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

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**FORM 6-K**

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**Report of Foreign Private Issuer  
Pursuant to Rule 13a-16 or 15d-16  
under the Securities Exchange Act of 1934**

December 7, 2015

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**NXP Semiconductors N.V.**

(Exact name of registrant as specified in charter)

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**The Netherlands**  
(Jurisdiction of incorporation or organization)

**60 High Tech Campus, 5656 AG, Eindhoven, The Netherlands**  
(Address of principal executive offices)

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Indicate by check mark whether the registrant files or will file annual reports under cover of Form 20-F or Form 40-F.

Form 20-F       Form 40-F

Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(1).

Yes       No

Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(7).

Yes       No

Indicate by check mark whether by furnishing the information contained in this Form, the registrant is also thereby furnishing the information to the Commission pursuant to Rule 12g3-2(b) under the Securities Exchange Act of 1934.

Yes       No

Name and address of person authorized to receive notices  
and communications from the Securities and Exchange Commission

Dr. Jean A.W. Schreurs  
60 High Tech Campus  
5656 AG Eindhoven – The Netherlands

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On December 7, 2015 (the “Closing Date”), NXP Semiconductors N.V., a Dutch public limited liability company (the “Company”) and Freescale Semiconductor, Ltd., a Bermuda exempted limited liability company (“Freescale”) completed the previously announced merger pursuant to the terms of the Agreement and Plan of Merger (the “Merger Agreement”), dated as of March 1, 2015, by and among the Company, Freescale and Nimble Acquisition Limited, a Bermuda exempted limited liability company and an indirect, wholly-owned subsidiary of the Company (“Merger Sub”), pursuant to which Merger Sub was merged with and into Freescale, with Freescale being the surviving corporation and an indirect, wholly-owned subsidiary of the Company (the “Merger”).

As a result of the Merger, each common share of Freescale, par value \$0.01 per share (each, a “Freescale Common Share”) (other than certain Freescale Common Shares as set forth in the Merger Agreement) was cancelled and converted into the right to receive \$6.25 in cash, without interest, plus 0.3521 of a duly authorized, validly issued and fully paid ordinary share of the Company, par value EUR 0.20 per share.

The Merger was approved by the shareholders of the Company and Freescale at shareholder meetings held on July 2, 2015 and became effective upon the issuance of a certificate of merger by the Registrar of Companies in Bermuda on December 7, 2015.

A copy of the joint press release issued by the Company and Freescale on December 7, 2015 announcing the completion of the Merger is filed herewith as Exhibit 1 and is incorporated herein by reference.

In connection with the Merger, NXP B.V. and NXP Funding LLC, as borrowers (the “Borrowers”), the several lenders party thereto, Morgan Stanley Senior Funding LLC, as collateral agent (the “Collateral Agent”), Credit Suisse AG, as administrative agent (the “Term Loan Administrative Agent”), the joint lead arrangers, the joint bookrunners and the co-managers, each as detailed therein, entered into a US\$2,700,000,000 secured term credit agreement dated as of the Closing Date (the “New Secured Term Credit Agreement”). All present and future obligations of the Borrowers arising under and pursuant to the terms of the New Secured Term Credit Agreement shall be guaranteed pursuant to a guaranty agreement dated as of the Closing Date (the “Term Loan Guaranty Agreement”) by and among NXP B.V., NXP Funding LLC, NXP Semiconductors Netherlands B.V. and NXP Semiconductors Taiwan Ltd. (collectively, the “NXP Credit Guarantors”) and Freescale Semiconductor Holdings V, Inc. and Freescale Semiconductor Inc. (collectively, the “Freescale Credit Guarantors”). The description of the New Secured Term Credit Agreement and the Term Loan Guaranty Agreement contained in this report on Form 6-K is qualified in its entirety by reference to the complete text of the New Secured Term Credit Agreement and the Term Loan Guaranty Agreement, in each case, copies of which are filed herewith as Exhibits 2 and 3.

The Borrowers, the several lenders party thereto, the Collateral Agent, Morgan Stanley Senior Funding Inc., as administrative agent (the “RCF Administrative Agent”), the joint lead arrangers, the joint bookrunners and the co-managers, each as detailed therein, entered into a US\$600,000,000 revolving credit facility agreement dated as of the Closing Date (the “New RCF Agreement”). All present and future obligations of the Borrowers arising under and pursuant to the terms of the New RCF Agreement shall be guaranteed pursuant to a guaranty agreement dated as of the Closing Date (the “RCF Guaranty Agreement”) by and among each of the NXP Credit Guarantors and each of the Freescale Credit Guarantors. The description of the New RCF Agreement and the RCF Guaranty Agreement contained in this report on Form 6-K is qualified in its entirety by reference to the complete text of the New RCF Agreement and the RCF Guaranty Agreement, in each case, copies of which are filed herewith as Exhibits 4 and 5.

The Borrowers, the Collateral Agent, Credit Suisse AG, as administrative agent (the “Bridge Loan Administrative Agent”) and the lenders party thereto, entered into a US\$1,000,000,000 secured bridge term credit facility agreement dated as of the Closing Date (the “Secured Bridge Term Credit Agreement”). All present and future obligations of the Borrowers arising under and pursuant to the terms of the Secured Bridge Term Credit Agreement shall be guaranteed pursuant to a guaranty agreement dated as of the Closing Date (the “Bridge Loan Guaranty Agreement”) by and among each of the NXP Credit Guarantors and each of the Freescale Credit Guarantors. The description of the Secured Bridge Term Credit Agreement and the Bridge Loan Guaranty Agreement contained in this report on Form 6-K is qualified in its entirety by reference to the complete text of the Secured Bridge Term Credit Agreement and the Bridge Loan Guaranty Agreement, in each case, copies of which are filed herewith as Exhibits 6 and 7.

Pursuant to (i) the Supplemental Indenture, dated as of April 2, 2015, by and among Freescale Semiconductor, Inc. (the “Freescale Issuer”), an indirect, wholly-owned subsidiary of Freescale, Freescale, Freescale Semiconductor Holdings II, Ltd., Freescale Semiconductor Holdings III, Ltd., Freescale Semiconductor Holdings IV, Ltd., Freescale Semiconductor Holdings V, Inc. and SigmaTel LLC (the “Freescale Indenture Guarantors”) and The Bank of New York Mellon Trust Company, N.A., as trustee (the “2021 Freescale Trustee”), to the Indenture, dated as of May 31, 2013 (the “2021 Freescale Indenture”), by and among the Freescale Issuer, the Freescale Indenture Guarantors and the 2021 Freescale Trustee, governing Freescale’s 5.00% Senior Secured Notes due 2021 (the “2021 Freescale Notes”), and (ii) the Supplemental Indenture, dated as of April 2, 2015, by and among the Freescale Issuer, the Freescale Indenture Guarantors and Wells Fargo Bank, National Association, as trustee (the “2022 Freescale Trustee”, together with the 2021 Freescale Trustee, the “Freescale Trustees”), to the Indenture, dated as of November 1, 2013 (together with the 2021 Freescale Indenture, the “Freescale Indentures”), by and among the Freescale Issuer, the Freescale Indenture Guarantors and the 2022

Freescale Trustee, governing Freescale's 6.00% Senior Secured Notes due 2022 (together with the 2021 Freescale Notes, the "Freescale Notes"), the Freescale Issuer, the Freescale Indenture Guarantors, NXP B.V., NXP Funding LLC, NXP Semiconductors Netherlands B.V., NXP Semiconductors UK Limited, NXP Semiconductors USA, Inc., NXP Semiconductors Germany GmbH, NXP Semiconductors Hong Kong Limited, NXP Semiconductors Philippines Inc., NXP Semiconductors Singapore Pte. Ltd., NXP Semiconductors Taiwan Ltd. and NXP Manufacturing (Thailand) Ltd. (collectively, the "NXP Indenture Guarantors") entered into amended and restated Freescale Indentures (the "A&R Freescale Indentures"). In accordance with the A&R Freescale Indentures, among other things, (x) certain amendments previously approved by the holders of the Freescale Notes as part of the consents solicitations that launched on March 23, 2015 and closed on April 2, 2015 became operative and (y) the NXP Indenture Guarantors acceded to the Freescale Notes as additional guarantors. The description of the A&R Freescale Indentures contained in this report on Form 6-K is qualified in its entirety by reference to the complete text of the A&R Freescale Indentures, copies of which are filed herewith as Exhibits 8 and 9.

Pursuant to an additional secured obligations supplement, dated as of the Closing Date (the "Additional Secured Obligations Supplement"), by and among NXP B.V., the Collateral Agent and the additional secured parties party thereto, which shall include the secured parties under the New Secured Term Credit Agreement, the New RCF Agreement, the Secured Bridge Term Credit Agreement and the Freescale Notes, to the Collateral Agency Agreement, dated as of September 29, 2006 (the "Collateral Agency Agreement"), between, among others, NXP B.V., NXP Funding LLC, the NXP Indenture Guarantors, the secured parties party thereto and the Collateral Agent, the additional secured parties will become party to the Collateral Agency Agreement and will have all the rights, obligations and liabilities of an additional secured party and be bound by the provisions thereof, as if they were one of the original parties thereto. Pursuant to a lien grantor supplement, dated as of the Closing Date, Sigmatel LLC (as guarantor under the Freescale Indentures) and the Freescale Credit Guarantors will become lien grantors under the Collateral Agency Agreement. A copy of the Collateral Agency Agreement was filed as Exhibit 4.3 to the Registration Statement on Form F-4 filed by NXP B.V. on April 23, 2007.

## **Exhibits**

- 1 Press release dated December 7, 2015 entitled: "NXP and Freescale Announce Completion of Merger."
- 2 New Secured Term Credit Agreement
- 3 Term Loan Guaranty Agreement
- 4 New RCF Agreement
- 5 RCF Guaranty Agreement
- 6 Secured Bridge Term Credit Agreement
- 7 Bridge Loan Guaranty Agreement
- 8 Amended and Restated 2021 Freescale Indenture
- 9 Amended and Restated 2022 Freescale Indenture

**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 at Eindhoven, on the 7<sup>th</sup> day of December, 2015.

**NXP Semiconductors N.V.**

/s/ P. Kelly

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P. Kelly, CFO



## NXP and Freescale Announce Completion of Merger

**Eindhoven, The Netherlands and Austin, Texas, Dec 7, 2015** - NXP Semiconductors N.V. (NASDAQ: NXPI) and Freescale Semiconductor, Ltd. (NYSE: FSL) today announced the completion of the merger pursuant to the terms of the previously announced merger agreement from March 2015. The merger has created a high performance mixed signal semiconductor industry leader, with combined revenue of over \$10 billion. The merged entity will continue operations as NXP Semiconductors N.V. (NASDAQ: NXPI) and has become the market leader in automotive semiconductor solutions and in general purpose microcontroller (MCU) products.

“Through this merger we have created an industry powerhouse focused on the high growth opportunities in the Smarter World, capitalizing on the emerging opportunities offered by the accelerating demand for connectivity, processing and security. Today’s formation of the new NXP is a transformative step on our journey to become the industry leader in high performance mixed signal solutions,” said Rick Clemmer, NXP Chief Executive Officer. “This merger enables us to deliver more complete solutions to our customers as we are emerging as the leader in the Secure Connections – and the supporting infrastructure – for the Smarter World domain. As a result, we reiterate today that we fully expect to continue to significantly out-grow the overall market, drive world-class profitability and generate even more cash, allowing us to continue creating significant value for NXP’s shareholders.”

As previously announced, the transaction is expected to be accretive to NXP non-GAAP earnings in 2016, and NXP anticipates achieving cost savings of \$200 million in 2016 with a clear path to \$500 million of annual cost synergies.

NXP also today announced the closing of the divestiture of its RF Power business to Jianguang Asset Management Co. Ltd (“JAC Capital”), after receiving official confirmation that JAC Capital has deposited the required funds at its bank in China to pay the purchase price. The cash proceeds for the sale will be received later this month following the required regulatory filings for cross-border transfers of funds from China. NXP has obtained bridge financing until the funds are received.

### About NXP Semiconductors

NXP Semiconductors N.V. (NASDAQ: NXPI) enables secure connections and infrastructure for a smarter world, advancing solutions that make lives easier, better and safer. As the world leader in secure connectivity solutions for embedded applications, NXP is driving innovation in the secure connected vehicle, end-to-end security & privacy and smart connected solutions markets. Built on more than 60 years of combined experience and expertise, the company has 45,000 employees in more than 35 countries. Find out more at [www.nxp.com](http://www.nxp.com).

### Forward Looking Statements

Certain statements in this communication regarding the transaction between NXP and Freescale are “forward-looking” statements. The words “anticipate,” “believe,” “ensure,” “expect,” “if,” “intend,” “estimate,” “probable,” “project,” “forecasts,” “predict,” “outlook,” “aim,” “will,” “could,” “should,” “would,” “potential,” “may,” “might,” “anticipate,” “likely,” “plan,” “positioned,” “strategy,” and similar expressions, and the negative thereof, are intended to identify forward-looking statements. These forward-looking statements, which are subject to numerous factors, risks and uncertainties about NXP and Freescale, may include projections of their respective future business, strategies, financial condition, results of operations and market data. These statements are only predictions based on current expectations and projections about future events. There are important factors, risks and uncertainties that could cause actual outcomes and results to be materially different from those projected, including the risk factors set forth in the definitive joint proxy statement/prospectus, NXP’s most recent Form 20-F and Freescale’s most recent reports on Form 10-K, Form 10-Q and other documents on file with the SEC and the factors given below:

- NXP’s and Freescale’s ability to achieve the synergies and value creation contemplated by the transaction;
- the ability of either NXP or Freescale to effectively integrate their businesses; and
- the diversion of management time on transaction-related issues.

Freescale’s and NXP’s forward-looking statements are based on assumptions that may not prove to be accurate. Neither Freescale nor NXP can guarantee future results, level of activity, performance or achievements. Moreover, neither Freescale nor NXP assumes responsibility for the accuracy and completeness of any of these forward-looking statements. Freescale and NXP assume no obligation to update or revise any forward-looking statements as a result of new information, future events or otherwise. Readers are cautioned not to place undue reliance on these forward-looking statements that speak only as of the date hereof.



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\$2,700,000,000  
SECURED TERM CREDIT AGREEMENT

Dated December 7, 2015

among

NXP B.V.,

NXP FUNDING LLC,  
as the Borrowers

The Several Lenders  
from Time to Time Parties Hereto

MORGAN STANLEY SENIOR FUNDING, INC.,  
as Collateral Agent

CREDIT SUISSE AG,  
as Administrative Agent

CREDIT SUISSE SECURITIES (USA) LLC,  
MORGAN STANLEY SENIOR FUNDING, INC.,  
BARCLAYS BANK PLC,  
DEUTSCHE BANK SECURITIES INC.

AND

BANK OF AMERICA, N.A.  
as Joint Lead Arrangers and Joint Bookrunners

GOLDMAN SACHS LENDING PARTNERS LLC,  
CITIGROUP GLOBAL MARKETS LIMITED  
AND

COÖPERATIEVE CENTRALE RAIFFEISEN-BOERENLEENBANK B.A.  
as Co-Managers

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**SCHEDULES**

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**EXHIBITS**

Exhibit A	Assignment and Acceptance
Exhibit B	Notice of Borrowing
Exhibit C	Form of Closing Certificates
Exhibit D	Form of Promissory Note

CREDIT AGREEMENT dated as of December 7, 2015 among NXP B.V. with its corporate seat in Eindhoven, the Netherlands (the "Company"), NXP FUNDING LLC, a Delaware limited liability company (the "Co-Borrower"), the lending institutions from time to time parties hereto (each a "Lender" and, collectively, the "Lenders"), CREDIT SUISSE AG, as Administrative Agent (in such capacity, the "Administrative Agent"), MORGAN STANLEY SENIOR FUNDING, INC., as Collateral Agent (in such capacity, the "Collateral Agent") and CREDIT SUISSE SECURITIES (USA) LLC, MORGAN STANLEY SENIOR FUNDING, INC., BARCLAYS BANK PLC, DEUTSCHE BANK SECURITIES INC. AND BANK OF AMERICA, N.A. as Joint Lead Arrangers (the "Joint Lead Arrangers") and Joint Bookrunners (the "Joint Bookrunners") and GOLDMAN SACHS LENDING PARTNERS LLC, CITIGROUP GLOBAL MARKETS LIMITED AND COÖPERATIEVE CENTRALE RAIFFEISEN-BOERENLEENBANK B.A., as Co-Managers (the "Co-Managers").

WHEREAS, pursuant to a Merger Agreement (as defined below), NXP Semiconductors N.V., ("Holdings") will indirectly acquire Freescale Semiconductor, Ltd. ("Target") through an acquisition transaction, whereby (i) Nimble Acquisition Limited ("MergerSub"), a Bermuda exempted limited liability company and a Subsidiary of the Company, will merge with and into the Target (the "Acquisition").

WHEREAS, to fund part of the Acquisition the Borrowers have requested that the Lenders extend credit in the form of Loans on the terms and conditions set forth in this Agreement.

WHEREAS, the proceeds of Loans will be used by the Borrowers on the Closing Date towards: (1) paying the Cash Consideration (as defined below) in connection with the Acquisition; (2) prepaying the Existing Fast Credit Facility (as defined below); (3) prepaying any amounts outstanding under the Existing Revolving Credit Facility (as defined below), and (4) paying Transaction Expenses.

WHEREAS, the Lenders are willing to make available to the Borrowers Loans upon the terms and subject to the conditions set forth herein.

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

#### SECTION 1. Definitions

1.1 Defined Terms. (a) As used herein, the following terms shall have the meanings specified in this Section 1.1 unless the context otherwise requires:

"ABR" shall mean for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Effective Rate plus 1/2 of 1%, (b) the rate of interest in effect for such day as determined from time to time by the Administrative Agent as its "prime rate" at its principal office in New York City and notified to the Borrower, and (c) the rate per annum determined in the manner set forth in clause (ii) of the definition of LIBOR Rate plus 1%. Any change in the ABR due to a change in such rate determined by the Administrative Agent or in the Federal Funds Effective Rate or LIBOR Rate shall take effect at the opening of business on the day specified in the announcement of such change. If the Administrative Agent shall have

determined (which determination shall be conclusive absent 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 of the definition thereof, the ABR shall be determined without regard to clause (c) of the preceding sentence until the circumstances giving rise to such inability no longer exist. Any change in the ABR due to a change in the Prime Rate, the Federal Funds Effective Rate or LIBOR shall be effective on the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or LIBOR, as the case may be.

“ABR Loan” shall mean each loan bearing interest at the rate provided in Section 2.8(b).

“Acquired Indebtedness” means Indebtedness (a) of a Person or any of its Subsidiaries existing at the time such Person becomes a Restricted Subsidiary, or (b) assumed in connection with the acquisition of assets from such Person, in each case whether or not Incurred by such Person in connection with such Person becoming a Restricted Subsidiary of the Company or such acquisition or (c) of a Person at the time such Person merges with or into or consolidates or otherwise combines with the Company or any Restricted Subsidiary. Acquired Indebtedness shall be deemed to have been Incurred, with respect to clause (a) of the preceding sentence, on the date such Person becomes a Restricted Subsidiary and, with respect to clause (b) of the preceding sentence, on the date of consummation of such acquisition of assets and, with respect to clause (c) of the preceding sentence, on the date of the relevant merger, consolidation or other combination.

“Acquisition” shall have the meaning given to such term in the preamble to this Agreement.

“Additional Assets” means:

- (a) any property or assets (other than Indebtedness and Capital Stock) used or to be used by the Company, a Restricted Subsidiary or otherwise useful in a Similar Business (it being understood that capital expenditures on property or assets already used in Similar Business or to replace any property or assets that are the subject of such Asset Disposition shall be deemed an investment in Additional Assets);
- (b) the Capital Stock of a Person that is engaged in a Similar Business and becomes a Restricted Subsidiary as a result of the acquisition of such Capital Stock by the Company or a Restricted Subsidiary of the Company; or
- (c) Capital Stock constituting a minority interest in any Person that at such time is a Restricted Subsidiary of the Company.

“Additional Guarantors” means each Wholly Owned Subsidiary (other than the Original Guarantors) which is required to Guarantee the obligations of the Borrowers under this Agreement pursuant to the Guaranty and Section 9.11 of this Agreement.

“Adjusted Total Commitment” shall mean at any time the Total Commitment less the aggregate Commitments of all Defaulting Lenders.

“Administrative Agent” shall have the meaning given to such term in the preamble to this Agreement.

“Administrative Agent’s Office” shall mean in respect of all Loans, the office of the Administrative Agent located at the address set forth in Schedule 13.2, or such other office as the Administrative Agent may hereafter designate in writing as such to the other parties hereto.

“Administrative Questionnaire” shall have the meaning provided in Section 13.7(b)(ii)(D).

“Affected Claim” shall have the meaning provided in Section 2.14.

“Affiliate” of any specified Person means any other Person, directly or indirectly, controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, “control” when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Affiliate Transactions” has the meaning given in Section 10.6(a).

“Agency Fee Letter” means the letter dated March 1, 2015 between the Administrative Agent and the Company setting out the fees of the Administrative Agent.

“Agent Parties” shall have the meaning provided in Section 13.20(c).

“Agents” shall mean the Joint Lead Arrangers, the Joint Bookrunners, the Co-Managers, the Administrative Agent and the Collateral Agent.

“Agreed Security Principles” means the principles set forth on Schedule 1.1(a) as applied reasonably and in good faith by the Company.

“Applicable ABR Margin” shall mean 2.00%. Notwithstanding the foregoing, (a) the Applicable ABR Margin in respect of any Extended Term Loans shall be the applicable percentages per annum set forth in the relevant Extension Amendment, (b) the Applicable ABR Margin in respect of any New Term Loans shall be the applicable percentages per annum set forth in the relevant New Term Loan Joinder Agreement, (c) the Applicable ABR Margin in respect of any Replacement Term Loans shall be the applicable percentages per annum set forth in the relevant agreement and (d) the Applicable ABR Margin shall be increased as, and to the extent, necessary to comply with the provisions of Section 2.14.

“Applicable LIBOR Margin” shall mean 3.00%. Notwithstanding the foregoing, (a) the Applicable LIBOR Margin in respect of any Extended Term Loans shall be the applicable percentages per annum set forth in the relevant Extension Amendment, (b) the Applicable LIBOR Margin in respect of any New Term Loans shall be the applicable percentages per annum set forth in the relevant New Term Loan Joinder Agreement, (c) the Applicable LIBOR Margin in respect of any Replacement Term Loans shall be the applicable percentages per annum set forth in the relevant agreement and (d) the Applicable LIBOR Margin shall be increased as, and to the extent, necessary to comply with the provisions of Section 2.14.

“Approved Fund” shall have the meaning provided in Section 13.7(b).

“Arranger Fee Letter” means the fee letter dated March 1, 2015 between Credit Suisse AG, Credit Suisse Securities (USA) LLC and the Company, as supplemented by the Joinder to Commitment Letter dated as of March 10, 2015 among the Joint Lead Arrangers, Joint Bookrunners, Co-Managers and the Company.

“Asset Disposition” means any direct or indirect sale, lease (other than an operating lease entered into in the ordinary course of business), transfer, issuance or other disposition, or a series of related sales, leases (other than operating leases entered into in the ordinary course of business), transfers, issuances or dispositions that are part of a common plan, of shares of Capital Stock of a Subsidiary (other than directors’ qualifying shares), property or other assets (each referred to for the purposes of this definition as a “disposition”) by the Company or any of its Restricted Subsidiaries, including any disposition by means of a merger, consolidation or similar transaction. Notwithstanding the preceding provisions of this definition, the following items shall not be deemed to be Asset Dispositions:

- (a) a disposition by a Restricted Subsidiary to the Company or by the Company or a Restricted Subsidiary to a Restricted Subsidiary;
- (b) a disposition of cash, Cash Equivalents, Temporary Cash Investments or Investment Grade Securities;
- (c) a disposition of inventory or other assets in the ordinary course of business;
- (d) a disposition of obsolete, surplus or worn out equipment or other assets or equipment or other assets that are no longer useful in the conduct of the business of the Company and its Restricted Subsidiaries;
- (e) transactions permitted under Section 10.9 or 10.10 or a transaction that constitutes a Change of Control;
- (f) an issuance of Capital Stock by a Restricted Subsidiary to the Company or to another Restricted Subsidiary or as part of or pursuant to an equity incentive or compensation plan approved by the Board of Directors;
- (g) any dispositions of Capital Stock, properties or assets in a single transaction or series of related transactions with a fair market value (as determined in good faith by the Company) of less than €100,000,000;
- (h) any Restricted Payment that is permitted to be made, and is made, under Section 10.2 and the making of any Permitted Payment or Permitted Investment or, solely for purposes of Section 10.5(a)(iii), asset sales (other than sales of securities or indebtedness of (x) SSMC or (y) any Unrestricted Subsidiary that is a Permitted Joint

Venture which has received Investments from the Company or any Restricted Subsidiary pursuant to paragraph (t) of the definition of Permitted Investments (determined at the time of making such Investment), in each case so long as it is not a Restricted Subsidiary), the proceeds of which are used to make such Restricted Payments or Permitted Investments;

(i) dispositions in connection with Permitted Liens;

(j) dispositions of receivables in connection with the compromise, settlement or collection thereof in the ordinary course of business or in bankruptcy or similar proceedings and exclusive of factoring or similar arrangements;

(k) the licensing or sub-licensing of intellectual property or other general intangibles and licenses, sub-licenses, leases or subleases of other property, in each case, in the ordinary course of business;

(l) foreclosure, condemnation or any similar action with respect to any property or other assets;

(m) the sale or discount (with or without recourse, and on customary or commercially reasonable terms and for credit management purposes) of accounts receivable or notes receivable arising in the ordinary course of business, or the conversion or exchange of accounts receivable for notes receivable;

(n) any disposition of Capital Stock, Indebtedness or other securities of an Unrestricted Subsidiary (with the exception of (x) SSMC,

(y) Investments in Unrestricted Subsidiaries acquired pursuant to clause (o) of the definition of Permitted Investments and (z) any Unrestricted Subsidiary that is a Permitted Joint Venture which has received Investments from the Company or any Restricted Subsidiary pursuant to paragraph (t) of the definition of Permitted Investments (determined at the time of making such Investment));

(o) any disposition of Capital Stock of a Restricted Subsidiary pursuant to an agreement or other obligation with or to a Person (other than the Company or a Restricted Subsidiary) from whom such Restricted Subsidiary was acquired, or from whom such Restricted Subsidiary acquired its business and assets (having been newly formed in connection with such acquisition), made as part of such acquisition and in each case comprising all or a portion of the consideration in respect of such sale or acquisition;

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

(q) any disposition of assets to a Person who is providing services related to such assets, the provision of which have been or are to be outsourced by the Company or any Restricted Subsidiary to such Person; provided, however, that the Board of Directors shall certify that in the opinion of the Board of Directors, the outsourcing transaction will be economically beneficial to the Company and its Restricted Subsidiaries (considered as a whole); provided, further, that the fair market value of the assets disposed of, when taken together with all other dispositions made pursuant to this clause (q) does not exceed €50,000,000;



(r) any disposition with respect to property built, owned or otherwise acquired by the Company or any Restricted Subsidiary pursuant to customary sale and lease-back transactions, asset securitizations and other similar financings permitted by this Agreement; and

(s) the RF Power Disposition.

“Assignment and Acceptance” shall mean an assignment and acceptance substantially in the form of Exhibit A.

“Associate” means (a) any Person engaged in a Similar Business of which the Company or its Restricted Subsidiaries are the legal and beneficial owners of between 20% and 50% of all outstanding Voting Stock and (b) any joint venture entered into by the Company or any Restricted Subsidiary of the Company.

“Authorized Officer” shall mean, with respect to any Person, the President, the Chief Executive Officer, the Chief Financial Officer, any Managing Director (if authorized to act individually), the Treasurer or any other senior officer (or two such officers if the Company so elects) of such Person authorized to represent such Person and designated as such in writing to the Administrative Agent by such Person.

“Board” shall mean the Board of Governors of the Federal Reserve System of the United States (or any successor).

“Board of Directors” means (a) with respect to the Company or any Credit Party organized or established under the laws of the Netherlands, its managing board; (b) with respect to any corporation, the board of directors or managers, as applicable, of the corporation, or any duly authorized committee thereof; (c) with respect to any partnership, the board of directors or other governing body of the general partner of the partnership or any duly authorized committee thereof; and (d) with respect to any other Person, the board or any duly authorized committee of such Person serving a similar function. Whenever any provision requires any action or determination to be made by, or any approval of, a Board of Directors, such action, determination or approval shall be deemed to have been taken or made if approved by a majority of the directors (excluding employee representatives, if any) on any such Board of Directors (whether or not such action or approval is taken as part of a formal board meeting or as a formal board approval).

“Borrower Materials” shall have the meaning provided in Section 13.21(b).

“Borrowers” means collectively the Company and the Co-Borrower.

“Borrowing” shall mean Loans of the same Class and Type, made, converted, or continued on the same date and, in the case of LIBOR Loans, as to which a single Interest Period is in effect.

“Business Day” means a day (other than a Saturday or Sunday) on which banks are open for general business in London, United Kingdom, Amsterdam, The Netherlands and New York, U.S.A. and:

(a) in relation to any date for payment or purchase of a currency other than Euro, the principal financial centre of the country of that currency; or

(b) in relation to any date for payment or purchase of Euro, any day on which the Trans-European Automated Real-time Gross Settlement Express Transfer (“TARGET”) payment system is open for the settlement of payments.

“Capital Stock” of any Person means any and all shares of, rights to purchase, warrants or options for, or other equivalents of or partnership or other interests in (however designated), equity of such Person, including any Preferred Stock, but excluding any debt securities convertible into such equity.

“Capitalized Lease Obligations” means an obligation that is required to be classified and accounted for as a capitalized lease for financial reporting purposes on the basis of GAAP. The amount of Indebtedness represented by such obligation will be the capitalized amount of such obligation at the time any determination thereof is to be made as determined on the basis of GAAP, and the Stated Maturity thereof will be the date of the last payment of rent or any other amount due under such lease prior to the first date such lease may be terminated without penalty.

“Cash Consideration” means the certain amount of cash consideration due to the shareholders of Target in connection with the Acquisition.

“Cash Equivalents” means:

(a) securities issued or directly and fully Guaranteed or insured by the United States or Canadian governments, a member state of the European Union, Switzerland or Norway or, in each case, any agency or instrumentality thereof (provided that the full faith and credit of such country or such member state is pledged in support thereof), having maturities of not more than two years from the date of acquisition;

(b) certificates of deposit, time deposits, eurodollar time deposits, overnight bank deposits or bankers’ acceptances having maturities of not more than one year from the date of acquisition thereof issued by any Lender or by any bank or trust company (i) whose commercial paper is rated at least “A-1” or the equivalent thereof by S&P or at least “P-1” or the equivalent thereof by Moody’s (or if at the time neither is issuing comparable ratings, then a comparable rating of another Nationally Recognized Statistical Rating Organization) or (ii) (in the event that the bank or trust company does not have commercial paper which is rated) having combined capital and surplus in excess of €500,000,000;

(c) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clauses (a) and (b) entered into with any bank meeting the qualifications specified in clause (b) above;

(d) commercial paper rated at the time of acquisition thereof at least “A-2” or the equivalent thereof by S&P or “P-2” or the equivalent thereof by Moody’s or carrying an equivalent rating by a Nationally Recognized Statistical Rating Organization, if both of the two named rating agencies cease publishing ratings of investments or, if no rating is available in respect of the commercial paper, the issuer of which has an equivalent rating in respect of its long-term debt, and in any case maturing within one year after the date of acquisition thereof;

(e) readily marketable direct obligations issued by any state of the United States of America, any province of Canada, any member of the European Union, Switzerland or Norway or any political subdivision thereof, in each case, having one of the two highest rating categories obtainable from either Moody’s or S&P (or, if at the time, neither is issuing comparable ratings, then a comparable rating of another Nationally Recognized Statistical Rating Organization) with maturities of not more than two years from the date of acquisition;

(f) Indebtedness or preferred stock issued by Persons with a rating of “BBB-” or higher from S&P or “Baa3” or higher from Moody’s (or, if at the time, neither is issuing comparable ratings, then a comparable rating of another Nationally Recognized Statistical Rating Organization) with maturities of 12 months or less from the date of acquisition;

(g) bills of exchange issued in the United States, Canada, a member state of the European Union, Switzerland, Norway or Japan eligible for rediscount at the relevant central bank and accepted by a bank (or any dematerialized equivalent);

(h) interests in any investment company, money market or enhanced high yield fund which invests 95% or more of its assets in instruments of the type specified in clauses (a) through (g) above; and

(i) for purposes of clause (b) of the definition of “Asset Disposition”, the marketable securities portfolio owned by the Company and its Subsidiaries on the Closing Date.

“Change in Law” shall mean (a) the adoption of any law, treaty, order, policy, rule or regulation after the date of this Agreement, (b) any change in any law, treaty, order, policy, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the date of this Agreement or (c) compliance by the Lender with any guideline, request or directive issued or made after the date hereof by any central bank or other governmental or quasi-governmental authority (whether or not having the force of law); provided, however, that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith, (y) all requests, rules, guidelines or directives promulgated by the Bank for International settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III and (z) the CRD IV and any law, rule, regulation or guideline, in each case that implements CRD IV in any jurisdiction, in each case shall be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

“Change of Control” means:

(a) the Borrowers become aware (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) that any “person” or “group” of related persons (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act), other than one or more Permitted Holders, is or has become the “beneficial owner” (as such term is used in Rules 13d-3 and 13d-5 under the Exchange Act) of more than 50% of the Voting Stock of the Company (or its successor); provided, however, that (x) for purposes of this clause (1) such person or group shall be deemed to have “beneficial ownership” of all shares that any such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time, directly or indirectly; (y) a transaction will not be deemed to involve a Change of Control under this clause (1) if (a) the Company becomes a direct or indirect wholly owned subsidiary of a holding company (including the Parent) and (b)(i) the direct or indirect holders of the Voting Stock of such holding company (including the Parent) immediately following that transaction are substantially the same as the holders of the Company’s Voting Stock immediately prior to that transaction or (ii) immediately following that transaction no “person” or “group” of related persons (other than a holding company (including the Parent) satisfying the requirements of this sentence) is the beneficial owner, directly or indirectly, of more than 50% of the Voting Stock of such holding company (including the Parent); and (z) any Voting Stock of which any Permitted Holder is the “beneficial owner” (as such term is used in Rules 13d-3 and 13d-5 under the Exchange Act) shall not be included in any Voting Stock of which any such “person” or “group” of related persons is the “beneficial owner” (as so defined), unless that person or group of related persons is not an affiliate of a Permitted Holder and has greater voting power with respect to that Voting Stock;

(b) the sale, lease, transfer, conveyance or other disposition, in one transaction or a series of related transactions, of all or substantially all of the assets of the Company and its Subsidiaries taken as a whole to a Person, other than (w) where the Company is the surviving entity following such sale, lease, transfer, conveyance or other disposition, (x) a Subsidiary, (y) any such sale, lease, transfer, conveyance or other disposition where the shares of the Company’s Voting Stock outstanding immediately prior to such transaction constitute, or are converted into or exchanged for, a majority of the Voting Stock of the surviving Person or parent entity thereof immediately after giving effect to such transaction or (z) one or more Permitted Holders; or

(c) any Change of Control occurs under and as defined in the Existing Term Facility, any Unsecured Note Indenture or any Fast Secured Notes Indenture.

“Change of Control Triggering Event” means, with respect to the Loans, the occurrence of (1) a Change of Control that is accompanied or followed by a downgrade of the Loans within the Ratings Decline Period for such Change of Control by each of Moody’s and S&P (or, in the event Moody’s or S&P or both shall cease rating the Loans, the Company shall

select any other “nationally recognized statistical rating organisation” within the meaning of Section 3(a)(62) of the Exchange Act, the equivalent of such ratings by such other nationally recognized rating agency) and (2) the rating of the Loans on any day during such Ratings Decline Period is below both of the ratings by such nationally recognized rating agency in effect (a) immediately preceding the first public announcement of the Change of Control (or occurrence thereof if such Change of Control occurs prior to public announcement) and (b) on the Closing Date; provided that a Change of Control Trigger Event will not be deemed to have occurred in respect of a particular Change of Control if such nationally recognized rating agency making the reduction in rating does not publicly announce or confirm or inform the Administrative Agent at our request that the reduction was the result, in whole or in part, of any event or circumstance comprised of or arising as a result of, or in respect of or in connection with the Change of Control. For the avoidance of doubt, no Change of Control Triggering Event will be deemed to have occurred in connection with any particular Change of Control unless and until such Change of Control has actually been consummated.

“Class” (i) when used in reference to any Loan or Borrowing, shall refer to whether such Loan, or the Loans comprising such Borrowing, are Tranche B Loans, New Term Loans (of each series), Extended Term Loans (of the same Extension series) or Replacement Term Loans (of the same series) and (ii) when used in reference to any Commitment, refers to whether such Commitment is a Tranche B Loan Commitment or a New Term Loan Commitment.

“Closing Date” means the date of the satisfaction (or waiver) of the conditions precedent set forth in Section 6 hereof.

“Co-Borrower” shall have the meaning given to such term in the preamble to this Agreement.

“Co-Managers” shall have the meaning given to such term in the preamble to this Agreement.

“Code” means the United States Internal Revenue Code of 1986, as amended.

“Collateral” shall have the meaning provided in any Security Document, provided, that, for purposes of this Agreement, Collateral shall not include any assets that are subject to Other Liens but do not secure the obligations and liabilities of the Company under this Agreement.

“Collateral Agency Agreement” means the Collateral Agency Agreement dated as of 29 September, 2006 among the Collateral Agents, the Borrowers, the Secured Parties and the Guarantors, as supplemented, amended or otherwise modified from time to time.

“Collateral Agent” shall have the meaning given to such term in the preamble to this Agreement.

“Commitment” shall mean, with respect to any Lender, such Lender’s Tranche B Commitment (if any) and New Term Loan Commitment (if any).

“Commitment Letter” means the letter dated March 1, 2015 as supplemented and amended by a joinder letter dated March 10, 2015, by and among the Company, the Administrative Agent, the Collateral Agent, the Lead Arrangers and the Co-Managers.

“Commodity Hedging Agreements” means in respect of a Person any commodity purchase contract, commodity futures or forward contract, commodities option contract or other similar contract (including commodities derivative agreements or arrangements), to which such Person is a party or a beneficiary.

“Communications” shall have the meaning provided in Section 13.20(a).

“Company” shall have the meaning given to such term in the preamble to this Agreement.

“Company Representations” shall mean the representations and warranties made by Target with respect to itself and its Subsidiaries in the Merger Agreement as are material to the interests of the Lenders, but only to the extent that Holdings (or one of Holdings’ Affiliates) has the right (taking into account any applicable cure provisions) to terminate its obligations under the Merger Agreement or decline to consummate the Acquisition as a result of a breach of such representations and warranties in the Merger Agreement.

“Compliance Certificate” means a certificate in substantially the form set forth in Schedule 1.1(c).

“Confidential Information” shall have the meaning provided in Section 13.19.

“Consolidated EBITDA” for any period means, without duplication, the Consolidated Net Income for such period, plus the following to the extent deducted in calculating such Consolidated Net Income:

- (a) Fixed Charges and items (A) through (F) in clause (a) of the definition of Consolidated Interest Expense;
- (b) Consolidated Income Taxes;
- (c) consolidated depreciation expense;
- (d) consolidated amortization or impairment expense;

(e) any expenses, charges or other costs related to any Equity Offering, Investment, acquisition (including one-time amounts paid in connection with the acquisition or retention of one or more individuals comprising part of a management team retained to manage the acquired business; provided that such payments are made in connection with such acquisition and are consistent with the customary practice in the industry at the time of such acquisition), disposition, recapitalization or the Incurrence of any Indebtedness permitted by this Agreement (in each case whether or not successful) (including any such fees, expenses or charges related to the Transactions (including any expenses in connection with related due diligence activities)), in each case, as determined in good faith by an Officer of the Company;

(f) any minority interest expense (whether paid or not) consisting of income attributable to minority equity interests of third parties in such period;

(g) the amount of management, monitoring, consulting and advisory fees and related expenses paid in such period to the Permitted Holders to the extent permitted by Section 10.6; and

(h) other non-cash charges, write-downs or items reducing Consolidated Net Income (excluding any such non-cash charge, write-down or item to the extent it represents an accrual of or reserve for cash charges in any future period) or other items classified by the Company as special items less other non-cash items of income increasing Consolidated Net Income (excluding any such non-cash item of income to the extent it represents a receipt of cash in any future period, or a reduced accrual or reserve for cash charges in any future period).

Notwithstanding the foregoing, the provision for taxes and the depreciation, amortization, non-cash items, charges and write-downs of a Restricted Subsidiary shall be added to Consolidated Net Income to compute Consolidated EBITDA only to the extent (and in the same proportion, including by reason of minority interests) that the net income (loss) of such Restricted Subsidiary was included in calculating Consolidated Net Income for the purposes of this definition.

“Consolidated Income Taxes” means taxes or other payments, including deferred Taxes, based on income, profits or capital (including without limitation withholding taxes) and franchise taxes of any of the Company and its Restricted Subsidiaries whether or not paid, estimated, accrued or required to be remitted to any Governmental Authority.

“Consolidated Interest Expense” means, with respect to any Person for any period, without duplication, the sum of:

(a) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, to the extent such expense was deducted (and not added back) in computing Consolidated Net Income (including (i) amortization of original issue discount resulting from the issuance of Indebtedness at less than par, (ii) all commissions, discounts and other fees and charges owed with respect to letters of credit or bankers acceptances, (iii) non-cash interest payments (but excluding any non-cash interest expense attributable to the movement in the mark to market valuation of Hedging Obligations or other derivative instruments pursuant to GAAP), (iv) the interest component of Capitalized Lease Obligations, and (v) net payments, if any, pursuant to interest rate Hedging Obligations with respect to Indebtedness, and excluding (A) accretion or accrual of discounted liabilities other than Indebtedness, (B) any expense resulting from the discounting of any Indebtedness in connection with the application of purchase accounting in connection with any acquisition, (C) any additional interest pursuant to a registration rights agreement with respect to any securities, (D) amortization

of deferred financing fees, debt issuance costs, commissions, fees and expenses, (E) any expensing of commitment and other financing fees, and (F) interest with respect to Indebtedness of any direct or indirect parent of such Person appearing upon the balance sheet of such Person solely by reason of push-down accounting under GAAP; plus

(b) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued; less

(c) interest income for such period.

For purposes of this definition, interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP.

“Consolidated Leverage” means the sum of the aggregate outstanding Indebtedness of the Company and its Restricted Subsidiaries (excluding Hedging Obligations except to the extent provided in Section 10.1(g)(iii)) minus cash and Cash Equivalents of the Company and its Restricted Subsidiaries.

“Consolidated Leverage Ratio” means, as of any date of determination, the ratio of (a) Consolidated Leverage at such date to (b) the aggregate amount of Consolidated EBITDA for the period of the most recent four consecutive fiscal quarters ending prior to the date of such determination for which internal consolidated financial statements of the Company are available; provided, however, that for the purposes of calculating Consolidated EBITDA for such period, if, as of such date of determination:

(i) since the beginning of such period the Company or any Restricted Subsidiary has disposed of any company, any business, or any group of assets constituting an operating unit of a business (any such disposition, a “Sale”) or if the transaction giving rise to the need to calculate the Consolidated Leverage Ratio is such a Sale, Consolidated EBITDA for such period will be reduced by an amount equal to the Consolidated EBITDA (if positive) attributable to the assets which are the subject of such Sale for such period or increased by an amount equal to the Consolidated EBITDA (if negative) attributable thereto for such period; provided that if any such Sale constitutes “discontinued operations” in accordance with the then applicable GAAP, Consolidated Net Income shall be reduced by an amount equal to the Consolidated Net Income (if positive) attributable to such operations for such period or increased by an amount equal to the Consolidated Net Income (if negative) attributable thereto for such period;

(ii) since the beginning of such period, the Company or any Restricted Subsidiary (by merger or otherwise) has made an Investment in any Person that thereby becomes a Restricted Subsidiary, or otherwise has acquired any company, any business, or any group of assets constituting an operating unit of a business (any such Investment or acquisition, a “Purchase”), including any such Purchase occurring in connection with a transaction causing a calculation to be made hereunder, Consolidated EBITDA for such period will be calculated after giving pro forma effect thereto, including anticipated synergies and cost savings (that are reasonably identifiable and factually supportable and



projected by the Company in good faith to result from actions that have been taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Company) within 18 months) as if such Purchase occurred on the first day of such period; and

(iii) since the beginning of such period, any Person (that became a Restricted Subsidiary or was merged or otherwise combined with or into the Company or any Restricted Subsidiary since the beginning of such period) will have made any Sale or any Purchase that would have required an adjustment pursuant to clause (i) or (ii) above if made by the Company or a Restricted Subsidiary since the beginning of such period, Consolidated EBITDA for such period will be calculated after giving pro forma effect thereto, including anticipated synergies and cost savings (that are reasonably identifiable and factually supportable and projected by the Company in good faith to result from actions that have been taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Company) within 18 months), as if such Sale or Purchase occurred on the first day of such period.

For the purposes of this definition and the definitions of Consolidated EBITDA, Consolidated Income Taxes, Consolidated Interest Expense, Consolidated Net Income and Fixed Charge Coverage Ratio, (a) calculations will be as determined in good faith by a responsible financial or chief accounting officer of the Company, including in respect of cost savings and synergies, (that are reasonably identifiable and factually supportable and projected by the Company in good faith to result from actions that have been taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Company) within 18 months) as though the full effect of synergies and cost savings were realized on the first day of the relevant period and shall also include the reasonably anticipated full run rate cost savings effect (as calculated in good faith by a responsible financial or chief accounting officer of the Company) of cost savings programs that have been initiated by the Company or its Restricted Subsidiaries as though such cost savings programs had been fully implemented on the first day of the relevant period and (b) in determining the amount of Indebtedness outstanding on any date of determination, pro forma effect shall be given to any Incurrence, repayment, repurchase, defeasance or other acquisition, retirement or discharge of Indebtedness as if such transaction had occurred on the first day of the relevant period.

“Consolidated Net Income” means, for any period, the net income (loss) of the Company and its Restricted Subsidiaries determined on a consolidated basis on the basis of GAAP; provided, however, that there will not be included in such Consolidated Net Income:

(a) subject to the limitations contained in clause (c) below, any net income (loss) of any Person if such Person is not a Restricted Subsidiary, except that the Company’s equity in the net income of any such Person for such period will be included in such Consolidated Net Income up to the aggregate amount of cash or Cash Equivalents actually distributed by such Person during such period to the Company or a Restricted Subsidiary as a dividend or other distribution or return on investment or (except in the case of SSMC so long as it is not a Restricted Subsidiary, but this exception shall only apply for the purposes of determining the amount available for Restricted Payments (other than Restricted Investments) under Section 10.2(c)(i) could have been distributed,

as reasonably determined by an Officer of the Company (subject, in the case of a dividend or other distribution or return on investment to a Restricted Subsidiary, to the limitations contained in clause (b) below);

(b) solely for the purpose of determining the amount available for Restricted Payments under Section 10.2(a)(iv)(C)(1), any net income (loss) of any Restricted Subsidiary (other than Guarantors) if such Subsidiary is subject to restrictions, directly or indirectly, on the payment of dividends or the making of distributions by such Restricted Subsidiary, directly or indirectly, to the Company or a Guarantor by operation of the terms of such Restricted Subsidiary's charter or any agreement, instrument, judgment, decree, order, statute or governmental rule or regulation applicable to such Restricted Subsidiary or its shareholders (other than (i) restrictions that have been waived or otherwise released, (ii) restrictions pursuant to this Agreement, the Revolving Credit Agreement, the Senior Notes or any Note Indenture, and (iii) restrictions permitted by Section 10.4), except that the Company's equity in the net income of any such Restricted Subsidiary for such period will be included in such Consolidated Net Income up to the aggregate amount of cash or Cash Equivalents actually distributed or that could have been distributed by such Restricted Subsidiary during such period to the Company or another Restricted Subsidiary as a dividend or other distribution (subject, in the case of a dividend to another Restricted Subsidiary, to the limitation contained in this clause);

(c) any net gain (or loss) realized upon the sale or other disposition of any asset or disposed operations of the Company or any Restricted Subsidiaries (including pursuant to any sale/leaseback transaction) which is not sold or otherwise disposed of in the ordinary course of business (as determined in good faith by an Officer or the Board of Directors of the Company);

(d) any extraordinary, exceptional, unusual or nonrecurring gain, loss or charge (as determined in good faith by the Company) or any charges or reserves in respect of any restructuring, redundancy or severance or any expenses, charges, reserves or other costs related to the Transactions (including (i) in relation to expenses relating to consulting or operational improvement initiatives, (ii) expenses associated with the closing out of existing management equity programs and (iii) start-up and transaction costs);

(e) the cumulative effect of a change in accounting principles;

(f) any non-cash compensation charge or expense arising from any grant of stock, stock options or other equity based awards and any non-cash deemed finance charges in respect of any pension liabilities or other provisions;

(g) all deferred financing costs written off and premiums paid or other expenses incurred directly in connection with any early extinguishment of Indebtedness and any net gain (loss) from any write-off or forgiveness of Indebtedness;

(h) any unrealized gains or losses in respect of Hedging Obligations or any ineffectiveness recognized in earnings related to qualifying hedge transactions or the fair value of changes therein recognized in earnings for derivatives that do not qualify as hedge transactions, in each case, in respect of Hedging Obligations;

(i) any unrealized foreign currency transaction gains or losses in respect of Indebtedness of any Person denominated in a currency other than the functional currency of such Person and any unrealized foreign exchange gains or losses relating to translation of assets and liabilities denominated in foreign currencies;

(j) any unrealized foreign currency translation or transaction gains or losses in respect of Indebtedness or other obligations of the Company or any Restricted Subsidiary owing to the Company or any Restricted Subsidiary;

(k) any purchase accounting effects including, but not limited to, adjustments to inventory, property and equipment, software and other intangible assets and deferred revenue in component amounts required or permitted by GAAP and related authoritative pronouncements (including the effects of such adjustments pushed down to the Company and the Restricted Subsidiaries), as a result of the Transactions or the disentanglement, any consummated acquisition (including in connection with the original purchase by the Initial Investors), or the amortization or write-off of any amounts thereof (including any write-off of in process research and development);

(l) any goodwill or other intangible asset impairment charge, amortization or write-off;

(m) (i) only to the extent not otherwise added back to Consolidated Net Income, depreciation and amortization expense to the extent in excess of capital expenditures on property, plant and equipment and (ii) Consolidated Income Taxes to the extent in excess of cash payments made in respect of such Consolidated Income Taxes; and

(n) the impact of capitalized, accrued or accreting or pay-in-kind interest or principal on Subordinated Shareholder Funding.

“Consolidated Net Tangible Assets” means, at any date, the total assets appearing on the Company’s most recent consolidated balance sheet, prepared in accordance with GAAP, less all current liabilities as shown on such balance sheet, and Intangible Assets.

“Consolidated Secured Leverage Ratio” means the Consolidated Leverage Ratio, but (a) calculated by excluding all Indebtedness other than Secured Indebtedness (except Secured Indebtedness Incurred pursuant to Section 10.1(b)(xiii) and secured only by assets in the applicable jurisdiction but, for the avoidance of doubt, including Indebtedness secured by Liens permitted under clause (u) of the definition of “Permitted Liens”) and (b) calculating Consolidated EBITDA for the purposes of such definition as though (i) consolidated depreciation expense included such expense of the Company and its consolidated Subsidiaries attributable to SSMC and Jilin and (ii) consolidated amortization expense included such expense of the Company and its consolidated Subsidiaries attributable to SSMC and Jilin.

“Contingent Obligations” means, with respect to any Person, any obligation of such Person guaranteeing in any manner, whether directly or indirectly, any operating lease, dividend or other obligation that does not constitute Indebtedness (“primary obligations”) of any other Person (the “primary obligor”), including any obligation of such Person, whether or not contingent:

(a) to purchase any such primary obligation or any property constituting direct or indirect security therefor;

(b) to advance or supply funds:

(i) for the purchase or payment of any such primary obligation; or

(ii) to maintain the working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor; or

(c) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

“CRD IV” means (a) Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012 and (b) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing directives 2006/48/EC and 2006/49/EC.

“Credit Documents” shall mean this Agreement, the Security Documents, the Guaranty (including any supplement thereto) and any promissory notes issued by any Borrower hereunder.

“Credit Facility” means, with respect to the Company or any of its Subsidiaries, one or more debt facilities, indentures or other arrangements (including this Agreement or commercial paper facilities and overdraft facilities) with banks, other financial institutions or investors providing for revolving credit loans, term loans, notes, receivables financing (including through the sale of receivables to such institutions or to special purpose entities formed to borrow from such institutions against such receivables), letters of credit or other Indebtedness, in each case, as amended, restated, modified, renewed, refunded, replaced, restructured, refinanced, repaid, increased or extended in whole or in part from time to time (and whether in whole or in part and whether or not with the original administrative agent and lenders or another administrative agent or agents or other banks or institutions and whether provided under this Agreement or one or more other credit or other agreements, indentures, financing agreements or otherwise) and in each case including all agreements, instruments and documents executed and delivered pursuant to or in connection with the foregoing (including any notes and letters of credit issued pursuant thereto and any Guarantee and collateral agreement, patent and trademark security agreement, mortgages or letter of credit applications and other Guarantees, pledges, agreements, security agreements and security documents). Without limiting the generality of the

foregoing, the term “Credit Facility” shall include any agreement or instrument (a) changing the maturity of any Indebtedness Incurred thereunder or contemplated thereby, (b) adding Subsidiaries of the Company as additional borrowers or guarantors thereunder, (c) increasing the amount of Indebtedness Incurred thereunder or available to be borrowed thereunder or (d) otherwise altering the terms and conditions thereof.

“Credit Party” shall mean each Borrower, each Guarantor or any other Subsidiary of the Company that is a party to a Credit Document.

“Currency Agreement” means in respect of a Person any foreign exchange contract, currency swap agreement, currency futures contract, currency option contract, currency derivative or other similar agreement to which such Person is a party or beneficiary.

“Debtor Relief Laws” means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally (including, in the case of Credit Parties incorporated or organized in England or Wales, administration, administrative receivership, voluntary arrangement and schemes of arrangement).

“Default” shall mean any event, act or condition that with notice or lapse of time, or both, would constitute an Event of Default.

“Defaulting Lender” shall mean any Lender with respect to which a Lender Default is in effect.

“Designated Non-Cash Consideration” means the fair market value (as determined in good faith by the Company) of non-cash consideration received by the Company or one of its Restricted Subsidiaries in connection with an Asset Disposition that is designated as Designated Non-Cash Consideration pursuant to an Officer’s Certificate, setting forth the basis of such valuation, less the amount of cash, Cash Equivalents or Temporary Cash Investments received in connection with a subsequent payment, redemption, retirement, sale or other disposition of such Designated Non-Cash Consideration. A particular item of Designated Non-Cash Consideration will no longer be considered to be outstanding when and to the extent it has been paid, redeemed or otherwise retired or sold or otherwise disposed of in compliance with Section 10.5.

“Designated Preference Shares” means, with respect to the Company or any Parent, Preferred Stock (other than Disqualified Stock) (a) that is issued for cash (other than to the Company or a Subsidiary of the Company or an employee stock ownership plan or trust established by the Company or any such Subsidiary for the benefit of their employees to the extent funded by the Company or such Subsidiary) and (b) that is designated as “Designated Preference Shares” pursuant to an Officer’s Certificate of the Company at or prior to the issuance thereof, the Net Cash Proceeds of which are excluded from the calculation set forth in Section 10.2(a)(iv)(C)(2).

“Disinterested Director” means, with respect to any Affiliate Transaction, a member of the Board of Directors of the Company having no material direct or indirect financial interest in or with respect to such Affiliate Transaction. A member of the Board of Directors of the Company shall be deemed not to have such a financial interest by reason of such member’s holding Capital Stock of the Company or any Parent or any options, warrants or other rights in respect of such Capital Stock.

“Disqualified Lender” means any bank, financial institution or other institutional lender or investor (a) that has been separately identified in writing by the Company to the Joint Lead Arrangers prior to the date of the Commitment Letter (or, if after such date, that are reasonably acceptable to the Joint Lead Arrangers holding (or which are affiliated with the Joint Lead Arrangers holding) a majority of the aggregate amount of outstanding financing commitments in respect of the Credit Facility on the date of the Commitment Letter, (b) those persons who are competitors of any Borrower or the Target and their respective subsidiaries that are separately identified in writing by the Company to the Administrative Agent from time to time, and (c) in the case of each of clauses (a) and (b), any of their Affiliates (other than any such Affiliate that is affiliated with a financial investor in such person and that is not itself an operating company or otherwise an Affiliate of an operating company so long as such Affiliate is a bona fide debt fund) that are either (i) identified in writing by the Company from time to time or (ii) clearly identifiable on the basis of such Affiliate’s name; provided that no such updates to the list shall be deemed to retroactively disqualify any person that has previously acquired an assignment or participation interest in the Loans with respect to such previously acquired interest.

“Disqualified Stock” means, with respect to any Person, any Capital Stock of such Person which by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable) or upon the happening of any event:

- (a) matures or is mandatorily redeemable for cash or in exchange for Indebtedness pursuant to a sinking fund obligation or otherwise;
- (b) is convertible or exchangeable for Indebtedness or Disqualified Stock (excluding Capital Stock which is convertible or exchangeable solely at the option of the Company or a Restricted Subsidiary); or
- (c) is or may become (in accordance with its terms) upon the occurrence of certain events or otherwise redeemable or repurchasable for cash or in exchange for Indebtedness at the option of the holder of the Capital Stock in whole or in part,

in each case on or prior to the Latest Maturity Date; provided, however, that (x) only the portion of Capital Stock which so matures or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date will be deemed to be Disqualified Stock and (y) any Capital Stock that would constitute Disqualified Stock solely because the holders thereof have the right to require the Company to repurchase such Capital Stock upon the occurrence of a change of control or asset sale (howsoever defined or referred to) shall not constitute Disqualified Stock if any such redemption or repurchase obligation is subject to compliance by the relevant Person with Section 10.2.

“Dutch Security Documents” shall mean the following documents, each dated 29 September 2006 and any amendments, supplements or other agreements entered into in connection therewith:

- (a) Pledge of Shares between NXP B.V., as pledgor, and Morgan Stanley Senior Funding, Inc., as pledgee, in relation to the shares in Philips Semiconductors B.V.;
- (b) Pledge of Shares between NXP B.V., as pledgor, and Morgan Stanley Senior Funding, Inc., as pledgee, in relation to the shares in Philips Software B.V.;
- (c) Pledge of Shares between KASLION Acquisition B.V., as pledgor, and Morgan Stanley Senior Funding, Inc., as pledgee, in relation to the shares in NXP B.V.;
- (d) Disclosed Pledge of Insurance Receivables between NXP B.V. and Philips Semiconductors B.V., as pledgors, and Morgan Stanley Senior Funding, Inc., as pledgee;
- (e) Disclosed Pledge of Intercompany Receivables between KASLION Acquisition B.V., NXP B.V. and Philips Semiconductors B.V., as pledgors, and Morgan Stanley Senior Funding, Inc., as pledgee;
- (f) Undisclosed Pledge of Third Party Receivables between NXP B.V. and Philips Semiconductors B.V., as pledgors, and Morgan Stanley Senior Funding, Inc., as pledgee;
- (g) Non-Possessory Pledge of Moveable Assets between KASLION Acquisition B.V., NXP B.V. and Philips Semiconductors B.V., as pledgors, and Morgan Stanley Senior Funding, Inc., as pledgee;
- (h) Pledge of IP Rights between NXP B.V., as pledgor, and Morgan Stanley Senior Funding, Inc., as pledgee; and
- (i) Deed of Mortgage between Philips Semiconductors B.V. and Morgan Stanley Senior Funding, Inc., as Global Collateral Agent.

“Effective Yield” shall mean, as to any Indebtedness, the effective yield on such Indebtedness in the reasonable determination of the Administrative Agent in consultation with the Borrowers and consistent with generally accepted financial practices, taking into account the applicable interest rate margins, any interest rate floors (the effect of which floors shall be determined in a manner set forth in the proviso below), or similar devices and all fees, including upfront or similar fees or original issue discount (amortized over the shorter of (i) the remaining weighted average life to maturity of such Indebtedness and (ii) the four years following the date of incurrence thereof) payable generally to Lenders or other institutions providing such Indebtedness, but excluding any arrangement, structuring, ticking, or other similar fees payable in connection therewith that are not generally shared with the relevant Lenders and, if applicable, consent fees for an amendment paid generally to consenting Lenders; provided that with respect to any Indebtedness that includes a “LIBOR floor” or “ABR floor,” (a) to the extent that the LIBOR Rate (with an Interest Period of one month) or ABR (without giving effect to any floors in such definitions), as applicable, on the date that the Effective Yield is being calculated is less than such floor, the amount of such difference shall be deemed added to the interest rate margin for such Indebtedness for the purpose of calculating the Effective Yield and (b) to the extent that the LIBOR Rate (with an Interest Period of one month) or ABR (without giving effect to any floors in such definitions), as applicable, on the date that the Effective Yield is being calculated is greater than such floor, then the floor shall be disregarded in calculating the Effective Yield.

“Enforcement Event” has the meaning given in the Collateral Agency Agreement.

“Environmental Law” shall mean any applicable Federal, state, foreign or local statute, Law, rule, regulation, ordinance, code and rule of common law now or hereafter in effect and in each case as amended, and any binding judicial or administrative interpretation thereof, including any binding judicial or administrative order, consent decree or judgment, relating to the protection of environment, including, without limitation, ambient air, surface water, groundwater, land surface and subsurface strata and natural resources such as wetlands, or human health or safety (to the extent relating to human exposure to hazardous materials), or hazardous materials.

“Equity Offering” means (a) a sale of Capital Stock of the Company (other than Disqualified Stock) other than offerings registered on Form S-8 (or any successor form) under the Securities Act or any similar offering in other jurisdictions, or (b) the sale of Capital Stock or other securities, the proceeds of which are contributed to the equity (other than through the issuance of Disqualified Stock or Designated Preference Shares or through an Excluded Contribution) of the Company or any of its Restricted Subsidiaries.

“Escrowed Proceeds” means the proceeds from the offering of any debt securities or other Indebtedness paid into an escrow account with an independent escrow agent on the date of the applicable offering or Incurrence pursuant to escrow arrangements that permit the release of amounts on deposit in such escrow account upon satisfaction of certain conditions or the occurrence of certain events. The term “Escrowed Proceeds” shall include any interest earned on the amounts held in escrow.

“Euro” and “€” means the lawful currency of Participating Member States.

“Euro Equivalent” shall mean, on any date of determination, (a) with respect to any amount denominated in Euro, such amount, and (b) with respect to any amount denominated in any Foreign Currency, the equivalent in Euro of such amount, determined by the Administrative Agent using the applicable Exchange Rate.

“Event of Default” shall have the meaning provided in Section 11.

“Exchange Act” means the U.S. Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder, as amended.

“Exchange Rate” means for the purposes of Section 10, the spot rate for the purchase of the Euro with the applicable currency other than Euro as published in The Financial Times in the “Currency Rates” section (or, if The Financial Times is no longer published, or if such information is no longer available in The Financial Times, such source as may be selected in good faith by the Company) on the date of such determination.

“Excluded Contribution” means Net Cash Proceeds or property or assets received by the Company as capital contributions to the equity (other than through the issuance of



Disqualified Stock or Designated Preference Shares) of the Company after February 14, 2013 or from the issuance or sale (other than to a Restricted Subsidiary or an employee stock ownership plan or trust established by the Company or any Subsidiary of the Company for the benefit of its employees to the extent funded by the Company or any Restricted Subsidiary) of Capital Stock (other than Disqualified Stock or Designated Preference Shares) of the Company, in each case, to the extent designated as an Excluded Contribution pursuant to an Officer's Certificate of the Company.

"Excluded Taxes" shall mean, with respect to any Agent, any Lender or (subject to Section 13.7(c)(ii)) any Participant (a) (i) net income taxes and franchise taxes (imposed in lieu of net income taxes) and capital taxes imposed on such Agent, such Lender or such Participant, in each case imposed on such Agent, such Lender or such Participant as a result of such Agent, such Lender or such Participant doing business in the jurisdiction of the Governmental Authority imposing such tax or any political subdivision or taxing authority thereof or therein (other than any such connection arising solely from such Agent, such Lender or such Participant having executed, delivered or performed its obligations or received a payment under, or having been a party to (or participating in) or having enforced this Agreement or any other Credit Document), (ii) any Taxes imposed on such Lender (including a Lender not party to this Agreement at the Closing Date) to the extent attributable to such Lender's failure to comply with Section 5.3(d) and (iii) any Taxes imposed on such Agent, such Lender or such Participant as a result of the gross negligence or willful misconduct of any Agent or Lender and (b) in the case of a Lender not party to this Agreement at the Closing Date, any withholding tax that is imposed on amounts payable to such Lender by a Relevant Taxing Jurisdiction under the law in effect at the time such Lender becomes a party to this Agreement (or, in the case of a Participant, on the date such Participant became a Participant hereunder); provided that this clause (b) shall not apply to the extent that (x) the indemnity payments or additional amounts any Lender (or Participant) would be entitled to receive (without regard to this clause (b)) do not exceed the indemnity payment or additional amounts that the person making the assignment, participation or transfer to such Lender (or Participant) would have been entitled to receive in the absence of such assignment, participation or transfer or (y) any Tax is imposed on a Lender in connection with an interest or participation in any Loan or other obligation that such Lender was required to acquire pursuant to Section 13.11(a) or that such Lender acquired pursuant to Section 13.8 (it being understood and agreed, for the avoidance of doubt, that any withholding tax imposed on a Lender or (subject to Section 13.7(c)(ii)) in respect of a Participant as a result of a Change in Law occurring after the time such Lender became a party to this Agreement (or designates a new lending office) or such Participant acquired its participation shall not be an Excluded Tax).

"Existing Fast Credit Facility" means the Third Amended and Restated Credit Agreement dated as of March 1, 2013 (as amended pursuant to (i) an Incremental Agreement, dated as of September 11, 2013 and (ii) the Replacement Revolving Credit Facility Agreement and Incremental Amendment dated as of February 10, 2014 and as amended, restated, and/or supplemented prior to the date hereof) by and among, Freescale Semiconductor, Inc. and certain affiliates thereof, the lenders from time to time party thereto, and Citibank, N.A., as administrative agent and collateral agent.

“Existing Fast Mortgages” means the following documents:

(a) the Deed of Trust, Assignment of Leases and Rents, Security Agreement and Financing Statement from Freescale Semiconductor, Inc. to Chicago Title Insurance Company, as trustee for the benefit of Citibank, N.A. as collateral agent, dated June 17, 2013 relating to the premises at 1300 North Alma School Road, Chandler, Arizona;

(b) the Deed of Trust, Assignment of Leases and Rents, Security Agreement and Financing Statement from Freescale Semiconductor, Inc. to Rebecca Conrad, as trustee for the benefit of Citibank, N.A., as Collateral Agent, dated June 17, 2013 relating to the premises at 3501 Ed Bluestein Boulevard, Austin, Texas; and

(c) the Deed of Trust, Assignment of Leases and Rents, Security Agreement and Financing Statement from Freescale Semiconductor, Inc. to Rebecca Conrad, as trustee for the benefit of Citibank, N.A., as Collateral Agent, dated June 17, 2013 relating to the premises at 6501 William Cannon Drive West, Austin, Texas.

“Existing Revolving Credit Facility” means the revolving facility agreement dated as of April 27, 2012, as amended by a joinder agreement dated October 24, 2012 (as amended, restated, supplemented or otherwise modified from time to time) by and among, Holdings, the Company, the Co-Borrower, the lending institutions from time to time party thereto, Morgan Stanley Senior Funding, Inc., as administrative agent and Collateral Agent and Mizuho Corporate Bank, Ltd., as Taiwan collateral agent.

“Existing Term Facility” means the term loan facility dated as of March 4, 2011, as amended by (i) the joinder and amendment agreement dated as of November 18, 2011, (ii) the new term loan joinder agreement dated as of February 16, 2012, (iii) the new term loan joinder agreement dated as of December 10, 2012, (iv) the 2013 new term loan joinder agreement dated as of November 27, 2013 and (v) the 2014 new term loan joinder agreement dated as of February 18, 2014, by and among the Company, the Co-Borrower, the lending institutions from time to time party thereto, Barclays Bank PLC, as administrative agent, Morgan Stanley Senior Funding, Inc., as Collateral Agent and Mizuho Corporate Bank, Ltd., as Taiwan collateral agent.

“Existing Term Loan Class” shall have the meaning provided in Section 2.14(e).

“Extended Repayment Date” shall have the meaning provided in Section 2.5(c).

“Extended Term Loan Repayment Amount” shall have the meaning provided in Section 2.5(c).

“Extended Term Loans” shall have the meaning provided in Section 2.14(e)(i).

“Extending Lender” shall have the meaning provided in Section 2.14(e)(ii).

“Extension Amendment” shall have the meaning provided in Section 2.14(e)(iii).

“Extension Date” shall have the meaning provided in Section 2.14(e)(iv).

“Extension Election” shall have the meaning provided in Section 2.14(e)(ii).

“Extension Request” shall mean a Loan Extension Request.

“Extension Series” shall mean all Extended Term Loans that are established pursuant to the same Extension Amendment (or any subsequent Extension Amendment to the extent such Extension Amendment expressly provides that the Extended Term Loans, provided for therein are intended to be a part of any previously established Extension Series) and that provide for the same interest margins, extension fees, and amortization schedule.

“fair market value” may be conclusively established by means of an Officer’s Certificate or a resolution of the Board of Directors of the Company setting out such fair market value as determined by such Officer or such Board of Directors in good faith.

“Fast Secured Notes” means (i) the 5.00% senior secured notes due 2021 issued pursuant to an indenture, dated as of May 21, 2013, among certain affiliates of Target and The Bank of New York Mellon Trust Company, N.A. as trustee, as amended, supplemented and otherwise modified from time to time, including pursuant to the Fast Secured Notes Consent (the “2021 Fast Secured Notes Indenture”), and (ii) the 6.00% senior secured notes due 2022 issued pursuant to an indenture, dated as of November 1, 2013, among certain affiliates of Target and Wells Fargo Bank, National Association, as trustee, as amended, supplemented and otherwise modified from time to time, including pursuant to the Fast Secured Notes Consent (the “2022 Fast Secured Notes Indenture” and, together with the 2021 Fast Secured Notes Indenture, the “Fast Secured Notes Indentures”).

“Fast Secured Notes Consent” means the consent with respect to certain amendments and waivers, including a change of control waiver, as they relate to the Fast Secured Notes.

“Fast Secured Notes Indentures” shall have the meaning assigned to such term in the definition of “Fast Secured Notes”.

“Federal Funds Effective Rate” shall mean, for any day, the weighted average of the *per annum* rates on overnight federal funds transactions with members of the Federal Reserve System, 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 rate charged for the day of such transactions to the Administrative Agent as determined by the Administrative Agent.

“Fee Letter” means the Agency Fee Letter and/or the Arranger Fee Letter.

“Fees” shall mean all amounts payable pursuant to, or referred to in, Section 4.1.

“Fitch” means Fitch Ratings or any of its successors or assigns that is a Nationally Recognized Statistical Rating Organization.

“Fixed Charge Coverage Ratio” means, with respect to any Person on any determination date, the ratio of (x) Consolidated EBITDA of such Person for the most recently completed four consecutive fiscal quarters ending immediately prior to such determination date for which internal consolidated financial statements are available to (y) the Fixed Charges of such Person for such four consecutive fiscal quarters. In the event that the Company or any Restricted Subsidiary Incurs, assumes, guarantees, redeems, defeases, retires or extinguishes any

Indebtedness (other than Indebtedness Incurred under any revolving credit facility unless such Indebtedness has been permanently repaid and has not been replaced) or issues or redeems Disqualified Stock or Preferred Stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated but prior to or simultaneously with the event for which the calculation of the Fixed Charge Coverage Ratio is made (the "Fixed Charge Coverage Ratio Calculation Date"), then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect to such Incurrence, assumption, guarantee, redemption, defeasance, retirement or extinguishment of Indebtedness, or such issuance or redemption of Disqualified Stock or Preferred Stock, as if the same had occurred at the beginning of the applicable four-quarter period.

For purposes of making the computation referred to above, any Investment, acquisitions, dispositions, mergers, consolidations and disposed operations that have been made by the Company or any of its Restricted Subsidiaries, including the Transactions, during the four-quarter reference period or subsequent to such reference period and on or prior to or simultaneously with the Fixed Charge Coverage Ratio Calculation Date shall be calculated on a pro forma basis assuming that all such Investments, acquisitions, dispositions, mergers, consolidations and disposed or discontinued operations (and the change in any associated fixed charge obligations and the change in Consolidated EBITDA resulting therefrom), including the full run rate effect of anticipated synergies and cost savings, (that are reasonably identifiable factually supportable and projected by the Company in good faith to result from actions that have been taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Company) within 18 months) had occurred on the first day of the four-quarter reference period. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into the Company or any of its Restricted Subsidiaries since the beginning of such period shall have made any Investment, acquisition, disposition, merger or consolidation or disposed or discontinued any operation that would have required adjustment pursuant to this definition, then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect thereto for such period as if such Investment, acquisition, disposition, merger, consolidation, disposal or discontinuance had occurred at the beginning of the applicable four-quarter period.

For purposes of this definition, whenever pro forma effect is to be given to a transaction, the pro forma calculations shall be made in good faith by a responsible financial or chief accounting officer of the Company, including cost savings and synergies, (that are reasonably identifiable and factually supportable and projected by the Company in good faith to result from actions that have been taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Company) within 18 months) as though the full effect of synergies and cost savings were realized on the first day of the relevant period and shall also include the reasonably anticipated full run rate cost savings effect (as calculated in good faith by a responsible financial or chief accounting officer of the Company) of cost savings programs that have been initiated by the Company or its Restricted Subsidiaries as though such cost savings programs had been fully implemented on the first day of the relevant period. If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Fixed Charge Coverage Ratio Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness). Interest on a

Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Company to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period except as set forth in the first paragraph of this definition. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be determined to have been based upon the rate actually chosen, or if none, then based upon such optional rate chosen as the Company may designate.

“Fixed Charges” means, with respect to any Person for any period, the sum of:

- (a) Consolidated Interest Expense of such Person for such period;
- (b) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Preferred Stock during such period; and
- (c) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Disqualified Stock during this period.

“FMSA” means the Dutch Financial Markets Supervision Act (*Wet financieël toezicht*).

“Foreign Currency” shall mean any currency other than Euro.

“Freescale US Properties” shall mean the premises owned by Freescale Semiconductor, Inc. at (a) 1300 North Alma School Road, Chandler, Arizona, (b) 3501 Ed Bluestein Boulevard, Austin, Texas and (c) 6501 William Cannon Drive West, Austin, Texas.

“GAAP” means generally accepted accounting principles in the United States of America as in effect on the date of any calculation or determination required hereunder. Except as otherwise set forth in this Agreement, all ratios and calculations based on GAAP contained in this Agreement shall be computed in accordance with GAAP. At any time after the Closing Date, the Company may elect to establish that GAAP shall mean the GAAP as in effect on or prior to the date of such election, provided that any such election, once made, shall be irrevocable. The Company shall give notice of either such election to the Administrative Agent and the Lenders. At any time after the Closing Date, the Company may elect to apply IFRS accounting principles in lieu of GAAP and, upon any such election, references herein to GAAP shall thereafter be construed to mean IFRS (except as otherwise provided in this Agreement), including as to the ability of the Company to make an election pursuant to the previous sentence provided that any such election, once made, shall be irrevocable; provided, further again, that the Company may only make such election if it also elects to report any subsequent financial reports required to be made by the Company including pursuant to this Agreement in IFRS. The Company shall give notice of any such election made in accordance with this definition to the Administrative Agent.

“Governmental Authority” shall mean any nation, sovereign, government or supra-national body, any state, province, territory or other political subdivision thereof, and any

entity or authority exercising executive, legislative, judicial, regulatory, self-regulatory or administrative functions of or pertaining to government, including a central bank or stock exchange.

“Guarantee” means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness of any other Person, including any such obligation, direct or indirect, contingent or otherwise, of such Person:

(a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness of such other Person (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take-or-pay or to maintain financial statement conditions or otherwise); or

(b) entered into primarily for purposes of assuring in any other manner the obligee of such Indebtedness of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part);

provided, however, that the term “Guarantee” will not include endorsements for collection or deposit in the ordinary course of business. The term “Guarantee” used as a verb has a corresponding meaning.

“Guarantor” means the Original Guarantors and each Additional Guarantor that Guarantees the obligations of the Borrowers under this Agreement pursuant to the Guaranty.

“Guaranty” means the Guaranty dated as of the date of this Agreement between, among others, the Administrative Agent and the Original Guarantors (as supplemented from time to time).

“Hazardous Materials” shall mean (a) any petroleum or petroleum products, radioactive materials, friable asbestos, urea formaldehyde foam insulation, transformers or other equipment that contain dielectric fluid containing regulated levels of polychlorinated biphenyls, and radon gas; (b) any chemicals, materials or substances defined as or included in the definition of “hazardous substances”, “hazardous waste”, “hazardous materials”, “extremely hazardous waste”, “restricted hazardous waste”, “toxic substances”, “toxic pollutants”, “contaminants”, or “pollutants”, or words of similar import, under any applicable Environmental Law; and (c) any other chemical, material or substance, which is prohibited, limited or regulated by any Environmental Law.

“Hedge Agreement” shall mean an Interest Rate Agreement, Currency Agreement or Commodity Hedging Agreement.

“Hedging Obligations” of any Person means the obligations of such Person pursuant to any Hedge Agreement.

“Holdings” shall have the meaning given to such term in the preamble to this Agreement.

“Immaterial Subsidiary” means any Restricted Subsidiary that has Total Assets and Consolidated EBITDA (in each case calculated on a basis consistent with the calculation of Total Assets and Consolidated EBITDA, but with respect to such Restricted Subsidiary rather than the Company) of less than 5.0% of the Company’s Total Assets and Consolidated EBITDA measured, in the case of Total Assets, at the end of the most recent fiscal period for which internal financial statements are available and, in the case of Consolidated EBITDA, for the four quarters ended most recently for which internal financial statements are available, in each case measured on a pro forma basis giving effect to any acquisitions or dispositions of companies, division or lines of business since such balance sheet date or the start of such four quarter period, as applicable, and on or prior to the date of acquisition of such subsidiary; provided, that if on the Closing Date the Existing Term Facility or any Senior Unsecured Notes is guaranteed by one or more Immaterial Subsidiaries that have Consolidated EBITDA that, in aggregate, exceeds the Consolidated EBITDA of those Restricted Subsidiaries that are required to guarantee this Agreement pursuant to Section 6.2 or 9.11(a) by more than 5% (such excess over 5%, the “Percentage Differential”), then the Company shall, within 60 days of the Closing Date, designate in writing to the Administrative Agent one or more Restricted Subsidiaries that would otherwise be Immaterial Subsidiaries as not being Immaterial Subsidiaries such that the Percentage Differential is no longer applicable.

“Impacted Loans” shall have the meaning provided in Section 2.10(a).

“Increased Amount Date” shall have the meaning provided in Section 2.14.

“Incur” means issue, create, assume, enter into any Guarantee of, incur, extend or otherwise become liable for; provided, however, that any Indebtedness or Capital Stock of a Person existing at the time such Person becomes a Restricted Subsidiary (whether by merger, consolidation, acquisition or otherwise) will be deemed to be Incurred by such Restricted Subsidiary at the time it becomes a Restricted Subsidiary and the terms “Incurred” and “Incurrence” have meanings correlative to the foregoing and any Indebtedness pursuant to any revolving credit or similar facility shall only be “Incurred” at the time any funds are borrowed thereunder.

“Indebtedness” means, with respect to any Person on any date of determination (without duplication):

- (a) the principal of indebtedness of such Person for borrowed money;
- (b) the principal of obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;
- (c) all reimbursement obligations of such Person in respect of letters of credit, bankers’ acceptances or other similar instruments (the amount of such obligations being equal at any time to the aggregate then undrawn and unexpired amount of such letters of credit or other instruments plus the aggregate amount of drawings thereunder that have not been reimbursed) (except to the extent such reimbursement obligations relate to trade payables and such obligations are satisfied within 30 days of Incurrence), in each case only to the extent that the underlying obligation in respect of which the instrument was issued would be treated as Indebtedness;

(d) the principal component of all obligations of such Person to pay the deferred and unpaid purchase price of property (except trade payables), where the deferred payment is arranged primarily as a means of raising finance, which purchase price is due more than one year after the date of placing such property in service or taking final delivery and title thereto;

(e) Capitalized Lease Obligations of such Person;

(f) the principal component of all obligations, or liquidation preference, of such Person with respect to any Disqualified Stock or, with respect to any Restricted Subsidiary, any Preferred Stock (but excluding, in each case, any accrued dividends);

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

(h) Guarantees by such Person of the principal component of Indebtedness of other Persons to the extent Guaranteed by such Person; and

(i) to the extent not otherwise included in this definition, net obligations of such Person under Currency Agreements and Interest Rate Agreements (the amount of any such obligations to be equal at any time to the termination value of such agreement or arrangement giving rise to such obligation that would be payable by such Person at such time).

The term "Indebtedness" shall not include Subordinated Shareholder Funding or any lease, concession or license of property (or Guarantee thereof) which would be considered an operating lease under GAAP as in effect on the Closing Date, any asset retirement obligations, any prepayments of deposits received from clients or customers in the ordinary course of business, or obligations under any license, permit or other approval (or Guarantees given in respect of such obligations) Incurred prior to the Closing Date or in the ordinary course of business.

The amount of Indebtedness of any Person at any time in the case of a revolving credit or similar facility shall be the total amounts of funds borrowed and then outstanding. The amount of Indebtedness of any Person at any date shall be determined as set forth above or otherwise provided in this Agreement, and (other than with respect to letters of credit or Guarantees or Indebtedness specified in clause (g) or (h) above) shall equal the amount thereof that would appear on a balance sheet of such Person (excluding any notes thereto) prepared on the basis of GAAP.



Notwithstanding the above provisions, in no event shall the following constitute Indebtedness:

(i) Contingent Obligations Incurred in the ordinary course of business;

(ii) in connection with the purchase by the Company or any Restricted Subsidiary of any business, any post-closing payment adjustments to which the seller may become entitled to the extent such payment is determined by a final closing balance sheet or such payment depends on the performance of such business after the closing; provided, however, that, at the time of closing, the amount of any such payment is not determinable and, to the extent such payment thereafter becomes fixed and determined, the amount is paid within 30 days thereafter; or

(iii) for the avoidance of doubt, any obligations in respect of workers' compensation claims, early retirement or termination obligations, pension fund obligations or contributions or similar claims, obligations or contributions or social security or wage Taxes.

"Indemnified Taxes" shall mean all Taxes (other than Excluded Taxes) and Other Taxes.

"Independent Financial Advisor" means an investment banking or accounting firm of international standing or any third party appraiser of international standing; provided, however, that such firm or appraiser is not an Affiliate of the Company.

"Information" shall have the meaning provided in Section 8.16.

"Initial Investors" means:

(1) KKR European Fund II, Limited Partnership, Bain Capital Fund IX, L.P., Bain Capital Fund VIII-E, L.P., Silver Lake Partners II Cayman, L.P., Apax Europe V-A, L.P., Apax Europe VI-A, L.P., AlpInvest Partners CS Investments 2006 C.V. and funds or partnerships related, managed or advised by any of them or any Affiliate of them; and

(2) Philips and its Subsidiaries.

"Initial Public Offering" means an Equity Offering of common stock or other common equity interests of the Company or any Parent or any successor of the Company or any Parent (the "IPO Entity") following which there is a Public Market and, as a result of which, the shares of common stock or other common equity interests of the IPO Entity in such offering are listed on an internationally recognized exchange or traded on an internationally recognized market.

