing Lender or any Lender in respect of any liability incurred by the Issuing Lender or such Lender arising out of the gross negligence or willful misconduct of the Issuing Lender (including action not taken by the Issuing Lender or such Lender), as determined by a court of competent jurisdiction or pursuant to arbitration.

#### **Section 2.18 Illegality.**

Notwithstanding any other provision of this Credit Agreement, if any Change in Law shall make it unlawful for such Lender or its LIBOR Lending Office to make or maintain LIBOR Rate Loans as contemplated by this Credit Agreement or to obtain in the interbank eurodollar market through its LIBOR Lending Office the funds with which to make such Loans, (a) such Lender shall promptly notify the Administrative Agent and the Borrower thereof, (b) the commitment of such Lender hereunder to make LIBOR Rate Loans or continue LIBOR Rate Loans as such shall forthwith be suspended until the Administrative Agent shall give notice that the condition or situation which gave rise to the suspension shall no longer exist, and (c) such Lender's Loans then outstanding as LIBOR Rate Loans, if any, shall be converted on the last day of the Interest Period for such Loans or within such earlier period as required by law as Alternate Base Rate Loans. The Borrower hereby agrees to promptly pay any Lender, upon its demand, any additional amounts necessary to compensate such Lender for actual and direct costs (but not including anticipated profits) reasonably incurred by such Lender in making any repayment in accordance with this Section including, but not limited to, any interest or fees payable by such Lender to lenders of funds obtained by it in order to make or maintain its LIBOR Rate Loans hereunder. A certificate (which certificate shall include a description of the basis for the computation) as to any additional amounts payable pursuant to this Section submitted by such Lender, through the Administrative Agent, to the Borrower shall be conclusive in the absence of manifest error. Each Lender agrees to use reasonable efforts (including reasonable efforts to change its LIBOR Lending Office) to avoid or to minimize any amounts which may otherwise be payable pursuant to this Section; provided, however, that such efforts shall not cause the imposition on such Lender of any additional costs or legal or regulatory burdens deemed by such Lender in its sole discretion to be material.

#### **Section 2.19 Replacement of Lenders.**

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 2.14, or requires the Borrower to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16, 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 reasonable judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.14 or Section 2.16, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) Replacement of Lenders. (i) If any Lender requests compensation under Section 2.14 or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16 and, in each case, such Lender has declined or is unable to designate a different

lending office in accordance with Section 2.19(a) or (ii) if any Lender is a Defaulting Lender or a Non-Consenting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 9.6), all of its interests, rights (other than its existing rights to payments pursuant to Section 2.14 or Section 2.16) and obligations under this Agreement and the related Credit Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

(A) the Borrower shall have paid to the Administrative Agent the assignment fee specified in Section 9.6;

(B) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in Letters of Credit, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Credit Documents (including any amounts under Section 2.15) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

(C) in the case of any such assignment resulting from a claim for compensation under Section 2.14 or payments required to be made pursuant to Section 2.16, such assignment will result in a reduction in such compensation or payments thereafter;

(D) such assignment does not conflict with applicable law; and

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

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

## **Section 2.20 Cash Collateral.**

(a) Cash Collateral. At any time that there shall exist a Defaulting Lender, within one (1) Business Day following the written request of the Administrative Agent, the Issuing Lender (with a copy to the Administrative Agent) or the Swingline Lender (with a copy to the Administrative Agent), the Borrower shall Cash Collateralize all Fronting Exposure of the Issuing Lender and the Swingline Lender with respect to such Defaulting Lender (determined after giving effect to Section 2.21(a)(iv) and Section 2.21(b) and any Cash Collateral provided by the Defaulting Lender).

(b) Grant of Security Interest. The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to the Administrative Agent, for the benefit of the Administrative Agent, the Issuing Lender and the Lenders (including the Swingline Lender), and agrees to maintain, a first priority security interest in all such Cash Collateral as security for the Defaulting Lenders' obligations to which such Cash Collateral may be applied pursuant to clause (c) below. If at any time the Administrative Agent, Issuing Lender or Swingline Lender determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent as herein provided, or that the total amount of such Cash Collateral is less than the applicable Fronting Exposure, the Borrower will, promptly upon demand by the Administrative Agent, Issuing Lender or Swingline Lender pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency (after giving effect to any Cash Collateral provided by the Defaulting Lender).

(c) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this Section or Section 2.21 in respect of Letters of Credit or Swingline Loans, shall be held and applied to the satisfaction of the specific LOC Obligations, Swingline Loans, obligations to fund participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may be provided for herein.

(d) Termination of Requirement. Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or other obligations shall no longer be required to be held as Cash Collateral pursuant to this Section 2.20 and shall promptly be released to the Person providing such Cash Collateral following (i) the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender), or (ii) the determination by the Administrative Agent, the Issuing Lender and the Swingline Lender that there exists excess Cash Collateral; provided that, subject to Section 2.21, the Person providing Cash Collateral and the Issuing Lender and the Swingline Lender may agree that Cash Collateral shall be held to support future anticipated Fronting Exposure or other obligations.

#### **Section 2.21 Defaulting Lenders.**

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

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders and Section 9.1.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VII or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 9.7 shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to the Issuing Lender or Swingline Lender hereunder; *third*, to Cash Collateralize the Issuing Lender's or Swingline Lender's Fronting Exposure in accordance with Section 2.20; *fourth*, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in a non-interest bearing 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 Lender's and the Swingline Lender's future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement in accordance with Section 2.20; *sixth*, to the payment of any amounts owing to the Lenders, the Issuing Lenders or Swingline Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender, the Issuing Lenders or Swingline Lenders against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (A) such payment is a payment of the principal amount of any Loans or LOC Obligations in respect of which such Defaulting Lender has not fully funded its appropriate share and (B) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 4.2 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and LOC Obligations owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or LOC Obligations owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in LOC Obligations and Swingline Loans are held by the Lenders pro rata in accordance with the Commitments under the applicable facility without giving effect to Section 2.21(a) (iv). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.21(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees.

(A) Unused Commitment Fees. No Defaulting Lender shall be entitled to receive any Unused Commitment Fee for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(B) Letter of Credit Fees. Each Defaulting Lender shall be entitled to receive Letter of Credit Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Revolving Commitment Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant Section 2.20.

(C) Reallocation of Fees. With respect to any Letter of Credit Fee not required to be paid to any Defaulting Lender pursuant to clause (B) above, the Borrower shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in LOC Obligations or Swingline Loans that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to the Issuing Lender and the Swingline Lender, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such Issuing Lender's or Swingline Lender's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(iv) Reallocation of Participations to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in LOC Obligations and Swingline Loans shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Revolving Commitment Percentage (calculated without regard to such Defaulting Lender's Revolving Commitment) but only to the extent that (x) the conditions set forth in Section 4.2 are satisfied at the time of such reallocation (and, unless the Borrower shall have otherwise notified the Administrative Agent at such time, the Borrower shall be deemed to have represented and warranted that such conditions are satisfied at such time) and (y) such reallocation does not cause the aggregate Committed Funded Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Commitment. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) Cash Collateral, Repayment of Swingline Loans. If the reallocation described in clause (iv) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, (x) *first*, prepay Swingline Loans in an amount equal to the Swingline Lender's Fronting Exposure and (y) *second*, Cash Collateralize the Issuing Lender's Fronting Exposure in accordance with the procedures set forth in Section 2.20.

(b) Defaulting Lender Cure. If the Borrower, the Administrative Agent and the Swingline Lender and Issuing Lender agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit and Swingline Loans to be held on a pro rata basis by the Lenders in accordance with their Revolving Commitment Percentages (without giving effect to Section 2.21(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

(c) New Swingline Loans/Letters of Credit. So long as any Lender is a Defaulting Lender, (i) the Swingline Lender shall not be required to fund any Swingline Loans unless it is satisfied that it will have no Fronting

Exposure after giving effect to such Swingline Loan and (ii) no Issuing Lender shall be required to issue, extend, renew or increase any Letter of Credit unless it is reasonably satisfied that it will have no Fronting Exposure after giving effect thereto.

## **Section 2.22 Incremental Facilities.**

(a) Subject to the terms and conditions set forth herein and so long as no Default or Event of Default has occurred and is continuing, the Borrower shall have the right, at any time and from time to time prior to the Maturity Date, to incur additional Indebtedness under this Credit Agreement in the form of (i) one or more increases to the Revolving Committed Amount (each an “Increased Revolver Commitment”) which shall constitute one and the same Facility as the existing Revolving Commitments, (ii) one or more increases to the Term Loan Committed Amount which shall constitute one and the same Facility as the existing Term Loan Commitments (each an “Increased Term Loan Commitment”) or (iii) one or more commitments (each, an “Incremental Facility Commitment”, and together with the Increased Revolver Commitments and the Increased Term Loan Commitment, the “Incremental Commitments”) for additional term loan B facilities which shall constitute a new Facility as provided in 2.22(d) below (an “Incremental Facility,” and the loans thereunder, “Incremental Loans”), up to a maximum aggregate amount of Incremental Commitments not to exceed \$300,000,000; provided that, if the Collateral Event has occurred, the aggregate amount of all Incremental Commitments shall not exceed at the time any such Incremental Commitments are entered into the greater of (x) \$300,000,000 and (y) an amount such that, on a pro forma basis as of the last day of the most recently ended fiscal quarter of the Borrower for which certifications were required to be delivered to the Administrative Agent and the Lenders in accordance with the provisions of Sections 5.1 after giving effect to such Incremental Commitments (and assuming such Incremental Commitments are fully drawn and/or funded, as applicable, and applied for the purpose intended) the ratio of Consolidated Funded Debt (other than unsecured Indebtedness) to Consolidated EBITDA does not exceed 3.00 to 1.00.

(b) The following terms and conditions shall apply to each Increased Revolver Commitment: (i) Obligations thereunder shall constitute Credit Party Obligations and will be guaranteed (and secured, to the extent applicable) with the other Credit Party Obligations on a pari passu basis, (ii) each Increased Revolver Commitment shall have the same terms (including interest rate and maturity date) as the existing Revolving Commitments, (iii) each Increased Revolver Commitment shall be entitled to the same voting rights as the existing Revolver Commitments, voting as one class, and shall be entitled to receive a pro rata share of proceeds of prepayments on the same basis as the existing Revolving Loans and shall be considered an increase to the existing Revolving Commitments, (iv) each Increased Revolver Commitment shall be obtained from existing Lenders or from other banks, financial institutions or Funds, in each case in accordance with the terms set forth below, (v) the proceeds of all Loans thereunder will be used for the purposes set forth in Section 3.11, (vi) the Borrower shall execute a Note in favor of any new Lender or any existing Lender requesting a Note whose Revolving Commitment is increased, (vii) on the effective date of each such increase, the conditions to Extensions of Credit in Section 4.2 shall have been satisfied, (viii) each such Increased Revolver Commitment shall be in a minimum amount of \$5,000,000 (and \$1,000,000 increments in excess thereof), and (ix) the Administrative Agent shall have received from the Borrower (A) resolutions, legal opinions and other corporate authority documents reasonably requested by the Administrative Agent, substantially the same in form and substance as those delivered on the Closing Date pursuant to Section 4.1 and (B) updated financial projections and an officer’s certificate, in each case in form and substance reasonably satisfactory to the Administrative Agent, demonstrating that, after giving effect to such Increased Revolver Commitment and any borrowings thereunder and the application thereof on a Pro Forma Basis, the Credit Parties will be in compliance with the financial covenants set forth in Section 5.9 (and, if the Collateral Event has occurred, the condition in the proviso set forth in Section 2.22(a)) and no Default or Event of Default shall exist. Any new banks, financial institutions and Funds that become Revolving Lenders that were not previously Lenders hereunder shall enter into such joinder agreements to give effect thereto as the Administrative Agent may reasonably request. In connection with the closing of any Increased Revolver Commitment, the outstanding Revolving Loans and Participation Interests shall be reallocated by causing such fundings and repayments (which shall not be subject to any processing and/or recordation fees) among the Revolving Lenders (with the Borrower responsible for any costs arising under Section 2.15 resulting from such reallocation and repayments) of Revolving Loans as necessary such that, after giving effect to such Increased Revolver Commitments, each Revolving Lender will hold Revolving Loans and Participation Interests based on its Revolving Commitment Percentage (after giving effect to such Increased Revolver Commitments).

(c) The following terms and conditions shall apply to each Term Loan issued pursuant to an Increased Term Loan Commitment (each, an “Increased Term Loan”): (i) Obligations thereunder shall constitute Credit Party Obligations and will be guaranteed (and secured, to the extent applicable) with the other Credit Party Obligations on a pari passu basis, (ii) each Increased Term Loan shall have the same terms (including interest rate and maturity date) as the existing Term Loans, (iii) each Increased Term Loan shall be entitled to the same voting rights as the existing Term Loans, voting as one class, and shall be entitled to receive a pro rata share of proceeds of prepayments on the same basis as the existing Term Loans and shall be considered an increase to the existing Term Loans, (iv) each Increased Term Loan Commitment shall be obtained from existing Lenders or from other banks, financial institutions or Funds, in each case in accordance with the terms set forth below, (v) the proceeds of each Increased Term Loan thereunder will be used for the purposes set forth in Section 3.11, (vi) the Borrower shall execute a Note in favor of any new Lender or any existing Lender requesting a Note whose Term Loan Commitment is increased, (vii) on the date of incurrence of the Increased Term Loan, the conditions to Extensions of Credit in Section 4.2 shall have been satisfied, (viii) each Increased Term Loan Commitment shall be in a minimum amount of \$5,000,000 (and \$1,000,000 increments in excess thereof), (ix) proper adjustment to the remaining amortization installments pursuant to Section 2.2(b) shall be made and (x) the Administrative Agent shall have received from the Borrower (A) resolutions, legal opinions and other corporate authority documents reasonably requested by the Administrative Agent, substantially the same in form and substance as those delivered on the Closing Date pursuant to Section 4.1 and (B) updated financial projections and an officer’s certificate, in each case in form and substance reasonably satisfactory to the Administrative Agent, demonstrating that, after giving effect to the borrowing of such Increased Term Loan and the application thereof on a Pro Forma Basis, the Credit Parties will be in compliance with the financial covenants set forth in Section 5.9 (and, if the Collateral Event has occurred, the condition in the proviso set forth in Section 2.22(a)) and no Default or Event of Default shall exist. Any new banks, financial institutions and Funds that become Term Loan Lenders that were not previously Lenders hereunder shall enter into such joinder agreements to give effect thereto as the Administrative Agent may reasonably request. In connection with the closing of any Increased Term Loan, the outstanding Term Loans shall be reallocated by causing such fundings and repayments (which shall not be subject to any processing and/or recordation fees) among the Term Loan Lenders (with the Borrower responsible for any costs arising under Section 2.15 resulting from such reallocation and repayments) of Term Loans as necessary such that, after giving effect to such Increased Term Loans, each Term Loan Lender will hold Term Loans based on its Term Loan Commitment Percentage (after giving effect to such Increased Term Loan Commitments).

(d) The following terms and conditions shall apply to each Incremental Facility: (i) Obligations thereunder shall constitute Credit Party Obligations and will be guaranteed (and secured, to the extent applicable) with the other Credit Party Obligations on a pari passu basis, (ii) each Incremental Facility shall otherwise have terms (including pricing terms) to be agreed by the Borrower and the Lenders providing the Incremental Commitments (the “Incremental Lenders”) subject to the following parameters: (A) no Incremental Facility shall mature prior to the Maturity Date applicable to the Revolving Loans or the Term Loan, (B) the Incremental Facility may not have significant amortization and shall take the form of a term loan “B” with maximum amortization of 1% of aggregate principal per annum, (C) mandatory prepayments customary for a term loan “B” (which for the avoidance of doubt may include prepayments with the proceeds of non-ordinary course asset sales and “excess cash flow” (to be defined in a manner satisfactory to the Borrower and the Administrative Agent) may be included on then-market terms, and (D) all terms of any Incremental Facility not set forth herein, if not consistent with the existing Term Loans, shall be reasonably satisfactory to the Administrative Agent; provided that terms not consistent with the existing Term Loans that are only applicable after the Maturity Date shall not be subject to Administrative Agent consent, (iii) each Incremental Facility shall constitute a separate Facility hereunder, and shall be incorporated into the Credit Documents such that the Incremental Lenders have similar rights and privileges to the Revolving Lenders and Term Loan Lenders, (iv) each Incremental Facility shall be obtained from existing Lenders or from other banks, financial institutions or Funds, in each case in accordance with the terms set forth below; provided that any Lender or any Incremental Lender offered or approached to provide all or a portion of any Incremental Facility Commitment may elect or decline, in its sole discretion, to provide such Incremental Facility Commitment, (v) the proceeds of each Incremental Facility will be used for the purposes set forth in Section 3.11, (vi) the Borrower shall execute a Note in favor of any Incremental Lender requesting a Note representing its Loans under the Incremental Facility, (vii) on the date of incurrence of the Incremental Loans, the conditions to Extensions of Credit in Section 4.2 shall have been satisfied, (viii) each such commitment for an Incremental Facility shall be in a minimum amount of \$5,000,000 (and \$1,000,000 increments in excess thereof), and (ix) the Administrative Agent shall have received from the Borrower (A) resolutions, legal opinions and other corporate authority documents reasonably requested by

the Administrative Agent, substantially the same in form and substance as those delivered on the Closing Date pursuant to Section 4.1 and (B) updated financial projections and an officer's certificate, in each case in form and substance reasonably satisfactory to the Administrative Agent, demonstrating that, after giving effect to the borrowing of such Incremental Loans and the application thereof on a Pro Forma Basis, the Credit Parties will be in compliance with the financial covenants set forth in Section 5.9 (and, if the Collateral Event has occurred, the condition in the proviso set forth in Section 2.22(a)) and no Default or Event of Default shall exist. All Incremental Lenders shall enter into such joinder agreements to give effect thereto as the Administrative Agent may reasonably request.

(e) Notwithstanding anything to the contrary in Section 9.1 or elsewhere in this Credit Agreement, the Administrative Agent is authorized to enter into, on behalf of the Lenders, any amendment to this Credit Agreement or any other Credit Document as may be necessary solely to incorporate the terms of each Increased Revolver Commitment, Increased Term Loan, or Incremental Facility therein. For the avoidance of doubt, such amendments may provide for, among other things, the incorporation of such Incremental Facility into the definitions of "Required Lenders", "Required Facility Lenders", "Commitment Percentage", and similar terms and sections of this Credit Agreement on a similar basis to each other existing Facility, and may provide for sharing of payments and inclusion in the waterfall, and the inclusion of customary provisions for a "B" term loan throughout the Credit Documents.

(f) Upon executing the joinder documentation requested by the Administrative Agent, each bank, financial institution or other entity committing to be a new Term Loan Lender, new Revolving Lender, or Incremental Lender shall become a Lender for all purposes and to the same extent as if originally a party hereto and shall be bound by and entitled to the benefits of this Agreement and the other Credit Documents, and shall benefit equally and ratably from the Guarantees and security interests (if applicable) created by the Security Documents, if any.

### ARTICLE III

#### REPRESENTATIONS AND WARRANTIES

To induce the Lenders to enter into this Agreement and to make Loans and to issue, extend, renew or participate in Letters of Credit, in each case as herein provided for, the Credit Parties hereby represent and warrant to the Administrative Agent and to each Lender that:

##### **Section 3.1 Financial Condition.**

(a) (i) The audited Consolidated financial statements of the Borrower and its Consolidated Subsidiaries for the fiscal years ended December 31, 2011, 2012 and 2013 set forth in the Borrower's annual report on Form 10-K for the fiscal year ended December 31, 2013 and (ii) the unaudited Consolidated financial statements of the Borrower and its Consolidated Subsidiaries for the year-to-date period ended on June 30, 2014 set forth in the Borrower's quarterly report on Form 10-Q for the period ended June 30, 2014:

(A) were prepared in accordance with GAAP consistently applied throughout the periods covered thereby, except as otherwise expressly noted therein;

(B) fairly present in all material respects the financial condition of the Borrower and its Consolidated Subsidiaries as of the dates thereof (subject, in the case of the unaudited financial statements, to normal year-end adjustments) and results of operations for the period covered thereby; and

(C) reflect in accordance with GAAP all material Indebtedness and other liabilities, direct or contingent, of the Borrower and its Consolidated Subsidiaries, as applicable, as of the date thereof, including liabilities for taxes, material commitments and contingent obligations.

(b) The five-year projections of the Borrower and its Consolidated Subsidiaries delivered to the Lenders on or prior to the Closing Date have been prepared in good faith based upon reasonable assumptions.

### **Section 3.2 No Material Adverse Effect.**

Since December 31, 2013 (and, in addition, after delivery of annual audited financial statements in accordance with Section 5.1(a), from the date of the most recently delivered annual audited financial statements), there has been no development or event which has had or could reasonably be expected to have a Material Adverse Effect.

### **Section 3.3 Corporate Existence; Compliance with Law.**

Each of the Credit Parties (a) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, organization or formation, (b) except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, has the requisite power and authority and the legal right to own and operate all its property, to lease the property it operates as lessee and to conduct the business in which it is currently engaged and has taken all actions necessary to maintain all rights, privileges, licenses and franchises necessary or required in the normal conduct of its business, (c) is duly qualified to conduct business and in good standing under the laws of each other jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification except to the extent that the failure to so qualify or be in good standing in any such other jurisdiction could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect and (d) is in compliance with all Requirements of Law, organizational documents, government permits and government licenses except to the extent such non-compliance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. No Credit Party has any oral or written operating agreement (or other similar document) which regulates the affairs of such Credit Party, the conduct of its business, establishes duties and/or governs the relations among any member, manager and such Credit Party, other than such documents as have been previously delivered to the Administrative Agent.