"Intangible Assets" means the value (net of applicable reserves), as shown on or reflected in the Company's most recent consolidated balance sheet, of (i) all trade names, trademarks, licenses, patents, copyrights and goodwill, (ii) organizational and development costs, (iii) deferred charges (other than prepaid items such as insurance, taxes, interest, commissions, rents and similar items and tangible assets being amortized) and (iv) unamortized debt discount and expenses, less unamortized premium.

“Interest Period” shall mean, with respect to any Loan, the interest period applicable thereto, as determined pursuant to Section 2.9.

“Interest Rate Agreement” means with respect to any Person any interest rate protection agreement, interest rate future agreement, interest rate option agreement, interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedge agreement or other similar agreement or arrangement to which such Person is party or a beneficiary.

“Interpolated Rate” shall mean, with respect to the LIBOR Rate for any Loan, the rate which results from interpolating on a linear basis between: (a) the rate appearing on Reuters Screen LIBOR01 Page (or otherwise on the Reuters Screen) for the longest period (for which that rate is available) which is less than the Interest Period and (b) the rate appearing on Reuters Screen LIBOR01 Page (or otherwise on the Reuters Screen) for the shortest period (for which that rate is available) which exceeds the Interest Period, in each case as of approximately 11:00 A.M. (London time) on the date that is two Business Days prior to the commencement of such Interest Period.

“Investment” means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of any direct or indirect advance, loan or other extensions of credit (other than advances or extensions of credit to customers, suppliers, directors, officers or employees of any Person in the ordinary course of business, and excluding any debt or extension of credit represented by a bank deposit other than a time deposit) or capital contribution to (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others), or the Incurrence of a Guarantee of any obligation of, or any purchase or acquisition of Capital Stock, Indebtedness or other similar instruments issued by, such other Persons and all other items that are or would be classified as investments on a balance sheet prepared on the basis of GAAP; provided, however, that endorsements of negotiable instruments and documents in the ordinary course of business will not be deemed to be an Investment. If the Company or any Restricted Subsidiary issues, sells or otherwise disposes of any Capital Stock of a Person that is a Restricted Subsidiary such that, after giving effect thereto, such Person is no longer a Restricted Subsidiary, any Investment by the Company or any Restricted Subsidiary in such Person remaining after giving effect thereto will be deemed to be a new Investment at such time.

For purposes of Section 10.2:

(a) “Investment” will include the portion (proportionate to the Company’s equity interest in a Restricted Subsidiary to be designated as an Unrestricted Subsidiary) of the fair market value of the net assets of such Restricted Subsidiary of the Company at the time that such Restricted Subsidiary is designated an Unrestricted Subsidiary; provided, however, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Company will be deemed to continue to have a permanent “Investment” in an Unrestricted Subsidiary in an amount (if positive) equal to (i) the Company’s “Investment” in such Subsidiary at the time of such redesignation less (ii) the portion (proportionate to the Company’s equity interest in such Subsidiary) of the fair market value of the net assets (as conclusively determined by the Board of Directors of the Company in good faith) of such Subsidiary at the time that such Subsidiary is so re-designated a Restricted Subsidiary; and

(b) any property transferred to or from an Unrestricted Subsidiary will be valued at its fair market value at the time of such transfer, in each case as determined in good faith by the Board of Directors of the Company.

The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced (at the Company's option) by any dividend, distribution, interest payment, return of capital, repayment or other amount or value received in respect of such Investment.

"Investment Grade Securities" means:

(a) securities issued or directly and fully Guaranteed or insured by the United States or Canadian government or any agency or instrumentality thereof (other than Cash Equivalents);

(b) securities issued or directly and fully guaranteed or insured by a member of the European Union, or any agency or instrumentality thereof (other than Cash Equivalents);

(c) debt securities or debt instruments with a rating of "A-" or higher from S&P or "A3" or higher by Moody's or the equivalent of such rating by such rating organization or, if no rating of Moody's or S&P then exists, the equivalent of such rating by any other Nationally Recognized Statistical Ratings Organization, but excluding any debt securities or instruments constituting loans or advances among the Company and its Subsidiaries; and

(d) investments in any fund that invests exclusively in investments of the type described in clauses (a), (b) and (c) above which fund may also hold cash and Cash Equivalents pending investment or distribution.

"Investment Grade Status" shall occur when (i) the Company receives corporate credit ratings of and (ii) the Loans receive ratings of, in each case, at least two of the following:

(1) "BBB-" or higher from S&P;

(2) "Baa3" or higher from Moody's; and

(3) "BBB-" or higher from Fitch;

or the equivalent of such rating by any such rating organization or, if no rating of Moody's, S&P or Fitch then exists, the equivalent of such rating by any other Nationally Recognized Statistical Ratings Organization.

"Investors" means The Blackstone Group, The Carlyle Group, Permira funds advised by Permira Advisers LLC, Texas Pacific Group and, if applicable, each of their respective Affiliates and funds or partnerships managed by any of them or their respective Affiliates but not including, however, any portfolio companies of any of the foregoing.

“IPO Market Capitalization” means an amount equal to (a) the total number of issued and outstanding shares of common stock or common equity interests of the IPO Entity at the time of closing of the Initial Public Offering multiplied by (b) the price per share at which such shares of common stock or common equity interests are sold in such Initial Public Offering.

“Jilin” means Jilin NXP Semiconductors Ltd. (formerly known as Philips Jilin Semiconductors Company) or any successor entity or business thereto.

“Joint Bookrunners” shall have the meaning given to such term in the preamble to this Agreement.

“Joint Lead Arrangers” shall have the meaning given to such term in the preamble to this Agreement.

“Latest Maturity Date” shall mean, at any date of determination, the latest Maturity Date applicable to any Loan hereunder at such time, including the latest maturity date of any Extended Term Loan, as extended in accordance with this Agreement from time to time.

“Law” includes common or customary law, principles of equity and any constitution, code of practice, decree, judgment, decision, legislation, order, ordinance, regulation, by-law, statute, treaty or other legislative measure in any jurisdiction or any present or future directive, regulation, guideline, request, rule or requirement (in each case, whether or not having the force of law but, if not having the force of law, the compliance with which is in accordance with the general practice of persons to whom the directive, regulation, guideline, request, rule or requirement is intended to apply) of any Governmental Authority.

“Legal Reservations” means:

(a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganization and other laws of any applicable jurisdiction generally affecting the rights of creditors;

(b) the time barring of claims under the applicable limitation laws, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of stamp duty (or similar taxes) may be void and defences of set-off or counterclaim; and

(c) any other matters which are set out as qualifications or reservations as to matters of law in the legal opinions referred to in Section 6 and delivered to the Administrative Agent at the Closing Date or later delivered in connection with the provision of any Guarantee or Lien under any Security Document.

“Lender” shall have the meaning given to such term in the preamble to this Agreement.

“Lender Default” shall mean (a) the failure (which has not been cured) of a Lender to make available its portion of any Borrowing, unless such failure is the subject of a good faith dispute, (b) a Lender having notified the Administrative Agent and/or the Borrowers that it does not intend to comply with the obligations under Section 2.1(a) or (c) a Lender becoming the subject of a bankruptcy or insolvency proceeding.

“LIBOR Loan” shall mean any Loan bearing interest at the rate provided in Section 2.8(c).

“LIBOR Rate” shall mean,

(i) for any Interest Period with respect to a LIBOR Loan, (a) the rate per annum equal to the offered rate administered by ICE Benchmark Administration (“LIBOR”) or a comparable or successor rate, which rate is approved by the Administrative Agent, on the applicable Reuters screen page (or such other commercially available source providing such quotations of LIBOR as designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period multiplied by (b) the Statutory Reserve Rate; provided that, to the extent that an interest rate is not ascertainable pursuant to the foregoing provisions of this definition, “LIBOR Rate “ shall be the Interpolated Rate, for a period equal in length to the Interest Period of the Loan; provided further that, notwithstanding the foregoing, in no event shall the LIBOR Rate applicable to the Loans made on the Closing Date at any time be less than 0.75% per annum; and

(ii) for any interest calculation with respect to an ABR Loan on any date, the rate per annum equal to LIBOR, at or about 11:00 a.m., London time determined on such date for Dollar deposits with a term of one month commencing that day;

provided that to the extent a comparable or successor rate is approved by the Administrative Agent in connection herewith, the approved rate shall be applied in a manner consistent with market practice; provided, further, that to the extent such market practice is not administratively feasible for the Administrative Agent, such approved rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent in consultation with the Borrower.

“Lien” means any mortgage, pledge, security interest, encumbrance, lien or charge of any kind (including any conditional sale or other title retention agreement or lease in the nature thereof).

“Loan” shall mean any ABR Loan or LIBOR Loan made by any Lender hereunder (and shall include in any event the Tranche B Loans, any New Term Loans and any Extended Term Loans).

“Loan Extension Request” shall have the meaning set forth in Section 2.14(e).

“Loan Repayment Amount” shall mean a Tranche B Loan Repayment Amount, a New Term Loan Repayment Amount or an Extended Term Loan Repayment Amount.

“Management Advances” means loans or advances made to, or Guarantees with respect to loans or advances made to, directors, officers, employees or consultants of any Parent, the Company or any Restricted Subsidiary:

- (a) (i) in respect of travel, entertainment or moving related expenses Incurred in the ordinary course of business or (ii) for purposes of funding any such person’s purchase of Capital Stock or Subordinated Shareholder Funding (or similar obligations) of the Company, its Subsidiaries or any Parent with (in the case of this sub-clause (ii)) the approval of the Board of Directors;
- (b) in respect of moving related expenses Incurred in connection with any closing or consolidation of any facility or office; or
- (c) not exceeding €5,000,000 in the aggregate outstanding at any time.

“Management Investors” means the officers, directors, employees and other members of the management of or consultants to any Parent, the Company or any of their respective Subsidiaries, or spouses, family members or relatives thereof, or any trust, partnership or other entity for the benefit of or the beneficial owner of which (directly or indirectly) is any of the foregoing, or any of their heirs, executors, successors and legal representatives, who at any date beneficially own or have the right to acquire, directly or indirectly, Capital Stock of the Company, any Restricted Subsidiary or any Parent.

“Market Capitalization” means an amount equal to (a) the total number of issued and outstanding shares of common stock or common equity interests of the IPO Entity on the date of the declaration of the relevant dividend multiplied by (b) the arithmetic mean of the closing prices per share of such common stock or common equity interests for the 30 consecutive trading days immediately preceding the date of declaration of such dividend.

“Material Adverse Effect” means a material adverse effect on:

- (a) the consolidated business, assets or financial condition of the Company and its Subsidiaries taken as a whole such that the Company and its Subsidiaries taken as a whole would be reasonably likely to be unable to perform their payment obligations under any of the Credit Documents; and/or
- (b) subject to the Legal Reservations and the Agreed Security Principles, the validity of any security granted pursuant to the Credit Documents to which any Credit Party is a party in any way which is materially adverse to the interests of the Lenders under the Credit Documents taken as a whole and, without duplication of any other cure period, if capable of remedy, not remedied within 20 Business Days of the Company becoming aware of the issue or being given notice of the issue by the Administrative Agent.

“Maturity Date” shall mean the Tranche B Loan Maturity Date, the New Term Loan Maturity Date or the maturity date of the Extended Term Loan, as applicable.

“Merger Agreement” means the agreement and plan of merger dated March 1, 2015, by and among, Holdings, MergerSub and Target.

“MergerSub” shall have the meaning given to such term in the preamble to this Agreement.

“MFN Provision” shall have the meaning provided in Section 2.14(d)

“Moody’s” means Moody’s Investors Service, Inc. or any of its successors or assigns that is a Nationally Recognized Statistical Rating Organization.

“Nationally Recognized Statistical Rating Organization” means a nationally recognized statistical rating organization within the meaning of Section 3(a)(62) of the Exchange Act.

“Net Available Cash” from an Asset Disposition means cash payments received (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or otherwise and net proceeds from the sale or other disposition of any securities received as consideration, but only as and when received, but excluding any other consideration received in the form of assumption by the acquiring person of Indebtedness or other obligations relating to the properties or assets that are the subject of such Asset Disposition or received in any other non-cash form) therefrom, in each case net of:

(a) all legal, accounting, investment banking, title and recording tax expenses, commissions and other fees and expenses Incurred, and all Taxes paid or required to be paid or accrued as a liability under GAAP (after taking into account any available tax credits or deductions and any Tax Sharing Agreements), as a consequence of such Asset Disposition;

(b) all payments made on any Indebtedness which is secured by any assets subject to such Asset Disposition, in accordance with the terms of any Lien upon such assets, or which by applicable law be repaid out of the proceeds from such Asset Disposition;

(c) all distributions and other payments required to be made to minority interest holders (other than any Parent, the Company or any of their respective Subsidiaries) in Subsidiaries or joint ventures as a result of such Asset Disposition; and

(d) the deduction of appropriate amounts required to be provided by the seller as a reserve, on the basis of GAAP, against any liabilities associated with the assets disposed of in such Asset Disposition and retained by the Company or any Restricted Subsidiary after such Asset Disposition.

“Net Cash Proceeds,” with respect to any issuance or sale of Capital Stock or Subordinated Shareholder Funding, means the cash proceeds of such issuance or sale net of attorneys’ fees, accountants’ fees, underwriters’ or placement agents’ fees, listing fees, discounts or commissions and brokerage, consultant and other fees and charges actually Incurred in connection with such issuance or sale and net of taxes paid or payable as a result of such issuance or sale (after taking into account any available tax credit or deductions and any tax sharing arrangements).

“New Term Loan” shall have the meaning provided in Section 2.14(b).

“New Term Loan Commitments” shall have the meaning provided in Section 2.14.

“New Term Loan Joinder Agreement” shall have the meaning provided in Section 2.14.

“New Term Loan Maturity Date” shall mean the date on which the New Term Loan matures.

“New Term Loan Repayment Amount” shall have the meaning provided in Section 2.5.

“New Term Loan Repayment Date” shall mean, for each New Term Loan, the date or dates set forth in each New Term Loan Joinder Agreement as being the dates that the New Term Loan is required to be repaid.

“New Term Loans” shall have the meaning provided in Section 2.14.

“Non-Consenting Lender” shall have the meaning provided in Section 13.8(b).

“Non-Defaulting Lender” shall mean and include each Lender other than a Defaulting Lender.

“Note Indenture” means the Unsecured Note Indentures.

“Notice of Borrowing” shall have the meaning provided in Section 2.3(a).

“Notice of Conversion or Continuation” shall have the meaning provided in Section 2.6.

“Officer” means, with respect to any Person, (a) the Chairman of the Board of Directors, the Chief Executive Officer, the President, the Chief Financial Officer, any Vice President, the Treasurer, any Managing Director (or any two Managing Directors if elected by such Credit Party) or the Secretary (i) of such Person or (ii) if such Person is owned or managed by a single entity, of such entity; or (b) any other individual designated as an “Officer” for the purposes of this Agreement by the Board of Directors of such Person.

“Officer’s Certificate” means, with respect to any Person, a certificate signed by one Officer (or two officers, if elected by such Person) of such Person.

“Opinion of Counsel” means a written opinion from legal counsel reasonably satisfactory to the Administrative Agent. The counsel may be an employee of or counsel to the Company or its Subsidiaries.



“Original Credit Party” means each of the Company, the Co-Borrower and the Original Guarantors.

“Original Guarantors” means each of NXP Semiconductors Netherlands B.V, NXP B.V., NXP Funding LLC, NXP Semiconductors Taiwan Ltd., Freescale Semiconductor Holdings V, Inc. and Freescale Semiconductor, Inc.

“Other Creditors” shall have the meaning given in Section 10.13(b).

“Other Liens” shall have the meaning given in Section 10.13(b).

“Other Taxes” shall mean any and all present or future stamp, documentary or any other excise, property or similar taxes (including interest, fines, penalties, additions to tax and related expenses with regard thereto) arising directly from any payment made or required to be made under this Agreement or from the execution or delivery of, registration or enforcement of, consummation or administration of, or otherwise with respect to, this Agreement or any other Credit Document, other than any such taxes that arise from the assignment or participation of any rights or obligations under this Agreement in accordance with Section 13.7.

“Parallel Debt” means, in relation to the Underlying Debt, an obligation to pay to the Collateral Agent an amount equal to (and in the same currency as) the amount of the Underlying Debt outstanding from time to time.

“Parallel Debt Secured Party” shall have the meaning provided in Section 9.19(a).

“Parent” means any Person of which the Company at any time is or becomes a Subsidiary after the Closing Date and any holding companies established by any Permitted Holder for purposes of holding its investment in any Parent.

“Parent Expenses” means:

(a) costs (including all professional fees and expenses) Incurred by any Parent in connection with reporting obligations under or otherwise Incurred in connection with compliance with applicable laws, rules or regulations of any Governmental Authority, this Agreement, the Senior Notes or any other agreement or instrument relating to Indebtedness of the Company or any Restricted Subsidiary, including in respect of any reports filed with respect to the Securities Act, Exchange Act or the respective rules and regulations promulgated thereunder;

(b) customary indemnification obligations of any Parent owing to directors, officers, employees or other Persons under its charter or by-laws or pursuant to written agreements with any such Person to the extent relating to the Company and its Subsidiaries;

(c) obligations of any Parent in respect of director and officer insurance (including premiums therefor) to the extent relating to the Company and its Subsidiaries;

(d) Transaction Expenses;

(e) general corporate overhead expenses, including (i) professional fees and expenses and other operational expenses of any Parent related to the ownership or operation of the business of the Company or any of its Restricted Subsidiaries or (ii) costs and expenses with respect to any litigation or other dispute relating to the Transactions;

(f) other fees, expenses and costs relating directly or indirectly to activities of the Company and its Subsidiaries or any Parent or any other Person which holds directly or indirectly any Capital Stock or Subordinated Shareholder Funding of the Company in an amount not to exceed €25,000,000 in any fiscal year; and

(g) expenses Incurred by any Parent in connection with any public offering or other sale of Capital Stock or Indebtedness:

(i) where the net proceeds of such offering or sale are intended to be received by or contributed to the Company or a Restricted Subsidiary,

(ii) in a pro-rated amount of such expenses in proportion to the amount of such net proceeds intended to be so received or contributed, or

(iii) otherwise on an interim basis prior to completion of such offering so long as any Parent shall cause the amount of such expenses to be repaid to the Company or the relevant Restricted Subsidiary out of the proceeds of such offering promptly if completed.

“Pari Passu Indebtedness” means Indebtedness of the Company or any Guarantor if such Indebtedness ranks equally in right of payment to the Loans (or the Guaranty with respect thereto, in the case of a Guarantor) and is, in each case, secured by Liens on assets of the Company or such Guarantor.

“Participant” shall have the meaning provided in Section 13.7(c).

“Participating Member State” means any member state of the European Communities that adopts or has adopted the Euro as its lawful currency in accordance with legislation of the European Community relating to Economic and Monetary Union.

“Patriot Act” shall have the meaning provided in Section 13.21.

“Permitted Asset Swap” means the concurrent purchase and sale or exchange of assets used or useful in a Similar Business or a combination of such assets and cash, Cash Equivalents or Temporary Cash Investments between the Company or any of its Restricted Subsidiaries and another Person; provided that any cash or Cash Equivalents received in excess of the value of any cash or Cash Equivalents sold or exchanged must be applied in accordance with Section 10.5.

“Permitted Holders” means each of the Investors and members of management of the Company or its direct or indirect parent companies (including the Parent) on the Closing Date (following the closing of the Acquisition) who are holders of equity interests of the Company (or any of its direct or indirect parent companies) and any group (within the meaning

of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act or any successor provision) of which any of the foregoing are members; provided, that, in the case of such group and without giving effect to the existence of such group or any other group, such Investors and members of management, collectively, have beneficial ownership of more than 50% of the total voting power of the Voting Stock of the Company or any of its direct or indirect parent companies held by such group.

“Permitted Investment” means (in each case, by the Company or any of its Restricted Subsidiaries):

(a) Investments in (i) a Restricted Subsidiary (including the Capital Stock of a Restricted Subsidiary) or the Company or (ii) a Person (including the Capital Stock of any such Person) that is engaged in any Similar Business and such Person will, upon the making of such Investment, become a Restricted Subsidiary;

(b) Investments in another Person if such Person is engaged in any Similar Business and as a result of such Investment such other Person is merged, consolidated or otherwise combined with or into, or transfers or conveys all or substantially all its assets to, the Company or a Restricted Subsidiary;

(c) Investments in cash, Cash Equivalents, Temporary Cash Investments or Investment Grade Securities;

(d) Investments in receivables owing to the Company or any Restricted Subsidiary created or acquired in the ordinary course of business;

(e) Investments in payroll, travel and similar advances to cover matters that are expected at the time of such advances ultimately to be treated as expenses for accounting purposes and that are made in the ordinary course of business;

(f) Management Advances;

(g) Investments in Capital Stock, obligations or securities received in settlement of debts created in the ordinary course of business and owing to the Company or any Restricted Subsidiary, or as a result of foreclosure, perfection or enforcement of any Lien, or in satisfaction of judgments or pursuant to any plan of reorganization or similar arrangement including upon the bankruptcy or insolvency of a debtor;

(h) Investments made as a result of the receipt of non-cash consideration from a sale or other disposition of property or assets, including an Asset Disposition (but excluding a Permitted Asset Swap), in each case, that was made in compliance with Section 10.5;

(i) Investments in existence on, or made pursuant to legally binding commitments in existence on the Closing Date;

(j) Currency Agreements, Interest Rate Agreements, Commodity Hedging Agreements and related Hedging Obligations, which transactions or obligations are Incurred in compliance with Section 10.1;

(k) Investments, taken together with all other Investments made pursuant to this clause (k) and at any time outstanding, in an aggregate amount at the time of such Investment not to exceed €300,000,000; provided that, if an Investment is made pursuant to this clause in a Person that is not a Restricted Subsidiary and such Person subsequently becomes a Restricted Subsidiary or is subsequently designated a Restricted Subsidiary pursuant to Section 10.2, such Investment shall thereafter be deemed to have been made pursuant to clause (a) or (b) of the definition of "Permitted Investments" and not this clause;

(l) pledges or deposits with respect to leases or utilities provided to third parties in the ordinary course of business or Liens otherwise described in the definition of "Permitted Liens" or made in connection with Liens permitted under the covenant described under Section 10.3;

(m) any Investment to the extent made using Capital Stock of the Company (other than Disqualified Stock) or Capital Stock of any Parent as consideration;

(n) any transaction to the extent constituting an Investment that is permitted and made in accordance with the provisions of Section 10.6(b) (except those described in Section 10.6(c)(i), 10.6(c)(iii), 10.6(c)(vi), 10.6(c)(viii), 10.6(c)(ix) and 10.6(c)(xii));

(o) Investments consisting of purchases and acquisitions of inventory, supplies, materials and equipment or licenses or leases of intellectual property, in any case, in the ordinary course of business and in accordance with this Agreement;

(p) Guarantees not prohibited by Section 10.1 and (other than with respect to Indebtedness) guarantees, keepwells and similar arrangements in the ordinary course of business;

(q) Investments (i) in SSMC to increase the Company's percentage ownership thereof; provided that, after giving effect to such Investment, the Company is able to incur €1.00 of Indebtedness under Section 10.1(a) or (ii) in SSMC or any other Person partially financed by a Singapore government agency (or another project finance with a local or multilateral Governmental Authority) in an aggregate amount under this sub-clause (ii) not to exceed €300,000,000;

(r) Loans to Jilin on terms consistent with past practices between Jilin and Philips, not to exceed €25,000,000 at any one time outstanding;

(s) Investments in research and development programs to fund research and development activities and maintenance capital expenditures in an aggregate amount not to exceed €290.0 million plus €50.0 million per annum thereafter (with a carryover of unused amounts) less any amounts invested on or after October 12, 2006 and prior to February 14, 2013 pursuant to comparable provisions of notes issued by the Company; and

(t) Investments in Permitted Joint Ventures not to exceed, in the aggregate, the greater of €250,000,000 and 5% of Total Assets plus, in each case, an amount equal to 100% of the dividends or distributions (including payments received in respect of loans and advances) received by the Company or a Restricted Subsidiary from any Investment from a Permitted Joint Venture (which Investment was made in reliance on this clause (t) (which dividends or distributions are not included in the calculation under Section 10.2(a)(iv)(C)); provided that if an Investment is made pursuant to this clause in a Person that is not a Restricted Subsidiary and such Person is subsequently designated a Restricted Subsidiary pursuant to Section 10.2, such Investment shall thereafter be deemed to have been made pursuant to clause (a) of the definition of Permitted Investments and not this clause.

“Permitted Joint Venture” means (a) any corporation, association or other business entity (other than a partnership) that is not a Restricted Subsidiary and that, in each case, is engaged primarily in a Similar Business and of which a portion of the Capital Stock is at the time of determination owned or controlled, directly or indirectly, by the Company or one or more Restricted Subsidiaries or a combination thereof and (b) any partnership, joint venture, limited liability company or similar entity that is not a Restricted Subsidiary and that, in each case, is engaged primarily in a Similar Business and of which a portion of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, are at the time of determination, owned or controlled, directly or indirectly, by the Company or one or more Restricted Subsidiaries or a combination thereof, whether in the form of membership, general, special or limited partnership interests or otherwise.

“Permitted Liens” means, with respect to any Person:

(a) Liens on assets or property of a Restricted Subsidiary that is not any of the Borrowers or a Guarantor securing Indebtedness of any Restricted Subsidiary that is not any of the Borrowers or a Guarantor;

(b) pledges, deposits or Liens under workmen’s compensation laws, unemployment insurance laws, social security laws or similar legislation, or insurance related obligations (including pledges or deposits securing liability to insurance carriers under insurance or self-insurance arrangements), or in connection with bids, tenders, completion guarantees, contracts (other than for borrowed money) or leases, or to secure utilities, licenses, public or statutory obligations, or to secure surety, indemnity, judgment, appeal or performance bonds, guarantees of government contracts (or other similar bonds, instruments or obligations), or as security for contested taxes or import or customs duties or for the payment of rent, or other obligations of like nature, in each case Incurred in the ordinary course of business;

(c) Liens imposed by law, including carriers’, warehousemen’s, mechanics’, landlords’, materialmen’s and repairmen’s or other like Liens, in each case for sums not yet overdue for a period of more than 60 days or that are bonded or being contested in good faith by appropriate proceedings;

(d) Liens for taxes, assessments or other governmental charges not yet delinquent or which are being contested in good faith by appropriate proceedings; provided that appropriate reserves required pursuant to GAAP have been made in respect thereof;

(e) Liens in favor of issuers of surety, performance or other bonds, guarantees or letters of credit or bankers' acceptances (not issued to support Indebtedness for borrowed money) issued pursuant to the request of and for the account of the Company or any Restricted Subsidiary in the ordinary course of its business;

(f) encumbrances, ground leases, easements (including reciprocal easement agreements), survey exceptions, or reservations of, or rights of others for, licenses, rights of way, sewers, electric lines, telegraph and telephone lines and other similar purposes, or zoning, building codes or other restrictions (including minor defects or irregularities in title and similar encumbrances) as to the use of real properties or Liens incidental to the conduct of the business of the Company and its Restricted Subsidiaries or to the ownership of its properties which do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of the Company and its Restricted Subsidiaries;

(g) Liens on assets or property of the Company or any Restricted Subsidiary securing Hedging Obligations permitted under this Agreement;

(h) leases, licenses, subleases and sublicenses of assets (including real property and intellectual property rights), in each case entered into in the ordinary course of business;

(i) Liens arising out of judgments, decrees, orders or awards not giving rise to an Event of Default so long as any appropriate legal proceedings which may have been duly initiated for the review of such judgment, decree, order or award have not been finally terminated or the period within which such proceedings may be initiated has not expired;

(j) Liens on assets or property of the Company or any Restricted Subsidiary for the purpose of securing Capitalized Lease Obligations or Purchase Money Obligations, or securing the payment of all or a part of the purchase price of, or securing other Indebtedness Incurred to finance or refinance the acquisition, improvement or construction of, assets or property acquired or constructed in the ordinary course of business; provided that (i) the aggregate principal amount of Indebtedness secured by such Liens is otherwise permitted to be Incurred under this Agreement and (ii) any such Lien may not extend to any assets or property of the Company or any Restricted Subsidiary other than assets or property acquired, improved, constructed or leased with the proceeds of such Indebtedness and any improvements or accessions to such assets and property;

(k) Liens arising by virtue of any statutory or common law provisions relating to banker's Liens, rights of set-off or similar rights and remedies as to deposit accounts or other funds maintained with a depository or financial institution;

(l) Liens arising from Uniform Commercial Code financing statement filings (or similar filings in other applicable jurisdictions) regarding operating leases entered into by the Company and its Restricted Subsidiaries in the ordinary course of business;

(m) Liens existing on the Closing Date;

(n) Liens on property, other assets or shares of stock of a Person at the time such Person becomes a Restricted Subsidiary (or at the time the Company or a Restricted Subsidiary acquires such property, other assets or shares of stock, including any acquisition by means of a merger, consolidation or other business combination transaction with or into the Company or any Restricted Subsidiary); provided, however, that such Liens are not created, Incurred or assumed in anticipation of or in connection with such other Person becoming a Restricted Subsidiary (or such acquisition of such property, other assets or stock); provided, further, that such Liens are limited to all or part of the same property, other assets or stock (plus improvements, accession, proceeds or dividends or distributions in connection with the original property, other assets or stock) that secured (or, under the written arrangements under which such Liens arose, could secure) the obligations to which such Liens relate;

(o) Liens on assets or property of the Company or any Restricted Subsidiary securing Indebtedness or other obligations of the Company or such Restricted Subsidiary owing to the Company or another Restricted Subsidiary, or Liens in favor of the Company or any Restricted Subsidiary;

(p) Liens securing Refinancing Indebtedness Incurred to refinance Indebtedness that was previously so secured, and permitted to be secured under this Agreement; provided that any such Lien is limited to all or part of the same property or assets (plus improvements, accessions, proceeds or dividends or distributions in respect thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure) the Indebtedness being refinanced or is in respect of property that is or could be the security for or subject to a Permitted Lien hereunder;

(q) any interest or title of a lessor under any Capitalized Lease Obligation or operating lease;

(r) (i) mortgages, liens, security interests, restrictions, encumbrances or any other matters of record that have been placed by any government, statutory or regulatory authority, developer, landlord or other third party on property over which the Company or any Restricted Subsidiary of the Company has easement rights or on any leased property and subordination or similar arrangements relating thereto and (ii) any condemnation or eminent domain proceedings affecting any real property;

(s) any encumbrance or restriction (including put and call arrangements) with respect to Capital Stock of any joint venture or similar arrangement pursuant to any joint venture or similar agreement;

(t) Liens on property or assets under construction (and related rights) in favor of a contractor or developer or arising from progress or partial payments by a third party relating to such property or assets;

(u) Liens on cash accounts securing Indebtedness incurred under Section 10.1(b)(xi) with local financial institutions;

(v) Liens on Escrowed Proceeds for the benefit of the related holders of debt securities or other Indebtedness (or the underwriters or arrangers thereof) or on cash set aside at the time of the Incurrence of any Indebtedness or government securities purchased with such cash, in either case to the extent such cash or government securities prefund the payment of interest on such Indebtedness and are held in an escrow account or similar arrangement to be applied for such purpose;

(w) Liens securing or arising by reason of any netting or set-off arrangement entered into in the ordinary course of banking or other trading activities or Liens over cash accounts securing cash pooling or cash management arrangements;

(x) Liens arising out of conditional sale, title retention, hire purchase, consignment or similar arrangements for the sale of goods entered into in the ordinary course of business;

(y) Liens Incurred in the ordinary course of business with respect to obligations (other than Indebtedness for borrowed money) which do not exceed €50,000,000 at any one time outstanding;

(z) Liens on Capital Stock or other securities or assets of any Unrestricted Subsidiary that secure Indebtedness of such Unrestricted Subsidiary;

(aa) any security granted over the marketable securities portfolio described in clause (i) of the definition of "Cash Equivalents" in connection with the disposal thereof to a third party; and

(bb) other Liens (including successive extensions, renewals, alterations or replacements thereof) not excepted by clauses (a) through (aa) above, provided that after giving effect thereto the aggregate principal amount of the Secured Indebtedness of the Company and its Restricted Subsidiaries secured by such Liens does not exceed the greater of (A) the Post Merger Amount, (B) the amount that would cause the Consolidated Secured Leverage Ratio to exceed 2.5 to 1.0 and (C) 15% of the Consolidated Net Tangible Assets, in each case after giving effect to such Incurrence and the application of the proceeds therefrom.

"Permitted Other Provision" shall have the meaning in Section 2.14(e).



“Person” means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company, government or any agency or political subdivision thereof or any other entity.

“Philips” means Koninklijke Philips Electronics N.V.

“Platform” shall have the meaning provided in Section 13.20(b).

“Post Merger Amount” means an amount equal to the aggregate principal amount of Secured Indebtedness (i) that has been, or is available to be, drawn under the Revolving Credit Agreement on the Closing Date, (ii) that the Company or any of its Subsidiaries have outstanding as of the Closing Date (including, without limitation, the Loans), plus (iii) that will remain outstanding at the Target or any of its Subsidiaries upon completion of the Acquisition (including, without limitation, the Fast Secured Notes).

“Preferred Stock,” as applied to the Capital Stock of any Person, means Capital Stock of any class or classes (however designated) which is preferred as to the payment of dividends or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such Person, over shares of Capital Stock of any other class of such Person.

“Prime Rate” shall mean the rate of interest per annum determined from time to time by Credit Suisse AG as its prime rate in effect at its principal office in New York City and notified to the Borrower. The prime rate is a rate set by Credit Suisse AG based upon various factors including Credit Suisse AG’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such rate.

“Public Lender” shall have the meaning provided in Section 13.21(b).

“Public Market” means any time after:

(a) an Equity Offering has been consummated; and

(b) shares of common stock or other common equity interests of the IPO Entity having a market value in excess of €100,000,000 on the date of such Equity Offering have been distributed pursuant to such Equity Offering.

“Public Offering” means any offering, including an Initial Public Offering, of shares of common stock or other common equity interests that are listed on an exchange or publicly offered (which shall include an offering pursuant to Rule 144A and/or Regulation S under the Securities Act to professional market investors or similar persons).

“Purchase Money Obligations” means any Indebtedness Incurred to finance or refinance the acquisition, leasing, construction or improvement of property (real or personal) or assets (including Capital Stock), and whether acquired through the direct acquisition of such property or assets or the acquisition of the Capital Stock of any Person owning such property or assets, or otherwise.

“Ratings Decline Period” means, with respect to any Change of Control, the period that (1) begins on the earlier of (a) the date of the first public announcement of the occurrence of such Change of Control or of the intention by the Company or a stockholder of the Company, as applicable, to effect such Change of Control or (b) the occurrence of such Change of Control and (2) ends on the 60th day following consummation of such Change of Control; provided, however, that such period shall be extended for so long as the rating of the Loans, as noted by the applicable rating agency, is under publicly announced consideration for downgrade by the applicable rating agency.

“Refinance” means refinance, refund, replace, renew, repay, modify, restate, defer, substitute, supplement, reissue, resell, extend or increase (including pursuant to any defeasance or discharge mechanism) and the terms “refinances,” “refinanced” and “refinancing” as used for any purpose in this Agreement shall have a correlative meaning.

“Refinanced Term Loans” shall have the meaning given to that term in Section 13.2.

“Refinancing Indebtedness” means Indebtedness that is Incurred to refund, refinance, replace, exchange, renew, repay or extend (including pursuant to any defeasance or discharge mechanism) any Indebtedness existing on the date of this Agreement or Incurred in compliance with this Agreement (including Indebtedness of the Company that refinances Indebtedness of any Restricted Subsidiary and Indebtedness of any Restricted Subsidiary that refinances Indebtedness of the Company or another Restricted Subsidiary) including Indebtedness that refinances Refinancing Indebtedness; provided, however, that:

(a) if the Indebtedness being refinanced constitutes Subordinated Indebtedness, the Refinancing Indebtedness has a final Stated Maturity at the time such Refinancing Indebtedness is Incurred that is the same as or later than the final Stated Maturity of the Indebtedness being refinanced or, if shorter, this Agreement;

(b) such Refinancing Indebtedness is Incurred in an aggregate principal amount (or if issued with original issue discount, an aggregate issue price) that is equal to or less than the sum of the aggregate principal amount (or if issued with original issue discount, the aggregate accreted value) then outstanding of the Indebtedness being refinanced (plus, without duplication, any additional Indebtedness Incurred to pay interest or premiums required by the instruments governing such existing Indebtedness and costs, expenses and fees Incurred in connection therewith);

(c) if the Indebtedness being refinanced is expressly subordinated to this Agreement, such Refinancing Indebtedness is subordinated to this Agreement on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being refinanced;

provided, however, that Refinancing Indebtedness shall not include Indebtedness of the Company or a Restricted Subsidiary that refinances Indebtedness of an Unrestricted Subsidiary.

Refinancing Indebtedness in respect of any Credit Facility or any other Indebtedness may be Incurred from time to time after the termination, discharge or repayment of any such Credit Facility or other Indebtedness.

“Register” shall have the meaning provided in Section 13.7(b)(iii).

“Regulation D” shall mean Regulation D of the Board as from time to time in effect and any successor to all or a portion thereof establishing reserve requirements.

“Regulation T” shall mean Regulation T of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

“Regulation U” shall mean Regulation U of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

“Regulation X” shall mean Regulation X of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

“Related Parties” shall mean, with respect to any specified Person, such Person’s controlled Affiliates and the directors, officers, employees, agents, trustees, advisors, members of such Person and any Person that possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise, and any successors of each of the foregoing.

“Related Person” with respect to any Permitted Holder means:

- (a) any controlling equityholder or Subsidiary of such Person; or
- (b) in the case of an individual, any spouse, family member or relative of such individual, any trust or partnership for the benefit of one or more of such individual and any such spouse, family member or relative, or the estate, executor, administrator, committee or beneficiaries of any thereof; or
- (c) any trust, corporation, partnership or other Person for which one or more of the Permitted Holders and other Related Persons of any thereof constitute the beneficiaries, stockholders, partners or owners thereof, or Persons beneficially holding in the aggregate a majority (or more) controlling interest therein; or
- (d) in the case of the Initial Investors any investment fund or vehicle managed, sponsored or advised by such Person or any successor thereto, or by any Affiliate of such Person or any such successor.

“Related Taxes” means

- (a) any Taxes, including sales, use, transfer, rental, ad valorem, value added, stamp, property, consumption, franchise, license, capital, registration, business, customs, net worth, gross receipts, excise, occupancy, intangibles or similar Taxes (other than (x) Taxes measured by income and (y) withholding imposed on payments made by any Parent), required to be paid (provided such Taxes are in fact paid) by any Parent by virtue of its:
  - (i) being organized or having Capital Stock outstanding (but not by virtue of owning stock or other equity interests of any corporation or other entity other than, directly or indirectly, the Company or any of the Company’s Subsidiaries);

- (ii) issuing or holding Subordinated Shareholder Funding;
  - (iii) being a holding company parent, directly or indirectly, of the Company or any of the Company's Subsidiaries;
  - (iv) receiving dividends from or other distributions in respect of the Capital Stock of, directly or indirectly, the Company or any of the Company's Subsidiaries; or
  - (v) having made any payment in respect to any of the items for which the Company is permitted to make payments to any Parent pursuant to Section 10.2; or
- (b) if and for so long as the Company is a member of a group filing a consolidated or combined tax return with any Parent, any Taxes measured by income for which such Parent is liable up to an amount not to exceed with respect to such Taxes the amount of any such Taxes that the Company and its Subsidiaries would have been required to pay on a separate company basis or on a consolidated basis if the Company and its Subsidiaries had paid tax on a consolidated, combined, group, affiliated or unitary basis on behalf of an affiliated group consisting only of the Company and its Subsidiaries.

"Relevant Interbank Market" means the London interbank market.

"Relevant Jurisdiction Guarantor" shall have the meaning given to that term in Section 9.12.

"Relevant Jurisdictions" shall have the meaning given to that term in Section 9.12.

"Relevant Percentage" shall mean at any time, for each Lender, (i) on or prior to the Closing Date, the percentage obtained by dividing (a) such Lender's Commitment by (b) the aggregate amount of the Commitments and (ii) after the Closing Date, the percentage obtained by dividing (a) the outstanding principal amount of such Lender's Loans by (b) the aggregate outstanding principal amount of all Lenders' Loans at such time.

"Relevant Taxing Jurisdiction" shall mean any jurisdiction in which the Borrowers are organized or otherwise considered to be a resident for tax purposes at the time such Lender becomes a party to this Agreement, or any political subdivision or Governmental Authority thereof or therein having the power to tax.

“Replacement Term Loan” shall have the meaning given to that term in Section 13.2(e).

“Repricing Transaction” shall mean the prepayment, refinancing, substitution or replacement of all or a portion of the Loans (excluding any New Term Loans) with the incurrence by any Borrower or any Restricted Subsidiary of any Indebtedness consisting of broadly syndicated term loans having an Effective Yield that is less than the Effective Yield of such Loans so repaid, refinanced, substituted or replaced, including without limitation, as may be effected through any amendment, amendment or restatement or other modifications to this Agreement relating to the interest rate for, or weighted average yield of, such Loans or the incurrence of any Replacement Term Loans, in each case the primary purpose (as determined by the Borrowers in good faith) of which is to reduce such Effective Yield and other than in connection with a Change of Control, Initial Public Offering or Transformative Acquisition.

“Required Lenders” shall mean, at any date, Non-Defaulting Lenders holding more than 50% of the aggregate principal amount of Loans outstanding (or, prior to the Closing Date, having more than 50% of the Adjusted Total Commitment), in each case, as at such date; provided, that the aggregate principal amount of Loans held by the Company or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or any Guarantor (other than any investment fund managed or advised by an Initial Sponsor or an Affiliate of an Initial Sponsor that is a bona fide debt fund and that extends or buys loans in ordinary course of business) shall be disregarded in all respects in the determination of the Required Lenders at any time.

“Requirement of Law” shall mean, as to any Person, the Certificate of Incorporation and by-laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or assets or to which such Person or any of its property or assets is subject.

“Responsible Officer” means:

(a) when used with respect to the Administrative Agent, any officer within the Loan Operations Group (or any successor group of the Administrative Agent) or any other officer of the Administrative Agent customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject; or

(b) when used with respect to any Credit Party or any of its Subsidiaries, the chief executive officer, chief financial officer, where customary in the relevant jurisdiction, any Managing Director (or any two Managing Directors, if elected by such Credit Party), treasurer, controller or any other senior officer (or two such officers, if the relevant Credit Party so elects) authorized to represent such Credit Party and designated as such by the Company in writing to the Administrative Agent.

“Restricted Investment” means any Investment other than a Permitted Investment.

“Restricted Payment” has the meaning given in Section 10.2(a)(iv).

“Restricted Subsidiary” means any Subsidiary of the Company other than an Unrestricted Subsidiary.

“Revolving Credit Agreement” means the \$600,000,000 senior revolving credit facility agreement dated on or about the date hereof, by and among, the parties to this Agreement and certain others party thereto from time to time.

“RF Power Disposition” shall mean any disposal of all the shares and material assets comprising the RF power business of the Company and its Subsidiaries.

“S&P” means Standard & Poor’s Investors Ratings Services or any of its successors or assigns that is a Nationally Recognized Statistical Rating Organization.

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

“Section 2.14 Additional Amendment” shall have the meaning assigned to such term in Section 2.14(e).

“Secured Indebtedness” means any Indebtedness secured by a Lien.

“Secured Obligations” shall have the meaning assigned to such term in the Security Documents.

“Secured Parties” shall have the meaning assigned to such term in the applicable Security Documents.

“Securities Act” means the U.S. Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder, as amended.

“Security Documents” shall mean, collectively, (a) the Collateral Agency Agreement, (b) the US Security Documents (c) the Dutch Security Documents and (d) each other security agreement or other instrument or document executed and delivered pursuant to Section 9.12, Section 9.17 or pursuant to any of the Security Documents to secure any of the Secured Obligations.

“Senior Management” means the officers, directors, and other members of Senior Management of the Company or any of its Subsidiaries, who at any date beneficially own or have the right to acquire, directly or indirectly, Capital Stock of the Company or any Parent and with an equity investment in excess of €250,000.

“Senior Notes” means the Senior Unsecured Notes and the Fast Secured Notes.

“Senior Unsecured Notes” means the senior unsecured notes issued by the Company pursuant to each Unsecured Note Indenture.

“Significant Subsidiary” means any Restricted Subsidiary that meets any of the following conditions:

(a) the Company’s and its Restricted Subsidiaries’ investments in and advances to the Restricted Subsidiary exceed 10% of the Total Assets of the Company and its Restricted Subsidiaries on a consolidated basis as of the end of the most recently completed fiscal year;

(b) the Company’s and its Restricted Subsidiaries’ proportionate share of the total assets (after intercompany eliminations) of the Restricted Subsidiary exceeds 10% of the Total Assets of the Company and its Restricted Subsidiaries on a consolidated basis as of the end of the most recently completed fiscal year; or

(c) the Company’s and its Restricted Subsidiaries’ equity in the income from continuing operations before income taxes, extraordinary items and cumulative effect of a change in accounting principle of the Restricted Subsidiary exceeds 10% of such income of the Company and its Restricted Subsidiaries on a consolidated basis for the most recently completed fiscal year.

“Similar Business” means (a) any businesses, services or activities engaged in by the Company or any of its Subsidiaries or any Associates on the Closing Date and (b) any businesses, services and activities engaged in by the Company or any of its Subsidiaries or any Associates that are related, complementary, incidental, ancillary or similar to any of the foregoing or are extensions or developments of any thereof.

“Specified Representations” shall mean the representations and warranties made by the Borrowers set forth in Sections 8.1(a) and 8.1(b) (as related to the borrowing under, guaranteeing under, granting of security interests in the Collateral to, and performance of, the Credit Documents), 8.2(a), 8.2(b)(A) (only in respect of the certificate or articles of incorporation or other constitutive documents or by-laws of any Credit Party and as related to the borrowing under, guaranteeing under, granting of security interests in the Collateral to, and performance of, the Credit Documents), 8.3, 8.5, 8.6, 8.7 and 8.8 (on the Closing Date only and after giving effect to the Transactions).

“SSMC” means Systems on Silicon Manufacturing Company Pte or any successor entity or business thereto. For purposes of Section 10.2 and the definition “Asset Disposition” references to SSMC shall also refer to any Unrestricted Subsidiary (x) any Capital Stock or debt of which is owned directly or indirectly by SSMC or (y) which has received a cash distribution or dividend from SSMC.

“Stated Maturity” means, with respect to any security, the date specified in such security as the fixed date on which the payment of principal of such security is due and payable, including pursuant to any mandatory redemption provision, but shall not include any contingent obligations to repay, redeem or repurchase any such principal prior to the date originally scheduled for the payment thereof.

“Statutory Reserve Rate” shall mean for any day as applied to any LIBOR Loan, a fraction (expressed as a decimal), the numerator of which is the number one and the denominator

of which is the number one minus the aggregate of the maximum reserve percentages that are in effect on that day (including any marginal, special, emergency or supplemental reserves), expressed as a decimal, as prescribed by the Board and to which the Administrative Agent is subject, for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the Board). Such reserve percentages shall include those imposed pursuant to such Regulation D. LIBOR Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

"Subordinated Indebtedness" means, with respect to any person, any Indebtedness (whether outstanding on the Closing Date or thereafter Incurred) which is expressly subordinated in right of payment to the obligations of the Borrowers under this Agreement pursuant to a written agreement.

"Subordinated Shareholder Funding" means, collectively, any funds provided to the Company by a Parent in exchange for or pursuant to any security, instrument or agreement other than Capital Stock, together with any such security, instrument or agreement and any other security or instrument other than Capital Stock issued in payment of any obligation under any Subordinated Shareholder Funding; provided, however, that such Subordinated Shareholder Funding:

(a) does not mature or require any amortization, redemption or other repayment of principal or any sinking fund payment prior to the seventh anniversary of this Agreement (other than through conversion or exchange of such funding into Capital Stock (other than Disqualified Stock) of the Company or any funding meeting the "requirements of this definition);

(b) does not require, prior to the seventh anniversary of this Agreement, payment of cash interest, cash withholding amounts or other cash gross-ups, or any similar cash amounts;

(c) contains no change of control or similar provisions and does not accelerate and has no right to declare a default or event of default or take any enforcement action or otherwise require any cash payment, in each case, prior to the seventh anniversary of this Agreement;

(d) does not provide for or require any security interest or encumbrance over any asset of the Company or any of its Subsidiaries; and

(e) pursuant to its terms is fully subordinated and junior in right of payment to this Agreement and the Senior Notes pursuant to subordination, payment blockage and enforcement limitation terms which are customary in all material respects for similar funding.



“Subsidiary” means, with respect to any Person:

(a) any corporation, association, or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof; or

(b) any partnership, joint venture, limited liability company or similar entity of which:

(i) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof whether in the form of membership, general, special or limited partnership interests or otherwise; and

(ii) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

“Successor Parent” with respect to any Person means any other Person with more than 50% of the total voting power of the Voting Stock of which is, at the time the first Person becomes a Subsidiary of such other Person, “beneficially owned” (as defined below) by one or more Persons that “beneficially owned” (as defined below) more than 50% of the total voting power of the Voting Stock of the first Person immediately prior to the first Person becoming a Subsidiary of such other Person and, for the avoidance of doubt, Holdings constitutes a “Successor Parent” of the Company. For purposes hereof, “beneficially own” has the meaning correlative to the term “beneficial owner,” as such term is defined in Rules 13d-3 and 13d-5 under the Exchange Act (as in effect on the Closing Date).

“Target” shall have the meaning given to such term in the preamble to this Agreement.

“Tax Credit” means any credit against any Taxes or any relief or remission for Taxes (or their repayment).

“Tax Distribution” shall mean any distribution permitted to be paid pursuant to Section 10.2(c)(ix)(A).

“Taxes” means all present and future taxes, levies, imposts, deductions, charges, duties and withholdings and any charges of a similar nature (including interest, penalties and other liabilities with respect thereto) that are imposed by any Governmental Authority.

“Tax Sharing Agreement” means any tax sharing or profit and loss pooling or similar agreement with customary or arm’s-length terms entered into with any Parent or Unrestricted Subsidiary, as the same may be amended, supplemented, waived or otherwise modified from time to time in accordance with the terms thereof and of this Agreement.

“Temporary Cash Investments” means any of the following:

(a) any investment in:

(i) direct obligations of, or obligations Guaranteed by, (A) the United States of America or Canada, (B) any European Union member state, (C) Switzerland or Norway, (D) any country in whose currency funds are being held specifically pending application in the making of an investment or capital expenditure by the Company or a Restricted Subsidiary in that country with such funds or (E) any agency or instrumentality of any such country or member state, or

(ii) direct obligations of any country recognized by the United States of America rated at least “A” by S&P or “A-1” by Moody’s (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any Nationally Recognized Statistical Rating Organization);

(b) overnight bank deposits, and investments in time deposit accounts, certificates of deposit, bankers’ acceptances and money market deposits (or, with respect to foreign banks, similar instruments) maturing not more than one year after the date of acquisition thereof issued by:

(i) any Lender or any lender under the Revolving Credit Agreement;

(ii) any institution authorized to operate as a bank in any of the countries or member states referred to in subclause (a)(i) above; or

(iii) any bank or trust company organized under the laws of any such country or member state or any political subdivision thereof;

in each case, having capital and surplus aggregating in excess of €250,000,000 (or the Foreign Currency equivalent thereof) and whose long-term debt is rated at least “A” by S&P or “A-2” by Moody’s (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any Nationally Recognized Statistical Rating Organization) at the time such Investment is made;

(c) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clause (a) or (b) above entered into with a Person meeting the qualifications described in clause (b) above;

(d) Investments in commercial paper, maturing not more than 270 days after the date of acquisition, issued by a Person (other than the Company or any of its Subsidiaries), with a rating at the time as of which any Investment therein is made of “P-2” (or higher) according to Moody’s or “A-2” (or higher) according to S&P (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any Nationally Recognized Statistical Rating Organization);

(e) Investments in securities maturing not more than one year after the date of acquisition issued or fully Guaranteed by any state, commonwealth or territory of the United States of America, Canada, any European Union member state or Switzerland, Norway or by any political subdivision or taxing authority of any such state, commonwealth, territory, country or member state, and rated at least “BBB” by S&P or “Baa3” by Moody’s (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any Nationally Recognized Statistical Rating Organization);

(f) bills of exchange issued in the United States, Canada, a member state of the European Union, Switzerland, Norway or Japan eligible for rediscount at the relevant central bank and accepted by a bank (or any dematerialized equivalent);

(g) any money market deposit accounts issued or offered by a commercial bank organized under the laws of a country that is a member of the Organization for Economic Co-operation and Development, in each case, having capital and surplus in excess of €250,000,000 (or the Foreign Currency equivalent thereof) or whose long term debt is rated at least “A” by S&P or “A2” by Moody’s (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any Nationally Recognized Statistical Rating Organization) at the time such Investment is made;

(h) investment funds investing 95% of their assets in securities of the type described in clauses (a) through (g) above (which funds may also hold reasonable amounts of cash pending investment and/or distribution); and

(i) investments in money market funds complying with the risk limiting conditions of Rule 2a-7 (or any successor rule) of the SEC under the U.S. Investment Company Act of 1940, as amended.

“Total Assets” means the consolidated total assets of the Company and its Restricted Subsidiaries in accordance with GAAP as shown on the most recent balance sheet of such Person;

“Total Commitments” shall mean the sum of the Commitments of all the Lenders.

“Tranche” shall mean, in relation to any Loan, whether such Loan is a Tranche B Loan or an additional tranche as contemplated by and designated pursuant to Section 2.14 or Section 13.2.

“Tranche B Commitment” shall mean (a) with respect to each Lender that is a Lender on the Closing Date, the amount set forth opposite such Lender’s name on Schedule 1.1(b) as such Lender’s “Tranche B Commitment” and (b) in the case of any Lender that becomes a Lender after the date hereof, the amount specified as such Lender’s “Tranche B Commitment” in the Assignment and Acceptance pursuant to which such Lender assumed a

portion of the total Tranche B Commitments, in each case of the same may be changed from time to time pursuant to terms hereof. The aggregate amount of the Tranche B Commitments as of the date of this Agreement is \$2,700,000,000.

“Tranche B Lender” shall mean a Lender with a Tranche B Commitment or an outstanding Tranche B Loan.

“Tranche B Loan” shall have the meaning provided in Section 2.1(a).

“Tranche B Loan Maturity Date” means December 7, 2020.

“Tranche B Loan Repayment Amount” shall have the meaning given to such term in Section 2.5(a).

“Tranche B Loan Repayment Date” shall have the meaning given to such term in Section 2.5(a).

“Transactions” shall mean, collectively, the transactions contemplated by this Agreement, the Revolving Credit Agreement, the Acquisition, the Fast Secured Notes Consent, the consummation of any other transactions in connection with the foregoing (including in connection with the Merger Agreement and the payment of the fees and expenses incurred in connection with any of the foregoing (including the Transaction Expenses)).

“Transaction Expenses” shall mean any fees or expenses incurred or paid by the Holdings, the Company or any of its Subsidiaries in connection with the Transactions, this Agreement and the other Credit Documents and the transactions contemplated hereby and thereby.

“Transferee” shall have the meaning provided in Section 13.7(e).

“Transformative Acquisition” shall mean any acquisition by the Borrowers or any Restricted Subsidiary that either (a) is not permitted by the terms of the Credit Documents immediately prior to the consummation of such acquisition or (b) if permitted by the terms of the Credit Documents immediately prior to the consummation of such acquisition, would not provide the Borrowers and their Subsidiaries with adequate flexibility under the Credit Documents for the continuation and/or contemplated expansion of their combined operations following such consummation, as determined by the Company acting in good faith.

“Type” shall mean, in relation to any Loan, its nature as an ABR Loan or as a LIBOR Loan.

“Underlying Debt” means, in relation to each of the Credit Parties and at any given time, each obligation (whether present or future, actual or contingent) owing by that Credit Party to a Parallel Debt Secured Party under the Credit Documents (including, for the avoidance of doubt, any change or increase in those obligations pursuant to or in connection with any amendment or supplement or restatement or novation of this Agreement, whether or not anticipated as of the date of this Agreement) excluding that obligor’s Parallel Debts.

“Uniform Commercial Code” means the New York Uniform Commercial Code.

“Unrestricted Subsidiary” means SSMC, Jilin and:

- (a) any Subsidiary of the Company (other than the Co-Borrower) that at the time of determination is an Unrestricted Subsidiary (as designated by the Board of Directors of the Company in the manner provided below); and
- (b) any Subsidiary of an Unrestricted Subsidiary.

The Board of Directors of the Company may designate any Subsidiary of the Company (including any newly acquired or newly formed Subsidiary or a Person becoming a Subsidiary through merger, consolidation or other business combination transaction, or Investment therein) to be an Unrestricted Subsidiary only if:

- (i) such Subsidiary or any of its Subsidiaries does not own any Capital Stock or Indebtedness of, or own or hold any Lien on any property of, the Company or any other Subsidiary of the Company which is not a Subsidiary of the Subsidiary to be so designated or otherwise an Unrestricted Subsidiary; and
- (ii) such designation and the Investment of the Company in such Subsidiary complies with Section 10.2.

Any such designation by the Board of Directors of the Company shall be evidenced to the Administrative Agent by filing with the Administrative Agent a resolution of the Board of Directors of the Company giving effect to such designation and an Officer’s Certificate certifying that such designation complies with the foregoing conditions.

The Board of Directors of the Company may designate any Unrestricted Subsidiary to be a Restricted Subsidiary; provided, that immediately after giving effect to such designation (a) no Default or Event of Default would result therefrom, and (b)(i) the Company could Incur at least €1.00 of additional Indebtedness under Section 10.1(a) or (ii) the Fixed Charge Coverage Ratio would not be worse than it was immediately prior to giving effect to such designation, in each case, on a pro forma basis taking into account such designation. Any such designation by the Board of Directors shall be evidenced to the Administrative Agent by promptly filing with the Administrative Agent a copy of the resolution of the Board of Directors giving effect to such designation or an Officer’s Certificate certifying that such designation complied with the foregoing provisions.

“Unsecured Note Indenture” means each of (i) the indenture relating to the issuance of Senior Unsecured Notes entered into on February 14, 2013 between the Company, certain subsidiary guarantors party thereto and Deutsche Bank Trust Company Americas, as trustee, (ii) the indenture relating to the issuance of Senior Unsecured Notes entered into on March 12, 2013 between the Company, certain subsidiary guarantors party thereto and Deutsche Bank Trust Company Americas, as trustee, (iii) the indenture relating to the issuance of Senior Unsecured Notes entered into on May 20, 2013 between the Company, certain subsidiary guarantors party thereto and Deutsche Bank Trust Company Americas, as trustee, (iv) the indenture relating to the issuance of the Senior Unsecured Notes entered into on September 24,

2013 between the Company, certain subsidiary guarantors party thereto and Deutsche Bank Trust Company Americas, as trustee and (v) the indenture relating to the issuance of Senior Notes entered into on June 2, 2015, between the Company, the Co-Borrower and Deutsche Bank Trust Company Americas, as trustee.

“US Dollars”, “Dollars” and “US\$” means the lawful currency of the United States of America.

“US Government Obligations” means securities that are (a) direct obligations of the United States of America for the timely payment of which its full faith and credit is pledged or (b) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the timely payment of which is unconditionally Guaranteed as a full faith and credit obligation of the United States of America, which, in either case, are not callable or redeemable at the option of the Company thereof, and shall also include a depositary receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act), as custodian with respect to any such US Government Obligations or a specific payment of principal of or interest on any such US Government Obligations held by such custodian for the account of the holder of such depositary receipt, provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depositary receipt from any amount received by the custodian in respect of the US Government Obligations or the specific payment of principal of or interest on the US Government Obligations evidenced by such depositary receipt.

“US Security Agreement” shall have the meaning given in the definition of “US Security Documents”.

“US Security Documents” shall mean the following documents, each dated as of September 29, 2006 and any amendments, supplements or other agreements entered into in connection therewith:

(a) Security Agreement among Philips Semiconductors USA Inc., NXP Funding LLC, and Morgan Stanley Senior Funding, Inc., as Global Collateral Agent (the “US Security Agreement”);

(b) Pledge of Shares between NXP B.V., as pledgor, and Morgan Stanley Senior Funding, Inc., as pledgee in relation to the shares in Philips Semiconductors USA Inc.; and

(c) IP Security Agreement between NXP B.V. and Morgan Stanley Senior Funding, Inc., as Global Collateral Agent, relating to intellectual property in the United States and any short form version thereof filed with any relevant governmental authorities.

“Voting Stock” of a Person means all classes of Capital Stock of such Person then outstanding and normally entitled to vote in the election of directors.

“Wholly-Owned Subsidiary” means a Restricted Subsidiary of the Company, all of the Capital Stock of which (other than directors’ qualifying shares or shares required by any applicable law or regulation to be held by a Person other than the Company or another Wholly-Owned Subsidiary) is owned by the Company or another Wholly-Owned Subsidiary.

“Wholly Owned U.S. Restricted Subsidiary” means a Wholly-Owned Subsidiary which has been incorporated in the United States of America.

1.2 Other Interpretive Provisions. With reference to this Agreement and each other Credit Document, unless otherwise specified herein or in such other Credit Document:

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) The words “herein”, “hereto”, “hereof” and “hereunder” and words of similar import when used in any Credit Document shall refer to such Credit Document as a whole and not to any particular provision thereof.

(c) Article, Section, Exhibit and Schedule references are to the Credit Document in which such reference appears.

(d) The term “including” is by way of example and not limitation.

(e) The term “documents” includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.

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

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

(h) Any reference herein to any Person shall be construed to include such Person’s successors and assigns.

(i) Any reference to a “Managing Director” of the Company or a Credit Party organized or established under the laws of the Netherlands means a managing director (*bestuurder*).

### 1.3 Accounting Terms.

(a) All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP.

(b) Where reference is made to “the Company and its Restricted Subsidiaries on a consolidated basis” or similar language, such consolidation shall not include any Subsidiaries of the Company other than Restricted Subsidiaries.

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

1.5 References to Agreements, Laws, Etc. Unless otherwise expressly provided herein, (a) references to organizational and constitutive documents, agreements (including this Agreement and each of the other Credit Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, amendment and restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, amendment and restatements, extensions, supplements and other modifications are permitted by any Credit Document; and (b) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

1.6 Exchange Rates. For purposes of determining compliance under Sections 10.2 (other than with respect to determining the amount of any Indebtedness) and 10.5, with respect to any amount in a Foreign Currency, such amount shall be deemed to equal the Euro Equivalent thereof based on the average Exchange Rate for a Foreign Currency for the most recent twelve-month period immediately prior to the date of determination determined in a manner consistent with that used in calculating Consolidated EBITDA for the related period. For purposes of determining compliance with Sections 10.1, 10.2 and 10.3, with respect to any amount of Indebtedness in a Foreign Currency, compliance will be determined at the time of Incurrence or advancing thereof using the Euro Equivalent thereof at the Exchange Rate in effect at the time of such Incurrence or advancement.

1.7 Liability of Co-Borrower. The Co-Borrower shall be jointly and severally liable for all of the obligations and liabilities of the Company under this Agreement and the other Credit Documents; provided that the obligations of the Co-Borrower under this Agreement and the other Credit Documents shall be limited to an aggregate amount that would not render such obligations subject to avoidance under Section 548 of the United States Bankruptcy Code or any comparable provisions of applicable law.

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

1.9 Timing of Payment or Performance. Except as otherwise provided herein, when the payment of any obligation or the performance of any covenant, duty, or obligation is stated to be due or performance required on (or before) a day which is not a Business Day, the date of such payment (other than as described in the definition of Interest Period) or performance shall extend to the immediately succeeding Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.



1.10 Certifications. All certifications to be made hereunder by an officer or representative of a Credit Party shall be made by such a Person in his or her capacity solely as an officer or a representative of such Credit Party, on such Credit Party's behalf and not in such Person's individual capacity.

1.11 Compliance with Certain Sections. In the event that any Lien, Investment, Indebtedness (whether at the time of incurrence or upon application of all or a portion of the proceeds thereof), disposition, Restricted Payment, Affiliate transaction, contractual requirement, or prepayment of Indebtedness meets the criteria of one or more than one of the categories of transactions then permitted pursuant to any clause or subsection of Sections 10.1, 10.2, 10.3, 10.5 or 10.6 then, such transaction (or portion thereof) at any time shall be allocated to one or more of such clauses or subsections within the relevant sections as determined by the Borrower in its sole discretion at such time.

## SECTION 2. Amount and Terms of Credit

2.1 Commitments. (a) Subject to and upon the terms and conditions herein set forth, each Lender having a Tranche B Commitment severally agrees to make a loan denominated in US Dollars to the Borrowers (each, a "Tranche B Loan") on the Closing Date in an aggregate principal amount not to exceed such Lender's Tranche B Commitment. All Tranche B Loans (i) may not be reborrowed once paid and (ii) may, at the option of the Company be incurred and maintained as, and/or converted into, ABR Loans or LIBOR Loans; provided that all Tranche B Loans made by each of the Lenders pursuant to the same Borrowing shall, unless otherwise specifically provided herein, consist entirely of Loans of the same Type.

(b) Each Lender may at its option make any LIBOR Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan, provided that (i) any exercise of such option shall not affect the obligation of the Borrowers to repay such Loan and (ii) in exercising such option, such Lender shall use its reasonable efforts to minimize any increased costs to the Borrowers resulting therefrom (which obligation of the Lender shall not require it to take, or refrain from taking, actions that it determines would result in increased costs for which it will not be compensated hereunder or that it determines would be otherwise disadvantageous to it and in the event of such request for costs for which compensation is provided under this Agreement, the provisions of Section 2.10 shall apply). In the event that any Loan is made by any domestic or foreign branch or Affiliate of a Lender on behalf of such Lender as contemplated by this clause (b) all of the provisions of this Agreement applicable to Lenders shall apply to and be enforceable by any such domestic or foreign branch or Affiliate.

2.2 [Reserved].

2.3 Notice of Borrowing. (a) To request the borrowing of any Loans, the relevant Borrower shall give the Administrative Agent at the Administrative Agent's Office, written notice (or telephonic notice promptly confirmed in writing (i) prior to 10:00 a.m. on at least the second Business Day prior to the date of Borrowing or (ii) prior to 12:00 Noon on at least the first Business Day prior to the date of Borrowing in respect of proposed ABR Loans. Each such notice (a "Notice of Borrowing"), except as otherwise expressly provided in Section 2.10, shall specify (i) the aggregate principal amount and the Tranche of the Loans to be made,

(ii) the date of Borrowing (which, in the case of the Tranche B Loans shall be a Business Day and the Closing Date); (iii) the portions of the Loans so made that shall consist of ABR Loans or LIBOR Loans, and (iv) the Interest Period to be initially applicable thereto. If the relevant Borrower fails to specify an Interest Period of a Loan in a Notice of Borrowing then the Loan so requested shall have an initial Interest Period of three months. The Administrative Agent shall promptly give each Lender written notice (or telephonic notice promptly confirmed in writing) of the proposed Borrowing, of such Lender's proportionate share thereof and of the other matters covered by the Notice of Borrowing.

(b) Without in any way limiting the obligation of any Borrower to confirm in writing any notice it may give hereunder by telephone, the Administrative Agent may act prior to receipt of written confirmation without liability upon the basis of such telephonic notice believed by the Administrative Agent in good faith to be from an Authorized Officer of such Borrower. In each such case, such Borrower hereby waives the right to dispute the Administrative Agent's record of the terms of any such telephonic notice. Any Notice of Borrowing delivered in writing to the Administrative Agent shall be in substantially the form set forth in Exhibit B.

2.4 Disbursement of Funds. (a) No later than 12 Noon on the date specified in the Notice of Borrowing, each Lender will make available its pro rata portion of the Borrowings requested to be made on such date and in the manner provided below, provided that, on the Closing Date such funds may be made available at such earlier time as may be agreed among the Lenders, the Company and the Administrative Agent for the purpose of consummating the Transactions.

(b) Unless otherwise agreed by the Company and the Administrative Agent in writing, each Lender shall make available all amounts it is to fund to the Borrowers under any Borrowing for its applicable Commitments in immediately available funds in Dollars to the Administrative Agent at the Administrative Agent's Office and the Administrative Agent will make available to the Borrowers, by depositing to an account designated by the Company to the Administrative Agent the aggregate of the amounts so made available. Unless the Administrative Agent shall have been notified by any Lender prior to the date of any such Borrowing that such Lender does not intend to make available to the Administrative Agent its portion of the Borrowing or Borrowings to be made on such date, the Administrative Agent may assume that such Lender has made such amount available to the Administrative Agent on such date of Borrowing, and the Administrative Agent, in reliance upon such assumption, may (in its sole discretion and without any obligation to do so) make available to the Borrowers a corresponding amount. If such corresponding amount is not in fact made available to the Administrative Agent by such Lender and the Administrative Agent has made available same to the Borrowers, the Administrative Agent shall be entitled to recover such corresponding amount from such Lender. If such Lender does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor the Administrative Agent shall promptly notify the Borrowers, and the Borrowers shall immediately pay such corresponding amount to the Administrative Agent. The Administrative Agent shall also be entitled to recover from such Lender or the Borrowers interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by the Administrative Agent to the Borrowers to the date such corresponding amount is recovered by the Administrative Agent, at a rate *per annum* equal to (i) if paid by such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the

Administrative Agent in accordance with banking industry practice on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing, or (ii) if paid by the Borrower, the then-applicable rate of interest, calculated in accordance with Section 2.8, for the relevant Loans.

(c) Nothing in this Section 2.4 shall be deemed to relieve any Lender from its obligation to fulfill its commitments hereunder or to prejudice any rights that any Borrower may have against any Lender as a result of any default by such Lender hereunder (it being understood, however, that the obligations of each Lender hereunder are several and no Lender shall be responsible for the failure of any other Lender to fulfill its obligations hereunder).

#### 2.5 Repayment of Loans; Evidence of Debt.

(a) The Borrowers shall, jointly and severally, repay to the Administrative Agent, for the benefit of the Lenders, on each date set forth below (or, if not a Business Day, the immediately preceding Business Day) (a "Tranche B Loan Repayment Date"), a principal amount in respect of the then outstanding Tranche B Loans equal to (x) the outstanding principal amount of Tranche B Loans on the Closing Date multiplied by (y) the percentage set forth below opposite such Tranche B Loan Repayment Date (a "Tranche B Loan Repayment Amount"):

<u>Date</u>	<u>Tranche B Loan Percentage</u>
March 31, 2016	0.25%
June 30, 2016	0.25%
September 30, 2016	0.25%
December 31, 2016	0.25%
March 31, 2017	0.25%
June 30, 2017	0.25%
September 30, 2017	0.25%
December 31, 2017	0.25%
March 31, 2018	0.25%
June 30, 2018	0.25%
September 30, 2018	0.25%
December 31, 2018	0.25%
March 31, 2019	0.25%

<u>Date</u>	<u>Tranche B Loan Percentage</u>
June 30, 2019	0.25%
September 30, 2019	0.25%
December 31, 2019	0.25%
March 31, 2020	0.25%
June 30, 2020	0.25%
September 30, 2020	0.25%

(b) Notwithstanding anything to the contrary contained herein, all outstanding principal amounts of the Tranche B Loans, including interest payable thereon, shall be due and payable on the Tranche B Loan Maturity Date.

(c) In the event that any New Term Loans are made, such New Term Loans shall, subject to Section 2.14, be repaid by the relevant Borrower in the amounts (each a “New Term Loan Repayment Amount”) and on the New Term Loan Repayment Dates set forth in the applicable New Term Loan Joinder Agreement. In the event that any Extended Term Loans are established, such Extended Term Loans shall, subject to Section 2.14(e) be repaid by the relevant Borrower in the amounts (each such amount with respect to any Extended Repayment Date, an “Extended Term Loan Repayment Amount”) and on the dates (each, an “Extended Repayment Date”) set forth in the applicable Extension Amendment.

(d) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of each Borrower to the appropriate lending office of such Lender resulting from each Loan made by such lending office of such Lender from time to time, including the amounts of principal and interest payable and paid to such lending office of such Lender from time to time under this Agreement.

(e) The Administrative Agent shall maintain the Register pursuant to Section 13.7(b), in which Register shall be recorded (i) the amount of each Loan made hereunder, the relevant Borrower of such Loan, the Type of each Loan made, the Tranche of each Loan made, the Class of each Loan made and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the relevant Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder from the relevant Borrower and each Lender’s share thereof.

(f) The entries made in the Register and accounts maintained pursuant to paragraphs (d) and (e) of this Section 2.5 shall, to the extent permitted by applicable Law, be prima facie evidence of the existence and amounts of the obligations of a Borrower therein recorded; provided, however, that the failure of any Lender or the Administrative Agent to

maintain such account, such Register or such subaccount, as applicable, or any error therein, shall not in any manner affect the obligation of any Borrower to repay (with applicable interest) the Loans made to such Borrower by such Lender in accordance with the terms of this Agreement.

2.6 Conversions and Continuations. (a) The Company shall have the option on any Business Day to convert all or a portion of the outstanding principal amount of Loans of one Type into a Borrowing or Borrowings of another Type and shall have the option on any Business Day to continue the outstanding principal amount of any LIBOR Loans, as the case may be, for an additional Interest Period, provided that (i) ABR Loans may not be converted into LIBOR Loans if a Default or Event of Default is in existence on the date of the conversion and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such conversion and (ii) LIBOR Loans denominated in US Dollars may not be continued as LIBOR Loans for an additional Interest Period if an Event of Default is in existence on the date of the proposed continuation and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such continuation. Each such conversion or continuation shall be effected by the Company by giving the Administrative Agent at the Administrative Agent's Office prior to 10:00 a.m., New York City time, at least three Business Days' (or one Business Day's notice in the case of a conversion into ABR Loans) prior written notice (or telephonic notice promptly confirmed in writing) (each, a "Notice of Conversion or Continuation") specifying the Loans to be so converted or continued, the Type of Loans to be converted or continued into and, if such Loans or are to be converted into or continued as LIBOR Loans, the Interest Period to be initially applicable thereto. The Administrative Agent shall give each Lender notice as promptly as practicable of any such proposed conversion or continuation affecting any of its Loans.

(b) If any Default or Event of Default is in existence at the time of any proposed continuation of any LIBOR Loans and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such continuation, such LIBOR Loans shall be automatically converted on the last day of the current Interest Period into ABR Loans. If upon the expiration of any Interest Period in respect of LIBOR Loans, a Borrower has failed to specify a new Interest Period to be applicable thereto as provided in paragraph (a) above, such Borrower shall be deemed to have specified an Interest Period of one month, effective as of the expiration date of such current Interest Period. If a Borrower requests the conversion to, or continuation of, a LIBOR Loan, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month.

2.7 Pro Rata Borrowings. The borrowing of Loans under this Agreement and each Borrowing outstanding from time to time hereunder shall be made or maintained, as applicable, by the Lenders pro rata on the basis of their then-applicable Commitments (in the case of Tranche B Loans made on the Closing Date and any New Term Loans made on any date) or the aggregate outstanding amount of their Loans (in the case of separate Borrowings consisting of different Types or having different Interest Periods). It is understood that (a) no Lender shall be responsible for any default by any other Lender in its obligation to make Loans hereunder and that each Lender shall be obligated to make the Loans provided to be made by it hereunder, regardless of the failure of any other Lender to fulfill its commitments hereunder and (b) other than as expressly provided herein with respect to a Defaulting Lender, failure by a Lender to perform any of its obligations under any of the Credit Documents shall not release any Person from performance of its obligation under any Credit Document.

2.8 Interest. (a) [Reserved]

(b) The unpaid principal amount of each ABR Loan shall bear interest from the date of the Borrowing thereof until maturity thereof (whether by acceleration or otherwise) at a rate *per annum* that shall at all times be aggregate of the Applicable ABR Margin plus the ABR in effect from time to time.

(c) The unpaid principal amount of each LIBOR Loan shall bear interest from the date of the Borrowing thereof until maturity thereof (whether by acceleration or otherwise) at a rate *per annum* that shall at all times be aggregate of the Applicable LIBOR Margin in effect from time to time and the relevant LIBOR Rate.

(d) If all or a portion of the principal amount of any Loan or any interest payable thereon shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), such overdue amount shall bear interest at a rate *per annum* that is (x) in the case of overdue principal on any Loan, the rate that would otherwise be applicable thereto plus 2% or (y) in the case of any overdue interest, to the extent permitted by applicable law, the Applicable ABR Margin and the ABR in effect from time to time, plus 2%, in each case from and including the date of such non-payment to but excluding the date on which such amount is paid in full (after as well as before judgment).

(e) Interest on each Loan shall accrue from and including the date of the borrowing thereof to but excluding the date of any repayment thereof and shall be payable (i) on in respect of each ABR Loan, quarterly in arrears on the last day of each March, June, September and December, (ii) in respect of each LIBOR Loan the last day of each Interest Period applicable thereto and, in the case of an Interest Period in excess of three months, on each date occurring at three-month intervals after the first day of such Interest Period, and (iii) on any prepayment (on the amount prepaid), at maturity (whether by acceleration or otherwise) and, after such maturity, on demand.

(f) All computations of interest hereunder shall be made in accordance with Section 5.4.

(g) The Administrative Agent, upon determining the interest rate for any Borrowing of Loans, shall promptly notify the Company and the relevant Lenders thereof. Each such determination shall, absent clearly demonstrable error, be final and conclusive and binding on all parties hereto.

2.9 Interest Periods. At the time the Company gives the Notice of Borrowing or a Notice of Conversion or Continuation in respect of the making of, or conversion into or continuation as, a Borrowing of LIBOR Loans (in the case of the initial Interest Period applicable thereto) or prior to 10:00 a.m., New York City time, at least three Business Days prior to the expiration of an Interest Period applicable to a Borrowing of LIBOR Loans, the Company shall have the right to elect by giving the Administrative Agent written notice (or telephonic notice promptly confirmed in writing) the Interest Period applicable to a Borrowing, which

Interest Period shall, at the option of the Company, be a period commencing on the date of Borrowing specified in the applicable Notice of Borrowing or on the date specified in the applicable Notice of Conversion or Continuation and ending one (1), two (2), three (3) or six (6) (or if agreed by all relevant Lenders, twelve (12)) months thereafter, or such shorter period as the Borrowers may elect in the applicable notice, provided that the initial Interest Period may be for a period less than one month if agreed upon by the Company and the Administrative Agent.

Notwithstanding anything to the contrary contained above:

(a) the initial Interest Period for any Borrowing of LIBOR Loans shall commence on the date of such Borrowing (including the date of any conversion from a Borrowing of ABR Loans) and each Interest Period occurring thereafter in respect of such Borrowing shall commence on the day on which the next preceding Interest Period expires;

(b) if any Interest Period relating to a Borrowing of LIBOR Loans begins on the last Business Day of a calendar month or begins on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period, such Interest Period shall end on the last Business Day of the calendar month at the end of such Interest Period;

(c) if any Interest Period would otherwise expire on a day that is not a Business Day, such Interest Period shall expire on the next succeeding Business Day, provided that if any Interest Period in respect of a LIBOR Loan would otherwise expire on a day that is not a Business Day but is a day of the month after which no further Business Day occurs in such month, such Interest Period shall expire on the next preceding Business Day;

(d) the Borrowers shall not be entitled to elect any Interest Period in respect of any LIBOR Loan if such Interest Period would extend beyond the applicable Maturity Date; and

(e) after giving effect to the initial borrowing, all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not be more than 25 Interest Periods in effect with respect to LIBOR Loans.

#### 2.10 Increased Costs, Illegality, etc.

(a) In the event that (x) in the case of clause (i) below, the Administrative Agent or (y) in the case of clauses (ii) and (iii) below, any Lender shall have reasonably determined (which determination shall, absent clearly demonstrable error, be final and conclusive and binding upon all parties hereto):

(i) on any date for determining the LIBOR Rate for any Interest Period that (x) deposits in the principal amounts of the Loans comprising such Borrowing are not generally available in Dollars in the Relevant Interbank Market for a period equivalent to the relevant Interest Period or (y) by reason of any changes arising on or after the Closing Date affecting the Relevant Interbank Market, adequate and fair means do not exist for ascertaining the applicable interest rate on the basis provided for in the definition of LIBOR Rate (as the case may be); or

(ii) at any time, that such Lender shall incur any increase in the cost to such Lender or reductions in the amounts received or receivable hereunder in connection with making or agreeing to make, funding or maintaining, LIBOR Loans or its Commitment hereunder (other than any such increase or reduction attributable to Taxes) because of (x) any Change in Law, such as, for example, without limitation, a change in official reserve requirements, and/or (y) other circumstances affecting the Relevant Interbank Market or the position of such Lender in such market; or

(iii) at any time, that the making or continuance of any LIBOR Loan or its Commitment hereunder has become unlawful by compliance by such Lender in good faith with any Law, governmental rule, regulation, guideline or order (or would conflict with any such Law, governmental rule, regulation, guideline or order not having the force of law even though the failure to comply therewith would not be unlawful), or has become impracticable as a result of a contingency occurring after the date hereof that materially and adversely affects the Relevant Interbank Market;

(such Loans, "Impacted Loans"), then, and in any such event, such Lender (or the Administrative Agent, in the case of clause (i) above) shall within a reasonable time thereafter give notice (if by telephone, confirmed in writing) to the Company and to the Administrative Agent of such determination (which notice the Administrative Agent shall promptly transmit to each of the other Lenders). Thereafter (x) in the case of clause (i) above, LIBOR Loans shall no longer be available until such time as the Administrative Agent notifies the Company and the Lenders that the circumstances giving rise to such notice by the Administrative Agent no longer exist (which notice the Administrative Agent agrees to give at such time when such circumstances no longer exist), and the Notice of Borrowing or any Notice of Conversion or Continuation with respect to LIBOR Loans that have not yet been incurred, converted or continued (as applicable) shall be deemed rescinded by the Company (y) in the case of clause (ii) above, the Company shall pay to such Lender, promptly after receipt of written demand therefor such additional amounts (in the form of an increased rate of, or a different method of calculating, interest or otherwise as such Lender in its reasonable discretion shall determine) as shall be required to compensate such Lender for such increased costs or reductions in amounts receivable hereunder (it being agreed that a written notice as to the additional amounts owed to such Lender, showing in reasonable detail the basis for the calculation thereof, submitted to the Company by such Lender shall, absent clearly demonstrable error, be final and conclusive and binding upon all parties hereto) and (z) in the case of clause (iii) above, the Borrowers shall take one of the actions specified in subclause (x) or (y), as applicable, of Section 2.10(b) as promptly as possible and, in any event, within the time period required by Law.

Notwithstanding the foregoing, if the Administrative Agent has made the determination described in Section 2.10(a)(i)(x), the Administrative Agent, in consultation with the Borrowers and the affected Lenders, may establish an alternative interest rate for the Impacted Loans, in which case, such alternative rate of interest shall apply with respect to the Impacted Loans until (1) the Administrative Agent revokes the notice delivered with respect to the Impacted Loans under clause (x) of the first sentence of the immediately preceding paragraph, (2) the Administrative Agent or the affected Lenders notify the Administrative Agent and the Borrowers that such alternative interest rate does not adequately and fairly reflect the cost to such Lenders of funding the Impacted Loans, or (3) any Lender determines that any Law has made it unlawful,



or that any Governmental Authority has asserted that it is unlawful, for such Lender or its applicable lending office to make, maintain or fund Loans whose interest is determined by reference to such alternative rate of interest or to determine or charge interest rates based upon such rate or any Governmental Authority has imposed material restrictions on the authority of such Lender to do any of the foregoing and provides the Administrative Agent and the Borrowers written notice thereof.

(b) At any time that any LIBOR Loan is affected by the circumstances described in Section 2.10(a)(ii) or (iii), the Borrowers may (and in the case of a LIBOR Loan affected pursuant to Section 2.10(a)(iii) shall) either (i) if the affected LIBOR Loan has been requested pursuant to the Notice of Borrowing or a Notice of Conversion or Continuation but has not been made, converted or continued (as applicable), cancel said Borrowing, conversion or continuation (as applicable) by giving the Administrative Agent telephonic notice (confirmed promptly in writing) thereof on the same date that the Company was notified by a Lender pursuant to 2.10(a)(ii) or (iii); or (ii) if the affected LIBOR Loan is then outstanding (x) upon at least three Business Days' notice to the Administrative Agent (if such Lender may lawfully continue to maintain such LIBOR Loans to such day or immediately, if such Lender may not lawfully continue to maintain such LIBOR Loans), require the affected Lender to convert each such LIBOR Loan into an ABR Loan if such conversion would overcome the illegality and each Loan so converted shall, (y) prepay the affected LIBOR Loans on the last day of the Interest Period applicable thereto, if such Lender may lawfully continue to maintain such LIBOR Loan to such date, or immediately, if such Lender may not lawfully continue to maintain such LIBOR Loan or cause any affected Lender to assign the affected LIBOR Loans to another Lender or to another bank or institution willing to accept such assignment (which assignment shall be subject to and in compliance with Section 13.7) to the extent any such affected Lender may lawfully continue to maintain the relevant LIBOR Loans until such time as such assignment becomes effective in accordance with the terms hereof. Upon any such conversion or prepayment, the Borrowers shall also pay accrued interest on the amount so converted or prepaid all amounts due, if any, in connection with such prepayment or conversion under Section 2.11. The Borrowers shall pay all reasonable costs and expenses incurred by any Lender in connection with any assignment pursuant to sub-clause (z). If more than one Lender is affected at any time, then all affected Lenders must be treated in the same manner pursuant to this Section 2.10(b).

(c) If, after the Closing Date, the adoption of any applicable Law, rule or regulation regarding capital adequacy or liquidity, or any Change in Law, or any change in the interpretation or administration thereof by any Governmental Authority, the National Association of Insurance Commissioners, any central bank or comparable agency charged with the interpretation or administration thereof, or compliance by any Lender or its parent with any request or directive made or adopted after the date hereof regarding capital adequacy or liquidity occurring after the Closing Date, of any such authority, association, central bank or comparable agency, has or would have the effect of reducing the rate of return on such Lender's or its parent's or its Affiliate's capital or assets as a consequence of such Lender's commitments or obligations hereunder to a level below that which such Lender or its parent or its Affiliate could have achieved but for such adoption, effectiveness, change or compliance (taking into consideration such Lender's or its parent's policies with respect to capital adequacy or liquidity), then from time to time, promptly after demand by such Lender (with a copy to the Administrative Agent), the Borrowers shall pay to such Lender such additional amount or

amounts as will compensate such Lender or its parent or its Affiliates for such reduction, it being understood and agreed, however, that (i) a Lender shall not be entitled to compensation for such reduction except to the extent resulting from the adoption of any applicable Law, rule or regulation regarding capital adequacy or liquidity, or any Change in Law, or any change in the interpretation or administration thereof by any Governmental Authority, the National Association of Insurance Commissioners, any central bank or comparable agency charged with the interpretation or administration thereof, after the date hereof and (ii) a Lender shall not be entitled to such compensation to the extent such Lender is not generally imposing such charges on, or requesting such compensation from, borrowers (similarly situated to the Company) under syndicated credit facilities. Each Lender, upon determining in good faith that any additional amounts will be payable pursuant to this Section 2.10(c), will give prompt written notice thereof to the Company which notice shall set forth in reasonable detail the basis of the calculation of such additional amounts, although the failure to give any such notice shall not, subject to Section 2.13, release or diminish the Borrowers' obligations to pay additional amounts pursuant to this Section 2.10(c) promptly following receipt of such notice.

(d) It is understood that this Section 2.10 shall not apply to Excluded Taxes and shall apply without duplication of Section 5.3.

**2.11 Compensation.** If (a) any payment of principal of any LIBOR Loan is made by a Borrower to or for the account of a Lender, or is converted or continued, other than on the last day of the Interest Period for such LIBOR Loan as a result of a payment or conversion pursuant to Section 2.6, 2.10, 5.1 or 13.8, as a result of acceleration of the maturity of the Loans pursuant to Section 11 or for any other reason, (b) any Borrowing of LIBOR Loans is not made as a result of a withdrawn Notice of Borrowing or as a result of the operation of any of the provisions of this Agreement, (c) any ABR Loan is not converted into a LIBOR Loan as a result of a withdrawn Notice of Conversion or Continuation or as a result of the operation of any of the provisions of this Agreement, (d) any LIBOR Loan is not continued as a LIBOR Loan (as the case may be), as a result of a withdrawn Notice of Conversion or Continuation or as a result of the operation of any of the provisions of this Agreement, (e) any prepayment of principal of any LIBOR Loan is not made as a result of a withdrawn notice of prepayment pursuant to Section 5.1 or as a result of the operation of any of the provisions of this Agreement, (f) any assignment of a LIBOR Loan on a day other than the last day of the Interest Period for such Loan as a result of a request by the Company pursuant to Section 13.8(a), the Borrowers shall, after receipt of a written request by such Lender (which request shall set forth in reasonable detail the basis for requesting such amount), pay to the Administrative Agent for the account of such Lender any amounts required to compensate such Lender for any additional losses, costs or expenses that such Lender may reasonably incur as a result of such payment, failure to convert, failure to continue or failure to prepay, including any loss, cost or expense (excluding loss of anticipated profits) actually incurred by reason of the liquidation or reemployment of deposits or other funds acquired by any Lender to fund or maintain such LIBOR Loan.

For purposes of calculating amounts payable by the Borrowers to the Lenders under this Section 2.11, each Lender shall be deemed to have funded each LIBOR Loan made by it by a matching deposit or other borrowing in the Relevant Interbank Market in Dollars for a comparable amount and for a comparable period, whether or not such LIBOR Loan was in fact so funded.

2.12 Change of Lending Office. Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 2.10(a)(ii), 2.10(a)(iii), 2.10(b), or 5.3 with respect to such Lender, it will, if requested by the Company use commercially reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Loans affected by such event or to assign its rights and obligations hereunder to another of its branches or Affiliates, provided that such designation or assignment is made on such terms that would eliminate or reduce amounts payable pursuant to Section 2.10(a)(ii), 2.10(a)(iii), 2.10(b) or 5.3, as the case may be, and that, in such Lender's judgment, cause such Lender and its lending office suffer no economic (including becoming subject to any unreimbursed cost or expense), legal or regulatory disadvantage. Nothing in this Section 2.12 shall affect or postpone any of the obligations of any Borrower or the right of any Lender provided in Section 2.10 or 5.3.

2.13 Notice of Certain Costs. Notwithstanding anything in this Agreement to the contrary, to the extent any notice required by Section 2.10, 2.11 or 5.3 is given by any Lender more than 180 days after such Lender has knowledge (or should have had knowledge) of the occurrence of the event giving rise to the additional cost, reduction in amounts, loss, tax or other additional amounts described in such Sections, such Lender shall not be entitled to compensation under Section 2.10, 2.11 or 5.3, as the case may be, for any such amounts incurred or accruing prior to the 181st day prior to the giving of such notice to the Borrowers.

2.14 Incremental Facilities. (a) The Company may by written notice to the Administrative Agent elect to request the establishment of one or more new term loan commitments (the "New Term Loan Commitments") in an amount that may be incurred in compliance with this Agreement (including without limitation, Sections 10.1 and 10.3), each of which shall be in an amount not less than \$25,000,000 individually (or such lesser amount which shall be approved by Administrative Agent), and integral multiples of \$5,000,000 in excess of that amount. Each such notice shall specify (x) the date (each, an "Increased Amount Date") on which the Company proposes that the New Term Loan Commitments shall be effective, which shall be a date not less than 10 Business Days after the date on which such notice is delivered to the Administrative Agent (or such shorter period as the Administrative Agent may determine in its sole discretion) and (y) the identity of each Lender or other Person (each, a "New Term Loan Lender") to whom the Company proposes any portion of such New Term Loan Commitments be allocated and the amounts of such allocations; provided that any Lender approached to provide all or a portion of the New Term Loan Commitments may elect or decline, in its sole discretion, to provide a New Term Loan Commitment. Such New Term Loan Commitments shall become effective, as of such Increased Amount Date; provided that:

(i) before and after giving effect to such New Term Loan Commitments, no Default or Event of Default shall have occurred and be continuing on such Increased Amount Date;

(ii) before and after giving effect to such New Term Loan Commitments, all representations and warranties made by any Credit Party contained in this Agreement or in the other Credit Documents shall be true and correct in all material respects with the same effect as though such representations and warranties had been made on and as of such Increased Amount Date (except where such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects as of said earlier date);

(iii) the New Term Loan Commitments shall be effected pursuant to one or more joinder agreements (collectively, for any New Term Loan Commitments and New Term Loans, a “New Term Loan Joinder Agreement”) in form and substance satisfactory to the Administrative Agent which shall be executed and delivered by the Borrowers, the New Term Loan Lender and the Administrative Agent, and each of which shall be recorded in the Register;

(iv) the Administrative Agent shall have received legal opinions and other documents reasonably requested by Administrative Agent in connection with any such transaction or required to be delivered under the applicable New Term Loan Joinder Agreement, provided that any acknowledgement of the Guaranty required to be delivered by any Guarantor and any confirmation that the Security Documents that secure the obligations of the Borrowers hereunder will continue in full force and effect, together with duly executed copies of any amendments or replacements of Security Documents that may be required shall be a condition subsequent to the applicable Increased Amount Date; and

(v) the Administrative Agent shall have received a Notice of Borrowing in respect of the New Term Loans in writing meeting the requirements of Section 2.3 of this Agreement.

(b) On any Increased Amount Date on which any New Term Loan Commitments are effective, subject to the satisfaction of the foregoing terms and conditions, each New Term Loan Lender shall make a Loan to the Borrowers (a “New Term Loan”) in an amount equal to its New Term Loan Commitment either (i) to the extent expressly provided for in the applicable New Term Loan Joinder Agreement with respect thereto, by tendering for exchange therefor non-cash consideration in an amount determined in the manner provided in the New Term Loan Joinder Agreement, to the extent applicable, or (ii) by funding cash in the amount provided in the New Term Loan Joinder Agreement and in the manner described in Section 2.5 hereof. Each New Term Loan Lender shall become a Lender hereunder with respect to the New Term Loan Commitment and the New Term Loans made pursuant thereto.

(c) The Administrative Agent shall notify Lenders promptly upon receipt of the Borrowers’ notice of each Increased Amount Date and in respect thereof the New Term Loan Commitments and the New Term Loan Lenders.

(d) The terms and provisions of the New Term Loans and New Term Loan Commitments may be designated Loans of an existing Tranche with terms identical thereto or designated as a new Tranche with terms, except as otherwise set forth herein or in the applicable New Term Loan Joinder Agreement, identical to the Tranche B Loans. In any event, (i) the weighted average life to maturity of all New Term Loans shall be no shorter than the weighted average life to maturity of the existing Tranche B Loans, (ii) the applicable New Term Loan Maturity Date shall be no earlier than the Tranche B Loan Maturity Date and (iii) the pricing, interest rate margins, discounts, premiums, rate floors, fees, and amortization schedule applicable

to any New Term Loans shall be determined by the Borrowers and the Lenders thereunder; provided that solely in the case of New Term Loans incurred prior to the 12 month anniversary of the Closing Date, if the Effective Yield for LIBOR Loans in respect of such New Term Loans exceeds the Effective Yield for LIBOR Loans in respect of any then-existing Tranche B Loans by more than 0.50% (each claim so affected, an "Affected Claim"), the Applicable Margin for LIBOR Loans in respect of Loans of each Affected Claim shall be adjusted so that the Effective Yield in respect of Loans of each Affected Claim is equal to the Effective Yield for LIBOR Loans in respect of the New Term Loans minus 0.50% (the percentage by which such Affected Claim is adjusted, the "Adjustment Percentage"), and the Applicable Margin for LIBOR Loans in respect of any then-existing Tranche B Loans shall also be adjusted by the Adjustment Percentage (the "MFN Provision"). In the event that the proceeds of a New Term Loan are required to fund in whole or in part an acquisition or an investment and such funds are required on a "certain funds" basis, such New Term Loan shall, at the Borrowers' election, be made available on a customary "certain funds" basis (as reasonably determined by the Borrowers). Notwithstanding anything contained herein to the contrary, this Agreement and the other Credit Documents may be amended to effect such changes as may be necessary or appropriate, in the opinion of the Administrative Agent, to effect the provisions of this Section 2.14 (including, as to any New Term Loans, with respect to the final maturity and amortization schedule thereof, the interest rate thereon, the treatment thereof for purposes of prepayments and voting and to include "certain funds" provisions), which amendment (which may be incorporated into the applicable New Term Loan Joinder Agreement(s)) shall be executed by the Borrowers, the Administrative Agent and the applicable New Term Loan Lender(s) (but not any other Lenders).

(e) (i) The Borrower may at any time and from time to time request that all or a portion of the Loans of any Class (an "Existing Term Loan Class") be converted to extend the scheduled maturity date(s) of any payment of principal with respect to all or a portion of any principal amount of such Loans (any such Loans which have been so converted, "Extended Term Loans") and to provide for other terms consistent with this Section 2.14(e). In order to establish any Extended Term Loans, the Borrowers shall provide a notice to the Administrative Agent (who shall provide a copy of such notice to each of the Lenders of the Existing Term Loan Class which such request shall be offered equally to all such Lenders) (a "Loan Extension Request") setting forth the proposed terms of the Extended Term Loans to be established, which shall not be materially more restrictive to the Credit Parties (as determined in good faith by the Borrowers), when taken as a whole, than the terms of the Loans of the Existing Term Loan Class unless (x) the Lenders of the Loans of such applicable Existing Term Loan Class receive the benefit of such more restrictive terms or (y) any such provisions apply after the Tranche B Maturity Date (a "Permitted Other Provision"); provided, however, that (x) the scheduled final maturity date shall be extended and all or any of the scheduled amortization payments of principal of the Extended Term Loans may be delayed to later dates than the scheduled amortization of principal of the Loans of such Existing Term Loan Class (with any such delay resulting in a corresponding adjustment to the scheduled amortization payments reflected in Section 2.5 or in the New Term Loan Joinder Agreement, as the case may be, with respect to the existing Loan Class from which such Extended Term Loans were converted, in each case as more particularly set forth in paragraph (ii) of this Section 2.14(e) below), (y) (A) the interest margins with respect to the Extended Term Loans may be higher or lower than the interest margins for the Loans of such Existing Term Loan Class and/or (B) additional fees, premiums may be payable to the Lenders providing such Extended Term Loans in addition to or in lieu of

any increased margins contemplated by the preceding clause (A), in each case, to the extent provided in the applicable Extension Amendment and to the extent that any Permitted Other Provision (including a financial maintenance covenant) is added for the benefit of any such Indebtedness, no consent shall be required by the Administrative Agent or any of the Lenders if such Permitted Other Provision is also added for the benefit of any corresponding Loans remaining outstanding after the issuance or incurrence of such Indebtedness or if such Permitted Other Provision applies only after the Tranche B Maturity Date. Notwithstanding anything to the contrary in this Section 2.14 or otherwise, no Extended Term Loans may be optionally prepaid prior to the date on which the Existing Term Loan Class from which they were converted is repaid in full, except in accordance with the last sentence of Section 5.1(a). No Lender shall have any obligation to agree to have any of its Loans of any Existing Term Loan Class converted into Extended Term Loans pursuant to any Extension Request. Any Extended Term Loans of any Extension Series shall constitute a separate Class of Loans from the Existing Term Loan Class from which they were converted.

(ii) Any Lender (an "Extending Lender") wishing to have all or a portion of its Loans of the Existing Term Loan Class or Existing Term Loan Classes subject to such Extension Request converted into Extended Term Loans shall notify the Administrative Agent (an "Extension Election") on or prior to the date specified in such Extension Request of the amount of its Loans of the Existing Term Loan Class or Existing Term Loan Classes subject to such Extension Request that it has elected to convert into Extended Term Loans. In the event that the aggregate amount of Loans of the existing Loan Class or Existing Term Loan Classes subject to Extension Elections exceeds the amount of Extended Term Loans requested pursuant to the Extension Request, Loans of the existing Class or existing Classes subject to Extension Elections shall be converted to Extended Term Loans, on a pro rata basis based on the amount of Loans included in each such Extension Election.

(iii) Extended Term Loans shall be established pursuant to an amendment (an "Extension Amendment") to this Agreement (which, except to the extent expressly contemplated by the penultimate sentence of this Section 2.14(e)(ii) and notwithstanding anything to the contrary set forth in Section 13.2, shall not require the consent of any Lender other than the Extending Lenders with respect to the Extended Term Loans established thereby) executed by the Credit Parties, the Administrative Agent and the Extending Lenders. No Extension Amendment shall provide for any tranche of Extended Term Loans in an aggregate principal amount that is less than \$10,000,000. In addition to any terms and changes required or permitted by Section 2.14(e)(i), each Extension Amendment (x) shall amend the scheduled amortization payments pursuant to Section 2.5 or the applicable New Term Loan Joinder Agreement with respect to the Existing Term Loan Class from which the Extended Term Loans were converted to reduce each scheduled Repayment Amount for the Existing Term Loan Class in the same proportion as the amount of Loans of the Existing Term Loan Class is to be converted pursuant to such Extension Amendment (it being understood that the amount of any Repayment Amount payable with respect to any individual Loan of such Existing Term Loan Class that is not an Extended Term Loan shall not be reduced as a result thereof) and (y) may, but shall not be required to, impose additional requirements (not inconsistent with the provisions of this Agreement in effect at such time) with respect to the final maturity and

weighted average life to maturity of New Term Loans incurred following the date of such Extension Amendment. Notwithstanding anything to the contrary in this Section 2.14(e) and without limiting the generality or applicability of Section 13.2 to any Section 2.14 Additional Amendments, any Extension Amendment may provide for additional terms and/or additional amendments other than those referred to or contemplated above (any such additional amendment, a "Section 2.14 Additional Amendment") to this Agreement and the other Credit Documents; provided that such Section 2.14 Additional Amendments are within the requirements of Section 2.14(e)(i) and do not become effective prior to the time that such Section 2.14 Additional Amendments have been consented to (including, without limitation, pursuant to (1) consents applicable to holders of New Term Loans provided for in any New Term Loan Joinder Agreement and (2) consents applicable to holders of any Extended Term Loans provided for in any Extension Amendment) by such of the Lenders, Credit Parties and other parties (if any) as may be required in order for such Section 2.14 Additional Amendments to become effective in accordance with Section 13.2.

(iv) Notwithstanding anything to the contrary contained in this Agreement, on any date on which Loans of any Existing Term Loan Class are converted to extend the related scheduled maturity date(s) in accordance with clause (i) above (an "Extension Date"), in the case of the existing Loans of each Extending Lender, the aggregate principal amount of such existing Loans shall be deemed reduced by an amount equal to the aggregate principal amount of Extended Term Loans so converted by such Lender on such date, and the Extended Term Loans shall be established as a separate Class of Loans (together with any other Extended Term Loans so established on such date).

(v) The Administrative Agent and the Lenders hereby consent to the consummation of the transactions contemplated by this Section 2.14 (including, for the avoidance of doubt, payment of any interest, fees, or premium in respect of any Extended Term Loans on such terms as may be set forth in the relevant Extension Amendment) and hereby waive the requirements of any provision of this Agreement (including, without limitation, any pro rata payment or amendment section) or any other Credit Document that may otherwise prohibit or restrict any such extension or any other transaction contemplated by this Section 2.14.

#### 2.15 Defaulting Lenders.

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

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders and Section 13.2.

(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 Section 11 or

otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 13.11 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*, as the Borrowers may request (so long as no 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; *third*, if so determined by the Administrative Agent and the Borrowers, to be held in a deposit account and released pro rata in order to satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement; *fourth*, to the payment of any amounts owing to the Borrowers or the Lenders, as a result of any judgment of a court of competent jurisdiction obtained by the Borrowers, or any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *fifth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made at a time when the conditions set forth in Section 6 or 7 were satisfied or waived, such payment shall be applied solely to pay the Loans of all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of such Defaulting Lender until such time as all Loans are held by the Lenders pro rata in accordance with the Commitments hereunder. 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 shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(b) Defaulting Lender Cure. If the Borrowers and the Administrative Agent, 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, 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 to be held on a pro rata basis by the Lenders in accordance with their Commitment Percentages, 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 Borrowers while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

SECTION 3.        [Reserved]

SECTION 4.        Fees; Commitments

4.1 Fees. The Company agrees to pay to the Administrative Agent the fees and expenses in respect of the performance of such role as may be separately agreed from time to time.



4.2 Voluntary Reduction of Commitments. Upon at least three Business Days prior written notice (or telephonic notice promptly confirmed in writing) to the Administrative Agent at the Administrative Agent's Office (which notice the Administrative Agent shall promptly transmit to each of the Lenders), the Company (on behalf of each of the Borrowers) shall have the right at any time, without premium or penalty, permanently to terminate or reduce the Commitments in whole or in part, provided that (a) any such reduction shall apply proportionately and permanently to reduce the Commitment of each of the Lenders and (b) any partial reduction pursuant to this Section 4.2 shall be in the amount of at least \$5,000,000 and in integral multiples of \$1,000,000 in excess thereof.

4.3 Mandatory Termination or Reduction of Commitments. (a) The Tranche B Commitment shall terminate upon the funding thereof on the Closing Date.

(b) Each New Term Loan Commitment shall terminate at the time and on the date provided in the applicable New Term Loan Joinder Agreement.

#### SECTION 5. Payments

5.1 Voluntary Prepayments. (a) The Borrowers shall have the right at any time to prepay Loans, without premium or penalty (except as provided below), in whole or in part from time to time on the following terms and conditions: (i) the Company shall give the Administrative Agent and at the Administrative Agent's Office written notice (or telephonic notice promptly confirmed in writing) of its intent to make such prepayment, the amount of such prepayment and (in the case of LIBOR Loans) the specific Borrowing(s) to be prepaid, which notice shall be given by the Company no later than 10:00 a.m., New York City time, at least three Business Days prior to the date of such prepayment and shall promptly be transmitted by the Administrative Agent to each of the Lenders; and (ii) each partial prepayment of any LIBOR Loans shall be in an integral multiple of \$1,000,000 and in an aggregate principal amount of at least \$5,000,000 and each partial prepayment of ABR Loans shall be in an integral multiple of \$1,000,000 and in an aggregate principal amount of at least \$1,000,000 or, in each case, if less, the entire principal amount thereof then outstanding, and any prepayment of Loans pursuant to this Section 5.1 on any day other than the last day of an Interest Period applicable thereto shall be subject to compliance by the Borrowers with the applicable provisions of Section 2.10. Each prepayment pursuant to this Section 5.1 shall be (a) applied to such Loans as the Company may specify and (b) applied to reduce such Loan Repayment Amounts, New Term Loan Repayment Amounts, and, subject to Section 2.14(e), Extended Loan Repayment Amounts, as the case may be, as the Company may specify (and absent any directions by the Company in order of maturity thereof), and in such order as the Company may specify. At the Company's election in connection with any prepayment pursuant to this Section 5.1, such prepayment shall not be applied to any Loan of a Defaulting Lender.

(b) In the event that, on or prior to the date falling six months after the Closing Date, the Borrowers (i) make a voluntary prepayment of the Loans (excluding any New Term Loans) in connection with a Repricing Transaction or (ii) effects any amendment to this Agreement resulting in a Repricing Transaction, the Borrower shall pay to the Administrative Agent (x) in the case of clause (i) a prepayment premium of 1.00% of the principal amount of the Loans being prepaid in connection with the Repricing Transaction and (y) in the case of clause

(ii), an amount equal to 1.00% of the aggregate amount of the applicable Loans (excluding any New Term Loans) outstanding immediately prior to such amendment that are subject to an effective pricing reduction pursuant to such Repricing Transaction; provided that, for the avoidance of doubt, in the case of the exercise by the Company of its rights under Section 13.8(b) in connection with a Repricing Transaction effected through an amendment, the prepayment premium described in the immediately preceding clause (ii) shall be payable to any Lender replaced pursuant to Section 13.8(b) in respect of the Loans assigned pursuant to Section 13.8(b) immediately prior to such Repricing Transaction.

5.2 Method and Place of Payment. (a) Except as otherwise specifically provided herein, all payments under this Agreement shall be made by each Borrower, without set-off, counterclaim or deduction of any kind, to the Administrative Agent for the ratable account of the Lenders entitled thereto, not later than 12:00 Noon on the date when due and shall be made in immediately available funds at the Administrative Agent's Office or at such other office as the Administrative Agent shall specify for such purpose by notice to the Company, it being understood that written or facsimile notice by a Borrower to the Administrative Agent to make a payment from the funds in such Borrower's account at the Administrative Agent's Office shall constitute the making of such payment to the extent of such funds held in such account. All repayments or prepayments of Loans (whether of principal, interest or otherwise) hereunder shall be made in Dollars. The Administrative Agent will thereafter cause to be distributed on the same day (if payment was actually received by the Administrative Agent prior to 12:00 noon on such day) like funds relating to the payment of principal or interest or Fees ratably to the Lenders entitled thereto.

(b) Any payments under this Agreement that are made later than 1:00 p.m. shall be deemed to have been made on the next succeeding Business Day. Whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day and, such extension of time shall be reflected in computing interest or fees (as the case may be) at the applicable rate in effect immediately prior to such extension.

5.3 Net Payments. (a) Any and all payments made by or on behalf of any Credit Party under this Agreement or any other Credit Document shall be made free and clear of, and without deduction or withholding for or on account of, any Indemnified Taxes; provided that if a Credit Party shall be required by law to deduct or withhold any Indemnified Taxes from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions and withholdings (including deductions or withholdings applicable to additional sums payable under this Section 5.3), the Administrative Agent, the Collateral Agent or any Lender, as the case may be, receives an amount equal to the after tax sum it would have received had no such deductions or withholdings been made, (ii) the relevant Credit Party shall make such deductions or withholdings and (iii) the relevant Credit Party shall pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law. Whenever any Indemnified Taxes are payable by a Credit Party, as promptly as possible thereafter, such Credit Party shall send to the Administrative Agent for its own account or for the account of such Lender, as the case may be, a certified copy of an original official receipt in such form as provided in the ordinary course by the relevant Governmental Authority and as is reasonably available to the relevant Credit Party (or other evidence acceptable to such Lender, acting reasonably) received by such Credit Party showing payment thereof.

(b) Each Credit Party shall pay and shall jointly and severally indemnify and hold harmless, on an after tax basis, the Administrative Agent, the Collateral Agent and each Lender (whether or not such Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority) with regard to any Other Taxes.

(c) Each Credit Party shall jointly and severally indemnify and hold harmless, on an after tax basis, the Administrative Agent, the Collateral Agent and each Lender within 15 Business Days after written demand therefor, for the full amount of any Indemnified Taxes imposed on the Administrative Agent, the Collateral Agent or such Lender as the case may be, on or with respect to any payment by or on account of any obligation of any Credit Party hereunder or under any other Credit Document (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 5.3) and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. Upon the request of the Company, such Administrative Agent, Collateral Agent, or a Lender must provide details of how it calculated the amount of Indemnified Taxes for which it claimed liability under this Section 5.3. A certificate as to the amount of such payment or liability delivered to a Credit Party by a Lender or by the Administrative Agent or the Collateral Agent on its own behalf or on behalf of a Lender shall be conclusive absent manifest error.

(d) Each Lender shall to the extent it is legally entitled to do so:

(i) upon the request of the Company or the Administrative Agent deliver to the Borrowers and the Administrative Agent two copies of any certification, information, documents or other evidence concerning the nationality, residence or identity of such Lender or make any declaration of similar claim or satisfy any other reporting requirement relating to such matters, which is required by a statute, regulation or administrative practice of a relevant Governmental Authority as a precondition to exemption from all or a part of any Taxes, assessment or other governmental charge; and

(ii) deliver to the Borrowers and the Administrative Agent two further copies of any such form or certification (or any applicable successor form) on or before the date that any such form or certification expires or becomes obsolete and after the occurrence of any event requiring a change in the most recent form previously delivered by it to any Borrower;

unless in any such case any Change in Law has occurred prior to the date on which any such delivery would otherwise be required that renders any such form inapplicable or would prevent such Lender from duly completing and delivering any such form with respect to it and such Lender so advises the Borrowers and the Administrative Agent. Each Person that shall become a Participant pursuant to Section 13.7 or a Lender pursuant to Section 13.7 shall, upon the effectiveness of the related transfer, be required to provide all the forms and statements required pursuant to this Section 5.3(d), provided that in the case of a Participant such Participant shall furnish all such required forms and statements to the Lender from which the related participation shall have been purchased.

(e) If a Credit Party determines in good faith that a reasonable basis exists for contesting any taxes for which indemnification has been demanded hereunder or any other Credit Document, the relevant Lender, the Administrative Agent or the Collateral Agent, as applicable, shall cooperate with such Credit Party in challenging such taxes at such Credit Party's expense if so requested by such Credit Party. If any Lender, the Administrative Agent or the Collateral Agent, as applicable, receives a refund of, or determines that a Tax Credit is available to it with respect to, a tax for which a payment has been made by a Credit Party pursuant to this Agreement, which refund or Tax Credit in the good faith judgment of such Lender, the Administrative Agent or the Collateral Agent, as the case may be, is attributable to such payment made by such Credit Party, then the Lender, the Administrative Agent or the Collateral Agent, as the case may be, shall reimburse such Credit Party for such amount (together with any interest received thereon) as the Lender, the Administrative Agent or the Collateral Agent, as the case may be, determines to be the proportion of the refund or Tax Credit as will leave it, after such reimbursement, in no better or worse position (taking into account expenses or any taxes imposed on the refund) than it would have been in if the payment had not been required. A Lender, the Administrative Agent or the Collateral Agent shall claim any refund or Tax Credit that it determines is available to it, unless it concludes in its reasonable discretion that it would be adversely affected by making such a claim. Neither the Lender, the Administrative Agent nor any Collateral Agent shall be obliged to disclose any information regarding its tax affairs or computations to the any Credit Party in connection with this paragraph (e) or any other provision of this Section 5.3.

(f) The agreements in this Section 5.3 shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

5.4 Computations of Interest and Fees. Interest on LIBOR Loans shall be calculated on the basis of a 360-day year for the actual days elapsed. Interest on ABR Loans and interest on overdue interest shall be calculated on the basis of a 365- (or 366-, as the case may be) day year for the actual days elapsed.

5.5 Limit on Rate of Interest.

(a) No Payment shall exceed Lawful Rate. Notwithstanding any other term of this Agreement, no Borrower shall be obliged to pay any interest or other amounts under or in connection with this Agreement in excess of the amount or rate permitted under or consistent with any applicable law, rule or regulation.

(b) Payment at Highest Lawful Rate. If a Borrower is not obliged to make a payment which it would otherwise be required to make, as a result of Section 5.5(a), such Borrower shall make such payment to the maximum extent permitted by or consistent with applicable laws, rules and regulations.

(c) Adjustment if any Payment exceeds Lawful Rate. If any provision of this Agreement or any of the other Credit Documents would obligate any Borrower to make any

payment of interest or other amount payable to any Lender in an amount or calculated at a rate which would be prohibited by any applicable Law, rule or regulation, then notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to, in the case of LIBOR Loans the beginning of the relevant Interest Period or, in the case of ABR Loans, the relevant date, the maximum amount or rate of interest, as the case may be, as would not be so prohibited by Law, such adjustment to be effected, to the extent necessary, by reducing the amount or rate of interest required to be paid by such Borrower to the affected Lender under Section 2.8.

Notwithstanding the foregoing, and after giving effect to all adjustments contemplated thereby, if any Lender shall have received from any Borrower an amount in excess of the maximum permitted by any applicable Law, rule or regulation, then such Borrower shall be entitled, by notice in writing to the Administrative Agent to obtain reimbursement from that Lender in an amount equal to such excess, and pending such reimbursement, such amount shall be deemed to be an amount payable by that Lender to such Borrower.

#### 5.6 Currency Indemnity

(a) If any sum due from a Credit Party under the Credit Documents (a "Sum"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "First Currency") in which that Sum is payable into another currency (the "Second Currency") for the purpose of: (i) making or filing a claim or proof against that Credit Party; (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings, in either case that Credit Party shall as an independent obligation, within three Business Days of demand, indemnify each Lender to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

(b) Each Credit Party waives any right it may have in any jurisdiction to pay any amount under the Credit Documents in a currency or currency unit other than that in which it is expressed to be payable.

### SECTION 6. Conditions Precedent to the Closing Date

#### 6.1 Conditions Precedent.

The initial Borrowing under this Agreement on the Closing Date is subject to the satisfaction of the following conditions precedent, except as otherwise agreed in writing between the Company and the Administrative Agent (with the consent of the requisite percentage of Lenders in accordance with the terms hereof). The Administrative Agent shall, upon such conditions precedent being satisfied (or waived as the case may be), promptly confirm such satisfaction (or waiver) in writing to the Lenders and the Company.

6.2 Credit Documents. The Administrative Agent shall have received:

- (i) this Agreement, executed and delivered by a duly authorized signatory of each Borrower and each Lender;
- (ii) the Guaranty, executed and delivered by a duly authorized signatory of each of the Original Guarantors;
- (iii) a Lien Grantor Supplement (under and as defined in the Collateral Agency Agreement), executed and delivered by each of the Original Guarantors not already party to the Collateral Agency Agreement as a Lien Grantor;
- (iv) an additional secured obligations certification (under and as described in the Collateral Agency Agreement), executed and delivered by the Company, designating the Loans as Additional Secured Obligations with “*fourth*” ranking priority under Section 4.04 of the Collateral Agency Agreement and designating the Collateral Agent as Additional Secured Parties under the Collateral Agency Agreement;
- (v) an Additional Secured Obligations Supplement (under and as defined in the Collateral Agency Agreement) executed and delivered by the Company and the Collateral Agent; and
- (vi) a supplement to the US Security Agreement, substantially in the form of Exhibit A thereto, executed and delivered by each Original Guarantor incorporated or formed under the laws of any State of the United States which is not already a Grantor thereunder.

6.3 Collateral.

(a) All outstanding equity interests in whatever form that is directly owned by or on behalf of the Borrower or any Original Guarantor and required to be pledged pursuant to the Security Documents shall have been pledged pursuant thereto;

(b) the Collateral Agent shall have received the certificates to the extent required to be delivered under the Security Documents and pledged under the Security Documents to the extent certificated, accompanied by instruments of transfer and undated stock powers or allonges endorsed in blank, in each case to the extent not previously delivered to the Collateral Agent in connection with other Secured Obligations under the Collateral Agency Agreement; and

(c) evidence that all other actions, recordings and filings required by the Security Documents as of the Closing Date and such additional actions (including the giving of notices, the filing of statements and the provision of all instruments and documents reasonably requested by the Administrative Agent) to perfect and protect the security interests of the Secured Parties under the Security Documents have been taken, completed or otherwise provided for in a manner reasonably satisfactory to the Administrative Agent;

provided that each of the requirements in clauses (a), (b) and (c) above (other than the pledge and perfection of the security interests (1) in the certificated equity securities of any (x) Wholly Owned U.S. Restricted Subsidiary (other than an Immaterial Subsidiary) held directly by the

Company or any Wholly Owned U.S. Restricted Subsidiary (other than an Immaterial Subsidiary) and (2) any Wholly Owned U.S. Restricted Subsidiary (other than an Immaterial Subsidiary) of the Target (to the extent received from the Target after the Company's use of commercially reasonable efforts to procure delivery) and (2) in other assets of (x) the Company, Wholly Owned U.S. Restricted Subsidiaries (other than an Immaterial Subsidiary) of the Company and Wholly Owned U.S. Restricted Subsidiaries (other than an Immaterial Subsidiary) of the Target, in each case with respect to which a Lien may be perfected by the filing of a financing statement under the Uniform Commercial Code) shall not constitute conditions precedent to the Closing Date after the Company's use of commercially reasonable efforts to provide such items or without undue burden or expense but instead shall be subject to Section 9.12 and 9.17.

6.4 Solvency Certificate. On the Closing Date, the Administrative Agent shall have received a certificate from an Authorized Officer of the Company substantially in the form of Exhibit C-2, demonstrating as of the Closing Date, that the Company on a consolidated basis with its Subsidiaries is solvent.

6.5 Legal Opinions. The Administrative Agent (or its counsel) shall have received the executed legal opinions of (i) special New York and Delaware counsel to the Borrowers reasonably satisfactory to the Administrative Agent and (ii) special Dutch counsel to the Borrowers reasonably satisfactory to the Administrative Agent, in each case in substantially the same form and substance as provided under and in connection with the Revolving Credit Agreement or otherwise in form and substance reasonably satisfactory to the Administrative Agent and, in each case, to the extent applicable to entities that are Original Credit Parties. The Borrowers, the other Original Credit Parties and the Administrative Agent hereby instruct counsel to deliver such legal opinions.

6.6 Closing Certificate. The Administrative Agent shall have received a certificate of each Original Credit Party, dated the Closing Date, substantially in the form of Exhibit C-1, with appropriate insertions, executed by the President or any Vice President and the Secretary or any Assistant Secretary of such Original Credit Party (or where customary in the relevant jurisdiction, executed by a director of such Original Credit Party), attaching the documents referred to in Sections 6.7 and 6.8 below and certifying as to each of Sections 6.9, 6.11 and 6.12 below.

6.7 Corporate Proceedings of Each Original Credit Party. The Administrative Agent shall have received a copy of the resolutions, in form and substance satisfactory to the Administrative Agent, of the Board of Directors and, to the extent required under applicable Law or the organizational documents of any Original Credit Party, the shareholders of each Original Credit Party (or a duly authorized committee thereof) authorizing (i) the execution, delivery and performance of the Credit Documents (and any agreements relating thereto) to which it is a party and (ii) in the case of the Borrowers, the Loans contemplated hereunder.

6.8 Corporate Documents. The Administrative Agent shall have received true and complete copies of the certificate of incorporation, by-laws (or equivalent organizational documents) and, to the extent available in the relevant jurisdiction, an extract of the trade register of each Original Credit Party.

6.9 Representations and Warranties. (a) On the Closing Date, the Specified Representations shall be true and correct in all material respects and the Company Representations shall be true to the extent required by the Merger Agreement as a condition to closing thereunder.

(b) All filings and other actions necessary to perfect and protect the Liens in the Collateral created under and in the manner contemplated by the US Security Documents and the Dutch Security Documents shall have been duly made or taken or otherwise provided for and are in full force and effect, and the US Security Documents and Dutch Security Documents shall create in favor of the Collateral Agent for the benefit of the Secured Parties a valid and, together with such filings and other actions, perfected first priority Lien in the Collateral covered thereby, securing the payment of the Secured Obligations, subject to Liens permitted by Section 10.3. The Credit Parties shall be the legal and beneficial owners of the Collateral covered by the US Security Documents and Dutch Security Documents free and clear of any Lien, except for the Liens created or permitted under the Loan Documents. By execution of this Agreement, the Credit Parties confirm the satisfaction of this clause (b).

6.10 Notice of Borrowing. The Administrative Agent (or its counsel) shall have received a Notice of Borrowing with respect to the Loans to be made on the Closing Date meeting the requirements of Section 2.3.

6.11 Acquisition. The Acquisition shall have been or, substantially concurrently with the initial borrowing of the Loans shall be, consummated in all material respects in accordance with the terms of the Merger Agreement (or the Joint Lead Arrangers and Joint Bookrunners shall be reasonably satisfied with the arrangements in place for the consummation of the Acquisition reasonably promptly after the initial borrowing of the Loans hereunder and shall have received confirmation from representatives of the Company that such actions shall be taken promptly after the initial borrowing of the Loans hereunder).

6.12 No Company Material Adverse Effect. Since the date of the Merger Agreement, there has not been any Company Material Adverse Effect (as defined in the Merger Agreement), provided that clause (b) of the definition of "Company Material Adverse Effect" shall be excluded from such definition for the purposes of determining compliance with this Section 6.12.

6.13 Fees. All fees required to be paid on the Closing Date pursuant to the Fee Letter and reasonable and documented out-of-pocket expenses required to be paid on the Closing Date pursuant to the Commitment Letter, to the extent invoiced at least three Business Days (as defined in the Merger Agreement) prior to the Closing Date (except as otherwise reasonably agreed by the Borrowers), shall, upon the initial borrowings of the Loans, have been, or will be substantially simultaneously, paid (which amounts may, at the Borrowers' option, be offset against the proceeds of the Loans).

6.14 Financial Statements. The Lead Arrangers shall have received (a) the audited consolidated balance sheets of Holdings and its subsidiaries as at December 31, 2012 and December 31, 2013, and of Target and its subsidiaries as at December 31, 2012, December 31, 2013 and December 31, 2014 and the related consolidated statements of income or operations,



shareholders' equity and cash flows of Holdings and its subsidiaries for the years ended December 31, 2012 and December 31, 2013 and of Target and its subsidiaries for the years ended December 31, 2012, December 31, 2013 and December 31, 2014, and, with respect to each of Holdings and its subsidiaries and Target and its subsidiaries, for any subsequent fiscal year ended at least 120 days or, in the case of Target and its subsidiaries, 90 days before the Closing Date and (b) the unaudited consolidated balance sheets of each of Holdings and its subsidiaries and Target and its subsidiaries, and the related consolidated statements of income or operations, shareholders' equity and cash flows of each of Holdings and its subsidiaries and Target and its subsidiaries for each subsequent fiscal quarter ended at least 60 days or, in the case of Target, 45 days before the Closing Date; provided that the Lead Arrangers hereby acknowledge receipt of the audited financial statements referred to in clause (a) and the unaudited financial statements of Holdings and its subsidiaries and for Target and its subsidiaries for the quarters ended March 31, 2015, June 30, 2015 and September 30, 2015; provided further that, in the case of Holdings and its subsidiaries, filing of the required financial statements on Form 20-F or 6-K, with the SEC and, in the case of Target and its subsidiaries, the filing of the required financial statements on Form 10-K or 10-Q, as applicable, with C-2 the SEC, in each case on or prior to the Closing Date will satisfy the foregoing requirements of this Section 6.14.

6.15 Pro Forma Balance Sheet. The Lead Arrangers shall have received a pro forma consolidated balance sheet and related pro forma consolidated statements of income and cash flows of the Holdings as of and for the twelve-month period ending on the last day of the most recently completed four-fiscal quarter period for which financial statements have been delivered pursuant to Section 6.14 above, prepared after giving effect to the Transactions as if the Transactions had occurred as of such date (in the case of such balance sheet) or at the beginning of such period (in the case of such other financial statements); provided that, the financial statements made available on the Form F-4 filed with the SEC on May 28, 2015 will satisfy the foregoing requirements of this Section 6.15.

6.16 PATRIOT Act. The Administrative Agent shall have received, at least two Business Days prior to the Closing Date, all documentation and other information about the Borrower and the Guarantors as shall have been reasonably requested in writing by the Administrative Agent at least seven calendar days prior to the Closing Date and as is mutually agreed to be required by U.S. regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation the PATRIOT Act.

The acceptance of the benefits of the Loans shall constitute a representation and warranty by each Credit Party to each of the Lenders that all of the applicable conditions specified above exist as of that time.

SECTION 7. [Reserved.]

SECTION 8. Representations, Warranties and Agreements

In order to induce the Lenders to enter into this Agreement and to make the Loans as provided for herein, each Borrower makes the following representations and warranties to, and agreements with, the Lenders, each Agent, all of which shall survive the execution and delivery of this Agreement and the making of the Loans:

8.1 Organization; Powers. Each of the Credit Parties (a) is a partnership, limited liability company, exempted company or corporation duly organized, validly existing and in good standing (or, if applicable in a foreign jurisdiction, enjoys the equivalent status under the laws of any jurisdiction of organization outside the United States) under the laws of the jurisdiction of its organization and (b) has the power and authority to execute, deliver and perform its obligations under each of the Credit Documents and each other agreement or instrument contemplated thereby to which it is or will be a party and, in the case of the Borrowers, to borrow and otherwise obtain credit hereunder.

8.2 Authorization. The execution, delivery and performance by each of the Credit Parties of each of the Credit Documents to which it is a party, and the borrowings hereunder (a) have been duly authorized by all corporate, stockholder, shareholder, limited liability company or partnership action required to be obtained by each Credit Party and (b) will not (i) violate (A) any material provision of any material law, statute, rule or regulation, or of the certificate or articles of incorporation or other constitutive documents or by-laws of any Credit Party, (B) any applicable order of any court or any rule, regulation or order of any Governmental Authority or (C) any provision of any indenture, certificate of designation for preferred stock, agreement or other instrument to which any Credit Party is a party or by which any or any of their property is or may be bound, except for any such conflict, breach or default described in this paragraph (C) that could not reasonably be expected to have a Material Adverse Effect or otherwise have a material adverse effect on the rights and remedies of the Lenders under the Credit Documents, (ii) be in conflict with, result in a breach of or constitute (alone or with notice or lapse of time or both) a default under, give rise to a right of or result in any cancellation or acceleration of any right or obligation (including any payment) or to a loss of a benefit under any such indenture, certificate of designation for preferred stock, agreement or other instrument, except for any such conflict, breach or default described in this sub-clause (ii) that (1) could not reasonably be expected to have a Material Adverse Effect or otherwise have a material adverse effect on the rights and remedies of the Lenders under the Credit Documents, or (2) result in the creation or imposition of any Lien upon or with respect to any material property or assets now owned or hereafter acquired by any Credit Party.

8.3 Enforceability. This Agreement has been duly executed and delivered by each Credit Party party hereto and constitutes, and each other Credit Document when executed and delivered by each Credit Party that is party thereto will constitute, a legal, valid and binding obligation of such Credit Party enforceable against each such Credit Party in accordance with its terms, subject to Debtor Relief Laws and to general principles of equity.

8.4 Governmental Approvals; Other Consents. No action, consent or approval of, registration or filing with or any other action by, any Governmental Authority or any other Person is or will be required in connection with the execution, delivery and performance of the Credit Documents, except for (a) such as have been made or obtained and are in full force and effect, (b) filings necessary to perfect the Liens on the Collateral granted by the Credit Parties in favor of the Secured Parties and (c) those approvals, consents, exemptions, authorizations or other actions, notices or filings, the failure of which to obtain or make could not reasonably be expected to have a Material Adverse Effect.

8.5 Federal Reserve Regulations. (a) No Credit Party nor any Restricted Subsidiary is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying Margin Stock.

(b) No part of the proceeds of any Loan will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, for any purpose that entails a violation of Regulation U or Regulation X.

8.6 Investment Company Act. No Credit Party nor any Restricted Subsidiary is an “investment company” as defined in, or subject to regulation under, the Investment Company Act of 1940, as amended.

8.7 Use of Proceeds. The proceeds of the Loans will be used for general corporate purposes (including refinancing or repaying Indebtedness) not in contravention of any law or any Credit Document.

8.8 Solvency. (a) On the date hereof, and on the Closing Date (i) (A) the fair value of the assets of the Company and its Subsidiaries on a consolidated basis, at a fair valuation, will exceed the debts and liabilities, direct, subordinated, contingent or otherwise, of the Company and its Subsidiaries on a consolidated basis, respectively; (B) the present fair saleable value of the property of the Company and its Subsidiaries on a consolidated basis will be greater than the amount that will be required to pay the probable liability of the Company and its Subsidiaries on a consolidated basis on their debts and other liabilities, direct, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (C) the Company and its Subsidiaries on a consolidated basis will be able to pay their debts and liabilities, direct, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (D) the Company and its Subsidiaries on a consolidated basis will not have unreasonably small capital with which to conduct the businesses in which they are engaged as such businesses are now conducted and are proposed to be conducted following the Closing Date and (ii) each Credit Party (A) has not ceased, and does not expect that it will cease, making payments on its liabilities when due and (B) can, and expects that it can, obtain credit in the ordinary course of business.

(b) No Credit Party intends to, and does not believe that it or any of the Restricted Subsidiaries will, incur debts beyond its ability to pay such debts as they mature, taking into account the timing and amounts of cash to be received by it or any such Subsidiary and the timing and amounts of cash to be payable on or in respect of its Indebtedness or the Indebtedness of any such Subsidiary.

8.9 Financial Statements; No Material Adverse Effect. (a) The audited financial statements of the Company as at December 31, 2014 and for the fiscal year then ended together with the notes thereto (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (ii) fairly present, in all material respects, the consolidated financial condition of the Company as of the date thereof and its results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein.

(b) Since the date of the audited financial statements described in clause (a) above, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

8.10 Litigation. Except as specifically disclosed on Schedule 8.10, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrowers, threatened in writing, at law, in equity, in arbitration or before any governmental authority, by or against the Company or any of its Restricted Subsidiaries or against any of their properties or revenues that either individually or in the aggregate, have had or could reasonably be expected to have a Material Adverse Effect.

8.11 No Default. Neither the Company nor any Subsidiary thereof is in default under any contractual obligation that could, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

8.12 Ownership of Properties; Liens. The Company and each Subsidiary thereof has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary in the ordinary conduct of its business, except for such defects in title as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The property of the Company and its Subsidiaries is subject to no Liens, other than Permitted Liens.

8.13 Environmental Compliance. The Company and its Restricted Subsidiaries conduct in the ordinary course of business a review of the effect of existing Environmental Laws and claims alleging potential liability or responsibility for violation of any Environmental Law on their respective businesses, operations and properties, and as a result thereof to the best knowledge of the Company, except as specifically disclosed in Schedule 8.13, such Environmental Laws and claims could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

8.14 Taxes. Except as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, the Company and its Subsidiaries have filed all federal, state and other material tax returns and reports required to be filed, and have paid all federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those (x) which are not overdue by more than 30 days or (y) which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP.

8.15 Subsidiaries; Equity Interests. As of the date of this Agreement, the Company has no Restricted Subsidiaries other than those specifically disclosed in Schedule 8.15, and (except as disclosed on such Schedule) all of the outstanding equity interests in such Restricted Subsidiaries have been validly issued, are fully paid and nonassessable and are owned by the Company or a Subsidiary thereof in the amounts specified in Schedule 8.15 free and clear of all Liens other than (a) those created under the Security Documents and (b) any Permitted Lien. As of the date of this Agreement, neither the Company nor any of its Subsidiaries has any equity investments in any other corporation or entity other than those permitted under this Agreement.

8.16 No Material Misstatements. All written information (other than projections) (the “Information”) furnished by or on behalf of any Credit Party to any Lenders or the Administrative Agent in connection with the Transactions (as such Information may have been supplemented in writing prior to the Closing Date) or the other transactions contemplated by the Credit Documents, when taken as a whole, was true and correct in all material respects, as of the date such Information was furnished to the Lenders or the Administrative Agent (as the case may be) and (in the case of such Information delivered prior to the Closing Date) as of the Closing Date and did not contain any material misstatement of fact as of any such date or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements were made; provided that, with respect to projected financial information and pro forma financial information, the Credit Parties represent only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time of preparation; it being understood that such projections may vary from actual results and that such variances may be material.

8.17 Compliance With Laws. The Company and each of its Restricted Subsidiaries is in compliance in all material respects with the requirements of all laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. Without limitation of the foregoing, the Company and each of its Restricted Subsidiaries is in compliance (i) with all applicable provisions of law and all applicable regulations and published interpretations thereunder with respect to any employee pension benefit plan or other social security and employee benefit plan governed by the laws in any jurisdiction in which it operates and (ii) with the terms of any such plan, except, in each case, for (x) such requirement of law, applicable regulation, published interpretations or plan term is being contested in good faith by appropriate proceeding diligently conducted; or (y) such noncompliance that could not reasonably be expected to have a Material Adverse Effect.

8.18 Intellectual Property Licenses. The Company and its Restricted Subsidiaries own, license or possess the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other intellectual property rights (collectively, “IP Rights”) that are reasonably necessary for the operation of their respective businesses as currently conducted, without conflict with the rights of any other person, except to the extent such conflicts, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. To the best knowledge of the Company, no slogan or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by the Company or any Subsidiary infringes upon any rights held by any other person, except to the extent such infringements, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. Except as specifically disclosed in Schedule 8.18, no claim or litigation regarding any of the foregoing against the Company or its Restricted Subsidiaries is pending or, to the knowledge of the Company, threatened in writing, which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

SECTION 9. Affirmative Covenants

Each Borrower hereby covenants and agrees that on the Closing Date and thereafter, until the Commitments have terminated and the Loans, together with interest, Fees and all other Secured Obligations incurred hereunder, are paid and performed in full:

9.1 Financial Statements. The Company will deliver to the Administrative Agent for prompt further distribution to each Lender:

(a) beginning with the fiscal year ending December 31, 2015, as soon as available, but in any event on or before the date on which such financial statements would be required to be filed with the SEC but no later than 120 days after the end of each fiscal year (or, if such financial statements are not required to be filed with the SEC, within 120 days after the end of each fiscal year of the Company) a consolidated balance sheet of the Company and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, audited and accompanied by a report and opinion of KPMG or another registered public accounting firm of internationally recognized standing reasonably acceptable to the Administrative Agent, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit; and

(b) beginning with the fiscal quarter ending March 31, 2016, as soon as available, but in any event on or before the date on which such financial statements would be required to be filed with the SEC (or, if such financial statements are not required to be filed with the SEC, within 60 days after the end of each of the first three fiscal quarters of each fiscal year of the Company), a consolidated balance sheet of the Company and its Subsidiaries as at the end of such fiscal quarter, and the related consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal quarter and for the portion of the Company's fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail and certified by the chief executive officer, chief financial officer, treasurer or controller of the Company as fairly presenting in all material respects the financial condition, results of operations, shareholders' equity and cash flows of the Company and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes.

At any time that any of the Company's Subsidiaries are Unrestricted Subsidiaries and any such Unrestricted Subsidiary or group of Unrestricted Subsidiaries, if taken together as one Subsidiary, constitutes a Significant Subsidiary of the Company, then the annual and quarterly financial information required by the clauses (a) and (b) above shall include either (i) a reasonably detailed presentation, either on the face of the financial statements or in the footnotes

thereto, of the financial condition and results of operations of the Company and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Company or (ii) stand-alone audited or unaudited financial statements, as the case may be, of such Unrestricted Subsidiary or Unrestricted Subsidiaries (as a group or otherwise) together with an unaudited reconciliation to the financial information of the Company and its Subsidiaries, which reconciliation shall include the following items: revenue, EBITDA, net income, cash, total assets, total debt, shareholders equity, capital expenditures and interest expense.

Notwithstanding the foregoing, the obligations in clauses (a) and (b) above may be satisfied with respect to financial information of the Company and its Subsidiaries by furnishing (i) the applicable financial statements of Holdings (or any direct or indirect parent of Holdings) or (ii) the Company's or Holdings' (or any direct or indirect parent thereof), as applicable, Form 20-F or 6-K, as applicable, filed with the SEC; provided that, with respect to each of sub-clauses (i) and (ii), (A) to the extent such information relates to Holdings (or a parent thereof), such information is accompanied by consolidating information that explains in reasonable detail the differences between the information relating to Holdings (or such parent), on the one hand, and the information relating to the Company and its Subsidiaries on a standalone basis, on the other hand and (B) to the extent such information is in lieu of information required to be provided under this Section 9.1, such materials are accompanied by a report and opinion of an independent registered public accounting firm of internationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit.

9.2 Certificates; Other Information. The Company will deliver to the Administrative Agent for prompt further distribution to each Lender:

(a) not later than 5 Business Days after the delivery of the financial statements referred to in Section 9.1(a), a certificate of the registered public accounting firm certifying such financial statements; and

(b) not later than 5 Business Days after the delivery of the financial statements referred to in Section 9.1(a) and 9.1(b), a duly completed Compliance Certificate signed by the chief executive officer, chief financial officer, treasurer or controller of the Company.

Documents required to be delivered pursuant to Section 9.1(a) or 9.1(b) above may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (a) on which Holdings or the Company posts such documents, or provides a link thereto on Holdings' or the Company's website on the internet at the website address listed on Schedule 9.2; or (b) on which such documents are posted on Holdings' or the Company's behalf on an internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that: (i) upon written request by the Administrative Agent, Holdings or the Company shall deliver paper copies of such documents to the Administrative Agent for further distribution to each Lender that requests Holdings or the Company to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or

such Lender and (ii) Holdings or the Company shall notify the Administrative Agent for further notification to each Lender (by telecopier or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Notwithstanding anything contained herein, in every instance Company shall be required to provide paper copies of the Compliance Certificates to the Administrative Agent. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents.

9.3 Notices. (a) Each Borrower will, or will cause the relevant Subsidiary (other than Jilin and SSMC or any other Unrestricted Subsidiary) to, promptly after a Responsible Officer of the Company or such Subsidiary obtains knowledge thereof, notify the Administrative Agent:

(i) of the occurrence of any Default; and

(ii) of any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect, including (A) breach or non-performance of, or any default under, a contractual obligation of the Company or any Subsidiary thereof; (B) any dispute, litigation, investigation, proceeding or suspension between the Company or any Subsidiary thereof and any Governmental Authority; or (C) the commencement of, or any material development in, any litigation or proceeding affecting the Company or any Subsidiary thereof, including pursuant to any applicable Environmental Laws, which, in any such case, has resulted or could reasonably be expected to result in a Material Adverse Effect.

(b) Each notice pursuant to this Section 9.3 shall be accompanied by a statement of a Responsible Officer of the Company setting forth material details of the occurrence referred to therein and stating what action the Company or the relevant Subsidiary has taken and proposes to take with respect thereto.

9.4 Payment of Obligations. Each Borrower will, and will cause each of its Restricted Subsidiaries to, pay and discharge as the same shall become due and payable, all its obligations and liabilities in respect of taxes, assessments and governmental charges or levies upon it or its properties or assets, unless (a) the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves, if any, in accordance with GAAP are being maintained by the Company or such Restricted Subsidiary; or (b) the failure to pay or discharge the same could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

9.5 Preservation of Existence; Assets. Each Borrower will, and will cause each of its Restricted Subsidiaries to:

(a) preserve, renew and maintain in full force and effect its legal existence and good standing under the laws of the jurisdiction of its organization, except to the extent the failure to do so could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect;



(b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except (i) to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect or (ii) pursuant to a transaction permitted by Section 10.9 or 10.10; and

(c) preserve or renew all of its registered patents, trademarks, trade names and service marks, the non preservation of which could reasonably be expected to have a Material Adverse Effect.

9.6 Maintenance of Properties. Each Borrower will, and will cause each of its Restricted Subsidiaries to, maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted and casualty and condemnation excepted, and make all necessary repairs thereto and renewals and replacements thereof (in accordance with prudent industry practice) except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

9.7 Maintenance of Insurance. Each Borrower will, and will cause each of its Restricted Subsidiaries to, maintain with financially sound and reputable insurance companies, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by persons engaged in the same or similar business, of such types and in such amounts (after giving effect to any self-insurance reasonable and customary for similarly situated persons engaged in the same or similar businesses as the Company and its Restricted Subsidiaries) as are customarily carried under similar circumstances by such other persons.

9.8 Compliance with Laws. Each Borrower will, and will cause each of its Restricted Subsidiaries to, comply in all material respects with the requirements of all laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which (a) such requirement of law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted; or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect. Without limitation of the foregoing, the Company and each of its Restricted Subsidiaries shall at all times comply (i) with all applicable provisions of law and all applicable regulations and published interpretations thereunder with respect to any employee pension benefit plan or other social security and employee benefit plan governed by the laws in any jurisdiction in which it operates and (ii) with the terms of any such plan (including funding obligations thereunder), except, in each case, for (x) such requirement of law, applicable regulation, published interpretations or plan term is being contested in good faith by appropriate proceeding diligently conducted; or (y) such noncompliance that could not reasonably be expected to have a Material Adverse Effect.

9.9 Inspection Rights. Each Borrower will, and will cause each of its Restricted Subsidiaries to, permit representatives and independent contractors of the Administrative Agent and the Required Lenders to visit and inspect any of its properties, to examine its corporate, financial and operating records, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable

advance notice to the Company; provided, however, that, excluding any such visits and inspections during the continuation of an Event of Default, only the Administrative Agent on behalf of the Lenders may exercise rights of the Administrative Agent and the Required Lenders under this Section 9.9 and the Administrative Agent shall not exercise such rights more often than two times during any calendar year absent the existence of an Event of Default and for one such time the reasonable expenses of the Administrative Agent in connection with such visit and inspection shall be for the Company's account; provided further 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 reasonable expense of the Company at any time during normal business hours and upon reasonable advance notice.

9.10 Use of Proceeds. Each Borrower will use the proceeds of the Loans under this Agreement for general corporate purposes (including, for the avoidance of doubt, refinancing of any existing indebtedness) not in contravention of any law or any Credit Document.

9.11 Guarantees Restricted Subsidiaries. (a) Any Wholly Owned Subsidiary of the Company that is to be designated as not an Immaterial Subsidiary pursuant to the proviso to the definition thereof, if any, shall, within 60 days after the Closing Date (or such longer period as the Administrative Agent shall agree in writing in its sole discretion), provide a Guarantee of this Agreement by executing a supplement to the Guaranty in the form attached thereto.

(b) Subject to the Agreed Security Principles, if, as of the last day of any fiscal year for which financial statements have been delivered pursuant to Section 9.1, any Wholly Owned Subsidiary of the Company or any Restricted Subsidiary constitutes a Subsidiary that is not an Immaterial Subsidiary, such Restricted Subsidiary must, within 60 days (or such longer period as the Administrative Agent may agree in writing) after the date on which the Compliance Certificate for such fiscal year is delivered, provide a Guarantee of this Agreement by executing a supplement to the Guaranty in the form attached thereto).

(c) If the Company or any of its Restricted Subsidiaries acquires or creates a Wholly Owned Subsidiary (other than an Immaterial Subsidiary) after the Closing Date and the issuance of a Guarantee by such Guarantor is not precluded by the Agreed Security Principles, the new Restricted Subsidiary must, within 30 days (or such longer period as the Administrative Agent may agree in writing) after becoming a Restricted Subsidiary, provide a Guarantee of this Agreement by executing a supplement to the Guaranty in the form attached thereto.

(d) The obligations of each Guarantor under the Guaranty will be limited to the maximum amount that would not render the Guarantors' obligations subject to avoidance under applicable fraudulent conveyance provisions of the United States Bankruptcy Code or any comparable provision of foreign or state law and as otherwise set forth in the Guaranty or relevant supplement to the Guaranty.

(e) The obligations of a Guarantor under the Guaranty will terminate upon:

(i) a sale or other disposition (including by way of consolidation or merger) of the Guarantor or the sale or disposition of all or substantially all the assets of the Guarantor (other than to the Company or a Restricted Subsidiary), in each case, as permitted by this Agreement;

(ii) the designation in accordance with this Agreement of the Guarantor as an Unrestricted Subsidiary;

(iii) to the extent that the Guarantor is not an Immaterial Subsidiary due to the operation of the proviso to the definition of "Immaterial Subsidiary", upon the release of the guarantee or guarantees referred to in such proviso that resulted in the Guarantor not being an Immaterial Subsidiary;

(iv) the Guarantor becoming an Immaterial Subsidiary, tested as of the last day of any fiscal year for which financial statements have been delivered pursuant to Section 9.1 and a Compliance Certificate has been delivered pursuant to Section 9.2(b), and that Guarantor being designated by the Company pursuant to that Compliance Certificate as an Immaterial Subsidiary whose obligations under the Guaranty should terminate; or

(v) repayment in full of all amounts due and payable under the Credit Documents and cancellation of Commitments hereunder.

9.12 Additional Liens and Security Interests. (a) Subject to the Agreed Security Principles, within 90 days (or such longer period as the Administrative Agent may agree in writing in its sole discretion) after (i) any Restricted Subsidiary organized under the laws of the United States or the Netherlands (the "Relevant Jurisdictions") becomes a Guarantor in accordance with Section 9.11 (each such Restricted Subsidiary, a "Relevant Jurisdiction Guarantor") who as at the Closing Date has not granted security pursuant to the Security Documents or (ii) any Relevant Jurisdiction Guarantor acquires any material property in a Relevant Jurisdiction that is not automatically subject to a perfected security interest under the Security Documents, the relevant Relevant Jurisdiction Guarantor shall, in each case at its sole cost and expense, duly execute and deliver to the Administrative Agent such mortgages, deeds of trust, mortgage amendment, deed of trust amendments, security agreement supplements and other security documents, as reasonably specified by and in form and substance reasonably satisfactory to the Administrative Agent (in form and scope, and covering such collateral on such terms, in each case consistent with the mortgages, security agreements and other security documents in effect on the Closing Date), granting a security interest in favor of the Secured Parties, and take such additional actions (including the giving of notices, the filing of statements and the provision of all instruments and documents reasonably requested by the Administrative Agent) to perfect and protect the security interests of the Secured Parties under the Security Documents. Notwithstanding the foregoing, no Credit Party shall be required to provide a security interest pursuant to this Section 9.12 (x) except as provided in Section 9.16, in cash or bank accounts prior to the occurrence of an Enforcement Event, (y) if the Agreed Security Principles would not so require or (z) over assets or properties that are not subject to Liens under the Security Documents as a result of the application of the Agreed Security Principles. Any security interest provided pursuant to this Section 9.12 shall be accompanied with such opinions of counsel to the Company as customarily given by borrower's counsel in the relevant

jurisdiction (and, with respect to real property in the United States, title insurance), in form and substance customary for such jurisdiction. The Company will use reasonable endeavors to procure that its counsel or title company, as the case may be, in any relevant jurisdiction provides a legal opinion in respect of any such security interest.

(b) The obligations of a Credit Party under the Security Documents to which it is a party will terminate upon:

- (i) such Credit Party ceasing to be a Guarantor in accordance with Section 9.11(d);
- (ii) the designation in accordance with this Agreement of such Credit Party as an Unrestricted Subsidiary; or
- (iii) payment and performance in full of the Secured Obligations and the cancellation of Commitments hereunder.

(c) The assets or property of a Credit Party forming part of the Collateral shall be released from the Lien created under any Security Document to which such Credit Party is a party upon the sale or disposition of such assets or property (other than to the Company or a Restricted Subsidiary) in a transaction permitted by this Agreement (other than a sale or disposition subject to Section 10.9 or 10.10(c)).

(d) For the avoidance of doubt, no Guarantor incorporated in a jurisdiction that is not a Relevant Jurisdiction shall be required to take any actions referred to in this Section 9.12.

9.13 Further Assurances. Subject to the Agreed Security Principles, promptly upon request by the Administrative Agent, (a) correct any material defect or error that may be discovered in any Credit Document or in the execution, acknowledgment, filing or recordation thereof, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent, may reasonably require from time to time in order to carry out more effectively the purposes of any Credit Document.

9.14 Insurance Endorsements. Within 10 Business Days (or such later date as the Collateral Agent and the Borrowers may agree) after the Closing Date or such later date on which a Relevant Jurisdiction Guarantor grants security to secure the Secured Obligations and the end of each calendar year, the relevant Collateral Agent shall have received endorsements naming the relevant Collateral Agent, on behalf of the Lenders, as an additional insured or loss payee, as the case may be, under all material insurance policies to be renewed following the Closing Date or entered into prior to the end of such fiscal year with respect to the properties of the Company and its Subsidiaries forming part of the Collateral.

9.15 [Reserved].

9.16 Security Over Cash and Bank Accounts. (a) The Company shall maintain bank accounts held, in each case, with the Collateral Agent in London and denominated in US

Dollars, Euros and Sterling (each a “Initial Secured Account” and together the “Initial Secured Accounts”) (pursuant to Clause 9.16 of the Revolving Credit Agreement) and shall, on the Closing Date, if such accounts are empty, deposit a nominal amount into each Initial Secured Account.

(b) Upon the occurrence and during the continuance of an Enforcement Event the Company shall, and shall procure that each Relevant Jurisdiction Guarantor shall (i) pay the proceeds of the sale or collection of Collateral to a bank account or bank accounts that do not contain other cash of the Company or Relevant Jurisdiction Guarantor (as the case may be) that is not the proceeds of Collateral, (ii) not commingle the proceeds of Collateral with other cash of the Company or the Relevant Jurisdiction Guarantor and (iii) pay the proceeds of Collateral denominated in US Dollars, Sterling and Euros that are paid to, or received by, the Company or a Relevant Jurisdiction Guarantor promptly to the relevant Initial Secured Account and, to the extent practicable, direct counterparties to pay the proceeds of Collateral directly to the relevant Initial Secured Account.

(c) Upon the occurrence and during the continuance of an Enforcement Event, the Company shall, and shall procure that each Relevant Jurisdiction Guarantor shall, grant, subject to the Agreed Security Principles, a perfected Lien in all bank accounts held by the Company or any Relevant Jurisdiction Guarantor to which proceeds of Collateral are paid, to the extent of the proceeds of such Collateral (any such account, an “Additional Secured Account”, and together with the Initial Secured Accounts, the “Secured Accounts”); provided that, to the extent any of the Additional Secured Accounts are or become part of the bank accounts used in the cash management system of the Company, the Company and each Relevant Jurisdiction Guarantor shall be entitled to grant a Lien over the Additional Secured Accounts in favor of the bank providing cash management facilities to secure the Company’s or any Relevant Jurisdiction Guarantor’s obligations to such bank, which Lien shall rank equally and ratably with the Lien created in favor of the Collateral Agent.

#### 9.17 Conditions Subsequent to the Closing Date.

(a) Subject to the Agreed Security Principles, as soon as is reasonably practicable following the Closing Date and in any event within 60 days thereafter or such longer period as the Administrative Agent may agree in writing in its sole discretion:

(i) Freescale Semiconductor, Inc. shall have executed and delivered to the Administrative Agent either (in the reasonable discretion of the Collateral Agent) (i) mortgages or deeds of trust in respect of each of the Freescale US Properties or (ii) amendments of the Existing Fast Mortgages, in each case granting (or confirming) in favor of the Collateral Agent for the benefit of the Secured Parties a valid Lien in the Freescale US Properties, securing the payment of the Secured Obligations, subject to Liens permitted by Section 10.3, in form and substance consistent with the Existing Fast Mortgages or otherwise reasonably satisfactory to the Administrative Agent, subject to the Agreed Security Principles, together with title insurance policies in form and substance similar to the title insurance policies delivered in connection with the Existing Fast Mortgages (or endorsements to such policies);

(ii) the Collateral Agent shall have received all documents and instruments, including Uniform Commercial Code or other applicable personal property and fixture security financing statements, required by Law or reasonably requested by the Collateral Agent, as applicable, to be filed, registered or recorded in any relevant jurisdiction to create the Liens intended to be created by the Security Documents 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 such Collateral Agent for filing, registration or recording, subject to the Agreed Security Principles;

(iii) the Collateral Agent shall have received the executed legal opinions of special Netherlands, Arizona and Texas counsel to the Borrowers or the relevant Credit Party, in each case in substantially the same form and substance to the extent the same was provided under and in connection with the Existing Term Credit Agreement or otherwise in form and substance reasonably satisfactory to Collateral Agent to the extent applicable to entities that are Credit Parties. The Borrowers, the other Credit Parties, Collateral Agent hereby instruct counsel to deliver such legal opinions; and

(iv) All Uniform Commercial Code financing statements required to be filed, registered or recorded to create the Liens intended to be created by any Security Document entered into by the Borrowers and each Wholly Owned U.S. Restricted Subsidiary and perfect such Liens to the extent required by such Security Document shall have been delivered to the Collateral Agent, and shall be in proper form, for filing, registration or recording.

(b) Target Merger. Within ten (10) Business Days after the Closing Date (or such longer period as the Administrative Agent may agree in writing in its sole discretion) to the extent not consummated on the Closing Date, each of Freescale Semiconductors Holdings II, Ltd, Freescale Semiconductors Holdings III, Ltd and Freescale Semiconductors Holdings IV, Ltd shall be merged with and into Target, and the Target will merge with and into Freescale Semiconductors Holdings V, Inc., which shall be an indirect subsidiary of Holdings.

#### 9.18 Change in Control Repurchase

(a) Within 30 days from the occurrence of a Change of Control Triggering Event, the Borrowers shall provide written notice to the Administrative Agent (a "Change of Control Offer Notice") of its offer to repurchase the Loans of each lender in whole (and not in part) at a purchase price in cash equal to 101% of the principal amount of all such Loans plus accrued and unpaid interest to the date of purchase (the "Change of Control Purchase Price").

(b) Within 20 days from the Administrative Agent's receipt of the Change of Control Offer Notice, the Borrowers shall pay to the Administrative Agent for the account of each Lender who has elected to have the Borrowers repurchase its Loans in an amount sufficient to repurchase all such Loans at the Change of Control Purchase Price; provided that Lenders shall notify the Administrative Agent of its election to have the Borrowers repurchase its Loans within 10 days of the Administrative Agent's receipt of the Change of Control Offer Notice; provided further, that a Lender shall be deemed to have elected not to have its Loans repurchased if it fails to notify the Company and Administrative Agent of such election within such 10 day period.

(c) The Borrowers will not be required to make a Change of Control Offer upon a Change of Control Triggering Event if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in the indenture applicable to a Change of Control Offer made by the Borrowers and repurchases all Loans elected for repurchase under such Change of Control Offer.

(d) The Borrowers shall not be obliged to repurchase Loans pursuant to this Section 9.18 in the event and to the extent that they have exercised their right to repay all of the Loans.

(e) The provisions of this Section 9.18 may be waived or modified with the consent of the Required Lenders.

9.19 Parallel Debts. (a) Each of the Credit Parties undertakes by way of an abstract acknowledgment of indebtedness with the Collateral Agent to pay to the Collateral Agent its Parallel Debts. The parties acknowledge that the Collateral Agent is the creditor of the Parallel Debts and shall act in its own name and not as agent of any of the Lenders, the Joint Lead Arrangers, the Joint Bookrunners, the Administrative Agent or the Collateral Agent (each a "Parallel Debt Secured Party") (but always for the benefit of the Parallel Debt Secured Parties in accordance with the provisions of the Credit Documents).

(b) Paragraph (a) above is (i) for the purpose of ensuring the validity and effect of certain security rights governed by German laws, granted by any Credit Party pursuant to the Guaranty; and (ii) without prejudice to the other provisions of the Guaranty. For the avoidance of doubt, (i) the respective Parallel Debt shall be decreased to the extent the Underlying Debt has been repaid or discharged, (ii) the Underlying Debt shall be decreased to the extent that the respective Parallel Debt has been repaid or discharged, and (iii) the amount of the Parallel Debt shall at all times be equal to the amount of the Underlying Debt.

(c) Each Parallel Debt is a separate and independent obligation and shall not make the Collateral Agent or any Parallel Debt Secured Party a joint and several creditor of any Underlying Debt.

#### SECTION 10. Negative Covenants

Each Borrower hereby covenants and agrees that on the Closing Date and thereafter, until the Commitments have terminated and the Loans, together with interest, Fees and all other Secured Obligations incurred hereunder, are paid and performed in full:

10.1 Limitation on Indebtedness. (a) The Company will not, and will not permit any of its Restricted Subsidiaries to, Incur any Indebtedness (including Acquired Indebtedness); provided, however, that the Company and any of its Restricted Subsidiaries may Incur Indebtedness if on the date of such Incurrence and after giving pro forma effect thereto (including pro forma application of the proceeds thereof), the Fixed Charge Coverage Ratio for the Company and its Restricted Subsidiaries is greater than 2.00 to 1.0.

(b) Clause (a) will not prohibit the Incurrence of the following Indebtedness:

(i) Indebtedness Incurred pursuant to any Credit Facility (including in respect of letters of credit or bankers' acceptances issued or created thereunder) and any Refinancing Indebtedness in respect thereof and Guarantees in respect of such Indebtedness in a maximum aggregate principal amount at any time outstanding not exceeding (A) €750,000,000, plus (B) in the case of any refinancing of any Indebtedness permitted under this sub-clause (i) or any portion thereof, the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses Incurred in connection with such refinancing;

(ii) (a) (1) Guarantees by the Company or any Restricted Subsidiary of Indebtedness of the Company or any Guarantor and (2) co-issuance by the Co-Borrower of any Indebtedness of the Company, in each case so long as the Incurrence of such Indebtedness is permitted under this Agreement; or

(B) without limiting Section 10.3, Indebtedness arising by reason of any Lien granted by or applicable to such Person securing Indebtedness of the Company or any Restricted Subsidiary so long as the Incurrence of such Indebtedness is permitted under this Agreement;

(iii) Indebtedness of the Company owing to and held by any Restricted Subsidiary or Indebtedness of a Restricted Subsidiary owing to and held by the Company or any Restricted Subsidiary; provided, however, that:

(A) any subsequent issuance or transfer of Capital Stock or any other event which results in any such Indebtedness being beneficially held by a Person other than the Company or a Restricted Subsidiary of the Company; and

(B) any sale or other transfer of any such Indebtedness to a Person other than the Company or a Restricted Subsidiary of the Company,

shall be deemed, in each case, to constitute an Incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be;

(iv) Indebtedness represented by (A) any Indebtedness (other than Indebtedness described in sub-clauses (i) and (iii) above) outstanding on the Closing Date, (B) Refinancing Indebtedness Incurred in respect of any Indebtedness described in this sub-clause (iv) or sub-clauses (v), (vii), or (xi) below or Incurred pursuant to clause (a) above, (C) Management Advances, (D) the Senior Notes, (E) Indebtedness incurred under this Agreement in a principal amount not exceeding the original committed amount hereunder, and (F) obligations arising under a declaration of joint and several liability in respect of a Restricted Subsidiary used for the purpose of section 2:403 of the Dutch Civil Code (*Burgerlijk Wetboek*) (and any residual liability under such declaration arising pursuant to section 2:404(2) of the Dutch Civil Code) to the extent that such obligations constitute Indebtedness;



(v) Indebtedness of any Person (x) Incurred and outstanding on the date on which such Person becomes a Restricted Subsidiary or is merged, consolidated, amalgamated or otherwise combined with (including pursuant to any acquisition of assets and assumption of related liabilities) the Company or any Restricted Subsidiary or (y) Incurred (A) to provide all or any portion of the funds utilized to consummate the transaction or series of related transactions pursuant to which such Person became a Restricted Subsidiary or was otherwise acquired by the Company or a Restricted Subsidiary or (B) otherwise in connection with or contemplation of such acquisition); provided, however, with respect to this sub-clause (v), that at the time of such acquisition or other transaction (x) the Company would have been able to Incur €1.00 of additional Indebtedness pursuant to clause (a) above after giving pro forma effect to the Incurrence of such Indebtedness pursuant to this sub-clause (v) and such merger, consolidation, amalgamation or combination, or (y) the Fixed Charge Coverage Ratio would not be lower than it was immediately prior to giving effect to such acquisition or other transaction;

(vi) Indebtedness under Currency Agreements, Interest Rate Agreements and Commodity Hedging Agreements entered into for bona fide hedging purposes of the Company or its Restricted Subsidiaries and not for speculative purposes (as determined in good faith by the Board of Directors or Senior Management of the Company);

(vii) Indebtedness represented by Capitalized Lease Obligations or Purchase Money Obligations, and in each case any Refinancing Indebtedness in respect thereof, in an aggregate outstanding principal amount which, when taken together with the principal amount of all other Indebtedness Incurred pursuant to this sub-clause (vii) and then outstanding, will not exceed at any time outstanding the greater of (A) €100,000,000 and (B) 1% of Total Assets;

(viii) Indebtedness in respect of (A) workers' compensation claims, self-insurance obligations, performance, indemnity, surety, judgment, appeal, advance payment, customs, VAT or other tax or other guarantees or other similar bonds, instruments or obligations and completion guarantees and warranties provided by the Company or a Restricted Subsidiary or relating to liabilities, obligations, indemnities or guarantees Incurred in the ordinary course of business or pursuant to any governmental or regulatory requirements, (B) letters of credit, bankers' acceptances, guarantees or other similar instruments or obligations issued or relating to liabilities or obligations Incurred in the ordinary course of business or pursuant to any governmental or regulatory requirements, (C) the financing of insurance premiums in the ordinary course of business and (D) any customary cash management, cash pooling or netting or setting off arrangements in the ordinary course of business;

(ix) Indebtedness arising from agreements providing for customary guarantees, indemnification, obligations in respect of earnouts or other adjustments of purchase price or, in each case, similar obligations, in each case, Incurred or assumed in connection with the acquisition or disposition of any business or assets or Person or any Capital Stock of a Subsidiary (other than Guarantees of Indebtedness Incurred by any Person acquiring or disposing of such business or assets or such Subsidiary for the purpose of financing such

acquisition or disposition); provided that the maximum liability of the Company and its Restricted Subsidiaries in respect of all such Indebtedness shall at no time exceed the gross proceeds, including the fair market value of non-cash proceeds (measured at the time received and without giving effect to any subsequent changes in value), actually received by the Company and its Restricted Subsidiaries in connection with such disposition;

(x) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business; provided, however, that such Indebtedness is extinguished within five Business Days of Incurrence;

(A) Customer deposits and advance payments received in the ordinary course of business from customers for goods purchased in the ordinary course of business;

(B) Indebtedness owed on a short-term basis of no longer than 30 days to banks and other financial institutions Incurred in the ordinary course of business of the Company and its Restricted Subsidiaries with such banks or financial institutions that arises in connection with ordinary banking arrangements to manage cash balances of the Company and its Restricted Subsidiaries; and

(C) Indebtedness Incurred by a Restricted Subsidiary in connection with bankers acceptances, discounted bills of exchange or the discounting or factoring of receivables for credit management purposes, in each case Incurred or undertaken in the ordinary course of business on arm's length commercial terms on a recourse basis;

(xi) Indebtedness in an aggregate outstanding principal amount which, when taken together with any Refinancing Indebtedness in respect thereof and the principal amount of all other Indebtedness Incurred pursuant to this sub-clause (xi) and then outstanding, will not exceed €450,000,000;

(xii) Indebtedness in an aggregate outstanding principal amount which, when taken together with any Refinancing Indebtedness in respect thereof and the principal amount of all other Indebtedness Incurred pursuant to this sub-clause (xii) and then outstanding, will not exceed 100% of the Net Cash Proceeds received by the Company from the issuance or sale (other than to a Restricted Subsidiary) of its Capital Stock (other than Disqualified Stock, Designated Preference Shares or an Excluded Contribution) or otherwise contributed to the equity (other than through the issuance of Disqualified Stock, Designated Preference Shares or an Excluded Contribution) of the Company, in each case, subsequent to the Closing Date; provided, however, that (A) any such Net Cash Proceeds that are so received or contributed shall be excluded for purposes of making Restricted Payments under Sections 10.2(c)(i), (vi) and (x) to the extent the Company and its Restricted Subsidiaries incur Indebtedness in reliance thereon, and (B) any Net Cash Proceeds that are so received or contributed shall be excluded for purposes of Incurring Indebtedness pursuant to this sub-clause (xii) to the extent the Company or any of its Restricted Subsidiaries makes a Restricted Payment under Section 10.2 and Sections 10.2(c)(i), (vi), and (x) in reliance thereon;

(xiii) Indebtedness of Restricted Subsidiaries Incurred as a result of (A) any governmental or regulatory restrictions, limitations or penalties in the nature of capital controls, exchange controls or similar restrictions affecting the incurrence or repayment of intercompany Indebtedness by any Restricted Subsidiary or (B) any ordinary course country risk management policies or tax planning of the Company restricting or limiting transfers or distributions from the Company or any Restricted Subsidiary to the Company or any Restricted Subsidiary, provided that the principal amount of such Indebtedness so Incurred when aggregated with other Indebtedness previously Incurred in reliance on this sub-clause (xiii) and still outstanding shall not in the aggregate exceed €350,000,000; and

(xiv) the Guaranty by the Company or a Restricted Subsidiary of Indebtedness of any Person in which the Company or a Restricted Subsidiary has beneficial ownership of 15% or more of the Voting Stock in respect of performance, bid or surety bonds issued by or on behalf of any such Person in the ordinary course of business in an aggregate amount, together with all other guarantees of the Company outstanding pursuant to this sub-clause (xiv) on the date of such incurrence, not to exceed €15,000,000.