### **Section 3.4 Corporate Power; Authorization; Enforceable Obligations.**

Each of the Credit Parties has full power and authority and the legal right to make, deliver and perform the Credit Documents to which it is party and has taken all necessary limited liability company, partnership or corporate action to authorize the execution, delivery and performance by it of the Credit Documents to which it is party. Each Credit Document to which it is a party has been duly executed and delivered on behalf of each Credit Party. Each Credit Document to which it is a party constitutes a legal, valid and binding obligation of each Credit Party, enforceable against such Credit Party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

### **Section 3.5 No Legal Bar; No Default.**

The execution, delivery and performance by each Credit Party of the Credit Documents to which such Credit Party is a party, the borrowings thereunder and the use of the proceeds of the Loans (a) will not violate in any material respect any Requirement of Law or any Material Contract of any Credit Party (except those as to which waivers or consents have been obtained), (b) will not conflict with, result in a breach of or constitute a default under (i) the articles of incorporation, bylaws, articles of organization, operating agreement or other organization documents of the Credit Parties or (ii) any Material Contract to which such Person is a party or by which any of its properties may be bound or any material approval or material consent from any Governmental Authority relating to such Person which conflict, breach or default in any such case in this clause (ii) could reasonably be expected to have a Material Adverse Effect, and (c) will not result in, or require, the creation or imposition of any Lien on any Credit Party's properties or revenues pursuant to any Requirement of Law, the articles of incorporation, bylaws, articles of organization, operating agreement or other organization documents of such Credit Party or Contractual Obligation other than the Liens arising under or contemplated in connection with the Credit Documents or Permitted Liens. No Credit Party is in default under or with respect to any of its Material Contracts in any material respect. No Default or Event of Default has occurred and is continuing.



### **Section 3.6 No Material Litigation.**

No litigation, investigation, claim, criminal prosecution, civil investigative demand, imposition of criminal or civil fines and penalties, or any other proceeding of or before any arbitrator or Governmental Authority is pending or, to the actual knowledge of the Responsible Officers of the Borrower, threatened by or against any Credit Party or any of its Subsidiaries or against any of its or their respective properties or revenues (a) with respect to the Credit Documents or any Extension of Credit or any of the transactions contemplated hereby, or (b) which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect. No permanent injunction, temporary restraining order or similar decree has been issued against any Credit Party or any of its Subsidiaries which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

### **Section 3.7 Investment Company Act; etc.**

No Credit Party is an “investment company,” or a company “controlled” by an “investment company,” within the meaning of the Investment Company Act of 1940, as amended. No Credit Party is subject to regulation under the Federal Power Act, the Interstate Commerce Act, the Public Utility Holding Company Act of 2005 or any federal or state statute or regulation limiting its ability to incur the Credit Party Obligations.

### **Section 3.8 Margin Regulations.**

No part of the proceeds of any Extension of Credit hereunder will be used directly or indirectly for any purpose that violates, or that would require any Lender to make any filings in accordance with, the provisions of Regulation T, U or X of the Board of Governors of the Federal Reserve System as now and from time to time hereafter in effect. The Credit Parties and their Subsidiaries (a) are not engaged, principally or as one of their important activities, in the business of extending credit for the purpose of “purchasing” or “carrying” “margin stock” within the respective meanings of each of such terms under Regulation U and (b) taken as a group do not own “margin stock” except as identified in the financial statements referred to in Section 3.1 or delivered pursuant to Section 5.1 and the aggregate value of all “margin stock” owned by the Credit Parties and their Subsidiaries taken as a group does not exceed 25% of the value of their assets.

### **Section 3.9 ERISA.**

Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect:

(a) Neither a Reportable Event nor an “accumulated funding deficiency” (within the meaning of Section 412 of the Code or Section 302 of ERISA) has occurred during the five-year period prior to the date on which this representation is made or deemed made with respect to any Plan, and each Plan has complied in all material respects with the applicable provisions of ERISA and the Code.

(b) No termination of a Single Employer Plan has occurred resulting in any liability that has remained underfunded, and no Lien in favor of the PBGC or a Plan has arisen, during such five-year period.

(c) The present value of all accrued benefits under each Single Employer Plan (based on those assumptions used to fund such Plans) did not, as of the last annual valuation date prior to the date on which this representation is made or deemed made, exceed the value of the assets of such Plan allocable to such accrued benefits.

(d) Neither any Credit Party nor any Commonly Controlled Entity is currently subject to any liability for a complete or partial withdrawal from a Multiemployer Plan.

### **Section 3.10 Environmental Matters.**

Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect:

(a) To the actual knowledge of the Responsible Officers of the Borrower, the facilities and properties owned, leased or operated by the Credit Parties or any of their Subsidiaries (the “**Properties**”) do not contain any Materials of Environmental Concern in amounts or concentrations which (i) constitute a violation of, or (ii) could give rise to liability on behalf of any Credit Party under, any Environmental Law.

(b) To the actual knowledge of the Responsible Officers of the Borrower, the Properties and all operations of the Credit Parties and/or their Subsidiaries at the Properties are in compliance, and have in the last five years been in compliance, with all applicable Environmental Laws, and there is no contamination at, under or about the Properties or violation of any Environmental Law with respect to the Properties or the business operated by the Credit Parties or any of their Subsidiaries (the “**Business**”).

(c) Neither the Credit Parties nor their Subsidiaries have received any written or actual notice of violation, alleged violation, non-compliance, liability or potential liability on behalf of any Credit Party with respect to environmental matters or Environmental Laws regarding any of the Properties or the Business, nor do the Responsible Officers of the Borrower have actual knowledge or reason to believe that any such notice will be received or is being threatened.

(d) To the actual knowledge of the Responsible Officers of the Borrower, Materials of Environmental Concern have not been transported or disposed of from the Properties in violation of, or in a manner or to a location that could give rise to liability on behalf of any Credit Party under any Environmental Law, and no Materials of Environmental Concern have been generated, treated, stored or disposed of at, on or under any of the Properties in violation of, or in a manner that could give rise to liability on behalf of any Credit Party under, any applicable Environmental Law.

(e) No judicial proceeding or governmental or administrative action is pending or, to the actual knowledge of the Responsible Officers of the Borrower, threatened, under any Environmental Law to which any Credit Party or any Subsidiary is or will be named as a party with respect to the Properties or the Business, nor are there any consent decrees or other decrees, consent orders, administrative orders or other orders, or other administrative or judicial requirements outstanding under any Environmental Law with respect to the Properties or the Business.

(f) To the actual knowledge of the Responsible Officers of the Borrower, there has been no release or threat of release of Materials of Environmental Concern at or from the Properties, or arising from or related to the operations of any Credit Party or any Subsidiary in connection with the Properties or otherwise in connection with the Business, in violation of or in amounts or in a manner that could give rise to liability on behalf of any Credit Party under Environmental Laws.

Notwithstanding anything set forth in this Section 3.10, the term “Properties” shall not include any hospital or other medical facility at which a Credit Party or its Subsidiaries provides services unless such facility is owned or leased by a Credit Party or its Subsidiaries.

### **Section 3.11 Use of Proceeds.**

The proceeds of the Extensions of Credit shall be used by the Borrower solely (a) to refinance the Existing Credit Agreement, (b) to pay any costs, fees and expenses associated with this Agreement on the Closing Date and (c) for working capital and other general corporate purposes of the Credit Parties and their Subsidiaries (including, without limitation, Permitted Acquisitions and Restricted Payments).

### **Section 3.12 Subsidiaries; Joint Ventures; Partnerships.**

Set forth on Schedule 3.12 is (a) the exact legal name of each Credit Party, the state of incorporation or organization, the chief executive office, the principal place of business, the jurisdictions in which the Credit Parties are qualified to do business, the federal tax identification number and organization identification number of each of the Credit Parties as of the Closing Date (and for the four (4) months prior to the Closing Date) and (b) a complete and accurate list of all Subsidiaries, joint ventures and partnerships of the Credit Parties as of the Closing Date and as of the last date such Schedule was required to be updated in accordance with Section 5.2. Information on the attached Schedule includes the following: (a) the percentage of outstanding shares of each class of Equity Interest owned by the Credit Parties and their Subsidiaries and (b) the name and address of each Equity Holder that owns, directly or indirectly, Equity Interests in any Subsidiary of the Borrower. The outstanding Equity Interest and other equity interests of all such Subsidiaries is validly issued, fully paid and non-assessable and is owned free and clear of all Liens.

### **Section 3.13 Ownership.**

Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect:

(a) Each of the Credit Parties and its Subsidiaries is the owner of, and has good and marketable title to or a valid leasehold interest in, all of its respective assets, which, together with assets leased or licensed by the Credit Parties and their Subsidiaries, represents all assets in the aggregate material to the conduct of the business of the Credit Parties and their Subsidiaries, and (after giving effect to the Transactions) none of such assets is subject to any Lien other than Permitted Liens.

(b) Each Credit Party and its Subsidiaries enjoys peaceful and undisturbed possession under all of its leases and all such leases are valid and subsisting and in full force and effect.

### **Section 3.14 Taxes.**

Each of the Credit Parties and its Subsidiaries has filed, or caused to be filed, all income tax returns and all other material tax returns (federal, state, local and foreign) required to be filed and paid (a) all amounts of taxes shown thereon to be due (including interest and penalties) and (b) all other taxes, fees, assessments and other governmental charges (including mortgage recording taxes, documentary stamp taxes and intangibles taxes) owing by it, except for such taxes (i) that are not yet delinquent or (ii) that are being contested in good faith and by proper proceedings, and against which adequate reserves are being maintained in accordance with GAAP. Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, none of the Credit Parties or their Subsidiaries is aware as of the Closing Date of any proposed tax assessments against it or any of its Subsidiaries.

### **Section 3.15 Solvency.**

After giving effect to the Transactions, (a) the Credit Parties taken as a whole are solvent and are able to pay their debts and other liabilities, contingent obligations and other commitments as they mature in the normal course of business, and (b) the fair saleable value of the Credit Parties' assets taken as a whole, measured on a going concern basis, exceeds all probable liabilities, including those to be incurred pursuant to this Agreement. After giving effect to the Transactions, none of the Credit Parties (i) has unreasonably small capital in relation to the business in which it is or proposes to be engaged or (ii) has incurred, or believes that it will incur debts beyond its ability to pay such debts as they become due. In executing the Credit Documents and consummating the Transactions, none of the Credit Parties intends to hinder, delay or defraud either present or future creditors or other Persons to which one or more of the Credit Parties is or will become indebted.

### **Section 3.16 No Burdensome Restrictions.**

None of the Credit Parties or their Subsidiaries is a party to any agreement or instrument or subject to any other obligation or any charter or corporate restriction or any provision of any applicable law, rule or regulation which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

### **Section 3.17 Brokers' Fees.**

None of the Credit Parties or their Subsidiaries has any obligation to any Person in respect of any finder's, broker's, investment banking or other similar fee in connection with any of the transactions contemplated under the Credit Documents other than the closing and other fees payable pursuant to this Agreement and as set forth in the Fee Letter.

### **Section 3.18 Labor Matters.**

Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, there are no collective bargaining agreements or Multiemployer Plans covering the employees of the Credit Parties or any of their Subsidiaries as of the Closing Date, other than as set forth in Schedule 3.18 hereto, and none of the Credit Parties or their Subsidiaries (a) has suffered any strikes, walkouts, work stoppages or other material labor difficulty within the last five years, other than as set forth in Schedule 3.18 hereto, or (b) has knowledge of any potential or pending strike, walkout or work stoppage. Other than as set forth on Schedule 3.18, no unfair labor practice complaint is pending against any Credit Party or any of its Subsidiaries that could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, there are no strikes, walkouts, work stoppages or other material labor difficulty pending or threatened against any Credit Party.

### **Section 3.19 Accuracy and Completeness of Information.**

All factual information heretofore, contemporaneously or hereafter furnished by or on behalf of any Credit Party or any of its Subsidiaries to the Administrative Agent, the Arrangers or any Lender for purposes of or in connection with this Agreement or any other Credit Document, or any transaction contemplated hereby or thereby, is or will be true and accurate in all material respects and not incomplete by omitting to state any material fact necessary to make such information in light of the circumstances in which such information is provided not misleading; provided, that with respect to projected financial information, the Credit Parties represent only that such information was prepared in good faith on assumptions believed to be reasonable at the time made.

### **Section 3.20 Material Contracts.**

Each Material Contract is, and after giving effect to the Transactions will be, in full force and effect in accordance with the terms thereof.

### **Section 3.21 Insurance.**

The insurance coverage of the Credit Parties and their Subsidiaries is outlined as to carrier, policy number, expiration date, type and amount on Schedule 3.21 as of the Closing Date and as of the last date such Schedule was required to be updated in accordance with Section 5.2 and such insurance coverage complies with the requirements set forth in Section 5.5(b).

### **Section 3.22 Intellectual Property Matters.**

Except as could not reasonably be expected to have a Material Adverse Effect, the Credit Parties and their Subsidiaries own, or possess the right to use, all of the Intellectual Property, trade names, franchises, licenses and other intellectual property rights (collectively, "IP Rights") that are reasonably necessary for the operation of their respective businesses as now conducted by them in all material respects, without infringement of the rights of any other Person. To the actual knowledge of the Responsible Officers of the Borrower, no slogan or other advertising

device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by any Credit Party or any Subsidiary infringes upon any rights held by any other Person. No event has occurred which permits, or after the notice or lapse of time or both would permit, the revocation or termination of any such license, franchise or other right or which affects the rights of any of the Credit Parties or any of their Subsidiaries thereunder which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect. No claim or litigation regarding any of the foregoing is pending or, to the best knowledge of each Credit Party, threatened, which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect. No representation is made in this Section 3.22 regarding “shrink wrap” or “off the shelf” software, or software embedded in commercially available electronic hardware.

### **Section 3.23 Classification of Senior Indebtedness.**

The Credit Party Obligations constitute “Senior Indebtedness,” “Designated Senior Indebtedness” or any similar designation under and as defined in any agreement governing any Subordinated Debt and the subordination provisions set forth in each such agreement are legally valid and enforceable against the parties thereto.

### **Section 3.24 Anti-Corruption Laws and Sanctions.**

The Borrower has implemented and maintains in effect policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and the Borrower, its Subsidiaries and their respective officers and employees and to the knowledge of the Borrower its directors and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. None of (a) the Borrower, any Subsidiary or any of their respective directors, officers or employees, or (b) to the knowledge of the Borrower any agent of the Borrower or any Subsidiary that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person. No Loan or Letter of Credit, use of proceeds or other transaction contemplated by the Credit Agreement will violate Anti-Corruption Laws or applicable Sanctions.

### **Section 3.25 Consent; Governmental Authorizations.**

No approval, consent or authorization of, filing with, notice to or other act by or in respect of, any Governmental Authority or any other Person (including any Equity Holder) is required in connection with acceptance of Extensions of Credit by the Borrower or the making of the Guaranty hereunder or with the execution, delivery or performance of any Credit Document by the Credit Parties (other than those which have been obtained) or with the validity or enforceability of any Credit Document against the Credit Parties.

### **Section 3.26 Healthcare Representations and Warranties.**

(a) Reports; Audits. Except for matters that could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect: (i) as applicable, the Credit Parties have timely filed or caused to be timely filed, all cost reports and other reports of every kind whatsoever required by law or by written contracts or otherwise to have been filed or made with respect to such Credit Party’s business and operations; (ii) there are no claims, actions or appeals pending (and each Credit Party has not filed any claims or reports which should result in any such claims, actions or appeals) before any commission, board or agency, including, without limitation, any intermediary or carrier, the Provider Reimbursement Review Board or the Administrator of CMS, with respect to cost reports or claims filed by any Credit Party under any Government Reimbursement Program, or any disallowance by any commission, board or agency in connection with any audit of such cost reports or claims; and (iii) no validation review or program integrity review related to any Credit Party, or the consummation of the transactions contemplated in the Credit Documents, have been conducted by any commission, board or agency in connection with any Government Reimbursement Program, and to the actual knowledge of the Responsible Officers of the Borrower, no such reviews are scheduled, pending or threatened against or affecting any Credit Party, any Credit Party’s employees or agents, or the consummation of the transactions contemplated hereby.

(b) Compliance With Health Care Laws. Each Credit Party is in compliance with all applicable Healthcare Laws except where the failure to comply, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. To the extent applicable to each Credit Party, each Credit Party has maintained

in all material respects all records required to be maintained by the Joint Commission, Government Reimbursement Programs, and the Healthcare Laws, and, to the actual knowledge of the Responsible Officers of the Borrower, there are no presently existing circumstances which could reasonably be expected to constitute or result in a violation of any Healthcare Law, in each case that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. To the actual knowledge of the Responsible Officers of the Borrower, no Credit Party is currently subject to any federal, state, local governmental or private payor civil or criminal inspections, investigations, inquiries or audits involving and/or related to its activities or compliance with Healthcare Laws, except for audits and inspections that could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Except as could not reasonably be expected to have a Material Adverse Effect, no Credit Party: (i) has had a civil monetary penalty assessed against it pursuant to 42 U.S.C. §1320a-7a; (ii) has been excluded from participation in a Federal Health Care Program (as that term is defined in 42 U.S.C. §1320a-7b); (iii) has been convicted (as that term is defined in 42 C.F.R. §1001.2) of any of those offenses described in 42 U.S.C. §1320a-7b or 18 U.S.C. §§669, 1035, 1347, 1518; or (iv) to the actual knowledge of the Responsible Officers of the Borrower, is involved or named in a U.S. Attorney complaint made or any other action taken pursuant to the False Claims Act under 31 U.S.C. §§3729-3731 or qui tam action brought pursuant to 31 U.S.C. §3729 *et seq.*

(c) Licenses, Permits, and Certifications. Each Credit Party has, and to the actual knowledge of one or more Responsible Officers of the Borrower, each Equity Holder has, such permits, licenses, franchises, certificates and other approvals or authorizations of Governmental Authorities as are necessary under applicable law or regulations to own its properties and to conduct its business and to submit claims for and receive reimbursement under all applicable Government Reimbursement Programs and Private Payor Arrangements (including without limitation such permits as are required under Healthcare Laws and under such HMO or similar licensure laws and such insurance laws and regulations, as are applicable thereto) other than such failures as could not reasonably be expected to have a Material Adverse Effect. Each Credit Party has, and to the actual knowledge of one or more Responsible Officers of the Borrower, each Equity Holder has, all Medicare, Medicaid and related agency supplier billing number(s) and related documentation necessary for it to receive reimbursement claims under all applicable Government Reimbursement Programs for any medical services or supplies furnished by any Credit Party in any jurisdiction where any Credit Party conducts business other than such failures as could not reasonably be expected to have a Material Adverse Effect. No Credit Party (and, to the actual knowledge of one or more Responsible Officer of the Borrower, no Equity Holder) is currently subject to, suspension, revocation, renewal or denial of any applicable certification, provider or supplier billing number(s), or any participation agreement(s) under any applicable Government Reimbursement Program which could reasonably be expected to cause a Material Adverse Effect. There currently exist no restrictions, deficiencies, required plans of corrective action or other such remedial measures with respect to any certifications, accreditations or licensures (whether under any Government Reimbursement Program, or Healthcare Law) other than restrictions, deficiencies, required plans of corrective action or other remedial measures that could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(d) Participation Agreements. To the actual knowledge of the Responsible Officers of the Borrower, there is no threatened termination of any participation agreements under any Private Payor Arrangements to which any Credit Party is a party and which termination would reasonably be expected to have a Material Adverse Effect.

(e) HIPAA Compliance. To the actual knowledge of the Responsible Officers of the Borrower, no Credit Party is the subject of any civil or criminal penalty, process, claim, action or proceeding, or any administrative or other regulatory review, survey, process or proceeding alleging a violation of HIPAA that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(f) Equity Holder Compliance. Other than where failure to do so could not reasonably be expected to have a Material Adverse Effect, to the actual knowledge of one or more Responsible Officers of the Borrower, each Equity Holder is duly licensed (where license is required) by each state or state agency or commission, or any other Governmental Authority having jurisdiction over the provision of such services by such Person in the locations in which the Equity Holder and the applicable Subsidiaries conduct business, required to enable such Person to provide the professional services provided by such Person and otherwise as is necessary to enable the Equity Holder and each such applicable Subsidiary to operate as currently operated and as presently contemplated to be operated. To the actual knowledge of the Borrower's Responsible Officers, all such required licenses are in full force and effect on the date hereof and have not been revoked or suspended or otherwise limited in any material respect.

**Section 3.27 Security Interests.** At any time following the Collateral Event, the Security Documents are effective to create in favor of the Administrative Agent, for the ratable benefit of the Lenders and the Bank Product Providers, legal, valid and enforceable first priority Liens (subject to Permitted Liens) on, and security interests in, the Collateral and, when (a) each (i) financing statement on form UCC-1 made pursuant to the Security Documents is filed in the appropriate office as required by the Uniform Commercial Code, (ii) Security Documents (or short form security agreement with respect to intellectual property) are filed with the United States Patent and Trademark Office and the United States Copyright Office, as applicable, and (iii) all other appropriate filings or recordings are made in the appropriate offices as may be required under applicable law, and in each case, all filing and recording fees have been paid, and (b) upon the taking of possession, control or other action by the Administrative Agent of such Collateral with respect to which a security interest may be perfected only by possession, control or other action, such security interests will constitute fully perfected Liens on, and security interests in, all right, title and interest of the Credit Parties in such Collateral, in each case subject to no Liens other than Permitted Liens.