(c) For purposes of determining compliance with, and the outstanding principal amount of any particular Indebtedness Incurred pursuant to and in compliance with, this Section 10.1:

(i) in the event that Indebtedness meets the criteria of more than one of the types of Indebtedness described in clauses (a) and (b) above, the Company, in its sole discretion, will classify, and may from time to time reclassify, such item of Indebtedness and only be required to include the amount and type of such Indebtedness in one of the sub-clauses of clause (b) or clause (a);

(ii) all Indebtedness outstanding on the Closing Date (x) under this Agreement shall be deemed initially Incurred on the Closing Date under Clause (b)(iv)(E) above, and (y) the Revolving Credit Facility shall be deemed initially Incurred under clause (b)(i) above, and in each case such Indebtedness may not be reclassified pursuant to sub-clause (i) above;

(iii) Guarantees of, or obligations in respect of letters of credit, bankers' acceptances or other similar instruments relating to, or Liens securing, Indebtedness that is otherwise included in the determination of a particular amount of Indebtedness shall not be included;

(iv) if obligations in respect of letters of credit, bankers' acceptances or other similar instruments are Incurred pursuant to any Credit Facility and are being treated as Incurred pursuant to clause (b)(i), (vii), (xi), (xii) or (xiii) or clause (a) above and the letters of credit, bankers' acceptances or other similar instruments relate to other Indebtedness, then such other Indebtedness shall not be included;

(v) the principal amount of any Disqualified Stock of the Company or a Restricted Subsidiary, or Preferred Stock of a Restricted Subsidiary, will be equal to the greater of the maximum mandatory redemption or repurchase price (not including, in either case, any redemption or repurchase premium) or the liquidation preference thereof;

(vi) Indebtedness permitted by this covenant need not be permitted solely by reference to one provision permitting such Indebtedness but may be permitted in part by one such provision and in part by one or more other provisions of this covenant permitting such Indebtedness; and

(vii) the amount of Indebtedness issued at a price that is less than the principal amount thereof will be equal to the amount of the liability in respect thereof determined on the basis of GAAP.

(d) Accrual of interest, accrual of dividends, the accretion of accreted value, the accretion or amortization of original issue discount, the payment of interest in the form of additional Indebtedness, the payment of dividends in the form of additional shares of Preferred Stock or Disqualified Stock or the reclassification of commitments or obligations not treated as Indebtedness due to a change in GAAP, will not be deemed to be an Incurrence of Indebtedness for purposes of this Section 10.1.

(e) The amount of any Indebtedness outstanding as of any date shall be (i) the accreted value thereof in the case of any Indebtedness issued with original issue discount and (ii) the principal amount, or liquidation preference thereof, in the case of any other Indebtedness.

(f) If at any time an Unrestricted Subsidiary becomes a Restricted Subsidiary, any Indebtedness of such Subsidiary shall be deemed to be Incurred by a Restricted Subsidiary of the Company as of such date (and, if such Indebtedness is not permitted to be Incurred as of such date under this Section 10.1 the Company shall be in Default of this covenant).

(g) For purposes of determining compliance with any euro-denominated restriction on the Incurrence of Indebtedness, the Euro Equivalent of the aggregate principal amount of Indebtedness denominated in another currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was Incurred, in the case of term Indebtedness, or, at the option of the Company, first committed, in the case of Indebtedness Incurred under a revolving credit facility; provided that (i) if such Indebtedness is Incurred to refinance other Indebtedness denominated in a currency other than euros, and such refinancing would cause the applicable euro-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such euro-denominated restriction shall be deemed not to have been exceeded so long as the aggregate principal amount of such Refinancing Indebtedness does not exceed the aggregate principal amount of such Indebtedness being refinanced; (ii) the Euro Equivalent of the aggregate principal amount of any such Indebtedness outstanding on the Closing Date shall be calculated based on the relevant currency exchange rate in effect on the Closing Date; and (iii) if and for so long as any such Indebtedness is subject to a Currency Agreement with respect to the currency in which such Indebtedness is denominated covering principal and interest on such Indebtedness, the amount of such Indebtedness, if denominated in euros, will be the amount of the principal

payment required to be made under such Currency Agreement and, otherwise, the Euro Equivalent of such amount plus the Euro Equivalent of any premium which is at such time due and payable but is not covered by such Currency Agreement.

(h) Notwithstanding any other provision of this covenant, the maximum amount of Indebtedness that the Company or a Restricted Subsidiary may Incur pursuant to this Section 10.1 shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness Incurred to refinance other Indebtedness, if Incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

(i) The Company may elect irrevocably to convert all Euro-denominated restrictions into US Dollar-denominated restrictions at the applicable spot rate of exchange prevailing on the date of such election, and all references in this Agreement to determining Euro Equivalents and Euro amounts shall apply mutatis mutandis as though referring to US Dollars.

(j) Any Indebtedness that is incurred in the form of a senior secured loan that is secured on the Collateral pursuant to the Collateral Agency Agreement shall be subject to the MFN Provision, as if references in the proviso of Section 2.14(d)(iii) to “New Term Loans” were to such senior loan incurrence.

10.2 Limitation on Restricted Payments. (a) The Company will not, and will not permit any of its Restricted Subsidiaries, directly or indirectly, to:

(i) declare or pay any dividend or make any distribution on or in respect of the Company’s or any Restricted Subsidiary’s Capital Stock (including any payment in connection with any merger or consolidation involving the Company or any of its Restricted Subsidiaries) except:

(A) dividends or distributions payable in Capital Stock of the Company (other than Disqualified Stock) or in options, warrants or other rights to purchase such Capital Stock of the Company or in Subordinated Shareholder Funding; and

(B) dividends or distributions payable to the Company or a Restricted Subsidiary (and, in the case of any such Restricted Subsidiary making such dividend or distribution, to holders of its Capital Stock other than the Company or another Restricted Subsidiary on no more than a pro rata basis, measured by value);

(ii) purchase, redeem, retire or otherwise acquire for value any Capital Stock of the Company or any direct or indirect Parent of the Company held by Persons other than the Company or a Restricted Subsidiary of the Company (other than in exchange for Capital Stock of the Company (other than Disqualified Stock));

(iii) purchase, repurchase, redeem, defease or otherwise acquire or retire for value, prior to scheduled maturity, scheduled repayment or scheduled sinking fund payment, any Subordinated Indebtedness (other than, in each case (A) any capitalization

of Subordinated Indebtedness, (B) any such purchase, repurchase, redemption, defeasance or other acquisition or retirement or in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case, due within one year of the date of purchase, repurchase, redemption, defeasance or other acquisition or retirement and (C) any Indebtedness Incurred pursuant to Section 10.1(b)(iii) or any Subordinated Shareholder Funding; or

(iv) make any Restricted Investment in any Person;

(any such dividend, distribution, purchase, redemption, repurchase, defeasance, other acquisition, retirement or Restricted Investment referred to in sub-clauses (i) through (iv) above made on or after the Closing Date are referred to herein as a “Restricted Payment”), if at the time the Company or such Restricted Subsidiary makes such Restricted Payment:

(A) a Default shall have occurred and be continuing (or would result immediately thereafter therefrom);

(B) the Company is not able to incur an additional €1.00 of Indebtedness pursuant to Section 10.1(a) after giving effect, on a pro forma basis, to such Restricted Payment; or

(C) the aggregate amount of such Restricted Payment and all other Restricted Payments made subsequent to February 14, 2013 (and not returned or rescinded) (including Permitted Payments permitted below by clauses (c)(vi), (x), (xi), and (xii), but excluding all other Restricted Payments permitted by clause (c)) would exceed the sum of (without duplication):

(1) 50% of Consolidated Net Income for the period (treated as one accounting period) from the first day of the first fiscal quarter commencing prior to February 14, 2013 to the end of the most recent fiscal quarter ending prior to the date of such Restricted Payment for which internal consolidated financial statements of the Company are available (or, in the case such Consolidated Net Income is a deficit, minus 100% of such deficit);

(2) 100% of the aggregate Net Cash Proceeds, and the fair market value (as determined in accordance with clause (b) below) of property or assets or marketable securities, received by the Company from the issue or sale of its Capital Stock (other than Disqualified Stock or Designated Preference Shares) or Subordinated Shareholder Funding subsequent to February 14, 2013 or otherwise contributed to the equity (other than through the issuance of Disqualified Stock or Designated Preference Shares) of the Company subsequent to February 14, 2013 (other than (x) Net Cash Proceeds or property or assets or marketable securities received from an issuance or sale of such Capital Stock to a Restricted Subsidiary or an employee stock ownership plan or trust

established by the Company or any Subsidiary of the Company for the benefit of its employees to the extent funded by the Company or any Restricted Subsidiary, (y) Net Cash Proceeds or property or assets or marketable securities to the extent that any Restricted Payment has been made from such proceeds in reliance on clause (c)(vi) below, and (z) Excluded Contributions);

(3) 100% of the aggregate Net Cash Proceeds, and the fair market value (as determined in accordance with clause (b) below) of property or assets or marketable securities, received by the Company or any Restricted Subsidiary from the issuance or sale (other than to the Company or a Restricted Subsidiary or an employee stock ownership plan or trust established by the Company or any Subsidiary of the Company for the benefit of its employees to the extent funded by the Company or any Restricted Subsidiary) by the Company or any Restricted Subsidiary subsequent to February 14, 2013 of any Indebtedness that has been converted into or exchanged for Capital Stock of the Company (other than Disqualified Stock or Designated Preference Shares) or Subordinated Shareholder Funding (plus the amount of any cash, and the fair market value (as determined in accordance with clause (b) below) of property or assets or marketable securities, received by the Company or any Restricted Subsidiary upon such conversion or exchange);

(4) the amount equal to the net reduction in Restricted Investments made by the Company or any of its Restricted Subsidiaries subsequent to February 14, 2013 resulting from:

- (a) repurchases, redemptions or other acquisitions or retirements of any such Restricted Investment, proceeds realized upon the sale or other disposition to a Person other than the Company or a Restricted Subsidiary of any such Restricted Investment, repayments of loans or advances or other transfers of assets (including by way of dividend, distribution, interest payments or returns of capital) to the Company or any Restricted Subsidiary; or
- (b) the redesignation of Unrestricted Subsidiaries (other than SSMC) as Restricted Subsidiaries (valued, in each case, as provided in the definition of "Investment") not to exceed, in the case of any Unrestricted Subsidiary, the amount of Investments previously made by the Company or any Restricted Subsidiary in such Unrestricted Subsidiary, which amount, in each case under this sub-paragraph (4), was included in the calculation of the amount of Restricted Payments referred to in the first

sentences of this sub-clause (C); provided, however, that no amount will be included in Consolidated Net Income for purposes of sub-paragraph (1) above to the extent that it is (at the Company's option) included under this sub-paragraph (4); and

(5) the amount of the cash and fair market value (as determined in accordance with the next succeeding paragraph) of property or assets or of marketable securities received by the Company or any of its Restricted Subsidiaries subsequent to February 14, 2013 in connection with:

- (a) the sale or other disposition (other than to the Company or a Restricted Subsidiary or an employee stock ownership plan or trust established by the Company or any Subsidiary of the Company for the benefit of its employees to the extent funded by the Company or any Restricted Subsidiary) of Capital Stock of an Unrestricted Subsidiary of the Company (other than SSMC); and
- (b) any dividend or distribution made by an Unrestricted Subsidiary or Affiliate (other than SSMC) to the Company or a Restricted Subsidiary;

provided, however, that no amount will be included in Consolidated Net Income for purposes of sub-paragraph (1) above to the extent that it is (at the Company's option) included under this sub-paragraph (5) above; provided further, however, that such amount shall not exceed the amount included in the calculation of the amount of Restricted Payments referred to in the first sentence of this sub-clause (C).

(b) The fair market value of property or assets other than cash covered by clause (a) above shall be the fair market value thereof as determined in good faith by the Board of Directors of the Company or the relevant Restricted Subsidiary.

(c) Clause (a) above will not prohibit any of the following (collectively, "Permitted Payments"):

(i) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Capital Stock, Disqualified Stock, Designated Preference Shares, Subordinated Shareholder Funding or Subordinated Indebtedness made by exchange (including any such exchange pursuant to the exercise of a conversion right or privilege in connection with which cash is paid in lieu of the issuance of fractional shares) for, or out of the proceeds of the substantially concurrent sale of, Capital Stock of the Company (other than Disqualified Stock or Designated Preference Shares), Subordinated Shareholder Funding or a substantially concurrent contribution to the equity (other than through the issuance of Disqualified Stock or Designated Preference Shares or through an



Excluded Contribution) of the Company; provided, however, that to the extent so applied, the Net Cash Proceeds, or fair market value (as determined in accordance with the preceding sentence) of property or assets or of marketable securities, from such sale of Capital Stock, Subordinated Shareholder Funding or such contribution will be excluded from clause (a)(iv)(C)(2) above;

(ii) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Subordinated Indebtedness made by exchange for, or out of the proceeds of the substantially concurrent sale of, Refinancing Indebtedness permitted to be Incurred pursuant to Section 10.1;

(iii) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Preferred Stock of the Company or a Restricted Subsidiary made by exchange for or out of the proceeds of the substantially concurrent sale of Preferred Stock of the Company or a Restricted Subsidiary, as the case may be, that, in each case, is permitted to be Incurred pursuant to Section 10.1, and that in each case, constitutes Refinancing Indebtedness;

(iv) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Subordinated Indebtedness:

(A) (1) from Net Available Cash to the extent permitted under Section 10.5, but only if the Company shall have first complied with Section 10.5 and purchased all Loans tendered pursuant to any offer to repurchase all the Loans required thereby, prior to purchasing, repurchasing, redeeming, defeasing or otherwise acquiring or retiring such Subordinated Indebtedness and (2) at a purchase price not greater than 100% of the principal amount of such Subordinated Indebtedness plus accrued and unpaid interest;

(B) to the extent required by the agreement governing such Subordinated Indebtedness, following the occurrence of a Change of Control (or other similar event described therein as a "change of control"), but only (1) if the Company shall have first complied with Section 9.18 and purchased all Loans tendered pursuant to the offer to repurchase all the Loans required thereby, prior to purchasing, repurchasing, redeeming, defeasing or otherwise acquiring or retiring such Subordinated Indebtedness and (2) at a purchase price not greater than 101% of the principal amount of such Subordinated Indebtedness plus accrued and unpaid interest; or

(C) (1) consisting of Acquired Indebtedness (other than Indebtedness Incurred (x) to provide all or any portion of the funds utilized to consummate the transaction or series of related transactions pursuant to which such Person became a Restricted Subsidiary or was otherwise acquired by the Company or a Restricted Subsidiary or (y) otherwise in connection with or contemplation of such acquisition) and (2) at a purchase price not greater than 100% of the principal amount of such Subordinated Indebtedness plus accrued and unpaid interest and any premium required by the terms of any Acquired Indebtedness;

(v) any dividends paid within 60 days after the date of declaration if at such date of declaration such dividend would have complied with this provision;

(vi) the purchase, repurchase, redemption, defeasance or other acquisition, cancellation or retirement for value of Capital Stock of any Parent (including any options, warrants or other rights in respect thereof) and loans, advances, dividends or distributions by the Company to any Parent to permit any Parent to purchase, repurchase, redeem, defease or otherwise acquire, cancel or retire for value Capital Stock of any Parent (including any options, warrants or other rights in respect thereof), or payments to purchase, repurchase, redeem, defease or otherwise acquire, cancel or retire for value Capital Stock of any Parent (including any options, warrants or other rights in respect thereof), in each case from Management Investors; provided that such payments, loans, advances, dividends or distributions do not exceed an amount (net of repayments of any such loans or advances) equal to (A) €40,000,000 plus (B) €20,000,000 multiplied by the number of calendar years that have commenced since October 12, 2006 plus (C) the Net Cash Proceeds received by the Company or its Restricted Subsidiaries since October 12, 2006 (including through receipt of proceeds from the issuance or sale of its Capital Stock or Subordinated Shareholder Funding to a Parent) from, or as a contribution to the equity (in each case under this clause (C), other than through the issuance of Disqualified Stock or Designated Preference Shares) of the Company from, the issuance or sale to Management Investors of Capital Stock (including any options, warrants or other rights in respect thereof), to the extent such Net Cash Proceeds are not included in any calculation under clause (a)(iv)(C)(2) above, less (D) any such purchases, repurchases, redemptions, defeasances or other acquisitions, cancellations or retirements for value of Capital Stock and payments, loans, advances, dividends or distributions made since October 12, 2006 and prior to February 14, 2013 pursuant to the comparable provisions of notes issued by the Company;

(vii) the declaration and payment of dividends to holders of any class or series of Disqualified Stock, or of any Preferred Stock of a Restricted Subsidiary, Incurred in accordance with Section 10.1;

(viii) purchases, repurchases, redemptions, defeasances or other acquisitions or retirements of Capital Stock deemed to occur upon the exercise of stock options, warrants or other rights in respect thereof if such Capital Stock represents a portion of the exercise price thereof;

(ix) dividends, loans, advances or distributions to any Parent or other payments by the Company or any Restricted Subsidiary in amounts equal to (without duplication):

(A) the amounts required for any Parent to pay any Parent Expenses or any Related Taxes; or

(B) amounts constituting or to be used for purposes of making payments (1) in connection with, and of fees and expenses Incurred in connection with, the Transactions or (2) to the extent specified in Sections 10.6(c)(ii), (iii), (v), (vii) and (xii).

(x) so long as no Default or Event of Default has occurred and is continuing (or would result therefrom), the declaration and payment by the Company of, or loans, advances, dividends or distributions to any Parent to pay, dividends on the common stock or common equity interests of the Company or any Parent following a Public Offering of such common stock or common equity interests, in an amount not to exceed in any fiscal year the greater of (A) 6% of the Net Cash Proceeds received by the Company from such Public Offering or contributed to the equity (other than through the issuance of Disqualified Stock or Designated Preference Shares or through an Excluded Contribution) of the Company or loaned as Subordinated Shareholder Funding to the Company and (B) following the Initial Public Offering, an amount equal to the greater of (A) 7% of the Market Capitalization and (B) 7% of the IPO Market Capitalization;

(xi) so long as no Default or Event of Default has occurred and is continuing (or would result from), Restricted Payments (including loans or advances) in an aggregate amount outstanding at any time since February 14, 2013 not to exceed €200,000,000;

(xii) payments by the Company, or loans, advances, dividends or distributions to any Parent to make payments, to holders of Capital Stock of the Company or any Parent in lieu of the issuance of fractional shares of such Capital Stock, provided, however, that any such payment, loan, advance, dividend or distribution shall not be for the purpose of evading any limitation of this Section 10.2 or otherwise to facilitate any dividend or other return of capital to the holders of such Capital Stock (as determined in good faith by the Board of Directors);

(xiii) Investments in an aggregate amount outstanding at any time not to exceed the aggregate cash amount of Excluded Contributions, or consisting of non-cash Excluded Contributions, or Investments to the extent made in exchange for or using as consideration Investments previously made under this sub-clause (xiii);

(xiv) [Reserved];

(xv) [Reserved];

(xvi) (A) the declaration and payment of dividends to holders of any class or series of Designated Preference Shares of the Company issued after February 14, 2013; and (B) the declaration and payment of dividends to any Parent or any Affiliate thereof, the proceeds of which will be used to fund the payment of dividends to holders of any class or series of Designated Preference Shares of such Parent issued after February 14, 2013; provided, however, that, in the case of paragraphs (xvi) and (xvi), the amount of all dividends declared or paid pursuant to sub-clause (xvi) shall not exceed the Net Cash Proceeds received by the Company or the aggregate amount contributed in cash to the equity (other than through the issuance of Disqualified Stock or an Excluded Contribution or, in the case of Designated Preference Shares by Parent or an Affiliate the issuance of Designated Preference Shares) of the Company or loaned as Subordinated Shareholder Funding to the Company, from the issuance or sale of such Designated Preference Shares;

(xvii) [Reserved];

(xviii) dividends or other distributions of Capital Stock of Unrestricted Subsidiaries (unless the Unrestricted Subsidiary's principal asset is cash and Cash Equivalents or to the extent the assets owned by such Unrestricted Subsidiary were contributed in contemplation of such dividend or distribution) other than (x) SSMC, or (y) any Unrestricted Subsidiary that is a Permitted Joint Venture which has received Investments from the Company or any Restricted Subsidiary pursuant to clause (t) of the definition of Permitted Investments (determined at the time of making such Investment); and

(xix) so long as no Default or Event of Default has occurred and is continuing (or would result therefrom), any dividend, distribution, loan or other payment to any Parent; provided that the Consolidated Leverage Ratio on a pro forma basis after giving effect to any such dividend, distribution, loan or other payment does not exceed 3.25 to 1.00.

(d) The amount of all Restricted Payments (other than cash) shall be the fair market value on the date of such Restricted Payment of the asset(s) or securities proposed to be paid, transferred or issued by the Company or such Restricted Subsidiary, as the case may be, pursuant to such Restricted Payment. The fair market value of any cash Restricted Payment shall be its face amount, and the fair market value of any non-cash Restricted Payment shall be determined conclusively by the Board of Directors of the Company acting in good faith.

(e) In addition to the foregoing, it will be a breach of this Section 10.2 if any of the Initial Investors receives directly or indirectly from SSMC payments that would, if made by the Company, constitute Restricted Payments of the types described in clauses (a)(i) to (iii) above (inclusive), other than through distributions and dividends (x) to the Company and the making of such payments by the Company in a manner permitted by the covenant set forth above or (y) on a pro rata basis (proportionate to its ownership of SSMC) to another portfolio company of any Initial Investor, or, in the case of Philips, another operating subsidiary, engaged in an active business that owns Capital Stock of SSMC at such time.

10.3 Limitation on Liens. (a) The Company will not, and will not permit any Restricted Subsidiary to, directly or indirectly, create, incur or suffer to exist any Lien upon any of its property or assets (including Capital Stock of a Restricted Subsidiary of the Company), whether owned on the Closing Date or acquired after that date, or any interest therein or any income or profits therefrom, which Lien secures any Indebtedness (such Lien, the "Initial Lien") other than (i) Permitted Liens or (ii) Liens on property or assets that are not Collateral and are not Permitted Liens if the Loans and the obligations under this Agreement are directly secured equally and ratably with, or prior to, in the case of Liens with respect to Subordinated Indebtedness, the Indebtedness secured by such Initial Lien for so long as such Indebtedness is so secured. It is understood that Liens on Collateral in favor of Indebtedness under Section 10.1(b)(1) and obligations under Hedging Agreements provided by Lenders or Affiliates of Lenders (at the time such Hedging Agreements were entered into) may have super priority not materially less favorable to the Lenders than that accorded to the Revolving Credit Agreement on the Closing Date.

(b) Any such Lien created in favor of the Loans pursuant to Section 10.03(a)(ii) will be automatically and unconditionally released and discharged upon (i) the release and discharge of the Initial Lien to which it relates, (ii) any sale, exchange or transfer to any person other than the Company or any Subsidiary of the Company of the property or assets secured by such Initial Lien or (iii) the collateral suspension in accordance with Section 10.13(a) of this Agreement.

(c) Any such Lien on Collateral shall, at the election of the Company, rank equal to or junior to the Liens securing the Loans and the obligations under this Agreement, except that any Lien in favor of Indebtedness incurred under Section 10.1(b)(i) or obligations under Hedging Agreements provided by Lenders or Affiliates of Lenders (at the time such Hedging Agreements were entered into) may have super priority not materially less favorable to the Lenders than that accorded to the Revolving Credit Agreement on the Closing Date.

10.4 Limitation on Restrictions on Distributions from Restricted Subsidiaries. (a) The Company will not, and will not permit any Restricted Subsidiary to, create or otherwise cause or permit to exist or become effective any consensual encumbrance or consensual restriction on the ability of any Restricted Subsidiary to:

- (i) pay dividends or make any other distributions in cash or otherwise on its Capital Stock or pay any Indebtedness or other obligations owed to the Company or any Restricted Subsidiary;
- (ii) make any loans or advances to the Company or any Restricted Subsidiary; or
- (iii) sell, lease or transfer any of its property or assets to the Company or any Restricted Subsidiary;

provided that (x) the priority of any Preferred Stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on common stock and (y) the subordination of (including the application of any standstill requirements to) loans or advances made to the Company or any Restricted Subsidiary to other Indebtedness Incurred by the Company or any Restricted Subsidiary shall not be deemed to constitute such an encumbrance or restriction.

(b) Clause (a) above will not prohibit:

- (i) any encumbrance or restriction pursuant to (A) any Credit Facility (including the Credit Documents) or (B) any other agreement or instrument, in each case, in effect at or entered into on the Closing Date;
- (ii) any encumbrance or restriction pursuant to an agreement or instrument of a Person or relating to any Capital Stock or Indebtedness of a Person, entered into on or before the date on which such Person was acquired by or merged, consolidated or otherwise combined with or into the Company or any Restricted Subsidiary, or was designated as a Restricted Subsidiary or on which such agreement or instrument is assumed by the Company or any Restricted Subsidiary in connection with an acquisition

of assets (other than Capital Stock or Indebtedness Incurred as consideration in, or to provide all or any portion of the funds utilized to consummate, the transaction or series of related transactions pursuant to which such Person became a Restricted Subsidiary or was acquired by the Company or was merged, consolidated or otherwise combined with or into the Company or any Restricted Subsidiary entered into or in connection with such transaction) and outstanding on such date; provided that, for the purposes of this sub-clause (ii), if another Person is the Successor Company, any Subsidiary thereof or agreement or instrument of such Person or any such Subsidiary shall be deemed acquired or assumed by the Company or any Restricted Subsidiary when such Person becomes the Successor Company;

(iii) any encumbrance or restriction pursuant to an agreement or instrument effecting a refinancing of Indebtedness Incurred pursuant to, or that otherwise refinances, an agreement or instrument referred to in sub-clause (i) or (ii) above or this sub-clause (iii) (an "Initial Agreement") or contained in any amendment, supplement or other modification to an agreement referred to in sub-clause (i) or (ii) above or this sub-clause (iii); provided, however, that the encumbrances and restrictions with respect to such Restricted Subsidiary contained in any such agreement or instrument are no less favorable in any material respect to the Lenders taken as a whole than the encumbrances and restrictions contained in the Initial Agreement or Initial Agreements to which such refinancing or amendment, supplement or other modification relates (as determined in good faith by the Company);

(iv) any encumbrance or restriction:

(A) that restricts in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease, license or similar contract, or the assignment or transfer of any lease, license or other contract;

(B) contained in mortgages, pledges or other security agreements permitted under this Agreement or securing Indebtedness of the Company or a Restricted Subsidiary permitted under this Agreement to the extent such encumbrances or restrictions restrict the transfer of the property or assets subject to such mortgages, pledges or other security agreements; or

(C) pursuant to customary provisions restricting dispositions of real property interests set forth in any reciprocal easement agreements of the Company or any Restricted Subsidiary;

(v) any encumbrance or restriction pursuant to Purchase Money Obligations and Capitalized Lease Obligations permitted under this Agreement, in each case, that impose encumbrances or restrictions on the property so acquired or any encumbrance or restriction pursuant to a joint venture agreement that imposes restrictions on the transfer of the assets of the joint venture;

(vi) any encumbrance or restriction with respect to a Restricted Subsidiary (or any of its property or assets) imposed pursuant to an agreement entered into for the direct

or indirect sale or disposition to a Person of all or substantially all the Capital Stock or assets of such Restricted Subsidiary (or the property or assets that are subject to such restriction) pending the closing of such sale or disposition;

(vii) customary provisions in leases, licenses, joint venture agreements and other similar agreements and instruments entered into in the ordinary course of business;

(viii) encumbrances or restrictions arising or existing by reason of applicable law or any applicable rule, regulation or order, or required by any regulatory authority;

(ix) any encumbrance or restriction on cash or other deposits or net worth imposed by customers under agreements entered into in the ordinary course of business;

(x) any encumbrance or restriction pursuant to Currency Agreements, Interest Rate Agreements or Commodity Hedging Agreements;

(xi) any encumbrance or restriction arising pursuant to an agreement or instrument relating to any Indebtedness permitted to be Incurred subsequent to the Closing Date pursuant to Section 10.1 if the encumbrances and restrictions contained in any such agreement or instrument taken as a whole are not materially less favorable to the Lenders than (A) the encumbrances and restrictions contained in this Agreement, together with the Security Documents associated therewith as in effect on the Closing Date or (B) in comparable financings (as determined in good faith by the Company) and where, in the case of paragraph (B), the Company determines at the time of issuance of such Indebtedness that such encumbrances or restrictions will not adversely affect, in any material respect, the Borrowers' ability to make principal or interest payments on the Loans or Unpaid Drawings;

(xii) [Reserved]; or

(xiii) any encumbrance or restriction existing by reason of any Lien permitted under Section 10.3.

10.5 Limitation on Sales of Assets and Subsidiary Stock. (a) The Company will not, and will not permit any of its Restricted Subsidiaries to, make any Asset Disposition unless:

(i) the Company or such Restricted Subsidiary, as the case may be, receives consideration (including by way of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise) at least equal to the fair market value (such fair market value to be determined on the date of contractually agreeing to such Asset Disposition), as determined in good faith by the Board of Directors of the Company, of the shares and assets subject to such Asset Disposition (including, for the avoidance of doubt, if such Asset Disposition is a Permitted Asset Swap);

(ii) in any such Asset Disposition, or series of related Asset Dispositions (except to the extent the Asset Disposition is a Permitted Asset Swap), at least 75% of the consideration from such Asset Disposition (excluding any consideration by way of relief

from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise, other than Indebtedness) received by the Company or such Restricted Subsidiary, as the case may be, is in the form of cash, Cash Equivalents or Temporary Cash Investments; and

(iii) an amount equal to 100% of the Net Available Cash from such Asset Disposition is applied by the Company or such Restricted Subsidiary, as the case may be:

(A) to the extent the Company or any Restricted Subsidiary, as the case may be, elects (or is required by the terms of any Indebtedness of a Restricted Subsidiary), (1) to prepay, repay or purchase any Indebtedness of a non-Guarantor Restricted Subsidiary (in each case, other than Indebtedness owed to the Company or any Restricted Subsidiary), any Secured Indebtedness secured by Other Liens or Indebtedness under the Revolving Credit Agreement (or any Refinancing Indebtedness in respect thereof) within 365 days from the later of (x) the date of such Asset Disposition and (y) the receipt of such Net Available Cash; provided, however, that in connection with any prepayment, repayment or purchase of Indebtedness pursuant to this paragraph (A), the Company or such Restricted Subsidiary will retire such Indebtedness and will cause the related commitment (if any) (except in the case of the Revolving Credit Agreement) to be permanently reduced in an amount equal to the principal amount so prepaid, repaid or purchased; or (2) to prepay, repay or purchase Pari Passu Indebtedness at a price of no more than 100% of the principal amount of such Pari Passu Indebtedness plus accrued and unpaid interest to the date of such prepayment, repayment or purchase; provided that the Company shall redeem, repay or repurchase Pari Passu Indebtedness pursuant to this sub-paragraph (A) only if the Company makes (at such time or subsequently in compliance with this Section 10.5) an offer to Lenders to purchase Loans in accordance with the provisions set forth below for an Asset Disposition Offer for an aggregate principal amount of Loans at least equal to the proportion that (x) the total aggregate principal amount of Loans outstanding bears to (y) the sum of the total aggregate principal amount of Loans outstanding plus the total aggregate principal amount outstanding of such Pari Passu Indebtedness; or

(B) to the extent the Company or such Restricted Subsidiary elects, to invest in or commit to invest in Additional Assets (including by means of an investment in Additional Assets by a Restricted Subsidiary with Net Available Cash received by the Company or another Restricted Subsidiary) within 365 days from the later of (1) the date of such Asset Disposition and (2) the receipt of such Net Available Cash; provided, however, that any such reinvestment in Additional Assets made pursuant to a definitive binding agreement or a commitment approved by the Board of Directors of the Company that is executed or approved within such time will satisfy this requirement, so long as such investment is consummated within 180 days of such 365th day; provided that to the extent that any disposition in such Asset Sale was of Collateral, the assets (including Voting Stock) acquired with the Net Cash Proceeds thereof shall, subject to the Agreed Security Principles, be pledged as Collateral under the Security Documents



substantially simultaneously with, or as soon as reasonably practicable after, such acquisition; provided that, pending the final application of any such Net Available Cash in accordance with paragraph (A) or paragraph (B) above, the Company and its Restricted Subsidiaries may temporarily reduce Indebtedness or otherwise invest such Net Available Cash in any manner not prohibited by this Agreement.

(b) Any Net Available Cash from Asset Dispositions that is not applied or invested or committed to be applied or invested as provided in clause (a) above will be deemed to constitute "Excess Proceeds." On the 366th day after an Asset Disposition, or at such earlier date that the Company elects, if the aggregate amount of Excess Proceeds exceeds €50,000,000, the Borrowers will be required to make an offer ("Asset Disposition Offer") to all Lenders and, to the extent the Company elects, to all holders of other outstanding Pari Passu Indebtedness, to purchase the maximum principal amount of Loans and any such Pari Passu Indebtedness to which the Asset Disposition Offer applies that may be purchased out of the Excess Proceeds, at an offer price in respect of the Loans in an amount equal to (and, in the case of any Pari Passu Indebtedness, an offer price of no more than) 100% of the principal amount of the Loans and 100% of the principal amount of Pari Passu Indebtedness, in each case, plus accrued and unpaid interest, if any, to, but not including, the date of purchase, in accordance with the procedures set forth herein or the agreements governing the Pari Passu Indebtedness, as applicable.

(c) To the extent that the aggregate amount of Loans and Pari Passu Indebtedness so validly tendered and not properly withdrawn pursuant to an Asset Disposition Offer is less than the Excess Proceeds, the Company may use any remaining Excess Proceeds for general corporate purposes, subject to the other provisions of this Agreement. If the aggregate principal amount of the Loans surrendered in any Asset Disposition Offer by Lenders and other Pari Passu Indebtedness surrendered by holders or lenders, collectively, exceeds the amount of Excess Proceeds, the Excess Proceeds shall be allocated among the Loans and Pari Passu Indebtedness to be purchased on a pro rata basis on the basis of the aggregate principal amount of tendered Loans and Pari Passu Indebtedness. For the purposes of calculating the principal amount of any such Indebtedness not denominated in Euro, such Indebtedness shall be calculated by converting any such principal amounts into their Euro Equivalent determined as of a date selected by the Company that is within the Asset Disposition Offer Period (as defined in clause (e) below). Upon completion of any Asset Disposition Offer, the amount of Excess Proceeds shall be reset at zero.

(d) To the extent that any portion of Net Available Cash payable in respect of the Loans is denominated in a currency other than Dollars, the amount thereof payable in respect of such Loans shall not exceed the net amount of funds in Dollars that is actually received by the Company upon converting such portion into Dollars.

(e) The Asset Disposition Offer will remain open for a period of not less than 20 Business Days following its commencement (the "Asset Disposition Offer Period"). No later than five Business Days after the termination of the Asset Disposition Offer Period (the "Asset Disposition Purchase Date"), the Borrowers will purchase the principal amount of Loans and, to the extent they elect, Pari Passu Indebtedness required to be purchased pursuant to this covenant (the "Asset Disposition Offer Amount") or, if less than the Asset Disposition Offer Amount has been so validly tendered, all Loans and Pari Passu Indebtedness validly tendered in response to the Asset Disposition Offer.

(f) On or before the Asset Disposition Purchase Date, the Borrowers will, to the extent lawful, accept for payment, on a pro rata basis to the extent necessary, the Asset Disposition Offer Amount of Loans and Pari Passu Indebtedness or portions of Loans and Pari Passu Indebtedness so validly tendered and not properly withdrawn pursuant to the Asset Disposition Offer, or if less than the Asset Disposition Offer Amount has been validly tendered and not properly withdrawn, all Loans and Pari Passu Indebtedness so validly tendered and not properly withdrawn. The Company will deliver to the Administrative Agent an Officer's Certificate stating that such Loans or portions thereof were accepted for payment by the Company in accordance with the terms of this Section 10.5. The Borrowers will promptly (but in any case not later than five Business Days after termination of the Asset Disposition Offer Period) pay to the Administrative Agent for the account of each tendering Lender an amount equal to the purchase price of the Loans so validly tendered and not properly withdrawn by such Lender, and accepted by the Borrowers for purchase.

(g) For the purposes of clause (a)(ii) above, the following will be deemed to be cash:

(i) the assumption by the transferee of Indebtedness of the Company or Indebtedness of a Restricted Subsidiary (other than Subordinated Indebtedness of the Company or a Guarantor) and the release of the Company or such Restricted Subsidiary from all liability on such Indebtedness in connection with such Asset Disposition;

(ii) securities, notes or other obligations received by the Company or any Restricted Subsidiary of the Company from the transferee that are converted by the Company or such Restricted Subsidiary into cash or Cash Equivalents within 180 days following the closing of such Asset Disposition;

(iii) Indebtedness of any Restricted Subsidiary that is no longer a Restricted Subsidiary as a result of such Asset Disposition, to the extent that the Company and each other Restricted Subsidiary are released from any Guarantee of payment of such Indebtedness in connection with such Asset Disposition;

(iv) consideration consisting of Indebtedness of the Company (other than Subordinated Indebtedness) received after the Closing Date from Persons who are not the Company or any Restricted Subsidiary; and

(v) any Designated Non-Cash Consideration received by the Company or any Restricted Subsidiary in such Asset Dispositions having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this Section 10.5, or designated as such pursuant to the corresponding provision of the Secured Indenture prior to the Closing Date but on or after the Closing Date that is at that time outstanding, not to exceed the greater of €100,000,000 and 1% of Total Assets (with the fair market value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value).

10.6 Limitation on Affiliate Transactions. The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, enter into or conduct any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any Affiliate of the Company (an "Affiliate Transaction") involving aggregate value in excess of €20,000,000 unless:

(i) the terms of such Affiliate Transaction taken as a whole are not materially less favorable to the Company or such Restricted Subsidiary, as the case may be, than those that could be obtained in a comparable transaction at the time of such transaction or the execution of the agreement providing for such transaction in arm's-length dealings with a Person who is not such an Affiliate; and

(ii) in the event such Affiliate Transaction involves an aggregate value in excess of €50,000,000, the terms of such transaction have been approved by a majority of the members of the Board of Directors of the Company or the relevant Restricted Subsidiary (as applicable).

(b) Any Affiliate Transaction shall be deemed to have satisfied the requirements set forth in clause (a)(ii) above if such Affiliate Transaction is approved by a majority of the Disinterested Directors. If there are no Disinterested Directors, any Affiliate Transaction shall be deemed to have satisfied the requirements set forth in this Section 10.6 if the Company or any of its Restricted Subsidiaries, as the case may be, delivers to the Administrative Agent a letter from an Independent Financial Advisor stating that such transaction is fair to the Company or such Restricted Subsidiary from a financial point of view or stating that the terms are not materially less favorable to the Company or its relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person on an arm's length basis.

(c) The provisions of clause (b) above will not apply to:

(i) any Restricted Payment permitted to be made pursuant to Section 10.2, any Permitted Payments (other than pursuant to Section 10.2(c)(ix)(B)) or any Permitted Investment (other than Permitted Investments as defined in clauses (a)(ii), (b), (k) and (o) of the definition thereof);

(ii) any issuance or sale of Capital Stock, options, other equity-related interests or other securities, or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, or entering into, or maintenance of, any employment, consulting, collective bargaining or benefit plan, program, agreement or arrangement, related trust or other similar agreement and other compensation arrangements, options, warrants or other rights to purchase Capital Stock of the Company, any Restricted Subsidiary or any Parent, restricted stock plans, long-term incentive plans, stock appreciation rights plans, participation plans or similar employee benefits or consultants' plans (including valuation, health, insurance, deferred compensation, severance, retirement, savings or similar plans, programs or arrangements) or indemnities provided on behalf of officers, employees, directors or consultants approved by the Board of Directors of the Company, in each case in the ordinary course of business;

- (iii) any Management Advances and any waiver or transaction with respect thereto;
- (iv) any transaction between or among the Company and any Restricted Subsidiary (or entity that becomes a Restricted Subsidiary as a result of such transaction), or between or among Restricted Subsidiaries;
- (v) the payment of reasonable fees and reimbursement of expenses to, and customary indemnities (including under customary insurance policies) and employee benefit and pension expenses provided on behalf of, directors, officers, consultants or employees of the Company, any Restricted Subsidiary of the Company or any Parent (whether directly or indirectly and including through any Person owned or controlled by any of such directors, officers or employees);
- (vi) the Transactions and the entry into and performance of obligations of the Company or any of its Restricted Subsidiaries under the terms of any transaction arising out of, and any payments pursuant to or for purposes of funding, any agreement or instrument in effect as of or on the Closing Date, as these agreements and instruments may be amended, modified, supplemented, extended, renewed or refinanced from time to time in accordance with the other terms of this Section 10.6 or to the extent not more disadvantageous to the Lenders in any material respect and the entry into and performance of any registration rights or other listing agreement in connection with any Public Offering;
- (vii) execution, delivery and performance of any Tax Sharing Agreement or the formation and maintenance of any consolidated group for tax, accounting or cash pooling or management purposes in the ordinary course of business;
- (viii) transactions with customers, clients, suppliers or purchasers or sellers of goods or services, in each case in the ordinary course of business, which are fair to the Company or the relevant Restricted Subsidiary in the reasonable determination of the Board of Directors or the Senior Management of the Company or the relevant Restricted Subsidiary, or are on terms no less favorable than those that could reasonably have been obtained at such time from an unaffiliated party;
- (ix) any transaction in the ordinary course of business between or among the Company or any Restricted Subsidiary and any Affiliate of the Company or an Associate or similar entity that would constitute an Affiliate Transaction solely because the Company or a Restricted Subsidiary or any Affiliate of the Company or a Restricted Subsidiary or any Affiliate of any Permitted Holder owns an equity interest in or otherwise controls such Affiliate, Associate or similar entity;
- (x) (A) issuances or sales of Capital Stock (other than Disqualified Stock or Designated Preference Shares) of the Company or options, warrants or other rights to acquire such Capital Stock or Subordinated Shareholder Funding; provided that the

interest rate and other financial terms of such Subordinated Shareholder Funding are approved by a majority of the members of the Board of Directors in their reasonable determination and (B) any amendment, waiver or other transaction with respect to any Subordinated Shareholder Funding in compliance with the other provisions of this Agreement;

(xi) without duplication in respect of payments made pursuant to sub-clause (xii) below, (C) payments by the Company or any Restricted Subsidiary to any Permitted Holder (whether directly or indirectly, including through any Parent) of annual customary management, consulting, monitoring or advisory fees and related expenses customary for portfolio companies of the Initial Investors described in clause (a) of the definition thereof and (D) customary payments by the Company or any Restricted Subsidiary to any Permitted Holder (whether directly or indirectly, including through any Parent) for financial advisory, financing, underwriting or placement services or in respect of other investment banking activities, including in connection with acquisitions or divestitures, which payments in respect of this paragraph (xi) are approved by a majority of the Board of Directors in good faith; and

(xii) payment to any Permitted Holder of all reasonable out of pocket expenses Incurred by such Permitted Holder in connection with its direct or indirect investment in the Company and its Subsidiaries.

10.7 Limitation on Business Activities of the Co-Borrower. The Co-Borrower may not hold any material assets, become liable for any material obligations or engage in any business activities; provided that it may be a co-obligor with respect to any Indebtedness issued by the Company or a Guarantor, and may engage in any activities directly related thereto or necessary in connection therewith. The Co-Borrower shall be a Wholly-Owned Subsidiary of the Company at all times.

10.8 [Reserved]

10.9 Merger and Consolidation by the Company. (a) The Company will not consolidate with or merge with or into, or convey, transfer or lease all or substantially all its assets to, any Person, unless:

(i) the resulting, surviving or transferee Person (the "Successor Company") will be a Person organized and existing under the laws of any member state of the European Union on January 1, 2004, or the United States of America, any State of the United States or the District of Columbia, Canada or any province of Canada, Norway or Switzerland and the Successor Company (if not the Company) will expressly assume, by supplemental agreements, executed and delivered to the Administrative Agent, in form reasonably satisfactory to the Administrative Agent, all the obligations of the Company under the Credit Documents;

(ii) immediately after giving effect to such transaction (and treating any Indebtedness that becomes an obligation of the Successor Company or any Subsidiary of the Successor Company as a result of such transaction as having been Incurred by the Successor Company or such Subsidiary at the time of such transaction), no Default or Event of Default shall have occurred and be continuing;

(iii) immediately after giving effect, on a pro forma basis, to such transaction, either (A) the Fixed Coverage Ratio of the Successor Company would exceed 2.00 to 1.00 or (B) the Fixed Charge Coverage Ratio would not be lower than it was immediately prior to giving effect to such transaction; and

(iv) the Company shall have delivered to the Administrative Agent an Officer's Certificate and an Opinion of Counsel, each to the effect that such consolidation, merger or transfer and such supplemental agreement (if any) comply with this Agreement and an Opinion of Counsel to the effect that such supplemental agreement (if any) has been duly authorized, executed and delivered and is a legal, valid and binding agreement enforceable against the Successor Company (in each case, in form and substance reasonably satisfactory to the Administrative Agent), provided that in giving an Opinion of Counsel, counsel may rely on an Officer's Certificate as to any matters of fact, including as to satisfaction of sub-clauses (ii) and (iii) above.

(b) Any Indebtedness that becomes an obligation of the Company or any Restricted Subsidiary (or that is deemed to be Incurred by any Restricted Subsidiary that becomes a Restricted Subsidiary) as a result of any such transaction undertaken in compliance with this covenant, and any Refinancing Indebtedness with respect thereto, shall be deemed to have been Incurred in compliance with Section 10.1.

(c) For purposes of this covenant, the sale, lease, conveyance, assignment, transfer, or other disposition of all or substantially all of the properties and assets of one or more Subsidiaries of the Company, which properties and assets, if held by the Company instead of such Subsidiaries, would constitute all or substantially all of the properties and assets of the Company on a consolidated basis, shall be deemed to be the transfer of all or substantially all of the properties and assets of the Company.

(d) The Successor Company will succeed to, and be substituted for, and may exercise every right and power of, the Company under this Agreement and the other Credit Documents but in the case of a lease of all or substantially all its assets, the predecessor company will not be released from its obligations under this Agreement or the other Credit Documents.

(e) Notwithstanding clauses (a)(ii) and (a)(iii) above (which do not apply to transactions referred to in this clause 10.9(e) and, other than with respect to clause (c) above and clause (a)(iv) above, (i) any Restricted Subsidiary of the Company may consolidate or otherwise combine with, merge into or transfer all or part of its properties and assets to the Company and (ii) any Restricted Subsidiary may consolidate or otherwise combine with, merge into or transfer all or part of its properties and assets to any other Restricted Subsidiary. Notwithstanding clause (a)(ii) or (a)(iii) above (which does not apply to the transactions referred to in this clause 10.9(e), the Company may consolidate or otherwise combine with or merge into an Affiliate incorporated or organized for the purpose of changing the legal domicile of the Company, reincorporating the Company in another jurisdiction, or changing the legal form of the Company.

(f) This Section 10.9 (other than the requirements of clause (a)(ii) above) shall not apply to the creation of a new subsidiary as a Restricted Subsidiary of the Company.

10.10 Merger and Consolidations by the Co-Borrower and Guarantors. (a) The Co-Borrower may not consolidate with, merge with or into any person or permit any person to merge with or into the Co-Borrower unless:

(i) concurrently therewith, a Subsidiary of the Company that is a limited liability company or corporation organized under the laws of the United States of America or any state thereof or the District of Columbia (which may be the Co-Borrower or the continuing person as a result of such transaction) expressly assumes all of the obligations of the Co-Borrower under this Agreement and the other Credit Documents; or

(ii) after giving effect to the transaction, at least one obligor under the Credit Documents is a limited liability company or corporation organized under the laws of the United States of America or any state thereof or the District of Columbia.

(b) Upon the consummation of any transaction effected in accordance with this Section 10.10, the resulting, surviving or transferee Co-Borrower will succeed to, and be substituted for, and may exercise every right and power of, the Co-Borrower under each Credit Document with the same effect as if such successor Person had been named as the Co-Borrower under such Credit Documents. Upon such substitution, the Co-Borrower will be released from its obligations under each Credit Document.

(c) No Guarantor may (i) consolidate with or merge with or into any Person, or (ii) sell, convey, transfer or dispose of, all or substantially all its assets as an entirety or substantially as an entirety, in one transaction or a series of related transactions, to any Person, or (iii) permit any Person to merge with or into the Guarantor, unless, in any such case:

(A) the other Person is the Company or any Restricted Subsidiary that is Guarantor or becomes a Guarantor concurrently with the transaction; or

(B) (i) either (x) a Guarantor is the continuing Person or (y) the resulting, surviving or transferee Person expressly assumes all of the obligations of the Guarantor under the Credit Documents to which such Guarantor is a party; and

(1) immediately after giving effect to the transaction, no Default has occurred and is continuing; or

(C) the transaction constitutes a sale or other disposition (including by way of consolidation or merger) of the Guarantor or the sale or disposition of all or substantially all the assets of the Guarantor (in each case other than to the Company or a Restricted Subsidiary) otherwise permitted by this Agreement.

10.11 Impairment of Liens. The Company shall not, and shall not permit any Restricted Subsidiary to, take or omit to take any action that would have the result of materially impairing the Lien with respect to the Collateral (it being understood that the Incurrence of

Permitted Liens shall under no circumstances be deemed to materially impair the Lien with respect to the Collateral) for the benefit of the Secured Parties, and the Company shall not, and shall not permit any Restricted Subsidiary to, grant to any Person other than the Collateral Agent, for the benefit of the Secured Parties, any interest whatsoever in any of the Collateral, except that the Company and its Restricted Subsidiaries may Incur Permitted Liens and the Collateral may be discharged and released in accordance with the Credit Documents.

10.12 Suspension of Covenants on Achievement of Investment Grade Status. If on any date following the Closing Date, Investment Grade Status is achieved and no Default or Event of Default has occurred and is continuing (a "Suspension Event"), then, beginning on that day and continuing until such time, if any, at which the Investment Grade Status ceases to apply (the "Reversion Date"), the following provisions will not apply: Section 9.12, Section 9.13, Section 9.14, Section 9.16, Section 9.17, Section 10.1, Section 10.2, Section 10.4, Section 10.5, Section 10.6 and Section 10.9(a)(iii) and, in each case, any related default provision will cease to be effective and will not be applicable to the Company and its Restricted Subsidiaries. Such covenants and any related default provisions will again apply according to their terms from the first day on which a Suspension Event ceases to be in effect. Such covenants will not, however, be of any effect with regard to actions of the Company properly taken during the continuance of the Suspension Event, and Section 10.2 will be interpreted as if it has been in effect since the Closing Date except that no default will be deemed to have occurred solely by reason of a Restricted Payment made while that covenant was suspended. On the Reversion Date, all Indebtedness Incurred during the continuance of the Suspension Event will be classified, at the Company's option, as having been Incurred pursuant to Section 10.1(a) or one of the clauses set forth in the second paragraph of such covenant (to the extent such Indebtedness would be permitted to be Incurred thereunder as of the Reversion Date and after giving effect to Indebtedness Incurred prior to the Suspension Event and outstanding on the Reversion Date). To the extent such Indebtedness would not be so permitted to be incurred under Section 10.1 such Indebtedness will be deemed to have been outstanding on the Closing Date, so that it is classified as permitted under Section 10.1(b)(iv).

10.13 Release of Liens. (a) In addition, so long as each of Moody's, S&P and/or Fitch, as applicable (or another Nationally Recognized Statistical Ratings Organization which has provided a rating used to achieve Investment Grade Status) has been notified in advance that such Investment Grade Status will result in such release, then upon the occurrence of a Suspension Event, all Liens securing Secured Obligations hereunder will be released. All such Liens shall, subject to the Agreed Security Principles, be reinstated promptly upon the request of the Collateral Agent at any time following the Reversion Date and during a period where Investment Grade Status is not achieved.

(b) The Agents and the Lenders acknowledge that the Company and its Subsidiaries may (to the extent otherwise permitted under the terms hereof) grant or have granted Liens over assets held by Subsidiaries that are not Relevant Jurisdiction Guarantors or assets held outside of the Relevant Jurisdictions in favor of other creditors or pursuant to security documents (other than the Security Documents) that purport to also secure the obligations under this Agreement (any such Liens, "Other Liens" and any such creditors, "Other Creditors"), and that Other Liens may be regulated by the Collateral Agency Agreement which in certain circumstances may provide that the consent of the Collateral Agent or Administrative Agent (as



a “Secured Party” under and as defined in the Collateral Agency Agreement) is required for any release of Other Liens in order to satisfy a “Release Condition” (under and as defined in the Collateral Agency Agreement). In the event that any Other Liens are released by the Other Creditors in favor of which such Other Liens were granted, and the Company or the Collateral Agent so requests, the Collateral Agent and Administrative Agent will promptly provide written confirmation to the Company and the Collateral Agent that, in relation to the Secured Obligations under the Credit Documents, any Release Condition in respect of such Other Liens has been satisfied.

SECTION 11. Events of Default

11.1 Events of Default. Any of the following shall constitute an Event of Default:

(a) Non-Payment of Interest. Default in any payment of interest on any Loan when due and payable and such default continues for 5 days;

(b) Non-Payment of Principal. Default in the payment of the principal amount of or premium, if any, on any Loan when due pursuant to the terms hereof, including upon any required repurchase, upon acceleration of maturity or otherwise;

(c) Breach of Specific Covenants. Failure to comply for 30 days after notice by the Administrative Agent on behalf of the Lenders or the Required Lenders with any covenant, warranty or other agreement with respect to Section 9.11, Section 9.12 or Section 10;

(d) Breach of Other Covenants. Failure to comply for 60 days after notice by the Administrative Agent on behalf of the Lenders or the Required Lenders with its other agreements (not specified in clause (a), (b) or (c) above) contained in any Credit Document;

(e) Cross-Acceleration. Default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Company, the Co-Borrower or any of their Restricted Subsidiaries (or the payment of which is Guaranteed by the Company, the Co-Borrower any of their Restricted Subsidiaries) other than Indebtedness owed to the Company, the Co-Borrower or a Restricted Subsidiary whether such Indebtedness or Guarantee now exists, or is created after the date hereof, which default:

(i) is caused by a failure to pay principal of, or interest or premium, if any, on such Indebtedness, immediately upon the expiration of the grace period provided in such Indebtedness; or

(ii) results in the acceleration of such Indebtedness prior to its maturity;

and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a payment default or the maturity of which has been so accelerated, aggregates €100,000,000 or more;

(f) [Reserved]

(g) Insolvency. Any Credit Party or any of the Restricted Subsidiaries institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar office is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for sixty (60) calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property or assets is instituted without the consent of such Person and continues undismissed or unstayed for (60) calendar days, or an order for relief is entered in any such proceeding;

(h) Breach of Representations. Any representation or warranty made or deemed made by any Credit Party (or any of its officers) under or in connection with any Credit Document shall prove to have been incorrect in any material respect when made or deemed made;

(i) Security Documents. (i) Any Lien under the Security Document on any material Collateral shall, at any time, cease to be in full force and effect (other than in accordance with the terms of the relevant Security Document and this Agreement) for any reason other than the satisfaction in full of all of the Secured Obligations or the release of any such Lien in accordance with the terms hereof or (ii) any Security Document or any Lien created thereunder on any material Collateral shall be declared invalid or unenforceable or a Borrower shall assert in writing that any such Lien is invalid or unenforceable, and, in any such case, such event or circumstance continues for 10 days.

(j) Judgments. Failure by any Credit Party or any Significant Subsidiary or group of Restricted Subsidiaries that, taken together (as of the latest audited consolidated financial statements for the Borrowers and their Restricted Subsidiaries), would constitute a Significant Subsidiary, to pay final judgments aggregating in excess of €100,000,000 (exclusive of any amounts that a solvent insurance company has acknowledged liability for), which judgments are not paid, discharged or stayed for a period of 60 days after the judgment becomes final; or

(k) Guaranty. The Guaranty ceases to be in full force and effect, other than in accordance the terms of the Credit Documents and the Agreed Security Principles, or a Guarantor denies or disaffirms its obligations under the Guaranty, other than in accordance with the terms thereof or upon release of the Guaranty in accordance with the Credit Documents;

then, and in any such event, and at any time thereafter, if any Event of Default shall then be continuing, the Administrative Agent shall, upon the written request of the Required Lenders, by written notice to the Borrowers, take any or all of the following actions, without prejudice to the rights of the Administrative Agent or any Lender to enforce its claims against the Borrowers, except as otherwise specifically provided for in this Agreement: (i) declare the Total Commitment terminated, whereupon the Commitments of each Lender shall forthwith terminate immediately and any Fees theretofore accrued shall forthwith become due and payable without any other notice of any kind; and (ii) declare the principal of and any accrued interest and fees in respect of all Loans, and all other amounts owing hereunder or under any other Credit Document to be, whereupon the same shall become, forthwith due and payable without presentment,

demand, protest or other notice of any kind, all of which are hereby waived by the Borrowers; provided that upon the occurrence of any Event of Default under Section 11.1(g) the Total Commitment and Commitment of each Lender shall automatically terminate, the unpaid principal amount of all outstanding Loans, and all interest and other amounts as aforesaid shall automatically become due and payable, in each case without further act of the Administrative Agent or any Lender.

11.2 [Reserved]

11.3 Application of Funds. After the exercise of remedies as provided in Section 11.1 (or after the Commitments have been automatically cancelled, Loans and all other amounts have automatically become due and payable), any amounts received by the Administrative Agent on account of the Secured Obligations shall be applied in accordance with Section 4 of the Collateral Agency Agreement.

SECTION 12. The Agents

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

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

(c) Notwithstanding any other provision of this Agreement or any provision of any other Credit Document, each of the Joint Lead Arrangers, Joint Bookrunners and Co-Managers are named as such for recognition purposes only, and in their respective capacities as such shall have no obligations, duties, responsibilities or liabilities with respect to this

Agreement or any other Credit Document; it being understood and agreed that each of the Joint Lead Arrangers, Joint Bookrunners and Co-Managers shall be entitled to all benefits of this Section 12. Without limitation of the foregoing, no Joint Lead Arranger, Joint Bookrunner or Co-Manager in its capacity as such shall, by reason of this Agreement or any other Credit Document, have any fiduciary relationship in respect of any Lender, Credit Party or any other Person.

(d) Each Lender confirms that each of the Joint Lead Arrangers and the Administrative Agent has authority to accept on its behalf (and ratifies the acceptance on its behalf of any letters or reports already accepted by any Joint Lead Arranger or Administrative Agent) the terms of any reliance letter or engagement letters relating to any reports or letters provided by accountants in connection with the Credit Documents or the transactions contemplated in the Credit Documents and to bind it in respect of those reports or letters and to sign such letters on its behalf and further confirms that it accepts the terms and qualifications set out in such letters.

12.2 Delegation of Duties. The Administrative Agent may execute any of its duties under this Agreement and the other Credit Documents by or through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it with reasonable care.

12.3 Exculpatory Provisions. No Agent nor any of its respective officers, directors, employees, agents, attorneys-in-fact or Affiliates shall be (a) liable for any action lawfully taken or omitted to be taken by it or such Person under or in connection with this Agreement or any other Credit Document (except for its or such Person's own gross negligence or willful misconduct) or (b) responsible in any manner to any of the Lenders for any recitals, statements, representations or warranties made by the Borrowers, any Guarantor, any other Credit Party or any officer thereof contained in this Agreement or any other Credit Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent or the Collateral Agent under or in connection with, this Agreement or any other Credit Document, or the perfection or priority of any Lien or security interest created or purported to be created under the Security Documents, or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Credit Document or for any failure of the Borrowers, any Guarantor or any other Credit Party to perform its obligations hereunder or thereunder. No Agent shall be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Credit Document, or to inspect the properties, books or records of any Credit Party.

12.4 Reliance by Agents. Each Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telecopy, telex or teletype message, statement, order or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including counsel to any Credit Party), independent accountants and other experts selected by such Agent. Each Agent may deem and treat the Lender specified in the Register with respect to any amount owing hereunder as the owner thereof for all purposes unless a written notice of assignment, negotiation

or transfer thereof shall have been filed with the Administrative Agent. Each Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Credit Document unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. Each Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Credit Documents in accordance with a request of the Required Lenders (or such greater number or percentage of Lenders as may be expressly required by this Agreement in any instance), and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and all future holders of the Loans.

12.5 Notice of Default. No Agent shall be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless it has received written notice from a Lender or a 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, it shall give notice thereof to the Lenders. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders, provided that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders (except to the extent that this Agreement requires that such action be taken only with the approval of the Required Lenders or each of the Lenders, as applicable).

12.6 Non-Reliance on Agents and Other Lenders. Each Lender expressly acknowledges that no Agent nor any of its respective officers, directors, employees, agents, attorneys-in-fact or Affiliates has made any representations or warranties to it and that no act by any Agent hereinafter taken, including any review of the affairs of a Borrower, any Guarantor or any other Credit Party, shall be deemed to constitute any representation or warranty by any Agent to any Lender. Each Lender represents to each Agent that it has, independently and without reliance upon such Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of an investigation into the business, operations, property, financial and other condition and creditworthiness of each Borrower, any Guarantor and any other Credit Party and made its own decision to make its Loans hereunder and enter into this Agreement. Each Lender also represents that it will, independently and without reliance upon any Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Credit Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of any Borrower, any Guarantor and any other Credit Party. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder, no Agent shall have any duty or responsibility to provide any Lender with any credit or other information concerning the business, assets, operations, properties, financial condition, prospects or creditworthiness of any Borrower, any Guarantor or any other Credit Party that may come into the possession of such Agent any of its respective officers, directors, employees, agents, attorneys-in-fact or Affiliate.

12.7 Indemnification. The Lenders agree to indemnify each Agent, each in its capacity as such (to the extent not reimbursed by any Credit Party and without limiting the obligation of any Credit Party to do so), ratably according to their respective portions of the aggregate principal amount of the Loans outstanding on the date on which indemnification is sought (or, if indemnification is sought (x) before the Loans shall have been made, each Lender's share of the Total Commitment or (y) after the Loans shall have been paid in full, ratably in accordance with their respective portions of the aggregate principal amount of the Loans outstanding immediately prior to the repayment thereof), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time (including at any time following the payment of the Loans) be imposed on, incurred by or asserted against such Agent in any way relating to or arising out of, the Commitments, this Agreement, any of the other Credit Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by such Agent under or in connection with any of the foregoing, provided that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from such Agent's (i) gross negligence, bad faith or willful misconduct, as determined by a final, nonappealable judgment of a court of competent jurisdiction or (ii) material breach of the obligations of such Agent under the terms of this Agreement by such Agent as determined in a final and nonappealable judgment of a court of competent jurisdiction; it being acknowledged and agreed that no action taken in accordance with the instructions of the Required Lenders (or such other number or percentage of the Lenders as shall be required by the Credit Documents) shall constitute gross negligence, bad faith, willful misconduct or a material breach. The agreements in this Section 12.7 shall survive termination of the Commitment, the repayment of the Loans and all other amounts payable hereunder.

12.8 Agents in their Individual Capacity. Each Agent and its Affiliates may make loans to, accept deposits from and generally engage in any kind of business with any Borrower, any Guarantor, and any other Credit Party as though it were not an Agent hereunder and under the other Credit Documents. With respect to the Loans made by it, each Agent shall have the same rights and powers under this Agreement and the other Credit Documents as any Lender and may exercise the same as though it were not an Agent, and the terms "Lender" and "Lenders" shall include each Agent in its individual capacity.

12.9 Successor Agents. The Administrative Agent may resign as Administrative Agent upon 20 days' prior written notice to the Lenders and the Borrowers. If the Administrative Agent shall resign as Administrative Agent under this Agreement and the other Credit Documents, then the Required Lenders shall appoint from among the Lenders a successor Administrative Agent which successor agent shall be approved by the Company (which approval shall not be unreasonably withheld or delayed) so long as no Default or Event of Default is continuing. If no successor agent has accepted appointment as the Administrative Agent by the date which is twenty (20) days following the retiring Administrative Agent's notice of resignation, the retiring Administrative Agent's resignation shall nevertheless thereupon become effective and the Lenders shall perform all of the duties of the Administrative Agent hereunder

until such time, if any, as the Required Lenders appoint a successor agent as provided for above. Upon the acceptance of any appointment as the Administrative Agent hereunder by a successor (or upon the Lenders assuming such role as provided above) and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Security Documents, and such other instruments or notices, as may be necessary or desirable, as the Required Lenders may request, in order to (1) continue the perfection of the Liens granted or purported to be granted by the Security Documents or (2) otherwise ensure that the requirements set forth in Section 9.11 are satisfied, the Administrative Agent shall thereupon succeed to the rights, powers and duties of the Administrative Agent and the term "Administrative Agent" shall mean such successor agent effective upon such appointment and approval, and the former Administrative Agent's rights, powers and duties as Administrative Agent shall be terminated, without any other or further act or deed on the part of such former Administrative Agent or any of the parties to this Agreement or any holders of the Loans. After any retiring Administrative Agent's resignation as Administrative Agent, the provisions of this Section 12 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent under this Agreement and the other Credit Documents.

12.10 Withholding Tax and Deductions. To the extent required by any applicable Law, the Administrative Agent may withhold from any interest payment to any Lender an amount equivalent to any applicable withholding tax. If the Internal Revenue Service or any authority of the United States or other jurisdiction asserts a claim that the Administrative Agent did not properly withhold tax from amounts paid to or for the account of any Lender (because the appropriate form was not delivered, was not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstances which rendered the exemption from, or reduction of, withholding tax ineffective, or for any other reason), such Lender shall indemnify the Administrative Agent (to the extent that the Administrative Agent has not already been reimbursed by a Credit Party and without limiting the obligation of any Credit Party to do so) fully for all amounts paid, directly or indirectly, by the Administrative Agent as tax or otherwise, including penalties and interest, together with all expenses incurred, including legal expenses, allocated staff costs and any out of pocket expenses.

12.11 Administrative Agent May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Credit Party, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on any Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Secured Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Section 4.1 and 13.6) allowed in such judicial proceeding; and

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

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agents and their respective agents and counsel, and any other amounts due the Administrative Agent under Sections 4.1 and 13.6.

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

12.12 [Reserved].

12.13 Agents Under Security Documents and Guarantee. Each Secured Party hereby further authorizes the Administrative Agent or the Collateral Agent, as applicable, on behalf of and for the benefit of the Secured Parties, to be the agent for and representative of the Secured Parties with respect to the Collateral and the Security Documents. Subject to Section 13.2, without further written consent or authorization from any Secured Party, the Administrative Agent or the Collateral Agent, as applicable, may execute any documents or instruments necessary to (a) release any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent (or any sub-agent thereof) under any Credit Document (i) upon the Latest Maturity Date and the payment in full (or cash collateralization) of all Obligations (except for contingent indemnification obligations in respect of which a claim has not yet been made and secured Hedge Obligations and secured Cash Management Obligations), (ii) that is sold or to be sold or transferred as part of or in connection with any sale or other transfer permitted hereunder or under any other Credit Document to a Person that is not a Credit Party or in connection with the designation of any Restricted Subsidiary as an Unrestricted Subsidiary, (iii) if the property subject to such Lien is owned by a Credit Party, upon the release of such Credit Party from its Guarantee otherwise in accordance with the Credit Documents, (iv) as to the extent provided in the Security Documents, or (v) if approved, authorized or ratified in writing in accordance with Section 13.2; (b) release any Guarantor from its obligations under the Guaranty if such Person ceases to be a Restricted Subsidiary (or becomes an Immaterial Subsidiary) as a result of a transaction or designation permitted hereunder; (c) subordinate any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Credit Document to the holder of any Lien permitted under clause (n) of the definition of Permitted Lien; or (d) enter into subordination or intercreditor agreements with respect to Indebtedness to the extent the Administrative Agent or the Collateral Agent is otherwise contemplated herein as being a party to such intercreditor or subordination agreement.

The Collateral Agent shall have its own independent right to demand payment of the amounts payable by the Borrowers under this Section 12.13, irrespective of any discharge of



the Borrowers' obligations to pay those amounts to the other Lenders resulting from failure by them to take appropriate steps in insolvency proceedings affecting the Borrowers to preserve their entitlement to be paid those amounts.

Any amount due and payable by the Borrowers to the Collateral Agent under this Section 12.13 shall be decreased to the extent that the other Lenders have received (and are able to retain) payment in full of the corresponding amount under the other provisions of the Credit Documents and any amount due and payable by the Borrowers to the Collateral Agent under those provisions shall be decreased to the extent that the Collateral Agent has received (and is able to retain) payment in full of the corresponding amount under this Section 12.13.

12.14 Right to Realize on Collateral and Enforce Guarantee. Anything contained in any of the Credit Documents to the contrary notwithstanding, the Company, the Agents, and each Secured Party hereby agree that (i) no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Guaranty, it being understood and agreed that all powers, rights, and remedies hereunder may be exercised solely by the Administrative Agent, on behalf of the Secured Parties in accordance with the terms hereof and all powers, rights, and remedies under the Security Documents may be exercised solely by the Collateral Agent, and (ii) in the event of a foreclosure by the Collateral Agent on any of the Collateral pursuant to a public or private sale or other disposition, the Collateral Agent or any Lender may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition and the Collateral Agent, as agent for and representative of the Secured Parties (but not any Lender or Lenders in its or their respective individual capacities unless Required Lenders shall otherwise agree in writing) shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any collateral payable by the Collateral Agent at such sale or other disposition. No holder of secured Hedge Obligations shall have any rights in connection with the management or release of any Collateral or of the obligations of any Credit Party under this Agreement. No holder of secured Hedge Obligations that obtains the benefits of any Guarantee or any Collateral by virtue of the provisions hereof or of any other Credit Document 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 or otherwise in respect of the Collateral (including the release or impairment of any Collateral) other than in its capacity as a Lender or Agent and, in such case, only to the extent expressly provided in the Credit Documents. Notwithstanding any other provision of this Agreement to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under secured Hedge Agreements, unless the Administrative Agent has received written notice of such Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Hedge bank, as the case may be.

#### SECTION 13. Miscellaneous.

13.1 Representations relating to the Financial Supervision Act (a) For the purpose of this Section 13.1, each Lender includes the domestic or foreign branch office or Affiliate making a Loan.

(b) Without limiting the Borrowers' obligations under the FMSA, each Lender which is a party to this Agreement on the date hereof represents and warrants to each party to this Agreement on the date hereof that it is not considered to be a part of the public within the meaning of the Financial Supervision Act, which requirement can be considered satisfied, in reliance upon the Explanatory Memorandum to the Implementation Act in respect of Directive 2013/36/EU and Regulation (EU) No 575/2013, until the competent authority publishes its interpretation of the term "public" (as referred to in article 4.1(1) of Regulation (EU) No 575/2013), if the amount borrowed is not less than EUR 100,000 or its equivalent in any other currency.

(c) If, a party becomes a Lender such new Lender represents and warrants to each party to this Agreement on the date on which it becomes a party to this Agreement as a Lender that it is not considered to be a part of the public within the meaning of the Financial Supervision Act, which requirement can be considered satisfied, in reliance upon the Explanatory Memorandum to the Implementation Act in respect of Directive 2013/36/EU and Regulation (EU) No 575/2013, until the competent authority publishes its interpretation of the term "public" (as referred to in article 4.1(1) of Regulation (EU) No 575/2013), if the amount borrowed is not less than EUR 100,000 or its equivalent in any other currency.

(d) Each Lender acknowledges that (b) it is aware of the consequences of the representation and warranty made by it under this Section 13.1 and (c) each of the Agents and other Lenders and the Company has relied upon such representation and warranty.

### 13.2 Amendments and Waivers.

(a) Neither this Agreement nor any other Credit Document, nor any terms hereof or thereof may be amended, supplemented, modified or waived except in accordance with the provisions of this Section 13.2. Except as provided to the contrary in Section 2.14, and other than with respect to any amendment, modification or waiver contemplated in clause (A) below which shall only require the consent of the Lenders expressly set forth therein, the Required Lenders may, or, with the written consent of the Required Lenders, the Administrative Agent may, from time to time (i) enter into with the relevant Credit Party or Credit Parties written amendments, supplements, modifications or waivers 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 Credit Parties hereunder or thereunder or (ii) waive in writing, on such terms and conditions as the Required Lenders or the Administrative Agent, as the case may be, may specify in such instrument, any of the requirements of this Agreement or the other Credit Documents or any Default or Event of Default and its consequences; provided, however, that no such waiver and no such amendment, supplement, modification or waiver shall directly (A) forgive or reduce or waive any portion of any Loan or extend or postpone the final scheduled maturity date of any Loan (it being understood that only the consent of the Required Lenders shall be necessary to waive any obligation of the Borrowers to pay interest at the "default rate"), or forgive any portion, or extend the date for the payment, of any interest or fee payable hereunder (other than as a result of waiving the applicability of any post-default increase in interest rates), or extend the final expiration date of any Lender's Commitment, or increase the aggregate amount of the Commitments of any Lender, or amend or modify any provisions of Section 5.2(a) (with respect

to the ratable allocation of any payments only) and Section 13.11(a) or release all or substantially all of the Guarantors under the Guaranty or release all or substantially all of the Collateral under the Security Documents (in each case other than pursuant to Section 10.13), except that only the written consent of the Required Lenders shall be required with respect to any amendment or modification of provisions concerning loan buy-backs and Defaulting Lenders, in each case without the written consent of each Lender directly and adversely affected thereby, (B) amend, modify or waive any provision of this Section 13.2 or reduce the percentages specified in the definitions of the terms "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder, or consent to the assignment or transfer by any Borrower of its rights and obligations under any Credit Document to which it is a party (except as permitted pursuant to Sections 10.9 or 10.10), (in any such case) without the written consent of each Lender; provided that a waiver of any condition precedent in Section 6 or 7 of this Agreement, the waiver of any Default, Event of Default, default interest, mandatory prepayment or reductions, any modification, waiver or amendment to the financial ratios or any component thereof or the waiver of any other covenant shall not constitute an increase of any Commitment of a Lender, a reduction or forgiveness in the interest rates or the fees or premiums or a postponement of any date scheduled for the payment of principal, premium or interest or an extension of the final maturity of any Loan or the scheduled termination date of any Commitment, (C) amend, modify or waive any provision of Section 12 without the written consent of each Agent, (D) amend or modify any provisions of Section 5.3(a) (with respect to the rateable allocation of payments only), 13.11(a) or 13.20 without the written consent of each Lender, (E) affect the rights, duties, privileges, liabilities or obligations of, or any fees or other amounts payable to, the Administrative Agent under this Agreement or the other Credit Documents, without the written consent of the Administrative Agent, (F) amend, modify or waive any provision of Section 9.17 without the written consent of each Lender or (G) change the provisions of any Loan Document in a manner that by its terms directly and adversely affects the rights of Lenders holding Loans of one Class differently from the rights of Lenders holding Loans of any other Class without the prior written consent of Lenders holding a majority in interest of the outstanding Loans and unused Commitments of each directly and adversely affected Class.

(b) Any such waiver and any such amendment, supplement or modification shall apply equally to each of the affected Lenders and shall be binding upon the Borrowers, the Lenders, the Administrative Agent and all future holders of the affected Loans. In the case of any waiver, the Borrowers, the Lenders and the Administrative Agent shall be restored to their former positions and rights hereunder and under the other Credit Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing, it being understood that no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon. Notwithstanding the foregoing, the Administrative Agent may, without notice or consent of the Required Lenders, amend or supplement this Agreement to cure any ambiguity, omission, defect, error or inconsistency in this Agreement.

(c) Notwithstanding the foregoing, in addition to any credit extensions and related New Term Loan Joinder Agreement(s) pursuant to Section 2.14, this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Borrowers (i) to add one or more additional credit facilities to this

Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Credit Documents with the Loans and the accrued interest and fees in respect thereof and (ii) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders and other definitions related to such new Loans.

(d) Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that the Commitment of such Lender may not be increased or extended without the consent of such Lender (it being understood that any Commitments or Loans held or deemed held by any Defaulting Lender shall be excluded for a vote of the Lenders hereunder requiring any consent of the Lenders).

(e) In addition, notwithstanding the foregoing, this Agreement may be amended with the written consent of the Administrative Agent, the Borrowers and the Lenders providing the relevant Replacement Term Loans (as defined below) to permit the refinancing of all outstanding Loans ("Refinanced Term Loans") with a replacement term loan tranche ("Replacement Term Loans") hereunder; provided that (i) the aggregate principal amount of such Replacement Term Loans shall not exceed the aggregate principal amount of such Refinanced Term Loans (*plus* an amount equal to all accrued but unpaid interest, fees, premiums, and expenses incurred in connection therewith), (ii) the Applicable ABR Margin or Applicable LIBOR Margin (the "Applicable Margin") for such Replacement Term Loans shall not be higher than the Applicable Margin for such Refinanced Term Loans, unless any such Applicable Margin applies after the Tranche B Loan Maturity Date, (iii) the weighted average life to maturity of such Replacement Term Loans shall not be shorter than the weighted average life to maturity of such Refinanced Term Loans at the time of such refinancing (except to the extent of nominal amortization for periods where amortization has been eliminated as a result of prepayment of the applicable Loans), and (iv) the covenants, events of default and guarantees applicable to the Replacement Term Loans shall be not materially more restrictive (taken as a whole) (as determined in good faith by the Borrowers) to the Credit Parties than the covenants, events of default and guarantees applicable to such Refinanced Term Loans, except to the extent necessary to provide for covenants, events of default and guarantees applicable to any period after the maturity date in respect of the Refinanced Term Loans in effect immediately prior to such refinancing.

(f) The Lenders hereby irrevocably agree that the Liens granted to the Collateral Agent by the Credit Parties on any Collateral shall be automatically released (i) in full, upon the termination of this Agreement and the payment of all Obligations hereunder (except for (x) contingent indemnification obligations in respect of which a claim has not yet been made, and (y) secured Hedge Obligations), (ii) upon the sale or other disposition of such Collateral (including as part of or in connection with any other sale or other disposition permitted hereunder) to any Person other than another Credit Party, to the extent such sale or other disposition is made in compliance with the terms of this Agreement (and the Collateral Agent may rely conclusively on a certificate to that effect provided to it by any Credit Party upon its reasonable request without further inquiry), (iii) to the extent such Collateral is comprised of property leased to a Credit Party, upon termination or expiration of such lease, (iv) if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders (or such other

percentage of the Lenders whose consent may be required in accordance with this Section 13.2), (v) to the extent the property constituting such Collateral is owned by any Relevant Jurisdiction Guarantor, upon the release of such Relevant Jurisdiction Guarantor from its obligations under the applicable Guarantee (in accordance with the second following sentence), (vi) as required to effect any sale or other disposition of Collateral in connection with any exercise of remedies of the Collateral Agent pursuant to the Security Documents and (vii) if the release is in accordance with Section 10.3(b) or Section 10.13. Any such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those being released) upon (or obligations (other than those being released) of the Credit Parties in respect of) all interests retained by the Credit Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral except to the extent otherwise released in accordance with the provisions of the Credit Documents. Additionally, the Lenders hereby irrevocably agree that any Restricted Subsidiary that is a Guarantor shall be released from the Guaranties upon consummation of any transaction not prohibited hereunder resulting in such Subsidiary ceasing to constitute a Restricted Subsidiary. The Lenders hereby authorize the Administrative Agent and the Collateral Agent, as applicable, to execute and deliver any instruments, documents, and agreements necessary or desirable to evidence and confirm the release of any Guarantor or Collateral pursuant to the foregoing provisions of this paragraph, all without the further consent or joinder of any Lender.

(g) Notwithstanding anything herein to the contrary, the Credit Documents may be amended to add syndication or documentation agents and make customary changes and references related thereto with the consent of only the Borrowers and the Administrative Agent.

(h) Notwithstanding anything in this Agreement (including, without limitation, this Section 13.2) or any other Credit Document to the contrary, (i) this Agreement and the other Credit Documents may be amended to effect an incremental facility pursuant to Section 2.14 (and the Administrative Agent and the Borrowers may effect such amendments to this Agreement and the other Credit Documents without the consent of any other party as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrowers, to effect the terms of any such incremental facility); (ii) any provision of this Agreement or any other Credit Document may be amended by an agreement in writing entered into by the Borrowers and the Administrative Agent to (x) cure any ambiguity, omission, mistake, defect or inconsistency (as reasonably determined by the Administrative Agent and the Borrowers) and (y) effect administrative changes of a technical or immaterial nature and such amendment shall be deemed approved by the Lenders if the Lenders shall have received at least five Business Days' prior written notice of such change and the Administrative Agent shall not have received, within five Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment; and (iii) guarantees, collateral documents and related documents executed by Credit Parties in connection with this Agreement may be in a form reasonably determined by the Administrative Agent and may be, together with any other Credit Document, entered into, amended, supplemented or waived, without the consent of any other Person, by the applicable Credit Party or Credit Parties and the Administrative Agent or the Collateral Agent in its or their respective sole discretion, to (A) effect the granting, perfection, protection, expansion or enhancement of any security interest in any Collateral or additional property to become Collateral for the benefit of the Secured Parties, (B) as required by local law or advice of counsel to give effect to, or

protect any security interest for the benefit of the Secured Parties, in any property or so that the security interests therein comply with applicable requirements of law, or (C) to cure ambiguities, omissions, mistakes or defects (as reasonably determined by the Administrative Agent and the Borrowers) or to cause such guarantee, collateral security document or other document to be consistent with this Agreement and the other Credit Documents.

(i) Notwithstanding anything in this Agreement or any Security Document to the contrary, the Administrative Agent may, in its sole discretion, grant extensions of time for the satisfaction of any of the requirements under Sections 9.10, 9.12 and 9.13 or any Security Documents in respect of any particular Collateral or any particular Subsidiary if it determines that the satisfaction thereof with respect to such Collateral or such Subsidiary cannot be accomplished without undue expense or unreasonable effort or due to factors beyond the control of the Company and the Restricted Subsidiaries by the time or times at which it would otherwise be required to be satisfied under this Agreement or any Security Document.

13.3 Notices. Unless otherwise expressly provided herein, all notices and other communications provided for hereunder or under any other Credit Document shall be in writing (including by facsimile transmission). All such written notices shall be mailed, faxed or delivered to the applicable address, facsimile number or electronic mail address, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(a) if to a Borrower, the Administrative Agent or the Collateral Agent, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 13.2 or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the other parties; and

(b) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the Borrowers, the Administrative Agent and the Collateral Agent.

All such notices and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt by the relevant party hereto and (ii) (A) if delivered by hand or by courier, when signed for by or on behalf of the relevant party hereto; (B) if delivered by mail, three (3) Business Days after deposit in the mails, postage prepaid; (C) if delivered by facsimile, when sent and receipt has been confirmed by telephone; and (D) if delivered by electronic mail, when delivered; provided that notices and other communications to the Administrative Agent or the Lenders pursuant to Sections 2.3, 2.6, 2.9, 4.2 and 5.1 shall not be effective until received.