## ARTICLE IV

### CONDITIONS PRECEDENT

#### Section 4.1 Conditions to Closing Date and Initial Revolving Loans and Term Loans.

This Agreement shall become effective upon, and the obligation of each Lender to make the initial Revolving Loans and the Term Loans on the Closing Date is subject to, the satisfaction, or waiver by the Administrative Agent, of the following conditions precedent:

(a) Execution of Credit Agreement; Credit Documents and Lender Consents. The Administrative Agent shall have received (i) counterparts of this Agreement, executed by a duly authorized officer of each party hereto, (ii) for the account of each Revolving Lender requesting a promissory note, a Revolving Note, (iii) for the account of the Swingline Lender requesting a promissory note, the Swingline Note, (iv) for the account of each Term Loan Lender requesting a promissory note, a Term Loan Note, (v) counterparts of any other Credit Document, executed by the duly authorized officers of the parties thereto and (vi) executed consents, in substantially the form of Exhibit 4.1(a), from each Lender authorizing the Administrative Agent to enter this Credit Agreement on their behalf.

(b) Authority Documents. The Administrative Agent shall have received the following:

(i) Articles of Incorporation/Charter Documents. Original certified articles of incorporation or other charter documents, as applicable, of each Credit Party certified (A) by an officer of such Credit Party (pursuant to an officer's certificate in substantially the form of Exhibit 4.1(b) attached hereto) as of the Closing Date to be true and correct and in force and effect as of such date, and (B) with respect to the articles of incorporation of the Borrower, to be true and complete as of a recent date by the appropriate Governmental Authority of the State of Florida.

(ii) Resolutions. Copies of resolutions of the board of directors or comparable managing body of each Credit Party approving and adopting the Credit Documents, the transactions contemplated therein and authorizing execution and delivery thereof, certified by an officer of such Credit Party (pursuant to an officer's certificate in substantially the form of Exhibit 4.1(b) attached hereto) as of the Closing Date to be true and correct and in force and effect as of such date.

(iii) Bylaws/Operating Agreement. A copy of the bylaws or comparable operating agreement of each Credit Party certified by an officer of such Credit Party (pursuant to an officer's certificate in substantially the form of Exhibit 4.1(b) attached hereto) as of the Closing Date to be true and correct and in force and effect as of such date.

(iv) Good Standing. Original certificates of good standing, existence or its equivalent with respect to each Credit Party certified as of a recent date by the appropriate Governmental Authorities of the state of incorporation or organization and each other state in which the failure to so qualify and be in good standing could reasonably be expected to have a Material Adverse Effect.

(v) Incumbency. An incumbency certificate of each Credit Party certified by an officer (pursuant to an officer's certificate in substantially the form of Exhibit 4.1(b) attached hereto) to be true and correct as of the Closing Date.

(c) Legal Opinion of Counsel. The Administrative Agent shall have received an opinion or opinions (including, if requested by the Administrative Agent, local counsel opinions) of counsel for the Credit Parties, dated the Closing Date and addressed to the Administrative Agent and the Lenders, in form and substance acceptable to the Administrative Agent (which shall include, without limitation, opinions with respect to the due organization and valid existence of each Credit Party and opinions as to the non-contravention of the Credit Parties' organizational documents and Material Contracts).

(d) Liability, Casualty, Property and Business Interruption Insurance. The Administrative Agent shall have received copies of insurance policies or certificates and endorsements of insurance evidencing general liability, casualty, property and business interruption insurance. The Administrative Agent shall be named as additional insured on behalf of the Lenders with respect to any such insurance providing general liability coverage, and the Credit Parties will use their commercially reasonable efforts to have each provider of any such insurance agree, by endorsement upon the policy or policies issued by it or by independent instruments to be furnished to the Administrative Agent, that it will give the Administrative Agent thirty (30) days prior written notice before any such policy or policies shall be materially altered or cancelled.

(e) Solvency Certificate. The Administrative Agent shall have received an officer's certificate prepared by the chief financial officer of the Borrower as to the financial condition, solvency and related matters of the Credit Parties and their Subsidiaries, after giving effect to the Transactions and the initial borrowings under the Credit Documents, in substantially the form of Exhibit 4.1(e) hereto.

(f) Account Designation Notice. The Administrative Agent shall have received the executed Account Designation Notice in the form of Exhibit 1.1(a) hereto.

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

(h) Consents. The Administrative Agent shall have received evidence that any applicable boards of directors, governmental, shareholder and material third party consents and approvals necessary in connection with the Transactions have been obtained and all applicable waiting periods have expired without any action being taken by any authority that could restrain, prevent or impose any material adverse conditions on such transactions or that could seek or threaten any of the foregoing.

(i) Compliance with Laws. The Transactions contemplated hereby shall be in compliance in all material respects with all applicable laws and regulations (including all applicable securities and banking laws, rules and regulations).

(j) Bankruptcy. There shall be no bankruptcy or insolvency proceedings pending with respect to any Credit Party or any Subsidiary thereof.

(k) Existing Indebtedness of the Credit Parties. All of the existing Indebtedness for borrowed money of the Credit Parties and their Subsidiaries (other than Indebtedness permitted to exist pursuant to Section 6.1) shall be repaid in full and all security interests related thereto shall be terminated on or prior to the Closing Date.



(l) Financial Statements. The Administrative Agent and the Lenders shall have received copies of the financial statements referred to in Section 3.1, each in form and substance satisfactory to each of them.

(m) No Material Adverse Change. Since December 31, 2013 there shall have been no material adverse change in the business, properties, prospects, operations or condition (financial or otherwise) of the Credit Parties or any of their respective Subsidiaries.

(n) Financial Condition Certificate. The Administrative Agent shall have received a certificate or certificates executed by a Responsible Officer of the Borrower as of the Closing Date, substantially in the form of Exhibit 4.1(n) stating that (i) to the actual knowledge of the Responsible Officers of the Borrower, there does not exist any pending or ongoing, action, suit, investigation, litigation or proceeding in any court or before any other Governmental Authority (A) affecting this Agreement or the other Credit Documents, that has not been settled, dismissed, vacated, discharged or terminated prior to the Closing Date or (B) that purports to affect any Credit Party or any of its Subsidiaries, or any transaction contemplated by the Credit Documents, which action, suit, investigation, litigation or proceeding could reasonably be expected to have a Material Adverse Effect, that has not been settled, dismissed, vacated, discharged or terminated prior to the Closing Date, (ii) immediately after giving effect to this Agreement, the other Credit Documents, and all the Transactions contemplated to occur on such date, (A) no Default or Event of Default exists, (B) all representations and warranties contained herein and in the other Credit Documents (1) with respect to representations and warranties that contain a materiality qualification, are true and correct and (2) with respect to representations and warranties that do not contain a materiality qualification, are true and correct in all material respects and (C) the Credit Parties are in pro forma compliance with each of the initial financial covenants set forth in Section 5.9 (as evidenced through detailed calculations of such financial covenants on a schedule to such certificate) as of the last day of the quarter ending at least twenty (20) days preceding the Closing Date and (iii) each of the other conditions precedent in Section 4.1 have been satisfied, except to the extent the satisfaction of any such condition is subject to the reasonable judgment of the Administrative Agent or any Lender.

(o) Patriot Act Certificate. At least three (3) Business Days prior to the Closing Date, to the extent requested by the Administrative Agent at least ten (10) Business Days prior to the Closing Date, the Administrative Agent shall have received a certificate satisfactory thereto, substantially in the form of Exhibit 4.1(o), for benefit of itself and the Lenders, provided by the Borrower that sets forth information required by the Patriot Act including, without limitation, the identity of the Credit Parties, the name and address of the Credit Parties and other information that will allow the Administrative Agent or any Lender, as applicable, to identify the Credit Parties in accordance with the Patriot Act.

(p) Fees and Expenses. The Administrative Agent and the Lenders shall have received all fees and expenses, if any, owing pursuant to any Fee Letter, the Commitment Letter and Section 2.5.

(q) Additional Matters. All other documents and legal matters in connection with the transactions contemplated by this Agreement shall be reasonably satisfactory in form and substance to the Administrative Agent and its counsel.

Without limiting the generality of the provisions of Section 8.4, for purposes of determining compliance with the conditions specified in this Section 4.1, each Lender that has signed this Agreement or a Lender Consent shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

#### **Section 4.2 Conditions to All Extensions of Credit**

The obligation of each Lender to make any Extension of Credit hereunder is subject to the satisfaction of the following conditions precedent on the date of making such Extension of Credit:

(a) Representations and Warranties. The representations and warranties made by the Credit Parties herein and which are contained in any certificate furnished at any time under or in connection herewith shall (i) with respect to representations and warranties that contain a materiality qualification, be true and correct and (ii) with respect to representations and warranties that do not contain a materiality qualification, be true and correct in all material respects, in each case on and as of the date of such Extension of Credit as if made on and as of such date except for any representation or warranty made as of an earlier date, which representation and warranty shall remain true and correct as of such earlier date.

(b) No Default or Event of Default. No Default or Event of Default shall have occurred and be continuing on such date or after giving effect to the Extension of Credit to be made on such date unless such Default or Event of Default shall have been waived in accordance with this Agreement.

(c) Compliance with Commitments. Immediately after giving effect to the making of any such Extension of Credit (and the application of the proceeds thereof), (i) the sum of the aggregate principal amount of outstanding Revolving Loans plus the aggregate principal amount of outstanding Swingline Loans plus the aggregate principal amount of outstanding LOC Obligations shall not exceed the Revolving Committed Amount then in effect, (ii) the aggregate principal amount of the outstanding LOC Obligations shall not exceed the LOC Committed Amount, and (iii) the aggregate principal amount of the outstanding Swingline Loans shall not exceed the Swingline Committed Amount.

(d) Additional Conditions to Revolving Loans. If a Revolving Loan is requested, all conditions set forth in Section 2.1 shall have been satisfied.

(e) Incremental Commitment. If an Incremental Commitment is requested, all conditions set forth in Section 2.22 shall have been satisfied.

(f) Additional Conditions to Letters of Credit. If the issuance of a Letter of Credit is requested, (i) all conditions set forth in Section 2.3 shall have been satisfied and (ii) there shall exist no Lender that is a Defaulting Lender unless the Issuing Lender has entered into reasonably satisfactory arrangements with the Borrower or such Defaulting Lender to eliminate the Issuing Lender's risk with respect to such Defaulting Lender's LOC Obligations.

(g) Additional Conditions to Swingline Loans. If a Swingline Loan is requested, (i) all conditions set forth in Section 2.4 shall have been satisfied and (ii) there shall exist no Lender that is a Defaulting Lender unless the Swingline Lender has entered into reasonably satisfactory arrangements with the Borrower or such Defaulting Lender to eliminate the Swingline Lender's risk with respect to such Defaulting Lender's in respect of its Swingline Commitment.

Each request for an Extension of Credit and each acceptance by the Borrower of any such Extension of Credit shall be deemed to constitute representations and warranties by the Credit Parties as of the date of such Extension of Credit that the conditions set forth above in paragraphs (a) through (g), as applicable, have been satisfied.

## ARTICLE V

### AFFIRMATIVE COVENANTS

Each of the Credit Parties hereby covenants and agrees that on the Closing Date, and thereafter (a) for so long as this Agreement is in effect, (b) until the Commitments have terminated, and (c) until no Note remains outstanding and unpaid and the Credit Party Obligations and all other amounts owing to the Administrative Agent or any Lender hereunder are paid in full, such Credit Party shall, and shall cause each of their Subsidiaries, to:

#### Section 5.1 Financial Statements.

Furnish to the Administrative Agent for prompt further distribution to each Lender:

(a) Annual Financial Statements. As soon as available and in any event no later than the fifth Business Day following the earlier of (i) to the extent applicable, the date the Borrower is required by the SEC to file its Form 10-K for each fiscal year of the Borrower and (ii) ninety (90) days after the end of each fiscal year of the Borrower, a copy of the Consolidated balance sheet of the Borrower and its Consolidated Subsidiaries as at the end of such fiscal year and the related Consolidated statements of income and retained earnings and of cash flows of the Borrower and its Consolidated Subsidiaries for such year, which shall be audited by an independent registered certified public accounting firm of nationally recognized standing reasonably acceptable to the Administrative Agent, setting forth in each case in comparative form the figures for the previous year, reported on without a "going concern" or like qualification or exception, or qualification indicating that the scope of the audit was inadequate to permit such independent certified public accountants to certify such financial statements without such qualification;

(b) Quarterly Financial Statements. As soon as available and in any event no later than the fifth Business Day following the earlier of (i) to the extent applicable, the date the Borrower is required by the SEC to file its Form 10-Q for any fiscal quarter of the Borrower and (ii) forty-five (45) days after the end of each of the first three fiscal quarters of the Borrower, a copy of the Consolidated balance sheet of the Borrower and its Consolidated Subsidiaries as at the end of such period and related Consolidated statements of income and retained earnings and of cash flows for the Borrower and its Consolidated Subsidiaries for such quarterly period and for the portion of the fiscal year ending with such period, in each case setting forth in comparative form Consolidated figures for the corresponding period or periods of the preceding fiscal year (subject to normal recurring year-end audit adjustments); and

(c) Annual Operating Budget and Cash Flow. As soon as available, but in any event within forty-five (45) days after the end of each fiscal year (including the fiscal year ending December 31, 2014), a copy of the detailed annual operating budget or plan including cash flow projections of the Borrower and its Consolidated Subsidiaries for the next four fiscal quarter period prepared on a quarterly basis, in form and detail reasonably acceptable to the Administrative Agent and the Lenders, together with a summary of the material assumptions made in the preparation of such annual budget or plan;

all such historical financial statements to be complete and correct in all material respects (subject, in the case of interim statements, to normal recurring year-end audit adjustments) and to be prepared in reasonable detail and, in the case of the annual and quarterly financial statements provided in accordance with subsections (a) and (b) above, in accordance with GAAP applied consistently throughout the periods reflected therein (except as required by a change in GAAP as set forth therein) and further accompanied by a description of, and an estimation of the effect on the financial statements on account of, a change, if any, in the application of accounting principles as provided in Section 1.3. The financial statements provided in accordance with subsection (c) above shall have been prepared in good faith based upon reasonable assumptions.

Notwithstanding the foregoing, financial statements and reports required to be delivered pursuant to the foregoing provisions of this Section may be delivered electronically (including via a link to the SEC's EDGAR system) and if so, shall be deemed to have been delivered on the date on which the Administrative Agent receives such reports from the Borrower through electronic mail.

#### **Section 5.2 Certificates; Other Information.**

Furnish to the Administrative Agent for prompt further distribution to each Lender:

(a) Accountants' Certificate. Concurrently with the delivery of the financial statements referred to in Section 5.1(a) above, a certificate of the independent certified public accountants reporting on such financial statements stating that in making the examination necessary therefor no knowledge was obtained of any Default or Event of Default, except as specified in such certificate.

(b) Officer's Certificate. Concurrently with the delivery of the financial statements referred to in Sections 5.1(a) and 5.1(b) above, a certificate of a Responsible Officer substantially in the form of Exhibit 5.2(b) stating that (i) such financial statements present fairly in all material respects the consolidated financial position of the Borrower and its Consolidated Subsidiaries for the periods indicated in conformity with GAAP applied on a consistent basis, (ii) each of the Credit Parties during such period observed or performed in all material respects all of its covenants and other agreements, and satisfied every condition, contained in this Agreement to be observed, performed or satisfied by it, and (iii) such Responsible Officer has obtained no knowledge of any Default or Event of Default except as specified in such certificate and such certificate shall include the calculations in reasonable detail required to indicate (A) compliance with Section 5.9 as of the last day of such period, (B) that each Investment made during the most recently completed fiscal quarter pursuant to clause (e) of the definition of Permitted Investment, together with each other then-existing Investment pursuant to clause (e) of the definition of Permitted Investment, did not, when such Investment was made, exceed 15% of Consolidated total shareholders' equity as determined in accordance with GAAP and as set forth on the then most recent Consolidated balance sheet of the Borrower and its Consolidated Subsidiaries furnished to the Administrative Agent pursuant to Section 5.1 above and (C) the amount of all Restricted Payments paid and all Investments (including Permitted Acquisitions) that were made during such period.

(c) Updated Schedules. Concurrently with or prior to the delivery of the financial statements referred to in Sections 5.1(a) and 5.1(b) above, (i) an updated copy of Schedule 3.12 if the Credit Parties or any of their Subsidiaries has formed or acquired a new Subsidiary since the Closing Date or since such Schedule was last updated, as applicable and (ii) an updated copy of Schedule 3.21 if the Credit Parties or any of their Subsidiaries has materially altered or acquired any insurance policies since the Closing Date or since Schedule 3.21 was last updated.

(d) Reports; SEC Filings; Regulatory Reports; Press Releases; Etc. Promptly upon their becoming available, (i) copies of all reports (other than those provided pursuant to Section 5.1 and those which are of a promotional nature) and other financial information which the Borrower sends to its shareholders, (ii) copies of all reports and all registration statements and prospectuses (other than those on or pursuant to Form S-8 or any successor form), if any, which any Credit Party may make to, or file with, the SEC (or any successor or analogous Governmental Authority) that are not available on the SEC's EDGAR system (or any successor system) and (iii) all press releases and other statements made available by any of the Credit Parties to the public concerning material developments in the business of any of the Credit Parties.

(e) [Reserved].

(f) Management Letters; Etc. Promptly upon receipt thereof, a copy or summary of any other report, or "management letter" or similar report submitted by independent accountants to any Credit Party or any of their Subsidiaries in connection with any annual, interim or special audit of the books of such Person.

(g) Debt Securities Information. Promptly after the furnishing thereof, copies of any statement or report furnished to any holder of debt securities of any Credit Party or any Subsidiary thereof pursuant to the terms of any indenture, loan or credit or similar agreement and not otherwise required to be furnished to the Lenders pursuant to Section 5.1 or any other clause of this Section 5.2.

(h) General Information. Except as may be prohibited by a Requirement of Law, promptly, such additional financial and other information as the Administrative Agent, on behalf of any Lender, may from time to time reasonably request.

### **Section 5.3 Payment of Taxes and Other Obligations.**

Pay, discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, subject, where applicable, to specified grace periods, (a) all of its taxes (Federal, state, local and any other taxes) and (b) all of its other obligations and liabilities of whatever nature in accordance with industry practice and (c) any

additional costs that are imposed as a result of any failure to so pay, discharge or otherwise satisfy such taxes, obligations and liabilities, except when the amount or validity of any such taxes, obligations and liabilities is currently being contested in good faith by appropriate proceedings and reserves, if applicable, in conformity with GAAP with respect thereto have been provided on the books of the Credit Parties.

#### **Section 5.4 Conduct of Business and Maintenance of Existence.**

(a) Except as expressly permitted under Section 6.3, continue to engage in business of the same general type as now conducted by it on the Closing Date.

(b) Except as permitted by Section 6.4, preserve, renew and keep in full force and effect its corporate or other formative existence and good standing, take all reasonable action to maintain all rights, privileges and franchises necessary or desirable in the normal conduct of its business and to maintain its goodwill and comply with all Contractual Obligations and Requirements of Law, except to the extent where the failure to comply, individually or in the aggregate, has not had and could not reasonably be expected to have a Material Adverse Effect.

(c) Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (i) obtain and maintain all certificates of need, provider numbers, permits and other licenses required to operate such Person's business and its business locations under applicable law and maintain such Person's qualification for participation in, and payment under all applicable Government Reimbursement Programs and (ii) properly file all cost reports required under any applicable Government Reimbursement Program.

(d) (i) Provide goods or services to its customers in compliance with ethical standards, laws, rules and regulations applicable to it or any facility or location it operates; (ii) assure that each of its employees and each employee of such facility or location has all required licenses, credentials, approvals and other certifications to perform his or her duties and services for such location; and (iii) maintain all permits and other licenses required to operate its facilities and locations and conduct its business under applicable law; except to the extent, with respect to each of clauses (i), (ii), and (iii) above, where the failure to comply, individually or in the aggregate, has not had and could not reasonably be expected to have a Material Adverse Effect.

(e) (i) Implement and maintain policies that are in material compliance with HIPAA and (ii) undertake to be in compliance with each of the HIPAA provisions applicable to such Credit Party that relate to or regulate billing practices, procedures and codes, standard transactions, and privacy and security of protected health information except to the extent any failure could not reasonably be expected to have a Material Adverse Effect.

#### **Section 5.5 Maintenance of Property; Insurance.**

(a) Keep all material property useful and necessary in its business in good working order and condition (ordinary wear and tear and obsolescence excepted).

(b) Maintain with financially sound and reputable insurance companies liability, casualty, property and business interruption insurance in at least such amounts and against at least such risks as are usually insured against in the same general areas by companies engaged in the same or a similar size and type of business; and furnish to the Administrative Agent, upon the request of the Administrative Agent, full information as to the insurance carried. The Administrative Agent shall be named as additional insured, as its interest may appear, with respect to any such general liability insurance, and use commercially reasonable efforts to cause each provider of any such insurance to agree, on a blanket basis or by endorsement upon the policy or policies issued by it or by independent instruments to be furnished to the Administrative Agent, that it will give the Administrative Agent thirty (30) days prior written notice before any such policy or policies shall be materially altered or canceled, and such policies shall provide that no act or default of the Credit Parties or any of their Subsidiaries or any other Person shall affect the rights of the Administrative Agent or the Lenders under such policy or policies; provided, however, that the Credit Parties may effect workers' compensation insurance or similar coverage with respect to operations in any particular state or other jurisdiction through an insurance fund operated by such state or jurisdiction or by meeting the self-insurance requirements of such state or jurisdiction.