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

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

13.6 Payment of Expenses and Taxes.

(a) The Company and the Co-Borrower jointly and severally agree (i) to pay or reimburse the Agents for all their reasonable and documented out-of-pocket costs and expenses incurred after the Closing Date in connection with any amendment, supplement or modification to, this Agreement and the other Credit Documents and any other documents prepared in connection therewith including the reasonable fees, disbursements and other charges of the Administrative Agent's counsel, (ii) to pay or reimburse each Lender and Agent for all its reasonable and documented out-of-pocket costs and expenses incurred in connection with the enforcement or preservation of any rights under this Agreement, the other Credit Documents and any such other documents, including the reasonable fees, disbursements and other charges of counsel to each Lender and the Agents, (iii) subject to the Agreed Security Principles, to pay, indemnify, and hold harmless each Lender and Agent from, any and all recording and filing fees incurred on or after the Closing Date and (iv) to pay, indemnify, and hold harmless each Lender and Agent and their respective directors, officers, employees, advisors and agents (each an "Indemnified Person") from and against any and all other liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever, including reasonable and documented out-of-pocket fees, disbursements, expenses and other charges of counsel, with respect to the enforcement, performance and (except in the case of each Agent) administration of this Agreement, the other Credit Documents and any such other documents, including, without limitation, any of the foregoing relating to any violation of, noncompliance with or liability under, any Environmental Law or to any actual or alleged presence, release or threatened release of Hazardous Materials involving or attributable to the operations of any Borrower, any of its Subsidiaries (all the foregoing in this clause (iv), collectively, the "indemnified liabilities"), provided that the Company and the Co-Borrower shall have no obligation hereunder to the Administrative Agent or any Lender nor any of their respective Related Parties with respect to indemnified liabilities to the extent attributable to (A) the gross negligence, bad faith or willful misconduct of the party to be indemnified or any of its Related Parties, as determined by a final, nonappealable judgment of a court of competent jurisdiction, (B) a material breach of the obligations of such Indemnified Person or any of its Related Parties under the terms of this Agreement by such Indemnified Person or any of its Related Parties as determined in a final and non-appealable judgment of a court of competent jurisdiction, or (C) any proceeding between and among Indemnified Persons and or their transferees other than in such Indemnified Persons' capacity as an agent or arranger or similar role. All amounts payable under this Section 13.6 shall be paid within ten Business Days of receipt by the Company or the Co-Borrower (as the case may be) of an invoice relating thereto setting forth such expense in reasonable detail. In the case of an investigation, litigation or proceeding to which the indemnity in this paragraph applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by the Company, the

Co-Borrower, any Guarantors, any equityholders or creditors or an indemnified party or any other person or entity, whether or not an indemnified party is otherwise a party thereto and whether or not the transactions contemplated hereby are consummated. The agreements in this Section 13.6 shall survive resignation of any Agent, the replacement of any Lender, the termination of the Total Commitments and repayment of the Loans and all other amounts payable hereunder. This Section 13.6 shall not apply with respect to Taxes, other than any Taxes that represent losses, claims, damages, liabilities, obligations, penalties, actions, judgments, suits, costs, expenses or disbursements arising from any non-Tax claim.

(b) Notwithstanding anything contained herein to the contrary, no Credit Party nor any Indemnified Person shall have any liability for any special, punitive, indirect or consequential damages resulting from this Agreement or any other Credit Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date); *provided* that the foregoing shall not limit the Company's and the Co-Borrower's indemnification obligations to the Indemnified Persons pursuant to Section 13.6(a) in respect of damages incurred or paid by an Indemnified Person to a third party. No Indemnified Person 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, except to the extent that such damages have resulted from the willful misconduct, bad faith or gross negligence of any Indemnified Person or any of its Related Parties as determined by a final and non-appealable judgment of a court of competent jurisdiction.

### 13.7 Successors and Assigns; Participations and Assignments.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) no Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by any Borrower or without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 13.7. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants (to the extent provided in paragraph (c) of this Section 13.7) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below and Section 13.8, any Lender may assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans at the time owing to it) with the prior written consent of (i) the Administrative Agent, which consent shall not be unreasonably withheld or delayed, provided that no consent of the Administrative Agent shall be required for (x) an assignment of any Commitment to an assignee that is a Lender or (y) any Loan to a Lender, or an Affiliate of an Agent or an Approved Fund; (ii) the Company (which consent shall not be unreasonably withheld or delayed), it being understood that, without limitation, the Company shall have the right to withhold its consent to



any assignment if, in order for such assignment to comply with applicable law, the Company would be required to obtain the consent of, or make any filing, or registration with a Government Authority; provided that no consent of the Company shall be required for an assignment to a Lender, an Affiliate of a Lender, an Agent or an Affiliate of an Agent (unless increased costs would result therefrom except if an Event of Default under Section 11.1(a), (b) or, with respect to any Credit Party, (g) has occurred and is continuing), an Approved Fund or, if an Event of Default under Section 11.1(a), (b) or, with respect to any Credit Party, (g) has occurred and is continuing, any other assignee; provided that the Company shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within 10 Business Days after having received notice thereof. Notwithstanding the foregoing, no such assignment shall be made to a natural Person, Disqualified Lender or Defaulting Lender. For the avoidance of doubt, the Administrative Agent shall bear no responsibility or liability for monitoring and enforcing the list of Persons who are Disqualified Lenders at any time. Upon receipt of a list of Disqualified Lenders from the Company (or any updates thereto), the Administrative Agent shall promptly provide such list or updates, as applicable, to the Lenders (including by posting to a Platform).

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

(A) except in the case of an assignment to a Lender, an Affiliate of a Lender, an Agent or an Affiliate of an Agent or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$1,000,000 and shall be in increments of \$1,000,000, in each case, unless each of the Company and the Administrative Agent otherwise consents (which consent shall not be unreasonably withheld or delayed), provided that contemporaneous assignments to a single assignee made by Affiliates of Lenders and related Approved Funds shall be aggregated for purposes of meeting the minimum assignment amount requirements stated above;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement provided that this clause shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender's right and obligations in respect of one class of Commitments or Loans;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Acceptance via an electronic settlement system acceptable to the Administrative Agent or (B) if previously agreed with the Administrative Agent, manually execute and deliver to the Administrative Agent an Assignment and Acceptance, in each case, together with a processing and recordation fee of \$3,500, provided that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee, and provided further that only one such fee shall be payable in the event of simultaneous assignments to or from two or more Approved Funds; and

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an administrative questionnaire in a form approved by the Administrative Agent (the "Administrative Questionnaire").

For the purpose of this Section 13.7(b), the term “Approved Fund” means any Person (other than a natural person) that is (or will at the time of the relevant assignment be) engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course and that is managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that manages a Lender.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(v) of this Section 13.7, from and after the effective date specified in each Assignment and Acceptance, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, 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 Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance 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 2.10, 2.11, 5.3 and 13.6). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 13.7 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section 13.7.

(iv) The Administrative Agent, acting for this purpose as an agent of the Borrowers shall maintain at the Administrative Agent’s Office a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the “Register”). Further, the Register shall contain the name and address of the Administrative Agent and the lending office through which each such Person acts under this Agreement. The entries in the Register shall be conclusive absent manifest error, and the Borrowers, the Administrative Agent and the Lenders may 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 Borrowers and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of a duly completed Assignment and Acceptance executed by an assigning Lender and an assignee, the assignee’s completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section 13.7 and any written consent to such assignment required by paragraph (b) of this Section 13.7, the Administrative Agent shall accept such Assignment and Acceptance and record the information contained therein in the Register. Promptly following any change to the Register, the Administrative Agent shall deliver to the Company an updated version thereof.

(c) (i) Any Lender may, without the consent of or notice to the Borrowers or the Administrative Agent, sell participations to one or more banks or other entities (other than a natural person and any Disqualified Lender) (each, a “Participant”) in all or a portion of such Lender’s rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans owing to it), provided that (A) such Lender’s obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrowers, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement and (D) at any time it is a requirement of Dutch law on the date participations are sold to a Participant, such Participant is not considered to be a part of the public within the meaning of the Financial Supervision Act, which requirement can be considered satisfied, in reliance upon the Explanatory Memorandum to the Implementation Act in respect of Directive 2013/36/EU and Regulation (EU) No 575/2013, until the competent authority publishes its interpretation of the term “public” (as referred to in article 4.1(1) of Regulation (EU) No 575/2013), if the amount borrowed is not less than EUR 100,000 or its equivalent in any other currency. 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 or any other Credit Document, provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 13.2 that affects such Participant. Subject to paragraph (c)(ii) of this Section 13.7, each Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.10, 2.11 and 5.3 to the same extent as if it were a Lender (subject to the requirements of those Sections) and had acquired its interest by assignment pursuant to paragraph (b) of this Section 13.7. To the extent permitted by Law, each Participant also shall be entitled to the benefits of Section 13.11(b) as though it were a Lender, provided such Participant agrees to be subject to Section 13.7(a) as though it were a Lender.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.10 or 5.3 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Company’s prior written consent (which consent shall not be unreasonably withheld or delayed). Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrowers, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest amounts) of each Participant’s interest in the Loans or other obligations under this Agreement (the “Participant Register”). 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. 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.

(d) Any Lender may, without the consent of or notice to the Borrowers or the Administrative Agent, at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section 13.7 shall not apply to any such pledge or assignment of a security interest, provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto. In order to facilitate such pledge or assignment, each Borrower hereby agrees that, upon request of any Lender at any time and from time to time after such Borrower has made its initial borrowing hereunder, such Borrower shall provide to such Lender, at such Borrower's own expense, a promissory note, substantially in the form of Exhibit D, as the case may be, evidencing the Loans owing to such Lender; provided that any such promissory note shall be governed by the laws of the State of New York and the Borrowers shall not be required to pay for any notarization of any such promissory note.

(e) Subject to Section 13.19, each Borrower authorizes each Lender to disclose to any Participant, secured creditor of such Lender or assignee (each, a "Transferee") and any prospective Transferee any and all information in such Lender's possession concerning the Borrowers and their respective Affiliates that has been delivered to such Lender by or on behalf of the Borrowers and their respective Affiliates pursuant to this Agreement or any other Credit Document or which has been delivered to such Lender by or on behalf of the Borrowers and their respective Affiliates in connection with such Lender's credit evaluation of the Borrowers and their respective Affiliates prior to becoming a party to this Agreement.

(f) Notwithstanding anything to the contrary contained herein, (x) any Lender may, at any time, assign all or a portion of its rights and obligations under this Agreement in respect of its Loans or Commitments to the Company and/or any Subsidiary and (y) the Company and/or any Subsidiary may, from time to time, purchase or prepay Loans, in each case, on a non-pro rata basis; provided that, in each case, such Loans or Commitments shall be retired and cancelled promptly upon acquisition thereof.

13.8 Replacements of Lenders under Certain Circumstances. (a) A Borrower shall be permitted to replace any Lender that (i) requests reimbursement for amounts owing pursuant to Section 2.10, or 5.3; (ii) is affected in the manner described in Section 2.10(a)(iii) and as a result thereof any of the actions described in such Section is required to be taken; or (iii) becomes a Defaulting Lender with (in any such case) a replacement bank or other financial institution, provided that (1) such replacement does not conflict with any Law, (2) no Event of Default shall have occurred and be continuing at the time of such replacement, (3) such Borrower shall repay (or the replacement bank or institution shall purchase, at par) all Loans and other amounts (other than any disputed amounts), pursuant to Section 2.10, 2.11, or 5.3, as the case may be) owing to such replaced Lender prior to the date of replacement, (4) the replacement bank or institution, if not already a Lender, and the terms and conditions of such replacement, shall be reasonably satisfactory to the Administrative Agent, (5) the replaced Lender shall be obligated to make such replacement in accordance with the provisions of Section 13.7 (provided that the Borrowers shall be obligated to pay the registration and processing fee referred to therein) and (6) any such replacement shall not be deemed to be a waiver of any rights that such Borrower, the Administrative Agent or any other Lender shall have against the replaced Lender.

(b) If any Lender (such Lender, a “Non-Consenting Lender”) has failed to consent to a proposed amendment, waiver, discharge or termination which pursuant to the terms of Section 13.2 requires the consent of all of the Lenders affected and with respect to which the Required Lenders shall have granted their consent, then provided no Event of Default then exists, the Company shall have the right (unless such Non-Consenting Lender grants such consent) to replace such Non-Consenting Lender by requiring such Non-Consenting Lender to assign its Loans, and its Commitments hereunder to one or more assignees reasonably acceptable to the Administrative Agent, provided that: (i) all Secured Obligations of the Borrowers owing to such Non-Consenting Lender being replaced shall be paid in full to such Non-Consenting Lender concurrently with such assignment, and (ii) the replacement Lender shall purchase the foregoing by paying to such Non-Consenting Lender a price equal to the principal amount thereof plus accrued and unpaid interest thereon. In connection with any such assignment, the Borrowers, Administrative Agent, such Non-Consenting Lender and the replacement Lender shall otherwise comply with Section 13.7.

### 13.9 [Reserved]

13.10 Assignment to SPCs. Notwithstanding anything to the contrary contained herein, any Lender (a “Granting Lender”) may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Company (an “SPC”) the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; provided that (i) such SPC makes the representations and warranties applicable to Lenders set forth in Section 13.1 (ii) nothing herein shall constitute a commitment by any SPC to fund any Loan, and (iii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. Each party hereto hereby agrees that (i) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the cost or expenses or otherwise increase or change the obligations of any Borrower under this Agreement (including its obligations under Section 2.10, 2.11, or 5.3, (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable, and (iii) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Credit Document, remain the lender of record hereunder. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Notwithstanding anything to the contrary contained herein, any SPC may disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPC; provided that the information disclosed shall be limited to the extent necessary to satisfy the requirements of any such rating agency, commercial paper dealer, provider of any surety or Guarantee or credit or liquidity enhancement and shall not include (without the prior written consent of the Company) non-public projections, forecasts or any other forward looking information provided by, or relating to, the Company.

13.11 Adjustments; Set-off. (a) If any Lender (a “benefited Lender”) shall at any time receive any payment of all or part of its Loans, or interest thereon, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off, pursuant to events or proceedings of the nature referred to in Section 11.1(g), or otherwise), in a greater proportion

than any such payment to or collateral received by any other Lender, if any, in respect of such other Lender's Loans, or interest thereon, such benefited Lender shall purchase for cash from the other Lenders a participating interest in such portion of each such other Lender's Loan, or shall provide such other Lenders with the benefits of any such collateral, or the proceeds thereof, as shall be necessary to cause such benefited Lender to share the excess payment or benefits of such collateral or proceeds ratably with each of the Lenders; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such benefited Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest.

(b) After the occurrence and during the continuance of an Event of Default, in addition to any rights and remedies of the Lenders provided by law, each Lender shall have the right, without prior notice to any Borrower, any such notice being expressly waived by each Borrower to the extent permitted by applicable Law, upon any amount becoming due and payable by a Borrower hereunder (whether at the stated maturity, by acceleration or otherwise) to set-off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender or any of its Affiliates or any branch or agency thereof to or for the credit or the account of such Borrower. Each Lender agrees promptly to notify the Company and the Administrative Agent after any such set-off and application made by such Lender, provided that the failure to give such notice shall not affect the validity of such set-off and application.

13.12 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Agreement signed by all the parties shall be lodged with the Borrowers and the Administrative Agent.

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

13.14 Integration. This Agreement and the other Credit Documents represent the agreement of the Borrowers, the Collateral Agents, the Administrative Agent and the Lenders with respect to the subject matter hereof, and there are no promises, undertakings, representations or warranties by the Borrowers, the Administrative Agent, the Collateral Agents or any Lender relative to subject matter hereof not expressly set forth or referred to herein or in the other Credit Documents.

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

13.16 Submission to Jurisdiction; Waivers. Each party hereto hereby irrevocably and unconditionally:

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

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

(c) in the case of each Credit Party party hereto (other than the Co-Borrower) appoints the Co-Borrower (the "Process Agent") as its agent to receive on behalf of such Credit Party and its property service of copies of the summons and complaint and any other process which may be served by the Administrative Agent or any Lender in any such action or proceeding in any aforementioned court in respect of any action or proceeding arising out of or relating to this Agreement. Such service may be made by delivering a copy of such process to such Credit Party by courier and by certified mail (return receipt requested), fees and postage prepaid, both (i) in care of the Process Agent at the Process Agent's address and (ii) at the relevant Credit Party's address specified pursuant to Section 13.3, and each Credit Party hereby irrevocably authorizes and directs the Process Agent to accept such service on its behalf that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such Person at its address set forth on Schedule 13.2 at such other address of which the Administrative Agent shall have been notified pursuant to Section 13.3;

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

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section 13.16 any special, exemplary, punitive or consequential damages.

13.17 Acknowledgments. Each Borrower hereby acknowledges that:

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

(b) no Agent nor any Lender has any fiduciary relationship with or duty to any Borrower arising out of or in connection with this Agreement or any of the other Credit Documents, and the relationship between such Agent and Lenders, on one hand, and the Borrowers, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

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

13.18 WAIVERS OF JURY TRIAL. EACH BORROWER, EACH AGENT AND EACH LENDER HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

13.19 Confidentiality. The Administrative Agent and each Lender shall hold all non-public information furnished by or on behalf of a Borrower in connection with such Lender's evaluation of whether to become a Lender hereunder or obtained by such Lender or the Administrative Agent pursuant to the requirements of this Agreement ("Confidential Information"), confidential in accordance with its customary procedure for handling confidential information of this nature and (in the case of a Lender that is a bank) in accordance with safe and sound banking practices and in any event may make disclosure (a) as required or requested by any Governmental Authority or representative thereof or pursuant to legal process, or (b) to such Lender's or the Administrative Agent's directors, officers, employees, agents, attorneys, professional advisors or independent auditors or Affiliates, (c) to any other party to this Agreement, (d) to any pledgee referred to in Section 13.7(d), provided that the information disclosed shall be limited to the extent necessary to satisfy the requirements of such pledgee and shall not include (without the prior written consent of the Company) non-public projections, forecasts or other forward looking information provided by, or relating to, the Company, (e) to the extent such Confidential Information becomes publicly available other than as a result of a breach of this Section 13.19, (f) to the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the facilities or market data collectors, similar service providers to the lending industry and service providers to the Administrative Agent in connection with the administration and management of this Agreement and the Loan Documents, and (g) otherwise with prior written consent of the Company, provided that unless specifically prohibited by applicable Law or court order or similar process, each Lender and the Administrative Agent shall notify the Company of any request by any Governmental Authority or representative thereof (other than any such request in connection with an examination of the financial condition of such Lender by such Governmental Authority) for disclosure of any such non-public information prior to disclosure of such information, and provided, further, that in no event shall any Lender or the Administrative Agent be obligated or required to return any materials furnished by a Borrower or any Subsidiary of a Borrower. Each Lender and the Administrative Agent agrees that it will not provide to prospective Transferees or to prospective direct or indirect contractual counterparties in Hedge Agreements to be entered into in connection with Loans made hereunder any of the Confidential Information unless such Person is advised of and agrees to be bound by provisions at least as restrictive as those of this Section 13.19.

13.20 Payments Set Aside Communications. To the extent that any payment by or on behalf of the Company or the Co-Borrower is made to any Agent or any Lender, or any Agent or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside



or required (including pursuant to any settlement entered into by such Agent or such Lender in its discretion) to be repaid to a trustee, receiver, or any other party, in connection with any proceeding or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by any Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the applicable overnight rate from time to time in effect.

13.21 Direct Website Communications. (a) (i) A Borrower may, at its option but subject to the limitations set forth in Sections 9.1 and 9.2, provide to the Administrative Agent any information, documents and other materials that it is obligated to furnish to the Administrative Agent pursuant to the Credit Documents, including, without limitation, all notices, requests, financial statements, financial and other reports, certificates and other information materials, but excluding any such communication that (A) relates to a request for a new, or a conversion or extension of an existing Borrowing (including any election of an Interest rate or Interest Period relating thereto), (B) relates to the payment of any principal or other amount due under the Credit Agreement prior to the scheduled date therefor, (C) provides notice of any Default or Event of Default or (D) is required to be delivered to satisfy any condition precedent to the effectiveness of the Credit Agreement and/or any Borrowing (all such non-excluded communications being referred to herein collectively as "Communications"), by transmitting the Communications in an electronic/soft medium in a format reasonably acceptable to the Administrative Agent to the contact provided in Schedule 13.2 attached hereto. Nothing in this Section 13.20 shall prejudice the right of the Borrowers, the Administrative Agent or any Lender to give any notice or other communication pursuant to any Credit Document in any other manner specified in such Credit Document.

(ii) The Administrative Agent agrees that the receipt of the Communications by the Administrative Agent at its e-mail address set forth above shall constitute effective delivery of the Communications to the Administrative Agent for purposes of the Credit Documents. Each Lender agrees that notice to it (as provided in the next sentence) specifying that the Communications have been posted to the Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Credit Documents. Each Lender agrees (A) to notify the Administrative Agent in writing (including by electronic communication) from time to time of such Lender's e-mail address to which the foregoing notice may be sent by electronic transmission and (B) that the foregoing notice may be sent to such e-mail address.

(b) Each Borrower hereby acknowledges that (i) the Administrative Agent will make available to the Lenders and the materials and/or information provided by each Borrower hereunder (collectively, the "Borrower Materials") by posting the Borrower Materials on Intralinks or another similar electronic system (the "Platform") (so long as the access to such Platform is limited (x) to the Agents and the Lenders and (y) remains subject to the confidentiality requirements set forth in Section 13.19), (ii) certain of the Lenders may be "public-side" Lenders (i.e., Lenders that do not wish to receive material nonpublic information with respect to Holdings, the Borrowers or their respective securities) (each, a "Public Lender").

(c) Each Borrower hereby agrees that (i) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof, (ii) by marking Borrower Materials "PUBLIC," The Borrowers shall be deemed to have authorized the Administrative Agent and the Lenders to treat such Borrower Materials as not containing any material nonpublic information with respect to the Borrowers or their respective securities for purposes of United States Federal and state securities laws (provided that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 8.16), (iii) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated as "Public Investor" and (iv) the Administrative Agent shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not marked as "Public Investor." Notwithstanding the foregoing, the following Borrower Materials shall be deemed to be marked "PUBLIC," unless the Borrowers notify the Administrative Agent promptly that any such document contains material nonpublic information: (1) the Loan Documents, (2) any notification of changes in the terms of the Credit Facilities and (3) all Information delivered pursuant to Section 8.16.

(d) Each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable law, including United States Federal and state securities laws, to make reference to Communications that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to the Borrowers or its securities for purposes of United States Federal or state securities laws.

(e) The Platform is provided "as is" and "as available". The Agent Parties do not warrant the accuracy or completeness of the Communications, or the adequacy of the Platform and expressly disclaim liability for errors or omissions in the Communications. 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 the Agent Parties in connection with the Communications or the Platform. In no event shall the Administrative Agent, the Collateral 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 any Borrower, 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 a Borrower's or the Administrative Agent's transmission of Communications through the internet, except to the extent the liability of any Agent Party resulted from such Agent Party's (or any of its Related Parties) gross negligence or willful misconduct.

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

IN WITNESS WHEREOF, each of the parties hereto has caused a counterpart of this Agreement to be duly executed and delivered as of the date first above written.

BORROWERS

NXP B.V.

By: /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Signatory

NXP FUNDING LLC

By: /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Signatory

**COLLATERAL AGENT**

MORGAN STANLEY SENIOR FUNDING, INC.  
as Collateral Agent

By: /s/ Stephen B. King

Name: Stephen B. King

Title: Authorized Signatory

**ADMINISTRATIVE AGENT**

CREDIT SUISSE AG,  
CAYMAN ISLANDS BRANCH  
as Administrative Agent and Lender

By: /s/ Bill O'Daly  
Name: Bill O'Daly  
Title: Authorized Signatory

By: /s/ Andrew Maletta  
Name: Dr. Andrew Maletta  
Title: Authorized Signatory

SCHEDULE 1.1(a)  
AGREED SECURITY PRINCIPLES

1. Agreed Security Principles

- 1.1. The Guarantees and Liens to be provided by the Credit Parties will be given in accordance with certain agreed security principles (the “Agreed Security Principles”). This Schedule 1.1(a) identifies the Agreed Security Principles and addresses the manner in which the Agreed Security Principles will impact on or be determinant of the Guaranties and Liens to be taken in relation to this Agreement.
- 1.2. All Guarantees, Liens and security shall be provided in accordance with the Guaranties, Liens and security provided under or in connection with the Existing Term Facility (including on substantially the same terms thereof and subject to the Agreed Security Principles).
- 1.3. The Agreed Security Principles embody a recognition by all parties that there may be certain legal, commercial and practical difficulties in obtaining effective security from the Company and each of its Restricted Subsidiaries located in every jurisdiction in which the Company and its Restricted Subsidiaries are located. In particular:
  - (a) general statutory limitations, financial assistance, corporate benefit, fraudulent preference, “thin capitalization” rules, retention of title claims and similar matters may limit the ability of the Company or any of its Restricted Subsidiaries to provide a Guarantee or Liens or may require that it be limited as to amount or otherwise, and if so the same shall be limited accordingly, provided that the Company or the relevant Restricted Subsidiary shall use reasonable endeavors to overcome such obstacle. The Company will use reasonable endeavors to assist in demonstrating that adequate corporate benefit accrues to each of the Restricted Subsidiary;
  - (b) the Company and its Restricted Subsidiaries will not be required to give Guarantees or enter into Security Documents if (or to the extent) it is not within the legal capacity of the Company or its relevant Restricted Subsidiary or if the same would conflict with the fiduciary duties of their directors or contravene any legal prohibition or regulatory condition or result in, or could reasonably be expected to result in, a material risk of personal or criminal liability for any officer or director of the Company or any of the Restricted Subsidiaries, provided that the Company and each of its Restricted Subsidiaries shall use reasonable endeavors to overcome any such obstacle;
  - (c) a key factor in determining whether or not security shall be taken is the applicable cost (including adverse effects on interest deductibility, registration taxes and notarial costs) which shall not be disproportionate to the benefit to the Lenders of obtaining such security;
  - (d) where there is material incremental cost involved in creating security over all assets owned by any of the Borrowers or a Guarantor in a particular category (e.g.

real estate), regard shall be had to the principle stated at paragraph 1.3(c) of this Schedule 1.1(a) which shall apply to the immaterial assets and, subject to the Agreed Security Principles, only the material assets in that category (e.g. real estate of material economic value) shall be subject to security;

- (e) it is expressly acknowledged that it may be either impossible or impractical to create security over certain categories of assets in which event security will not be taken over such assets;
- (f) any assets subject to contracts, leases, licenses or other arrangements with a third party that exist concurrently (but which are not created in contemplation of the Transactions) or are not prohibited by this Agreement and which (subject to override by the UCC and other relevant provisions of applicable law), effectively prevent those assets from being charged will be excluded from any relevant Security Document; provided that reasonable endeavors to obtain consent to creating Liens in any such assets shall be used by the Company and each of its Restricted Subsidiaries to avoid or overcome such restrictions if the Administrative Agent reasonably determines that the relevant asset is material (which endeavors shall not include the payment of any consent fees), but unless effectively prohibited by contracts, leases, licenses or other arrangements with a third party that exist concurrently (but which are not created in contemplation of the Transactions) or are not prohibited by this Agreement, this shall not prevent security being given over any receipt or recovery under such contract, lease or license;
- (g) the giving of a Guarantee, the granting of security or the perfection of the security granted will not be required if it would have a material adverse effect (as reasonably determined in good faith by management of the relevant obligor) on the ability of the relevant obligor to conduct its operations and business in the ordinary course as otherwise permitted by this Agreement;
- (h) in the case of accounts receivable, a material adverse effect on the Company's, the Co-Borrower's or a Guarantor's relationship with or sales to the customer generating such receivables or material legal or commercial difficulties (as reasonably determined by management of the relevant obligor in good faith) provided that none of the Borrowers and the Guarantors may utilize this exception unless, after giving effect thereto no less than a majority of the book value of the accounts receivable of the Company and its Subsidiaries on a consolidated basis (as measured at the end of each fiscal quarter) is subject to perfected liens, and provided further that any accounts receivable of the Borrowers and the Guarantors excluded from collateral by virtue of this clause (except where prohibited by law and subject to the remainder of these Agreed Security Principles) shall be subject to perfected Liens promptly if and when the corporate credit of the Company is downgraded to "B" or lower from S&P and "B-2" or lower from Moody's;

- (i) security will be limited so that the aggregate of notarial costs and all registration and like taxes relating to the provision of security shall not exceed an amount to be agreed. Any additional costs may be paid by the Lenders at their option;
- (j) all security shall be given in favor of a single security trustee or collateral agent and not the secured parties individually. "Parallel debt" provisions and other similar structural options will be used where necessary and such provisions will be contained in the intercreditor agreement and not the individual security documents unless required under local law. No action will be required to be taken in relation to the Guarantees or security when any lender assigns or transfers any of its participation in this Agreement to a new lender; and
- (k) notwithstanding anything contained in these Agreed Security Principles to the contrary, security shall only be granted by a Relevant Jurisdiction Guarantor and shall only be granted under agreements governed by the laws of a Relevant Jurisdiction.

## 2. Terms of Security Documents

2.1. The following principles will be reflected in the terms of any Security Document to be executed and delivered as part of the Transactions:

- (a) the terms of each Security Document shall be in substantially the same form as such corresponding security document was provided under or in connection with the Existing Term Loans;
- (b) subject to permitted liens and these Agreed Security Principles the security will be first ranking and the perfection of security (when required) and other legal formalities will be completed as soon as practicable and, in any event, within the time periods specified in the Credit Documents or, if earlier or to the extent no such time period is specified in the Credit Documents, within the time periods specified by applicable law in order to ensure due perfection;
- (c) the security will not be enforceable until an Event of Default has occurred and notice of acceleration of the Loans has been given by the applicable Administrative Agent or the Loans have otherwise become due and payable prior to the scheduled maturity thereof (an "Enforcement Event");
- (d) prior to the Maturity Date, notification of any Liens over bank accounts will be given (subject to legal advice) to the banks with whom the accounts are maintained only if an Enforcement Event has occurred;
- (e) notification of receivables security to debtors who are not members of the Company or its Subsidiaries will only be given if an Enforcement Event has occurred;
- (f) notification of any security interest over insurance policies will be served on any insurer of the Company's or any Restricted Subsidiaries' assets (other than in respect of any insurance policy maintained by the Company or any of its Restricted Subsidiaries which is due to expire on or before December 31, 2015);



- (g) the Security Documents should only operate to create security rather than to impose new commercial obligations. Accordingly, they should not contain material additional representations, undertakings or indemnities (such as in respect of insurance, information or the payment of costs) unless these are the same as or consistent with those contained in this Agreement or are necessary for the creation or perfection of the security;
- (h) in respect of the share pledges and pledges of intra-group receivables, until an Enforcement Event has occurred, the pledgors will be permitted to retain and to exercise voting rights to any shares pledged by them in a manner which does not materially adversely affect the value of the security (taken as a whole) or the validity or enforceability of the security or cause an Event of Default to occur, and the pledgors will be permitted to receive dividends on pledged shares and payment of intra-group receivables and retain the proceeds and/or make the proceeds available to the Company and its Subsidiaries to the extent not prohibited under this Agreement;
- (i) Secured Parties will only be able to exercise a power of attorney in any Security Document following the occurrence of an Enforcement Event or with respect to perfection or further assurance obligations that following request, the relevant obligor has failed to satisfy;
- (j) no obligor shall be required to provide surveys on real property (unless such surveys already exist in which case there shall be no requirement that such surveys be certified to the Lenders) or to remove any encumbrances on title (not created in contemplation of the Transactions) that are reflected in any title insurance or any other existing encumbrances on real property (not created in contemplation of the Transactions) (not including Liens securing Indebtedness of the Company or any of its Restricted Subsidiaries);
- (k) no obligor shall be required to protect any Liens in the United States prior to the occurrence of an Enforcement Event by means other than customary filings (including UCC-1s, mortgage or deed of trust filings and patent and trademark filings) and delivery of share certificates (accompanied by powers of attorney executed in blank) and any intercompany promissory notes; and
- (l) information, such as lists of assets, will be provided if, and only to the extent, required by local law to be provided to protect or create, perfect or register the security and, to the extent so required will be provided annually (unless required to be provided by local law more frequently, but not more frequently than quarterly) and following the occurrence and during the continuance of an Event of Default, on the applicable Administrative Agent's reasonable request.

SCHEDULE 1.1(b)

COMMITMENTS

<u>Initial Lender</u>	<u>Tranche B Commitment (\$)</u>	<u>Tranche B Commitment (%)</u>
CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH	\$2,700,000,000.00	100.000000000%
<b>TOTAL</b>	<b>\$2,700,000,000.00</b>	<b>100.000000000%</b>

FORM OF COMPLIANCE CERTIFICATE

Financial Statement Date: \_\_\_\_\_,

To: Credit Suisse AG, as Administrative Agent

Ladies and Gentlemen:

Reference is made to the Secured Term Credit Agreement dated as of December 7, 2015 (the "Credit Agreement"), between, amongst others, NXP B.V. (the "Company"), NXP FUNDING LLC, the lenders from time to time parties thereto (each a "Lender" and, collectively, the "Lenders"), Credit Suisse AG, as Administrative Agent and Morgan Stanley Senior Funding, Inc., as Collateral Agent. All capitalized terms used but not defined herein shall have the meanings given in the Credit Agreement.

This is a Compliance Certificate for the purposes of the Credit Agreement.

The undersigned hereby certifies as of the date hereof that he/she is the [Title]<sup>1</sup> of the Company, and that, as such, he/she is authorized to execute and deliver this Compliance Certificate to the Administrative Agent on the behalf of the Company, and that:

*[Use following paragraph for fiscal year-end financial statements]*

1. Attached hereto as Schedule 1 are the year-end audited financial statements required by Section 9.01(a) of the Credit Agreement for the fiscal year of the Company ended as of the above date, together with the report and opinion of [ ] required by and in conformance with such section.

*[Use following paragraph for fiscal quarter-end financial statements]*

2. Except as otherwise permitted by the Credit Agreement, attached hereto as Schedule 1 are the unaudited financial statements required by Section 9.01(b) of the Credit Agreement for the fiscal quarter of the Company ended as of the above date. Such financial statements fairly present, in all material respects, the financial condition, results of operations shareholders' equity and cash flows of the Company and its Subsidiaries in accordance with GAAP as at such date and for such period, subject only to normal year-end audit adjustments and the absence of footnotes.

*[Use following paragraph for compliance certificate delivered in connection with fiscal year-end financial statements]*

3. [To the knowledge of the undersigned, except as otherwise disclosed to the Administrative Agent pursuant to the Credit Agreement, no Default has occurred.]<sup>2</sup>

*[Use following paragraph for compliance certificated delivered in connection with fiscal year-end financial statements]*

<sup>1</sup> Must be the chief executive officer, chief financial officer, treasurer or controller of the Company.

<sup>2</sup> If unable to provide the foregoing certification, fully describe the reasons therefor and circumstances thereof and any action taken or proposed to be taken with respect thereto.

4. [As of [*date of financial statements*], the following companies are Wholly-Owned Subsidiaries which are not Immaterial Subsidiaries: [ ].]  
[Each of the following Guarantors is hereby designated as an Immaterial Subsidiary whose obligations under the Guaranty shall terminate as of the date hereof: [ ].]<sup>3</sup>

5. The undersigned has reviewed and is familiar with the terms of the Credit Agreement and has made, or has caused to be made under his/her supervision, a detailed review of the transactions and condition (financial or otherwise) of the Company and its Subsidiaries during the accounting period covered by the attached financial statements.

IN WITNESS WHEREOF, the undersigned has executed this Compliance Certificate as of [ ].

By: \_\_\_\_\_  
Name:  
Title:

<sup>3</sup> Use if the Company is electing to terminate the Guaranty obligations of any Immaterial Subsidiary.

SCHEDULE 8.10

LITIGATION AGAINST THE COMPANY AND ITS RESTRICTED SUBSIDIARIES

Set forth below are descriptions of our most important legal proceedings pending as of December 7, 2015, for which the related loss contingency is either probable or reasonably possible:

- Three former employees of Signetics Corp, a predecessor of NXP Semiconductors USA, Inc. and their respective children each separately filed various counts against NXP Semiconductors USA, Inc. (negligence, premises liability, strict liability, abnormal and ultra hazardous activity, willful and wanton misconduct and loss of consortium) asserting exposure to harmful chemicals and substances while the employees concerned were working in a factory “clean room” of Signetics Corp., resulting in alleged physical injuries and eventual birth defects to their children (cases No. N09C-10-032 JRJ, N10C-05-137 JRJ and 1-10-CV-188679). Initial discovery has commenced by both sides in above mentioned cases. Actual substantive responses are pending. Trial dates for Case No. N09C-10 032 and Case No. N10C-05-137 have been set at October 7, 2013 and April 28, 2014, respectively. No trial date has been set in Case No. 1-10-CV-188679 yet.
- Norit Winkelsteeg B.V. and Vitens N.V. alleged that NXP Semiconductors Netherlands B.V. breached a contract it had entered into with them to build a so-called “permeate-water” factory or, in the alternative, had terminated negotiations to enter into such contract in bad faith. Claimants hold NXP Semiconductors Netherlands B.V. liable for all costs, expenses and damages, including loss of profit. In an interim judgment dated January 27, 2009, the Court of Appeal in Arnhem, the Netherlands, recognized that part of the claim related to costs and expenses could be awarded but the Court further stated that reticence must be observed in awarding compensation for loss of profits. Court appearance is adjourned.
- In 2007, certain former employees of NXP Semiconductors France SAS employed by a subsidiary of the DSP Group, Inc. filed a claim against NXP Semiconductors France SAS before the Tribunal de Grande Instance in an emergency procedure (procédure de référé) to demand re-integration within NXP Semiconductors France SAS, following the closure of the DSP Group’s activities in France and the consequent termination of their employment agreements. The claim was rejected by the Tribunal de Grande Instance. The employees concerned then brought the same claim before the Social Court (Conseil de Prud’hommes) in Caen which, on April 27, 2010, also ruled in favor of NXP Semiconductors France SAS. The claimants filed for an appeal in last resort on May 18, 2010, which is still pending.

In addition, on January 7, 2009, the European Commission issued a release in which it confirmed it had started an investigation in the smart card chip sector. The European Commission has reason to believe that the companies concerned may have violated European Union competition rules prohibiting certain practices such as price fixing, customer allocation and the exchange of commercially sensitive information. As one of the companies active in the smart card chip sector, NXP is subject to this ongoing investigation and is assisting the regulatory authorities in this investigation. The investigation is in its initial stage and it is currently not possible to reliably estimate its outcome.

SCHEDULE 8.13

ENVIRONMENTAL CLAIMS AGAINST HOLDINGS AND ITS  
SUBSIDIARIES

<u>Site</u>	<u>Issue</u>	<u>Expected Liability</u>	<u>Additional Information</u>
<b><u>Germany</u></b>			
Hamburg	Soil and groundwater pollution	EUR 800,000 per year for next 25 years	<ul style="list-style-type: none"><li>• Clean up already underway and will continue for 25 years.</li><li>• Investigations alternative decontamination methods and ground water containment concept ongoing.</li><li>• New thermal heating decontamination project started in 2011</li><li>• Yearly reviews undertaken by environmental agency. Last review was in February 2011.</li></ul>
<b><u>Netherlands</u></b>			
Nijmegen	Soil and groundwater pollution	USD 100,000 per year for next 10 years	<ul style="list-style-type: none"><li>• Soil and groundwater are contaminated. These matters have been reported to the authorities and no further action is required.</li><li>• However, NXP extracts groundwater of companies in neighbourhood. In consultation with authorities NXP has formally requested the municipality to legalize</li></ul>

<u>Site</u>	<u>Issue</u>	<u>Expected Liability</u>	<u>Additional Information</u>
			these activities. Possible treat (cleaning) methods and monitoring for extracted ground water in the next 10 years, costing USD 100,000 per year. Decision municipality pending.
Lent	Asbestos in foundation parking lot	USD 700,000	<ul style="list-style-type: none"> <li>NXP rents a parcel from the municipality. If the lease is ended, NXP would be required to dismantle the parcel which would result in costs in relation to the disposal of asbestos.</li> </ul>
	TCE contamination	EUR 4,000,000 if ProRail claims are successful	<ul style="list-style-type: none"> <li>Site has been sold to ProRail. ProRail claims that NXP contaminated the land. Claims are being rejected (the last claim was in January 2010).</li> <li>If ProRail is successful in its claims, this may result in a total liability of EUR 4,000,000 if building activities are undertaken by ProRail.</li> <li>However, it is considered very unlikely that a claim against NXP in connection with this matter will be made successfully.</li> </ul>
<b><u>United Kingdom</u></b>			
Manchester (Hazel Grove)	Asbestos in building and foundation	USD 850,000 Unknown	<ul style="list-style-type: none"> <li>No action required at present but removal of asbestos will be required on demolition of the building at a cost of USD 850,000</li> </ul>

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<u>Site</u>	<u>Issue</u>	<u>Expected Liability</u>	<u>Additional Information</u>
	Possible soil and groundwater pollution	USD 5,000 per year for 25 years	<ul style="list-style-type: none"><li>• Cost is in relation to testing for contamination.</li><li>• At present there is no cause for concern.</li></ul>



SCHEDULE 8.15

RESTRICTED SUBSIDIARIES

<u>No.</u>	<u>Subsidiary</u>	<u>Jurisdiction of Organization</u>	<u>Ownership Interest</u>
1.	NXP Semiconductors Netherlands B.V.	Netherlands	100%
2.	NXP Software B.V.	Netherlands	100%
3.	Catena Holding B.V.	Netherlands	100%
4.	Catena Radio Design B.V.	Netherlands	100%
5.	Catena Microelectronics B.V.	Netherlands	100%
6.	SMST Unterstützungskasse GmbH	Germany	100%
7.	NXP Semiconductors Germany GmbH	Germany	100%
8.	NXP Stresemannallee 101 Dritte Verwaltungs GmbH	Germany	100%
9.	NXP Semiconductors Austria GmbH	Austria	100%
10.	Catena DSP GmbH	Austria	100%
11.	NXP Semiconductors Switzerland AG	Switzerland	100%
12.	NXP Semiconductors Belgium N.V.	Belgium	100%
13.	NXP Semiconductors France SAS	France	100%
14.	NXP Semiconductors Finland Oy	Finland	100%
15.	NXP Semiconductors Sweden AB	Sweden	100%
16.	Catena Wireless Electronics AB	Sweden	100%
17.	NXP Semiconductors UK Limited	UK	100%
18.	NXP Semiconductors Hungary Ltd.	Hungary	100%
19.	NXP Semiconductors Elektronik Ticaret A.S	Turkey	100%
20.	NXP Semiconductors Poland Sp.z.o.o	Poland	100%

<u>No.</u>	<u>Subsidiary</u>	<u>Jurisdiction of Organization</u>	<u>Ownership Interest</u>
21.	O.O.O. NXP Semiconductors Russia	Russia	100%
22.	NXP Semiconductors Guangdong Ltd	China	100%
23.	NXP Semiconductors Hong Kong Ltd.	Hong Kong	100%
24.	Semiconductors NXP Ltd.	Hong Kong	100%
25.	NXP Semiconductors Japan Ltd	Japan	100%
26.	NXP Semiconductors Korea Ltd.	Korea	100%
27.	NXP Semiconductors Singapore Pte. Ltd	Singapore	100%
28.	NXP Semiconductors Taiwan Ltd.	Taiwan	100%
29.	NXP Semiconductors Malaysia Sdn. Bhd.	Malaysia	100%
30.	NXP Semiconductors Philippines, Inc.	Philippines	100%
31.	NXP Semiconductors Cabuyao, Inc.	Philippines	99.9%
32.	NXP Semiconductors (Thailand) Ltd under liquidation (voluntary wind up)	Thailand	100%
33.	NXP Manufacturing (Thailand) Ltd	Thailand	100%
34.	NXP Semiconductors India Pvt Ltd.	India	100%
35.	NXP Semiconductors USA, Inc.	USA	100%

<u>No.</u>	<u>Subsidiary</u>	<u>Jurisdiction of Organization</u>	<u>Ownership Interest</u>
36.	NXP Laboratories UK Holding Ltd.	UK	100%
37.	NXP Laboratories UK Ltd.	UK	100%
38.	Glonav Ltd.	Ireland	100%
39.	NXP Semiconductors Canada Inc.	Canada	100%
40.	NXP Funding LLC	USA	100%
41.	Nimble Acquisition Ltd.	Bermuda	100%
42.	NXP (China) Management Ltd. Semiconductors	China	100%
43.	Athena Smartcard Inc.	USA	100%
44.	Catena Holding B.V.	Netherlands	100%
45.	Freescale Semiconductor, Ltd. <sup>4</sup>	Bermuda	100%
46.	Freescale Semiconductor Holdings II, Ltd. <sup>5</sup>	Bermuda	100%
47.	Freescale Semiconductor Holdings III, Ltd. <sup>6</sup>	Bermuda	100%
48.	Freescale Semiconductor Holdings IV, Ltd. <sup>7</sup>	Bermuda	100%
49.	Freescale Semiconductor Holdings V, Inc.	USA	100%
50.	Freescale Semiconductor, Inc.	USA	100%

<sup>4</sup> This entity will only be a Restricted Subsidiary until completion of the mergers of Freescale Semiconductor, Ltd., Freescale Semiconductor Holdings II, Ltd., Freescale Semiconductor Holdings III, Ltd. and Freescale Semiconductor Holdings IV, Ltd. into Freescale Semiconductor Holdings V, Inc. (the “**Bermuda Mergers**”).

<sup>5</sup> This entity will only be a Restricted Subsidiary until completion of the Bermuda Mergers.

<sup>6</sup> This entity will only be a Restricted Subsidiary until completion of the Bermuda Mergers.

<sup>7</sup> This entity will only be a Restricted Subsidiary until completion of the Bermuda Mergers.

51.	Freescale Semiconductor Luxembourg Treasury Services S.à r.l.	Luxembourg	100%
52.	Freescale Semiconductor Luxembourg Investing Services S.à r.l.	Luxembourg	100%
53.	Freescale Semiconductor Cayman Holdings, Ltd.	Cayman Islands	100%
54.	Freescale Asia Fulfillment Centre Sdn. Bhd.	Malaysia	100%
55.	Freescale Semiconductor EME&A SA	Switzerland	100%
56.	Providence Holdings Kft	Hungary	100%
57.	intoto, LLC	USA	100%
58.	Chip Re Inc.	USA	100%
59.	Freescale Semiconductor Brasil Ltda.	Brasil	100%
60.	Freescale Semiconductor Canada, Inc.	Canada	100%
61.	Freescale Semiconductor Mexico, S. de R.L. de C.V.	Mexico	100%
62.	Freescale Semiconductor International Corp	USA	100%
63.	SigmaTel, LLC	USA	100%
64.	Freescale Semiconductor Holding Limited	British Virgin Islands	100%
65.	Zenverge, LLC	USA	100%
66.	Freescale Semiconduttori Italia S.r.l.	Italy	100%
67.	Freescale Semiconductor S.A.	Switzerland	100%
68.	Freescale Polovodice Ceska republika s.r.o.	Czech Republic	100%

69.	Freescale Semiconductor Nordic AB	Sweden	100%
70.	Freescale Semiconductor Romania Srl	Romania	100%
71.	Freescale Semiconductor LLC	Russia	100%
72.	Freescale Semiconductor Holding UK Limited	UK	100%
73.	Freescale Semiconductor UK Limited	UK	100%
74.	Freescale Semiconductor Israel Limited	Israel	100%
75.	Freescale Semiconducteurs France SAS	France	100%
76.	Freescale Danmark A/S	Denmark	100%
77.	Freescale Halbleiter Deutschland GmbH	Germany	100%
78.	Freescale Semiconductor Singapore Pte. Ltd.	Singapore	100%
79.	Intoto Software India Private Limited	India	100%
80.	Freescale Semiconductor India Pvt. Ltd.	India	100%
81.	Freescale Semiconductor Hong Kong Limited	Hong Kong	100%
82.	Freescale Semiconductor Malaysia Sdn. Bhd.	Malaysia	100%
83.	Freescale Semiconductor Taiwan Ltd.	Taiwan	100%
84.	Freescale Qiangxin (Tianjin) IC Design Co. Ltd.	China	75%
85.	Freescale Semiconductor Japan Limited	Japan	100%
86.	Freescale Semiconductor Asia Enablement Limited	Malaysia	100%
87.	Freescale Semiconductor (China) Limited	China	100%

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88.	Freescale Semiconductor Korea, Inc.	Korea	100%
89.	Zenverge India Technologies Private Limited	India	100%
90.	Cognivue Corporation	Canada	100%

SCHEDULE 8.18

INTELLECTUAL PROPERTY LITIGATION AGAINST THE COMPANY AND ITS RESTRICTED SUBSIDIARIES

<u>Entity</u>	<u>Issue</u>	<u>Amount claimed</u>	<u>Additional Information</u>
NXP B.V.	Patent infringement	USD 5,000,000 for past use and USD 50,000,000 for 5 years future use	<ul style="list-style-type: none"><li>• Pre-claim discussions are ongoing. NXP believes amount claimed this figure is based on an inaccurate knowledge of NXP's market share.</li><li>• Negotiations are ongoing.</li></ul>
NXP B.V.	Patent infringement	No amount claimed	<ul style="list-style-type: none"><li>• MOSAID Technologies, Inc. asserted that NXP infringes patents and requested NXP pay USD5,500,000 damages.</li><li>• Negotiations are ongoing.</li></ul>
NXP B.V.	Patent infringement	No amount claimed	<ul style="list-style-type: none"><li>• Intravidual claims infringement by NXP based on products which practice the H.264 video compression standard seeking damages and an injunction against further sales of H.264-compliant products.</li><li>• NXP filed a motion to dismiss for lack of personal jurisdiction.</li></ul>

SCHEDULE 9.2

COMPANY'S WEBSITE

<http://www.nxp.com>



NOTICES

1. To the Administrative Agent

Credit Suisse AG, Cayman Islands Branch  
Eleven Madison Avenue, 6th Floor  
New York, New York 10010  
Attention: Loan Operators – Agency Manager  
Telephone: (919) 994-6369  
Facsimile: (212) 322-2291  
Email: [agency.loanops@credit-suisse.com](mailto:agency.loanops@credit-suisse.com)

2. To the Collateral Agent

Morgan Stanley Senior Funding, Inc.  
1300 Thames Street, 4th Floor  
Thames Street Wharf  
Baltimore, Maryland 21231  
E-mail address: [DOCS4LOANS@morganstanley.com](mailto:DOCS4LOANS@morganstanley.com)

Attention: Steven Delany  
Email: [Steven.Delany@morganstanley.com](mailto:Steven.Delany@morganstanley.com)  
(443) 627-6463

3. To the Company or the Co-Borrower:

NXP B.V.  
High Tech Campus 60  
5656 AG Eindhoven  
The Netherlands  
Telephone: (31) 40 272-2041  
Fax: (31) 40 272-4005  
Email: [guido.dierick@nxp.com](mailto:guido.dierick@nxp.com)  
Attention: Guido Dierick

With a copy to:

NXP Semiconductors N.V.  
High Tech Campus 60  
5656 AG Eindhoven  
The Netherlands  
Telephone: (31) 20 5407575  
Fax: (31) 20 5407500  
Email: [erik.thyssen@alpinvest.com](mailto:erik.thyssen@alpinvest.com)  
Attn: Erik Thyssen

## FORM OF ASSIGNMENT AND ACCEPTANCE

This Assignment and Acceptance (the "Assignment and Acceptance") is dated as of the Effective Date (as defined below) and is entered into by and between [the] [each] Assignor (as defined below) and [the] [each] Assignee (as defined below). Capitalized terms used in this Assignment and Acceptance and not otherwise defined herein shall have the meanings specified in the Secured Term Credit Agreement dated as of December 7, 2015 (as amended, restated, supplemented or otherwise modified, refinanced or replaced from time to time, the "Credit Agreement"), between, amongst others, NXP B.V. (the "Company"), NXP FUNDING LLC, CREDIT SUISSE AG, as Administrative Agent, MORGAN STANLEY SENIOR FUNDING, INC, as Collateral Agent and the Lenders party thereto.

The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Acceptance as if set forth herein in full.

For an agreed consideration, [the] [each] Assignor hereby irrevocably sells and assigns to [the Assignee] [the respective Assignees], and [the] [each] Assignee hereby irrevocably purchases and assumes from [the Assignor] [the respective Assignors], subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all [the Assignor's] [the respective Assignors'] rights and obligations in [its capacity as a Lender] [their respective capacities as Lenders] under the Credit Agreement, the other Credit Documents and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of the Credit Facility identified below and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of [the Assignor (in its capacity as a Lender)] [the respective Assignors (in their respective capacities as Lenders)] against any Person, whether known or unknown, arising under or in connection with the Credit Agreement and the other Credit Documents, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned by [the] [any] Assignor to [the] [any] Assignee pursuant to clauses (i) and (ii) above being referred to herein collectively as the [the] [an] "Assigned Interest"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Acceptance, without representation or warranty by [the ] [any] Assignor.

1. Assignor ([the] [each, an] "Assignor"):
2. Assignee ([the] [each, an] "Assignee"):
3. Assigned Interest:

<u>Total Commitment of all Lenders/Loans for all Lenders</u>	<u>Amount of Commitment/Loans Assigned</u>	<u>Percentage Assigned of Total Commitment/Loans of all Lenders (set forth, to at least 9 decimals, as a percentage of the, Total Commitment/Loans of all Lenders)</u>
\$		[0.000000000%]

4. Effective Date of Assignment (the "Effective Date"): \_\_\_\_\_, 20\_\_ .8

The terms set forth in this Assignment and Acceptance are hereby agreed to:

[NAME OF ASSIGNOR], as Assignor

By: \_\_\_\_\_  
Name:  
Title:

[NAME OF ASSIGNEE], as Assignee

By: \_\_\_\_\_  
Name:  
Title:

Accepted:

CREDIT SUISSE AG  
as Administrative Agent

By: \_\_\_\_\_  
Name:  
Title:

Consented to:

NXP B.V

By: \_\_\_\_\_  
Name:  
Title: ]

\_\_\_\_\_ ]  
8 To be inserted by Administrative Agent and which shall be the effective date of recordation of the transfer in the Register.

**STANDARD TERMS AND CONDITIONS FOR  
ASSIGNMENT AND ACCEPTANCE**

**1. Representations and Warranties and Agreements.**

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Acceptance and to consummate the transactions contemplated hereby and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Credit Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Credit Documents or any collateral thereunder, (iii) the financial condition of any of the Credit Parties, any of their Subsidiaries or Affiliates or any other Person obligated in respect of any Credit Document or (iv) the performance or observance by any of the Credit Parties, any of their Subsidiaries or Affiliates or any other Person obligated in respect of any Credit Document of any of their respective obligations under any Credit Document.

1.2 Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Acceptance and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it satisfies the requirements, if any, specified in the Credit Agreement that are required to be satisfied by it in order to acquire the Assigned Interest and become a Lender thereunder (including, if it is a requirement of Dutch law, that it is not considered to be a part of the public within the meaning of the Financial Supervision Act, which requirement can be considered satisfied, in reliance upon the Explanatory Memorandum to the Implementation Act in respect of Directive 2013/36/EU and Regulation (EU) No 575/2013, until the competent authority publishes its interpretation of the term “public” (as referred to in article 4.1(1) of Regulation (EU) No 575/2013), if the amount borrowed is not less than EUR 100,000 or its equivalent in any other currency), (iii) from and after the Effective Date, it shall be a party to the Credit Agreement and, to the extent provided in this Assignment and Acceptance, have the rights and obligations of a Lender under the Credit Agreement, and (v) it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 9.1 of the Credit Agreement, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Acceptance and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Credit Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date.

3. General Provisions.

3.1 In accordance with Section 13.17 of the Credit Agreement, upon execution, delivery, acceptance and recording of this Assignment and Acceptance, from and after the Effective Date, (a) the Assignee shall be a party to the Credit Agreement and, to the extent provided in this Assignment and Acceptance, have the rights and obligations of a Lender under the Credit Agreement with a Commitment as set forth herein and (b) the Assignor shall, to the extent of the Assigned Interest assigned pursuant to this Assignment and Acceptance, be released from its obligations under the Credit Agreement (and, in the case of this Assignment and Acceptance covers all of the Assignor's rights and obligations under the Credit Agreement, the Assignor shall cease to be a party to the Credit Agreement).

3.2 This Assignment and Acceptance shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Assignment and Acceptance may be executed by one or more of the parties to this Assignment and Acceptance on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. This Assignment and Acceptance and the rights and obligations of the parties hereunder shall be construed in accordance with and governed by and interpreted under the law of the state of New York.

NOTICE OF BORROWING

To: Credit Suisse AG

[●]

Attention: [●]

With a copy to:

Credit Suisse Securities

[●]

Attention: [●]

Date: [ ]

This Notice of Borrowing is delivered pursuant to the Secured Term Credit Agreement dated as of December 7, 2015 as amended, restated, supplemented or otherwise modified, refinanced or replaced from time to time, the "Credit Agreement") among NXP B.V., NXP FUNDING LLC, CREDIT SUISSE AG, as Administrative Agent, MORGAN STANLEY SENIOR FUNDING, INC., as Collateral Agent and the Lenders party thereto. All capitalized terms used but not defined herein shall have the meanings given in the Credit Agreement.

[NXP B.V./NXP FUNDING LLC]<sup>9</sup> (the "Borrower") hereby requests a Borrowing as follows:

- 1. Amount of Borrowing: [ ]
- 2. Date of Borrowing: [ ]<sup>10</sup>
- 3. Type of Borrowing: [ABR Loan] [LIBOR Loan].
- 4. Interest Period: month(s)

<sup>9</sup> Delete as appropriate.

<sup>10</sup> Must be a Business Day.

The Borrower certifies that on and as of the date of the proposed Borrowing and after giving effect thereto, the Specified Representations shall be true and correct in all material respects and the Company Representations shall be true to the extent required by the Merger Agreement as a condition to closing thereunder.

[NXP B.V./  
NXP FUNDING LLC]<sup>11</sup>

By: \_\_\_\_\_  
Name:  
Title:

<sup>11</sup> Delete as appropriate.

[DATE]  
[Insert Name of Company]  
OFFICER'S CERTIFICATE

I, \_\_\_\_\_, hereby certify that I am the duly elected, qualified and acting [President/Vice President/Secretary/Assistant Secretary] of [Insert Name of Company] (the "Company"), and am authorized to execute this Certificate on behalf of the Company. Reference is made to the Secured Term Credit Agreement (the "Credit Agreement"), dated as of December 7, 2015 by and among NXP B.V, NXP FUNDING LLC, CREDIT SUISSE AG, as Administrative Agent, MORGAN STANLEY SENIOR FUNDING, INC., as Collateral Agent and the Lenders party thereto. All capitalized terms used herein and not otherwise defined are used as defined in the Credit Agreement.

Solely in my capacity as [President/Vice President/Secretary/Assistant Secretary] of the Company, I hereby certify that:

1. Attached as Annex A hereto is a true, correct, and complete copy of the organizational documents of the Company.
2. Attached as Annex B hereto is a true, correct, and complete copy of the bylaws or equivalent of the Company, including all amendments, as in effect on the date hereof, and, to the extent required, an extract of the trade register of the Company.
3. Attached as Annex C hereto are true, correct, and complete copies of resolutions duly adopted by the Board of Directors of the Company authorizing the execution, delivery and performance of the Credit Documents (and any agreements relating thereto) to which it is a party. Such resolutions have not been modified or rescinded and remain in full force and effect as of the date hereof.
4. Attached as Annex D hereto are true, correct, and complete copies of resolutions duly adopted by the shareholders of the Company authorizing the execution, delivery and performance of the Credit Documents (and any agreements relating thereto) to which it is a party. Such resolutions have not been modified or rescinded and remain in full force and effect as of the date hereof.
5. Attached as Annex E hereto is a copy of the [Certificate of Good Standing] for the Company certified by [relevant authority].
6. The persons whose names appear on Annex F attached hereto are duly elected, qualified and acting officers of the Company occupying the offices set forth below their respective names on Annex F, and the signatures set forth above their respective names are their true signatures, and each such officer is duly authorized to execute and deliver on behalf of the Company the Credit Documents and any other document delivered prior to the date hereof in connection with the Credit Documents and to act as an Authorized Officer on behalf of the Company under such Credit Documents.
7. The conditions precedent specified in Sections 6.9, 6.11 and 6.12 of the Credit Agreement have been satisfied.



IN WITNESS WHEREOF, the undersigned has executed this Certificate as of the date first written above.

[Company]

By: \_\_\_\_\_  
Name:  
Title:

The undersigned, being the duly elected and qualified [*President/Vice President/Secretary/Assistant Secretary*] of the Company, hereby certifies that [name] is the duly elected and qualified [*President/Vice President/Secretary/Assistant Secretary*] of the Company and that the foregoing signature appearing above his name is his genuine signature.

IN WITNESS WHEREOF, I have hereunto set my hand on behalf of the Corporations as of the date first written above.

By: \_\_\_\_\_  
Name:  
Title:

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**Annex A**

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**Annex B**









[DATE]  
NXP B.V.  
OFFICER'S CERTIFICATE

I, \_\_\_\_\_, hereby certify that I am the duly elected, qualified and acting [*Authorized Officer*] of NXP B.V. (the "Company"), and am authorized to execute this Certificate on behalf of the Company. Reference is made to the Secured Term Credit Agreement (the "Credit Agreement"), dated as of December 7, 2015 between, amongst others, NXP B.V, NXP FUNDING LLC, CREDIT SUISSE AG, as Administrative Agent, MORGAN STANLEY SENIOR FUNDING, INC., as Collateral Agent and the Lenders party thereto. All capitalized terms used herein and not otherwise defined are used as defined in the Credit Agreement.

Solely in my capacity as [*Authorized Officer*] of the Company, I hereby certify that:

1. No Indebtedness or financing preferred stock of the Company or its Subsidiaries to third parties shall remain outstanding as of the date of this Certificate and no shareholder loans shall have been made without the consent of the Joint Lead Arrangers, other than Indebtedness pursuant to or permitted under the Credit Agreement.
2. I have reviewed the audited financial statements of the Company as at December 31, 2014 (the "Financial Statements"). I am familiar with the financial performance and prospects of the Company and hereby confirm that as of the date hereof, after giving effect to the transactions contemplated by the Credit Documents:
  - i. The fair value of the assets of the Company and its Subsidiaries on a consolidated basis, at a fair valuation, exceeds the debts and liabilities, direct, subordinated, contingent or otherwise, of the Company and its Subsidiaries on a consolidated basis, respectively.
  - ii. The present fair saleable value of the property of the Company and its Subsidiaries on a consolidated basis is greater than the amount that is required to pay the probable liability of the Company and its Subsidiaries on a consolidated basis on their debts and other liabilities, direct, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured.
  - iii. The Company and its Subsidiaries on a consolidated basis are able to pay their debts and liabilities, direct, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured.
  - iv. The Company and its Subsidiaries on a consolidated basis do not have unreasonably small capital with which to conduct the businesses in which they are engaged as such businesses are now conducted and are proposed to be conducted following the Closing Date.
  - v. Each Credit Party has not ceased, and does not expect that it will cease, making payments on its liabilities when due.



- 
- vi. Each Credit Party can, and expects that it can, obtain credit in the ordinary course of business.
  - vii. No Credit Party intends to, and does not believe that it or any of the Restricted Subsidiaries will, incur debts beyond its ability to pay such debts as they mature, taking into account the timing and amounts of cash to be received by it or any such Subsidiary and the timing and amounts of cash to be payable on or in respect of its Indebtedness or the Indebtedness of any such Subsidiary.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of the date first written above.

**NXP B.V.**

By: \_\_\_\_\_  
Name:  
Title:

## FORM OF PROMISSORY NOTE

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FOR VALUE RECEIVED, the undersigned (the "Borrower") hereby promises to pay to the order of [LENDER] (the "Lender"), on the Maturity Date (as defined in the Credit Agreement referred to below) the principal amount of \_\_\_\_\_, or such lesser principal amount of Loans (as defined in such Credit Agreement) due and payable by the Borrower to the Lender on the Maturity Date under that certain Credit Agreement dated as of December 7, 2015 (as amended, the "Credit Agreement") between, amongst others, NXP B.V. (the "Company"), NXP FUNDING LLC (the "Co-Borrower"), the lending institutions from time to time parties thereto (each a "Lender" and, collectively, the "Lenders") and CREDIT SUISSE AG, as Administrative Agent (the terms defined therein being used herein as therein defined).

The Borrower promises to pay interest on the unpaid principal amount of each Loan from the date of such Loan until such principal amount is paid in full, at such interest rates, in the currency, in the manner and at such times as are specified in the Credit Agreement. All payments of principal and interest shall be made to the Lender in immediately available funds at the Lender's lending office. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Credit Agreement.

This Note is the promissory note referred to in Section 13.7(d) of the Credit Agreement, and is a "Credit Document" for the purposes of the Credit Agreement and entitled to the benefits thereof and is subject to optional and mandatory prepayment in whole or in part as provided in the Credit Agreement. This Note is also entitled to the benefits of the Guaranty. Upon the occurrence and continuation of one or more of the Events of Default specified in the Agreement, all amounts then remaining unpaid on this Note shall become, or may be declared to be, immediately due and payable all as provided in the Credit Agreement. Loans made by the Lender shall be evidenced by one or more loan accounts or records maintained by the Lender in the ordinary course of business. The Lender may also attach schedules to this Note and endorse thereon the date, amount and maturity of the Loans and payments with respect thereto.

The Borrower, for itself, its successors and assigns, hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Note.

THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

**[BORROWER]**

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

## GUARANTY RELATING TO SECURED TERM CREDIT AGREEMENT

GUARANTY (this "Guaranty") dated as of December 7, 2015, made among the Guarantors listed on the signature pages hereto (each such subsidiary individually, a "Guarantor" and, collectively with any Person that becomes a "Guarantor" pursuant to Section 20, the "Guarantors"), CREDIT SUISSE AG, as Administrative Agent (in such capacity, the "Administrative Agent") and MORGAN STANLEY SENIOR FUNDING, INC as Collateral Agent (in such capacity, the "Collateral Agent"), in each case, for the lenders (the "Lenders") from time to time parties to the CREDIT AGREEMENT (the "Credit Agreement") dated as of the date hereof, among NXP B.V. with its corporate seat in Eindhoven, the Netherlands (the "Company"), NXP FUNDING LLC (the "Co-Borrower"), the Lenders, CREDIT SUISSE SECURITIES (USA) LLC, MORGAN STANLEY SENIOR FUNDING, INC., BARCLAYS BANK PLC, DEUTSCHE BANK SECURITIES INC. AND MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED as Joint Lead Arrangers (the "Joint Lead Arrangers") and Joint Bookrunners (the "Joint Bookrunners") and GOLDMAN SACHS LENDING PARTNERS LLC, CITIGROUP GLOBAL MARKETS LIMITED AND COÖPERATIEVE CENTRALE RAIFFEISEN-BOERENLEENBANK B.A., LONDON BRANCH, as Co-Managers (the "Co-Managers").

## WITNESSETH:

WHEREAS, (a) pursuant to the Credit Agreement, the Lenders have severally agreed to make Loans to the Borrowers upon the terms and subject to the conditions set forth therein and (b) one or more Lenders or Affiliates of Lenders may from time to time enter into Hedge Agreements with one or more of the Borrowers;

WHEREAS, the proceeds of Loans will be used by the Borrowers on the Closing Date towards: (1) paying the Cash Consideration in connection with the Acquisition; (2) prepaying the Existing Fast Credit Facility; (3) prepaying any amounts outstanding under the Existing Revolving Credit Facility, and (4) paying Transaction Expenses.

WHEREAS, each Guarantor acknowledges that it will derive substantial direct and indirect benefit from the making of the Loans; and

WHEREAS, it is a condition precedent to the obligation of the Lenders to make their respective Loan to the Borrowers under the Credit Agreement that the Guarantors shall have executed and delivered this Guaranty to the Administrative Agent for the benefit of the Guaranteed Parties;

NOW, THEREFORE, in consideration of the premises and to induce the Administrative Agent, the Collateral Agent, the Joint Lead Arrangers, the Joint Bookrunners and the Lenders to enter into the Credit Agreement and to induce the Lenders to make their respective Loans to the Borrowers under the Credit Agreement and to induce one or more Lenders or Affiliates of Lenders to enter into Hedge Agreements with the Borrowers, the Guarantors hereby agree with the Administrative Agent and the Collateral Agent, for the benefit of the Guaranteed Parties, as follows:

1. Defined Terms.

(a) Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

(b) As used herein, the term “Enforcement Event” means the occurrence of an Event of Default in respect of which notice of acceleration of the Obligations has been given by the Administrative Agent to the Borrowers or the Obligations have otherwise become due and payable prior to the scheduled maturity thereof.

(c) As used herein, the term “Obligations” means the collective reference to (i) the due and punctual payment of (x) the principal of and premium, if any, and interest at the applicable rate provided in the Credit Agreement (including interest accruing after the commencement of any bankruptcy, insolvency, receivership or other similar proceeding (or interest that would accrue but for the operation of applicable bankruptcy or insolvency laws), regardless of whether allowed or allowable in such proceeding (for any obligation, “Post-Petition Interest”)) on the Loans, when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise and (y) all other monetary obligations, including fees, costs, expenses and indemnities, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred after the commencement of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), of any Borrower or any other Credit Party to any of the Guaranteed Parties under the Credit Agreement or any other Credit Document, (ii) the due and punctual performance of all covenants, agreements, obligations and liabilities of any Borrower under or pursuant to the Credit Agreement or any other Credit Document, (iii) the due and punctual payment and performance of all the covenants, agreements, obligations and liabilities of each other Credit Party under or pursuant to this Guaranty or any other Credit Document, (iv) the due and punctual payment and performance of all obligations of each Credit Party under each Hedge Agreement that (x) is in effect on the Closing Date with a counterparty that is a Lender or an Affiliate of a Lender as of the Closing Date or (y) is entered into after the Closing Date with any counterparty that is a Lender or an Affiliate of a Lender at the time such Hedge Agreement is entered into and (v) the due and punctual payment and performance of all obligations in respect of overdrafts and related liabilities owed to the Administrative Agent or its Affiliates arising from or in connection with treasury, depositary or cash management services or in connection with any automated clearinghouse transfer of funds.

(d) As used herein, the term “Guaranteed Parties” means (i) the Lenders, (ii) the Administrative Agent, (iii) the Collateral Agent, (iv) each counterparty to a Hedge Agreement the obligations under which constitute Obligations, (v) the beneficiaries of each indemnification obligation undertaken by any Credit Party under any Credit Document and (vi) any successors, indorsees, transferees and assigns of each of the foregoing.

(e) References to “Lenders” in this Guaranty shall be deemed to include Affiliates of Lenders that may from time to time enter into Hedge Agreements with the Borrower.

(f) The words “hereof,” “herein” and “hereunder” and words of similar import when used in this Guaranty shall refer to this Guaranty as a whole and not to any particular provision of this Guaranty, and Section references are to Sections of this Guaranty unless otherwise specified. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”, and the words “property” and “assets” shall be construed to refer to any and all tangible and intangible properties and assets.

(g) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms, any reference herein to any Person shall be construed so as to include such Person’s successors and permitted assigns, and any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or modified in accordance with the terms thereof and, to the extent applicable, the terms of the Credit Agreement.

## 2. Guaranty.

(a) Subject to the provisions of Section 8, each of the Guarantors hereby, jointly and severally, unconditionally and irrevocably, guarantees, as primary obligor and not merely as surety, to the Administrative Agent, as agent for the benefit of the Guaranteed Parties, the punctual and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of each Obligation. If a Borrower fails to pay or perform any Obligation when due, each Guarantor agrees that it will forthwith on demand pay or perform the relevant Obligation at the place and in the manner specified in the relevant Credit Document.

(b) Each Guarantor further agrees to pay any and all reasonable expenses (including all reasonable fees and disbursements of counsel) that may be paid or incurred by the Administrative Agent or any other Guaranteed Party in enforcing, or obtaining advice of counsel in respect of, any rights with respect to, or collecting, any or all of the Obligations and/or enforcing any rights with respect to, or collecting against, such Guarantor under this Guaranty.

(c) Each Guarantor agrees that the Obligations may at any time and from time to time exceed the amount of the liability of such Guarantor hereunder without impairing this Guaranty or affecting the rights and remedies of the Administrative Agent or any other Guaranteed Party hereunder.

(d) No payment or payments made by any Borrower, any of the Guarantors, any other guarantor or any other Person or received or collected by the Administrative Agent or any other Guaranteed Party from any Borrower, any of the Guarantors, any other guarantor or any other Person by virtue of any action or proceeding or any set-off or appropriation or application at any time or from time to time in reduction of or in payment of the Obligations shall be deemed to modify, reduce, release or otherwise affect the liability of any Guarantor hereunder, which shall, notwithstanding any such payment or payments other than payments made by such Guarantor in respect of the Obligations or payments received or collected from such Guarantor in respect of the Obligations, remain liable for the Obligations up to the maximum liability of such Guarantor hereunder until the Obligations under the Credit Documents are paid and performed in full, the Commitments are terminated.

(e) Each Guarantor agrees that whenever, at any time, or from time to time, it shall make any payment to the Administrative Agent or any other Guaranteed Party on account of its liability hereunder, it will notify the Administrative Agent in writing that such payment is made under this Guaranty for such purpose.

(f) If acceleration of the time for payment of any Obligation by a Borrower is stayed by reason of the insolvency or receivership of such Borrower or otherwise, all Obligations otherwise subject to acceleration under the terms of any Credit Document shall nonetheless be payable by the Guarantors hereunder forthwith on demand by the Administrative Agent.

3. Right of Contribution. Each Guarantor hereby agrees that to the extent that a Guarantor shall have paid more than its proportionate share of any payment made hereunder, such Guarantor shall be entitled to seek and receive contribution from and against any other Guarantor hereunder who has not paid its proportionate share of such payment. Each Guarantor's right of contribution shall be subject to the terms and conditions of Section 5 hereof. The provisions of this Section 3 shall in no respect limit the obligations and liabilities of any Guarantor to the Administrative Agent and the other Guaranteed Parties, and each Guarantor shall remain liable to the Administrative Agent and the other Guaranteed Parties for the full amount guaranteed by such Guarantor hereunder.

4. Right of Set-off. In addition to any rights and remedies of the Administrative Agent and the other Guaranteed Parties provided by law, each Guarantor hereby irrevocably authorizes each Guaranteed Party, to the maximum extent permitted by applicable law, at any time and from time to time following the occurrence of an Enforcement Event without notice to such Guarantor or any other Guarantor, any such notice being expressly waived by each Guarantor, upon any amount becoming due and payable by such Guarantor hereunder (whether at stated maturity, by acceleration or otherwise) to set-off and appropriate and apply against such amount (whether or not such Guaranteed Party shall have made any demand hereunder) any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Guaranteed Party to or for the credit or the account of such Guarantor. Each Guaranteed Party shall notify such Guarantor promptly of any such set-off and the appropriation and application made by such Guaranteed Party, provided that the failure to give such notice shall not affect the validity of such set-off or appropriation and application.

5. Deferral of Subrogation and Contribution. Notwithstanding any payment or payments made by any of the Guarantors hereunder or any set-off or appropriation and application of funds of any of the Guarantors by the Administrative Agent or any other Guaranteed Party, no Guarantor shall be entitled to exercise any rights of subrogation with respect to any of the rights of the Administrative Agent or any other Guaranteed Party against a Borrower or any other Guarantor or any collateral security or guarantee or right of offset held by the Administrative Agent or any other Guaranteed Party for the payment of the Obligations, nor shall any Guarantor seek or be entitled to seek any contribution or reimbursement from a Borrower or any other Guarantor in respect of payments made by such Guarantor hereunder, in each case until all of the Obligations are paid and performed in full, the Commitments are terminated. If any amount shall be paid to any Guarantor on account of such subrogation rights



at any time when all the Obligations shall not have been paid and performed in full, such amount shall be held by such Guarantor in trust for the Administrative Agent and the other Guaranteed Parties or, in the event that a trust is not recognized by the Law applicable to such Guarantor, as agent for and on behalf of the Administrative Agent and the other Guaranteed Parties, segregated from other funds of such Guarantor, and such amount shall, forthwith upon receipt by such Guarantor, be turned over to the Administrative Agent in the exact form received by such Guarantor (duly indorsed by such Guarantor to the Administrative Agent, if required), to be applied against the Obligations, whether due or to become due, in such order as the Administrative Agent may determine; provided that nothing herein shall be effective to create a charge or other Lien over any such amount held by such Guarantor, whether or not requiring registration under any applicable Law.

6. Amendments, etc., with Respect to the Obligations; Waiver of Rights. Subject to Section 8, the obligations of each Guarantor under this Guaranty shall be unconditional and absolute, and without limiting the foregoing, each Guarantor shall remain obligated hereunder notwithstanding that, without any reservation of rights against any Guarantor and without notice to or further assent by any Guarantor, (a) any demand for payment of any of the Obligations made by the Administrative Agent or any other Guaranteed Party may be rescinded by such party and any of the Obligations continued, (b) the Obligations, or the liability of any other party upon or for any part thereof, or any collateral security or guarantee therefor or right of offset with respect thereto, may, from time to time, in whole or in part, be renewed, extended, amended, modified, accelerated, compromised, settled, waived, surrendered or released by the Administrative Agent or any other Guaranteed Party or by operation of law, (c) the Credit Agreement, the other Credit Documents and any other documents executed and delivered in connection therewith and the Hedge Agreements and any other documents executed and delivered in connection therewith and any documents entered into with the Administrative Agent or any of its Affiliates in connection with treasury, depository or cash management services or in connection with any automated clearinghouse transfer of funds may be amended, modified, supplemented, extended or terminated, in whole or in part, as the Administrative Agent (or the Required Lenders, as the case may be, or, in the case of any Hedge Agreement or documents entered into with the Administrative Agent or any of its Affiliates in connection with treasury, depository or cash management services or in connection with any automated clearinghouse transfer of funds, the party thereto) may deem advisable from time to time, and (d) any collateral security, guarantee or right of offset at any time held by the Administrative Agent or any other Guaranteed Party for the payment of the Obligations may be sold, exchanged, waived, surrendered or released. Neither the Administrative Agent nor any other Guaranteed Party shall have any obligation to protect, secure, perfect or insure any Lien at any time held by it (or on its behalf) as security for the Obligations or for this Guaranty or any property or assets subject thereto. When making any demand hereunder against any Guarantor, the Administrative Agent or any other Guaranteed Party may, but shall be under no obligation to, make a similar demand on the relevant Borrower or any other Guarantor or guarantor (and notwithstanding any provisions of applicable law to the contrary each Guarantor irrevocably waives any right it may have of requiring the Administrative Agent or any Guaranteed Party (or any person on its behalf) to proceed against or enforce any other rights or security or claim payment from a Borrower, any other Guarantor or any other Person before making a demand against such Guarantor under the terms of this Guaranty), and any failure by the Administrative Agent or any other Guaranteed Party to make any such demand or to enforce such security or to collect any payments from any

Borrower or any Guarantor or guarantor or any release of a Borrower or any Guarantor or guarantor shall not relieve any Guarantor in respect of which a demand or collection is not made or any Guarantor not so released of its several obligations or liabilities hereunder, and shall not impair or affect the rights and remedies, express or implied, or as a matter of law, of the Administrative Agent or any other Guaranteed Party against any Guarantor. For the purposes hereof, "demand" shall include the commencement and continuance of any legal proceedings.

7. Guaranty Absolute and Unconditional. Subject to Section 8, the obligations of each Guarantor under this Guaranty shall be unconditional and absolute, and without limiting the foregoing, each Guarantor waives any and all notice of the creation, contraction, incurrence, renewal, extension, amendment, waiver or accrual of any of the Obligations, and notice of or proof of reliance by the Administrative Agent or any other Guaranteed Party upon this Guaranty or acceptance of this Guaranty, the Obligations or any of them, shall conclusively be deemed to have been created, contracted or incurred, or renewed, extended, amended, waived or accrued, in reliance upon this Guaranty; and all dealings between any Borrower and any of the Guarantors, on the one hand, and the Administrative Agent and the other Guaranteed Parties, on the other hand, likewise shall be conclusively presumed to have been had or consummated in reliance upon this Guaranty. Each Guarantor waives diligence, presentment, protest, demand for payment and notice of default or nonpayment to or upon any Borrower or any of the Guarantors with respect to the Obligations. Each Guarantor understands and agrees that this Guaranty shall be construed as a continuing, absolute and unconditional guarantee of payment and performance, to the maximum extent permitted by applicable law, and shall not be released, discharged or otherwise altered by (a) the invalidity, irregularity, non-perfection or unenforceability of the Credit Agreement, any other Credit Document or any Hedge Agreement, any of the Obligations or any other collateral security therefor or guarantee or right of offset with respect thereto at any time or from time to time held by the Administrative Agent or any other Guaranteed Party, (b) any defense, set-off or counterclaim (other than that the Obligations have been paid and performed in full) that may at any time be available to or be asserted by a Borrower or any other Guarantor against the Administrative Agent or any other Guaranteed Party whether in connection with the Credit Documents or any unrelated transactions, (c) any release, impairment, non perfection or invalidity of any direct or indirect security for any obligation of a Borrower, any other Guarantor or any other Person, (d) any change in the corporate existence, structure or ownership of a Borrower, any other Guarantor or any other Person or any of their respective Subsidiaries, or any insolvency, bankruptcy, reorganization or other similar proceeding affecting a Borrower, any other Guarantor or any other Person or any of their properties or assets or any resulting release or discharge of any obligation of a Borrower, any other Guarantor or any other Person under any Credit Document, (e) any provision of applicable law or regulation purporting to prohibit the payment of any Obligation by a Borrower, any other Guarantor or any other Person, or (f) any other circumstance whatsoever (with or without notice to or knowledge of the Borrower or such Guarantor) that constitutes, or might be construed to constitute, an equitable or legal discharge of any Borrower for any of the Obligations, or of such Guarantor under this Guaranty, in bankruptcy or in any other instance. When pursuing its rights and remedies hereunder against any Guarantor, the Administrative Agent and any other Guaranteed Party may, but shall be under no obligation to, pursue such rights and remedies as it may have against any Borrower or any other Person or against any collateral security or guarantee for the Obligations or any right of offset with respect thereto, and any failure by the Administrative Agent or any other Guaranteed

Party to pursue such other rights or remedies or to collect any payments from any Borrower or any such other Person or to realize upon any such collateral security or guarantee or to exercise any such right of offset, or any release of any Borrower or any such other Person or any such collateral security, guarantee or right of offset, shall not relieve such Guarantor of any liability hereunder, and shall not impair or affect the rights and remedies, whether express, implied or available as a matter of law, of the Administrative Agent and the other Guaranteed Parties against such Guarantor. This Guaranty shall remain in full force and effect and be binding in accordance with and to the extent of its terms upon each Guarantor and the successors and assigns thereof, and shall inure to the benefit of the Administrative Agent and the other Guaranteed Parties, and their respective successors, indorsees, transferees and assigns, until all the Obligations under the Credit Documents shall have been satisfied by payment and performance in full, the Commitments shall be terminated), notwithstanding that from time to time during the term of the Credit Agreement and any Hedge Agreement the Credit Parties may be free from any Obligations. A Guarantor shall automatically be released from its obligations hereunder upon (i) a sale or other disposition (including by way of consolidation or merger) of such Guarantor or the sale or disposition of all or substantially all the assets of such Guarantor (other than, in either case, to the Company or a Restricted Subsidiary), in each case, as permitted by the Credit Agreement, (ii) the designation in accordance with the Credit Agreement of the Guarantor as an Unrestricted Subsidiary or (iii) to the extent that such Guarantor is not an Immaterial Subsidiary due to operation of clause (a) of the definition of "Immaterial Subsidiary", upon the release of the guarantee referred to in such clause. In addition to any release permitted by the preceding sentence, the Administrative Agent may release any Guarantor with the prior written consent of the Required Lenders; *provided* that any release of all or substantially all the Guarantors shall require the consent of all the Lenders. In connection with any such release, the Administrative Agent shall execute and deliver to any Guarantor, at such Guarantor's expense, all documents that such Guarantor shall reasonably request to evidence such termination or release. Any execution and delivery of documents pursuant to the preceding sentence of this Section 7 shall be without recourse to or warranty by the Administrative Agent.

#### 8. Reinstatement and Limitations.

(a) This Guaranty shall continue to be effective, or be reinstated, as the case may be, if at any time payment, or any part thereof, of any of the Obligations is rescinded or must otherwise be restored or returned by the Administrative Agent or any other Guaranteed Party upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of a Borrower or any Guarantor, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, a Borrower or any Guarantor or any part of its property or assets, or otherwise, all as though such payments had been due but not made at such time.

(b) In the case of any Person that becomes a Guarantor pursuant to Section 20, such Guarantor's maximum liability shall in no event exceed the amount specified in the applicable Supplement hereto.

(c) A guarantee given by a Guarantor incorporated in the Netherlands shall not be valid and the right to enforce such guarantee shall be excluded to the extent that such guarantee constitutes unlawful financial assistance under applicable laws.

(d) Any limitation applicable to a Guarantor set forth in this Section 8 will not limit or otherwise affect the liability or obligations of any other Guarantor hereunder.

9. Payments. Each Guarantor hereby guarantees that payments hereunder will be paid to the Administrative Agent in the currency in which the relevant Obligation is due without set-off, counterclaim, deduction or withholding at the Administrative Agent's Office. The provisions of Section 5.4 of the Credit Agreement apply *mutatis mutandis* to this Guaranty and all payments made hereunder as though set out in full in this Guaranty.