(c) Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, preserve or renew all of its Intellectual Property.

## **Section 5.6 Books and Records.**

Keep proper books, records and accounts in which full, true and correct entries in conformity in all material respects with GAAP and all Requirements of Law shall be made of all dealings and transactions in relation to its businesses and activities.

## **Section 5.7 Notices.**

Give notice in writing to the Administrative Agent (which shall promptly transmit such notice to each Lender) of:

(a) promptly, but in any event within two (2) Business Days after any Credit Party knows thereof, the occurrence of any Default or Event of Default;

(b) promptly, any default or event of default under any Contractual Obligation of any Credit Party or any of its Subsidiaries which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect or involve a monetary claim in excess of \$10,000,000;

(c) promptly, any litigation, or any investigation or proceeding known or threatened in writing to any Credit Party (i) affecting any Credit Party or any of its Subsidiaries which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect or involve a monetary claim in excess of \$50,000,000 or involving injunctions or requesting injunctive relief by or against any Credit Party or any Subsidiary of any Credit Party, (ii) affecting or with respect to this Agreement, any other Credit Document or any security interest created thereunder, (iii) involving an environmental claim or potential liability under Environmental Laws which could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, or (iv) by any Governmental Authority relating to any Credit Party or any Subsidiary thereof and alleging fraud, deception or willful misconduct by such Person which could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect;

(d) of any labor controversy that has resulted in, or threatens to result in, a strike or other work action against any Credit Party which could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect;

(e) of any attachment, judgment, lien, levy or order exceeding \$22,500,000 that could reasonably be expected to be assessed against or which has been threatened in writing against any Credit Party other than Permitted Liens;

(f) as soon as possible and in any event within thirty (30) days after any Credit Party knows or has reason to know thereof: (i) the occurrence or expected occurrence of any Reportable Event with respect to any Plan, a failure to make any required contribution to a Plan, the creation of any Lien in favor of the PBGC (other than a Permitted Lien) or a Plan or any withdrawal from, or the termination, Reorganization or Insolvency of, any Multiemployer Plan or (ii) the institution of proceedings or the taking of any other action by the PBGC with respect to the withdrawal from, or the terminating, Reorganization or Insolvency of, any Multiemployer Plan;

(g) promptly, any notice of any violation received by any Credit Party from any Governmental Authority including, without limitation, any notice of violation of Environmental Laws which could reasonably be expected to cause a Material Adverse Effect;

(h) as soon as possible and in any event within two (2) Business Days following the occurrence of any of the following events: (i) any notice is received, through letter or otherwise, of a potential investigation relating to any Credit Party's submission of claims to Government Reimbursement Programs;

(ii) the voluntary disclosure by any Credit Party to the Office of the Inspector General of the United States Department of Health and Human Services, a Medicare fiscal intermediary or any state's Medicaid program of a potential overpayment matter involving the submission of claims to such payor other than refund payments made in the ordinary course of business and which are immaterial in amount or (iii) any notice is received from a Governmental Authority initiating any action that could result in the loss or cancellation of any license, permit, authorization or other right related to any Healthcare Law;

(i) any notice is received from any Governmental Authority of the imposition of any forfeiture or the designation of a hearing that could result in the expiration, termination, revocation, impairment or suspension of any license, permit, authorization or other right related to any Healthcare Law which could reasonably be expected to cause a Material Adverse Effect; and

(j) promptly, any other development or event which could reasonably be expected to have a Material Adverse Effect.

Each notice pursuant to this Section shall be accompanied by a statement of a Responsible Officer setting forth details of the occurrence referred to therein and stating what action the Credit Parties propose to take with respect thereto. In the case of any notice of a Default or Event of Default, the Borrower shall specify that such notice is a Default or Event of Default notice on the face thereof.

#### **Section 5.8 Environmental Laws.**

(a) Except as could not reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect, comply with, all applicable Environmental Laws and obtain and comply with and maintain, any and all licenses, approvals, notifications, registrations or permits required by applicable Environmental Laws;

(b) Except as could not reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect, conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions required under Environmental Laws and promptly comply with all lawful orders and directives of all Governmental Authorities regarding Environmental Laws except to the extent that the same are being contested in good faith by appropriate proceedings; and

(c) Defend, indemnify and hold harmless the Administrative Agent and the Lenders, and their respective employees, agents, officers and directors and affiliates, from and against any and all claims, demands, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way relating to the violation of, noncompliance with or liability under, any Environmental Law applicable to the operations of the Credit Parties or any of their Subsidiaries or the Properties, or any orders, requirements or demands of Governmental Authorities related thereto, including, without limitation, reasonable attorney's and consultant's fees, investigation and laboratory fees, response costs, court costs and litigation expenses, except to the extent that any of the foregoing arise out of the gross negligence or willful misconduct of the party seeking indemnification therefor. The agreements in this paragraph shall survive repayment of the Credit Party Obligations and all other amounts payable hereunder and termination of the Commitments and the Credit Documents.

#### **Section 5.9 Financial Covenants.**

Comply with the following financial covenants:

(a) Consolidated Leverage Ratio. The Consolidated Leverage Ratio, calculated as of the last day of each fiscal quarter (beginning with the fiscal quarter ending December 31, 2014) or as of any other date on a Pro Forma Basis, shall be less than or equal to 3.50 to 1.0; provided that to the extent a Material Acquisition has been consummated, the Consolidated Leverage Ratio applicable under this Section 5.9(a) may, at the Borrower's option and upon written notice to the Administrative Agent, temporarily be increased (a "Consolidated Leverage Ratio Increase Election") to a ratio of less than or equal to 3.75 to 1.0 from the date of consummation of such Material Acquisition through the last day of the fourth full fiscal

quarter to occur following such consummation (such period, a “Consolidated Leverage Ratio Increase Period”); provided, further that the Borrower shall not be permitted to make more than one Consolidated Leverage Ratio Increase Election in any two consecutive year periods.

(b) Interest Coverage Ratio. The Interest Coverage Ratio, calculated as of the last day of each fiscal quarter (beginning with the fiscal quarter ending December 31, 2014) or as of any other date on a Pro Forma Basis, shall be greater than or equal to 3.00 to 1.0.

Notwithstanding the above, the parties hereto acknowledge and agree that, for purposes of all calculations made in determining compliance for any applicable period with the financial covenants set forth in this Section, (i) after consummation of any Permitted Acquisition, (A) income statement items and other balance sheet items (whether positive or negative) attributable to the Target acquired in such transaction shall be included in such calculations to the extent relating to such applicable period as if such Permitted Acquisition had been consummated as of the first day of such applicable period (including by adding any reasonable cost saving synergies associated with such Permitted Acquisition in a manner reasonably satisfactory to the Required Lenders), subject to reasonable adjustments mutually acceptable to the Borrower and the Required Lenders and (B) Indebtedness of a Target which is retired in connection with a Permitted Acquisition shall be excluded from such calculations and deemed to have been retired as of the first day of such applicable period and (ii) after any Disposition permitted by Section 6.4(a)(viii), (A) income statement items, cash flow statement items and balance sheet items (whether positive or negative) attributable to the property or assets disposed of shall be excluded from such calculations to the extent relating to such applicable period as if such Disposition had been consummated as of the first day of such applicable period, subject to adjustments mutually acceptable to the Borrower and the Required Lenders and (B) Indebtedness that is repaid with the proceeds of such Disposition shall be excluded from such calculations and deemed to have been repaid as of the first day of such applicable period.

For purposes of this Section 5.9, cost saving synergies and adjustments to income statement items, cash flow statement items and balance sheet items reflected in financial statements provided by the Credit Parties pursuant to this Credit Agreement shall be deemed accepted by the Required Lenders, unless the Required Lenders object to such items in writing within thirty (30) days of the submission of such financial statements; provided, that to the extent the Credit Parties revise any financial statements as a result of such objection by the Required Lenders, such financial statements shall be deemed delivered as of the date originally submitted for all purposes of this Credit Agreement (other than the thirty (30) day period set forth in this paragraph, which shall begin to run with respect to such revised financial statements when such revisions are submitted).

Notwithstanding the foregoing, with respect to any Target acquired pursuant to a Permitted Acquisition, beginning with the third full fiscal quarter end to occur after such Permitted Acquisition, income statement items and other balance sheet items (whether positive or negative) attributable to such Target and included in the calculations required by this Section 5.9 shall not exceed the actual results generated by such Target (except to the extent that income statement items and other balance sheet items that vary from actual items are approved (such approval not to be unreasonably withheld, delayed or conditioned) in writing by the Required Lenders) for the period beginning with the first day of the first full fiscal quarter that the Target’s results are included in the Borrower’s consolidated financial statements and ending as of the applicable date of calculation, annualized for the full period applicable to such calculation.

#### **Section 5.10 Additional Guarantors.**

(a) The Credit Parties will cause each of their Material Domestic Subsidiaries (and any other Domestic Subsidiary that is required to become a Guarantor pursuant to the definition of Material Domestic Subsidiary), whether newly formed, after acquired or otherwise existing to promptly (and in any event within 45 days after (as applicable) (i) such Material Domestic Subsidiary is formed or acquired or (ii) financial statements are delivered pursuant to Section 5.1 which demonstrate that a Domestic Subsidiary has become a Material Domestic Subsidiary (or, in the case of (i) or (ii), such longer period of time as agreed to by the Administrative Agent in its reasonable discretion)) become a Guarantor hereunder by way of execution of a Joinder Agreement.

(b) The Credit Parties will cause each of their Domestic Subsidiaries (other than PMG), to the extent not already a Guarantor hereunder as of the end of any fiscal year (beginning with the fiscal year ending December 31,



2015), to become a Guarantor hereunder by way of execution of a Joinder Agreement within ninety (90) days after the end of such fiscal year (or such longer period of time as agreed to by the Administrative Agent in its reasonable discretion); provided, however, that no Domestic Subsidiary shall be required to become a Guarantor pursuant to this Section 5.10(b) if such Domestic Subsidiary (i) would be required to obtain a third-party consent in connection with the execution and delivery of a Joinder Agreement, (ii) the execution and delivery of a Joinder Agreement would be prohibited by a provision of such Domestic Subsidiary's articles of incorporation, bylaws, operating agreement or other comparable charter documents or (iii) is a shell company with nominal assets and no or nominal business operations as of the end of such fiscal year.

(c) In connection with the foregoing Sections 5.10(a) and (b), the Credit Parties shall deliver to the Administrative Agent, with respect to each new Guarantor to the extent applicable, substantially the same documentation required pursuant to Sections 4.1(b) – (d) and such other documents or agreements as the Administrative Agent may reasonably request.

#### **Section 5.11 Compliance with Law.**

Comply with all Requirements of Law, the articles of incorporation, bylaws, articles of organization, operating agreement or other organization documents, and orders (including Environmental Laws), and all applicable restrictions imposed by all Governmental Authorities applicable to it except (a) to the extent such Requirement of Law, articles of incorporation, bylaws, articles of organization, operating agreement or other organization documents, order or restriction is being contested in good faith by appropriate proceedings diligently conducted or (b) to the extent noncompliance with any such Requirements of Law, articles of incorporation, bylaws, articles of organization, operating agreement or other organization documents, order or restriction could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. The Borrower will maintain in effect and enforce policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions.

#### **Section 5.12 Further Assurances.**

(a) Public/Private Designation. The Credit Parties will cooperate with the Administrative Agent in connection with the publication of certain materials and/or information provided by or on behalf of the Credit Parties to the Administrative Agent and Lenders (collectively, "Information Materials") and will designate Information Materials (i) that are either available to the public or not material with respect to the Credit Parties and their Subsidiaries or any of their respective securities for purposes of United States federal and state securities laws, as "Public Information" and (ii) that are not Public Information as "Private Information," which Private Information the Administrative Agent and Lenders shall keep confidential, including from any securities trading, brokerage or securities analyst operations through appropriate "Chinese Wall" methods.

(b) Additional Information. The Credit Parties shall provide such information regarding the operations, business affairs and financial condition of the Credit Parties and their Subsidiaries as the Administrative Agent or any Lender may reasonably request.

(c) Visits and Inspections. Each of the Credit Parties shall permit representatives and independent contractors of the Administrative Agent and each Lender up to two times (in the aggregate for all Lenders) during any twelve month period to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, all at the expense of the Borrower and at such reasonable times during normal business hours, upon reasonable advance notice to the Borrower; provided, however, that when an Event of Default exists the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and without advance notice and without limit to the number of visits.

(d) Material Contracts. Upon the occurrence and during the continuance of a Default or an Event of Default, upon the request of the Administrative Agent, the Credit Parties shall provide a list of all Material Contracts, together with a copy of any Material Contract requested by the Administrative Agent.

**Section 5.13 Collateral Matters.** At all times following the occurrence of the Collateral Event:

(a) Execute any and all further documents, financing statements, agreements and instruments, and take all such further customary actions (including the filing and recording of financing statements, fixture filings and other documents and recordings of Liens in stock registries), that may be required under any applicable law, or that the Administrative Agent may reasonably request, to cause the requirements of the occurrence of the Collateral Event to remain satisfied.

(b) If any additional Guarantor or Foreign Subsidiary or FSHCO is formed or acquired after such Collateral Event, or if any additional Equity Interests of any Guarantor or Foreign Subsidiary or FSHCO are issued after such Collateral Event, (i) notify the Administrative Agent thereof, and (ii) within 30 Business Days after such date or such longer period as the Administrative Agent shall agree, (A) pledge all outstanding Equity Interests of such new Guarantor issued after such Collateral Event, pledge Equity Interests in such new Foreign Subsidiary or FSHCO issued after such Collateral Event up to an amount thereof that would qualify as “Collateral”, pledge all new Equity Interests of the Guarantor issued after such Collateral Event, pledge Equity Interests of the Foreign Subsidiary or FSHCO issued after such Collateral Event up to an amount thereof that, together with other Equity Interests in such Foreign Subsidiary or FSHCO that have previously been pledged, would qualify as “Collateral”, in each case to the Administrative Agent under the Collateral Agreement, except to the extent such Equity Interests constitute Excluded Assets, and (B) deliver to the Administrative Agent for the benefit of the Lenders and the Bank Product Providers all certificates or other instruments (if any) representing such Equity Interests, together with stock powers or other instruments of transfer with respect thereto endorsed in blank.

(c) If any additional Guarantor or Foreign Subsidiary or FSHCO is formed or acquired after the Collateral Event, deliver to the Administrative Agent within 30 Business Days after such date or such longer period as the Administrative Agent shall agree, (i) a supplement to the Collateral Agreement, in the form specified therein, duly executed and delivered on behalf of such Credit Party and (ii) supplements to the other Security Documents, if applicable, to cause the requirements of the occurrence of the Collateral Event to become satisfied with respect to such new Credit Party.

(d) Furnish to the Administrative Agent prompt written notice (and in any event within 30 days) of any change in (i) any Credit Party’s corporate or organizational name, (ii) any Credit Party’s organizational form or jurisdiction of organization, (iii) the location of any Credit Party’s chief executive office or (iv) any Credit Party’s organizational identification number.

## **ARTICLE VI**

### **NEGATIVE COVENANTS**

Each of the Credit Parties hereby covenants and agrees that on the Closing Date, and thereafter (a) for so long as this Agreement is in effect, (b) until the Commitments have terminated, (c) until no Note remains outstanding and unpaid and the Credit Party Obligations and all other amounts owing to the Administrative Agent or any Lender hereunder are paid in full, that:

#### **Section 6.1 Indebtedness.**

No Credit Party will, nor will it permit any Subsidiary to, contract, create, incur, assume or permit to exist any Indebtedness, except:

(a) Indebtedness arising or existing under this Agreement and the other Credit Documents;

(b) Indebtedness of the Credit Parties and their Subsidiaries existing as of the Closing Date as referred to in the financial statements referenced in Section 3.1 (and set out more specifically in Schedule 6.1(b) hereto) and any renewals, refinancings or extensions thereof in a principal amount not in excess of that outstanding as of the date of such renewal, refinancing or extension;

(c) Indebtedness of the Credit Parties and their Subsidiaries incurred after the Closing Date consisting of Capital Leases or Indebtedness incurred to provide all or a portion of the purchase price or cost of construction of an asset; provided that (i) such Indebtedness when incurred shall not exceed the purchase price or cost of construction of such asset; (ii) no such Indebtedness shall be renewed, refinanced or extended for a principal amount in excess of the principal balance outstanding thereon at the time of such renewal, refinancing or extension; and (iii) the total amount of all such Indebtedness shall not exceed \$75,000,000 at any time outstanding;

(d) Unsecured intercompany Indebtedness among the Credit Parties or Subsidiaries of the Credit Parties that become Credit Parties within the time required by Section 5.10;

(e) Indebtedness and obligations owing under Hedging Agreements entered into in order to manage existing or anticipated interest rate, exchange rate or commodity price risks and not for speculative purposes;

(f) Guaranty Obligations in respect of Indebtedness of a Credit Party to the extent such Indebtedness is permitted to exist or be incurred pursuant to this Section;

(g) earnout obligations incurred, issued or assumed by any Credit Party as the deferred purchase price of property or services purchased by such Credit Party which appear as liabilities on a balance sheet of such Credit Party;

(h) other unsecured Indebtedness of Credit Parties; provided, that (i) the Credit Parties have delivered a certificate (including reasonably detailed supporting calculations related to the matters set forth in such certificate) of a Responsible Officer to the Administrative Agent to the effect that, after giving effect to such Indebtedness on a Pro Forma Basis, no Default or Event of Default exists and the Credit Parties are in compliance with each of the financial covenants set forth in Section 5.9, (ii) the representations and warranties, affirmative covenants, negative covenants, financial covenants, defaults and events of default in the definitive documentation for such Indebtedness are no more restrictive than the terms and conditions set forth in the Credit Documents and (iii) the terms of any such Indebtedness shall not restrict payments by the Credit Parties of the Credit Party Obligations in any way; and

(i) Indebtedness of a Permitted JV to the extent the financial results of such Permitted JV are not Consolidated with the financial results of the Borrower and its Subsidiaries.

## **Section 6.2 Liens.**

The Credit Parties will not, nor will they permit any Subsidiary (other than a Subsidiary that is a Permitted JV) to, contract, create, incur, assume or permit to exist any Lien with respect to any of their respective property or assets of any kind (whether real or personal, tangible or intangible), whether now owned or hereafter acquired, except for Permitted Liens.

## **Section 6.3 Nature of Business.**

Engage in any material line of business substantially different from those lines of business conducted by the Borrower and its Subsidiaries as of the Closing Date or any business substantially related or incidental thereto, except as approved by the Required Lenders (such approval not to be unreasonably withheld, conditioned or delayed).

#### **Section 6.4 Consolidation, Merger, Sale or Purchase of Assets, etc.**

The Credit Parties will not, nor will they permit any Subsidiary to,

(a) dissolve, liquidate or wind up its affairs, or sell, transfer, lease or otherwise dispose of its property or assets (each a “Disposition”) or agree to do so at a future time, except the following, without duplication, shall be expressly permitted:

(i) (A) the sale, transfer, lease or other disposition of inventory and materials in the ordinary course of business and (B) the conversion of cash into Cash Equivalents and Cash Equivalents into cash;

(ii) the sale, transfer or other disposition of property or assets to an unrelated party not in the ordinary course of business where and to the extent that they are the result of a Recovery Event;

(iii) the sale, lease, transfer or other disposition of (A) machinery, parts and equipment no longer used or useful in the conduct of the business of the Credit Parties or any of their Subsidiaries and (B) obsolete or worn out property, whether now owned or hereafter acquired, in the ordinary course of business;

(iv) the sale, lease or transfer of property or assets from one Credit Party to another Credit Party or dissolution of any Credit Party to the extent any and all assets are distributed to another Credit Party;

(v) the termination of any Hedging Agreement;

(vi) Dispositions of equipment or real property to the extent that (A) such property is exchanged for credit against the purchase price of similar replacement property within twelve (12) months of such Disposition or (B) the proceeds of such Disposition are reasonably promptly applied to the purchase price of such replacement property within 12 months of such Disposition;

(vii) the licensing of Intellectual Property in the ordinary course of business consistent with past practice;

(viii) Dispositions by the Borrower or any Subsidiary; provided that at any time after the Collateral Event, (i) with respect to asset sales for more than \$300,000,000 per disposition or series of related dispositions, at least 75% of the consideration for any such asset sale shall consist of cash or cash equivalents (provided that for purposes of the 75% cash consideration requirement (x) the amount of any Indebtedness or other liabilities of the Borrower or any Subsidiary (as shown on such person’s most recent balance sheet or in the notes thereto) that are assumed by the transferee of any such assets, (y) the amount of any trade-in value applied to the purchase price of any replacement assets acquired in connection with such asset sale, and (z) any securities received by the Borrower or such Subsidiary from such transferee that are converted by the Borrower or such Subsidiary into cash or cash equivalents (to the extent of the cash or cash equivalents received) within 270 days following the closing of the applicable asset sale, shall each be deemed to be cash or cash equivalents) and (ii) immediately prior to the consummation of such asset sale, no Event of Default shall have occurred and be continuing and no Event of Default shall result therefrom;

(ix) the sale, lease or transfer of property or assets as part of a Sale and Leaseback Transaction;

(x) the merger of a Credit Party or a Subsidiary thereof with another Credit Party or a Subsidiary thereof to the extent permitted by Section 6.4(b)(ii) below; and

(xi) Dispositions of Equity Interests in Permitted JVs pursuant to the terms of the joint venture or equivalent agreements governing such Permitted JVs so long as such joint venture or equivalent agreements are not solely between Persons that are Credit Parties, Subsidiaries or Affiliates of Credit Parties;

provided that (A) after giving effect to any Disposition pursuant to clauses (viii) and (xi) above, the Credit Parties shall be in compliance on a Pro Forma Basis with the financial covenants set forth in Section 5.9 hereof, recalculated for the most recently ended month for which information is available, and (B) with respect to clauses (v), (vi), (viii) and (xi) above, no Default or Event of Default shall exist or shall result therefrom; or

(b) (i) purchase, lease or otherwise acquire (in a single transaction or a series of related transactions) the property or assets of any Person, other than (A) Permitted Investments and (B) except as otherwise limited or prohibited herein, purchases or other acquisitions of inventory, materials, property and equipment in the ordinary course of business, or (ii) consummate any transaction of merger or consolidation, except for (A) Investments or acquisitions permitted pursuant to Section 6.5 so long as the Credit Party subject to such merger or consolidation is the surviving entity, (B) (y) the merger or consolidation of a Subsidiary that is not a Credit Party with and into a Credit Party; provided that such Credit Party will be the surviving entity and (z) the merger or consolidation of a Credit Party with and into another Credit Party; provided that if the Borrower is a party thereto, the Borrower will be the surviving corporation and (C) the merger or consolidation of a Subsidiary that is not a Credit Party with and into another Subsidiary that is not a Credit Party.