10. Representations and Warranties; Covenants. Each Guarantor hereby represents and warrants that the representations and warranties set forth in Section 8 of the Credit Agreement as they relate to such Guarantor or in the other Credit Documents to which such Guarantor is a party, each of which is hereby incorporated herein by reference, are true and correct in all material respects, and the Administrative Agent and each other Guaranteed Party shall be entitled to rely on each of them as if they were fully set forth herein.

11. Authority of Administrative Agent. Each Guarantor acknowledges that the rights and responsibilities of the Administrative Agent under this Guaranty with respect to any action taken or not taken by the Administrative Agent or the exercise or non-exercise by the Administrative Agent of any option, right, request, judgment or other right or remedy provided for herein or resulting or arising out of this Guaranty shall be exclusively governed by the Credit Agreement and by such other agreements with respect thereto as may exist from time to time among them, but, as between the Administrative Agent and such Guarantor, the Administrative Agent shall be conclusively presumed to be acting as agent for the Guaranteed Parties with full and valid authority so to act or refrain from acting, and no Guarantor shall be under any obligation, or entitlement, to make any inquiry respecting such authority.

12. Joint and Several Obligations. The Borrowers' obligations under the Credit Agreement are joint and several.

13. Notices. All notices, requests and demands pursuant hereto shall be made in accordance with Section 13.3 of the Credit Agreement. All communications and notices hereunder to each Guarantor shall be given to it in care of the Company at the Company's address set forth in Section 13.3 of the Credit Agreement.

14. Counterparts. This Guaranty may be executed by one or more of the parties to this Guaranty on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Guaranty signed by all the parties shall be lodged with the Administrative Agent and the Company.

15. Severability. Any provision of this Guaranty that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. The parties hereto shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

16. Integration. This Guaranty represents the agreement of each Guarantor and the Administrative Agent with respect to the subject matter hereof, and there are no promises, undertakings, representations or warranties by any Borrower, the Administrative Agent or any other Guaranteed Party relative to the subject matter hereof not expressly set forth or referred to herein or in the other Credit Documents.

17. Amendments in Writing; No Waiver; Cumulative Remedies.

(a) None of the terms or provisions of this Guaranty may be waived, amended, supplemented or otherwise modified except by a written instrument executed by each affected Guarantor and the Administrative Agent in accordance with Section 13.2 of the Credit Agreement.

(b) Neither the Administrative Agent nor any other Guaranteed Party shall by any act (except by a written instrument pursuant to Section 17(a) hereof), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of the Administrative Agent or any other Guaranteed Party, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Administrative Agent or any other Guaranteed Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy that the Administrative Agent or any Guaranteed Party would otherwise have on any future occasion.

(c) The rights, remedies, powers and privileges herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

18. Section Headings. The Section headings used in this Guaranty are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

19. Successors and Assigns. This Guaranty shall be binding upon the successors and assigns of each Guarantor and shall inure to the benefit of the Administrative Agent and the other Guaranteed Parties and their respective successors and assigns. If all or any part of the Administrative Agent's or any other Guaranteed Party's interest in any Obligation is assigned or otherwise transferred in accordance with the Credit Agreement, the transferor's rights hereunder, to the extent applicable to the obligation so transferred, shall be automatically transferred with such obligation. No Guarantor may assign, transfer or delegate any of its rights or obligations under this Guaranty without the prior written consent of the Administrative Agent other than as permitted under the Credit Agreement.

20. Additional Guarantors. Each Subsidiary of the Company that is required to become a party to this Guaranty pursuant to Section 9.11 of the Credit Agreement shall become a Guarantor, with the same force and effect as if originally named as a Guarantor herein, for all purposes of this Guaranty upon execution and delivery by such Subsidiary of a Supplement in the form of Annex A hereto. The execution and delivery of any instrument adding an additional Guarantor as a party to this Guaranty shall not require the consent of any other Guarantor hereunder. The rights and obligations of each Guarantor hereunder shall remain in full force and effect notwithstanding the addition of any new Guarantor as a party to this Guaranty.

21. Effectiveness.

This Guaranty shall take effect on the Closing Date.

22. **WAIVER OF JURY TRIAL. EACH GUARANTOR HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS GUARANTEE, ANY OTHER CREDIT DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.**

23. Submission to Jurisdiction; Waivers. Each Guarantor hereby irrevocably and unconditionally:

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

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

(c) appoints the Co-Borrower (the "Process Agent") as its agent to receive on behalf of such Guarantor and its property service of copies of the summons and complaint and any other process which may be served by the Administrative Agent or any Guaranteed Party in any such action or proceeding in any aforementioned court in respect of any action or proceeding arising out of or relating to this Guaranty. Such service may be made by delivering a copy of such process to such Guarantor by courier and by certified mail (return receipt requested), fees and postage prepaid, both (i) in care of the Process Agent at the Process Agent's address and (ii) at the Company's address specified pursuant to Section 12, and each Guarantor hereby irrevocably authorizes and directs the Process Agent to accept such service on its behalf;

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

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section 21 any special, exemplary, punitive or consequential damages.

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

IN WITNESS WHEREOF, each of the undersigned has caused this Guaranty to be duly executed and delivered by its duly authorized officer as of the day and year first above written.

**GUARANTORS:**

**NXP B.V.**

By: /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

[Signature page – Term Loan Guaranty]



**NXP FUNDING LLC**

By: /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

[Signature page – Term Loan Guaranty]

**NXP SEMICONDUCTORS  
NETHERLANDS B.V.**

By: /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

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[Signature page – Term Loan Guaranty]

**NXP SEMICONDUCTORS  
TAIWAN LTD.**

By: /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

[Signature page – Term Loan Guaranty]

By: /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

[Signature page – Term Loan Guaranty]

**FREESCALE SEMICONDUCTOR  
HOLDINGS V, INC.**

By: /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

[Signature page – Term Loan Guaranty]

**CREDIT SUISSE AG**  
as Administrative Agent

By: /s/ Bill O'Daly  
Name: Bill O'Daly  
Title: Authorized Signatory

By: /s/ Andrew Maletta  
Name: Dr. Andrew Maletta  
Title: Authorized Signatory

[Signature page – Term Loan Guaranty]

**MORGAN STANLEY SENIOR  
FUNDING, INC.**  
as Collateral Agent

By: /s/ Reagan Phillip  
Name: Reagan Phillip  
Title: Authorized Signatory

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[Signature page – Term Loan Guaranty]

SUPPLEMENT NO. [ ] dated as of [ ], [ ] to the GUARANTY (the “Guaranty”) dated as of [●], NXP B.V. (the “Company”), each of the Guarantors referred to therein, Credit Suisse AG, as Administrative Agent (in such capacity, the “Administrative Agent”) and MORGAN STANLEY SENIOR FUNDING, INC. as Collateral Agent (in such capacity, the “Collateral Agent”), in each case, for the lenders (the “Lenders”) from time to time parties to the Credit Agreement referred to below.

A. Reference is made to the Credit Agreement dated as of [●], among NXP B.V. (the “Company”), NXP Funding LLC (the “Co-Borrower”), the Lenders, the Joint Lead Arrangers, the Joint Bookrunners, the Administrative Agent and the Collateral Agent.

B. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Guaranty.

C. The Guarantors have entered into the Guaranty in order to induce the Administrative Agent, the Joint Lead Arrangers, the Joint Bookrunners, the Collateral Agent and the Lenders to enter into the Credit Agreement and to induce the Lenders to make their respective Loan to the Borrowers under the Credit Agreement and to induce one or more Lenders or Affiliates of Lenders to enter into Hedge Agreements with any of the Borrowers. Section 9.11 of the Credit Agreement and Section 20 of the Guaranty provide that additional Subsidiaries of the Company may become Guarantors under the Guaranty by execution and delivery of an instrument in the form of this Supplement. Each undersigned Subsidiary (each a “New Guarantor”) is executing this Supplement in accordance with the requirements of the Credit Agreement to become a Guarantor under the Guaranty as consideration for Loans previously made.

Accordingly, the Administrative Agent, the Collateral Agent and each New Guarantor agrees as follows:

SECTION 1. In accordance with Section 20 of the Guaranty, on and from the date of this Supplement (the “Effective Date”) each New Guarantor by its signature below becomes a Guarantor under the Guaranty with the same force and effect as if originally named therein as a Guarantor and each New Guarantor hereby (a) agrees to all the terms and provisions of, and assumes all of the liabilities and obligations under, the Guaranty applicable to it as a Guarantor thereunder and (b) represents and warrants that the representations and warranties made by it as a Guarantor thereunder are true and correct in all material respects on and as of the date hereof. On and from the Effective Date each reference to a Guarantor in the Guaranty shall be deemed to include each New Guarantor. All of the provisions of the Guaranty are hereby incorporated herein by reference. Each New Guarantor’s maximum liability under the Guaranty and the other Credit Documents shall [be as set forth in Section 8 of the Guaranty].<sup>1</sup>

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<sup>1</sup> Use if the Guarantor is an entity organized under the laws of a jurisdiction already referred to in Section 8(b) of the Guaranty. Otherwise, specify appropriate limitation here.



SECTION 2. Each New Guarantor represents and warrants to the Administrative Agent and the other Guaranteed Parties that this Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms.

SECTION 3. This Supplement may be executed by one or more of the parties to this Supplement on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Supplement signed by all the parties shall be lodged with the Company and the Administrative Agent. If executed by more than one New Guarantor, this Supplement shall become effective as to each New Guarantor when the Administrative Agent shall have received counterparts of this Supplement that, when taken together, bear the signatures of such New Guarantor and the Administrative Agent.

SECTION 4. Except as expressly supplemented hereby, the Guaranty shall remain in full force and effect.

**SECTION 5. THIS SUPPLEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.**

SECTION 6. Any provision of this Supplement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and in the Guaranty, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. The parties hereto shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

SECTION 7. All notices, requests and demands pursuant hereto shall be made in accordance with Section 13.3 of the Credit Agreement. All communications and notices hereunder to each New Guarantor shall be given to it in care of the Company at the Company's address set forth in Section 13.3 of the Credit Agreement.

SECTION 8. Each New Guarantor agrees to reimburse the Administrative Agent for its out-of-pocket expenses in connection with this Supplement, including the fees, disbursements and other charges of counsel for the Administrative Agent.

IN WITNESS WHEREOF, each New Guarantor and the Administrative Agent have duly executed this Supplement to the Guaranty as of the day and year first above written.

[NAME OF NEW GUARANTOR]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CREDIT SUISSE AG**  
as Administrative Agent

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**MORGAN STANLEY SENIOR  
FUNDING, INC.**  
as Collateral Agent

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\$600,000,000  
SECURED REVOLVING CREDIT AGREEMENT

Dated as of December 7, 2015  
among

NXP B.V.

NXP FUNDING LLC,  
as the Borrowers

The Several Lenders  
from Time to Time Parties Hereto

MORGAN STANLEY SENIOR FUNDING, INC.,  
as Collateral Agent

MORGAN STANLEY SENIOR FUNDING, INC.,  
as Administrative Agent

CITIBANK, N.A.,  
as Letter of Credit Issuer

CREDIT SUISSE SECURITIES (USA) LLC,  
MORGAN STANLEY SENIOR FUNDING, INC.,  
BARCLAYS BANK PLC,  
DEUTSCHE BANK SECURITIES INC.

AND

BANK OF AMERICA, N.A.  
as Joint Lead Arrangers and Joint Bookrunners

GOLDMAN SACHS LENDING PARTNERS LLC,  
CITIGROUP MARKETS LIMITED

AND

COÖPERATIEVE CENTRALE RAIFFEISEN-BOERENLEENBANK B.A.  
as Co-Managers

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## SCHEDULES

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## EXHIBITS

Exhibit A	Assignment and Acceptance
Exhibit B	Notice of Borrowing
Exhibit C	Letter of Credit Request
Exhibit D	Form of Closing Certificates
Exhibit E	Form of Promissory Note



CREDIT AGREEMENT dated as of December 7, 2015 among NXP B.V. with its corporate seat in Eindhoven, the Netherlands (the “Company”), NXP FUNDING LLC, a Delaware limited liability company (the “Co-Borrower”), the lending institutions from time to time parties hereto (each a “Lender” and, collectively, the “Lenders”), MORGAN STANLEY SENIOR FUNDING, INC., as Administrative Agent (in such capacity, the “Administrative Agent”), MORGAN STANLEY SENIOR FUNDING, INC., as Collateral Agent (in such capacity, the “Collateral Agent”) and CREDIT SUISSE SECURITIES (USA) LLC, MORGAN STANLEY SENIOR FUNDING, INC., BARCLAYS BANK PLC, DEUTSCHE BANK SECURITIES INC. AND BANK OF AMERICA, N.A. as Joint Lead Arrangers (the “Joint Lead Arrangers”) and Joint Bookrunners (the “Joint Bookrunners”) and GOLDMAN SACHS LENDING PARTNERS LLC, CITIGROUP GLOBAL MARKETS LIMITED and COÖPERATIEVE CENTRALE RAIFFEISEN-BOERENLEENBANK B.A., as Co-Managers (the “Co-Managers”).

In consideration of the premises and the covenants and agreements contained herein, the parties hereto hereby agree as follows:

1. **DEFINITIONS.**

1.1 **Defined Terms.** i) As used herein, the following terms shall have the meanings specified in this Section 1.1 unless the context otherwise requires:

“ABR” shall mean for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Effective Rate plus 1/2 of 1%, (b) the rate of interest in effect for such day as determined from time to time by the Administrative Agent as its “prime rate” at its principal office in New York City and notified to the Borrower, and (c) the rate per annum determined in the manner set forth in clause (ii) of the definition of LIBOR Rate plus 1%. Any change in the ABR due to a change in such rate determined by the Administrative Agent or in the Federal Funds Effective Rate or LIBOR Rate shall take effect at the opening of business on the day specified in the announcement of such change. If the Administrative Agent shall have determined (which determination shall be conclusive absent 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 of the definition thereof, the ABR shall be determined without regard to clause (c) of the preceding sentence until the circumstances giving rise to such inability no longer exist. Any change in the ABR due to a change in the Prime Rate, the Federal Funds Effective Rate or LIBOR shall be effective on the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or LIBOR, as the case may be.

“ABR Loan” shall mean each loan bearing interest at the rate provided in Section 2.8(a)

“Acquired Indebtedness” means Indebtedness (a) of a Person or any of its Subsidiaries existing at the time such Person becomes a Restricted Subsidiary, or (b) assumed in connection with the acquisition of assets from such Person, in each case whether or not Incurred by such Person in connection with such Person becoming a Restricted Subsidiary of the Company or such acquisition or (c) of a Person at the time such Person merges with or into or consolidates or otherwise combines with the Company or any Restricted Subsidiary. Acquired Indebtedness shall be deemed to have been Incurred, with respect to clause (a) of the preceding sentence, on the date such Person becomes a Restricted Subsidiary and, with respect to clause (b) of the preceding sentence, on the date of consummation of such acquisition of assets and, with respect to clause (c) of the preceding sentence, on the date of the relevant merger, consolidation or other combination.

“Acquisition” means the acquisition transaction pursuant to which Holdings will indirectly acquire Target pursuant to a Merger Agreement, whereby MergerSub will merge with and into the Target.

“Additional Alternative Currency” means any currency which is approved in accordance with Section 2.14.

“Additional Assets” means:

- (a) any property or assets (other than Indebtedness and Capital Stock) used or to be used by the Company, a Restricted Subsidiary or otherwise useful in a Similar Business (it being understood that capital expenditures on property or assets already used in Similar Business or to replace any property or assets that are the subject of such Asset Disposition shall be deemed an investment in Additional Assets);
- (b) the Capital Stock of a Person that is engaged in a Similar Business and becomes a Restricted Subsidiary as a result of the acquisition of such Capital Stock by the Company or a Restricted Subsidiary of the Company; or
- (c) Capital Stock constituting a minority interest in any Person that at such time is a Restricted Subsidiary of the Company.

“Additional Guarantors” means each Wholly Owned Subsidiary (other than the Original Guarantors) which is required to Guarantee the obligations of the Borrowers under this Agreement pursuant to the Guaranty and Section 9.11 of this Agreement.

“Additional Revolving Credit Commitment” shall have the meaning provided in accordance with Section 2.15(a).

“Adjusted Total Commitment” shall mean at any time the Total Commitment less the aggregate Commitments of all Defaulting Lenders.

“Administrative Agent” shall have the meaning given to such term in the preamble to this Agreement.

“Administrative Agent’s Office” shall mean in respect of all Credit Events, the office of the Administrative Agent located at the address set forth in Schedule 13.2, or such other office as the Administrative Agent may hereafter designate in writing as such to the other parties hereto.

“Administrative Questionnaire” shall have the meaning provided in Section 13.7(b)(ii)(D).

“Affiliate” of any specified Person means any other Person, directly or indirectly, controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, “control” when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Affiliate Transactions” has the meaning given in Section 10.6(a).

“Agency Fee Letter” means the letter dated December 7, 2015 between the Administrative Agent and the Company setting out the fees of the Administrative Agent.

“Agent Parties” shall have the meaning provided in Section 13.21(b).

“Agents” shall mean the Joint Lead Arrangers, the Joint Bookrunners, the Co-Managers, the Administrative Agent and the Collateral Agent.

“Aggregate Outstandings” shall have the meaning provided in Section 5.2(a).

“Agreed Security Principles” means the principles set forth on Schedule 1.1(a) as applied reasonably and in good faith by the Company.

“Alternative Currency” means Euro, Sterling, Yen, Swiss Francs, Singapore Dollars (subject to the Singapore Dollars Sublimit), or any Additional Alternative Currency.

“Applicable ABR Margin”, “Applicable EURIBOR Margin” and “Applicable LIBOR Margin” shall mean a percentage equal to (a) until and including the date on which the first financial statements after the Closing Date are delivered under Section 9.1, the percentages per annum set forth below in the relevant column for Pricing Level 3, and (b) thereafter, the following percentages per annum set forth below in the relevant column based upon the Consolidated Leverage Ratio as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 9.2:

<u>Pricing Level</u>	<u>Consolidated Leverage Ratio</u>	<u>Applicable ABR Margin</u>	<u>Applicable EURIBOR Margin</u>	<u>Applicable LIBOR Margin</u>
<u>Level 1</u>	£ 1.50:1.00	0.50%	1.50%	1.50%
<u>Level 2</u>	>1.50:1.00 and £ 2.00:1.00	0.75%	1.75%	1.75%
<u>Level 3</u>	>2.00:1.00	1.00%	2.00%	2.00%

Any increase or decrease in the Applicable ABR Margin, Applicable EURIBOR Margin or Applicable LIBOR Margin resulting from a change in the Consolidated Leverage Ratio shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 9.2; provided that at the option of the Administrative Agent or the Required Lenders, Pricing Level 3 shall apply (1) as of the first Business Day after the date on which a Compliance Certificate was required to have been delivered but was not delivered, and shall continue to so apply to and including the date on which such Compliance Certificate is so delivered (and thereafter the Pricing Level otherwise determined in accordance with this definition shall apply) and (2) as of the first Business Day after an Event of Default under Section 11.1(a), (b) or, with respect to any Credit Party, (g) shall have occurred and be continuing, and shall continue to so apply to but excluding the date on which such Event of Default is remedied or waived (and thereafter the Pricing Level otherwise determined in accordance with this definition shall apply).

“Approved Fund” shall have the meaning provided in Section 13.7(b).

“Arranger Fee Letter” means the fee letter dated March 1, 2015 between Credit Suisse AG, Credit Suisse Securities (USA) LLC and the Company, as supplemented by the Joinder to Commitment Letter dated as of March 10, 2015 among the Joint Lead Arrangers, Joint Bookrunners, Co-Managers and the Company.

“Asset Disposition” means any direct or indirect sale, lease (other than an operating lease entered into in the ordinary course of business), transfer, issuance or other disposition, or a series of related sales, leases (other than operating leases entered into in the ordinary course of business), transfers, issuances or dispositions that are part of a common plan, of shares of Capital Stock of a Subsidiary (other than directors’ qualifying shares), property or other assets (each referred to for the purposes of this definition as a “disposition”) by the Company or any of its Restricted Subsidiaries, including any disposition by means of a merger, consolidation or similar transaction. Notwithstanding the preceding provisions of this definition, the following items shall not be deemed to be Asset Dispositions:

- (a) a disposition by a Restricted Subsidiary to the Company or by the Company or a Restricted Subsidiary to a Restricted Subsidiary;
- (b) a disposition of cash, Cash Equivalents, Temporary Cash Investments or Investment Grade Securities;
- (c) a disposition of inventory or other assets in the ordinary course of business;
- (d) a disposition of obsolete, surplus or worn out equipment or other assets or equipment or other assets that are no longer useful in the conduct of the business of the Company and its Restricted Subsidiaries;
- (e) transactions permitted under Section 10.9 or 10.10 or a transaction that constitutes a Change of Control;
- (f) an issuance of Capital Stock by a Restricted Subsidiary to the Company or to another Restricted Subsidiary or as part of or pursuant to an equity incentive or compensation plan approved by the Board of Directors;
- (g) any dispositions of Capital Stock, properties or assets in a single transaction or series of related transactions with a fair market value (as determined in good faith by the Company) of less than €100,000,000;
- (h) any Restricted Payment that is permitted to be made, and is made, under Section 10.2 and the making of any Permitted Payment or Permitted Investment or, solely for purposes of Section 10.5(a)(iii), asset sales (other than sales of securities or indebtedness of (x) SSMC or (y) any Unrestricted Subsidiary that is a Permitted Joint Venture which has received Investments from the Company or any Restricted Subsidiary pursuant to paragraph (t) of the definition of Permitted Investments (determined at the time of making such Investment), in each case so long as it is not a Restricted Subsidiary), the proceeds of which are used to make such Restricted Payments or Permitted Investments;
- (i) dispositions in connection with Permitted Liens;

- (j) dispositions of receivables in connection with the compromise, settlement or collection thereof in the ordinary course of business or in bankruptcy or similar proceedings and exclusive of factoring or similar arrangements;
- (k) the licensing or sub-licensing of intellectual property or other general intangibles and licenses, sub-licenses, leases or subleases of other property, in each case, in the ordinary course of business;
- (l) foreclosure, condemnation or any similar action with respect to any property or other assets;
- (m) the sale or discount (with or without recourse, and on customary or commercially reasonable terms and for credit management purposes) of accounts receivable or notes receivable arising in the ordinary course of business, or the conversion or exchange of accounts receivable for notes receivable;
- (n) any disposition of Capital Stock, Indebtedness or other securities of an Unrestricted Subsidiary (with the exception of (x) SSMC, (y) Investments in Unrestricted Subsidiaries acquired pursuant to clause (o) of the definition of Permitted Investments and (z) any Unrestricted Subsidiary that is a Permitted Joint Venture which has received Investments from the Company or any Restricted Subsidiary pursuant to paragraph (t) of the definition of Permitted Investments (determined at the time of making such Investment));
- (o) any disposition of Capital Stock of a Restricted Subsidiary pursuant to an agreement or other obligation with or to a Person (other than the Company or a Restricted Subsidiary) from whom such Restricted Subsidiary was acquired, or from whom such Restricted Subsidiary acquired its business and assets (having been newly formed in connection with such acquisition), made as part of such acquisition and in each case comprising all or a portion of the consideration in respect of such sale or acquisition;
- (p) any surrender or waiver of contract rights or the settlement, release or surrender of contract, tort or other claims of any kind;
- (q) any disposition of assets to a Person who is providing services related to such assets, the provision of which have been or are to be outsourced by the Company or any Restricted Subsidiary to such Person; provided, however, that the Board of Directors shall certify that in the opinion of the Board of Directors, the outsourcing transaction will be economically beneficial to the Company and its Restricted Subsidiaries (considered as a whole); provided, further, that the fair market value of the assets disposed of, when taken together with all other dispositions made pursuant to this clause (q) does not exceed €50,000,000;
- (r) any disposition with respect to property built, owned or otherwise acquired by the Company or any Restricted Subsidiary pursuant to customary sale and lease-back transactions, asset securitizations and other similar financings permitted by this Agreement; and
- (s) the RF Power Disposition.

“Assignment and Acceptance” shall mean an assignment and acceptance substantially in the form of Exhibit A.

“Associate” means (a) any Person engaged in a Similar Business of which the Company or its Restricted Subsidiaries are the legal and beneficial owners of between 20% and 50% of all outstanding Voting Stock and (b) any joint venture entered into by the Company or any Restricted Subsidiary of the Company.

“Authorized Officer” shall mean, with respect to any Person, the President, the Chief Executive Officer, the Chief Financial Officer, any Managing Director (if authorized to act individually), the Treasurer or any other senior officer (or two such officers if the Company so elects) of such Person authorized to represent such Person and designated as such in writing to the Administrative Agent by such Person.

“Available Commitment” shall mean an amount equal to the excess, if any, of (a) the amount of the Total Commitment over (b) the sum of (i) the aggregate principal amount of all Loans then outstanding and (ii) the aggregate Letters of Credit Outstanding at such time.

“Base Currency” means US Dollars.

“Base Currency Equivalent” shall mean, on any date of determination, (a) with respect to any amount denominated in the Base Currency, such amount, and (b) with respect to any amount denominated in any Foreign Currency, the equivalent in the Base Currency of such amount, determined by the Administrative Agent using the applicable Exchange Rate.

“Board” shall mean the Board of Governors of the Federal Reserve System of the United States (or any successor).

“Board of Directors” means (a) with respect to the Company or any Credit Party organized or established under the laws of the Netherlands (x) for the purposes of the definition of Change of Control only, its managing board or supervisory board (if any) and (y) for all other purposes, its managing board; (b) with respect to any corporation, the board of directors or managers, as applicable, of the corporation, or any duly authorized committee thereof; (c) with respect to any partnership, the board of directors or other governing body of the general partner of the partnership or any duly authorized committee thereof; and (d) with respect to any other Person, the board or any duly authorized committee of such Person serving a similar function. Whenever any provision requires any action or determination to be made by, or any approval of, a Board of Directors, such action, determination or approval shall be deemed to have been taken or made if approved by a majority of the directors (excluding employee representatives, if any) on any such Board of Directors (whether or not such action or approval is taken as part of a formal board meeting or as a formal board approval).

“Borrower Materials” shall have the meaning provided in Section 13.21(b).

“Borrowers” means collectively the Company and the Co-Borrower.

“Borrowing” shall mean the incurrence of one Type of Loan on a given date (or resulting from conversions on a given date) having, in the case of LIBOR Loans or EURIBOR Loans, the same Interest Period; provided that ABR Loans incurred pursuant to Section 2.10(b) shall be considered part of any related Borrowing of LIBOR Loans or EURIBOR Loans (as the case may be).

“Business Day” means a day (other than a Saturday or Sunday) on which banks are open for general business in London, United Kingdom, Amsterdam, The Netherlands and New York, U.S.A. and:

- (a) in relation to any date for payment or purchase of a currency other than Euro, the principal financial centre of the country of that currency; or
- (b) in relation to any date for payment or purchase of Euro, any day on which the Trans-European Automated Real-time Gross Settlement Express Transfer (“TARGET”) payment system is open for the settlement of payments.

“Capital Stock” of any Person means any and all shares of, rights to purchase, warrants or options for, or other equivalents of or partnership or other interests in (however designated), equity of such Person, including any Preferred Stock, but excluding any debt securities convertible into such equity.

“Capitalized Lease Obligations” means an obligation that is required to be classified and accounted for as a capitalized lease for financial reporting purposes on the basis of GAAP. The amount of Indebtedness represented by such obligation will be the capitalized amount of such obligation at the time any determination thereof is to be made as determined on the basis of GAAP, and the Stated Maturity thereof will be the date of the last payment of rent or any other amount due under such lease prior to the first date such lease may be terminated without penalty.

“Cash Collateralize” has the meaning given in Section 5.2(c).

“Cash Equivalents” means:

- (a) securities issued or directly and fully Guaranteed or insured by the United States or Canadian governments, a member state of the European Union, Switzerland or Norway or, in each case, any agency or instrumentality thereof (provided that the full faith and credit of such country or such member state is pledged in support thereof), having maturities of not more than two years from the date of acquisition;
- (b) certificates of deposit, time deposits, eurodollar time deposits, overnight bank deposits or bankers’ acceptances having maturities of not more than one year from the date of acquisition thereof issued by any Lender or by any bank or trust company (i) whose commercial paper is rated at least “A-1” or the equivalent thereof by S&P or at least “P-1” or the equivalent thereof by Moody’s (or if at the time neither is issuing comparable ratings, then a comparable rating of another Nationally Recognized Statistical Rating Organization) or (ii) (in the event that the bank or trust company does not have commercial paper which is rated) having combined capital and surplus in excess of €500,000,000;
- (c) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clauses (a) and (b) entered into with any bank meeting the qualifications specified in clause (b) above;
- (d) commercial paper rated at the time of acquisition thereof at least “A-2” or the equivalent thereof by S&P or “P-2” or the equivalent thereof by Moody’s or carrying an equivalent rating by a Nationally Recognized Statistical Rating Organization, if both of the two named rating agencies cease publishing ratings of investments or, if no rating is available

in respect of the commercial paper, the issuer of which has an equivalent rating in respect of its long-term debt, and in any case maturing within one year after the date of acquisition thereof;

- (e) readily marketable direct obligations issued by any state of the United States of America, any province of Canada, any member of the European Union, Switzerland or Norway or any political subdivision thereof, in each case, having one of the two highest rating categories obtainable from either Moody's or S&P (or, if at the time, neither is issuing comparable ratings, then a comparable rating of another Nationally Recognized Statistical Rating Organization) with maturities of not more than two years from the date of acquisition;
- (f) Indebtedness or preferred stock issued by Persons with a rating of "BBB-" or higher from S&P or "Baa3" or higher from Moody's (or, if at the time, neither is issuing comparable ratings, then a comparable rating of another Nationally Recognized Statistical Rating Organization) with maturities of 12 months or less from the date of acquisition;
- (g) bills of exchange issued in the United States, Canada, a member state of the European Union, Switzerland, Norway or Japan eligible for rediscount at the relevant central bank and accepted by a bank (or any dematerialized equivalent);
- (h) interests in any investment company, money market or enhanced high yield fund which invests 95% or more of its assets in instruments of the type specified in clauses (a) through (g) above; and
- (i) for purposes of clause (b) of the definition of "Asset Disposition", the marketable securities portfolio owned by the Company and its Subsidiaries on the Closing Date.

"Change in Law" shall mean (a) the adoption of any law, treaty, order, policy, rule or regulation after the date of this Agreement, (b) any change in any law, treaty, order, policy, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the date of this Agreement or (c) compliance by the Lender with any guideline, request or directive issued or made after the date hereof by any central bank or other governmental or quasi-governmental authority (whether or not having the force of law); provided, however, that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith, (y) all requests, rules, guidelines or directives promulgated by the Bank for International settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III and (z) the CRD IV and any law, rule, regulation or guideline, in each case that implements CRD IV in any jurisdiction, in each case shall be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

"Change of Control" means:

- (a) the Borrowers become aware (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) that any "person" or "group" of related persons (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act), other than one or more Permitted Holders, is or has become the "beneficial owner" (as such term is used in Rules 13d-3 and 13d-5 under the Exchange Act) of more than 50% of the Voting Stock of the Company (or its successor); provided,



however, that (x) for purposes of this clause (1) such person or group shall be deemed to have “beneficial ownership” of all shares that any such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time, directly or indirectly; (y) a transaction will not be deemed to involve a Change of Control under this clause (1) if (a) the Company becomes a direct or indirect wholly owned subsidiary of a holding company (including the Parent) and (b)(i) the direct or indirect holders of the Voting Stock of such holding company (including the Parent) immediately following that transaction are substantially the same as the holders of the Company’s Voting Stock immediately prior to that transaction or (ii) immediately following that transaction no “person” or “group” of related persons (other than a holding company (including the Parent) satisfying the requirements of this sentence) is the beneficial owner, directly or indirectly, of more than 50% of the Voting Stock of such holding company (including the Parent); and (z) any Voting Stock of which any Permitted Holder is the “beneficial owner” (as such term is used in Rules 13d-3 and 13d-5 under the Exchange Act) shall not be included in any Voting Stock of which any such “person” or “group” of related persons is the “beneficial owner” (as so defined), unless that person or group of related persons is not an affiliate of a Permitted Holder and has greater voting power with respect to that Voting Stock;

- (b) during any period of two consecutive years, individuals who at the beginning of such period constituted the majority of the directors (excluding any employee representatives, if any) on the Board of Directors of the Company or any Parent (together with any new directors whose election by the majority of such directors on such Board of Directors of the Company or any Parent or whose nomination for election by shareholders of the Company or any Parent, as applicable, was approved by a vote of the majority of such directors on the Board of Directors of the Company or any Parent then still in office who were either directors at the beginning of such period or whose election or nomination for election was previously so approved) ceased for any reason to constitute the majority of the directors (excluding any employee representatives, if any) on the Board of Directors of the Company or any Parent, then in office;
- (c) the sale, lease, transfer, conveyance or other disposition, in one transaction or a series of related transactions, of all or substantially all of the assets of the Company and its Subsidiaries taken as a whole to a Person, other than (w) where the Company is the surviving entity following such sale, lease, transfer, conveyance or other disposition, (x) a Subsidiary, (y) any such sale, lease, transfer, conveyance or other disposition where the shares of the Company’s Voting Stock outstanding immediately prior to such transaction constitute, or are converted into or exchanged for, a majority of the Voting Stock of the surviving Person or parent entity thereof immediately after giving effect to such transaction or (z) one or more Permitted Holders; or
- (d) any Change of Control occurs under and as defined in the Existing Term Facility, any Unsecured Note Indenture or any Fast Secured Notes Indenture.

“Class” (i) when used in reference to any Loan or Borrowing, shall refer to whether such Loan, or the Loans comprising such Borrowing, are Loans, Incremental Revolving Credit Loans, or Extended Revolving Credit Loans (of the same Extension Series) and (ii) when used in reference to any Commitment, refers to whether such Commitment is a Commitment, an Incremental Commitment or an Extended Revolving Credit Commitment.

“Closing Date” means the date of the satisfaction (or waiver) of the conditions precedent set forth in Section 6 hereof.

“Co-Borrower” shall have the meaning given to such term in the preamble to this Agreement.

“Co-Managers” shall have the meaning given to such term in the preamble to this Agreement.

“Code” means the United States Internal Revenue Code of 1986, as amended.

“Collateral” shall have the meaning provided in any Security Document provided, that, for purposes of this Agreement, Collateral shall not include any assets that are subject to Other Liens but do not secure the obligations and liabilities of the Company under this Agreement.

“Collateral Agency Agreement” means the Collateral Agency Agreement dated as of 29 September, 2006 among the Collateral Agents, the Borrowers, the Secured Parties and the Guarantors, as supplemented, amended or otherwise modified from time to time.

“Collateral Agent” shall have the meaning given to such term in the preamble to this Agreement.

“Commitment” shall mean (a) with respect to each Lender that is a Lender on the date hereof, the amount set forth opposite such Lender’s name on Schedule 1.1(b) as such Lender’s “Commitment”, (b) in the case of any Lender that becomes a Lender after the date hereof, the amount specified as such Lender’s “Commitment” in the Assignment and Acceptance pursuant to which such Lender assumed a portion of the Total Commitment and (c) in the case of an Incremental Lender, such Incremental Lender’s Incremental Commitment specified in the applicable Joinder Agreement, in each case as the same may be changed from time to time pursuant to terms hereof. The initial aggregate amount of the Commitments shall be \$600,000,000.

“Commitment Fee” shall have the meaning provided in Section 4.1(b).

“Commitment Fee Rate” shall mean a per annum rate equal to 0.25%.

“Commitment Letter” means the letter dated March 1, 2015 as supplemented and amended by a joinder letter dated March 10, 2015, by and among the Company, Credit Suisse Securities (USA) LLC, Credit Suisse AG, the Collateral Agent, the Lead Arrangers and the Co-Managers.

“Commitment Percentage” shall mean at any time, for each Lender, the percentage obtained by dividing (a) such Lender’s Commitment by (b) the aggregate amount of the Commitments, provided that at any time when the Total Commitment shall have been terminated, each Lender’s Commitment Percentage shall be its Commitment Percentage as in effect immediately prior to such termination.

“Commodity Hedging Agreements” means in respect of a Person any commodity purchase contract, commodity futures or forward contract, commodities option contract or other similar contract (including commodities derivative agreements or arrangements), to which such Person is a party or a beneficiary.

“Communications” shall have the meaning provided in Section 13.21.

“Company” shall have the meaning given to such term in the preamble to this Agreement.

“Company Representations” shall mean the representations and warranties made by Target with respect to itself and its Subsidiaries in the Merger Agreement as are material to the interests of the Lenders, but only to the extent that Holdings (or one of Holdings’ Affiliates) has the right (taking into account any applicable cure provisions) to terminate its obligations under the Merger Agreement or decline to consummate the Acquisition as a result of a breach of such representations and warranties in the Merger Agreement.

“Compliance Certificate” means a certificate in substantially the form set forth in Schedule 1.1(c).

“Confidential Information” shall have the meaning provided in Section 13.19.

“Consolidated EBITDA” for any period means, without duplication, the Consolidated Net Income for such period, plus the following to the extent deducted in calculating such Consolidated Net Income:

- (a) Fixed Charges and items (A) through (F) in clause (a) of the definition of Consolidated Interest Expense;
- (b) Consolidated Income Taxes;
- (c) consolidated depreciation expense;
- (d) consolidated amortization or impairment expense;
- (e) any expenses, charges or other costs related to any Equity Offering, Investment, acquisition (including one-time amounts paid in connection with the acquisition or retention of one or more individuals comprising part of a management team retained to manage the acquired business; provided that such payments are made in connection with such acquisition and are consistent with the customary practice in the industry at the time of such acquisition), disposition, recapitalization or the Incurrence of any Indebtedness permitted by this Agreement (in each case whether or not successful) (including any such fees, expenses or charges related to the Transactions (including any expenses in connection with related due diligence activities)), in each case, as determined in good faith by an Officer of the Company;
- (f) any minority interest expense (whether paid or not) consisting of income attributable to minority equity interests of third parties in such period;
- (g) the amount of management, monitoring, consulting and advisory fees and related expenses paid in such period to the Permitted Holders to the extent permitted by Section 10.6; and
- (h) other non-cash charges, write-downs or items reducing Consolidated Net Income (excluding any such non-cash charge, write-down or item to the extent it represents an accrual of or reserve for cash charges in any future period) or other items classified by the Company as special items less other non-cash items of income increasing Consolidated Net Income (excluding any such non-cash item of income to the extent it represents a receipt of cash in any future period), or a reduced accrual or reserve for cash charges in any future period).

Notwithstanding the foregoing, the provision for taxes and the depreciation, amortization, non-cash items, charges and write-downs of a Restricted Subsidiary shall be added to Consolidated Net Income to compute Consolidated EBITDA only to the extent (and in the same proportion, including by reason of minority interests) that the net income (loss) of such Restricted Subsidiary was included in calculating Consolidated Net Income for the purposes of this definition.

“Consolidated Income Taxes” means taxes or other payments, including deferred Taxes, based on income, profits or capital (including without limitation withholding taxes) and franchise taxes of any of the Company and its Restricted Subsidiaries whether or not paid, estimated, accrued or required to be remitted to any Governmental Authority.

“Consolidated Interest Expense” means, with respect to any Person for any period, without duplication, the sum of:

- (a) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, to the extent such expense was deducted (and not added back) in computing Consolidated Net Income (including (i) amortization of original issue discount resulting from the issuance of Indebtedness at less than par, (ii) all commissions, discounts and other fees and charges owed with respect to letters of credit or bankers acceptances, (iii) non-cash interest payments (but excluding any non-cash interest expense attributable to the movement in the mark to market valuation of Hedging Obligations or other derivative instruments pursuant to GAAP), (iv) the interest component of Capitalized Lease Obligations, and (v) net payments, if any, pursuant to interest rate Hedging Obligations with respect to Indebtedness, and excluding (A) accretion or accrual of discounted liabilities other than Indebtedness, (B) any expense resulting from the discounting of any Indebtedness in connection with the application of purchase accounting in connection with any acquisition, (C) any additional interest pursuant to a registration rights agreement with respect to any securities, (D) amortization of deferred financing fees, debt issuance costs, commissions, fees and expenses, (E) any expensing of commitment and other financing fees, and (F) interest with respect to Indebtedness of any direct or indirect parent of such Person appearing upon the balance sheet of such Person solely by reason of push-down accounting under GAAP; plus
- (b) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued; less
- (c) interest income for such period.

For purposes of this definition, interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP.

“Consolidated Leverage” means the sum of the aggregate outstanding Indebtedness of the Company and its Restricted Subsidiaries (excluding Hedging Obligations except to the extent provided in Section 10.1(g)(iii)) minus cash and Cash Equivalents of the Company and its Restricted Subsidiaries.

“Consolidated Leverage Ratio” means, as of any date of determination, the ratio of (a) Consolidated Leverage at such date to (b) the aggregate amount of Consolidated EBITDA for the period of the most recent four consecutive fiscal quarters ending prior to the date of such determination for which internal consolidated financial statements of the Company are available; provided, however, that for the purposes of calculating Consolidated EBITDA for such period, if, as of such date of determination:

- (i) since the beginning of such period the Company or any Restricted Subsidiary has disposed of any company, any business, or any group of assets constituting an operating unit of a business (any such disposition, a “Sale”) or if the transaction giving rise to the need to calculate the Consolidated Leverage Ratio is such a Sale, Consolidated EBITDA for such period will be reduced by an amount equal to the Consolidated EBITDA (if positive) attributable to the assets which are the subject of such Sale for such period or increased by an amount equal to the Consolidated EBITDA (if negative) attributable thereto for such period; provided that if any such Sale constitutes “discontinued operations” in accordance with the then applicable GAAP, Consolidated Net Income shall be reduced by an amount equal to the Consolidated Net Income (if positive) attributable to such operations for such period or increased by an amount equal to the Consolidated Net Income (if negative) attributable thereto for such period;
- (ii) since the beginning of such period, the Company or any Restricted Subsidiary (by merger or otherwise) has made an Investment in any Person that thereby becomes a Restricted Subsidiary, or otherwise has acquired any company, any business, or any group of assets constituting an operating unit of a business (any such Investment or acquisition, a “Purchase”), including any such Purchase occurring in connection with a transaction causing a calculation to be made hereunder, Consolidated EBITDA for such period will be calculated after giving pro forma effect thereto, including anticipated synergies and cost savings (that are reasonably identifiable and factually supportable and projected by the Company in good faith to result from actions that have been taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Company) within 18 months) as if such Purchase occurred on the first day of such period; and
- (iii) since the beginning of such period, any Person (that became a Restricted Subsidiary or was merged or otherwise combined with or into the Company or any Restricted Subsidiary since the beginning of such period) will have made any Sale or any Purchase that would have required an adjustment pursuant to clause (i) or (ii) above if made by the Company or a Restricted Subsidiary since the beginning of such period, Consolidated EBITDA for such period will be calculated after giving pro forma effect thereto, including anticipated synergies and cost savings (that are reasonably identifiable and factually supportable and projected by the Company in good faith to result from actions that have been taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Company) within 18 months), as if such Sale or Purchase occurred on the first day of such period.

For the purposes of this definition and the definitions of Consolidated EBITDA, Consolidated Income Taxes, Consolidated Interest Expense, Consolidated Net Income and Fixed Charge Coverage Ratio, (a) calculations will be as determined in good faith by a responsible financial or chief accounting officer of the Company, including in respect of cost savings and synergies, (that are reasonably identifiable and factually supportable and projected by the Company in good faith to result from actions that have been taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Company) within 18

months) as though the full effect of synergies and cost savings were realized on the first day of the relevant period and shall also include the reasonably anticipated full run rate cost savings effect (as calculated in good faith by a responsible financial or chief accounting officer of the Company) of cost savings programs that have been initiated by the Company or its Restricted Subsidiaries as though such cost savings programs had been fully implemented on the first day of the relevant period and (b) in determining the amount of Indebtedness outstanding on any date of determination, pro forma effect shall be given to any Incurrence, repayment, repurchase, defeasance or other acquisition, retirement or discharge of Indebtedness as if such transaction had occurred on the first day of the relevant period.

“Consolidated Net Income” means, for any period, the net income (loss) of the Company and its Restricted Subsidiaries determined on a consolidated basis on the basis of GAAP; provided, however, that there will not be included in such Consolidated Net Income:

- (a) subject to the limitations contained in clause (c) below, any net income (loss) of any Person if such Person is not a Restricted Subsidiary, except that the Company’s equity in the net income of any such Person for such period will be included in such Consolidated Net Income up to the aggregate amount of cash or Cash Equivalents actually distributed by such Person during such period to the Company or a Restricted Subsidiary as a dividend or other distribution or return on investment or (except in the case of SSMC so long as it is not a Restricted Subsidiary, but this exception shall only apply for the purposes of determining the amount available for Restricted Payments (other than Restricted Investments) under Section 10.2(c)(i) could have been distributed, as reasonably determined by an Officer of the Company (subject, in the case of a dividend or other distribution or return on investment to a Restricted Subsidiary, to the limitations contained in clause (b) below);
- (b) solely for the purpose of determining the amount available for Restricted Payments under Section 10.2(a)(iv)(C)(1), any net income (loss) of any Restricted Subsidiary (other than Guarantors) if such Subsidiary is subject to restrictions, directly or indirectly, on the payment of dividends or the making of distributions by such Restricted Subsidiary, directly or indirectly, to the Company or a Guarantor by operation of the terms of such Restricted Subsidiary’s charter or any agreement, instrument, judgment, decree, order, statute or governmental rule or regulation applicable to such Restricted Subsidiary or its shareholders (other than (i) restrictions that have been waived or otherwise released, (ii) restrictions pursuant to this Agreement, the Revolving Credit Agreement, the Senior Notes or any Note Indenture, and (iii) restrictions permitted by Section 10.4), except that the Company’s equity in the net income of any such Restricted Subsidiary for such period will be included in such Consolidated Net Income up to the aggregate amount of cash or Cash Equivalents actually distributed or that could have been distributed by such Restricted Subsidiary during such period to the Company or another Restricted Subsidiary as a dividend or other distribution (subject, in the case of a dividend to another Restricted Subsidiary, to the limitation contained in this clause);
- (c) any net gain (or loss) realized upon the sale or other disposition of any asset or disposed operations of the Company or any Restricted Subsidiaries (including pursuant to any sale/leaseback transaction) which is not sold or otherwise disposed of in the ordinary course of business (as determined in good faith by an Officer or the Board of Directors of the Company);

- (d) any extraordinary, exceptional, unusual or nonrecurring gain, loss or charge (as determined in good faith by the Company) or any charges or reserves in respect of any restructuring, redundancy or severance or any expenses, charges, reserves or other costs related to the Transactions (including (i) in relation to expenses relating to consulting or operational improvement initiatives, (ii) expenses associated with the closing out of existing management equity programs and (iii) start-up and transaction costs);
- (e) the cumulative effect of a change in accounting principles;
- (f) any non-cash compensation charge or expense arising from any grant of stock, stock options or other equity based awards and any non-cash deemed finance charges in respect of any pension liabilities or other provisions;
- (g) all deferred financing costs written off and premiums paid or other expenses incurred directly in connection with any early extinguishment of Indebtedness and any net gain (loss) from any write-off or forgiveness of Indebtedness;
- (h) any unrealized gains or losses in respect of Hedging Obligations or any ineffectiveness recognized in earnings related to qualifying hedge transactions or the fair value of changes therein recognized in earnings for derivatives that do not qualify as hedge transactions, in each case, in respect of Hedging Obligations;
- (i) any unrealized foreign currency transaction gains or losses in respect of Indebtedness of any Person denominated in a currency other than the functional currency of such Person and any unrealized foreign exchange gains or losses relating to translation of assets and liabilities denominated in foreign currencies;
- (j) any unrealized foreign currency translation or transaction gains or losses in respect of Indebtedness or other obligations of the Company or any Restricted Subsidiary owing to the Company or any Restricted Subsidiary;
- (k) any purchase accounting effects including, but not limited to, adjustments to inventory, property and equipment, software and other intangible assets and deferred revenue in component amounts required or permitted by GAAP and related authoritative pronouncements (including the effects of such adjustments pushed down to the Company and the Restricted Subsidiaries), as a result of the Transactions or the disentanglement, any consummated acquisition (including in connection with the original purchase by the Initial Investors), or the amortization or write-off of any amounts thereof (including any write-off of in process research and development);
- (l) any goodwill or other intangible asset impairment charge, amortization or write-off;
- (m) (i) only to the extent not otherwise added back to Consolidated Net Income, depreciation and amortization expense to the extent in excess of capital expenditures on property, plant and equipment and (ii) Consolidated Income Taxes to the extent in excess of cash payments made in respect of such Consolidated Income Taxes; and
- (n) the impact of capitalized, accrued or accreting or pay-in-kind interest or principal on Subordinated Shareholder Funding.

“Consolidated Net Tangible Assets” means, at any date, the total assets appearing on the Company’s most recent consolidated balance sheet, prepared in accordance with GAAP, less all current liabilities as shown on such balance sheet, and Intangible Assets.

“Consolidated Secured Leverage Ratio” means the Consolidated Leverage Ratio, but (a) calculated by excluding all Indebtedness other than Secured Indebtedness (except Secured Indebtedness Incurred pursuant to Section 10.1(b)(xiii) and secured only by assets in the applicable jurisdiction but, for the avoidance of doubt, including Indebtedness secured by Liens permitted under clause (u) of the definition of “Permitted Liens”) and (b) calculating Consolidated EBITDA for the purposes of such definition as though (i) consolidated depreciation expense included such expense of the Company and its consolidated Subsidiaries attributable to SSMC and Jilin and (ii) consolidated amortization expense included such expense of the Company and its consolidated Subsidiaries attributable to SSMC and Jilin.

“Contingent Obligations” means, with respect to any Person, any obligation of such Person guaranteeing in any manner, whether directly or indirectly, any operating lease, dividend or other obligation that does not constitute Indebtedness (“primary obligations”) of any other Person (the “primary obligor”), including any obligation of such Person, whether or not contingent:

- (a) to purchase any such primary obligation or any property constituting direct or indirect security therefor;
- (b) to advance or supply funds:
  - (i) for the purchase or payment of any such primary obligation; or
  - (ii) to maintain the working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor; or
- (c) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

“CRD IV” means (a) Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012 and (b) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing directives 2006/48/EC and 2006/49/EC.

“Credit Documents” shall mean this Agreement, the Security Documents, the Guaranty (including any supplement thereto), each Letter of Credit and any promissory notes issued by any Borrower hereunder.

“Credit Event” shall mean and include the making (but not the conversion or continuation) of a Loan or the issuance of a Letter of Credit.

“Credit Exposure” shall mean, with respect to any Lender at any time, the sum of (a) the aggregate principal amount of the Loans of such Lender then outstanding and (b) such Lender’s Letter of Credit Exposure at such time.



“Credit Facility” means, with respect to the Company or any of its Subsidiaries, one or more debt facilities, indentures or other arrangements (including this Agreement or commercial paper facilities and overdraft facilities) with banks, other financial institutions or investors providing for revolving credit loans, term loans, notes, receivables financing (including through the sale of receivables to such institutions or to special purpose entities formed to borrow from such institutions against such receivables), letters of credit or other Indebtedness, in each case, as amended, restated, modified, renewed, refunded, replaced, restructured, refinanced, repaid, increased or extended in whole or in part from time to time (and whether in whole or in part and whether or not with the original administrative agent and lenders or another administrative agent or agents or other banks or institutions and whether provided under this Agreement or one or more other credit or other agreements, indentures, financing agreements or otherwise) and in each case including all agreements, instruments and documents executed and delivered pursuant to or in connection with the foregoing (including any notes and letters of credit issued pursuant thereto and any Guarantee and collateral agreement, patent and trademark security agreement, mortgages or letter of credit applications and other Guarantees, pledges, agreements, security agreements and security documents). Without limiting the generality of the foregoing, the term “Credit Facility” shall include any agreement or instrument (a) changing the maturity of any Indebtedness Incurred thereunder or contemplated thereby, (b) adding Subsidiaries of the Company as additional borrowers or guarantors thereunder, (c) increasing the amount of Indebtedness Incurred thereunder or available to be borrowed thereunder or (d) otherwise altering the terms and conditions thereof.

“Credit Party” shall mean each Borrower, each Guarantor or any other Subsidiary of the Company that is a party to a Credit Document.

“Currency Agreement” means in respect of a Person any foreign exchange contract, currency swap agreement, currency futures contract, currency option contract, currency derivative or other similar agreement to which such Person is a party or beneficiary.

“Debtor Relief Laws” means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally (including, in the case of Credit Parties incorporated or organized in England or Wales, administration, administrative receivership, voluntary arrangement and schemes of arrangement).

“Default” shall mean any event, act or condition that with notice or lapse of time, or both, would constitute an Event of Default.

“Defaulting Lender” shall mean any Lender with respect to which a Lender Default is in effect.

“Designated Non-Cash Consideration” means the fair market value (as determined in good faith by the Company) of non-cash consideration received by the Company or one of its Restricted Subsidiaries in connection with an Asset Disposition that is designated as Designated Non-Cash Consideration pursuant to an Officer’s Certificate, setting forth the basis of such valuation, less the amount of cash, Cash Equivalents or Temporary Cash Investments received in connection with a subsequent payment, redemption, retirement, sale or other disposition of such Designated Non-Cash Consideration. A particular item of Designated Non-Cash Consideration will no longer be considered to be outstanding when and to the extent it has been paid, redeemed or otherwise retired or sold or otherwise disposed of in compliance with Section 10.5.

“Designated Preference Shares” means, with respect to the Company or any Parent, Preferred Stock (other than Disqualified Stock) (a) that is issued for cash (other than to the Company or a Subsidiary of the Company or an employee stock ownership plan or trust established by the Company or any such Subsidiary for the benefit of their employees to the extent funded by the Company or such Subsidiary) and (b) that is designated as “Designated Preference Shares” pursuant to an Officer’s Certificate of the Company at or prior to the issuance thereof, the Net Cash Proceeds of which are excluded from the calculation set forth in Section 10.2(a)(iv)(C)(2).

“Disinterested Director” means, with respect to any Affiliate Transaction, a member of the Board of Directors of the Company having no material direct or indirect financial interest in or with respect to such Affiliate Transaction. A member of the Board of Directors of the Company shall be deemed not to have such a financial interest by reason of such member’s holding Capital Stock of the Company or any Parent or any options, warrants or other rights in respect of such Capital Stock.

“Disqualified Lender” means any bank, financial institution or other institutional lender or investor (a) that has been separately identified in writing by the Company to the Joint Lead Arrangers prior to the date of the Commitment Letter (or, if after such date, that are reasonably acceptable to the Joint Lead Arrangers holding (or which are affiliated with the Joint Lead Arrangers holding) a majority of the aggregate amount of outstanding financing commitments in respect of the Credit Facility on the date of the Commitment Letter, (b) those persons who are competitors of any Borrower or the Target and their respective subsidiaries that are separately identified in writing by the Company to the Administrative Agent from time to time, and (c) in the case of each of clauses (a) and (b), any of their Affiliates (other than any such Affiliate that is affiliated with a financial investor in such person and that is not itself an operating company or otherwise an Affiliate of an operating company so long as such Affiliate is a bona fide debt fund) that are either (i) identified in writing by the Company from time to time or (ii) clearly identifiable on the basis of such Affiliate’s name; provided that no such updates to the list shall be deemed to retroactively disqualify any person that has previously acquired an assignment or participation interest in the Commitments and/or Loans with respect to such previously acquired interest..

“Disqualified Stock” means, with respect to any Person, any Capital Stock of such Person which by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable) or upon the happening of any event:

- (a) matures or is mandatorily redeemable for cash or in exchange for Indebtedness pursuant to a sinking fund obligation or otherwise;
- (b) is convertible or exchangeable for Indebtedness or Disqualified Stock (excluding Capital Stock which is convertible or exchangeable solely at the option of the Company or a Restricted Subsidiary); or
- (c) is or may become (in accordance with its terms) upon the occurrence of certain events or otherwise redeemable or repurchasable for cash or in exchange for Indebtedness at the option of the holder of the Capital Stock in whole or in part,

in each case on or prior to the Latest Maturity Date; provided, however, that (x) only the portion of Capital Stock which so matures or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date will be deemed to be Disqualified Stock and (y) any Capital Stock that would constitute Disqualified

Stock solely because the holders thereof have the right to require the Company to repurchase such Capital Stock upon the occurrence of a change of control or asset sale (howsoever defined or referred to) shall not constitute Disqualified Stock if any such redemption or repurchase obligation is subject to compliance by the relevant Person with Section 10.2.

“Dutch law” means the law directly applicable in The Netherlands and the “laws of the Netherlands” shall be construed accordingly.

“Dutch Security Documents” shall mean the following documents, each dated 29 September 2006 and any amendments, supplements or other agreements entered into in connection therewith:

- (a) Pledge of Shares between NXP B.V., as pledgor, and Morgan Stanley Senior Funding, Inc., as pledgee, in relation to the shares in Philips Semiconductors B.V.;
- (b) Pledge of Shares between NXP B.V., as pledgor, and Morgan Stanley Senior Funding, Inc., as pledgee, in relation to the shares in Philips Software B.V.;
- (c) Pledge of Shares between KASLION Acquisition B.V., as pledgor, and Morgan Stanley Senior Funding, Inc., as pledgee, in relation to the shares in NXP B.V.;
- (d) Disclosed Pledge of Insurance Receivables between NXP B.V. and Philips Semiconductors B.V., as pledgors, and Morgan Stanley Senior Funding, Inc., as pledgee;
- (e) Disclosed Pledge of Intercompany Receivables between KASLION Acquisition B.V., NXP B.V. and Philips Semiconductors B.V., as pledgors, and Morgan Stanley Senior Funding, Inc., as pledgee;
- (f) Undisclosed Pledge of Third Party Receivables between NXP B.V. and Philips Semiconductors B.V., as pledgors, and Morgan Stanley Senior Funding, Inc., as pledgee;
- (g) Non-Possessory Pledge of Moveable Assets between KASLION Acquisition B.V., NXP B.V. and Philips Semiconductors B.V., as pledgors, and Morgan Stanley Senior Funding, Inc., as pledgee;
- (h) Pledge of IP Rights between NXP B.V., as pledgor, and Morgan Stanley Senior Funding, Inc., as pledgee; and
- (i) Deed of Mortgage between Philips Semiconductors B.V. and Morgan Stanley Senior Funding, Inc., as Global Collateral Agent.

“Enforcement Event” has the meaning given in the Collateral Agency Agreement.

“Environmental Law” shall mean any applicable Federal, state, foreign or local statute, Law, rule, regulation, ordinance, code and rule of common law now or hereafter in effect and in each case as amended, and any binding judicial or administrative interpretation thereof, including any binding judicial or administrative order, consent decree or judgment, relating to the protection of environment, including, without limitation, ambient air, surface water, groundwater, land surface and subsurface strata and natural resources such as wetlands, or human health or safety (to the extent relating to human exposure to hazardous materials), or hazardous materials.

“Equity Offering” means (a) a sale of Capital Stock of the Company (other than Disqualified Stock) other than offerings registered on Form S-8 (or any successor form) under the Securities Act or any similar offering in other jurisdictions, or (b) the sale of Capital Stock or other securities, the proceeds of which are contributed to the equity (other than through the issuance of Disqualified Stock or Designated Preference Shares or through an Excluded Contribution) of the Company or any of its Restricted Subsidiaries.

“Escrowed Proceeds” means the proceeds from the offering of any debt securities or other Indebtedness paid into an escrow account with an independent escrow agent on the date of the applicable offering or Incurrence pursuant to escrow arrangements that permit the release of amounts on deposit in such escrow account upon satisfaction of certain conditions or the occurrence of certain events. The term “Escrowed Proceeds” shall include any interest earned on the amounts held in escrow.

“EURIBOR Loan” means a loan bearing interest at the rate provided in Section 2.8(b).

“EURIBOR Rate” shall mean, for any Interest Period with respect to a EURIBOR Loan, the rate per annum equal to the offered rate administered by the Banking Federation of the European Union (“EURIBOR”) or a comparable or successor rate, which rate is approved by the Administrative Agent, on the applicable Reuters screen page (or such other commercially available source providing such quotations of EURIBOR as designated by the Administrative Agent from time to time) at approximately 11:00 a.m., Brussels time, two Business Days prior to the commencement of such Interest Period, for deposits in the Base Currency (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period; provided that to the extent a comparable or successor rate is approved by the Administrative Agent in connection herewith, the approved rate shall be applied in a manner consistent with market practice; provided, further, that to the extent such market practice is not administratively feasible for the Administrative Agent, such approved rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent in consultation with the Borrowers; provided, further, that if the EURIBOR Rate as determined pursuant to the foregoing provisions would otherwise be less than zero, the EURIBOR Rate shall be deemed to be zero for purposes of this Agreement; provided that, to the extent that an interest rate is not ascertainable pursuant to the foregoing provisions of this definition, “EURIBOR Rate” shall be the Interpolated Rate, for a period equal in length to the Interest Period of the Loan.

“Euro” and “€” means the lawful currency of Participating Member States.

“Event of Default” shall have the meaning provided in Section 11.

“Exchange Act” means the U.S. Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder, as amended.

“Exchange Rate” means (a) for the purposes of Section 10, the spot rate for the purchase of the Euro with the applicable currency other than Euro as published in The Financial Times in the “Currency Rates” section (or, if The Financial Times is no longer published, or if such information is no longer available in The Financial Times, such source as may be selected in good faith by the Company) on the date of such determination, or (b) for the purposes of determining the Base Currency Equivalent of the amount of any Loan or the Stated Amount of any Letter of Credit as of any Revaluation Date or on any date for the purposes of any redenomination pursuant to Section 2.10(b), the rate at which such currency may be exchanged into the Base Currency, as set forth at approximately 11:00 a.m. on such day on the Reuters world

currency page for such currency; in the event that such rate does not appear on any Reuters world currency page, the Exchange Rate shall be determined by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Administrative Agent and the Company, or, in the absence of such agreement, such Exchange Rate shall instead be the arithmetic average of the spot rates of exchange of the Administrative Agent in the market where its foreign currency exchange operations in respect of such currency are then being conducted, at or about 11:00 a.m. on such date for the purchase of the Base Currency for delivery two Business Days later.

“Excluded Contribution” means Net Cash Proceeds or property or assets received by the Company as capital contributions to the equity (other than through the issuance of Disqualified Stock or Designated Preference Shares) of the Company after February 14, 2013 or from the issuance or sale (other than to a Restricted Subsidiary or an employee stock ownership plan or trust established by the Company or any Subsidiary of the Company for the benefit of its employees to the extent funded by the Company or any Restricted Subsidiary) of Capital Stock (other than Disqualified Stock or Designated Preference Shares) of the Company, in each case, to the extent designated as an Excluded Contribution pursuant to an Officer’s Certificate of the Company.

“Excluded Taxes” shall mean, with respect to any Agent, any Lender or (subject to Section 13.7(c)(ii)) any Participant (a) (i) net income taxes and franchise taxes (imposed in lieu of net income taxes) and capital taxes imposed on such Agent, such Lender or such Participant, in each case imposed on such Agent, such Lender or such Participant as a result of such Agent, such Lender or such Participant doing business in the jurisdiction of the Governmental Authority imposing such tax or any political subdivision or taxing authority thereof or therein (other than any such connection arising solely from such Agent, such Lender or such Participant having executed, delivered or performed its obligations or received a payment under, or having been a party to (or participating in) or having enforced this Agreement or any other Credit Document), (ii) any Taxes imposed on such Lender (including a Lender not party to this Agreement at the Closing Date) to the extent attributable to such Lender’s failure to comply with Section 5.4(d) and (iii) any Taxes imposed on such Agent, such Lender or such Participant as a result of the gross negligence or willful misconduct of any Agent or Lender and (b) in the case of a Lender not party to this Agreement at the Closing Date, any withholding tax that is imposed on amounts payable to such Lender by a Relevant Taxing Jurisdiction under the law in effect at the time such Lender becomes a party to this Agreement (or, in the case of a Participant, on the date such Participant became a Participant hereunder); provided that this clause (b)) shall not apply to the extent that (x) the indemnity payments or additional amounts any Lender (or Participant) would be entitled to receive (without regard to this clause (b) do not exceed the indemnity payment or additional amounts that the person making the assignment, participation or transfer to such Lender (or Participant) would have been entitled to receive in the absence of such assignment, participation or transfer or (y) any Tax is imposed on a Lender in connection with an interest or participation in any Loan or other obligation that such Lender was required to acquire pursuant to Section 13.11(a) or that such Lender acquired pursuant to Section 13.8 (it being understood and agreed, for the avoidance of doubt, that any withholding tax imposed on a Lender or (subject to Section 13.7(c)(ii)) in respect of a Participant as a result of a Change in Law occurring after the time such Lender became a party to this Agreement (or designates a new lending office) or such Participant acquired its participation shall not be an Excluded Tax).

“Existing Fast Credit Facility” means the Third Amended and Restated Credit Agreement dated as of March 1, 2013 (as amended pursuant to (i) an Incremental Agreement, dated as of September 11, 2013, (ii) the Replacement Revolving Credit Facility Agreement and (iii)

Incremental Amendment dated as of February 10, 2014 and as amended, restated and/or supplemented prior to the date hereof) by and among, Freescale Semiconductor, Inc. and certain affiliates thereof, the lenders from time to time party thereto, and Citibank, N.A., as administrative agent and collateral agent.

“Existing Fast Mortgages” means the following documents:

- (a) the Deed of Trust, Assignment of Leases and Rents, Security Agreement and Financing Statement from Freescale Semiconductor, Inc. to Chicago Title Insurance Company, as trustee for the benefit of Citibank, N.A. as collateral agent, dated June 17, 2013 relating to the premises at 1300 North Alma School Road, Chandler, Arizona;
- (b) the Deed of Trust, Assignment of Leases and Rents, Security Agreement and Financing Statement from Freescale Semiconductor, Inc. to Rebecca Conrad, as trustee for the benefit of Citibank, N.A., as Collateral Agent, dated June 17, 2013 relating to the premises at 3501 Ed Bluestein Boulevard, Austin, Texas; and
- (c) the Deed of Trust, Assignment of Leases and Rents, Security Agreement and Financing Statement from Freescale Semiconductor, Inc. to Rebecca Conrad, as trustee for the benefit of Citibank, N.A., as Collateral Agent, dated June 17, 2013 relating to the premises at 6501 William Cannon Drive West, Austin, Texas.

“Existing Revolving Credit Class” shall have the meaning provided in Section 2.15(f).

“Existing Revolving Credit Commitment” shall have the meaning provided in Section 2.15(f).

“Existing Revolving Credit Facility” means the revolving facility agreement dated as of April 27, 2012, as amended by a joinder agreement dated October 24, 2012 (as amended, restated, supplemented or otherwise modified from time to time) by and among, Holdings, the Company, the Co-Borrower, the lending institutions from time to time party thereto, Morgan Stanley Senior Funding, Inc., as administrative agent and Collateral Agent and Mizuho Corporate Bank, Ltd., as Taiwan collateral agent.

“Existing Revolving Credit Loans” shall have the meaning provided in Section 2.15(f)(i).

“Existing Term Facility” means the term loan facility dated as of March 4, 2011, as amended by (i) the joinder and amendment agreement dated as of November 18, 2011, (ii) the new term loan joinder agreement dated as of February 16, 2012, (iii) the new term loan joinder agreement dated as of December 10, 2012, (iv) the 2013 new term loan joinder agreement dated as of November 27, 2013 and (v) the 2014 new term loan joinder agreement dated as of February 18, 2014, by and among the Company, the Co-Borrower, the lending institutions from time to time party thereto, Barclays Bank PLC, as administrative agent, Morgan Stanley Senior Funding, Inc., as Collateral Agent and Mizuho Corporate Bank, Ltd., as Taiwan collateral agent.

“Existing Term Loans” means the term loans made available under the Existing Term Facility.

“Extended Revolving Credit Commitments” shall have the meaning provided in Section 2.15(f)(i).

“Extended Revolving Credit Loans” shall have the meaning provided in Section 2.15(f)(i).

“Extended Revolving Loan Maturity Date” shall mean the date on which any tranche of Extended Revolving Credit Loans matures.

“Extending Lender” shall have the meaning provided in Section 2.15(g).

“Extension Amendment” shall have the meaning provided in Section 2.15(f)(ii).

“Extension Date” shall have the meaning provided in Section 2.15(f)(iii).

“Extension Election” shall have the meaning provided in Section 2.15(g).

“Extension Series” shall mean all Extended Revolving Credit Loans that are established pursuant to the same Extension Amendment (or any subsequent Extension Amendment to the extent such Extension Amendment expressly provides that the Extended Revolving Credit Loans, provided for therein are intended to be a part of any previously established Extension Series) and that provide for the same interest margins and extension fees.

“fair market value” may be conclusively established by means of an Officer’s Certificate or a resolution of the Board of Directors of the Company setting out such fair market value as determined by such Officer or such Board of Directors in good faith.

“Fast Secured Notes” means (i) the 5.00% senior secured notes due 2021 issued pursuant to an indenture, dated as of May 21, 2013, among certain affiliates of Target and The Bank of New York Mellon Trust Company, N.A. as trustee, as amended, supplemented and otherwise modified from time to time, including pursuant to the Fast Secured Notes Consent (the “2021 Fast Secured Notes Indenture”), and (ii) the 6.00% senior secured notes due 2022 issued pursuant to an indenture, dated as of November 1, 2013, among certain affiliates of Target and Wells Fargo Bank, National Association, as trustee, as amended, supplemented and otherwise modified from time to time, including pursuant to the Fast Secured Notes Consent (the “2022 Fast Secured Notes Indenture and, together with the 2021 Fast Secured Notes Indenture, the “Fast Secured Notes Indentures”).

“Fast Secured Notes Consent” means the consent with respect to certain amendments and waivers, including a change of control waiver, as they relate to the Fast Secured Notes.

“Fast Secured Notes Indentures” shall have the meaning assigned to such term in the definition of “Fast Secured Notes”.

“Federal Funds Effective Rate” shall mean, for any day, the weighted average of the *per annum* rates on overnight federal funds transactions with members of the Federal Reserve System, 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 rate charged for the day of such transactions to the Administrative Agent as determined by the Administrative Agent.

“Fee Letter” means the Agency Fee Letter and/or the Arranger Fee Letter.

“Fees” shall mean all amounts payable pursuant to, or referred to in, Section 4.1.

“Fitch” means Fitch Ratings or any of its successors or assigns that is a Nationally Recognized Statistical Rating Organization.

“Fixed Charge Coverage Ratio” means, with respect to any Person on any determination date, the ratio of (x) Consolidated EBITDA of such Person for the most recently completed four consecutive fiscal quarters ending immediately prior to such determination date for which internal consolidated financial statements are available to (y) the Fixed Charges of such Person for such four consecutive fiscal quarters. In the event that the Company or any Restricted Subsidiary Incurs, assumes, guarantees, redeems, defeases, retires or extinguishes any Indebtedness (other than Indebtedness Incurred under any revolving credit facility unless such Indebtedness has been permanently repaid and has not been replaced) or issues or redeems Disqualified Stock or Preferred Stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated but prior to or simultaneously with the event for which the calculation of the Fixed Charge Coverage Ratio is made (the “Fixed Charge Coverage Ratio Calculation Date”), then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect to such Incurrence, assumption, guarantee, redemption, defeasance, retirement or extinguishment of Indebtedness, or such issuance or redemption of Disqualified Stock or Preferred Stock, as if the same had occurred at the beginning of the applicable four-quarter period.

For purposes of making the computation referred to above, any Investment, acquisitions, dispositions, mergers, consolidations and disposed operations that have been made by the Company or any of its Restricted Subsidiaries, including the Transactions, during the four-quarter reference period or subsequent to such reference period and on or prior to or simultaneously with the Fixed Charge Coverage Ratio Calculation Date shall be calculated on a pro forma basis assuming that all such Investments, acquisitions, dispositions, mergers, consolidations and disposed or discontinued operations (and the change in any associated fixed charge obligations and the change in Consolidated EBITDA resulting therefrom), including the full run rate effect of anticipated synergies and cost savings, (that are reasonably identifiable factually supportable and projected by the Company in good faith to result from actions that have been taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Company) within 18 months) had occurred on the first day of the four-quarter reference period. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into the Company or any of its Restricted Subsidiaries since the beginning of such period shall have made any Investment, acquisition, disposition, merger or consolidation or disposed or discontinued any operation that would have required adjustment pursuant to this definition, then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect thereto for such period as if such Investment, acquisition, disposition, merger, consolidation, disposal or discontinuance had occurred at the beginning of the applicable four-quarter period.

For purposes of this definition, whenever pro forma effect is to be given to a transaction, the pro forma calculations shall be made in good faith by a responsible financial or chief accounting officer of the Company including cost savings and synergies, (that are reasonably identifiable and factually supportable and projected by the Company in good faith to result from actions that have been taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Company) within 18 months) as though the full effect of synergies and cost savings were realized on the first day of the relevant period and shall also include the reasonably anticipated full run rate cost savings effect (as calculated in good faith by a responsible financial or chief accounting officer of the Company) of cost savings programs that have been initiated by the Company or its Restricted Subsidiaries as though such cost savings programs had been fully implemented on the first day of the relevant period. If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Fixed Charge Coverage Ratio



Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Company to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period except as set forth in the first paragraph of this definition. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be determined to have been based upon the rate actually chosen, or if none, then based upon such optional rate chosen as the Company may designate.

“Fixed Charges” means, with respect to any Person for any period, the sum of:

- (a) Consolidated Interest Expense of such Person for such period;
- (b) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Preferred Stock during such period; and
- (c) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Disqualified Stock during this period.

“FMSA” means the Dutch Financial Markets Supervision Act (*Wet financieël toezicht*).

“Foreign Currency” shall mean any currency other than the Base Currency.

“Freescale US Properties” shall mean the premises owned by Freescale Semiconductor, Inc. at (a) 1300 North Alma School Road, Chandler, Arizona, (b) 3501 Ed Bluestein Boulevard, Austin, Texas and (c) 6501 William Cannon Drive West, Austin, Texas.

“Fronting Exposure” means, at any time there is a Defaulting Lender, with respect to any Letter of Credit Issuer, such Defaulting Lender’s pro rata share of the outstanding Letter of Credit Exposure with respect to Letters of Credit issued by such Letter of Credit Issuer other than Letter Credit Exposure as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof.

“Fronting Fee” shall have the meaning provided in Section 4.1(e).

“GAAP” means generally accepted accounting principles in the United States of America as in effect on the date of any calculation or determination required hereunder. Except as otherwise set forth in this Agreement, all ratios and calculations based on GAAP contained in this Agreement shall be computed in accordance with GAAP. At any time after the Closing Date, the Company may elect to establish that GAAP shall mean the GAAP as in effect on or prior to the date of such election, provided that any such election, once made, shall be irrevocable. The Company shall give notice of either such election to the Administrative Agent and the Lenders. At any time after the Closing Date, the Company may elect to apply IFRS accounting principles in lieu of GAAP and, upon any such election, references herein to GAAP shall thereafter be construed to mean IFRS (except as otherwise provided in this Agreement), including as to the ability of the Company to make an election pursuant to the previous sentence provided that any such election, once made, shall be irrevocable; provided, further again, that the Company may only make such

election if it also elects to report any subsequent financial reports required to be made by the Company including pursuant to this Agreement in IFRS. The Company shall give notice of any such election made in accordance with this definition to the Administrative Agent.

“Governmental Authority” shall mean any nation, sovereign, government or supra-national body, any state, province, territory or other political subdivision thereof, and any entity or authority exercising executive, legislative, judicial, regulatory, self-regulatory or administrative functions of or pertaining to government, including a central bank or stock exchange.

“Guarantee” means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness of any other Person, including any such obligation, direct or indirect, contingent or otherwise, of such Person:

- (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness of such other Person (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take-or-pay or to maintain financial statement conditions or otherwise); or
- (b) entered into primarily for purposes of assuring in any other manner the obligee of such Indebtedness of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part);

provided, however, that the term “Guarantee” will not include endorsements for collection or deposit in the ordinary course of business. The term “Guarantee” used as a verb has a corresponding meaning.

“Guarantor” means the Original Guarantors and each Additional Guarantor that Guarantees the obligations of the Borrowers under this Agreement pursuant to the Guaranty.

“Guaranty” means the Guaranty dated as of the date of this Agreement between, among others, the Administrative Agent, the Collateral Agent and the Original Guarantors (as supplemented from time to time).

“Hazardous Materials” shall mean (a) any petroleum or petroleum products, radioactive materials, friable asbestos, urea formaldehyde foam insulation, transformers or other equipment that contain dielectric fluid containing regulated levels of polychlorinated biphenyls, and radon gas; (b) any chemicals, materials or substances defined as or included in the definition of “hazardous substances”, “hazardous waste”, “hazardous materials”, “extremely hazardous waste”, “restricted hazardous waste”, “toxic substances”, “toxic pollutants”, “contaminants”, or “pollutants”, or words of similar import, under any applicable Environmental Law; and (c) any other chemical, material or substance, which is prohibited, limited or regulated by any Environmental Law.

“Hedge Agreement” shall mean an Interest Rate Agreement, Currency Agreement or Commodity Hedging Agreement.

“Hedging Obligations” of any Person means the obligations of such Person pursuant to any Hedge Agreement.

“Holdings” shall mean NXP Semiconductors N.V.

“Immaterial Subsidiary” means any Restricted Subsidiary that has Total Assets and Consolidated EBITDA (in each case calculated on a basis consistent with the calculation of Total Assets and Consolidated EBITDA, but with respect to such Restricted Subsidiary rather than the Company) of less than 5.0% of the Company’s Total Assets and Consolidated EBITDA measured, in the case of Total Assets, at the end of the most recent fiscal period for which internal financial statements are available and, in the case of Consolidated EBITDA, for the four quarters ended most recently for which internal financial statements are available, in each case measured on a pro forma basis giving effect to any acquisitions or dispositions of companies, division or lines of business since such balance sheet date or the start of such four quarter period, as applicable, and on or prior to the date of acquisition of such subsidiary; provided, that if on the Closing Date the Existing Term Facility or any Senior Unsecured Notes is guaranteed by one or more Immaterial Subsidiaries that have Consolidated EBITDA that, in aggregate, exceeds the Consolidated EBITDA of those Restricted Subsidiaries that are required to guarantee this Agreement pursuant to Section 6.2 or 9.11(a) by more than 5% (such excess over 5%, the “Percentage Differential”), then the Company shall, within 60 days of the Closing Date, designate in writing to the Administrative Agent one or more Restricted Subsidiaries that would otherwise be Immaterial Subsidiaries as not being Immaterial Subsidiaries such that the Percentage Differential is no longer applicable.

“Impacted Loans” shall have the meaning provided in Section .2.10(a)(iii)

“Increased Amount Date” shall have the meaning provided in Section 2.15(a).

“Incremental Commitment” shall have the meaning provided in Section 2.15(a).

“Incremental Lender” shall have the meaning provided in Section 2.15(a).

“Incremental Revolving Credit Loan” shall mean each Loan made available under an Incremental Commitment.

“Incremental Revolving Credit Loan Maturity Date” shall mean the date on which the Incremental Revolving Credit Loans mature.

“Incur” means issue, create, assume, enter into any Guarantee of, incur, extend or otherwise become liable for; provided, however, that any Indebtedness or Capital Stock of a Person existing at the time such Person becomes a Restricted Subsidiary (whether by merger, consolidation, acquisition or otherwise) will be deemed to be Incurred by such Restricted Subsidiary at the time it becomes a Restricted Subsidiary and the terms “Incurred” and “Incurrence” have meanings correlative to the foregoing and any Indebtedness pursuant to any revolving credit or similar facility shall only be “Incurred” at the time any funds are borrowed thereunder.

“Indebtedness” means, with respect to any Person on any date of determination (without duplication):

- (a) the principal of indebtedness of such Person for borrowed money;
- (b) the principal of obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;
- (c) all reimbursement obligations of such Person in respect of letters of credit, bankers’ acceptances or other similar instruments (the amount of such obligations being equal at

any time to the aggregate then undrawn and unexpired amount of such letters of credit or other instruments plus the aggregate amount of drawings thereunder that have not been reimbursed) (except to the extent such reimbursement obligations relate to trade payables and such obligations are satisfied within 30 days of Incurrence), in each case only to the extent that the underlying obligation in respect of which the instrument was issued would be treated as Indebtedness;

- (d) the principal component of all obligations of such Person to pay the deferred and unpaid purchase price of property (except trade payables), where the deferred payment is arranged primarily as a means of raising finance, which purchase price is due more than one year after the date of placing such property in service or taking final delivery and title thereto;
- (e) Capitalized Lease Obligations of such Person;
- (f) the principal component of all obligations, or liquidation preference, of such Person with respect to any Disqualified Stock or, with respect to any Restricted Subsidiary, any Preferred Stock (but excluding, in each case, any accrued dividends);
- (g) the principal component of all Indebtedness of other Persons secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person; provided, however, that the amount of such Indebtedness will be the lesser of (i) the fair market value of such asset at such date of determination (as determined in good faith by the Company) and (ii) the amount of such Indebtedness of such other Persons;
- (h) Guarantees by such Person of the principal component of Indebtedness of other Persons to the extent Guaranteed by such Person; and
- (i) to the extent not otherwise included in this definition, net obligations of such Person under Currency Agreements and Interest Rate Agreements (the amount of any such obligations to be equal at any time to the termination value of such agreement or arrangement giving rise to such obligation that would be payable by such Person at such time).

The term "Indebtedness" shall not include Subordinated Shareholder Funding or any lease, concession or license of property (or Guarantee thereof) which would be considered an operating lease under GAAP as in effect on the Closing Date, any asset retirement obligations, any prepayments of deposits received from clients or customers in the ordinary course of business, or obligations under any license, permit or other approval (or Guarantees given in respect of such obligations) Incurred prior to the Closing Date or in the ordinary course of business.

The amount of Indebtedness of any Person at any time in the case of a revolving credit or similar facility shall be the total amounts of funds borrowed and then outstanding and, in the case of letters of credit, bankers' acceptances and similar instruments, reimbursement obligations outstanding (to the extent such obligations constitute Indebtedness under clause (c) above). The amount of Indebtedness of any Person at any date shall be determined as set forth above or otherwise provided in this Agreement, and (other than with respect to letters of credit or Guarantees or Indebtedness specified in clause (g) or (h) above) shall equal the amount thereof that would appear on a balance sheet of such Person (excluding any notes thereto) prepared on the basis of GAAP.

Notwithstanding the above provisions, in no event shall the following constitute Indebtedness:

- (i) Contingent Obligations Incurred in the ordinary course of business;
- (ii) in connection with the purchase by the Company or any Restricted Subsidiary of any business, any post-closing payment adjustments to which the seller may become entitled to the extent such payment is determined by a final closing balance sheet or such payment depends on the performance of such business after the closing; provided, however, that, at the time of closing, the amount of any such payment is not determinable and, to the extent such payment thereafter becomes fixed and determined, the amount is paid within 30 days thereafter; or
- (iii) for the avoidance of doubt, any obligations in respect of workers' compensation claims, early retirement or termination obligations, pension fund obligations or contributions or similar claims, obligations or contributions or social security or wage Taxes.

"Indemnified Taxes" shall mean all Taxes (other than Excluded Taxes) and Other Taxes.

"Independent Financial Advisor" means an investment banking or accounting firm of international standing or any third party appraiser of international standing; provided, however, that such firm or appraiser is not an Affiliate of the Company.

"Information" shall have the meaning provided in Section 8.16.

"Initial Investors" means:

- (1) KKR European Fund II, Limited Partnership, Bain Capital Fund IX, L.P., Bain Capital Fund VIII-E, L.P., Silver Lake Partners II Cayman, L.P., Apax Europe V-A, L.P., Apax Europe VI-A, L.P., AlpInvest Partners CS Investments 2006 C.V. and funds or partnerships related, managed or advised by any of them or any Affiliate of them; and
- (2) Philips and its Subsidiaries.