#### **Section 6.5 Investments and Acquisitions.**

The Credit Parties will not, nor will they permit any Subsidiary (other than a Subsidiary that is a Permitted JV) to, make any Investment or contract to make any Investment except for Permitted Investments.

#### **Section 6.6 Transactions with Affiliates.**

Other than execution, consummation and performance of each Management Agreement and Restrictive Agreement, the Credit Parties will not, nor will they permit any Subsidiary to, enter into any transaction or series of transactions, whether or not in the ordinary course of business, with any officer, director, shareholder or Affiliate (other than a Subsidiary) other than on terms and conditions substantially as favorable as would be obtainable in a comparable arm's-length transaction with a Person other than an officer, director, shareholder or Affiliate, it being understood that payments of insurance premiums by any Credit Party to PMG shall not violate this Section 6.6. Notwithstanding the foregoing, this Section 6.6 shall not apply to (a) any transaction that involves an amount less than or equal to the greater of (i) \$120,000 or (ii) the amount set forth in Item 404(a) of Regulation S-K of the SEC as in effect from time to time; provided, that such amount shall not exceed \$250,000, (b) any transaction pertaining to director or executive officer compensation, benefits and perquisites that are approved in accordance with the charter of the Compensation Committee of the Borrower's Board of Directors or by the Borrower's Board of Directors and (c) any transaction between a Credit Party or a Subsidiary thereof and another Credit Party or a Subsidiary thereof.

#### **Section 6.7 Ownership of Subsidiaries; Restrictions.**

The Credit Parties will not sell, transfer, pledge or otherwise dispose of any Equity Interest or other equity interests in any of their Subsidiaries, nor will they permit any of their Subsidiaries to issue, sell, transfer, pledge or otherwise dispose of any of their Equity Interest or other equity interests, except in a transaction permitted by Section 6.4 or pursuant to the exercise of rights under a Restrictive Agreement.

#### **Section 6.8 Corporate Changes; Material Contracts.**

No Credit Party will, nor will it permit any of its Subsidiaries to, (a) change its fiscal year, (b) amend, modify or change its articles of incorporation, certificate of designation (or corporate charter or other similar organizational

document) operating agreement or bylaws (or other similar document) in any respect materially adverse to the interests of the Lenders without the prior written consent of the Required Lenders; provided that no Credit Party shall (i) except as permitted under Section 6.4, alter its legal existence or, in one transaction or a series of transactions, merge into or consolidate with any other entity, (ii) sell all or substantially all of its assets, (iii) change its state of incorporation or organization or (iv) change its registered legal name, without providing thirty (30) days prior written notice to the Administrative Agent, (c) have any oral operating agreement (or other similar agreement) or enter into a written operating agreement which regulates the affairs of such Credit Party, the conduct of its business, establishes duties, and/or governs the relations among any members, managers and such Credit Party in either case that is materially adverse to the interests of the Lenders, it being further agreed that if any such oral or written agreement is entered into, the Borrower shall provide a materially complete description of such oral agreement or a copy of such written agreement to the Administrative Agent within five (5) Business Days thereafter, (d) amend, modify, cancel or terminate or refuse to renew or extend or permit the amendment, modification, cancellation or termination of any of its Material Contracts to the extent such amendment, modification, cancellation or termination could reasonably be expected to have a Material Adverse Effect, (e) have more than one state of incorporation, organization or formation or (f) change its accounting method (except in accordance with GAAP or as required by a change in Tax law) in any manner adverse to the interests of the Lenders without the prior written consent of the Required Lenders.

#### **Section 6.9 Limitation on Restricted Actions.**

The Credit Parties will not, nor will they permit any Subsidiary (other than a Subsidiary that is a Permitted JV) to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any encumbrance or restriction on the ability of any such Person to (a) pay dividends or make any other distributions to any Credit Party on its Equity Interest or with respect to any other interest or participation in, or measured by, its profits, (b) pay any Indebtedness or other obligation owed to any Credit Party, (c) make loans or advances to any Credit Party, (d) sell, lease or transfer any of its properties or assets to any Credit Party, or (e) act as a Guarantor pursuant to the Credit Documents or any renewals, refinancings, exchanges, refundings or extension thereof or amend or otherwise modify the Credit Documents, except (in respect of any of the matters referred to in clauses (a)-(d) above) for such encumbrances or restrictions existing under or by reason of (i) this Agreement and the other Credit Documents, (ii) applicable law, (iii) any document or instrument governing Indebtedness incurred pursuant to Section 6.1(c); provided that any such restriction contained therein relates only to the asset or assets constructed or acquired in connection therewith, (iv) any Permitted Lien or any document or instrument governing any Permitted Lien; provided that any such restriction contained therein relates only to the asset or assets subject to such Permitted Lien or (v) any Management Agreement.

#### **Section 6.10 Restricted Payments.**

The Credit Parties will not, nor will they permit any Subsidiary to, directly or indirectly, declare, order, make or set apart any sum for or pay any Restricted Payment, except:

- (a) to make dividends payable solely in the same class of Equity Interest of such Person;
- (b) to make Restricted Payments to any Credit Party;
- (c) to purchase, redeem or otherwise acquire Equity Interests issued by it with the proceeds received from the substantially concurrent issue of new shares of its common stock or other common Equity Interests;
- (d) so long as after giving effect to such payments the Credit Parties shall be in compliance with each of the financial covenants set forth in Section 5.9 hereof, to make regularly scheduled payments of (i) interest to the holders of Subordinated Debt and (ii) principal to the holders of Subordinated Debt incurred in connection with any Permitted Acquisition, in each case in accordance with the terms thereof;
- (e) any payment with respect to any earnout obligation incurred as the deferred purchase price of property or services purchased by such Person;

(f) to make other Restricted Payments in an aggregate amount not to exceed the greater of (x) \$100,000,000 in any fiscal year and (y) an unlimited amount so long as, with respect to clause (y) after giving effect to each such Restricted Payment on a Pro Forma basis (i) no Default or Event of Default shall then exist or would result therefrom and (ii) the Consolidated Total Leverage Ratio of the Credit Parties would be less than or equal to 3.25 to 1.0, or 3.0 to 1.0 at any time following the Collateral Event, in each case increasing to 3.50 to 1.0 during a Consolidated Leverage Ratio Increase Period;

(g) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any shares (or equivalent) of any class of Equity Interest of any Permitted JV, now or hereafter outstanding; and

(h) any payment made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any class of Equity Interest of any Permitted JV, now or hereafter outstanding.

#### **Section 6.11 Amendment of Subordinated Debt.**

The Credit Parties will not, nor will they permit any Subsidiary (other than Indebtedness incurred pursuant to Section 6.1(l) by a Subsidiary that is a Permitted JV) to, without the prior written consent of the Required Lenders, amend, modify, waive or extend or permit the amendment, modification, waiver or extension of any term of any document governing or relating to any Subordinated Debt in a manner that is adverse to the interests of the Lenders.

#### **Section 6.12 No Further Negative Pledges.**

The Credit Parties will not, nor will they permit any Subsidiary (other than a Subsidiary that is a Permitted JV) to, enter into, assume or become subject to any agreement prohibiting or otherwise restricting the creation or assumption of any Lien upon any of their properties or assets, whether now owned or hereafter acquired, or requiring the grant of any security for such obligation if security is given for some other obligation, except (a) pursuant to this Agreement and the other Credit Documents, (b) pursuant to any document or instrument governing Indebtedness incurred pursuant to Section 6.1(c); provided that any such restriction contained therein relates only to the asset or assets constructed or acquired in connection therewith, (c) pursuant to any document or instrument governing Indebtedness incurred pursuant to Sections 6.1(f), 6.1(h) or 6.1(k), (d) in connection with any Permitted Lien or any document or instrument governing any Permitted Lien; provided that any such restriction contained therein relates only to the asset or assets subject to such Permitted Lien and (e) pursuant to any Management Agreement to the extent that the parties thereto are Credit Parties and any such Management Agreement is subject to the provisions of Section 9.23.

#### **Section 6.13 Restrictions Regarding PMG.**

The Borrower will not, at any time, own less than 100% of the Equity Interests of PMG and (b) PMG shall not engage in any business, or have any operations or liabilities, other than providing insurance services in the nature of a “captive” insurance company.

#### **Section 6.14 Use of Proceeds and Letters of Credit.**

(a) The Borrower will not request any Borrowing or Letter of Credit, and the Borrower shall not use, and shall procure that its Subsidiaries and its or their respective directors, officers, employees and agents shall not use, the proceeds of any Borrowing or Letter of Credit (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or (C) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

## ARTICLE VII

### EVENTS OF DEFAULT

#### Section 7.1 Events of Default.

An Event of Default shall exist upon the occurrence of any of the following specified events (each an “Event of Default”):

(a) Payment. (i) The Borrower shall fail to pay any principal on any Loan or Note when due (whether at maturity, by reason of acceleration or otherwise) in accordance with the terms hereof or thereof; (ii) the Borrower shall fail to reimburse the Issuing Lender for any LOC Obligations when due (whether at maturity, by reason of acceleration or otherwise) in accordance with the terms hereof; (iii) the Borrower shall fail to pay any interest on any Loan or any fee or other amount payable hereunder when due (whether at maturity, by reason of acceleration or otherwise) in accordance with the terms hereof and such failure shall continue unremedied for three (3) Business Days; or (iv) or any Guarantor shall fail to pay on the Guaranty in respect of any of the foregoing or in respect of any other Guaranty Obligations hereunder (after giving effect to the grace period in clause (iii)); or

(b) Misrepresentation. Any representation or warranty made or deemed made herein or in any of the other Credit Documents or which is contained in any certificate, document or financial or other statement furnished at any time under or in connection with this Agreement shall (i) with respect to representations and warranties that contain a materiality qualification, prove to have been incorrect, false or misleading and (ii) with respect to representations and warranties that do not contain a materiality qualification, prove to have been incorrect, false or misleading in any material respect, in each case on or as of the date made or deemed made; or

(c) Covenant Default. (i) Any Credit Party shall fail to perform, comply with or observe any term, covenant or agreement applicable to it contained in Sections 5.1 (financial statements), 5.2(a) (accountants’ certificate), 5.2(b) (officer’s certificate), 5.7(a) (notices), 5.9 (financial covenants), or Article VI hereof; (ii) any Credit Party shall fail to comply with Section 5.5(b) (insurance) and, with respect to this clause (ii) only, such breach or failure to comply is not cured within thirty (30) days after its occurrence or (iii) any Credit Party shall fail to comply with any other covenant contained in this Agreement or the other Credit Documents or any other agreement, document or instrument among any Credit Party, the Administrative Agent and the Lenders or executed by any Credit Party in favor of the Administrative Agent or the Lenders (other than as described in Sections 7.1(a), 7.1(c) (i) or 7.1(c)(ii) above) and, with respect to this clause (iii) only, such breach or failure to comply is not cured within the earlier of (A) thirty (30) days after the Borrower became aware of its occurrence or (B) forty-five (45) days after its occurrence; or

(d) Material Indebtedness Cross-Default. (i) Any Credit Party or any of its Subsidiaries shall default in any payment of principal of or interest on any Indebtedness (other than the Loans, Reimbursement Obligations and the Guaranty) in a principal amount outstanding of at least \$60,000,000 for the Credit Parties and any of their Subsidiaries in the aggregate beyond any applicable grace period (not to exceed thirty (30) days), if any, provided in the instrument or agreement under which such Indebtedness was created; or (ii) any Credit Party or any of its Subsidiaries shall default in the observance or performance of any other agreement or condition relating to any Indebtedness (other than the Loans, Reimbursement Obligations and the Guaranty) in a principal amount outstanding of at least \$60,000,000 in the aggregate for the Credit Parties and their Subsidiaries or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist, the effect of which default or other event or condition is to cause, or to permit the holder or holders of such Indebtedness or beneficiary or beneficiaries of such Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, all of such Indebtedness to become immediately due and payable prior to its stated maturity or to be repurchased, prepaid, deferred or redeemed (automatically or otherwise); or (iii) there occurs under any Hedging Agreement that is a Bank Product an Early Termination Date (as defined in such Hedging Agreement) resulting from (A) any event of default under such Hedging Agreement as to which the Borrower or any Subsidiary is the Defaulting Party (as defined in such



Hedging Agreement) or (B) any Termination Event (as defined in such Hedging Agreement) under such Hedging Agreement as to which the Borrower or any Subsidiary is an Affected Party (as defined in such Hedging Agreement) and, in either event, the Swap Termination Value owed by such Person as a result thereof is greater than \$7,500,000; or

(e) Other Cross-Defaults. To the extent any such default could reasonably be expected to have a Material Adverse Effect, the Credit Parties or any of their Subsidiaries shall default in (i) the payment when due under any Material Contract or (ii) the performance or observance, of any obligation or condition of any Material Contract and, in the case of this clause (ii) only, such failure to perform or observe such other obligation or condition continues unremedied for a period of thirty (30) days after notice of the occurrence of such default unless, but only as long as, the existence of any such default is being contested by the Credit Parties in good faith by appropriate proceedings and adequate reserves in respect thereof have been established on the books of the Credit Parties to the extent required by GAAP; or

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

(g) Judgment Default. One or more judgments or decrees shall be entered against a Credit Party or any of its Subsidiaries involving in the aggregate a liability (to the extent not covered by insurance) of \$75,000,000 or more and all such judgments or decrees shall not have been paid and satisfied, vacated, discharged, stayed or bonded pending appeal within twenty (20) Business Days from the entry thereof or any injunction, temporary restraining order or similar decree shall be issued against a Credit Party or any of its Subsidiaries that, individually or in the aggregate, could result in a Material Adverse Effect; or

(h) ERISA Default. The occurrence of any of the following: (i) Any Person shall engage in any "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan, (ii) any "accumulated funding deficiency" (as defined in Section 302 of ERISA), whether or not waived, shall exist with respect to any Plan or any Lien in favor of the PBGC or a Plan (other than a Permitted Lien) shall arise on the assets of the Credit Parties or any Commonly Controlled Entity, (iii) a Reportable Event shall occur with respect to, or proceedings shall commence to have a trustee appointed, or a trustee shall be appointed, to administer or to terminate, any Single Employer Plan, which Reportable Event or commencement of proceedings or appointment of a trustee is, in the reasonable opinion of the Required Lenders, likely to result in the termination of such Plan for purposes of Title IV of ERISA, (iv) any Single Employer Plan shall terminate for purposes of Title IV of ERISA, (v) a Credit Party, any of its Subsidiaries or any Commonly Controlled Entity shall, or in the reasonable opinion of the Required Lenders is likely to, incur any liability in connection with a withdrawal from, or the Insolvency or Reorganization of, any Multiemployer Plan or (vi) any other similar event or condition shall occur or exist with respect to a Plan which in any of the foregoing cases results in a liability to any Credit Party in excess of \$30,000,000; or

(i) Change of Control. There shall occur a Change of Control; or

(j) Invalidity of Guaranty. At any time after the execution and delivery thereof, the Guaranty, for any reason other than the satisfaction in full of all Credit Party Obligations, shall cease to be in full force and effect (other than in accordance with its terms) or shall be declared to be null and void, or any Credit Party shall contest the validity, enforceability, perfection or priority of the Guaranty, any Credit Document, or any Lien granted thereunder in writing or deny in writing that it has any further liability, including with respect to future advances by the Lenders, under any Credit Document to which it is a party; or

(k) Invalidity of Credit Documents. Any Credit Document shall fail to be in full force and effect or to give the Administrative Agent and/or the Lenders the security interests, liens, rights, powers, priority and privileges purported to be created thereby (except as such documents may be terminated or no longer in force and effect in accordance with the terms thereof, other than those indemnities and provisions which by their terms shall survive); or

(l) Licenses/Permits/Certifications/Qualifications. (i) A state or federal regulatory agency or other Governmental Authority shall have revoked, cancelled, failed to renew or adversely modified any license, permit, certificate, authorization or Government Reimbursement Program qualification pertaining to the business of any Credit Party, regardless of whether such license, permit, certificate, authorization or qualification was held by or originally issued for the benefit of such Credit Party, a tenant or any other Person except where such revocation could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or (ii) any of the Credit Parties or their Subsidiaries or their officers, employees or agents engage in activities which are prohibited by any of the federal Medicare and Medicaid Anti-Kickback States, 42 U.S.C. §§1320a-7b, the Ethics In Patient Referrals Act (the "Stark Law"), 42 U.S.C. §§1395nn, as amended, the regulations promulgated thereunder, or related state or local statutes or regulations or which are prohibited by rules of professional conduct, except where failure to do so could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect; or

(m) Subordinated Debt. The subordination provisions contained in any Subordinated Debt shall cease to be in full force and effect or shall cease to give the Lenders the rights, powers and privileges purported to be created thereby; or

(n) Classification as Senior Debt. The Credit Party Obligations shall cease to be classified as "Senior Indebtedness," "Designated Senior Indebtedness" or any similar designation under any Subordinated Debt instrument; or

(o) Liens. At any time following the Collateral Event, (i) any Lien granted in connection therewith or required to be granted pursuant to Section 5.13 to the Administrative Agent ceases to be a valid and perfected Lien (or the priority of such Lien ceases to be in full force and effect), except to the extent that any such loss of validity, perfection or priority results from the failure of the Agent to maintain possession of Collateral requiring perfection through control or to file or record any document, or (ii) any material provision of any Security Document ceases to be in full force and effect or any Credit Party denies in writing the enforceability thereof.

Once a Default occurs under the Credit Documents, then such Default will continue to exist until it either is cured (to the extent specifically permitted) in accordance with the Credit Documents or is otherwise expressly waived by Administrative Agent (with the approval of requisite Lenders (in their sole and absolute discretion) as determined in accordance with Section 9.1); and once an Event of Default occurs under the Credit Documents, then such Event of Default will continue to exist until it is expressly waived by Administrative Agent with the approval of the requisite Lenders, as required hereunder (in their sole and absolute discretion) in Section 9.1.

## **Section 7.2 Acceleration; Remedies.**

Upon the occurrence and during the continuance of an Event of Default, then, and in any such event, (a) if such event is a Bankruptcy Event, automatically the Commitments shall immediately terminate and the Loans (with accrued interest thereon), and all other amounts under the Credit Documents (including, without limitation, the maximum amount of all contingent liabilities under Letters of Credit) shall immediately become due and payable, and (b) if such event is any other Event of Default, any or all of the following actions may be taken: (i) with the written consent of the Required Lenders, the Administrative Agent may, or upon the written request of the Required Lenders, the Administrative Agent shall, declare the Commitments to be terminated forthwith, whereupon the Commitments shall immediately terminate; (ii) the Administrative Agent may, or upon the written request of the Required Lenders, the Administrative Agent shall, declare the Loans (with accrued interest thereon) and all other amounts owing under this Agreement and the Notes to be due and payable forthwith and direct the Borrower to pay to the Administrative Agent cash collateral as security for the LOC Obligations for subsequent drawings under then outstanding Letters of Credit an amount equal to the maximum amount of which may be drawn under Letters of Credit then outstanding, whereupon the same shall immediately become due and payable; and/or (iii) with the written consent of the Required Lenders, the Administrative Agent may, or upon the written request of the Required Lenders, the Administrative Agent shall, exercise such other rights and remedies as provided under the Credit Documents and under applicable law.

## **ARTICLE VIII**

### **THE ADMINISTRATIVE AGENT**

#### **Section 8.1 Appointment and Authority.**

Each of the Lenders and the Issuing Lender hereby irrevocably appoints JPMCB to act on its behalf as the Administrative Agent hereunder and under the other Credit Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the Issuing Lender, and neither the Borrower nor any other Credit Party shall have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term “agent” herein or in any other Credit Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

#### **Section 8.2 Nature of Duties.**

Anything herein to the contrary notwithstanding, none of the bookrunners, arrangers, syndication agent or other agents listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Credit Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender, the Swingline Lender or the Issuing Lender hereunder. Without limiting the foregoing, none of the Lenders or other Persons so identified shall have or be deemed to have any fiduciary relationship with any Lender. Each Lender acknowledges that it has not relied, and will not rely, on any of the Lenders or other Persons so identified in deciding to enter into this Agreement or in taking or not taking action hereunder.

The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Credit Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any subagents 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-agents.

### **Section 8.3 Exculpatory Provisions.**

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

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

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

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

The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 9.1 and 7.2) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent in writing by the Borrower, a Lender or an Issuing Lender.

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 this Agreement or any other Credit Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Credit Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

### **Section 8.4 Reliance by Administrative Agent.**

The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the Issuing Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender or the Issuing Lender unless the Administrative Agent shall have received notice to the contrary from such Lender or the Issuing Lender prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

#### **Section 8.5 Notice of Default.**

The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless the Administrative Agent has received written notice from a Lender or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a “notice of default.” In the event that the Administrative Agent receives such a notice, the Administrative Agent shall give prompt notice thereof to the Lenders. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders; provided, however, that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders except to the extent that this Agreement expressly requires that such action be taken, or not taken, only with the consent or upon the authorization of the Required Lenders, or all of the Lenders, as the case may be.

#### **Section 8.6 Non-Reliance on Administrative Agent and Other Lenders.**

Each Lender and the Issuing Lender expressly acknowledges that neither the Administrative Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or affiliates has made any representation or warranty to it and that no act by the Administrative Agent hereinafter taken, including any review of the affairs of any Credit Party, shall be deemed to constitute any representation or warranty by the Administrative Agent to any Lender. Each Lender and the Issuing Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and the Issuing Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Credit Document or any related agreement or any document furnished hereunder or thereunder.

#### **Section 8.7 Indemnification.**

The Lenders agree to indemnify the Administrative Agent, the Issuing Lender, and the Swingline Lender in its capacity hereunder and their Affiliates and their respective officers, directors, agents and employees (to the extent not reimbursed by the Credit Parties and without limiting the obligation of the Credit Parties to do so), ratably according to their respective Commitment Percentages in effect on the date on which indemnification is sought under this Section, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever which may at any time (including, without limitation, at any time following the payment of the Credit Party Obligations) be imposed on, incurred by or asserted against any such indemnitee in any way relating to or arising out of any Credit Document or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by any such indemnitee under or in connection with any of the foregoing; provided, however, that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements to the extent resulting from such indemnitee’s gross negligence or willful misconduct, as determined by a court of competent jurisdiction. The agreements in this Section shall survive the termination of this Agreement and payment of the Notes, any Reimbursement Obligation and all other amounts payable hereunder.

#### **Section 8.8 Administrative Agent in Its Individual Capacity.**

The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Credit Parties or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

## **Section 8.9 Successor Administrative Agent.**

(a) The Administrative Agent may at any time give notice of its resignation to the Lenders, the Issuing Lender and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States, and which appointment shall, provided no Default or Event of Default exists, be subject to the Borrower's approval, which approval shall not be unreasonably withheld or delayed. If no such successor shall have been so appointed by the Required Lenders, and shall have accepted such appointment, within thirty (30) days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Borrower and the Required Lenders) (the "Resignation Effective Date"), then the retiring Administrative Agent may (but shall not be obligated to), on behalf of the Lenders and the Issuing Lender, appoint a successor Administrative Agent meeting the qualifications set forth above, which appointment shall, provided no Default or Event of Default exists, be subject to the Borrower's approval, which approval shall not be unreasonably withheld or delayed. Whether or not a successor has been appointed, such resignation shall nonetheless become effective in accordance with such notice on the Resignation Effective Date.

(b) If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by applicable law, by notice in writing to the Borrower and such Person, remove such Person as Administrative Agent and appoint a successor, which appointment shall, provided no Default or Event of Default exists, be subject to the Borrower's approval, which approval shall not be unreasonably withheld or delayed. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days (or such earlier day as shall be agreed by the Borrower and the Required Lenders) (the "Removal Effective Date"), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(c) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (i) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Credit Documents (except that in the case of any Collateral held by the Administrative Agent on behalf of the Lenders or the Issuing Lender under any of the Credit Documents, the retiring Administrative Agent shall continue to hold such Collateral until such time as a successor Administrative Agent is appointed) and (ii) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and the Issuing Lender directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided for above. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring or removed Administrative Agent, and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Credit Documents (if not already discharged therefrom as provided above in this paragraph). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Administrative Agent's resignation or removal hereunder and under the other Credit Documents, the provisions of this Article and Section 9.5 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

(d) Any resignation by JPMCB, as Administrative Agent pursuant to this Section shall also constitute its resignation as Issuing Lender and Swingline Lender. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, (i) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Issuing Lender and Swingline Lender, (ii) the retiring Issuing Lender and Swingline Lender shall be discharged from all of their respective duties and obligations hereunder or under the other Credit Documents, and (iii) the successor Issuing Lender shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to the retiring Issuing Lender to effectively assume the obligations of the retiring Issuing Lender with respect to such Letters of Credit. Such resignation shall not affect the validity or effectiveness of any Letter of Credit issued prior to such resignation by JPMCB as Administrative Agent.

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**Section 8.10 Guaranty Matters.**

(a) The Lenders and each Bank Product Provider irrevocably authorize and direct the Administrative Agent to release any Guarantor from its obligations under the applicable Guaranty if such Person ceases to be a Guarantor as a result of a transaction permitted hereunder.

(b) In connection with a termination or release pursuant to this Section, the Administrative Agent shall promptly execute and deliver to the applicable Credit Party, at the Borrower's expense, all documents that the applicable Credit Party shall reasonably request to evidence such termination or release. Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release any Guarantor from its obligations under the Guaranty pursuant to this Section.

**Section 8.11 Bank Products.**

Except as otherwise provided herein, no Bank Product Provider that obtains the benefits of Sections 2.8 and 7.2 or any Guaranty by virtue of the provisions hereof or of any Guaranty shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Credit Document other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Credit Documents. The Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Credit Party Obligations arising under Bank Products unless the Administrative Agent has received written notice of such Credit Party Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Bank Product Provider.

**Section 8.12 Withholding Tax.**

To the extent required by any applicable laws (as determined in good faith by the Administrative Agent), the Administrative Agent may withhold from any payment to any Lender under any Credit Document an amount equivalent to any applicable withholding Tax. Without limiting or expanding the provisions of Section 2.16, each Lender shall indemnify and hold harmless the Administrative Agent against, and shall make payable in respect thereof within 10 days after demand therefor, any and all Taxes and any and all related losses, claims, liabilities and expenses (including fees, charges and disbursements of any counsel for the Administrative Agent) incurred by or asserted against the Administrative Agent by the IRS or any other Governmental Authority as a result of the failure of the Administrative Agent to properly withhold Tax from amounts paid to or for the account of such Lender for any reason (including because the appropriate form was not delivered or not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstance that rendered the exemption from, or reduction of withholding Tax ineffective). A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Credit Document against any amount due the Administrative Agent under this Section 8.12. The agreements in this Section 8.12 shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations. For the avoidance of doubt, the term "Lender" shall, for purposes of this Section 8.12, include any Issuing Lender and any Swingline Lender.

**ARTICLE IX****MISCELLANEOUS****Section 9.1 Amendments and Waivers.**

Neither this Agreement nor any of the other Credit Documents, nor any terms hereof or thereof may be amended, modified, extended, restated, replaced, or supplemented (by amendment, waiver, consent or otherwise)

except in accordance with the provisions of this Section. The Required Lenders may or, with the written consent of the Required Lenders, the Administrative Agent may, from time to time, (a) enter into with the Borrower written amendments, supplements or modifications hereto and to the other Credit Documents for the purpose of adding any provisions to this Agreement or the other Credit Documents or changing in any manner the rights of the Lenders or of the Borrower hereunder or thereunder or (b) waive or consent to the departure from, on such terms and conditions as the Required Lenders may specify in such instrument, any of the requirements of this Agreement or the other Credit Documents or any Default or Event of Default and its consequences; provided, however, that no such amendment, supplement, modification, release, waiver or consent shall:

(i) reduce the amount or extend the scheduled date of maturity of any Loan or Note or any installment thereon, or reduce the amount or stated rate of any interest or fee payable hereunder (except in connection with a waiver of interest at the increased post-default rate set forth in Section 2.8 which shall be determined by a vote of the Required Lenders) or extend the scheduled date of any payment thereof or increase the amount or extend the expiration date of any Lender's Commitment, in each case without the written consent of each Lender directly affected thereby; or

(ii) amend, modify or waive any provision of this Section or reduce the percentage specified in the definition of Required Lenders or Required Facility Lenders, without the written consent of all the Lenders; or

(iii) release the Borrower or all or substantially all of the Guarantors from obligations under the Guaranty, without the written consent of all of the Lenders and Bank Product Providers; or

(iv) subordinate the Loans to any other Indebtedness without the written consent of all of the Lenders; or

(v) permit a Letter of Credit to have an original expiry date more than twelve (12) months from the date of issuance without the consent of each of the Revolving Lenders; provided, that the expiry date of any Letter of Credit may be extended in accordance with the terms of Section 2.3(a); or

(vi) permit the Borrower to assign or transfer any of its rights or obligations under this Agreement or other Credit Documents without the written consent of all of the Lenders; or

(vii) amend, modify or waive any provision of the Credit Documents requiring consent, approval or request of the Required Lenders or Required Facility Lenders or all Lenders without the written consent of the Required Lenders or Required Facility Lenders or all the Lenders as appropriate; or

(viii) amend, modify or waive the order in which Credit Party Obligations are paid or in a manner that would alter the pro rata sharing of payments by and among the Lenders in Section 2.11(b) or 9.7(b) without the written consent of each Lender and each Bank Product Provider directly affected thereby; or

(ix) amend, modify or waive any provision of Article VIII without the written consent of the then Administrative Agent; or

(x) amend or modify the definition of Credit Party Obligations to delete or exclude any obligation or liability described therein without the written consent of each Lender and each Bank Product Provider directly affected thereby; or

(xi) amend the definitions of "Hedging Agreement," "Bank Product," or "Bank Product Provider" without the consent of any Bank Product Provider that would be adversely affected thereby; or

(xii) at any time following the Collateral Event, release all or substantially all of the Collateral without the written consent of each Lender; or

(xiii) allow the Credit Parties to Dispose of or all or substantially all of their assets, without the written consent of all of the Lenders and Bank Product Providers.



provided, further, that no amendment, waiver or consent affecting the rights or duties of the Administrative Agent, the Issuing Lender or the Swingline Lender under any Credit Document shall in any event be effective, unless in writing and signed by the Administrative Agent, the Issuing Lender and/or the Swingline Lender, as applicable, in addition to the Lenders required hereinabove to take such action.

Notwithstanding the foregoing, any amendment that would require the approval of the Required Lenders as set forth above but only affects either the Revolving Lenders or the Term Loan Lenders shall instead require the approval of the applicable Required Facility Lenders (in addition to any other approvals that would otherwise be required).

Any such waiver, any such amendment, supplement or modification and any such release shall apply equally to each of the Lenders and shall be binding upon the Borrower, the other Credit Parties, the Lenders, the Administrative Agent and all future holders of the Notes. In the case of any waiver, the Borrower, the other Credit Parties, the Lenders and the Administrative Agent shall be restored to their former position and rights hereunder and under the outstanding Loans and Notes and other Credit Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default, or impair any right consequent thereon.

Notwithstanding any of the foregoing to the contrary, the consent of the Borrower and the other Credit Parties shall not be required for any amendment, modification or waiver of the provisions of Article VIII (other than the provisions of Section 8.9).

Notwithstanding any of the foregoing to the contrary, the Credit Parties and the Administrative Agent, without the consent of any Lender, may enter into any amendment, modification or waiver of any Credit Document, or enter into any new agreement or instrument, to correct any obvious error or omission of a technical nature, in each case that is immaterial (as determined by the Administrative Agent), in any provision of any Credit Document, if the same is not objected to in writing by the Required Lenders within five (5) Business Days following receipt of notice thereof.

Notwithstanding (x) the fact that the consent of all the Lenders or of each Lender directly affected thereby is required in certain circumstances as set forth above or (y) anything to the contrary contained in this Agreement, (a) each Lender is entitled to vote as such Lender sees fit on any bankruptcy reorganization plan that affects the Loans, and each Lender acknowledges that the provisions of Section 1126(c) of the Bankruptcy Code supersedes the unanimous consent provisions set forth herein, (b) the Required Lenders may consent to allow a Credit Party to use cash collateral in the context of a bankruptcy or insolvency proceeding and (c) no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except (i) that the Commitment of such Lender may not be increased or extended without the consent of such Lender and (ii) to the extent such amendment, waiver or consent impacts such Defaulting Lender more than the other Lenders.

For the avoidance of doubt and notwithstanding any provision to the contrary contained in this Section 9.1, this Agreement may be amended (or amended and restated) with the written consent of the Credit Parties and the Administrative Agent in accordance with Section 2.22.

## Section 9.2 Notices.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in 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 telecopier as follows:

(i) If to the Borrower or any other Credit Party:

1301 Concord Terrace  
Sunrise, Florida 33323  
Attention: Chief Financial Officer and General Counsel  
Telephone: (954) 384-0175  
Fax: (954) 384-7657

(ii) If to the Administrative Agent:

JPMorgan Chase Bank, N.A., as Administrative Agent  
10 South Dearborn, Level 2  
Chicago, Illinois 60603-2300  
Attention: Jonathan Dowdy  
Telephone: (312) 732-1891  
Fax: (888) 292-9533  
Email: [jpm.agency.servicing.1@jpmchase.com](mailto:jpm.agency.servicing.1@jpmchase.com)

with a copy to:

Cahill Gordon & Reindel LLP  
80 Pine Street  
New York, New York 10005  
Attention: Jennifer B. Ezring  
Telephone: (212) 701-3822  
Fax: (212) 378-2415  
Email: [jezring@cahill.com](mailto:jezring@cahill.com)

(iii) if to a Lender, to it at its address (or telecopier 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 telecopier 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 electronic communications to the extent provided in paragraph (b) below, shall be effective as provided in said paragraph (b).

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

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), provided that if such notice 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, 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.

(c) Change of Address, Etc. Any party hereto may change its address or telecopier number for notices and other communications hereunder by notice to the other parties hereto.

(d) Platform.

(i) Each Credit Party agrees that the Administrative Agent may make the Communications available to the Lenders by posting the Communications on Intralinks or a substantially similar electronic transmission system (the "Platform").

(ii) The Platform is provided "as is" and "as available." The Agent Parties (as defined below) do not warrant the adequacy of the Platform and expressly disclaim liability for errors or omissions in the Communications effected thereby. No warranty of any kind, express, implied or statutory, including, without limitation, any warranty of merchantability, fitness for a particular purpose, non-infringement of third-party rights or freedom from viruses or other code defects, is made by any Agent Party in connection with the Communications or the Platform. In no event shall the Administrative Agent or any of its affiliates or any of their respective officers, directors, employees, agents, advisors or representatives (collectively, "Agent Parties") have any liability to the Credit Parties, any Lender or any other Person or entity for damages of any kind, including, without limitation, direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of any Credit Party's or the Administrative Agent's transmission of Communications through the Platform, unless 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 an Agent Party or from any material breach by an Agent Party of the obligations owing by it to the Credit Parties under this Agreement or the other Credit Documents.

### **Section 9.3 No Waiver; Cumulative Remedies.**

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

### **Section 9.4 Survival of Representations and Warranties.**

All representations and warranties made hereunder and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the Notes and the making of the Loans; provided that all such representations and warranties shall terminate on the date upon which the Commitments have been terminated and all amounts owing hereunder and under any Notes have been paid in full.

### **Section 9.5 Payment of Expenses; Indemnity.**

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

(b) Indemnification by the Credit Parties. The Credit Parties shall indemnify the Administrative Agent (and any sub-agent thereof), each Lender, the Issuing Lender and the Swingline Lender, and each Related Party of any of the foregoing Persons (each such Person being called an “Indemnatee”) against, and hold each Indemnatee harmless from, any and all losses, claims, penalties, damages, liabilities and related expenses (including the reasonable and documented fees, charges and disbursements of one external counsel and one external local counsel in each applicable jurisdiction if required (and to the extent an Indemnatee determines, after consultation with legal counsel, that an actual or potential conflict may require use of separate counsel by such Indemnatee, separate legal counsel (including separate local counsel) for such Indemnatee)), incurred by any Indemnatee or asserted against any Indemnatee by any third party or by the Borrower or any other Credit Party arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Credit Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the Issuing Lender 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 Materials of Environmental Concern on or from any property owned or operated by any Credit Party or any of its Subsidiaries, or any liability under Environmental Law related in any way to any Credit Party or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any other Credit Party, and regardless of whether any Indemnatee is a party thereto, provided that such indemnity shall not, as to any Indemnatee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the bad faith, gross negligence or willful misconduct of such Indemnatee.

(c) Reimbursement by Lenders. To the extent that the Credit Parties for any reason fail to indefeasibly pay any amount required under paragraph (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof), the Issuing Lender, Swingline Lender or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), the Issuing Lender, Swingline Lender or such Related Party, as the case may be, such Lender’s Commitment Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent), the Issuing Lender or Swingline Lender in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent), Issuing Lender or Swingline Lender in connection with such capacity.

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable law, none of the parties hereto or any Indemnatee shall assert, and each of them hereby waives, any claim against any other Person, 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 Credit Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof; provided, that such waiver shall not apply to any parties or any Indemnatee’s right to indemnification hereunder for losses, claims, penalties, damages, liabilities and related expenses incurred by any party or Indemnatee as a result of a claim by any third party. No Indemnatee referred to in paragraph (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Credit Documents or the transactions contemplated hereby or thereby other than for direct or actual damages resulting from the bad faith, gross negligence or willful misconduct of such Indemnatee as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(e) Payments. All amounts due under this Section shall be payable promptly/not later than five (5) Business Days after written demand therefor.

(f) Survival. The agreements contained in this Section shall survive the resignation of the Administrative Agent and the Issuing Lender, the replacement of any Lender, the termination of the Commitments and the repayment, satisfaction or discharge of the Credit Party Obligations.

## **Section 9.6 Successors and Assigns; Participations.**

(a) Successors and Assigns Generally. 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 neither the Borrower nor any other Credit Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of paragraph (b) of this Section, (ii) by way of participation in accordance with the provisions of paragraph (d) of this Section or (iii) by way of pledge or assignment of a security interest subject to the restrictions of paragraph (f) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in paragraph (d) 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) Assignments by Lenders. Any Lender may at any time assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and the Loans at the time owing to it or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in paragraph (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date) shall not be less than \$5,000,000 (provided, however, that simultaneous assignments shall be aggregated in respect of a Lender and its Approved Funds), unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loan or the Commitment assigned, except that this clause (ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Facilities on a non-pro rata basis.

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

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (x) an Event of Default has occurred and is continuing at the time of such assignment or (y) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that the Borrower will be deemed to have consented to any assignment to which it has not objected within ten (10) Business Days after receipt of a request for consent to such assignment

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

(C) the consent of the Issuing Lender and Swingline Lender (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of a Revolving Commitment.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500; provided that only one (1) such fee shall be payable in respect of simultaneous assignments by a Lender and its Approved Funds), and the assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons. No such assignment shall be made to any Person that is not an Eligible Assignee.

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

Subject to acceptance and recording thereof by the Administrative Agent pursuant to paragraph (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 2.14 and 9.5 with respect to facts and circumstances occurring prior to the effective date of such assignment. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this paragraph 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 (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices in Charlotte, North Carolina 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 Commitments of, and principal amounts 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 Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) **Participations.** Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person or any Credit Party or any Credit Party's Affiliates or Subsidiaries) (each, a "**Participant**") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent and the Lenders, Issuing Lender and Swingline Lender shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 9.5(c) with respect to any payments made by such Lender to its Participant(s).

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 that affects such Participant. Subject to paragraph (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.14 and 2.16 (subject to the requirements and limitations of such Sections and Section 2.19, and it being understood that the documentation required under Section 2.16(e) and (f) shall be delivered solely to the participating Lender) 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 9.7 as though it were a Lender, provided such Participant agrees to be subject to Section 2.11 as though it were a Lender.

Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Credit Documents (the "**Participant Register**"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Credit Document) except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(e) **Limitations upon Participant Rights.** A Participant shall not be entitled to receive any greater payment under Sections 2.14 and 2.16 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 Borrower's prior written consent (not to be unreasonably withheld or delayed).

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

#### **Section 9.7 Right of Setoff; Sharing of Payments.**

(a) If an Event of Default shall have occurred and be continuing, each Lender, the Issuing Lender, the Swingline Lender and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, the Issuing Lender, the Swingline Lender or any such Affiliate to or for the credit or the account of the Borrower or any other Credit Party against any and all of the obligations of the Borrower or such Credit Party now or hereafter existing under this Agreement or any other Credit Document to such Lender, the Swingline Lender or the Issuing Lender, irrespective of whether or not such Lender, the Swingline Lender or the Issuing Lender shall have made any demand under this Agreement or any other Credit Document and although such

obligations of the Borrower or such Credit Party may be contingent or unmatured or are owed to a branch, office or affiliate of such Lender, the Swingline Lender or the Issuing 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, (i) 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, the Issuing Lender, the Swingline Lender and the other Lenders, and (ii) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Credit Party Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, the Swingline Lender, the Issuing Lender and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, the Swingline Lender, the Issuing Lender or their respective Affiliates may have. Each Lender, the Swingline Lender and the Issuing Lender agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

(b) If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans or other obligations hereunder resulting in such Lender's receiving payment of a proportion of the aggregate amount of its Loans and accrued interest thereon or other such obligations greater than its pro rata share thereof as provided herein, then the Lender receiving such greater proportion shall (i) notify the Administrative Agent of such fact, and (ii) purchase (for cash at face value) participations in the Loans and such other obligations of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and other amounts owing them, provided that:

(A) 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

(B) the provisions of this paragraph shall not be construed to apply to (x) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), (y) 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 Letters of Credit to any assignee or participant, other than to any Credit Party or any Subsidiary thereof (as to which the provisions of this paragraph shall apply) or (z) (1) any amounts applied by the Swingline Lender to outstanding Swingline Loans and (2) any amounts received by the Issuing Lender and/or Swingline Lender to secure the obligations of a Defaulting Lender to fund risk participations hereunder.