"Initial Public Offering" means an Equity Offering of common stock or other common equity interests of the Company or any Parent or any successor of the Company or any Parent (the "IPO Entity") following which there is a Public Market and, as a result of which, the shares of common stock or other common equity interests of the IPO Entity in such offering are listed on an internationally recognized exchange or traded on an internationally recognized market.

"Initial Revolving Credit Commitments" means the Commitments of the Lenders made available on the Closing Date.

"Intangible Assets" means the value (net of applicable reserves), as shown on or reflected in the Company's most recent consolidated balance sheet, of (i) all trade names, trademarks, licenses, patents, copyrights and goodwill, (ii) organizational and development costs, (iii) deferred charges (other than prepaid items such as insurance, taxes, interest, commissions, rents and similar items and tangible assets being amortized) and (iv) unamortized debt discount and expenses, less unamortized premium

“Interest Period” shall mean, with respect to any Loan, the interest period applicable thereto, as determined pursuant to Section 2.9.

“Interest Rate Agreement” means with respect to any Person any interest rate protection agreement, interest rate future agreement, interest rate option agreement, interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedge agreement or other similar agreement or arrangement to which such Person is party or a beneficiary.

“Interpolated Rate” shall mean, with respect to the LIBOR Rate or EURIBOR Rate, as applicable, for any Loan, the rate which results from interpolating on a linear basis between: (a) the rate appearing on Reuters Screen LIBOR01 Page (or otherwise on the Reuters Screen) as the rate for deposits in the relevant currency for the longest period (for which that rate is available) which is less than the Interest Period and (b) the rate appearing on Reuters Screen LIBOR01 Page (or otherwise on the Reuters Screen) as the rate for deposits in the relevant currency for the shortest period (for which that rate is available) which exceeds the Interest Period, in each case as of approximately 11:00 A.M. (London time) on the date that is two Business Days prior to the commencement of such Interest Period.

“Investment” means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of any direct or indirect advance, loan or other extensions of credit (other than advances or extensions of credit to customers, suppliers, directors, officers or employees of any Person in the ordinary course of business, and excluding any debt or extension of credit represented by a bank deposit other than a time deposit) or capital contribution to (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others), or the Incurrence of a Guarantee of any obligation of, or any purchase or acquisition of Capital Stock, Indebtedness or other similar instruments issued by, such other Persons and all other items that are or would be classified as investments on a balance sheet prepared on the basis of GAAP; provided, however, that endorsements of negotiable instruments and documents in the ordinary course of business will not be deemed to be an Investment. If the Company or any Restricted Subsidiary issues, sells or otherwise disposes of any Capital Stock of a Person that is a Restricted Subsidiary such that, after giving effect thereto, such Person is no longer a Restricted Subsidiary, any Investment by the Company or any Restricted Subsidiary in such Person remaining after giving effect thereto will be deemed to be a new Investment at such time.

For purposes of Section 10.2:

- (a) “Investment” will include the portion (proportionate to the Company’s equity interest in a Restricted Subsidiary to be designated as an Unrestricted Subsidiary) of the fair market value of the net assets of such Restricted Subsidiary of the Company at the time that such Restricted Subsidiary is designated an Unrestricted Subsidiary; provided, however, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Company will be deemed to continue to have a permanent “Investment” in an Unrestricted Subsidiary in an amount (if positive) equal to (i) the Company’s “Investment” in such Subsidiary at the time of such redesignation less (ii) the portion (proportionate to the Company’s equity interest in such Subsidiary) of the fair market value of the net assets (as conclusively determined by the Board of Directors of the Company in good faith) of such Subsidiary at the time that such Subsidiary is so redesignated a Restricted Subsidiary; and

- (b) any property transferred to or from an Unrestricted Subsidiary will be valued at its fair market value at the time of such transfer, in each case as determined in good faith by the Board of Directors of the Company.

The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced (at the Company's option) by any dividend, distribution, interest payment, return of capital, repayment or other amount or value received in respect of such Investment.

“Investment Grade Securities” means:

- (a) securities issued or directly and fully Guaranteed or insured by the United States or Canadian government or any agency or instrumentality thereof (other than Cash Equivalents);
- (b) securities issued or directly and fully guaranteed or insured by a member of the European Union, or any agency or instrumentality thereof (other than Cash Equivalents);
- (c) debt securities or debt instruments with a rating of “A-” or higher from S&P or “A3” or higher by Moody's or the equivalent of such rating by such rating organization or, if no rating of Moody's or S&P then exists, the equivalent of such rating by any other Nationally Recognized Statistical Ratings Organization, but excluding any debt securities or instruments constituting loans or advances among the Company and its Subsidiaries; and
- (d) investments in any fund that invests exclusively in investments of the type described in clauses (a), (b) and (c) above which fund may also hold cash and Cash Equivalents pending investment or distribution.

“Investment Grade Status” shall occur when (i) the Company receives corporate credit ratings of and (ii) the Loans receive ratings of, in each case, at least two of the following:

- (1) “BBB-” or higher from S&P;
- (2) “Baa3” or higher from Moody's; and
- (3) “BBB-” or higher from Fitch;

or the equivalent of such rating by any such rating organization or, if no rating of Moody's, S&P or Fitch then exists, the equivalent of such rating by any other Nationally Recognized Statistical Ratings Organization.

“Investors” means The Blackstone Group, The Carlyle Group, Permira funds advised by Permira Advisers LLC, Texas Pacific Group and, if applicable, each of their respective Affiliates and funds or partnerships managed by any of them or their respective Affiliates but not including, however, any portfolio companies of any of the foregoing.

“IPO Market Capitalization” means an amount equal to (a) the total number of issued and outstanding shares of common stock or common equity interests of the IPO Entity at the time of closing of the Initial Public Offering multiplied by (b) the price per share at which such shares of common stock or common equity interests are sold in such Initial Public Offering.

“Jilin” means Jilin NXP Semiconductors Ltd. (formerly known as Philips Jilin Semiconductors Company) or any successor entity or business thereto.

“Joinder Agreement” shall have the meaning provided in Section 2.15(a)(iv).

“Joint Bookrunners” shall have the meaning given to such term in the preamble to this Agreement.

“Joint Lead Arrangers” shall have the meaning given to such term in the preamble to this Agreement.

“Latest Maturity Date” shall mean, at any date of determination, the latest Maturity Date applicable to any Credit Exposure hereunder at such time, including the latest maturity date of any Extended Revolving Credit Loan, as extended in accordance with this Agreement from time to time.

“Law” includes common or customary law, principles of equity and any constitution, code of practice, decree, judgment, decision, legislation, order, ordinance, regulation, by-law, statute, treaty or other legislative measure in any jurisdiction or any present or future directive, regulation, guideline, request, rule or requirement (in each case, whether or not having the force of law but, if not having the force of law, the compliance with which is in accordance with the general practice of persons to whom the directive, regulation, guideline, request, rule or requirement is intended to apply) of any Governmental Authority.

“L/C Advance” means, with respect to each Lender, such Lender’s funding of its participation in any L/C Borrowing in accordance with its Commitment Percentage pursuant to Section 3.3(d). All L/C Advances shall be denominated in the currency in which the relevant Letter of Credit is (or was) denominated.

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

“L/C Maturity Date” shall mean the date that is five Business Days prior to the Maturity Date.

“L/C Participant” shall have the meaning provided in Section 3.3(a).

“L/C Participation” shall have the meaning provided in Section 3.3(a).

“L/C Sublimit” means \$250,000,000.

“Legal Reservations” means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganization and other laws of any applicable jurisdiction generally affecting the rights of creditors;
- (b) the time barring of claims under the applicable limitation laws, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of stamp duty (or similar taxes) may be void and defences of set-off or counterclaim; and



- (c) any other matters which are set out as qualifications or reservations as to matters of law in the legal opinions referred to in Section 6 and delivered to the Administrative Agent at the Closing Date or later delivered in connection with the provision of any Guarantee or Lien under any Security Document.

“Lender” shall have the meaning given to such term in the preamble to this Agreement (and shall include in any event any Incremental Lender).

“Lender Default” shall mean (a) the failure (which has not been cured as of the date that is three Business Days after the date on which such failure occurred) of a Lender to make available its portion of any Borrowing or to fund its portion of any unreimbursed payment under Section 3.3, unless such failure is the subject of a good faith dispute (b) a Lender having notified the Administrative Agent and/or the Borrower that it does not intend to comply with the obligations under Section 2.1(a) or 3.3 or (c) a Lender becoming the subject of a bankruptcy or insolvency proceeding.

“Letter of Credit” has the meaning given in Section 3.1.

“Letter of Credit Exposure” shall mean, with respect to any Lender, at any time, the sum of (a) the amount of any Unpaid Drawings in respect of which such Lender has made (or is required to have made) an L/C Advance to the Letter of Credit Issuer pursuant to Section 3.3(c) at such time and (b) such Lender’s Commitment Percentage of the Letters of Credit Outstanding at such time (excluding the portion thereof consisting of Unpaid Drawings in respect of which the Lenders have made (or are required to have made) payments to the Letter of Credit Issuer pursuant to Section 3.4).

“Letter of Credit Fee” shall have the meaning provided in Section 4.1(d).

“Letter of Credit Issuer” shall mean Citibank, N.A. and any Letter of Credit Issuer that agrees to act in such capacity and is appointed pursuant to Section 3.6. Any Letter of Credit Issuer may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of such Letter of Credit Issuer, and in each such case the term “Letter of Credit Issuer” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate. In the event that there is more than one “Letter of Credit Issuer” at any time, references herein and in the other Credit Documents to the Letter of Credit Issuer shall be deemed to refer to the Letter of Credit Issuer in respect of the applicable Letter of Credit or to all Letter of Credit Issuers, as the context requires.

“Letters of Credit Outstanding” shall mean, at any time, the sum of, without duplication, (a) the aggregate Stated Amount of all outstanding Letters of Credit and (b) the aggregate amount of all Unpaid Drawings in respect of all Letters of Credit.

“Letter of Credit Request” shall have the meaning provided in Section 3.2.

“LIBOR Loan” shall mean any Loan bearing interest at the rate provided in Section 2.8(b).

“LIBOR Rate” shall mean,

- (i) for any Interest Period with respect to a LIBOR Loan, the rate per annum equal to the offered rate administered by the ICE Benchmark Administration (“LIBOR”) or a comparable or successor rate, which rate is approved by the Administrative Agent, on the applicable Reuters screen page (or such other commercially available source providing

such quotations of LIBOR as designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for deposits in the relevant currency (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period multiplied by (b) the Statutory Reserve Rate; provided that, to the extent that an interest rate is not ascertainable pursuant to the foregoing provisions of this definition, "LIBOR Rate" shall be the Interpolated Rate, for a period equal in length to the Interest Period of the Loan; and

- (ii) for any interest calculation with respect to an ABR Loan on any date, the rate per annum equal to LIBOR, at or about 11:00 a.m., London time determined on such date for US Dollar deposits with a term of one month commencing that day;

provided that to the extent a comparable or successor rate is approved by the Administrative Agent in connection herewith, the approved rate shall be applied in a manner consistent with market practice; provided, further, that to the extent such market practice is not administratively feasible for the Administrative Agent, such approved rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent in consultation with the Borrowers; provided, further, that if the LIBOR Rate as determined pursuant to the foregoing provisions would otherwise be less than zero, the LIBOR Rate shall be deemed to be zero for purposes of this Agreement.

"Lien" means any mortgage, pledge, security interest, encumbrance, lien or charge of any kind (including any conditional sale or other title retention agreement or lease in the nature thereof).

"Loan" shall mean any ABR Loan, EURIBOR Loan or LIBOR Loan made by any Lender hereunder (and shall include in any event any Incremental Revolving Credit Loans and any Extended Revolving Credit Loans).

"Management Advances" means loans or advances made to, or Guarantees with respect to loans or advances made to, directors, officers, employees or consultants of any Parent, the Company or any Restricted Subsidiary:

- (a) (i) in respect of travel, entertainment or moving related expenses Incurred in the ordinary course of business or (ii) for purposes of funding any such person's purchase of Capital Stock or Subordinated Shareholder Funding (or similar obligations) of the Company, its Subsidiaries or any Parent with (in the case of this sub-clause (ii)) the approval of the Board of Directors;
- (b) in respect of moving related expenses Incurred in connection with any closing or consolidation of any facility or office; or
- (c) not exceeding €5,000,000 in the aggregate outstanding at any time.

"Management Investors" means the officers, directors, employees and other members of the management of or consultants to any Parent, the Company or any of their respective Subsidiaries, or spouses, family members or relatives thereof, or any trust, partnership or other entity for the benefit of or the beneficial owner of which (directly or indirectly) is any of the foregoing, or any of their heirs, executors, successors and legal representatives, who at any date beneficially own or have the right to acquire, directly or indirectly, Capital Stock of the Company, any Restricted Subsidiary or any Parent.

“Market Capitalization” means an amount equal to (a) the total number of issued and outstanding shares of common stock or common equity interests of the IPO Entity on the date of the declaration of the relevant dividend multiplied by (b) the arithmetic mean of the closing prices per share of such common stock or common equity interests for the 30 consecutive trading days immediately preceding the date of declaration of such dividend.

“Material Adverse Effect” means a material adverse effect on:

- (a) the consolidated business, assets or financial condition of the Company and its Subsidiaries taken as a whole such that the Company and its Subsidiaries taken as a whole would be reasonably likely to be unable to perform their payment obligations under any of the Credit Documents; and/or
- (b) subject to the Legal Reservations and the Agreed Security Principles, the validity of any security granted pursuant to the Credit Documents to which any Credit Party is a party in any way which is materially adverse to the interests of the Lenders under the Credit Documents taken as a whole and, without duplication of any other cure period, if capable of remedy, not remedied within 20 Business Days of the Company becoming aware of the issue or being given notice of the issue by the Administrative Agent.

“Maturity Date” shall mean the Revolving Credit Facility Maturity Date, the Incremental Revolving Credit Loan Maturity Date or the Extended Revolving Loan Maturity Date, as applicable.

“Merger Agreement” means the agreement and plan of merger dated March 1, 2015, by and among, Holdings, MergerSub and Target.

“MergerSub” means Nimble Acquisition Limited, a Bermuda exempted limited liability company, and a Subsidiary of the Company.

“Minimum Borrowing Amount” shall mean (a) with respect to a Borrowing of LIBOR Loans or EURIBOR Loans, \$1,000,000 and (b) with respect to a Borrowing of ABR Loans, \$500,000 or, in either case, its equivalent in any Alternative Currency.

“Minimum Collateral Amount” means, (A) with respect to Section 3.8(i) and (ii), the amount not greater than the Stated Amount of Letters of Credit Outstanding and (B) with respect to Section 3.8(iii), the amount not greater than the Fronting Exposure.

“Moody’s” means Moody’s Investors Service, Inc. or any of its successors or assigns that is a Nationally Recognized Statistical Rating Organization.

“Nationally Recognized Statistical Rating Organization” means a nationally recognized statistical rating organization within the meaning of Section 3(a)(62) of the Exchange Act.

“Net Available Cash” from an Asset Disposition (which term shall include, for the purposes of Section 5.2, the RF Power Disposition) means cash payments received (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or otherwise and net proceeds from the sale or other disposition of any securities received as consideration, but only as and when received, but excluding any other consideration received in the form of assumption by the acquiring person of Indebtedness or other obligations

relating to the properties or assets that are the subject of such Asset Disposition or received in any other non-cash form) therefrom, in each case net of:

- (a) all legal, accounting, investment banking, title and recording tax expenses, commissions and other fees and expenses Incurred, and all Taxes paid or required to be paid or accrued as a liability under GAAP (after taking into account any available tax credits or deductions and any Tax Sharing Agreements), as a consequence of such Asset Disposition;
- (b) all payments made on any Indebtedness which is secured by any assets subject to such Asset Disposition, in accordance with the terms of any Lien upon such assets, or which by applicable law be repaid out of the proceeds from such Asset Disposition;
- (c) all distributions and other payments required to be made to minority interest holders (other than any Parent, the Company or any of their respective Subsidiaries) in Subsidiaries or joint ventures as a result of such Asset Disposition; and
- (d) the deduction of appropriate amounts required to be provided by the seller as a reserve, on the basis of GAAP, against any liabilities associated with the assets disposed of in such Asset Disposition and retained by the Company or any Restricted Subsidiary after such Asset Disposition.

“Net Cash Proceeds,” with respect to any issuance or sale of Capital Stock or Subordinated Shareholder Funding, means the cash proceeds of such issuance or sale net of attorneys’ fees, accountants’ fees, underwriters’ or placement agents’ fees, listing fees, discounts or commissions and brokerage, consultant and other fees and charges actually Incurred in connection with such issuance or sale and net of taxes paid or payable as a result of such issuance or sale (after taking into account any available tax credit or deductions and any tax sharing arrangements).

“New Revolving Credit Loan Commitment” shall have the meaning provided in Section 2.15(a).

“New Revolving Loan Repayment Amount” shall have the meaning provided in Section 2.5(c).

“New Revolving Loan Repayment Date” shall have the meaning provided in Section 2.5(c).

“Non-Consenting Lender” shall have the meaning provided in Section 13.8(b).

“Non-Defaulting Lender” shall mean and include each Lender other than a Defaulting Lender.

“Note Indenture” means the Unsecured Note Indentures.

“Notice of Borrowing” shall have the meaning provided in Section 2.3(a).

“Notice of Conversion or Continuation” shall have the meaning provided in Section 2.6.

“Officer” means, with respect to any Person, (a) the Chairman of the Board of Directors, the Chief Executive Officer, the President, the Chief Financial Officer, any Vice President, the Treasurer, any Managing Director (or any two Managing Directors if elected by such Credit Party) or the Secretary (i) of such Person or (ii) if such Person is owned or managed by a single entity, of such entity; or (b) any other individual designated as an “Officer” for the purposes of this Agreement by the Board of Directors of such Person.

“Officer’s Certificate” means, with respect to any Person, a certificate signed by one Officer (or two officers, if elected by such Person) of such Person.

“Opinion of Counsel” means a written opinion from legal counsel reasonably satisfactory to the Administrative Agent. The counsel may be an employee of or counsel to the Company or its Subsidiaries.

“Original Credit Party” means each of the Company, the Co-Borrower and the Original Guarantors.

“Original Guarantors” means each of NXP Semiconductors Netherlands B.V., NXP B.V., NXP Funding LLC, NXP Semiconductors Taiwan Ltd, Freescale Semiconductor Holdings V, Inc. and Freescale Semiconductor, Inc..

“Other Creditors” shall have the meaning given in Section 10.13.

“Other Liens” shall have the meaning given in Section 10.13.

“Other Taxes” shall mean any and all present or future stamp, documentary or any other excise, property or similar taxes (including interest, fines, penalties, additions to tax and related expenses with regard thereto) arising directly from any payment made or required to be made under this Agreement or from the execution or delivery of, registration or enforcement of, consummation or administration of, or otherwise with respect to, this Agreement or any other Credit Document, other than any such taxes that arise from the assignment or participation of any rights or obligations under this Agreement in accordance with Section 13.7.

“Parent” means any Person of which the Company at any time is or becomes a Subsidiary after the Closing Date and any holding companies established by any Permitted Holder for purposes of holding its investment in any Parent.

“Parent Expenses” means:

- (a) costs (including all professional fees and expenses) Incurred by any Parent in connection with reporting obligations under or otherwise Incurred in connection with compliance with applicable laws, rules or regulations of any Governmental Authority, this Agreement, the Senior Notes or any other agreement or instrument relating to Indebtedness of the Company or any Restricted Subsidiary, including in respect of any reports filed with respect to the Securities Act, Exchange Act or the respective rules and regulations promulgated thereunder;
- (b) customary indemnification obligations of any Parent owing to directors, officers, employees or other Persons under its charter or by-laws or pursuant to written agreements with any such Person to the extent relating to the Company and its Subsidiaries;
- (c) obligations of any Parent in respect of director and officer insurance (including premiums therefor) to the extent relating to the Company and its Subsidiaries;
- (d) Transaction Expenses;
- (e) general corporate overhead expenses, including (i) professional fees and expenses and other operational expenses of any Parent related to the ownership or operation of the business of the Company or any of its Restricted Subsidiaries or (ii) costs and expenses with respect to any litigation or other dispute relating to the Transactions;

- (f) other fees, expenses and costs relating directly or indirectly to activities of the Company and its Subsidiaries or any Parent or any other Person which holds directly or indirectly any Capital Stock or Subordinated Shareholder Funding of the Company in an amount not to exceed €25,000,000 in any fiscal year; and
- (g) expenses Incurred by any Parent in connection with any public offering or other sale of Capital Stock or Indebtedness:
  - (i) where the net proceeds of such offering or sale are intended to be received by or contributed to the Company or a Restricted Subsidiary,
  - (ii) in a pro-rated amount of such expenses in proportion to the amount of such net proceeds intended to be so received or contributed, or
  - (iii) otherwise on an interim basis prior to completion of such offering so long as any Parent shall cause the amount of such expenses to be repaid to the Company or the relevant Restricted Subsidiary out of the proceeds of such offering promptly if completed.

“Pari Passu Indebtedness” means Indebtedness of the Company or any Guarantor if such Indebtedness ranks equally in right of payment to the Loans or Unpaid Drawings (or the Guaranty with respect thereto, in the case of a Guarantor) and is, in each case, secured by Liens on assets of the Company or such Guarantor.

“Participant” shall have the meaning provided in Section 13.7(c).

“Participant Register” shall have the meaning provided in Section 13.7(c).

“Participating Member State” means any member state of the European Communities that adopts or has adopted the Euro as its lawful currency in accordance with legislation of the European Community relating to Economic and Monetary Union.

“Patriot Act” shall have the meaning provided in Section 13.22.

“Permitted Asset Swap” means the concurrent purchase and sale or exchange of assets used or useful in a Similar Business or a combination of such assets and cash, Cash Equivalents or Temporary Cash Investments between the Company or any of its Restricted Subsidiaries and another Person; provided that any cash or Cash Equivalents received in excess of the value of any cash or Cash Equivalents sold or exchanged must be applied in accordance with Section 10.5.

“Permitted Holders” means each of the Investors and members of management of the Company or its direct or indirect parent companies (including the Parent) on the Closing Date (following the closing of the Acquisition) who are holders of equity interests of the Company (or any of its direct or indirect parent companies) and any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act or any successor provision) of which any of the foregoing are members; provided, that, in the case of such group and without giving effect to the existence of such group or any other group, such Investors and members of management, collectively, have beneficial ownership of more than 50% of the total voting power of the Voting Stock of the Company or any of its direct or indirect parent companies held by such group.

“Permitted Investment” means (in each case, by the Company or any of its Restricted Subsidiaries):

- (a) Investments in (i) a Restricted Subsidiary (including the Capital Stock of a Restricted Subsidiary) or the Company or (ii) a Person (including the Capital Stock of any such Person) that is engaged in any Similar Business and such Person will, upon the making of such Investment, become a Restricted Subsidiary;
- (b) Investments in another Person if such Person is engaged in any Similar Business and as a result of such Investment such other Person is merged, consolidated or otherwise combined with or into, or transfers or conveys all or substantially all its assets to, the Company or a Restricted Subsidiary;
- (c) Investments in cash, Cash Equivalents, Temporary Cash Investments or Investment Grade Securities;
- (d) Investments in receivables owing to the Company or any Restricted Subsidiary created or acquired in the ordinary course of business;
- (e) Investments in payroll, travel and similar advances to cover matters that are expected at the time of such advances ultimately to be treated as expenses for accounting purposes and that are made in the ordinary course of business;
- (f) Management Advances;
- (g) Investments in Capital Stock, obligations or securities received in settlement of debts created in the ordinary course of business and owing to the Company or any Restricted Subsidiary, or as a result of foreclosure, perfection or enforcement of any Lien, or in satisfaction of judgments or pursuant to any plan of reorganization or similar arrangement including upon the bankruptcy or insolvency of a debtor;
- (h) Investments made as a result of the receipt of non-cash consideration from a sale or other disposition of property or assets, including an Asset Disposition (but excluding a Permitted Asset Swap), in each case, that was made in compliance with Section 10.5;
- (i) Investments in existence on, or made pursuant to legally binding commitments in existence on the Closing Date;
- (j) Currency Agreements, Interest Rate Agreements, Commodity Hedging Agreements and related Hedging Obligations, which transactions or obligations are Incurred in compliance with Section 10.1;
- (k) Investments, taken together with all other Investments made pursuant to this clause (k) and at any time outstanding, in an aggregate amount at the time of such Investment not to exceed €300,000,000; provided that, if an Investment is made pursuant to this clause in a Person that is not a Restricted Subsidiary and such Person subsequently becomes a Restricted Subsidiary or is subsequently designated a Restricted Subsidiary pursuant to Section 10.2, such Investment shall thereafter be deemed to have been made pursuant to clause (a) or (b) of the definition of “Permitted Investments” and not this clause;

- (l) pledges or deposits with respect to leases or utilities provided to third parties in the ordinary course of business or Liens otherwise described in the definition of “Permitted Liens” or made in connection with Liens permitted under the covenant described under Section 10.3;
- (m) any Investment to the extent made using Capital Stock of the Company (other than Disqualified Stock) or Capital Stock of any Parent as consideration;
- (n) any transaction to the extent constituting an Investment that is permitted and made in accordance with the provisions of Section 10.6(b) (except those described in Section 10.6(c)(i), 10.6(c)(iii), 10.6(c)(vi), 10.6(c)(viii), 10.6(c)(ix) and 10.6(c)(xii));
- (o) Investments consisting of purchases and acquisitions of inventory, supplies, materials and equipment or licenses or leases of intellectual property, in any case, in the ordinary course of business and in accordance with this Agreement;
- (p) Guarantees not prohibited by Section 10.1 and (other than with respect to Indebtedness) guarantees, keepwells and similar arrangements in the ordinary course of business;
- (q) Investments (i) in SSMC to increase the Company’s percentage ownership thereof; provided that, after giving effect to such Investment, the Company is able to incur €1.00 of Indebtedness under Section 10.1(a) or (ii) in SSMC or any other Person partially financed by a Singapore government agency (or another project finance with a local or multilateral Governmental Authority) in an aggregate amount under this sub-clause (ii) not to exceed €300,000,000;
- (r) Loans to Jilin on terms consistent with past practices between Jilin and Philips, not to exceed €25,000,000 at any one time outstanding;
- (s) Investments in research and development programs to fund research and development activities and maintenance capital expenditures in an aggregate amount not to exceed €290.0 million plus €50.0 million per annum thereafter (with a carryover of unused amounts), less any amounts invested on or after October 12, 2006 and prior to February 14, 2013 pursuant to comparable provisions of notes issued by the Company; and
- (t) Investments in Permitted Joint Ventures not to exceed, in the aggregate, the greater of €250,000,000 and 5% of Total Assets plus, in each case, an amount equal to 100% of the dividends or distributions (including payments received in respect of loans and advances) received by the Company or a Restricted Subsidiary from any Investment from a Permitted Joint Venture (which Investment was made in reliance on this clause (t)(which dividends or distributions are not included in the calculation under Section 10.2(a)(iv)(C)); provided that if an Investment is made pursuant to this clause in a Person that is not a Restricted Subsidiary and such Person is subsequently designated a Restricted Subsidiary pursuant to Section 10.2, such Investment shall thereafter be deemed to have been made pursuant to clause (a) of the definition of Permitted Investments and not this clause.



“Permitted Joint Venture” means (a) any corporation, association or other business entity (other than a partnership) that is not a Restricted Subsidiary and that, in each case, is engaged primarily in a Similar Business and of which a portion of the Capital Stock is at the time of determination owned or controlled, directly or indirectly, by the Company or one or more Restricted Subsidiaries or a combination thereof and (b) any partnership, joint venture, limited liability company or similar entity that is not a Restricted Subsidiary and that, in each case, is engaged primarily in a Similar Business and of which a portion of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, are at the time of determination, owned or controlled, directly or indirectly, by the Company or one or more Restricted Subsidiaries or a combination thereof, whether in the form of membership, general, special or limited partnership interests or otherwise.

“Permitted Liens” means, with respect to any Person:

- (a) Liens on assets or property of a Restricted Subsidiary that is not any of the Borrowers or a Guarantor securing Indebtedness of any Restricted Subsidiary that is not any of the Borrowers or a Guarantor;
- (b) pledges, deposits or Liens under workmen’s compensation laws, unemployment insurance laws, social security laws or similar legislation, or insurance related obligations (including pledges or deposits securing liability to insurance carriers under insurance or self-insurance arrangements), or in connection with bids, tenders, completion guarantees, contracts (other than for borrowed money) or leases, or to secure utilities, licenses, public or statutory obligations, or to secure surety, indemnity, judgment, appeal or performance bonds, guarantees of government contracts (or other similar bonds, instruments or obligations), or as security for contested taxes or import or customs duties or for the payment of rent, or other obligations of like nature, in each case Incurred in the ordinary course of business;
- (c) Liens imposed by law, including carriers’, warehousemen’s, mechanics’, landlords’, materialmen’s and repairmen’s or other like Liens, in each case for sums not yet overdue for a period of more than 60 days or that are bonded or being contested in good faith by appropriate proceedings;
- (d) Liens for taxes, assessments or other governmental charges not yet delinquent or which are being contested in good faith by appropriate proceedings; provided that appropriate reserves required pursuant to GAAP have been made in respect thereof;
- (e) Liens in favor of issuers of surety, performance or other bonds, guarantees or letters of credit or bankers’ acceptances (not issued to support Indebtedness for borrowed money) issued pursuant to the request of and for the account of the Company or any Restricted Subsidiary in the ordinary course of its business;
- (f) encumbrances, ground leases, easements (including reciprocal easement agreements), survey exceptions, or reservations of, or rights of others for, licenses, rights of way, sewers, electric lines, telegraph and telephone lines and other similar purposes, or zoning, building codes or other restrictions (including minor defects or irregularities in title and similar encumbrances) as to the use of real properties or Liens incidental to the conduct of the business of the Company and its Restricted Subsidiaries or to the ownership of its properties which do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of the Company and its Restricted Subsidiaries;

- (g) Liens on assets or property of the Company or any Restricted Subsidiary securing Hedging Obligations permitted under this Agreement;
- (h) leases, licenses, subleases and sublicenses of assets (including real property and intellectual property rights), in each case entered into in the ordinary course of business;
- (i) Liens arising out of judgments, decrees, orders or awards not giving rise to an Event of Default so long as any appropriate legal proceedings which may have been duly initiated for the review of such judgment, decree, order or award have not been finally terminated or the period within which such proceedings may be initiated has not expired;
- (j) Liens on assets or property of the Company or any Restricted Subsidiary for the purpose of securing Capitalized Lease Obligations or Purchase Money Obligations, or securing the payment of all or a part of the purchase price of, or securing other Indebtedness Incurred to finance or refinance the acquisition, improvement or construction of, assets or property acquired or constructed in the ordinary course of business; provided that (i) the aggregate principal amount of Indebtedness secured by such Liens is otherwise permitted to be Incurred under this Agreement and (ii) any such Lien may not extend to any assets or property of the Company or any Restricted Subsidiary other than assets or property acquired, improved, constructed or leased with the proceeds of such Indebtedness and any improvements or accessions to such assets and property;
- (k) Liens arising by virtue of any statutory or common law provisions relating to banker's Liens, rights of set-off or similar rights and remedies as to deposit accounts or other funds maintained with a depository or financial institution;
- (l) Liens arising from Uniform Commercial Code financing statement filings (or similar filings in other applicable jurisdictions) regarding operating leases entered into by the Company and its Restricted Subsidiaries in the ordinary course of business;
- (m) Liens existing on the Closing Date;
- (n) Liens on property, other assets or shares of stock of a Person at the time such Person becomes a Restricted Subsidiary (or at the time the Company or a Restricted Subsidiary acquires such property, other assets or shares of stock, including any acquisition by means of a merger, consolidation or other business combination transaction with or into the Company or any Restricted Subsidiary); provided, however, that such Liens are not created, Incurred or assumed in anticipation of or in connection with such other Person becoming a Restricted Subsidiary (or such acquisition of such property, other assets or stock); provided, further, that such Liens are limited to all or part of the same property, other assets or stock (plus improvements, accession, proceeds or dividends or distributions in connection with the original property, other assets or stock) that secured (or, under the written arrangements under which such Liens arose, could secure) the obligations to which such Liens relate;
- (o) Liens on assets or property of the Company or any Restricted Subsidiary securing Indebtedness or other obligations of the Company or such Restricted Subsidiary owing to the Company or another Restricted Subsidiary, or Liens in favor of the Company or any Restricted Subsidiary;

- (p) Liens securing Refinancing Indebtedness Incurred to refinance Indebtedness that was previously so secured, and permitted to be secured under this Agreement; provided that any such Lien is limited to all or part of the same property or assets (plus improvements, accessions, proceeds or dividends or distributions in respect thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure) the Indebtedness being refinanced or is in respect of property that is or could be the security for or subject to a Permitted Lien hereunder;
- (q) any interest or title of a lessor under any Capitalized Lease Obligation or operating lease;
- (r) (i) mortgages, liens, security interests, restrictions, encumbrances or any other matters of record that have been placed by any government, statutory or regulatory authority, developer, landlord or other third party on property over which the Company or any Restricted Subsidiary of the Company has easement rights or on any leased property and subordination or similar arrangements relating thereto and (ii) any condemnation or eminent domain proceedings affecting any real property;
- (s) any encumbrance or restriction (including put and call arrangements) with respect to Capital Stock of any joint venture or similar arrangement pursuant to any joint venture or similar agreement;
- (t) Liens on property or assets under construction (and related rights) in favor of a contractor or developer or arising from progress or partial payments by a third party relating to such property or assets;
- (u) Liens on cash accounts securing Indebtedness incurred under Section 10.1(b)(xi) with local financial institutions;
- (v) Liens on Escrowed Proceeds for the benefit of the related holders of debt securities or other Indebtedness (or the underwriters or arrangers thereof) or on cash set aside at the time of the Incurrence of any Indebtedness or government securities purchased with such cash, in either case to the extent such cash or government securities prefund the payment of interest on such Indebtedness and are held in an escrow account or similar arrangement to be applied for such purpose;
- (w) Liens securing or arising by reason of any netting or set-off arrangement entered into in the ordinary course of banking or other trading activities or Liens over cash accounts securing cash pooling or cash management arrangements;
- (x) Liens arising out of conditional sale, title retention, hire purchase, consignment or similar arrangements for the sale of goods entered into in the ordinary course of business;
- (y) Liens Incurred in the ordinary course of business with respect to obligations (other than Indebtedness for borrowed money) which do not exceed €50,000,000 at any one time outstanding;
- (z) Liens on Capital Stock or other securities or assets of any Unrestricted Subsidiary that secure Indebtedness of such Unrestricted Subsidiary;

- (aa) any security granted over the marketable securities portfolio described in clause (i) of the definition of “Cash Equivalents” in connection with the disposal thereof to a third party; and
- (bb) other Liens (including successive extensions, renewals, alterations or replacements thereof) not excepted by clauses (a) through (aa) above, provided that after giving effect thereto the aggregate principal amount of the Secured Indebtedness of the Company and its Restricted Subsidiaries secured by such Liens does not exceed the greater of (A) the Post Merger Amount, (B) the amount that would cause the Consolidated Secured Leverage Ratio to exceed 2.5 to 1.0 and (C) 15% of the Consolidated Net Tangible Assets, in each case after giving effect to such Incurrence and the application of the proceeds therefrom.

“Person” means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company, government or any agency or political subdivision thereof or any other entity.

“Philips” means Koninklijke Philips Electronics N.V.

“Platform” shall have the meaning provided in Section 13.21(b).

“Post Merger Amount” means an amount equal to the aggregate principal amount of Secured Indebtedness (i) that has been, or is available to be, drawn under the Revolving Credit Agreement on the Closing Date, (ii) that the Company or any of its Subsidiaries have outstanding as of the Closing Date (including, without limitation, the Loans), plus (iii) that will remain outstanding at the Target or any of its Subsidiaries upon completion of the Acquisition (including, without limitation, the Fast Secured Notes).

“Preferred Stock,” as applied to the Capital Stock of any Person, means Capital Stock of any class or classes (however designated) which is preferred as to the payment of dividends or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such Person, over shares of Capital Stock of any other class of such Person.

“Prime Rate” shall mean the rate of interest per annum determined from time to time by the Administrative Agent as its prime rate in effect at its principal office in New York City and notified to the Borrower. The prime rate is a rate set by the Administrative Agent based upon various factors including Administrative Agent’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such rate.

“Public Lender” shall have the meaning provided in Section 13.21(b).

“Public Market” means any time after:

- (a) an Equity Offering has been consummated; and
- (b) shares of common stock or other common equity interests of the IPO Entity having a market value in excess of €100,000,000 on the date of such Equity Offering have been distributed pursuant to such Equity Offering.

“Public Offering” means any offering, including an Initial Public Offering, of shares of common stock or other common equity interests that are listed on an exchange or publicly offered (which shall include an offering pursuant to Rule 144A and/or Regulation S under the Securities Act to professional market investors or similar persons).

“Purchase Money Obligations” means any Indebtedness Incurred to finance or refinance the acquisition, leasing, construction or improvement of property (real or personal) or assets (including Capital Stock), and whether acquired through the direct acquisition of such property or assets or the acquisition of the Capital Stock of any Person owning such property or assets, or otherwise.

“RCF Parallel Debt” means, in relation to the Underlying Debt, an obligation to pay to the Collateral Agent an amount equal to (and in the same currency as) the amount of the Underlying Debt outstanding from time to time.

“RCF Parallel Debt Secured Party” shall have the meaning provided in Section 9.18(a).

“Refinance” means refinance, refund, replace, renew, repay, modify, restate, defer, substitute, supplement, reissue, resell, extend or increase (including pursuant to any defeasance or discharge mechanism) and the terms “refinances,” “refinanced” and “refinancing” as used for any purpose in this Agreement shall have a correlative meaning.

“Refinancing Indebtedness” means Indebtedness that is Incurred to refund, refinance, replace, exchange, renew, repay or extend (including pursuant to any defeasance or discharge mechanism) any Indebtedness existing on the date of this Agreement or Incurred in compliance with this Agreement (including Indebtedness of the Company that refinances Indebtedness of any Restricted Subsidiary and Indebtedness of any Restricted Subsidiary that refinances Indebtedness of the Company or another Restricted Subsidiary) including Indebtedness that refinances Refinancing Indebtedness; provided, however, that:

- (a) if the Indebtedness being refinanced constitutes Subordinated Indebtedness, the Refinancing Indebtedness has a final Stated Maturity at the time such Refinancing Indebtedness is Incurred that is the same as or later than the final Stated Maturity of the Indebtedness being refinanced or, if shorter, this Agreement;
- (b) such Refinancing Indebtedness is Incurred in an aggregate principal amount (or if issued with original issue discount, an aggregate issue price) that is equal to or less than the sum of the aggregate principal amount (or if issued with original issue discount, the aggregate accreted value) then outstanding of the Indebtedness being refinanced (plus, without duplication, any additional Indebtedness Incurred to pay interest or premiums required by the instruments governing such existing Indebtedness and costs, expenses and fees Incurred in connection therewith);
- (c) if the Indebtedness being refinanced is expressly subordinated to this Agreement, such Refinancing Indebtedness is subordinated to this Agreement on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being refinanced;

provided, however, that Refinancing Indebtedness shall not include Indebtedness of the Company or a Restricted Subsidiary that refinances Indebtedness of an Unrestricted Subsidiary.

Refinancing Indebtedness in respect of any Credit Facility or any other Indebtedness may be Incurred from time to time after the termination, discharge or repayment of any such Credit Facility or other Indebtedness.

“Register” shall have the meaning provided in Section 13.7(b)(iv).

“Regulation D” shall mean Regulation D of the Board as from time to time in effect and any successor to all or a portion thereof establishing reserve requirements.

“Regulation T” shall mean Regulation T of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

“Regulation U” shall mean Regulation U of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

“Regulation X” shall mean Regulation X of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

“Reimbursement Date” has the meaning given in Section 3.4.

“Related Parties” shall mean, with respect to any specified Person, such Person’s controlled Affiliates and the directors, officers, employees, agents, trustees, advisors, members of such Person and any Person that possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise, and any successors of each of the foregoing.

“Related Person” with respect to any Permitted Holder means:

- (a) any controlling equity holder or Subsidiary of such Person; or
- (b) in the case of an individual, any spouse, family member or relative of such individual, any trust or partnership for the benefit of one or more of such individual and any such spouse, family member or relative, or the estate, executor, administrator, committee or beneficiaries of any thereof; or
- (c) any trust, corporation, partnership or other Person for which one or more of the Permitted Holders and other Related Persons of any thereof constitute the beneficiaries, stockholders, partners or owners thereof, or Persons beneficially holding in the aggregate a majority (or more) controlling interest therein; or
- (d) in the case of the Initial Investors any investment fund or vehicle managed, sponsored or advised by such Person or any successor thereto, or by any Affiliate of such Person or any such successor.

“Related Taxes” means

- (a) any Taxes, including sales, use, transfer, rental, ad valorem, value added, stamp, property, consumption, franchise, license, capital, registration, business, customs, net worth, gross receipts, excise, occupancy, intangibles or similar Taxes (other than (x) Taxes measured by income and (y) withholding imposed on payments made by any Parent), required to be paid (provided such Taxes are in fact paid) by any Parent by virtue of its:

- (i) being organized or having Capital Stock outstanding (but not by virtue of owning stock or other equity interests of any corporation or other entity other than, directly or indirectly, the Company or any of the Company's Subsidiaries);
  - (ii) issuing or holding Subordinated Shareholder Funding;
  - (iii) being a holding company parent, directly or indirectly, of the Company or any of the Company's Subsidiaries;
  - (iv) receiving dividends from or other distributions in respect of the Capital Stock of, directly or indirectly, the Company or any of the Company's Subsidiaries; or
  - (v) having made any payment in respect to any of the items for which the Company is permitted to make payments to any Parent pursuant to Section 10.2; or
- (b) if and for so long as the Company is a member of a group filing a consolidated or combined tax return with any Parent, any Taxes measured by income for which such Parent is liable up to an amount not to exceed with respect to such Taxes the amount of any such Taxes that the Company and its Subsidiaries would have been required to pay on a separate company basis or on a consolidated basis if the Company and its Subsidiaries had paid tax on a consolidated, combined, group, affiliated or unitary basis on behalf of an affiliated group consisting only of the Company and its Subsidiaries.

“Relevant Interbank Market” means in relation to Euros, the European interbank market and, in relation to any other currency, the London interbank market.

“Relevant Jurisdictions” shall have the meaning given to that term in Section 9.12.

“Relevant Jurisdiction Guarantor” shall have the meaning given to that term in Section 9.12.

“Relevant Taxing Jurisdiction” shall mean any jurisdiction in which the Borrowers are organized or otherwise considered to be a resident for tax purposes at the time such Lender becomes a party to this Agreement, or any political subdivision or Governmental Authority thereof or therein having the power to tax.

“Required Lenders” shall mean, at any date, (a) until the Total Commitments are reduced to zero, Non-Defaulting Lenders holding more than 50% of the sum of (i) the aggregate principal amount of Loans outstanding, (ii) Letter of Credit Exposures and (iii) the Adjusted Total Commitment, in each case, as at such date, or (b) if the Total Commitments have been terminated, the holders (excluding Defaulting Lenders) of a majority of the outstanding principal amount of the Loans and Letter of Credit Exposures (excluding the Loans and Letter of Credit Exposure of Defaulting Lenders) in the aggregate at such date (with the aggregate Base Currency Equivalent of each Lender's risk participation and funded participation in L/C Borrowings being deemed “held” by such Lender for the purposes of the definition).

“Requirement of Law” shall mean, as to any Person, the Certificate of Incorporation and by-laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or assets or to which such Person or any of its property or assets is subject.

“Responsible Officer” means:

- (a) when used with respect to the Administrative Agent, any officer within the Loan Operations Group (or any successor group of the Administrative Agent) or any other officer of the Administrative Agent customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject; or
- (b) when used with respect to any Credit Party or any of its Subsidiaries, the chief executive officer, chief financial officer, where customary in the relevant jurisdiction, any Managing Director (or any two Managing Directors, if elected by such Credit Party), treasurer, controller or any other senior officer (or two such officers, if the relevant Credit Party so elects) authorized to represent such Credit Party and designated as such by the Company in writing to the Administrative Agent.

“Restricted Investment” means any Investment other than a Permitted Investment.

“Restricted Payment” has the meaning given in Section 10.2(a)(i).

“Restricted Subsidiary” means any Subsidiary of the Company other than an Unrestricted Subsidiary.

“Revaluation Date” means (a) each date on which a Credit Event occurs, (b) each date of a continuation or conversion of a Loan pursuant to Section 2.6, (c) the last day of the Interest Period with respect to a Loan or, if earlier, the date which is three months after the date of the Borrowing of a Loan, (d) each date of an amendment, extension or renewal of any Letter of Credit having the effect of increasing the amount thereof, (e) each date of any payment or disbursement by a Letter of Credit Issuer under any Letter of Credit and (f) each date necessary for purposes of calculating amounts payable hereunder on any particular date.

“Revolving Credit Facility Maturity Date” December 7, 2020, or, if such date is not a Business Day, the next preceding Business Day.

“RF Power Disposition” shall mean any disposal of all the shares and material assets comprising the RF power business of the Company and its Subsidiaries.

“S&P” means Standard & Poor’s Investors Ratings Services or any of its successors or assigns that is a Nationally Recognized Statistical Rating Organization.

“Sanctions” has the meaning in Section 9.10.

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

“Section 2.15 Additional Amendment” shall have the meaning provided in Section 2.15(f)(ii).

“Secured Indebtedness” means any Indebtedness secured by a Lien.



“Secured Obligations” shall have the meaning assigned to such term in the Security Documents.

“Secured Parties” shall have the meaning assigned to such term in the applicable Security Documents.

“Securities Act” means the U.S. Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder, as amended.

“Security Documents” shall mean, collectively, (a) the Collateral Agency Agreement, (b) the US Security Documents, (b) the Dutch Security Documents and (d) each other security agreement or other instrument or document executed and delivered pursuant to Section 9.12, Section 9.17 or pursuant to any of the Security Documents to secure any of the Secured Obligations.

“Senior Management” means the officers, directors, and other members of Senior Management of the Company or any of its Subsidiaries, who at any date beneficially own or have the right to acquire, directly or indirectly, Capital Stock of the Company or any Parent and with an equity investment in excess of €250,000.

“Senior Notes” means the Senior Unsecured Notes and the Fast Secured Notes.

“Senior Unsecured Notes” means the senior unsecured notes issued by the Company pursuant to each Unsecured Note Indenture.

“Significant Subsidiary” means any Restricted Subsidiary that meets any of the following conditions:

- (a) the Company’s and its Restricted Subsidiaries’ investments in and advances to the Restricted Subsidiary exceed 10% of the Total Assets of the Company and its Restricted Subsidiaries on a consolidated basis as of the end of the most recently completed fiscal year;
- (b) the Company’s and its Restricted Subsidiaries’ proportionate share of the total assets (after intercompany eliminations) of the Restricted Subsidiary exceeds 10% of the Total Assets of the Company and its Restricted Subsidiaries on a consolidated basis as of the end of the most recently completed fiscal year; or
- (c) the Company’s and its Restricted Subsidiaries’ equity in the income from continuing operations before income taxes, extraordinary items and cumulative effect of a change in accounting principle of the Restricted Subsidiary exceeds 10% of such income of the Company and its Restricted Subsidiaries on a consolidated basis for the most recently completed fiscal year.

“Similar Business” means (a) any businesses, services or activities engaged in by the Company or any of its Subsidiaries or any Associates on the Closing Date and (b) any businesses, services and activities engaged in by the Company or any of its Subsidiaries or any Associates that are related, complementary, incidental, ancillary or similar to any of the foregoing or are extensions or developments of any thereof.

“Singapore Dollars” or “S\$” means the lawful currency of the Republic of Singapore.

“Singapore Dollars Sublimit” means €250,000,000 (or its equivalent in Singapore Dollars).

“Specified Existing Revolving Credit Commitment” shall have the meaning provided in Section 2.15(f)(i).

“Specified Representations” shall mean the representations and warranties made by the Borrowers set forth in Sections 8.1(a) and 8.1(b) (as related to the borrowing under, guaranteeing under, granting of security interests in the Collateral to, and performance of, the Credit Documents), 8.2(a), 8.2(b) (A) (only in respect of the certificate or articles of incorporation or other constitutive documents or by-laws of any Credit Party and as related to the borrowing under, guaranteeing under, granting of security interests in the Collateral to, and performance of, the Credit Documents), 8.3, 8.5, 8.6, 8.7 and 8.8 (on the Closing Date only and after giving effect to the Transactions).

“SSMC” means Systems on Silicon Manufacturing Company Pte or any successor entity or business thereto. For purposes of Section 10.2 and the definition “Asset Disposition” references to SSMC shall also refer to any Unrestricted Subsidiary (x) any Capital Stock or debt of which is owned directly or indirectly by SSMC or (y) which has received a cash distribution or dividend from SSMC.

“Stated Amount” of any Letter of Credit shall mean the maximum amount from time to time available to be drawn thereunder, determined without regard to whether any conditions to drawing could then be met.

“Stated Maturity” means, with respect to any security, the date specified in such security as the fixed date on which the payment of principal of such security is due and payable, including pursuant to any mandatory redemption provision, but shall not include any contingent obligations to repay, redeem or repurchase any such principal prior to the date originally scheduled for the payment thereof.

“Statutory Reserve Rate” shall mean for any day as applied to any LIBOR Loan, a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages that are in effect on that day (including any marginal, special, emergency or supplemental reserves), expressed as a decimal, as prescribed by the Board and to which the Administrative Agent is subject, for eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the Board). Such reserve percentages shall include those imposed pursuant to such Regulation D. LIBOR Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

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

“Subordinated Indebtedness” means, with respect to any person, any Indebtedness (whether outstanding on the Closing Date or thereafter Incurred) which is expressly subordinated in right of payment to the obligations of the Borrowers under this Agreement pursuant to a written agreement.

“Subordinated Shareholder Funding” means, collectively, any funds provided to the Company by a Parent in exchange for or pursuant to any security, instrument or agreement other than Capital Stock, together with any such security, instrument or agreement and any other security or instrument other than Capital Stock issued in payment of any obligation under any Subordinated Shareholder Funding; *provided*, however, that such Subordinated Shareholder Funding:

- (a) does not mature or require any amortization, redemption or other repayment of principal or any sinking fund payment prior to the seventh anniversary of this Agreement (other than through conversion or exchange of such funding into Capital Stock (other than Disqualified Stock) of the Company or any funding meeting the requirements of this definition);
- (b) does not require, prior to the seventh anniversary of this Agreement, payment of cash interest, cash withholding amounts or other cash gross-ups, or any similar cash amounts;
- (c) contains no change of control or similar provisions and does not accelerate and has no right to declare a default or event of default or take any enforcement action or otherwise require any cash payment, in each case, prior to the seventh anniversary of this Agreement;
- (d) does not provide for or require any security interest or encumbrance over any asset of the Company or any of its Subsidiaries; and
- (e) pursuant to its terms is fully subordinated and junior in right of payment to this Agreement, the Term Credit Agreement, and the Senior Notes pursuant to subordination, payment blockage and enforcement limitation terms which are customary in all material respects for similar funding.

“Subsidiary” means, with respect to any Person:

- (a) any corporation, association, or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof; or
- (b) any partnership, joint venture, limited liability company or similar entity of which:
  - (i) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof whether in the form of membership, general, special or limited partnership interests or otherwise; and
  - (ii) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

“Successor Parent” with respect to any Person means any other Person with more than 50% of the total voting power of the Voting Stock of which is, at the time the first Person becomes a Subsidiary of such other Person, “beneficially owned” (as defined below) by one or more Persons that “beneficially owned” (as defined below) more than 50% of the total voting power of the Voting Stock of the first Person immediately prior to the first Person becoming a Subsidiary of such other Person and, for the avoidance of doubt, Holdings constitutes a “Successor Parent” of

the Company. For purposes hereof, “beneficially own” has the meaning correlative to the term “beneficial owner,” as such term is defined in Rules 13d-3 and 13d-5 under the Exchange Act (as in effect on the Closing Date).

“Superpriority Ranking” shall have the meaning provided in Section 10.3(b).

“Swiss Francs” and “Fr” means the lawful currency of the Federal Republic of Switzerland.

“Target” means Freescale Semiconductor, Ltd, a limited liability company incorporated under the laws of Bermuda.

“Tax Credit” means any credit against any Taxes or any relief or remission for Taxes (or their repayment).

“Tax Distribution” shall mean any distribution permitted to be paid pursuant to Section 10.2(c)(ix)(A).

“Taxes” means all present and future taxes, levies, imposts, deductions, charges, duties and withholdings and any charges of a similar nature (including interest, penalties and other liabilities with respect thereto) that are imposed by any Governmental Authority.

“Tax Sharing Agreement” means any tax sharing or profit and loss pooling or similar agreement with customary or arm’s-length terms entered into with any Parent or Unrestricted Subsidiary, as the same may be amended, supplemented, waived or otherwise modified from time to time in accordance with the terms thereof and of this Agreement.

“Temporary Cash Investments” means any of the following:

- (a) any investment in:
  - (i) direct obligations of, or obligations Guaranteed by, (A) the United States of America or Canada, (B) any European Union member state, (C) Switzerland or Norway, (D) any country in whose currency funds are being held specifically pending application in the making of an investment or capital expenditure by the Company or a Restricted Subsidiary in that country with such funds or (E) any agency or instrumentality of any such country or member state, or
  - (ii) direct obligations of any country recognized by the United States of America rated at least “A” by S&P or “A-1” by Moody’s (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any Nationally Recognized Statistical Rating Organization);
- (b) overnight bank deposits, and investments in time deposit accounts, certificates of deposit, bankers’ acceptances and money market deposits (or, with respect to foreign banks, similar instruments) maturing not more than one year after the date of acquisition thereof issued by:
  - (i) any Lender;

- (ii) any institution authorized to operate as a bank in any of the countries or member states referred to in subclause (a)(i) above; or
  - (iii) any bank or trust company organized under the laws of any such country or member state or any political subdivision thereof;
- in each case, having capital and surplus aggregating in excess of €250,000,000 (or the Base Currency or Foreign Currency equivalent thereof) and whose long-term debt is rated at least “A” by S&P or “A-2” by Moody’s (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any Nationally Recognized Statistical Rating Organization) at the time such Investment is made;
- (c) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clause (a) or (b) above entered into with a Person meeting the qualifications described in clause (b) above;
  - (d) Investments in commercial paper, maturing not more than 270 days after the date of acquisition, issued by a Person (other than the Company or any of its Subsidiaries), with a rating at the time as of which any Investment therein is made of “P-2” (or higher) according to Moody’s or “A-2” (or higher) according to S&P (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any Nationally Recognized Statistical Rating Organization);
  - (e) Investments in securities maturing not more than one year after the date of acquisition issued or fully Guaranteed by any state, commonwealth or territory of the United States of America, Canada, any European Union member state or Switzerland, Norway or by any political subdivision or taxing authority of any such state, commonwealth, territory, country or member state, and rated at least “BBB” by S&P or “Baa3” by Moody’s (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any Nationally Recognized Statistical Rating Organization);
  - (f) bills of exchange issued in the United States, Canada, a member state of the European Union, Switzerland, Norway or Japan eligible for rediscount at the relevant central bank and accepted by a bank (or any dematerialized equivalent);
  - (g) any money market deposit accounts issued or offered by a commercial bank organized under the laws of a country that is a member of the Organization for Economic Co-operation and Development, in each case, having capital and surplus in excess of €250,000,000 (or the Base Currency or Foreign Currency equivalent thereof) or whose long term debt is rated at least “A” by S&P or “A2” by Moody’s (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any Nationally Recognized Statistical Rating Organization) at the time such Investment is made;
  - (h) investment funds investing 95% of their assets in securities of the type described in clauses (a) through (g) above (which funds may also hold reasonable amounts of cash pending investment and/or distribution); and

- (i) investments in money market funds complying with the risk limiting conditions of Rule 2a-7 (or any successor rule) of the SEC under the U.S. Investment Company Act of 1940, as amended.

“Term Credit Agreement” shall mean the secured term credit agreement dated on or about the date hereof, by and among, the parties to this Agreement and certain others party thereto from time to time.

“Termination Date” shall mean the date on which the Commitments shall have terminated, no Loans shall be outstanding and the Letters of Credit Outstanding shall have been reduced to zero.

“The Netherlands” and “the Netherlands” means the European part of the Kingdom of The Netherlands (*Koninkrijk der Nederlanden*).

“Total Assets” means the consolidated total assets of the Company and its Restricted Subsidiaries in accordance with GAAP as shown on the most recent balance sheet of such Person;

“Total Commitments” shall mean the sum of the Commitments of all the Lenders.

“Transactions” shall mean, collectively, the extension of credit under and transactions contemplated by this Agreement, the Term Credit Agreement, the Acquisition, the Fast Secured Notes Consent, the consummation of any other transactions in connection with the foregoing (including in connection with the Merger Agreement and the payment of the fees and expenses incurred in connection with any of the foregoing (including the Transaction Expenses)).

“Transaction Expenses” shall mean any fees or expenses incurred or paid by Holdings, the Company or any of its Subsidiaries in connection with the Transactions, this Agreement and the other Credit Documents and the transactions contemplated hereby and thereby.

“Transferee” shall have the meaning provided in Section 13.7(e).

“Type” shall mean, in relation to any Loan, its nature as an ABR Loan, a LIBOR Loan or a EURIBOR Loan.

“Underlying Debt” means, in relation to each of the Credit Parties and at any given time, each obligation (whether present or future, actual or contingent) owing by that Credit Party to an RCF Parallel Debt Secured Party under the Credit Documents (including, for the avoidance of doubt, any change or increase in those obligations pursuant to or in connection with any amendment or supplement or restatement or novation of this Agreement, whether or not anticipated as of the date of this Agreement) excluding that obligor’s RCF Parallel Debts.

“Uniform Commercial Code” means the New York Uniform Commercial Code.

“Unpaid Drawing” shall have the meaning provided in Section 3.4.

“Unrestricted Subsidiary” means SSMC, Jilin and:

- (a) any Subsidiary of the Company (other than the Co-Borrower) that at the time of determination is an Unrestricted Subsidiary (as designated by the Board of Directors of the Company in the manner provided below); and

(b) any Subsidiary of an Unrestricted Subsidiary.

The Board of Directors of the Company may designate any Subsidiary of the Company (including any newly acquired or newly formed Subsidiary or a Person becoming a Subsidiary through merger, consolidation or other business combination transaction, or Investment therein) to be an Unrestricted Subsidiary only if:

- (i) such Subsidiary or any of its Subsidiaries does not own any Capital Stock or Indebtedness of, or own or hold any Lien on any property of, the Company or any other Subsidiary of the Company which is not a Subsidiary of the Subsidiary to be so designated or otherwise an Unrestricted Subsidiary; and
- (ii) such designation and the Investment of the Company in such Subsidiary complies with Section 10.2.

Any such designation by the Board of Directors of the Company shall be evidenced to the Administrative Agent by filing with the Administrative Agent a resolution of the Board of Directors of the Company giving effect to such designation and an Officer's Certificate certifying that such designation complies with the foregoing conditions.

The Board of Directors of the Company may designate any Unrestricted Subsidiary to be a Restricted Subsidiary; provided, that immediately after giving effect to such designation (a) no Default or Event of Default would result therefrom, and (b)(i) the Company could Incur at least €1.00 of additional Indebtedness under Section 10.1(a) or (ii) the Fixed Charge Coverage Ratio would not be worse than it was immediately prior to giving effect to such designation, in each case, on a pro forma basis taking into account such designation. Any such designation by the Board of Directors shall be evidenced to the Administrative Agent by promptly filing with the Administrative Agent a copy of the resolution of the Board of Directors giving effect to such designation or an Officer's Certificate certifying that such designation complied with the foregoing provisions.

"Unsecured Note Indenture" means each of (i) the indenture relating to the issuance of Senior Unsecured Notes entered into on February 14, 2013 between the Company, certain subsidiary guarantors party thereto and Deutsche Bank Trust Company Americas, as trustee, (ii) the indenture relating to the issuance of Senior Unsecured Notes entered into on March 12, 2013 between the Company, certain subsidiary guarantors party thereto and Deutsche Bank Trust Company Americas, as trustee, (iii) the indenture relating to the issuance of Senior Unsecured Notes entered into on May 20, 2013 between the Company, certain subsidiary guarantors party thereto and Deutsche Bank Trust Company Americas, as trustee, (iv) the indenture relating to the issuance of the Senior Unsecured Notes entered into on September 24, 2013 between the Company, certain subsidiary guarantors party thereto and Deutsche Bank Trust Company Americas, as trustee and (v) the indenture relating to the issuance of Senior Notes entered into on June 2, 2015, between the Company, the Co-Borrower and Deutsche Bank Trust Company Americas, as trustee.

"US Dollars", "Dollars" and "US\$" means the lawful currency of the United States of America.

"US Government Obligations" means securities that are (a) direct obligations of the United States of America for the timely payment of which its full faith and credit is pledged or (b) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the timely payment of which is unconditionally Guaranteed as a full faith and

credit obligation of the United States of America, which, in either case, are not callable or redeemable at the option of the Company thereof, and shall also include a depositary receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act), as custodian with respect to any such US Government Obligations or a specific payment of principal of or interest on any such US Government Obligations held by such custodian for the account of the holder of such depositary receipt, provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depositary receipt from any amount received by the custodian in respect of the US Government Obligations or the specific payment of principal of or interest on the US Government Obligations evidenced by such depositary receipt.

“US Security Agreement” shall have the meaning given in the definition of “US Security Documents”

“US Security Documents” shall mean the following documents, each dated as of September 29, 2006 and any amendments, supplements or other agreements entered into in connection therewith:

- (a) Security Agreement among Philips Semiconductors USA Inc., NXP Funding LLC, and Morgan Stanley Senior Funding, Inc., as Global Collateral Agent (the “US Security Agreement”);
- (b) Pledge of Shares between NXP B.V., as pledgor, and Morgan Stanley Senior Funding, Inc., as pledgee in relation to the shares in Philips Semiconductors USA Inc.; and
- (c) IP Security Agreement between NXP B.V. and Morgan Stanley Senior Funding, Inc., as Global Collateral Agent, relating to intellectual property in the United States and any short form version thereof filed with any relevant governmental authorities.

“Voting Stock” of a Person means all classes of Capital Stock of such Person then outstanding and normally entitled to vote in the election of directors.

“Wholly-Owned Subsidiary” means a Restricted Subsidiary of the Company, all of the Capital Stock of which (other than directors’ qualifying shares or shares required by any applicable law or regulation to be held by a Person other than the Company or another Wholly-Owned Subsidiary) is owned by the Company or another Wholly-Owned Subsidiary.

“Wholly Owned U.S. Restricted Subsidiary” means a Wholly-Owned Subsidiary which has been incorporated in the United States of America.

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

1.2 Other Interpretive Provisions. With reference to this Agreement and each other Credit Document, unless otherwise specified herein or in such other Credit Document:

- (a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.
- (b) The words “herein”, “hereto”, “hereof” and “hereunder” and words of similar import when used in any Credit Document shall refer to such Credit Document as a whole and not to any particular provision thereof.



- (c) Article, Section, Exhibit and Schedule references are to the Credit Document in which such reference appears.
- (d) The term “including” is by way of example and not limitation.
- (e) The term “documents” includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.
- (f) In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including”; the words “to” and “until” each mean “to but excluding”; and the word “through” means “to and including”.
- (g) Section headings herein and in the other Credit Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Credit Document.
- (h) Any reference herein to any Person shall be construed to include such Person’s successors and assigns.
- (i) Any reference to a “Managing Director” of the Company or a Credit Party organized or established under the laws of the Netherlands means a managing director (*bestuurder*).

1.3 Accounting Terms.

- (a) All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP.
- (b) Where reference is made to “the Company and its Restricted Subsidiaries on a consolidated basis” or similar language, such consolidation shall not include any Subsidiaries of the Company other than Restricted Subsidiaries.

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

1.5 References to Agreements, Laws, Etc. Unless otherwise expressly provided herein, (a) references to organizational and constitutive documents, agreements (including this Agreement and each of the other Credit Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, amendment and restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, amendment and restatements, extensions, supplements and other modifications are permitted by any Credit Document; and (b) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

- 1.6 **Exchange Rates.** For purposes of determining compliance under Sections 10.2 (other than with respect to determining the amount of any Indebtedness) and 10.5, with respect to any amount in a Base Currency or Foreign Currency (other than Euros), such amount shall be deemed to equal the Euro equivalent thereof based on the average Exchange Rate for a Base Currency or Foreign Currency for the most recent twelve-month period immediately prior to the date of determination determined in a manner consistent with that used in calculating Consolidated EBITDA for the related period. For purposes of determining compliance with Sections 10.1, 10.2 and 10.3, with respect to any amount of Indebtedness in a Base Currency or Foreign Currency (other than Euros), compliance will be determined at the time of Incurrence or advancing thereof using the Euro equivalent thereof at the Exchange Rate in effect at the time of such Incurrence or advancement.
- 1.7 **Liability of Co-Borrower.** The Co-Borrower shall be jointly and severally liable for all of the obligations and liabilities of the Company under this Agreement and the other Credit Documents; *provided* that the obligations of the Co-Borrower under this Agreement and the other Credit Documents shall be limited to an aggregate amount that would not render such obligations subject to avoidance under Section 548 of the United States Bankruptcy Code or any comparable provisions of applicable law.
- 1.8 **Times of Day.** Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).
- 1.9 **Timing of Payment or Performance.** Except as otherwise provided herein, when the payment of any obligation or the performance of any covenant, duty, or obligation is stated to be due or performance required on (or before) a day which is not a Business Day, the date of such payment (other than as described in the definition of Interest Period) or performance shall extend to the immediately succeeding Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.
- 1.10 **Certifications.** All certifications to be made hereunder by an officer or representative of a Credit Party shall be made by such a Person in his or her capacity solely as an officer or a representative of such Credit Party, on such Credit Party's behalf and not in such Person's individual capacity.
- 1.11 **Compliance with Certain Sections.** In the event that any Lien, Investment, Indebtedness (whether at the time of incurrence or upon application of all or a portion of the proceeds thereof), disposition, Restricted Payment, Affiliate transaction, contractual requirement, or prepayment of Indebtedness meets the criteria of one or more than one of the categories of transactions then permitted pursuant to any clause or subsection of Sections 10.1, 10.2, 10.3, 10.5 or 10.6 then, such transaction (or portion thereof) at any time shall be allocated to one or more of such clauses or subsections within the relevant sections as determined by the Borrower in its sole discretion at such time.

## 2. **AMOUNT AND TERMS OF CREDIT**

- 2.1 **Commitments.** (a) Subject to and upon the terms and conditions herein set forth, each Lender severally agrees to make a Loan or Loans denominated in the Base Currency or any Alternative Currency to the Borrowers which Loans (i) shall be made at any time and from time to time on and after the Closing Date and prior to the Maturity Date; (ii) may, at the option of the relevant Borrower be incurred and maintained as, and/or converted into, ABR Loans (in the case of Loans denominated in the Base Currency), LIBOR Loans or EURIBOR Loans, provided that all Loans made by each of the Lenders pursuant to the same Borrowing shall, unless otherwise specifically

provided herein, consist entirely of Loans of the same Type, (iii) may be repaid (without premium or penalty) and reborrowed in accordance with the provisions hereof, (iv) shall not, for any such Lender at any time, after giving effect thereto and to the application of the proceeds thereof, result in such Lender's Credit Exposure at such time exceeding such Lender's Commitment at such time, (v) shall not, after giving effect thereto and to the application of the proceeds thereof, result at any time in the aggregate amount of the Lenders' Credit Exposures at such time exceeding the Total Commitment then in effect and (vi) shall not, after giving effect thereto and to the application of the proceeds thereof, result at any time in the aggregate amount of the Lenders' Credit Exposures at such time denominated in Singapore Dollars exceeding the Singapore Dollars Sublimit.

(b) Each Lender may at its option make any EURIBOR Loan or LIBOR Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan, provided that (i) any exercise of such option shall not affect the obligation of the Borrowers to repay such Loan and (ii) in exercising such option, such Lender shall use its reasonable efforts to minimize any increased costs to the Borrowers resulting therefrom (which obligation of the Lender shall not require it to take, or refrain from taking, actions that it determines would result in increased costs for which it will not be compensated hereunder or that it determines would be otherwise disadvantageous to it and in the event of such request for costs for which compensation is provided under this Agreement, the provisions of Section 2.10 shall apply). In the event that any Loan is made by any domestic or foreign branch or Affiliate of a Lender on behalf of such Lender as contemplated by this clause (b) all of the provisions of this Agreement applicable to Lenders shall apply to and be enforceable by any such domestic or foreign branch or Affiliate.

2.2 Minimum Amount of Each Borrowing; Maximum Number of Borrowings. The aggregate principal amount of each Borrowing shall be in a multiple of, in the case of LIBOR Loans and EURIBOR Loans, €1,000,000 (or its equivalent in any other Alternative Currency) or, in the case of ABR Loans, \$500,000 and, in each case, shall not be less than the Minimum Borrowing Amount with respect thereto. More than one Borrowing may be incurred on any date, provided that at no time shall there be outstanding more than 25 Borrowings of Loans under this Agreement.

2.3 Notice of Borrowing. (a) To request the borrowing of any Loans (other than borrowings to repay Unpaid Drawings), the relevant Borrower shall give the Administrative Agent at the Administrative Agent's Office written notice (or telephonic notice promptly confirmed in writing), (i) prior to 10:00 a.m. on at least the second Business Day prior to the date of each Borrowing of LIBOR Loans or EURIBOR Loans in Euro or Sterling, (ii) prior to 12:00 Noon on at least the first Business Day prior to the date of each Borrowing of ABR Loans, (iii) prior to 10:00 a.m. on at least the third Business Day prior to the date of each Borrowing of LIBOR Loans or EURIBOR Loans in any currency other than Euro or Sterling. Each such notice (a "Notice of Borrowing"), except as otherwise expressly provided in Section 2.10, shall specify (i) the aggregate principal amount of the Loans to be made pursuant to such Borrowing, (ii) the date of Borrowing (which shall be a Business Day), (iii) the currency of such Borrowing (which shall be the Base Currency in the case of ABR Loans, Euro in the case of EURIBOR Loans or the Base Currency or an Alternative Currency in the case of LIBOR Loans) and (iv) whether the respective Borrowing shall consist of ABR Loans, LIBOR Loans or EURIBOR Loans and, if LIBOR Loans or EURIBOR Loans, the Interest Period to be initially applicable thereto. If a Borrower specifies a Type of Loan but fails to specify the currency of such Loan in a Notice of Borrowing, then the Loan so requested shall be made in the Base Currency in the case of LIBOR Loans and ABR Loans or Euros in the case of EURIBOR Loans. If a Borrower specifies the currency of a Loan

but fails to specify a Type of Loan in a Notice of Borrowing, then the Loan so required shall be an ABR Loan (in the case of Loans denominated in the Base Currency), a EURIBOR Loan in the case of Loans denominated in Euro, or a LIBOR Loan (in the case of Loans denominated in any other Alternative Currency). If a Borrower fails to specify both the currency of a Loan and the Type of Loan in a Notice of Borrowing, then the Loan so requested shall be made in the Base Currency and shall be an ABR Loan. If a Borrower fails to specify an Interest Period (if applicable) of a Loan in a Notice of Borrowing then the Loan so requested shall have an initial Interest Period of one month. Upon receipt of a Notice of Borrowing, the Administrative Agent shall confirm there are sufficient Available Commitments and that the Singapore Dollars Sublimit will not be exceeded after giving effect to the proposed Borrowing and the Administrative Agent shall promptly give each Lender written notice (or telephonic notice promptly confirmed in writing) of each proposed Borrowing, of such Lender's proportionate share thereof and of the other matters covered by the related Notice of Borrowing. Borrowings to reimburse Unpaid Drawings shall be made upon the notice specified in Section 3.4.

(b) Without in any way limiting the obligation of any Borrower to confirm in writing any notice it may give hereunder by telephone, the Administrative Agent may act prior to receipt of written confirmation without liability upon the basis of such telephonic notice believed by the Administrative Agent in good faith to be from an Authorized Officer of such Borrower. In each such case, such Borrower hereby waives the right to dispute the Administrative Agent's record of the terms of any such telephonic notice. Any Notice of Borrowing delivered in writing to the Administrative Agent shall be in substantially the form set forth in Exhibit B.

2.4 Disbursement of Funds. (a) No later than 12:00 Noon on the date specified in each Notice of Borrowing, each Lender will make available its *pro rata* portion, if any, of each Borrowing requested to be made on such date and in the manner provided below, provided that, on the Closing Date such funds may be made available at such earlier time as may be agreed among the Lenders, the Company and the Administrative Agent for the purpose of consummating the Transactions.

(b) Unless otherwise agreed by the Company and the Administrative Agent in writing, each Lender shall make available all amounts it is to fund to the Borrowers under any Borrowing for its applicable Commitments in immediately available funds in the relevant currency to the Administrative Agent at the Administrative Agent's Office and the Administrative Agent will (except in the case of Borrowings to repay Unpaid Drawings) make available to the Borrowers, by depositing to an account designated by the Company to the Administrative Agent the aggregate of the amounts so made available in the relevant currency. Unless the Administrative Agent shall have been notified by any Lender prior to the date of any such Borrowing that such Lender does not intend to make available to the Administrative Agent its portion of the Borrowing or Borrowings to be made on such date, the Administrative Agent may assume that such Lender has made such amount available to the Administrative Agent on such date of Borrowing, and the Administrative Agent, in reliance upon such assumption, may (in its sole discretion and without any obligation to do so) make available to the Borrowers a corresponding amount. If such corresponding amount is not in fact made available to the Administrative Agent by such Lender and the Administrative Agent has made available same to the Borrowers, the Administrative Agent shall be entitled to recover such corresponding amount from such Lender. If such Lender does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor the Administrative Agent shall promptly notify the Borrowers, and the Borrowers shall immediately pay such

corresponding amount to the Administrative Agent. The Administrative Agent shall also be entitled to recover from such Lender or the Borrowers interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by the Administrative Agent to the Borrowers to the date such corresponding amount is recovered by the Administrative Agent, at a rate *per annum* equal to (i) if paid by such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry practice on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing, or (ii) if paid by the Borrower, the then-applicable rate of interest, calculated in accordance with Section 2.8, for the relevant Loans.

- (c) Nothing in this Section 2.4 shall be deemed to relieve any Lender from its obligation to fulfill its commitments hereunder or to prejudice any rights that any Borrower may have against any Lender as a result of any default by such Lender hereunder (it being understood, however, that the obligations of each Lender hereunder are several and no Lender shall be responsible for the failure of any other Lender to fulfill its obligations hereunder).

2.5 Repayment of Loans; Evidence of Debt. (a) Each Borrower shall repay to the Administrative Agent, for the benefit of the Lenders, on the Maturity Date, the then-unpaid Loans made to such Borrower.

- (b) The Borrowers shall, jointly and severally, repay to the Administrative Agent, for the benefit of the Lenders, on each Extended Revolving Loan Maturity Date, the then outstanding amount of Extended Revolving Credit Loans.
- (c) In the event that any Incremental Revolving Credit Loans are made, such Incremental Revolving Credit Loans shall, subject to Section 2.15(d), be repaid by the Borrower in the amounts (each, a "New Revolving Loan Repayment Amount") and on the dates (each a "New Revolving Loan Repayment Date") set forth in the applicable Joinder Agreement.
- (d) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of each Borrower to the appropriate lending office of such Lender resulting from each Loan made by such lending office of such Lender from time to time, including the amounts of principal and interest payable and paid to such lending office of such Lender from time to time under this Agreement.
- (e) The Administrative Agent shall maintain the Register pursuant to Section 13.7(b), in which Register shall be recorded (i) the amount of each Loan made hereunder, the relevant Borrower of such Loan, the Type of each Loan made, the Class of each Loan made and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrowers to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder from the relevant Borrower and each Lender's share thereof.
- (f) The entries made in the Register and accounts maintained pursuant to paragraphs (b) and (c) of this Section 2.5 shall, to the extent permitted by applicable Law, be prima facie evidence of the existence and amounts of the obligations of a Borrower therein recorded; provided, however, that the failure of any Lender or the Administrative Agent to maintain

such account, such Register or such subaccount, as applicable, or any error therein, shall not in any manner affect the obligation of any Borrower to repay (with applicable interest) the Loans made to such Borrower by such Lender in accordance with the terms of this Agreement.

- 2.6 Conversions and Continuations. (a) The Company shall have the option on any Business Day to convert all or a portion of the outstanding principal amount of Loans made of one Type into a Borrowing or Borrowings of another Type and shall have the option on any Business Day to continue the outstanding principal amount of any LIBOR Loans or EURIBOR Loans, as the case may be, for an additional Interest Period, provided that (i) no partial conversion of LIBOR Loans or EURIBOR Loans shall reduce the outstanding principal amount of LIBOR Loans or EURIBOR Loans made pursuant to a single Borrowing to less than the Minimum Borrowing Amount, (ii) ABR Loans may not be converted into LIBOR Loans if a Default or Event of Default is in existence on the date of the conversion and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such conversion, (iii) LIBOR Loans denominated in US Dollars may not be continued as LIBOR Loans for an additional Interest Period if an Event of Default is in existence on the date of the proposed continuation and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such continuation, and (iv) Borrowings resulting from conversions pursuant to this Section 2.6 shall be limited in number as provided in Section 2.2. Each such conversion or continuation shall be effected by the Company by giving the Administrative Agent at the Administrative Agent's Office prior to 10:00 a.m., New York City time, at least three Business Days' (or one Business Day's notice in the case of a conversion into ABR Loans) prior written notice (or telephonic notice promptly confirmed in writing) (each, a "Notice of Conversion or Continuation") specifying the Loans to be so converted or continued, the Type of Loans to be converted or continued into and, if such Loans or are to be converted into or continued as LIBOR Loans or EURIBOR Loans, the Interest Period to be initially applicable thereto. The Administrative Agent shall give each Lender notice as promptly as practicable of any such proposed conversion or continuation affecting any of its Loans.
- (b) If any Default or Event of Default is in existence at the time of any proposed continuation of any LIBOR Loans denominated in US Dollars and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such continuation, such LIBOR Loans shall be automatically converted on the last day of the current Interest Period into ABR Loans. If upon the expiration of any Interest Period in respect of LIBOR Loans or EURIBOR Loans, a Borrower has failed to specify a new Interest Period to be applicable thereto as provided in paragraph (a) above, such Borrower shall be deemed to have specified an Interest Period of one month, effective as of the expiration date of such current Interest Period. If a Borrower requests the conversion to, or continuation of, a LIBOR Loan or a EURIBOR Loan, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month. No Loan may be converted into or continued as a Loan denominated in a different currency, but instead such Loan must be prepaid in the original currency of such Loan and a new Loan reborrowed in the other currency.
- 2.7 Pro Rata Borrowings. The borrowing of Loans under this Agreement and each borrowing outstanding from time to time hereunder shall be made or maintained, as applicable by the Lenders *pro rata* on the basis of their then-applicable Commitments. It is understood that (a) no Lender shall be responsible for any default by any other Lender in its obligation to make Loans hereunder and that each Lender shall be obligated to make the Loans provided to be made by it hereunder, regardless of the failure of any other Lender to fulfill its commitments hereunder and

(b) other than as expressly provided herein with respect to a Defaulting Lender, failure by a Lender to perform any of its obligations under any of the Credit Documents shall not release any Person from performance of its obligation under any Credit Document.

- 2.8 Interest. (a) The unpaid principal amount of each ABR Loan shall bear interest from the date of the Borrowing thereof until maturity thereof (whether by acceleration or otherwise) at a rate *per annum* that shall at all times be the aggregate of the Applicable ABR Margin plus the ABR in effect from time to time.
- (b) The unpaid principal amount of each LIBOR Loan shall bear interest from the date of the Borrowing thereof until maturity thereof (whether by acceleration or otherwise) at a rate *per annum* that shall at all times be the aggregate of the Applicable LIBOR Margin in effect from time to time and the relevant LIBOR Rate.
- (c) The unpaid principal amount of each EURIBOR Loan shall bear interest for the date of the Borrowing thereof until maturity thereof (whether by acceleration or otherwise) at a rate *per annum* that shall at all times be the aggregate of the Applicable EURIBOR Margin in effect from time to time, and the relevant EURIBOR Rate.
- (d) If all or a portion of (i) the principal amount of any Loan (ii) the principal amount of any Unpaid Drawing or (iii) any interest payable thereon shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), such overdue amount shall bear interest at a rate *per annum* that is (x) in the case of overdue principal on any Loan or Unpaid Drawing, the rate that would otherwise be applicable thereto plus 2% or (y) in the case of any overdue interest, to the extent permitted by applicable law, the rate described in Section 2.8 (a), (b) or (c), as applicable, plus 2%, in each case from and including the date of such non-payment to but excluding the date on which such amount is paid in full (after as well as before judgment).
- (e) Interest on each Loan shall accrue from and including the date of the borrowing thereof to but excluding the date of any repayment thereof and shall be payable (i) on in respect of each ABR Loan, quarterly in arrears on the last day of each March, June, September and December, (ii) in respect of each LIBOR Loan or EURIBOR Loan, the last day of each Interest Period applicable thereto and, in the case of an Interest Period in excess of three months, on each date occurring at three-month intervals after the first day of such Interest Period, and (ii) on any prepayment (on the amount prepaid), at maturity (whether by acceleration or otherwise) and, after such maturity, on demand.
- (f) All computations of interest hereunder shall be made in accordance with Section 5.5.
- (g) [Reserved].
- (h) The Administrative Agent, upon determining the interest rate for any Borrowing of Loans, shall promptly notify the Company and the relevant Lenders thereof. Each such determination shall, absent clearly demonstrable error, be final and conclusive and binding on all parties hereto.
- 2.9 Interest Periods. At the time the Company gives a Notice of Borrowing or a Notice of Conversion or Continuation in respect of the making of, or conversion into or continuation as, a Borrowing of LIBOR Loans or EURIBOR Loans (in the case of the initial Interest Period applicable thereto) or prior to 10:00 a.m. New York City time, at least three Business Days prior to the expiration of an

Interest Period applicable to a Borrowing of LIBOR Loans or EURIBOR Loans, the Company shall have the right to elect by giving the Administrative Agent written notice (or telephonic notice promptly confirmed in writing) the Interest Period applicable to a Borrowing, which Interest Period shall, at the option of the Company, be a period commencing on the date of Borrowing specified in the applicable Notice of Borrowing or on the date specified in the applicable Notice of Conversion or Continuation and ending one (1), two (2), three, (3) or six, (6) (or if agreed by all relevant Lenders, twelve (12)) months thereafter, or such shorter period as the Borrowers may elect in the applicable notice, provided that the initial Interest Period may be for a period less than one month if agreed upon by the Company and the Administrative Agent (it being understood that the Borrowing on the Closing Date and any continuations or conversions of such Borrowing or any other Borrowing, in each case, on or prior to December 31, 2015 may have an Interest Period of one week).

Notwithstanding anything to the contrary contained above:

- (a) the initial Interest Period for any Borrowing of LIBOR Loans or EURIBOR Loans shall commence on the date of such Borrowing (including the date of any conversion from a Borrowing of ABR Loans) and each Interest Period occurring thereafter in respect of such Borrowing shall commence on the day on which the next preceding Interest Period expires;
- (b) if any Interest Period relating to a Borrowing of LIBOR Loans or EURIBOR Loans begins on the last Business Day of a calendar month or begins on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period, such Interest Period shall end on the last Business Day of the calendar month at the end of such Interest Period;
- (c) if any Interest Period would otherwise expire on a day that is not a Business Day, such Interest Period shall expire on the next succeeding Business Day, provided that if any Interest Period in respect of a LIBOR Loan or EURIBOR Loan would otherwise expire on a day that is not a Business Day but is a day of the month after which no further Business Day occurs in such month, such Interest Period shall expire on the next preceding Business Day;
- (d) the Borrowers shall not be entitled to elect any Interest Period in respect of any LIBOR Loan or EURIBOR Loan if such Interest Period would extend beyond the applicable Maturity Date; and
- (e) after giving effect to all the initial borrowings, all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not be more than 25 Interest Periods in effect with respect to LIBOR Loans and EURIBOR Loans.