(c) Each Credit Party 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 each Credit Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of each Credit Party in the amount of such participation.

#### **Section 9.8 Table of Contents and Section Headings.**

The table of contents and the Section and subsection headings herein are intended for convenience only and shall be ignored in construing this Agreement.

#### **Section 9.9 Counterparts; Integration; Effectiveness; Electronic Execution.**

(a) Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Credit 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 supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.1, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall



have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed signature page (counterpart or otherwise) of this Agreement or any Credit Document, or any certificates executed in connection herewith or therewith by telecopy or email shall be effective as if delivered manually.

(b) Electronic Execution of Assignments. The words “execution,” “signed,” “signature,” and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

#### **Section 9.10 Severability.**

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

#### **Section 9.11 Integration.**

This Agreement and the other Credit Documents represent the agreement of the Borrower, the other Credit Parties, the Administrative Agent and the Lenders with respect to the subject matter hereof, and there are no promises, undertakings, representations or warranties by the Administrative Agent, the Borrower, the other Credit Parties, or any Lender relative to the subject matter hereof not expressly set forth or referred to herein or therein.

#### **Section 9.12 Governing Law.**

This Agreement shall be governed by, and construed in accordance with, the law of the State of New York without regard to its conflicts of law principals that would cause the law of another jurisdiction to apply (other than Sections 5-1401 and 5-1402 of The New York General Obligations Law).

#### **Section 9.13 Consent to Jurisdiction; Service of Process and Venue.**

(a) Consent to Jurisdiction. The Borrower and each other Credit Party irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the Supreme Court of New York County, New York, the United States District Court for the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any other Credit Document, or for recognition or enforcement of any judgment, and each of the parties hereto irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York sitting State court or, to the fullest extent permitted by applicable law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or in any other Credit Document shall affect any right that the Administrative Agent, any Lender or the Issuing Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Credit Document against the Borrower or any other Credit Party or its properties in the courts of any jurisdiction.

(b) Service of Process. Each party hereto irrevocably consents to service of process in the manner provided for notices in Section 9.2. Nothing in this Agreement will affect the right of any party hereto to serve process in any other manner permitted by applicable law.

(c) Venue. The Borrower and each other Credit Party irrevocably and unconditionally waives, to the fullest extent permitted by applicable law, any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to this Agreement or any other Credit Document in any court referred

to in paragraph (a) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

#### **Section 9.14 Confidentiality.**

Each of the Administrative Agent, the Lenders and the Issuing Lender agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, advisors and other representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder, under any other Credit Document or Bank Product or any action or proceeding relating to this Agreement, any other Credit Document or Bank Product or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement, (g) (i) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations, (ii) an investor or prospective investor in securities issued by an Approved Fund that also agrees that Information shall be kept confidential and used solely for the purpose of evaluating an investment in such securities issued by the Approved Fund, (iii) a trustee, collateral manager, servicer, backup servicer, noteholder or secured party in connection with the administration, servicing and reporting on the assets serving as collateral for securities issued by an Approved Fund, or (iv) a nationally recognized rating agency that requires access to information regarding the Credit Parties, the Loans and Credit Documents in connection with ratings issued in respect of securities issued by an Approved Fund (in each case, 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), (h) with the consent of the Borrower or (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender, the Issuing Lender or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower.

For purposes of this Section, "Information" means all information received from any Credit Party or any of its Subsidiaries relating to any Credit Party or any of its Subsidiaries or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or the Issuing Lender on a nonconfidential basis prior to disclosure by any Credit Party or any of its Subsidiaries; provided that, in the case of information received from any Credit Party or any of its Subsidiaries after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information. Each Lender acknowledges that federal law prohibits the purchase or sale of any of the Borrower's securities while in possession of material non-public information. Each of the Administrative Agent and the Lenders acknowledges that (a) the Information may include material non-public information concerning the Credit Parties and their Subsidiaries, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable law, including federal and state securities laws and regulations.

#### **Section 9.15 Acknowledgments.**

The Borrower and the other Credit Parties each hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of each Credit Document;

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

(c) no joint venture exists among the Lenders and the Administrative Agent or among the Borrower, the Administrative Agent or the other Credit Parties and the Lenders.

#### **Section 9.16 Waivers of Jury Trial.**

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

#### **Section 9.17 Patriot Act Notice.**

Each Lender and the Administrative Agent (for itself and not on behalf of any other party) hereby notifies the Borrower that, pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies the Borrower and the other Credit Parties, which information includes the name and address of the Borrower and the other Credit Parties and other information that will allow such Lender or the Administrative Agent, as applicable, to identify the Borrower and the other Credit Parties in accordance with the Patriot Act.

#### **Section 9.18 Resolution of Drafting Ambiguities.**

Each Credit Party acknowledges and agrees that it was represented by counsel in connection with the execution and delivery of this Agreement and the other Credit Documents to which it is a party, that it and its counsel reviewed and participated in the preparation and negotiation hereof and thereof and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation hereof or thereof.

#### **Section 9.19 Continuing Agreement.**

This Credit Agreement shall be a continuing agreement and shall remain in full force and effect until all Credit Party Obligations (other than those obligations that expressly survive the termination of this Credit Agreement) have been paid in full and all Commitments and Letters of Credit have been terminated, after which this Credit Agreement automatically shall terminate. Upon termination, the Credit Parties shall have no further obligations (other than those obligations that expressly survive the termination of this Credit Agreement) under the Credit Documents; provided that should any payment, in whole or in part, of the Credit Party Obligations be rescinded or otherwise required to be restored or returned by the Administrative Agent or any Lender, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, then the Credit Documents shall automatically be reinstated and all Liens, if any, under the LOC Documents of the Administrative Agent shall reattach to the collateral and all amounts required to be restored or returned and all costs and expenses incurred by the Administrative Agent or any Lender in connection therewith shall be deemed included as part of the Credit Party Obligations.

#### **Section 9.20 Lender Consent.**

Each Person signing a Lender Consent (a) approves the Credit Agreement, (b) authorizes and appoints the Administrative Agent as its agent in accordance with the terms of Article VIII, (c) authorizes the Administrative Agent to execute and deliver this Agreement on its behalf, (d) is a Lender hereunder and therefore shall have all the

rights and obligations of a Lender under this Agreement as if such Person had directly executed and delivered a signature page to this Agreement and (e) has consented to, approved or accepted or is satisfied with, each document or other matter required under Section 4.1 to be consented to or approved by or be acceptable or satisfactory to a Lender.

#### **Section 9.21 Press Releases and Related Matters.**

The Credit Parties and their Affiliates agree that they will not in the future issue any press releases or other public disclosure using the name of Administrative Agent or any Lender or their respective Affiliates or referring to this Agreement or any of the Credit Documents without the prior written consent of such Person, unless (and only to the extent that) a Credit Party or such Affiliate is required to do so under law and then, in any event, the Credit Parties or such Affiliate will to the extent practicable consult with such Person before issuing such press release or other public disclosure, provided, that no consultation shall be required in connection with disclosures in a periodic or other report filed with or furnished to the SEC. The Credit Parties consent to the publication by Administrative Agent or any Lender of customary advertising material relating to the transactions contemplated by this Agreement and the Credit Documents using the name, product photographs, logo or trademark of the Credit Parties.

#### **Section 9.22 Appointment of Borrower.**

Each of the Guarantors hereby appoints the Borrower to act as its agent for all purposes under this Agreement and agrees that (a) the Borrower may execute such documents on behalf of such Guarantor as the Borrower deems appropriate in its sole discretion and each Guarantor shall be obligated by all of the terms of any such document executed on its behalf, (b) any notice or communication delivered by the Administrative Agent or the Lender to the Borrower shall be deemed delivered to each Guarantor and (c) the Administrative Agent or the Lenders may accept, and be permitted to rely on, any document, instrument or agreement executed by the Borrower on behalf of each Guarantor.

#### **Section 9.23 Certain Waivers, Subordinations and Consents.**

(a) Each of the Credit Parties acknowledges and agrees that certain Credit Parties and their Equity Holders are, or in the future may be or become, subject to the terms of one or more Contractual Obligations with the Borrower or another Credit Party (including those arising under the terms of Management Agreements) (i) which conflict with the terms of the Credit Documents to which such Credit Parties are a party, the execution and delivery thereof by such Credit Parties, or the performance by such Credit Parties of the terms thereof, including undertakings not to incur debt, not to pledge assets to third parties, not to pay dividends and not to enter into material agreements without obtaining certain consents (collectively, the “Credit Party Intercompany Restrictions”), (ii) pursuant to which such Credit Parties grant to the Borrower or such other Credit Party a Lien on various assets of such Credit Parties (collectively, the “Borrower Pledges”), (iii) pursuant to which Equity Holders grant to the Borrower or such other Credit Party the right, upon the occurrence of certain circumstances, to acquire Equity Interests in such Credit Parties from the applicable Equity Holders (collectively, the “Holder Purchase Grants”), (iv) pursuant to which Equity Holders are restricted from transferring their Equity Interests in a Practice (the “Equity Holder Transfer Restrictions”), and/or (v) pursuant to which Equity Holders grant to the Borrower or such other Credit Party a Lien on the Equity Interests in the applicable Credit Parties owned by such Equity Holders (collectively, the “Holder Lien Grants”) (each agreement, including each Management Agreement, containing any such restriction being referred to herein as a “Restrictive Agreement”).

(b) Each of the Credit Parties hereby absolutely and irrevocably waives the Credit Party Intercompany Restrictions and the Equity Holder Transfer Restrictions insofar as any of such Credit Party Intercompany Restrictions or Equity Holder Transfer Restrictions conflict with or would otherwise prohibit or impair the due, punctual and full performance and observance of any term, covenant or condition now or hereafter contained in any Credit Document.

(c) The Borrower and each other Credit Party party to any such Restrictive Agreement hereby agree that, except as expressly permitted hereunder or under the terms of any other Credit Document, no Credit Party shall exercise its rights under any of the Holder Purchase Grants.

(d) So long as no Default or Event of Default has occurred and is continuing:

(i) any Credit Party may at its expense exercise rights under Borrower Pledges and Holder Lien Grants as it may determine to be reasonably necessary in the ordinary course of business (including the taking of possession of and selling or otherwise disposing of property subject to Borrower Pledges and Holder Lien Grants and retaining the proceeds thereof, in each case to the extent permitted by applicable law) to recover amounts owed or otherwise remedy defaults in payment or performance obligations arising under Management Agreements; provided, that the Borrower shall set forth in the next officer's certificate delivered to the Administrative Agent pursuant to Section 5.2(b) for the period during which such rights are exercised a reasonably detailed description of the circumstances giving rise to such exercise and the remedies exercised; and

(ii) the Borrower may at its expense exercise Holder Purchase Grants to the extent that such exercise would otherwise be permitted hereunder as a Permitted Investment.

**Section 9.24 No Advisory or Fiduciary Responsibility.**

In connection with all aspects of each Transaction, each of the Credit Parties acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (a) the credit facility provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Credit Document) are an arm's-length commercial transaction between the Credit Parties and their Affiliates, on the one hand, and the Administrative Agent, the Arrangers and the Lenders, on the other hand, and the Credit Parties are capable of evaluating and understanding and understand and accept the terms, risks and conditions of the Transactions and by the other Credit Documents (including any amendment, waiver or other modification hereof or thereof); (b) in connection with the process leading to such transaction, each of the Administrative Agent, each Arranger and each Lender is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary, for any Credit Party or any of their Affiliates, stockholders, creditors or employees or any other Person; (c) neither the Administrative Agent nor any Arranger nor any Lender has assumed or will assume an advisory, agency or fiduciary responsibility in favor of any Credit Party with respect to any of the Transactions or the process leading thereto, including with respect to any amendment, waiver or other modification hereof or of any other Credit Document (irrespective of whether the Administrative Agent, any Arranger or any Lender has advised or is currently advising any Credit Party or any of its Affiliates on other matters) and neither the Administrative Agent, nor any Arranger nor any Lender has any obligation to any Credit Party or any of their Affiliates with respect to the Transactions except those obligations expressly set forth herein and in the other Credit Documents; (d) the Administrative Agent, the Arrangers, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Credit Parties and their Affiliates, and neither the Administrative Agent, nor any Arranger nor any Lender has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and (e) the Administrative Agent, the Arrangers and the Lenders have not provided and will not provide any legal, accounting, regulatory or tax advice with respect to any of the Transactions (including any amendment, waiver or other modification hereof or of any other Credit Document) and the Credit Parties have consulted their own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate. Each of the Credit Parties hereby waives and releases, to the fullest extent permitted by law, any claims that it may have against the Administrative Agent, the Arrangers, the Lenders and their respective Affiliates with respect to any breach or alleged breach of agency or fiduciary duty.

**Section 9.25 [Reserved].**

**Section 9.26 Release of Liens and Guarantees.**

The Administrative Agent shall (and each Lender hereby irrevocably authorizes the Administrative Agent to):

(a) release any Lien granted to the Administrative Agent under any Credit Document on any asset of any Credit Party (i) upon payment in full of the Credit Party Obligations and the cancellation of all Commitments hereunder, (ii) that is sold, transferred, encumbered or otherwise disposed of or to be sold, transferred, encumbered or otherwise disposed of as part of, or in connection with, any sale, transfer or disposition permitted under the Credit

Documents to a Person that is not (and is not required to become) a Credit Party, (iii) that does not constitute (or ceases to constitute) Collateral, (iv) if such Credit Party has guaranteed the Obligations, upon the release of such Credit Party's guaranty in accordance with the terms of the Credit Documents, (v) that constitutes Excluded Assets, or (vi) to the extent such release is approved, authorized or ratified in writing by the Required Lenders in accordance with Section 9.1;

(b) automatically release any Person that has guaranteed the Obligations from its guaranty if such Person ceases to be a Domestic Subsidiary as a result of a transaction or series of transactions that is permitted under the Credit Documents; and

(c) subordinate any Lien granted to the Administrative Agent (or any sub-agent or collateral agent) under any Credit Document to any Lien that is permitted by clauses (c), (i) or (o) of the definition of Permitted Liens, or otherwise having priority by operation of law.

The Administrative Agent will, and each Lender hereby authorizes the Administrative Agent to, at the expense of the Borrower, execute and deliver to the relevant Credit Party such documents and/or instruments as such Credit Party may reasonably request to evidence or effectuate the release of any Lien or guarantee or the subordination of any Lien contemplated by this Section 9.26; provided, that the Administrative Agent shall have received a certificate of a Responsible Officer of the Borrower containing certifications regarding compliance with the provisions of the Credit Documents permitting the action giving rise to such action. Upon the request of the Administrative Agent, the Required Lenders will confirm in writing the Administrative Agent's authority to take the actions contemplated by this Section 9.26. Any representation, warranty or covenant contained in any Credit Document relating to any asset of any Credit Party shall no longer be deemed to be made once the Lien on such asset is released in accordance herewith.

## **ARTICLE X**

### **GUARANTY**

#### **Section 10.1 The Guaranty.**

In order to induce the Lenders to enter into this Agreement and any Bank Product Provider to enter into any Bank Product and to extend credit hereunder and thereunder and in recognition of the direct benefits to be received by the Guarantors from the Extensions of Credit hereunder and any Bank Product, each of the Guarantors hereby agrees with the Administrative Agent, the Lenders and the Bank Product Providers as follows: each Guarantor hereby unconditionally and irrevocably jointly and severally guarantees as primary obligor and not merely as surety the full and prompt payment when due, whether upon maturity, by acceleration or otherwise, of any and all Credit Party Obligations. If any or all of the indebtedness or other obligations becomes due and payable hereunder or under any Bank Product, each Guarantor unconditionally promises to pay such indebtedness to the Administrative Agent, the Lenders, the Bank Product Providers, or their respective order, on demand, together with any and all reasonable expenses which may be incurred by the Administrative Agent or the Lenders in collecting any of the Credit Party Obligations. The Guaranty set forth in this Article X is a guaranty of timely payment and not of collection. The word "indebtedness" is used in this Article X in its most comprehensive sense and includes any and all advances, debts, obligations and liabilities of the Borrower, including specifically all Credit Party Obligations, arising in connection with this Agreement, the other Credit Documents or any Bank Product, in each case, heretofore, now, or hereafter made, incurred or created, whether voluntarily or involuntarily, absolute or contingent, liquidated or unliquidated, determined or undetermined, whether or not such indebtedness is from time to time reduced, or extinguished and thereafter increased or incurred, whether the Borrower may be liable individually or jointly with others, whether or not recovery upon such indebtedness may be or hereafter become barred by any statute of limitations, and whether or not such indebtedness may be or hereafter become otherwise unenforceable.

Notwithstanding any provision to the contrary contained herein or in any other of the Credit Documents, to the extent the obligations of a Guarantor shall be adjudicated to be invalid or unenforceable for any reason (including, without limitation, because of any applicable state or federal law relating to fraudulent conveyances or transfers) then the obligations of each such Guarantor hereunder shall be limited to the maximum amount that is permissible under applicable law (whether federal or state and including, without limitation, the Bankruptcy Code).

## **Section 10.2 Bankruptcy.**

Additionally, each of the Guarantors unconditionally and irrevocably guarantees jointly and severally the payment of any and all Credit Party Obligations of the Borrower to the Lenders and any Bank Product Provider whether or not due or payable by the Borrower upon the occurrence of any Bankruptcy Event and unconditionally promises to pay such Credit Party Obligations to the Administrative Agent for the account of the Lenders and to any such Bank Product Provider, or order, on demand, in lawful money of the United States. Each of the Guarantors further agrees that to the extent that the Borrower or a Guarantor shall make a payment or a transfer of an interest in any property to the Administrative Agent, any Lender or any Bank Product Provider, which payment or transfer or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, or otherwise is avoided, and/or required to be repaid to the Borrower or a Guarantor, the estate of the Borrower or a Guarantor, a trustee, receiver or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then to the extent of such avoidance or repayment, the obligation or part thereof intended to be satisfied shall be revived and continued in full force and effect as if said payment had not been made.

## **Section 10.3 Nature of Liability.**

The liability of each Guarantor hereunder is exclusive and independent of any security for or other guaranty of the Credit Party Obligations of the Borrower whether executed by any such Guarantor, any other guarantor or by any other party, and no Guarantor's liability hereunder shall be affected or impaired by (a) any direction as to application of payment by the Borrower or by any other party, or (b) any other continuing or other guaranty, undertaking or maximum liability of a guarantor or of any other party as to the Credit Party Obligations of the Borrower, or (c) any payment on or in reduction of any such other guaranty or undertaking, or (d) any dissolution, termination or increase, decrease or change in personnel by the Borrower, or (e) any payment made to the Administrative Agent, the Lenders or any Bank Product Provider on the Credit Party Obligations which the Administrative Agent, such Lenders or such Bank Product Provider repay the Borrower pursuant to court order in any bankruptcy, reorganization, arrangement, moratorium or other debtor relief proceeding, and each of the Guarantors waives any right to the deferral or modification of its obligations hereunder by reason of any such proceeding.

## **Section 10.4 Independent Obligation.**

The obligations of each Guarantor hereunder are independent of the obligations of any other Guarantor or the Borrower, and a separate action or actions may be brought and prosecuted against each Guarantor whether or not action is brought against any other Guarantor or the Borrower and whether or not any other Guarantor or the Borrower is joined in any such action or actions.

## **Section 10.5 Authorization.**

Each of the Guarantors authorizes the Administrative Agent, each Lender and each Bank Product Provider without notice or demand (except as shall be required by applicable statute and cannot be waived), and without affecting or impairing its liability hereunder, from time to time to (a) renew, compromise, extend, increase, accelerate or otherwise change the time for payment of, or otherwise change the terms of the Credit Party Obligations or any part thereof in accordance with this Agreement and any Bank product, as applicable, including any increase or decrease of the rate of interest thereon, (b) take and hold security from any Guarantor or any other party for the payment of this Guaranty or the Credit Party Obligations and exchange, enforce waive and release any such security, (c) apply such security and direct the order or manner of sale thereof as the Administrative Agent and the Lenders in their discretion may determine and (d) release or substitute any one or more endorsers, Guarantors, the Borrower or other obligors.

## **Section 10.6 Reliance.**

It is not necessary for the Administrative Agent, the Lenders or any Bank Product Provider to inquire into the capacity or powers of the Borrower or the officers, directors, members, partners or agents acting or purporting to act on its behalf, and any Credit Party Obligations made or created in reliance upon the professed exercise of such powers shall be guaranteed hereunder.

## **Section 10.7 Waiver.**

(a) Each of the Guarantors waives any right (except as shall be required by applicable statute and cannot be waived) to require the Administrative Agent, any Lender or any Bank Product Provider to (i) proceed against the Borrower, any other guarantor or any other party, (ii) proceed against or exhaust any security held from the Borrower, any other guarantor or any other party, or (iii) pursue any other remedy in the Administrative Agent's, any Lender's or any Bank Product Provider's power whatsoever. Each of the Guarantors waives any defense based on or arising out of any defense of the Borrower, any other guarantor or any other party other than payment in full of the Credit Party Obligations (other than contingent indemnification obligations), including, without limitation, any defense based on or arising out of the disability of the Borrower, any other guarantor or any other party, or the unenforceability of the Credit Party Obligations or any part thereof from any cause, or the cessation from any cause of the liability of the Borrower other than payment in full of the Credit Party Obligations. The Administrative Agent may, at its election, foreclose on any security held by the Administrative Agent or a Lender by one or more judicial or nonjudicial sales, whether or not every aspect of any such sale is commercially reasonable (to the extent such sale is permitted by applicable law), or exercise any other right or remedy the Administrative Agent or any Lender may have against the Borrower or any other party, or any security, without affecting or impairing in any way the liability of any Guarantor hereunder except to the extent the Credit Party Obligations have been paid in full and the Commitments have been terminated. Each of the Guarantors waives any defense arising out of any such election by the Administrative Agent or any of the Lenders, even though such election operates to impair or extinguish any right of reimbursement or subrogation or other right or remedy of the Guarantors against the Borrower or any other party or any security.

(b) Each of the Guarantors waives all presentments, demands for performance, protests and notices, including, without limitation, notices of nonperformance, notice of protest, notices of dishonor, notices of acceptance of this Guaranty, and notices of the existence, creation or incurring of new or additional Credit Party Obligations. Each Guarantor assumes all responsibility for being and keeping itself informed of the Borrower's financial condition and assets, and of all other circumstances bearing upon the risk of nonpayment of the Credit Party Obligations and the nature, scope and extent of the risks which such Guarantor assumes and incurs hereunder, and agrees that neither the Administrative Agent nor any Lender shall have any duty to advise such Guarantor of information known to it regarding such circumstances or risks.

(c) Each of the Guarantors hereby agrees it will not exercise any rights of subrogation which it may at any time otherwise have as a result of this Guaranty (whether contractual, under Section 509 of the U.S. Bankruptcy Code, or otherwise) to the claims of the Lenders or any Bank Product Provider against the Borrower or any other guarantor of the Credit Party Obligations of the Borrower owing to the Lenders or such Bank Product Provider (collectively, the "Other Parties") and all contractual, statutory or common law rights of reimbursement, contribution or indemnity from any Other Party which it may at any time otherwise have as a result of this Guaranty until such time as the Credit Party Obligations shall have been paid in full and the Commitments have been terminated. Each of the Guarantors hereby further agrees not to exercise any right to enforce any other remedy which the Administrative Agent, the Lenders or any Bank Product Provider now have or may hereafter have against any Other Party, any endorser or any other guarantor of all or any part of the Credit Party Obligations of the Borrower and any benefit of, and any right to participate in, any security or collateral given to or for the benefit of the Lenders and/or the Bank Product Providers to secure payment of the Credit Party Obligations of the Borrower until such time as the Credit Party Obligations (other than contingent indemnification obligations) shall have been paid in full and the Commitments have been terminated.

## **Section 10.8 Limitation on Enforcement.**

The Lenders and the Bank Product Providers agree that this Guaranty may be enforced only by the action of the Administrative Agent acting upon the instructions of the Required Lenders or such Bank Product Provider (only with respect to obligations under the applicable Bank Product) and that no Lender or Bank Product Provider shall have any right individually to seek to enforce or to enforce this Guaranty, it being understood and agreed that such rights and remedies may be exercised by the Administrative Agent for the benefit of the Lenders under the terms of this Agreement and for the benefit of any Bank Product Provider under any Bank Product. The Lenders and the Bank Product Providers further agree that this Guaranty may not be enforced against any director, officer, employee or stockholder of the Guarantors.



### **Section 10.9 Confirmation of Payment.**

The Administrative Agent and the Lenders will, upon request after payment of the Credit Party Obligations which are the subject of this Guaranty and termination of the Commitments relating thereto, confirm to the Borrower, the Guarantors or any other Person that such indebtedness and obligations have been paid and the Commitments relating thereto terminated, subject to the provisions of Section 10.2.

### **Section 10.10 Agreements for Contribution.**

(a) To the extent that any Guarantor is required, by reason of its obligations hereunder, to pay to the Lender an amount greater than the amount of the value (as determined in accordance with applicable insolvency laws) actually made available to or for the benefit of such Guarantor on account of any Credit Document, such Guarantor shall have an enforceable right of contribution against the remaining Guarantors, and the remaining Guarantors shall be jointly and severally liable for repayment of the full amount of such excess payment.

(b) To the extent that any Guarantor would, but for the operation of this Section 10.10 and by reason of its Obligations hereunder or its obligations to other Guarantors under this Section 10.10, be rendered insolvent for any purpose under applicable insolvency laws, each of the Guarantors hereby agrees to indemnify such Guarantor and commits to make a contribution to such Guarantor's capital in an amount at least equal to the amount necessary to prevent such Guarantor from having been rendered insolvent by reason of the incurrence of any such obligations.

(c) To the extent that any Guarantor would, but for the operation of this Section 10.10, be rendered insolvent under any applicable insolvency law by reason of its incurring of obligations to any other Guarantor under the foregoing Sections 10.10(a) and (b), such Guarantor shall, in turn, have rights of contribution to the full extent provided in the foregoing Sections 10.10(a) and (b) against the remaining Guarantors, such that all obligations of all the Guarantors hereunder and under this Section 10.10 shall be allocated in a manner such that no Guarantor shall be rendered insolvent for any purpose under applicable insolvency law by reason of its incurrence of such obligations.

**Section 10.11 Keepwell.** Each Qualified ECP Guarantor hereby jointly and severally absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each other Guarantor to honor all of its obligations under this Guaranty in respect of a Swap Obligation (provided, however, that each Qualified ECP Guarantor shall only be liable under this Section 10.11 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 10.11 or otherwise under this Guaranty voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). Except as otherwise provided herein, the obligations of each Qualified ECP Guarantor under this Section 10.11 shall remain in full force and effect until the termination of all Swap Obligations. Each Qualified ECP Guarantor intends that this Section 10.11 constitute, and this Section 10.11 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Credit Party for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

[Signature Pages Follow]

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

**BORROWER:**

**MEDNAX, INC.,**  
a Florida Corporation

By: /s/ Vivian Lopez-Blanco  
Name: Vivian Lopez-Blanco  
Title: Chief Financial Officer

**GUARANTORS:**

**1500 CONCORD TERRACE, LLC,**  
a Delaware Limited Liability Company

**ALASKA NEONATOLOGY ASSOCIATES, INC.,**  
an Alaska Corporation

**AMERICAN ANESTHESIOLOGY ASSOCIATES OF GEORGIA, LLC,**  
a Georgia Limited Liability Company

**AMERICAN ANESTHESIOLOGY ASSOCIATES OF ILLINOIS, S.C.,**  
an Illinois Service Corporation

**AMERICAN ANESTHESIOLOGY ASSOCIATES OF MICHIGAN, P.C.,**  
a Michigan Professional Corporation

**AMERICAN ANESTHESIOLOGY ASSOCIATES OF VIRGINIA, INC.,**  
a Virginia Corporation

**AMERICAN ANESTHESIOLOGY GROUP OF TENNESSEE, P.C.,**  
a Tennessee Professional Corporation

**AMERICAN ANESTHESIOLOGY OF FLORIDA, INC.,**  
a Florida Corporation

**AMERICAN ANESTHESIOLOGY OF GEORGIA, LLC,**  
a Georgia Limited Liability Company

By: /s/ Vivian Lopez-Blanco  
Name: Vivian Lopez-Blanco  
Title: Attorney in Fact of each of the foregoing

**AMERICAN ANESTHESIOLOGY OF ILLINOIS, LLC,**  
an Illinois Limited Liability Company

**AMERICAN ANESTHESIOLOGY OF MARYLAND,  
P.C.,**  
a Maryland Professional Corporation

**AMERICAN ANESTHESIOLOGY OF MICHIGAN, P.C.,**  
a Michigan Professional Corporation

**AMERICAN ANESTHESIOLOGY OF NEW YORK, P.C.,**  
a New York Professional Corporation

**AMERICAN ANESTHESIOLOGY OF NORTH  
CAROLINA, PLLC**  
a North Carolina Professional Limited Liability Company

**AMERICAN ANESTHESIOLOGY OF SYRACUSE, P.C.,**  
a New York Professional Corporation

**AMERICAN ANESTHESIOLOGY OF TENNESSEE,  
P.C.,**  
a Tennessee Professional Corporation

**AMERICAN ANESTHESIOLOGY OF TEXAS, INC.,**  
a Texas Nonprofit Corporation

**AMERICAN ANESTHESIOLOGY OF THE  
SOUTHEAST, PLLC**  
a North Carolina Professional Limited Liability Company

**AMERICAN ANESTHESIOLOGY OF VIRGINIA, P.C.,**  
a Virginia Professional Corporation

**AMERICAN ANESTHESIOLOGY, INC.,**  
a Florida Corporation

By: /s/ Vivian Lopez-Blanco  
Name: Vivian Lopez-Blanco  
Title: Attorney in Fact of each of the foregoing

**ANESTHESIA AND PAIN MANAGEMENT GROUP, LLC,**  
a New Jersey Limited Liability Company

**ANESTHESIOLOGY CONSULTANTS OF SOUTH CAROLINA, PLLC,**  
a South Carolina Professional Limited Liability Company

**AUGUSTA NEONATOLOGY ASSOCIATES, P.C.,**  
a Georgia Professional Corporation

**AUSTIN ANESTHESIOLOGY GROUP, PLLC,**  
a Texas Professional Limited Liability Company

**BURLINGTON ANESTHESIA ASSOCIATES, P.A.,**  
a New Jersey Professional Association

**CENTRAL OKLAHOMA NEONATOLOGY ASSOCIATES, INC.,**  
an Oklahoma Corporation

**CRITICAL HEALTH SYSTEMS, INC.,**  
a Delaware Corporation

**DATA MANAGEMENT, INC.,**  
an Illinois Corporation

**GEORGIA PERIOPERATIVE CONSULTANTS, L.L.C.,**  
a Georgia Limited Liability Company

**HORIZON ANESTHESIA, PLLC,**  
a Virginia Professional Limited Liability Company

**MAGELLA MEDICAL ASSOCIATES BILLING, INC.,**  
a Texas Corporation

**MAGELLA MEDICAL ASSOCIATES MIDWEST, P.C.,**  
an Iowa Professional Corporation

By: /s/ Vivian Lopez-Blanco  
Name: Vivian Lopez-Blanco  
Title: Attorney in Fact of each of the foregoing

**MAGELLA MEDICAL ASSOCIATES OF GEORGIA,  
P.C.,**

a Georgia Professional Corporation

**MAGELLA MEDICAL GROUP, INC.,**

a California Professional Corporation

**MED-DATA, INCORPORATED,**

a Washington Corporation

**MEDDIRECT, INC.,**

a Michigan Corporation

**MEDNAX SERVICES, INC.,**

a Florida Corporation

**MOUNTAIN STATES NEONATOLOGY, INC.,**

an Idaho Corporation

**MSI CONSULTING SERVICES, LLC,**

a Florida Limited Liability Company

**NEONATAL SPECIALISTS, LTD.,**

an Arizona Professional Corporation

**NEONATOLOGY ASSOCIATES OF ATLANTA, P.C.,**

a Georgia Professional Corporation

**NORTHWEST NEWBORN SPECIALISTS, P.C.,**

an Oregon Professional Corporation

**OBSTETRIX MEDICAL GROUP OF ARIZONA, P.C.,**

an Arizona Professional Corporation

**OBSTETRIX MEDICAL GROUP OF ATLANTA, LLC,**

a Georgia Limited Liability Company

**OBSTETRIX MEDICAL GROUP OF CALIFORNIA, A  
PROFESSIONAL CORPORATION,**

a California Professional Corporation

By: /s/ Vivian Lopez-Blanco

Name: Vivian Lopez-Blanco

Title: Attorney in Fact of each of the foregoing

*Credit Agreement*

*Borrower Signature Page 4 of 9*

**OBSTETRIX MEDICAL GROUP OF COASTAL  
CAROLINA, PLLC,**  
a North Carolina Professional Limited Liability Company

**OBSTETRIX MEDICAL GROUP OF COLORADO, P.C.,**  
a Colorado Professional Corporation

**OBSTETRIX MEDICAL GROUP OF KANSAS AND  
MISSOURI, P.A.,**  
a Kansas Professional Association

**OBSTETRIX MEDICAL GROUP OF OKLAHOMA, P.C.,**  
an Oklahoma Professional Corporation

**OBSTETRIX MEDICAL GROUP OF PHOENIX, P.C.,**  
an Arizona Professional Corporation

**OBSTETRIX MEDICAL GROUP OF SACRAMENTO,  
P.C.,**  
a California Professional Corporation

**OBSTETRIX MEDICAL GROUP OF TEXAS BILLING,  
INC.,**  
a Texas Corporation

**OBSTETRIX MEDICAL GROUP OF THE CENTRAL  
COAST, PROFESSIONAL CORPORATION,**  
a California Professional Corporation

**OBSTETRIX MEDICAL GROUP OF UTAH, P.C.,**  
a Utah Professional Corporation

**OBSTETRIX MEDICAL GROUP OF WASHINGTON,  
INC., P.S.,**  
a Washington Professional Services Corporation

**OZARK NEONATAL ASSOCIATES, INC.**  
a Missouri Corporation

**PAIN CENTERS OF CHICAGO, LLC,**  
an Illinois Limited Liability Company

By: /s/ Vivian Lopez-Blanco  
Name: Vivian Lopez-Blanco  
Title: Attorney in Fact of each of the foregoing

**PEDIATRIX CARDIOLOGY OF NEW MEXICO, P.C.,**  
a New Mexico Professional Corporation

**PEDIATRIX CARDIOLOGY OF ORANGE COUNTY,  
P.C.,**  
a California Professional Corporation

**PEDIATRIX CARDIOLOGY OF SPRINGFIELD, P.C.,**  
a Missouri Professional Corporation

**PEDIATRIX CARDIOLOGY OF WASHINGTON, P.C.,**  
a Washington Professional Corporation

**PEDIATRIX EMERGENT AND CRITICAL CARE  
SERVICES, LLC,**  
a Louisiana Limited Liability Company

**PEDIATRIX INTERNATIONAL, INC.,**  
a Florida Corporation

**PEDIATRIX MEDICAL GROUP NEONATOLOGY AND  
PEDIATRIC INTENSIVE CARE SPECIALISTS OF  
NEW YORK, P.C.,**  
a New York Professional Corporation

**PEDIATRIX MEDICAL GROUP OF ARKANSAS, P.A.,**  
an Arkansas Professional Association

**PEDIATRIX MEDICAL GROUP OF CALIFORNIA, A  
PROFESSIONAL CORPORATION,**  
a California Professional Corporation

**PEDIATRIX MEDICAL GROUP OF COLORADO, P.C.,**  
a Colorado Professional Corporation

**PEDIATRIX MEDICAL GROUP OF FLORIDA, INC.,**  
a Florida Corporation

By: /s/ Vivian Lopez-Blanco  
Name: Vivian Lopez-Blanco  
Title: Attorney in Fact of each of the foregoing

**PEDIATRIX MEDICAL GROUP OF GEORGIA, P.C.,**  
a Georgia Professional Corporation

**PEDIATRIX MEDICAL GROUP OF ILLINOIS, P.C.,**  
an Illinois Professional Corporation

**PEDIATRIX MEDICAL GROUP OF INDIANA, P.C.,**  
an Indiana Professional Corporation

**PEDIATRIX MEDICAL GROUP OF KANSAS, P.A.,**  
a Kansas Professional Association

**PEDIATRIX MEDICAL GROUP OF KENTUCKY, P.S.C.,**  
a Kentucky Professional Services Corporation

**PEDIATRIX MEDICAL GROUP OF LOUISIANA,  
L.L.C.,**  
a Louisiana Limited Liability Company

**PEDIATRIX MEDICAL GROUP OF MICHIGAN, P.C.,**  
a Michigan Professional Corporation

**PEDIATRIX MEDICAL GROUP OF MISSOURI, P.C.,**  
a Missouri Professional Corporation

**PEDIATRIX MEDICAL GROUP OF MONTANA, P.C.,**  
a Montana Professional Corporation

**PEDIATRIX MEDICAL GROUP OF NEW MEXICO,  
P.C.,**  
a New Mexico Professional Corporation

**PEDIATRIX MEDICAL GROUP OF NORTH  
CAROLINA, P.C.,**  
a North Carolina Professional Corporation

**PEDIATRIX MEDICAL GROUP OF OHIO CORP.,**  
an Ohio Corporation

By: /s/ Vivian Lopez-Blanco  
Name: Vivian Lopez-Blanco  
Title: Attorney in Fact of each of the foregoing



**PEDIATRIX MEDICAL GROUP OF OKLAHOMA, P.C.,**  
an Oklahoma Professional Corporation

**PEDIATRIX MEDICAL GROUP OF PENNSYLVANIA,  
P.C.,**  
a Pennsylvania Professional Corporation

**PEDIATRIX MEDICAL GROUP OF SOUTH  
CAROLINA, P.A.,**  
a South Carolina Professional Association

**PEDIATRIX MEDICAL GROUP OF TENNESSEE, P.C.,**  
a Tennessee Professional Corporation

**PEDIATRIX MEDICAL GROUP OF TEXAS BILLING,  
INC.,**  
a Texas Corporation

**PEDIATRIX MEDICAL GROUP OF THE MID-  
ATLANTIC, P.C.,**  
a Virginia Professional Corporation

**PEDIATRIX MEDICAL GROUP OF WASHINGTON,  
INC., P.S.,**  
a Washington Professional Services Corporation

**PEDIATRIX MEDICAL GROUP, INC.,**  
a Florida Corporation

**PEDIATRIX MEDICAL GROUP, INC.,**  
a Utah Corporation

**PEDIATRIX MEDICAL GROUP, P.A.,**  
a New Jersey Professional Association

**PEDIATRIX MEDICAL GROUP, P.C.,**  
a Virginia Professional Corporation

**PEDIATRIX MEDICAL GROUP, P.C.,**  
a West Virginia Professional Corporation

**PEDIATRIX MEDICAL SERVICES, INC.,**  
a Texas Nonprofit Corporation

By: /s/ Vivian Lopez-Blanco  
Name: Vivian Lopez-Blanco  
Title: Attorney in Fact of each of the foregoing

**PEDIATRIX NEWBORN HEARING SCREEN, LLC,**  
a Florida Limited Liability Company

**PEDIATRIX OF MARYLAND, P.A.,**  
a Maryland Professional Association

**PIEDMONT ANESTHESIA ASSOCIATES, L.L.C.,**  
a Georgia Limited Liability Company

**PMG CARDIOLOGY, INC.,**  
a Florida Corporation

**PMGSC, P.A.,**  
a South Carolina Professional Association

**POKROY MEDICAL GROUP OF NEVADA, LTD.,**  
a Nevada Corporation

**QUANTUM CLINICAL NAVIGATION SYSTEM, LLC,**  
a North Carolina Limited Liability Company

**SOUTHEAST ANESTHESIOLOGY CONSULTANTS,  
PLLC,**  
a North Carolina Professional Limited Liability Company

**SOUTHEAST ANESTHESIOLOGY CONSULTANTS OF  
VIRGINIA, PLLC,**  
a Virginia Professional Limited Liability Company

**SUMMIT ANESTHESIA ASSOCIATES, P.A.,**  
a New Jersey Professional Association

**TEXAS NEWBORN SERVICES, INC.,**  
a Texas Corporation

By: /s/ Vivian Lopez-Blanco  
Name: Vivian Lopez-Blanco  
Title: Attorney in Fact of each of the foregoing

**ADMINISTRATIVE AGENT:**

**JPMORGAN CHASE BANK, N.A.,**  
as a Lender, as Issuing Lender and as Administrative Agent on behalf of the  
Lenders

By: /s/ John A. Horst  
Name: John A. Horst  
Title: Credit Executive

*Credit Agreement*  
*Lender Signature Page*

## CERTIFICATION

I, Roger J. Medel, M.D., certify that:

1. I have reviewed this quarterly report on Form 10-Q of MEDNAX, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: October 30, 2014

By: /s/ Roger J. Medel, M.D.  
 Roger J. Medel, M.D.  
 Chief Executive Officer  
 (Principal Executive Officer)

# CERTIFICATION

I, Vivian Lopez-Blanco, certify that:

1. I have reviewed this quarterly report on Form 10-Q of MEDNAX, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: October 30, 2014

By: /s/ Vivian Lopez-Blanco

Vivian Lopez-Blanco  
Chief Financial Officer and Treasurer  
(Principal Financial Officer and  
Principal Accounting Officer)

**Certification Pursuant to 18 U.S.C Section 1350  
(Adopted by Section 906 of the Sarbanes-Oxley Act of 2002)**

In connection with the Quarterly Report of MEDNAX, Inc. on Form 10-Q for the quarter ended September 30, 2014 (the "Report"), each of the undersigned hereby certifies, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that (i) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and (ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of MEDNAX, Inc.

A signed original of this written statement required by Section 906 has been provided to MEDNAX, Inc. and will be retained by MEDNAX, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

October 30, 2014

By: /s/ Roger J. Medel, M.D.

Roger J. Medel, M.D.

Chief Executive Officer

(Principal Executive Officer)

By: /s/ Vivian Lopez-Blanco

Vivian Lopez-Blanco

Chief Financial Officer and Treasurer

(Principal Financial Officer and

Principal Accounting Officer)