2.10 Increased Costs, Illegality, etc. (a) In the event that (x) in the case of clause (i) below, the Administrative Agent or (y) in the case of clauses (ii) and (iii) below, any Lender shall have reasonably determined (which determination shall, absent clearly demonstrable error, be final and conclusive and binding upon all parties hereto):

- (i) on any date for determining the LIBOR Rate or EURIBOR Rate for any Interest Period that (x) deposits in the principal amounts of the Loans comprising such Borrowing are not generally available in the relevant currency in the Relevant Interbank Market for a period equivalent to the relevant Interest Period or (y) by



reason of any changes arising on or after the Closing Date affecting the Relevant Interbank Market, adequate and fair means do not exist for ascertaining the applicable interest rate on the basis provided for in the definition of LIBOR Rate or EURIBOR Rate (as the case may be); or

- (ii) at any time, that such Lender shall incur any increase in the cost to such Lender or reductions in the amounts received or receivable hereunder in connection with making or agreeing to make, funding or maintaining, LIBOR Loans, EURIBOR Loans or its Commitment hereunder (other than any such increase or reduction attributable to Taxes) because of (x) any Change in Law, such as, for example, without limitation, a change in official reserve requirements, and/or (y) other circumstances affecting the Relevant Interbank Market or the position of such Lender in such market; or
- (iii) at any time, that the making or continuance of any LIBOR Loan or EURIBOR Loan or its Commitment hereunder has become unlawful by compliance by such Lender in good faith with any Law, governmental rule, regulation, guideline or order (or would conflict with any such Law, governmental rule, regulation, guideline or order not having the force of law even though the failure to comply therewith would not be unlawful), or has become impracticable as a result of a contingency occurring after the date hereof that materially and adversely affects the Relevant Interbank Market; (such Loans, "Impacted Loans"), then, and in any such event, such Lender (or the Administrative Agent, in the case of clause (i) above) shall within a reasonable time thereafter give notice (if by telephone, confirmed in writing) to the Company and to the Administrative Agent of such determination (which notice the Administrative Agent shall promptly transmit to each of the other Lenders). Thereafter (x) in the case of clause (i) above, LIBOR Loans and EURIBOR Loans shall no longer be available until such time as the Administrative Agent notifies the Company and the Lenders that the circumstances giving rise to such notice by the Administrative Agent no longer exist (which notice the Administrative Agent agrees to give at such time when such circumstances no longer exist), and any Notice of Borrowing or Notice of Conversion or Continuation with respect to LIBOR Loans or EURIBOR Loans that have not yet been incurred, converted or continued (as applicable) shall be deemed rescinded by the Company (y) in the case of clause (ii) above, the Company shall pay to such Lender, promptly after receipt of written demand therefor such additional amounts (in the form of an increased rate of, or a different method of calculating, interest or otherwise as such Lender in its reasonable discretion shall determine) as shall be required to compensate such Lender for such increased costs or reductions in amounts receivable hereunder (it being agreed that a written notice as to the additional amounts owed to such Lender, showing in reasonable detail the basis for the calculation thereof, submitted to the Company by such Lender shall, absent clearly demonstrable error, be final and conclusive and binding upon all parties hereto) and (z) in the case of clause (iii) above, the Borrowers shall take one of the actions specified in subclause (x) or (y), as applicable, of Section 2.10(b) as promptly as possible and, in any event, within the time period required by Law.

Notwithstanding the foregoing, if the Administrative Agent has made the determination described in Section 2.10(a)(i)(x), the Administrative Agent, in consultation with the Borrowers and the affected Lenders, may establish an alternative interest rate for the

Impacted Loans, in which case, such alternative rate of interest shall apply with respect to the Impacted Loans until (1) the Administrative Agent revokes the notice delivered with respect to the Impacted Loans under clause (x) of the first sentence of the immediately preceding paragraph, (2) the Administrative Agent or the affected Lenders notify the Administrative Agent and the Borrowers that such alternative interest rate does not adequately and fairly reflect the cost to such Lenders of funding the Impacted Loans, or (3) any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender or its applicable lending office to make, maintain or fund Loans whose interest is determined by reference to such alternative rate of interest or to determine or charge interest rates based upon such rate or any Governmental Authority has imposed material restrictions on the authority of such Lender to do any of the foregoing and provides the Administrative Agent and the Borrowers written notice thereof.

- (b) At any time that any LIBOR Loan or EURIBOR Loan is affected by the circumstances described in Section 2.10(a)(ii) or (iii), the relevant Borrowers may (and in the case of a LIBOR Loan or EURIBOR Loan affected pursuant to Section 2.10(a)(iii) shall) either (i) if the affected LIBOR Loan or EURIBOR Loan has been requested pursuant to the Notice of Borrowing or a Notice of Conversion or Continuation but has not been made, converted or continued (as applicable), cancel said Borrowing, conversion or continuation (as applicable) by giving the Administrative Agent telephonic notice (confirmed promptly in writing) thereof on the same date that the Company was notified by a Lender pursuant to 2.10(a)(ii) or (iii); or (ii) if the affected LIBOR Loan or EURIBOR Loan is then outstanding (x) upon at least three Business Days' notice to the Administrative Agent (if such Lender may lawfully continue to maintain such LIBOR Loans or EURIBOR Loans to such day or immediately, if such Lender may not lawfully continue to maintain such LIBOR Loans or EURIBOR Loans), require the affected Lender to convert each such LIBOR Loan and EURIBOR Loan into an ABR Loan if such conversion would overcome the illegality and each Loan so converted shall, unless already denominated in US Dollars, be redenominated into US Dollars at the applicable Exchange Rate, (y) prepay the affected EURIBOR Loans or LIBOR Loans on the last day of the Interest Period applicable thereto, if such Lender may lawfully continue to maintain such LIBOR Loan or EURIBOR Loan to such date, or immediately, if such Lender may not lawfully continue to maintain such LIBOR Loan or EURIBOR Loan, or (z) cause any affected Lender to assign the affected EURIBOR Loans or LIBOR Loans to another Lender or to another bank or institution willing to accept such assignment (which assignment shall be subject to and in compliance with Section 13.7) to the extent any such affected Lender may lawfully continue to maintain the relevant LIBOR Loans or EURIBOR Loans until such time as such assignment becomes effective in accordance with the terms hereof. Upon any such conversion or prepayment, the Borrowers shall also pay accrued interest on the amount so converted or prepaid all amounts due, if any, in connection with such prepayment or conversion under Section 2.11. The Borrowers shall pay all reasonable costs and expenses incurred by any Lender in connection with any assignment pursuant to sub-clause (z). If more than one Lender is affected at any time, then all affected Lenders must be treated in the same manner pursuant to this Section 2.10(b).
- (c) If, after the Closing Date, the adoption of any applicable Law, rule or regulation regarding capital adequacy or liquidity, or any Change in Law, or any change in the interpretation or administration thereof by any Governmental Authority, the National Association of Insurance Commissioners, any central bank or comparable agency

charged with the interpretation or administration thereof, or compliance by any Lender or its parent with any request or directive made or adopted after the date hereof regarding capital adequacy or liquidity occurring after the Closing Date, of any such authority, association, central bank or comparable agency, has or would have the effect of reducing the rate of return on such Lender's or its parent's or its Affiliate's capital or assets as a consequence of such Lender's commitments or obligations hereunder to a level below that which such Lender or its parent or its Affiliate could have achieved but for such adoption, effectiveness, change or compliance (taking into consideration such Lender's or its parent's policies with respect to capital adequacy or liquidity), then from time to time, promptly after demand by such Lender (with a copy to the Administrative Agent), the Borrowers shall pay to such Lender such additional amount or amounts as will compensate such Lender or its parent or its Affiliates for such reduction, it being understood and agreed, however, that (i) a Lender shall not be entitled to compensation for such reduction except to the extent resulting from the adoption of any applicable Law, rule or regulation regarding capital adequacy or liquidity, or any Change in Law, or any change in the interpretation or administration thereof by any Governmental Authority, the National Association of Insurance Commissioners, any central bank or comparable agency charged with the interpretation or administration thereof, after the date hereof and (ii) a Lender shall not be entitled to such compensation to the extent such Lender is not generally imposing such charges on, or requesting such compensation from, borrowers (similarly situated to the Company) under syndicated credit facilities. Each Lender, upon determining in good faith that any additional amounts will be payable pursuant to this Section 2.10(c), will give prompt written notice thereof to the Company which notice shall set forth in reasonable detail the basis of the calculation of such additional amounts, although the failure to give any such notice shall not, subject to Section 2.13, release or diminish the Borrowers' obligations to pay additional amounts pursuant to this Section 2.10(c) promptly following receipt of such notice.

(d) It is understood that this Section 2.10 shall not apply to Excluded Taxes and shall apply without duplication to Section 5.4.

2.11 Compensation. If (a) any payment of principal of any LIBOR Loan or EURIBOR Loan is made by a Borrower to or for the account of a Lender, or is converted or continued, other than on the last day of the Interest Period for such LIBOR Loan or EURIBOR Loan as a result of a payment or conversion pursuant to Section 2.6, 2.10, 5.1, 5.2 or 13.8, as a result of acceleration of the maturity of the Loans pursuant to Section 11 or for any other reason, (b) any Borrowing of LIBOR Loans or EURIBOR Loans is not made as a result of a withdrawn Notice of Borrowing or as a result of the operation of any of the provisions of this Agreement, (c) any ABR Loan is not converted into a LIBOR Loan as a result of a withdrawn Notice of Conversion or Continuation or as a result of the operation of any of the provisions of this Agreement, (d) any LIBOR Loan or EURIBOR Loan is not continued as a LIBOR Loan or EURIBOR Loan (as the case may be), as a result of a withdrawn Notice of Conversion or Continuation or as a result of the operation of any of the provisions of this Agreement, (e) any prepayment of principal of any LIBOR Loan or EURIBOR Loan is not made as a result of a withdrawn notice of prepayment pursuant to Section 5.1 or 5.2 or as a result of the operation of any of the provisions of this Agreement, (f) any assignment of a LIBOR Loan or EURIBOR Loan on a day other than the last day of the Interest Period for such Loan as a result of a request by the Company pursuant to Section 13.8(a), the Borrowers shall, after receipt of a written request by such Lender (which request shall set forth in reasonable detail the basis for requesting such amount), pay to the Administrative Agent for the account of such Lender any amounts required to compensate such Lender for any additional losses, costs or expenses that such Lender may reasonably incur as a result of such payment,

failure to convert, failure to continue or failure to prepay, including any loss, cost or expense (excluding loss of anticipated profits) actually incurred by reason of the liquidation or reemployment of deposits or other funds acquired by any Lender to fund or maintain such LIBOR Loan or EURIBOR Loan.

For purposes of calculating amounts payable by the Borrowers to the Lenders under this Section 2.11, each Lender shall be deemed to have funded each LIBOR Loan or EURIBOR Loan (as the case may be) made by it by a matching deposit or other borrowing in the Relevant Interbank Market in the relevant currency for a comparable amount and for a comparable period, whether or not such LIBOR Loan or EURIBOR Loan (as the case may be) was in fact so funded.

- 2.12 **Change of Lending Office.** Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 2.10(a)(ii), 2.10(a)(iii), 2.10(b), 3.5 or 5.4 with respect to such Lender, it will, if requested by the Company, use commercially reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Loans affected by such event or to assign its rights and obligations hereunder to another of its branches or Affiliates, provided that such designation or assignment is made on such terms that would eliminate or reduce amounts payable pursuant to Section 2.10(a)(ii), 2.10(a)(iii), 2.10(b), 3.5 or 5.4, as the case may be, and that, in such Lender's judgment, cause such Lender and its lending office suffer no economic (including becoming subject to any unreimbursed cost or expense), legal or regulatory disadvantage. Nothing in this Section 2.12 shall affect or postpone any of the obligations of any Borrower or the right of any Lender provided in Section 2.10, 3.5 or 5.4.
- 2.13 **Notice of Certain Costs.** Notwithstanding anything in this Agreement to the contrary, to the extent any notice required by Section 2.10, 2.11, 3.5 or 5.4 is given by any Lender more than 180 days after such Lender has knowledge (or should have had knowledge) of the occurrence of the event giving rise to the additional cost, reduction in amounts, loss, tax or other additional amounts described in such Sections, such Lender shall not be entitled to compensation under Section 2.10, 2.11, 3.5 or 5.4, as the case may be, for any such amounts incurred or accruing prior to the 181st day prior to the giving of such notice to the Borrower.
- 2.14 **Additional Alternative Currencies.** (a) A Borrower may from time to time request that LIBOR Loans be made and/or a Letter of Credit be issued in an Additional Alternative Currency. A currency will only constitute an Additional Alternative Currency for the purposes of a Credit Event if (i) it is a lawful currency that is readily available in the amount required and freely transferable and convertible into the Base Currency in the Relevant Interbank Market on the date the Administrative Agent receives the relevant Notice of Borrowing or Letter of Credit Request (as applicable) and the date on which the Credit Event occurs, and (ii) it has been approved by the Administrative Agent (acting on the instructions of, in the case of the making of a LIBOR Loan, all the Lenders and in the case of the issuance of a Letter of Credit, all the Lenders and the Letter of Credit Issuer) on or prior to receipt by the Administrative Agent of the relevant Notice of Borrowing or Letter of Credit Request (as applicable) for that Credit Event.
- (b) Any such request for approval of an Additional Alternative Currency pursuant to clause (a) above shall be made to the Administrative Agent not later than 11:00 a.m., five Business Days prior to the date of the proposed Credit Event (or such other time or date as may be agreed by the Administrative Agent). In the case of any such request pertaining to a LIBOR Loan, the Administrative Agent shall promptly notify each Lender thereof and, in the case of any such request pertaining to the issuance of Letters of Credit, the Administrative Agent shall promptly notify each Letter of Credit Issuer thereof. Each Lender (in the case of any such request pertaining to LIBOR Loans) or the Letter of

Credit Issuer (in the case of a request pertaining to the issuance of Letters of Credit) shall notify the Administrative Agent, not later than 11:00 a.m., two Business Days after receipt of such request whether it consents, in its sole discretion, to the making of LIBOR Loans or the issuance of Letters of Credit, as the case may be, in such requested currency and the minimum amount (and, if required, integral multiples) for any subsequent Credit Event in that currency.

- (c) The failure by a Lender or any Letter of Credit Issuer, as the case may be, to respond to such notice within the time period specified in clause (b) above shall be deemed to be a refusal by such Lender or the Letter of Credit Issuer, as the case may be, to permit LIBOR Loans to be made or Letters of Credit to be issued in the requested currency.
- (d) If the Administrative Agent and all the Lenders and the Letters of Credit Issuers (as the case may be) consent to making LIBOR Loans or the issuance of Letters of Credit (as the case may be) in the currency requested by a Borrower, the Administrative Agent shall promptly notify the relevant Borrower that the requested currency is acceptable and such currency shall thereupon be deemed for all purposes to be an Additional Alternative Currency hereunder for purposes of LIBOR Loans and Letters of Credit.
- (e) The Administrative Agent shall promptly notify the relevant Borrower and the Company (if different) if any Lender and (if applicable) the Letter of Credit Issuer does not approve the relevant currency requested.

#### 2.15 Incremental Facilities.

- (a) The Company may by written notice to the Administrative Agent elect to (i) increase the Commitments (any such increase, a “New Revolving Credit Loan Commitment”) or (ii) establish an additional tranche of Commitments (the “Additional Revolving Credit Commitments”, together with the New Revolving Credit Loan Commitment, the “Incremental Commitments”) in an amount that may be incurred in compliance with this Agreement (including, without limitation, Sections 10.1 and 10.3), each of which shall be in an amount not less than \$25,000,000 individually (or such lesser amount which shall be approved by the Administrative Agent), and integral multiples of \$5,000,000 in excess of that amount. Each such notice shall specify (x) the date (each, an “Increased Amount Date”) on which the Company proposes that the Incremental Commitment shall be effective, which shall be a date not less than 10 Business Days after the date on which such notice is delivered to the Administrative Agent (or such shorter notice period as the Administrative Agent may agree in its sole discretion) and (y) the identity of each Lender or other Person (each, an “Incremental Lender”) to whom the Company proposes provide any portion of such Incremental Commitments; *provided* that any Lender approached to provide all or a portion of the Incremental Commitments may elect or decline, in its sole discretion, to provide an Incremental Commitment. Such Incremental Commitments shall become effective, as of such Increased Amount Date; *provided* that:
  - (i) after giving effect to such Incremental Commitment, the aggregate amount of all Commitments shall not exceed €750,000,000;
  - (ii) before and after giving effect to such Incremental Commitments, no Default or Event of Default shall have occurred and be continuing on such Increased Amount Date;

- (iii) before and after giving effect to such Incremental Commitments, all representations and warranties made by any Credit Party contained in this Agreement or in the other Credit Documents shall be true and correct in all material respects with the same effect as though such representations and warranties had been made on and as of such Increased Amount Date (except where such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects as of said earlier date);
  - (iv) the Incremental Commitments shall be effected pursuant to one or more joinder agreements (collectively, for any Incremental Commitment, a “Joinder Agreement”) in form and substance satisfactory to the Administrative Agent which shall be executed and delivered to the Borrowers, each Incremental Lender and the Administrative Agent, and each of which shall be recorded in the Register; and
  - (v) the Administrative Agent shall have received legal opinions and other documents reasonably requested by Administrative Agent in connection with any such transaction or required to be delivered under the applicable Joinder Agreement, *provided* that any acknowledgement of the Guaranty required to be delivered by any Guarantor and any confirmation that the Security Documents that secure the obligations of the Borrowers hereunder will continue in full force and effect, together with duly executed copies of any amendments or replacements of Security Documents that may be required shall be a condition subsequent to the applicable Increased Amount Date.
- (b) On any Increased Amount Date on which any Incremental Commitments are effective, each Incremental Lender shall become a Lender hereunder (and, in the case of an Incremental Commitment to be provided by an existing Lender, such Lender’s applicable Commitment shall be increased by the amount of its Incremental Commitment).
  - (c) The Administrative Agent shall notify the Lenders promptly upon receipt of Borrowers’ notice of each Increased Amount Date and in respect thereof the Incremental Commitments and the Incremental Lenders.
  - (d) The terms and provisions of (i) New Revolving Credit Loan Commitments shall be the same as the Commitments and (ii) Additional Revolving Credit Commitments shall be on terms and conditions substantially the same as the Commitments, provided that the maturity date of any Incremental Revolving Credit Loan shall not be earlier than the Revolving Credit Facility Maturity Date and the Incremental Commitments and the Incremental Revolving Credit Loan shall rank *pari passu* with, or junior to, in right of payment with the Initial Revolving Credit Loans.
  - (e) Upon the effectiveness of any New Revolving Credit Loan Commitment pursuant to this Section 2.15, each Lender with a Commitment immediately prior to such increase will automatically and without further act be deemed to have assigned to each Incremental Lender in respect of such increase, and each such Incremental Lender will automatically and without further act be deemed to have assumed, a portion of such Lender’s participations hereunder in outstanding Letters of Credit such that, after giving effect to such deemed assignment and assumption of participations, the percentage of the aggregate outstanding L/C Participations held by each Lender (including each such Incremental Lender) will reflect such Lender’s Commitment Percentage.

- (f) (i) The Borrowers may at any time and from time to time request that all or a portion of the Commitments of any Class, any Extended Revolving Credit Commitments and/or any Incremental Commitments, each existing at the time of such request (each, an “Existing Revolving Credit Commitment” and any related revolving credit loans thereunder, “Existing Revolving Credit Loans”; each Existing Revolving Credit Commitment and related Existing Revolving Credit Loans together being referred to as an “Existing Revolving Credit Class”) be converted to extend the termination date thereof and the scheduled maturity date(s) of any payment of principal with respect to all or a portion of any principal amount of Loans related to such Existing Revolving Credit Commitments (any such Existing Revolving Credit Commitments which have been so extended, “Extended Revolving Credit Commitments” and any related Loans, “Extended Revolving Credit Loans”) and to provide for other terms consistent with this Section 2.15(f). In order to establish any Extended Revolving Credit Commitments, the Borrower shall provide a notice to the Administrative Agent (who shall provide a copy of such notice to each of the Lenders of the applicable Class of Existing Revolving Credit Commitments which such request shall be offered equally to all such Lenders) setting forth the proposed terms of the Extended Revolving Credit Commitments to be established, which shall not be materially more restrictive to the Credit Parties (as determined in good faith by the Borrower), when taken as a whole, than the terms of the applicable Existing Revolving Credit Commitments (the “Specified Existing Revolving Credit Commitment”) unless (x) the Lenders providing existing Loans receive the benefit of such more restrictive terms or (y) any such provisions apply after the Maturity Date, in each case, to the extent provided in the applicable Extension Amendment; provided, however, that (w) all or any of the final maturity dates of such Extended Revolving Credit Commitments may be delayed to later dates than the final maturity dates of the Specified Existing Revolving Credit Commitments, (x) (A) the interest margins with respect to the Extended Revolving Credit Commitments may be higher or lower than the interest margins for the Specified Existing Revolving Credit Commitments and/or (B) additional fees and premiums may be payable to the Lenders providing such Extended Revolving Credit Commitments in addition to or in lieu of any increased margins contemplated by the preceding clause (A) and (y) the revolving credit commitment fee rate with respect to the Extended Revolving Credit Commitments may be higher or lower than the Commitment Fee Rate for the Specified Existing Revolving Credit Commitment; provided that, notwithstanding anything to the contrary in this Section 2.15(f) or otherwise, (1) the borrowing and repayment (other than in connection with a permanent repayment and termination of commitments) of Loans with respect to any Initial Revolving Credit Commitments shall be made on a pro rata basis with all other Initial Revolving Credit Commitments and (2) assignments and participations of Extended Revolving Credit Commitments and Extended Revolving Credit Loans shall be governed by the same assignment and participation provisions applicable to the Commitments and the Loans related to such Commitments set forth in Section 13.7. No Lender shall have any obligation to agree to have any of its Loans or Commitments of any Existing Revolving Credit Class converted into Extended Revolving Credit Loans or Extended Revolving Credit Commitments pursuant to any Extension Request. Any Extended Revolving Credit Commitments of any Extension Series shall constitute a separate Class of revolving credit commitments from the Specified Existing Revolving Credit Commitments and from any other Existing Revolving Credit Commitments (together with any other Extended Revolving Credit Commitments so established on such date).

- (ii) Extended Revolving Credit Commitments shall be established pursuant to an amendment (an “Extension Amendment”) to this Agreement (which, except to the extent expressly contemplated by the penultimate sentence of this Section 2.15(f)(iii) and notwithstanding anything to the contrary set forth in Section 13.2, shall not require the consent of any Lender other than the Extending Lenders with respect to the Extended Revolving Credit Commitments established thereby) executed by the Credit Parties, the Administrative Agent and the Extending Lenders. No Extension Amendment shall provide for any tranche of Extended Revolving Credit Commitments in an aggregate principal amount that is less than \$10,000,000. Notwithstanding anything to the contrary in this Section 2.15(f) and without limiting the generality or applicability of Section 13.2 to any Section 2.15 Additional Amendments, any Extension Amendment may provide for additional terms and/or additional amendments other than those contemplated above (any such additional amendment, a “Section 2.15 Additional Amendment”) to this Agreement and the other Credit Documents; provided that such Section 2.15 Additional Amendments are within the requirements of Section 2.15(f)(i) and do not become effective prior to the time that such Section 2.15 Additional Amendments have been consented to (including, without limitation, pursuant to (1) consents applicable to holders of New Revolving Credit Commitments provided for in any Joinder Agreement and (2) consents applicable to holders of any Extended Revolving Credit Commitments provided for in any Extension Amendment) by such of the Lenders, Credit Parties and other parties (if any) as may be required in order for such Section 2.15 Additional Amendments to become effective in accordance with Section 13.2.
- (iii) Notwithstanding anything to the contrary contained in this Agreement, on any date on which any Existing Class is converted to extend the related scheduled maturity date(s) in accordance with clause (i) above (an “Extension Date”), in the case of the existing Commitments of each Extending Lender, the aggregate principal amount of such existing Commitments shall be deemed reduced by an amount equal to the aggregate principal amount of Extended Revolving Credit Commitments so converted by such Lender on such date, and the Extended Revolving Credit Commitments shall be established as a separate Class of Loans (together with any other Extended Revolving Credit Commitments so established on such date).
- (iv) The Administrative Agent and the Lenders hereby consent to the consummation of the transactions contemplated by this Section 2.15 (including, for the avoidance of doubt, payment of any interest, fees, or premium in respect of any Extended Revolving Credit Commitments on such terms as may be set forth in the relevant Extension Amendment) and hereby waive the requirements of any provision of this Agreement (including, without limitation, any pro rata payment or amendment section) or any other Credit Document that may otherwise prohibit or restrict any such extension or any other transaction contemplated by this Section 2.15.
- (g) Any Lender (an “Extending Lender”) wishing to have all or a portion of its Loans of the existing Class or existing Classes subject to such Extension Request converted into Extended Revolving Credit Loans shall notify the Administrative Agent (an “Extension Election”) on or prior to the date specified in such Extension Request of the amount of its Loans of the existing Class or existing Classes subject to such Extension Request that it



has elected to convert into Extended Revolving Credit Loans. In the event that the aggregate amount of Loans of the existing Class or existing Classes subject to Extension Elections exceeds the amount of Extended Revolving Credit Loans requested pursuant to the Extension Request, Loans of the existing Class or existing Classes subject to Extension Elections shall be converted to Extended Revolving Credit Loans, on a pro rata basis based on the amount of Loans included in each such Extension Election.

## 2.16 Defaulting Lenders.

- (a) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Law:
- (i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders and Section 13.1.
  - (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 Section 11 or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 13.11 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 Letter of Credit Issuer hereunder; third, to Cash Collateralize the Letter of Credit Issuer's Fronting Exposure with respect to such Defaulting Lender in accordance with Section 3.8; fourth, as the Borrowers may request (so long as no 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 Borrowers, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize the Letter of Credit Issuer's future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 3.8; sixth, to the payment of any amounts owing to the Borrowers, the Lenders or the Letter of Credit Issuer as a result of any judgment of a court of competent jurisdiction obtained by the Borrowers, any Lender or the Letter of Credit Issuer against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and seventh, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or Letter of Credit Exposure in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 6 or 7 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and Letter of Credit Exposure owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or Letter of Credit

Exposure owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in Letter of Credit Exposure are held by the Lenders pro rata in accordance with the Commitments hereunder without giving effect to Section 2.16(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 2.16(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees.

- (A) No Defaulting Lender shall be entitled to receive any commitment fee payable under Section 4 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) 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 pro rata percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 3.4.
- (C) With respect to any Letter of Credit Fee not required to be paid to any Defaulting Lender pursuant to clause (A) or (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 Letter of Credit Exposure that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to the Letter of Credit Issuer the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such Letter of Credit's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(iv) Reallocation to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in Letter of Credit Exposure shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Commitment Percentages (calculated without regard to such Defaulting Lender's Commitment) but only to the extent that such reallocation does not cause the aggregate Credit Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's 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. If the reallocation described in clause (a)(iv) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to them hereunder or under applicable law, Cash Collateralize the Letter of Credit Issuers' Fronting Exposure in accordance with the procedures set forth in Section 3.8.

- (b) **Defaulting Lender Cure.** If the Borrower, the Administrative Agent and the Letter of Credit Issuer 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 to be held on a pro rata basis by the Lenders in accordance with their Commitment Percentages (without giving effect to Section 2.16(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.

### 3. LETTERS OF CREDIT

- 3.1 **Letters of Credit.** (a) Subject to and upon the terms and conditions herein set forth, at any time and from time to time on and from the Closing Date and prior to the L/C Maturity Date, the Letter of Credit Issuer agrees to issue upon the request of, and for the benefit of the Borrowers and the Restricted Subsidiaries standby letters of credit, letters of credit or bank guarantees in the Base Currency or any Alternative Currency (the "Letters of Credit" and each, a "Letter of Credit") in such form as may be approved by such Letter of Credit Issuer in its reasonable discretion; provided that the Company shall be a co-applicant, and jointly and severally liable with respect to, each Letter of Credit issued for the account of a Restricted Subsidiary.
- (b) Notwithstanding the foregoing, (i) no Letter of Credit shall be issued the Stated Amount of which, when added to the Letters of Credit Outstanding at such time, would exceed the L/C Sublimit then in effect; (ii) no Letter of Credit shall be issued the Stated Amount of which would cause the aggregate amount of the Lenders' Credit Exposures at such time to exceed the Total Commitments then in effect; (iii) each Letter of Credit shall have an expiration date occurring no later than one year after the date of issuance thereof, unless otherwise agreed upon by the Administrative Agent and the Letter of Credit Issuer but may by its terms be automatically renewed for additional 12 month periods, provided that in no event shall such expiration date occur later than the L/C Maturity Date; (iv) each Letter of Credit shall be denominated in the Base Currency or any Alternative Currency; (v) no Letter of Credit shall be issued if it would be illegal under any applicable Law or is prohibited by any order, judgment, decree of any Governmental Authority or arbitrator which, by its terms, purports to enjoin or restrain the Letter of Credit Issuer from issuing such Letter of Credit or any request or directive (whether or not having the force of Law) from any Governmental Authority with jurisdiction over the Letter of Credit Issuer shall prohibit, or request that the Letter of Credit Issuer refrain from, the issuance of letters of credit generally or such Letter of Credit in particular; (vi) no Letter of Credit shall be issued which is denominated in Singapore Dollars if the Stated Amount of such Letter of Credit, when added to the aggregate amount of the Lenders' Credit Exposures at such time denominated in Singapore Dollars, would exceed the Singapore Dollars Sublimit;
- (i) [Reserved]; and
- (ii) without limiting Section 7.1, no Letter of Credit shall be issued by a Letter of Credit Issuer after it has received a written notice from any Credit Party or any Lender stating that a Default or Event of Default has occurred and is continuing until such time as the Letter of Credit Issuer shall have received a written notice of (x) rescission of such notice from the party or parties originally delivering such notice or (y) the waiver of such Default or Event of Default in accordance with the provisions of Section 13.2.

- (c) Upon at least three Business Days' prior written notice (or telephonic notice promptly confirmed in writing) to the Administrative Agent and the Letter of Credit Issuer (which notice the Administrative Agent shall promptly transmit to each of the applicable Lenders), a Borrower shall have the right, on any day, permanently to terminate or reduce the L/C Sublimit in whole or in part, provided that, after giving effect to such termination or reduction, the Letters of Credit Outstanding shall not exceed the L/C Sublimit.
- 3.2 Letter of Credit Requests. (a) Whenever a Borrower desires that a Letter of Credit be issued for its account, it shall give the Administrative Agent and the Letter of Credit Issuer prior to 12:00 Noon at least five (or such lesser number as may be agreed upon by the Administrative Agent and the Letter of Credit Issuer) Business Days' written notice thereof. Each notice shall be executed by such Borrower and shall be in the form of Exhibit C (each a "Letter of Credit Request"). Each Letter of Credit Request shall specify (i) the initial Stated Amount of the Letter of Credit, (ii) the date of issuance (which shall be a Business Day) and (iii) the currency in which the Letter of Credit shall be denominated (which shall be the Base Currency or an Alternative Currency). Upon receipt of a Letter of Credit Request the Administrative Agent shall confirm there are sufficient Available Commitments and that the Singapore Dollars Sublimit will not be exceeded after giving effect to the issuance of the relevant Letter of Credit and the Administrative Agent shall promptly transmit copies of each Letter of Credit Request to each Lender.
- (b) The making of each Letter of Credit Request shall be deemed to be a representation and warranty by the relevant Borrower that the Letter of Credit may be issued in accordance with, and will not violate the requirements of, Section 3.1(b) and Section 7.
- 3.3 Letter of Credit Participations. (a) Immediately upon the issuance by the Letter of Credit Issuer of any Letter of Credit, the Letter of Credit Issuer shall be deemed to have sold and transferred to each other Lender (each such other Lender, in its capacity under this Section 3.3, an "L/C Participant"), and each such L/C Participant shall be deemed irrevocably and unconditionally to have purchased and received from the Letter of Credit Issuer, without recourse or warranty, an undivided interest and participation (each an "L/C Participation"), to the extent of such L/C Participant's Commitment Percentage in such Letter of Credit, each substitute letter of credit, each drawing made thereunder and the obligations of the relevant Borrower under this Agreement with respect thereto, and any security therefor or Guarantee pertaining thereto; provided that the Letter of Credit Fees will be paid directly to the Administrative Agent for the ratable account of the L/C Participants as provided in Section 4.1(c) and the L/C Participants shall have no right to receive any portion of any Fronting Fees.
- (b) Each Lender and each Borrower agrees that, in paying any drawing under a Letter of Credit, the Letter of Credit Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the Letter of Credit Issuer, the Administrative Agent, any of their respective

Related Parties nor any correspondent, participant or assignee of the Letter of Credit Issuer shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Lenders or the Required Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or any other document. The Borrowers hereby assume all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, however, that this assumption is not intended to, and shall not, preclude any Borrower pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the Letter of Credit Issuer, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the Letter of Credit Issuer shall be liable or responsible for any of the matters described in clauses (i) through (v) of Section 3.3(h); provided, however, that anything in such clauses to the contrary notwithstanding, the relevant Borrower may have a claim against the Letter of Credit Issuer, and the Letter of Credit Issuer may be liable to such Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by such Borrower which were caused by the Letter of Credit Issuer's willful misconduct or gross negligence or the Letter of Credit Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, the Letter of Credit Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the Letter of Credit Issuer shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason.

- (c) In the event that the Letter of Credit Issuer makes any payment under any Letter of Credit issued by it and the relevant Borrower shall not have repaid such amount in full to the respective Letter of Credit Issuer pursuant to Section 3.4, the Letter of Credit Issuer shall promptly notify the Administrative Agent and each L/C Participant of such failure, and each such L/C Participant shall promptly and unconditionally pay to the Administrative Agent for the account of the Letter of Credit Issuer, the amount of such L/C Participant's Commitment Percentage of such unreimbursed payment in the currency in which such payment was made by the Letter of Credit Issuer and in immediately available funds. If the Letter of Credit Issuer so notifies, prior to 11:00 a.m. on any Business Day, each L/C Participant shall make available to the Administrative Agent for the account of the Letter of Credit Issuer such L/C Participant's Commitment Percentage of the amount of such payment on such Business Day in immediately available funds. If and to the extent such L/C Participant shall not have so made its Commitment Percentage of the amount of such payment available to the Administrative Agent for the account of the Letter of Credit Issuer, such L/C Participant agrees to pay to the Administrative Agent for the account of the Letter of Credit Issuer, forthwith on demand, such amount, together with interest thereon for each day from such date until the date such amount is paid to the Administrative Agent for the account of the Letter of Credit Issuer at the Federal Funds Effective Rate. A certificate from the relevant Letter of Credit Issuer submitted to any L/C Participant (through the Administrative Agent) with respect to amounts owing under this Section 3.3(c) shall be conclusive absent manifest error. The failure of any L/C Participant to make available to the Administrative Agent for the account of the Letter of

Credit Issuer its Commitment Percentage of any payment under any Letter of Credit shall not relieve any other L/C Participant of its obligation hereunder to make available to the Administrative Agent for the account of the Letter of Credit Issuer its Commitment Percentage of any payment under such Letter of Credit on the date required, as specified above, but no L/C Participant shall be responsible for the failure of any other L/C Participant to make available to the Administrative Agent such other L/C Participant's Commitment Percentage of any such payment.

- (d) With respect to any Unpaid Drawing that is not fully reimbursed pursuant to Section 3.4 or refinanced by a Borrowing of Loans because the conditions set forth in Section 7 cannot be satisfied or for any other reason, the relevant Borrower shall be deemed to have incurred from the relevant Letter of Credit Issuer an L/C Borrowing in the amount of the Unpaid Borrowing that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at ABR plus the Applicable ABR Margin plus 2% per annum. In such event, each L/C Participant's payment to the Administrative Agent for the account of the relevant Letter of Credit Issuer pursuant to Section 3.3(c) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 3.3.
- (e) Each L/C Participant's obligation to make a Loan or L/C Advances to reimburse a Letter of Credit Issuer for amounts drawn under Letter of Credit, as contemplated by this Section 3.3, shall be absolute and unconditional and shall not be affected by any circumstance, including (x) any setoff, counterclaim, recoupment, defense or other right which such L/C Participant may have against the relevant Letter of Credit Issuer, any Borrower or any other Person for any reason whatsoever; (y) the occurrence or continuance of a Default or any Event of Default; or (z) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided that each Lender's obligation to make Loans pursuant to this Section 3.3(e) is subject to the conditions set forth in Section 7 (other than delivery by the relevant Borrower of a Notice of Borrowing). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the relevant Borrower to reimburse the Letter of Credit Issuer for the amount of any payment made by such Letter of Credit Issuer under any Letter of Credit, together with interest as provided herein.
- (f) Until each Lender funds its Loan or L/C Advance pursuant to this Section 3.3 to reimburse the Letter of Credit Issuer for any Unpaid Drawing, interest in respect of such Lender's Commitment Percentage of such amount shall be solely for the account of the Letter of Credit Issuer.
- (g) Whenever the Letter of Credit Issuer receives a payment from a Borrower in respect of an Unpaid Drawing as to which the Administrative Agent has received for the account of the Letter of Credit Issuer any L/C Advances from the L/C Participants pursuant to this Section 3.3, the Letter of Credit Issuer shall pay to the Administrative Agent and the Administrative Agent shall promptly pay to each L/C Participant that has paid its Commitment Percentage of such reimbursement obligation, in the relevant currency and in immediately available funds, an amount equal to such L/C Participant's share (based upon the proportionate aggregate amount originally funded by such L/C Participant to the aggregate amount funded by all L/C Participants) of the principal amount of such Unpaid Drawing and interest thereon accruing after the purchase of the respective L/C Participations.

- (h) The obligations of the Borrowers to make payments to the Administrative Agent for the account of a Letter of Credit Issuer with respect to drawings under Letters of Credit shall be absolute, unconditional and irrevocable and not subject to counterclaim, set-off or other defense or any other qualification or exception whatsoever and shall be made in accordance with the terms and conditions of this Agreement under all circumstances, including under any of the following circumstances:
- (i) any lack of validity or enforceability of the Letter of Credit, this Agreement or any of the other Credit Documents;
  - (ii) the existence of any claim, set-off, defense or other right that any Credit Party may have at any time against a beneficiary named in a Letter of Credit, any transferee of any Letter of Credit (or any Person for whom the beneficiary or any such transferee may be acting), the Administrative Agent, the relevant Letter of Credit Issuer, any Lender or other Person, whether in connection with this Agreement, any Letter of Credit, the transactions contemplated herein or any unrelated transactions (including any underlying transaction between a Borrower and the beneficiary named in any such Letter of Credit);
  - (iii) any draft, demand, certificate or any other document presented under any Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;
  - (iv) the surrender or impairment of any security for the performance or observance of any of the terms of any of the Credit Documents; or
  - (v) the occurrence of any Default or Event of Default.

3.4 Agreement to Repay Letter of Credit Drawings. Each Borrower hereby agrees to reimburse the relevant Letter of Credit Issuer, by making payment in the currency in which the relevant Letter of Credit is issued, to the Administrative Agent in immediately available funds, for any payment or disbursement made by the Letter of Credit Issuer under any Letter of Credit (each such amount so paid until reimbursed, an “Unpaid Drawing”) no later than the date that is three Business Days after the date on which the relevant Borrower receives notice of such payment or disbursement (the “Reimbursement Date”), with interest on the amount so paid or disbursed by the Letter of Credit Issuer, to the extent not reimbursed prior to 5:00 p.m. on the date of such payment or disbursement, from and including the date on which such payment or disbursement was made by the Letter of Credit Issuer to but excluding the date the Letter of Credit Issuer is reimbursed therefor at a rate *per annum* that shall at all times be the Applicable ABR Margin plus ABR as in effect from time to time, *provided* that, notwithstanding anything contained in this Agreement to the contrary, (i) unless the relevant Borrower shall have notified the Administrative Agent and the relevant Letter of Credit Issuer prior to 10:00 a.m. at least two Business Days prior to the Reimbursement Date that such Borrower intends to reimburse the relevant Letter of Credit Issuer for the amount of such drawing with funds other than the proceeds of Loans, such Borrower shall be deemed to have given a Notice of Borrowing requesting that, with respect to Letters of Credit, the Lenders make Loans on the Reimbursement Date in the relevant currency in the amount of such Unpaid Drawing which Loans, in the case of Unpaid Drawings denominated in the Base Currency, shall be ABR Loans, in the case of Unpaid Drawings denominated in Euro, shall be EURIBOR Loans and in the case of Unpaid Drawings denominated in any Alternative Currency

other than Euro, shall be LIBOR Loans; and (ii) the Administrative Agent shall promptly notify each relevant L/C Participant of such drawing and the amount of its Loan to be made on the Reimbursement Date in respect thereof, and each L/C Participant shall be obligated to make a Loan to the relevant Borrower in the manner deemed to have been requested in the amount of its Commitment Percentage of the applicable Unpaid Drawing by 12:00 noon on such Reimbursement Date by making the amount of such Loan available to the Administrative Agent if, and only if, there are Available Commitments sufficient to make such Loan and the conditions set forth in Section 7 (other than the delivery of a Notice of Borrowing) shall be satisfied. Such Loans shall be made without regard to the Minimum Borrowing Amount or multiples. The initial interest period for any EURIBOR Loan or LIBOR Loan made pursuant to this Section 3.4 shall be one month. The Administrative Agent shall use the proceeds of such Loans solely for purpose of reimbursing the Letter of Credit Issuer for the related Unpaid Drawing. In the event that the Borrower fails to Cash Collateralize any Letter of Credit that is outstanding on the L/C Maturity Date, the full amount of the Letters of Credit Outstanding in respect of such Letter of Credit shall be deemed to be an Unpaid Drawing subject to the provisions of this Section 3.4 except that the Letter of Credit Issuer shall hold the proceeds received from the L/C Participants as contemplated above as cash collateral for such Letter of Credit to reimburse any Unpaid Drawing under such Letter of Credit and shall use such proceeds first, to reimburse itself for any Unpaid Drawings made in respect of such Letter of Credit following the L/C Maturity Date, second, to the extent such Letter of Credit expires or is returned undrawn while any such cash collateral remains, to the repayment of obligations in respect of any Loans that have not been paid at such time and third, to the Borrower or as otherwise directed by a court of competent jurisdiction.

- 3.5 Increased Costs. If after the date hereof, any Change in Law, the adoption of any applicable Law, rule or regulation, or any change therein, or any change in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, or actual compliance by the Letter of Credit Issuer or any L/C Participant with any request or directive made or adopted after the date hereof (whether or not having the force of law), by any such Governmental Authority, central bank or comparable agency shall either (i) impose, modify or make applicable any reserve, deposit, capital adequacy or liquidity or similar requirement against letters of credit issued by the Letter of Credit Issuer, or any L/C Participant's L/C Participation therein, or (ii) impose on the Letter of Credit Issuer or any L/C Participant any other conditions affecting its obligations under this Agreement in respect of Letters of Credit or L/C Participations therein or any Letter of Credit or such L/C Participant's L/C Participation therein, and the result of any of the foregoing is to increase the cost to the Letter of Credit Issuer or such L/C Participant of issuing, maintaining or participating in any Letter of Credit, or to reduce the amount of any sum received or receivable by the Letter of Credit Issuer or such L/C Participant hereunder (other than any such increase or reduction attributable to Taxes) in respect of Letters of Credit or L/C Participations therein, then, promptly after receipt of written demand to each relevant Borrower by the Letter of Credit Issuer or such L/C Participant, as the case may be, (a copy of which notice shall be sent by the Letter of Credit Issuer or such L/C Participant to the Administrative Agent (with respect to Letter of Credit issued on account of such Borrower)) such Borrower shall pay to the Letter of Credit Issuer or such L/C Participant such additional amount or amounts as will compensate the Letter of Credit Issuer or such L/C Participant for such increased cost or reduction, it being understood and agreed, however, that the Letter of Credit Issuer or a L/C Participant shall not be entitled to such compensation as a result of such Person's compliance with, or pursuant to any request or directive to comply with, any such Law, rule or regulation as in effect on the date hereof. A certificate submitted to a Borrower by the relevant Letter of Credit Issuer or a L/C Participant, as the case may be, (a copy of which certificate shall be sent by the Letter of Credit Issuer or such L/C Participant to the Administrative Agent (with respect to Letters of Credit issued on account of the Borrower))



setting forth in reasonable detail the basis for the determination of such additional amount or amounts necessary to compensate the Letter of Credit Issuer or such L/C Participant as aforesaid shall be conclusive and binding on the Borrower absent clearly demonstrable error.

3.6

New or Successor Letter of Credit Issuer. (a) A Letter of Credit Issuer may resign as a Letter of Credit Issuer upon 60 days' prior written notice to the Administrative Agent, the Lenders and the Company. The Company may replace a Letter of Credit Issuer for any reason upon five Business Days' written notice to the Administrative Agent and the relevant Letter of Credit Issuer. The Company may add Letter of Credit Issuers at any time upon notice to the Administrative Agent. If the Letter of Credit Issuer shall resign or be replaced, or if a new Letter of Credit Issuer under this Agreement shall be added in accordance with this Section 3.6, then the Company may appoint from among the Lenders (who agree to act in such capacity) a successor issuer of Letters of Credit or a new Letter of Credit Issuer, as the case may be, or, with the consent of the Administrative Agent (such consent not to be unreasonably withheld), another successor or new issuer of Letters of Credit, whereupon such successor issuer shall succeed to the rights, powers and duties of the replaced or resigning Letter of Credit Issuer under this Agreement and the other Credit Documents, or such new issuer of Letters of Credit shall be granted the rights, powers and duties of a Letter of Credit Issuer hereunder, and the term "Letter of Credit Issuer" shall mean such successor or such new issuer of Letters of Credit effective upon such appointment. At the time such resignation or replacement shall become effective, the Company shall pay to the resigning or replaced Letter of Credit Issuer all accrued and unpaid fees pursuant to Sections 4.1(d) and 4.1(e). The acceptance of any appointment as a Letter of Credit Issuer hereunder whether as a successor issuer or new issuer of Letters of Credit in accordance with this Agreement, shall be evidenced by an agreement entered into by such new or successor issuer of Letters of Credit, in a form satisfactory to the Company and the Administrative Agent and, from and after the effective date of such agreement, such new or successor issuer of Letters of Credit shall become a "Letter of Credit Issuer" hereunder. After the resignation or replacement of a Letter of Credit Issuer hereunder, the resigning or replaced Letter of Credit Issuer shall remain a party hereto and shall continue to have all the rights and obligations of a Letter of Credit Issuer under this Agreement and the other Credit Documents with respect to Letters of Credit issued by it prior to such resignation or replacement, but shall not be required to issue additional Letters of Credit. In connection with any resignation or replacement pursuant to this clause (a) (but, in case of any such resignation, only to the extent that a successor issuer of Letters of Credit shall have been appointed), either (i) the Company, the resigning or replaced Letter of Credit Issuer and the successor issuer of Letters of Credit shall arrange to have any outstanding Letters of Credit issued by the resigning or replaced Letter of Credit Issuer replaced with Letters of Credit issued by the successor issuer of Letters of Credit or (ii) the Company shall cause the successor issuer of Letters of Credit, if such successor issuer is reasonably satisfactory to the replaced or resigning Letter of Credit Issuer, to issue "back-stop" Letters of Credit, in a form and substance reasonably satisfactory to the resigning or replaced Letter of Credit Issuer, naming the resigning or replaced Letter of Credit Issuer as beneficiary for each outstanding Letter of Credit issued by the resigning or replaced Letter of Credit Issuer, which new Letters of Credit shall have a face amount equal to the Letters of Credit being back-stopped and the sole requirement for drawing on such new Letters of Credit shall be a drawing on the corresponding back-stopped Letters of Credit. After any resigning or replaced Letter of Credit Issuer's resignation or replacement as Letter of Credit Issuer, the provisions of this Agreement relating to a Letter of Credit Issuer shall inure to its benefit as to any actions taken or omitted to be taken by it (A) while it was a Letter of Credit Issuer under this Agreement or (B) at any time with respect to Letters of Credit issued by such Letter of Credit Issuer.

- (b) To the extent that there are, at the time of any resignation or replacement as set forth in clause (a) above, any outstanding Letters of Credit, nothing herein shall be deemed to impact or impair any rights and obligations of any of the parties hereto with respect to such outstanding Letters of Credit (including, without limitation, any obligations related to the payment of Fees or the reimbursement or funding of amounts drawn), except that the Company, the resigning or replaced Letter of Credit Issuer and the successor issuer of Letters of Credit shall have the obligations regarding outstanding Letters of Credit described in clause (a) above.

3.7 Issuance By Affiliates. In the event that any Letter of Credit is issued by an Affiliate of a Letter of Credit Issuer on behalf of such Letter of Credit Issuer as contemplated by the definition of “Letter of Credit Issuer” all of the provisions of this Agreement applicable to Letter of Credit Issuers shall apply to and be enforceable by any such Affiliate.

3.8 Cash Collateral

- (a) Certain Credit Support Events. Upon the written request of the Administrative Agent or any Letter of Credit Issuer, if (i) as of the L/C Maturity Date, any Letter of Credit for any reason remains outstanding, (ii) the Borrower shall be required to provide Cash Collateral pursuant to Section 11.1, or (iii) the provisions of Section 2.16(a)(v) are in effect, the Borrower shall immediately (in the case of clause (ii) above) or within one Business Day (in all other cases) following any written request by the Administrative Agent or such Letter of Credit Issuer, provide Cash Collateral in an amount not less than the applicable Minimum Collateral Amount (determined in the case of Cash Collateral provided pursuant to clause (iii) above, after giving effect to Section 2.16(a)(v) 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 grant to (and subject to the control of) the Administrative Agent, for the benefit of the Administrative Agent, each Letter of Credit Issuer and the Lenders, and agree to maintain, a first priority security interest in all such cash, deposit accounts and all balances therein as described in Section 3.8(a), and all other property so provided as collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to Section 3.8(c). If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent or each Letter of Credit Issuer as herein provided, other than Permitted Liens, or the total Cash Collateral is less than the Minimum Collateral Amount, the Borrowers will, promptly upon written demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency. Cash Collateral shall be maintained in blocked, interest bearing deposit accounts with the Administrative Agent. The Borrower shall pay on demand therefor from time to time all customary account opening, activity and other administrative fees and charges in connection with the maintenance and disbursement of Cash Collateral.
- (c) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this Section 3.8 or Sections 2.16, 5.2, or 11.1 in respect of Letters of Credit shall be held and applied to the satisfaction of the specific Letters of Credit Outstanding, 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 otherwise be provided for herein.
- (d) Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or to secure other obligations shall be released promptly following (i) the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender (or, as appropriate, its assignee following compliance with Section 13.7(b)) or there is no longer existing an Event of Default) or (ii) the determination by the Administrative Agent and the Letter of Credit Issuers that there exists excess Cash Collateral.

4. **FEES; COMMITMENTS**

4.1 Fees. (a) The Company agrees to pay to the Administrative Agent, the fees and expenses in respect of the performance of such role as may be separately agreed from time to time.

(b) The Company agrees to pay to the Administrative Agent in the Base Currency, for the account of each Lender (in each case *pro rata* according to the respective Commitments of all such Lenders), a commitment fee (a "Commitment Fee") for each day from and including the Closing Date to but excluding the Termination Date. Such commitment fee shall be payable in arrears (x) on the last day of each March, June, September and December (for the three-month period (or portion thereof) ended on such day for which no payment has been received), (y) on the cancelled amount of the relevant Lender's Commitment on the date on which such Commitment is cancelled pursuant to this Agreement and (z) on the Termination Date (for the period ended on such date for which no payment has been received pursuant to clause (x) above), and shall be computed for each day during such period at a rate *per annum* equal to the Commitment Fee Rate in effect on such day on the Available Commitments in effect on such day.

Notwithstanding the foregoing, (i) any Commitment Fee accrued with respect to any of the Commitments of a Defaulting Lender during the period prior to the time such Lender became a Defaulting Lender and unpaid at such time shall not be payable by the Company so long as such Lender shall be a Defaulting Lender except to the extent that such Commitment Fee shall otherwise have been due and payable by the Company prior to such time, and (ii) no Commitment Fee shall accrue on any of the Available Commitment of a Defaulting Lender so long as such Lender shall be a Defaulting Lender.

(c) [RESERVED].

(d) The Company agrees to pay to the Administrative Agent in the Base Currency for the account of the Lenders *pro rata* on the basis of their respective Letter of Credit Exposure, a fee in respect of each Letter of Credit (the "Letter of Credit Fee"), for the period from and including the date of issuance of such Letter of Credit to but excluding the termination date of such Letter of Credit computed at the *per annum* rate for each day equal to the Applicable LIBOR Margin for Loans minus 0.125% *per annum* on the average daily Stated Amount (or, if applicable, the Base Currency Equivalent thereof) of such Letter of Credit. Such Letter of Credit Fees shall be due and payable quarterly in arrears on the last day of each March, June, September and December and on the date upon which the Total Commitment terminates and the Letters of Credit Outstanding shall have been reduced to zero.

(e) The Company agrees to pay to the Administrative Agent in the Base Currency for the account of each Letter of Credit Issuer a fee in respect of each Letter of Credit issued by it (the "Fronting Fee"), for the period from and including the date of issuance of such

Letter of Credit to but excluding the termination date of such Letter of Credit, computed at the rate for each day equal to 0.125% per annum on the average daily Stated Amount (or, if applicable, the Base Currency Equivalent thereof) of such Letter of Credit (or at such other rate per annum as agreed in writing between the Company and the Letter of Credit Issuer). Such Fronting Fees shall be due and payable quarterly in arrears on the last day of each March, June, September and December and on the date upon which the Total Commitment terminates and the Letters of Credit Outstanding shall have been reduced to zero.

- (f) The Company agrees to pay directly to the Letter of Credit Issuer in the Base Currency upon each issuance of, drawing under, amendment and/or cancellation of, a Letter of Credit issued by it such amount as the Letter of Credit Issuer and the Company shall have agreed upon for issuances of, drawings under or amendments of, Letters of Credit issued by it.

4.2 Voluntary Reduction of Commitments. Upon at least three Business Days' prior written notice (or telephonic notice promptly confirmed in writing) to the Administrative Agent at the Administrative Agent's Office (which notice the Administrative Agent shall promptly transmit to each of the Lenders), the Company (on behalf of each of the Borrowers) shall have the right, at any time, without premium or penalty, permanently to terminate or reduce the Commitments in whole or in part, provided that (a) any such reduction shall apply proportionately and permanently to reduce the Commitment of each of the Lenders, (b) any partial reduction pursuant to this Section 4.2 shall be in the amount of at least \$5,000,000 and in integral multiples of \$1,000,000 in excess thereof, (c) after giving effect to such termination or reduction and to any prepayments of the Loans made on the date thereof in accordance with this Agreement, the aggregate amount of the Lenders' Credit Exposures shall not exceed the Total Commitment and (d) if, after giving effect to any reduction of the Commitments, the Singapore Dollar Sublimit or the L/C Sublimit exceeds the amount of the Total Commitments, such limit or sublimit (as applicable) shall be automatically reduced by the amount of such excess. The amount of any such reduction in the Total Commitment reduction shall not be applied to the Singapore Dollar Sublimit or the L/C Sublimit unless otherwise specified by the Company.

4.3 Mandatory Termination of Commitments. The Total Commitments shall terminate at 5:00 p.m. on the applicable Maturity Date.

## 5. PAYMENTS

5.1 Voluntary Prepayments. The Borrowers shall have the right, at any time, to prepay Loans, without premium or penalty, in whole or in part from time to time on the following terms and conditions: (a) the Company shall give the Administrative Agent and at the Administrative Agent's Office written notice (or telephonic notice promptly confirmed in writing) of its intent to make such prepayment, the amount of such prepayment and (in the case of LIBOR Loans or EURIBOR Loans) the specific Borrowing(s) to be prepaid, which notice shall be given by such Borrower no later than (i) in the case of EURIBOR Loans, 10:00 a.m. two Business Days prior to, or (ii) in the case of LIBOR Loans denominated (x) in US Dollars, 10:00 a.m. three Business Days, and (y) in an Alternative Currency, 10:00 a.m. five Business Days prior to, the date of such prepayment and shall promptly be transmitted by the Administrative Agent to each of the Lenders; (b) each partial prepayment of any LIBOR Loans or EURIBOR Loans shall be in an integral multiple of \$1,000,000 (or its equivalent in an Alternative Currency) and in an aggregate principal amount of at least \$5,000,000 (or its equivalent in an Alternative Currency) and each partial prepayment of ABR Loans shall be in an integral multiple of \$100,000 and in an aggregate

principal amount of at least \$500,000 or, in each case, if less, the entire principal amount thereof then outstanding, provided that no partial prepayment of Loans made pursuant to a single Borrowing shall reduce the outstanding Loans made pursuant to such Borrowing to an amount less than the applicable Minimum Borrowing Amount, and (c) any prepayment of LIBOR Loans or EURIBOR Loans pursuant to this Section 5.1 on any day other than the last day of an Interest Period applicable thereto shall be subject to compliance by the relevant Borrower with the applicable provisions of Section 2.11. Each such prepayment shall be applied to the Lenders' participation in each such Loan pro rata. At the Company's election in connection with any prepayment pursuant to this Section 5.1, such prepayment shall not be applied to any Loan of a Defaulting Lender.

5.2 Mandatory Prepayments and Cash Collateral. (a) If on any Revaluation Date the aggregate amount of the Lenders' Credit Exposures (such aggregate Credit Exposures, the "Aggregate Outstandings") exceeds 100% of the Total Commitment as then in effect, the Borrowers shall forthwith repay on such Revaluation Date a principal amount of Loans in an amount (in the Base Currency) equal to such excess. If, after giving effect to the prepayment of all outstanding Loans, the Aggregate Outstandings exceed the Total Commitment then in effect, the Company shall Cash Collateralize the then Letters of Credit Outstanding in an amount (in the Base Currency) equal to such excess.

(b) In addition to the obligations under clause (a) above:

- (i) if, as of the L/C Maturity Date, there shall be any Letters of Credit Outstanding for any reason, the Company shall immediately Cash Collateralize the full amount of the then Letters of Credit Outstanding; and
- (ii) if the Administrative Agent notifies the Company on any Revaluation Date that the Letters of Credit Outstanding (in the Base Currency) at such time exceeds the L/C Sublimit then in effect, then, within two Business Days after receipt of such notice, the Company shall Cash Collateralize the then Letters of Credit Outstanding in an amount equal to the amount by which the then Letters of Credit Outstanding exceeds the L/C Sublimit.

(c) As used herein, "Cash Collateralize" means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the Letter of Credit Issuers and the Lenders, as collateral for the obligations of the Borrowers in respect of the Letters of Credit Outstanding, cash or deposit account balances pursuant to documentation in form and substance satisfactory to the Administrative Agent and the Letter of Credit Issuers which documents are hereby consented to by the Lenders and which shall permit certain Investments in Permitted Investments satisfactory to the Administrative Agent, until the proceeds are applied to the Secured Obligations. Derivatives of such term have corresponding meanings. Each Borrower hereby grants to the Administrative Agent, for the benefit of each Letter of Credit Issuer and the Lenders, a security interest in all such cash, deposit accounts and all balances therein and all proceeds of the foregoing. Cash Collateral shall be maintained in blocked, non-interest bearing deposit accounts at the Administrative Agent (or an Affiliate thereof).

(d) Any prepayment of a LIBOR Loan or EURIBOR Loan pursuant to this Section on a day other than the last day of the Interest Period applicable thereto shall be subject to compliance by the relevant Borrower with the applicable provisions of Section 2.11.

- (e) With respect to each prepayment of Loans by the Borrowers pursuant to Section 5.2(a), the Borrowers may designate the Types of Loans that are to be prepaid and the specific Borrowing(s) pursuant to which made, provided that (y) each prepayment of any Loans made pursuant to a Borrowing shall be applied *pro rata* among such Loans; and (z) notwithstanding the provisions of the preceding clause (y), no prepayment made pursuant to Section 5.2(a) of Loans shall be applied to the Loans of any Defaulting Lender. In the absence of a designation by the Borrowers as described in the preceding sentence, the Administrative Agent shall, subject to the above, make such designation in its reasonable discretion with a view, but no obligation, to minimize breakage costs owing under Section 2.11.
- (f) In lieu of making any payment pursuant to this Section 5.2 in respect of any LIBOR Loan or EURIBOR Loan other than on the last day of the Interest Period therefor and so long as no Event of Default shall have occurred and be continuing, the Borrowers, at their option may deposit with the Administrative Agent an amount equal to the amount of the LIBOR Loan or EURIBOR Loan to be prepaid and such LIBOR Loan or EURIBOR Loan (as the case may be) shall be repaid on the last day of the Interest Period therefor in the required amount with the proceeds of the amount so deposited. Such deposit shall be held by the Administrative Agent in a corporate time deposit account established on terms reasonably satisfactory to the Administrative Agent, earning interest at the then-customary rate for accounts of such type. Such deposit shall constitute cash collateral for the Secured Obligations, provided that the Borrowers may at any time direct that such deposit be applied to make the applicable payment required pursuant to this Section 5.2 (subject, in all cases, to compliance by the relevant Borrower with Section 2.11).
- (g) The Borrowers shall prepay any Borrowing made on the Closing Date in an amount equal to 100% of the Net Available Cash from the RF Power Disposition, subject to satisfaction of Indebtedness incurred in connection with the Bridge Facility (or such lesser amount as is sufficient to repay such Closing Date Borrowing in full, together with accrued interest and fees thereon to the date fixed for prepayment) not later than the later of (i) three (3) Business Days following the receipt by such Borrower or any Subsidiary thereof or (ii) if the Interest Period of such Borrowing is one week, at the end of such Interest Period. The Borrowers shall notify the Administrative Agent of the receipt of such Net Available Cash within one (1) Business Day of receipt (accompanied, in the event that such Net Available Cash is less than an amount sufficient to prepay the loans in full, together with accrued interest and fees thereon to the date fixed for prepayment, by a reasonably detailed calculation of such Net Available Cash) and the Administrative Agent will promptly notify each Lender of its receipt of such notice. Any prepayment of the Loans pursuant to this Section 5.2 shall be applied ratably to the outstanding Loans. Each such prepayment shall be made by the payment of the principal amount to be prepaid and accrued interest and fees thereon to the date fixed for prepayment.

5.3 Method and Place of Payment. (a) Except as otherwise specifically provided herein, all payments under this Agreement shall be made by each Borrower, without set-off, counterclaim or deduction of any kind, to the Administrative Agent for the ratable account of the Lenders entitled thereto or the Letter of Credit Issuer entitled thereto, as the case may be, not later than 12:00 Noon on the date when due and shall be made in immediately available funds at the Administrative Agent's Office or at such other office as the Administrative Agent shall specify for such purpose by notice to the Company, it being understood that written or facsimile notice by a Borrower to the Administrative Agent to make a payment from the funds in such Borrower's account at the Administrative Agent's Office shall constitute the making of such payment to the

extent of such funds held in such account. All repayments or prepayments of Loans (whether of principal, interest or otherwise) hereunder shall be made in the currency in which such amounts are denominated. The Administrative Agent will thereafter cause to be distributed on the same day (if payment was actually received by the Administrative Agent prior to 12:00 noon on such day) like funds relating to the payment of principal or interest or Fees ratably to the Lenders entitled thereto. If, for any reason, any Borrower is prohibited by any Law from making any required payment hereunder in an Alternative Currency, such Borrower shall make such payment in the Base Currency Equivalent of such amount.

- (b) Any payments under this Agreement that are made later than 1:00 p.m. shall be deemed to have been made on the next succeeding Business Day. Whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day and, such extension of time shall be reflected in computing interest or fees (as the case may be) at the applicable rate in effect immediately prior to such extension.

5.4 Net Payments. (a) Any and all payments made by or on behalf of any Credit Party under this Agreement or any other Credit Document shall be made free and clear of, and without deduction or withholding for or on account of, any Indemnified Taxes; provided that if a Credit Party shall be required by law to deduct or withhold any Indemnified Taxes from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions and withholdings (including deductions or withholdings applicable to additional sums payable under this Section 5.4), the Administrative Agent, the Collateral Agent or any Lender, as the case may be, receives an amount equal to the after tax sum it would have received had no such deductions or withholdings been made, (ii) the relevant Credit Party shall make such deductions or withholdings and (iii) the relevant Credit Party shall pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law. Whenever any Indemnified Taxes are payable by a Credit Party, as promptly as possible thereafter, such Credit Party shall send to the Administrative Agent for its own account or for the account of such Lender, as the case may be, a certified copy of an original official receipt in such form as provided in the ordinary course by the relevant Governmental Authority and as is reasonably available to the relevant Credit Party (or other evidence acceptable to such Lender, acting reasonably) received by such Credit Party showing payment thereof.

- (b) Each Credit Party shall pay and shall jointly and severally indemnify and hold harmless, on an after tax basis, the Administrative Agent, the Collateral Agent and each Lender (whether or not such Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority) with regard to any Other Taxes.
- (c) Each Credit Party shall jointly and severally indemnify and hold harmless, on an after tax basis, the Administrative Agent, the Collateral Agent and each Lender within 15 Business Days after written demand therefor, for the full amount of any Indemnified Taxes imposed on the Administrative Agent, the Collateral Agent or such Lender as the case may be, on or with respect to any payment by or on account of any obligation of any Credit Party hereunder or under any other Credit Document (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 5.4) and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. Upon the request of the Company, such Administrative Agent, Collateral Agent, or a Lender must provide details of how it calculated the amount of Indemnified Taxes for which it claimed liability under this Section 5.4. A certificate as to

the amount of such payment or liability delivered to a Credit Party by a Lender or by the Administrative Agent or the Collateral Agent on its own behalf or on behalf of a Lender shall be conclusive absent manifest error.

- (d) Each Lender shall to the extent it is legally entitled to do so:
- (i) upon the request of the Company or the Administrative Agent deliver to the Borrowers and the Administrative Agent two copies of any certification, information, documents or other evidence concerning the nationality, residence or identity of such Lender or make any declaration of similar claim or satisfy any other reporting requirement relating to such matters, which is required by a statute, regulation or administrative practice of a relevant Governmental Authority as a precondition to exemption from all or a part of any Taxes, assessment or other governmental charge; and
  - (ii) deliver to the Borrowers and the Administrative Agent two further copies of any such form or certification (or any applicable successor form) on or before the date that any such form or certification expires or becomes obsolete and after the occurrence of any event requiring a change in the most recent form previously delivered by it to any Borrower;

unless in any such case any Change in Law has occurred prior to the date on which any such delivery would otherwise be required that renders any such form inapplicable or would prevent such Lender from duly completing and delivering any such form with respect to it and such Lender so advises the Borrowers and the Administrative Agent. Each Person that shall become a Participant pursuant to Section 13.7 or a Lender pursuant to Section 13.7 shall, upon the effectiveness of the related transfer, be required to provide all the forms and statements required pursuant to this Section 5.4(d), provided that in the case of a Participant such Participant shall furnish all such required forms and statements to the Lender from which the related participation shall have been purchased.

- (e) If a Credit Party determines in good faith that a reasonable basis exists for contesting any taxes for which indemnification has been demanded hereunder or any other Credit Document, the relevant Lender, the Administrative Agent or the Collateral Agent, as applicable, shall cooperate with such Credit Party in challenging such taxes at such Credit Party's expense if so requested by such Credit Party. If any Lender, the Administrative Agent or the Collateral Agent, as applicable, receives a refund of, or determines that a Tax Credit is available to it with respect to, a tax for which a payment has been made by a Credit Party pursuant to this Agreement, which refund or Tax Credit in the good faith judgment of such Lender, the Administrative Agent or the Collateral Agent, as the case may be, is attributable to such payment made by such Credit Party, then the Lender, the Administrative Agent or the Collateral Agent, as the case may be, shall reimburse such Credit Party for such amount (together with any interest received thereon) as the Lender, the Administrative Agent or the Collateral Agent, as the case may be, determines to be the proportion of the refund or Tax Credit as will leave it, after such reimbursement, in no better or worse position (taking into account expenses or any taxes imposed on the refund) than it would have been in if the payment had not been required. A Lender, the Administrative Agent or the Collateral Agent shall claim any refund or Tax Credit that it determines is available to it, unless it concludes in its reasonable discretion that it would be adversely affected by making such a claim. Neither the Lender, the Administrative Agent nor the Collateral Agent shall be obliged to disclose any information regarding its tax affairs or computations to the any Credit Party in connection with this paragraph (e) or any other provision of this Section 5.4.
- (f) The agreements in this Section 5.4 shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.



5.5 Computations of Interest and Fees. (a) Interest on LIBOR Loans, EURIBOR Loans and, except as provided in the next succeeding sentence, ABR Loans shall be calculated on the basis of a 360-day year for the actual days elapsed. Interest on ABR Loans in respect of which the rate of interest is calculated on the basis of the prime rate and interest on overdue interest shall be calculated on the basis of a 365- (or 366-, as the case may be) day year for the actual days elapsed.

(b) Fees and Letters of Credit Outstanding shall be calculated on the basis of a 360-day year for the actual days elapsed.

5.6 Limit on Rate of Interest.

(a) No Payment shall exceed Lawful Rate. Notwithstanding any other term of this Agreement, no Borrower shall be obliged to pay any interest or other amounts under or in connection with this Agreement in excess of the amount or rate permitted under or consistent with any applicable law, rule or regulation.

(b) Payment at Highest Lawful Rate. If a Borrower is not obliged to make a payment which it would otherwise be required to make, as a result of Section 5.6(a), such Borrower shall make such payment to the maximum extent permitted by or consistent with applicable laws, rules and regulations.

(c) Adjustment if any Payment exceeds Lawful Rate. If any provision of this Agreement or any of the other Credit Documents would obligate any Borrower to make any payment of interest or other amount payable to any Lender in an amount or calculated at a rate which would be prohibited by any applicable Law, rule or regulation, then notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to, in the case of EURIBOR Loans and LIBOR Loans, the beginning of the relevant Interest Period or, in the case of ABR Loans, the relevant date, the maximum amount or rate of interest, as the case may be, as would not be so prohibited by Law, such adjustment to be effected, to the extent necessary, by reducing the amount or rate of interest required to be paid by such Borrower to the affected Lender under Section 2.8.

Notwithstanding the foregoing, and after giving effect to all adjustments contemplated thereby, if any Lender shall have received from any Borrower an amount in excess of the maximum permitted by any applicable Law, rule or regulation, then such Borrower shall be entitled, by notice in writing to the Administrative Agent to obtain reimbursement from that Lender in an amount equal to such excess, and pending such reimbursement, such amount shall be deemed to be an amount payable by that Lender to such Borrower.

5.7 Currency Indemnity.

(a) If any sum due from a Credit Party under the Credit Documents (a "Sum"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "First Currency") in which that Sum is payable into another currency (the

“**Second Currency**”) for the purpose of: (i) making or filing a claim or proof against that Credit Party; (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings, in either case that Credit Party shall as an independent obligation, within three Business Days of demand, indemnify each Lender to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

- (b) Each Credit Party waives any right it may have in any jurisdiction to pay any amount under the Credit Documents in a currency or currency unit other than that in which it is expressed to be payable.

## 6. **CONDITIONS PRECEDENT TO THE CLOSING DATE**

### 6.1 Conditions Precedent

The occurrence of the Closing Date and any initial Credit Events to occur at such time (including without limitation the deemed issuance of any Letter of Credit) is subject to the satisfaction (or waiver) of the following conditions precedent, except as otherwise agreed in writing between the Company and the Administrative Agent (with the consent of the requisite percentage of Lenders in accordance with the terms hereof). The Administrative Agent shall, upon such conditions precedent being satisfied (or waived as the case may be), promptly confirm such satisfaction (or waiver) in writing to the Lenders and the Company.

### 6.2 Credit Documents. The Administrative Agent shall have received:

- (a) this Agreement, executed and delivered by a duly authorized signatory of each Borrower and each Lender;
- (b) the Guaranty, executed and delivered by a duly authorized signatory of each of the Original Guarantors;
- (c) a Lien Grantor Supplement (under and as defined in the Collateral Agency Agreement), executed and delivered by each of the Original Guarantors not already party to the Collateral Agency Agreement as a Lien Grantor;
- (d) an additional secured obligations certification (under and as described in the Collateral Agency Agreement), executed and delivered by the Company, designating the Loans as Additional Secured Obligations with “*second*” ranking priority under Section 4.04 of the Collateral Agency Agreement; and designating the Collateral Agent as Additional Secured Parties under the Collateral Agency Agreement;
- (e) an Additional Secured Obligations Supplement (under and as defined in the Collateral Agency Agreement) executed and delivered by the Company and the Collateral Agent, and
- (f) a supplement to the US Security Agreement, substantially in the form of Exhibit A thereto, executed and delivered by each Original Guarantor incorporated or formed under the laws of any State of the United States which is not already a Grantor thereunder.

6.3 Collateral.

- (a) All outstanding equity interests in whatever form that is directly owned by or on behalf of the Borrower or any Original Guarantor and required to be pledged pursuant to the Security Documents shall have been pledged pursuant thereto;
- (b) the Collateral Agent shall have received the certificates to the extent required to be delivered under the Security Documents and pledged under the Security Documents to the extent certificated, accompanied by instruments of transfer and undated stock powers or allonges endorsed in blank, in each case to the extent not previously delivered to the Collateral Agent in connection with other Secured Obligations under the Collateral Agency Agreement; and
- (c) evidence that all other actions, recordings and filings required by the Security Documents as of the Closing Date and such additional actions (including the giving of notices, the filing of statements and the provision of all instruments and documents reasonably requested by the Administrative Agent) to perfect and protect the security interests of the Secured Parties under the Security Documents have been taken, completed or otherwise provided for in a manner reasonably satisfactory to the Administrative Agent,

provided that each of the requirements in clauses (a), (b) and (c) above (other than the pledge and perfection of the security interests (1) in the certificated equity securities of any (x) Wholly Owned U.S. Restricted Subsidiary (other than an Immaterial Subsidiary) held directly by the Company or any Wholly Owned U.S. Restricted Subsidiary (other than an Immaterial Subsidiary) and (2) any Wholly Owned U.S. Restricted Subsidiary (other than an Immaterial Subsidiary) of the Target (to the extent received from the Target after the Company's use of commercially reasonable efforts to procure delivery) and (2) in other assets of (x) the Company, Wholly Owned U.S. Restricted Subsidiaries (other than an Immaterial Subsidiary) of the Company and Wholly Owned U.S. Restricted Subsidiaries (other than an Immaterial Subsidiary) of the Target, in each case with respect to which a Lien may be perfected by the filing of a financing statement under the Uniform Commercial Code) shall not constitute conditions precedent to the Closing Date after the Company's use of commercially reasonable efforts to provide such items or without undue burden or expense but instead shall be subject to Section 9.12 and 9.17.

6.4 Solvency Certificate. On the Closing Date, the Administrative Agent shall have received a certificate from an Authorized Officer of the Company substantially in the form of Exhibit D-2 demonstrating, as of the Closing Date, that the Company on a consolidated basis with its Subsidiaries is solvent.

6.5 Legal Opinions. The Administrative Agent (or its counsel) shall have received the executed legal opinions of (i) special New York and Delaware counsel to the Borrowers reasonably satisfactory to the Administrative Agent and (ii) special Dutch counsel to the Borrowers reasonably satisfactory to the Administrative Agent, in each case in substantially the same form and substance as provided under and in connection with the Term Credit Agreement or otherwise in form and substance reasonably satisfactory to the Administrative Agent and, in each case, to the extent applicable to entities that are Original Credit Parties. The Borrowers, the other Original Credit Parties and the Administrative Agent hereby instruct counsel to deliver such legal opinions.

6.6 Closing Certificate. The Administrative Agent shall have received a certificate of each Original Credit Party, dated the Closing Date, substantially in the form of Exhibit D-1, with appropriate

insertions, executed by the President or any Vice President and the Secretary or any Assistant Secretary of such Original Credit Party (or where customary in the relevant jurisdiction, executed by a director of such Original Credit Party), and attaching the documents referred to in Sections 6.7 and 6.8 below and certifying as to each of Sections 6.9, 6.11 and 6.12 below.

- 6.7 Corporate Proceedings of Each Original Credit Party. The Administrative Agent shall have received a copy of the resolutions, in form and substance satisfactory to the Administrative Agent, of the Board of Directors and, to the extent required under applicable Law or the organizational documents of any Original Credit Party, the shareholders of each Original Credit Party (or a duly authorized committee thereof) authorizing (i) the execution, delivery and performance of the Credit Documents (and any agreements relating thereto) to which it is a party and (ii) in the case of the Borrowers, the extensions of credit contemplated hereunder.
- 6.8 Corporate Documents. The Administrative Agent shall have received true and complete copies of the certificate of incorporation, by-laws (or equivalent organizational documents) and, to the extent available in the relevant jurisdiction, an extract of the trade register of each Original Credit Party.
- 6.9 Representations and Warranties. (a) On the Closing Date, the Specified Representations shall be true and correct in all material respects and the Company Representations shall be true to the extent required by the Merger Agreement as a condition to closing thereunder.
- (b) All filings and other actions necessary to perfect and protect the Liens in the Collateral created under and in the manner contemplated by the U.S. Security Documents and the Dutch Security Documents shall have been duly made or taken or otherwise provided for and are in full force and effect, and the U.S. Security Documents and the Dutch Security Documents shall create in favor of the Collateral Agent for the benefit of the Secured Parties a valid and, together with such filings and other actions, perfected first priority Lien in the Collateral covered thereby, securing the payment of the Secured Obligations, subject to Liens permitted by Section 10.3. The Credit Parties shall be the legal and beneficial owners of the Collateral covered by the U.S. Security Documents and the Dutch Security Documents free and clear of any Lien, except for the Liens created or permitted under the Loan Documents. By execution of this Agreement, the Credit Parties confirm the satisfaction of this clause (b).
- 6.10 Notice of Borrowing. The Administrative Agent (or its counsel) shall have received a Notice of Borrowing with respect to the Loans to be made on the Closing Date meeting the requirements of Section 2.3.
- 6.11 Acquisition. The Acquisition shall have been or, substantially concurrently with the initial borrowing of the Loans shall be, consummated in all material respects in accordance with the terms of the Merger Agreement (or the Joint Lead Arrangers and Joint Bookrunners shall be reasonably satisfied with the arrangements in place for the consummation of the Acquisition reasonably promptly after the initial borrowing of the Loans hereunder and shall have received confirmation from representatives of the Company that such actions shall be taken promptly after the initial borrowing of the Loans hereunder).
- 6.12 No Company Material Adverse Effect. Since the date of the Merger Agreement, there has not been any Company Material Adverse Effect (as defined in the Merger Agreement), provided that clause (b) of the definition of "Company Material Adverse Effect" shall be excluded from such definition for the purposes of determining compliance with this Section 6.12.

- 6.13 Fees. All fees required to be paid on the Closing Date pursuant to the Fee Letter and reasonable and documented out-of-pocket expenses required to be paid on the Closing Date pursuant to the Commitment Letter, to the extent invoiced at least three Business Days (as defined in the Merger Agreement) prior to the Closing Date (except as otherwise reasonably agreed by the Borrowers), shall, upon the initial borrowings of the Loans, have been, or will be substantially simultaneously, paid (which amounts may, at the Borrowers' option, be offset against the proceeds of the Loans).
- 6.14 Financial Statements. The Lead Arrangers shall have received (a) the audited consolidated balance sheets of Holdings and its subsidiaries as at December 31, 2012 and December 31, 2013, and of Target and its subsidiaries as at December 31, 2012, December 31, 2013 and December 31, 2014 and the related consolidated statements of income or operations, shareholders' equity and cash flows of Holdings and its subsidiaries for the years ended December 31, 2012 and December 31, 2013 and of Target and its subsidiaries for the years ended December 31, 2012, December 31, 2013 and December 31, 2014, and, with respect to each of Holdings and its subsidiaries and Target and its subsidiaries, for any subsequent fiscal year ended at least 120 days or, in the case of Target and its subsidiaries, 90 days before the Closing Date and (b) the unaudited consolidated balance sheets of each of Holdings and its subsidiaries and Target and its subsidiaries, and the related consolidated statements of income or operations, shareholders' equity and cash flows of each of Holdings and its subsidiaries and Target and its subsidiaries for each subsequent fiscal quarter ended at least 60 days or, in the case of Target, 45 days before the Closing Date; provided that the Lead Arrangers hereby acknowledge receipt of the audited financial statements referred to in clause (a) and the unaudited financial statements of Holdings and its subsidiaries and for Target and its subsidiaries for the quarters ended March 31, 2015, June 30, 2015 and September 30, 2015; provided further that, in the case of Holdings and its subsidiaries, filing of the required financial statements on Form 20-F or 6-K, with the SEC and, in the case of Target and its subsidiaries, the filing of the required financial statements on Form 10-K or 10-Q, as applicable, with C-2 the SEC, in each case on or prior to the Closing Date will satisfy the foregoing requirements of this Section 6.14.
- 6.15 Pro Forma Balance Sheet. The Lead Arrangers and Co-Managers shall have received a pro forma consolidated balance sheet and related pro forma consolidated statements of income and cash flows of Holdings as of and for the twelve-month period ending on the last day of the most recently completed four-fiscal quarter period for which financial statements have been delivered pursuant to Section 6.14 above, prepared after giving effect to the Transactions as if the Transactions had occurred as of such date (in the case of such balance sheet) or at the beginning of such period (in the case of such other financial statements); provided that, the financial statements made available on the Form F-4 filed with the SEC on May 28, 2015 will satisfy the foregoing requirements of this Section 6.15.
- 6.16 PATRIOT Act. The Administrative Agent shall have received, at least two Business Days prior to the Closing Date, all documentation and other information about the Borrower and the Guarantors as shall have been reasonably requested in writing by the Administrative Agent at least seven calendar days prior to the Closing Date and as is mutually agreed to be required by U.S. regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation the PATRIOT Act.
- 6.17 Refinancing. The commitments of the lenders under the Existing Revolving Credit Facility shall have been, or shall be on the Closing Date, terminated and all the obligations under the Existing Revolving Credit Facility shall have been, or shall be on the Closing Date, repaid or prepaid, and the Administrative Agent shall have received evidence satisfactory to it thereof.

The acceptance of the benefits of the Loans shall constitute a representation and warranty by each Credit Party to each of the Lenders that all of the applicable conditions specified above exist as of that time.

7. **CONDITIONS PRECEDENT TO ALL CREDIT EVENTS AFTER THE CLOSING DATE**

The agreement of each Lender to make any Loan requested to be made by it on any date and the obligation of the Letter of Credit Issuer to issue Letters of Credit after the Closing Date is subject to the satisfaction (or waiver) of the following conditions precedent:

- 7.1 **No Default; Representations and Warranties.** At the time of each Credit Event and also after giving effect thereto (other than any Credit Event on the Closing Date or pursuant to any Loan made pursuant to Section 2.15(a) (which shall be subject to the terms of 2.15(a)) (a) no Default or Event of Default shall have occurred and be continuing and (b) all representations and warranties made by any Credit Party contained herein or in the other Credit Documents shall be true and correct in all material respects with the same effect as though such representations and warranties had been made on and as of the date of such Credit Event (except where such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects as of such earlier date).
- 7.2 **Notice of Borrowing; Letter of Credit Request.** (a) Prior to the making of each Loan, the Administrative Agent shall have received a Notice of Borrowing (whether in writing or by telephone) meeting the requirements of Section 2.3.
- (b) Prior to the issuance of each Letter of Credit (other than deemed issuances pursuant to the first sentence of Section 3.1(a)), the Administrative Agent and the Letter of Credit Issuer shall have received a Letter of Credit Request meeting the requirements of Section 3.1(a).

The acceptance of the benefits of each Credit Event shall constitute a representation and warranty by each Credit Party to each of the Lenders that all the applicable conditions specified above have been satisfied as of that time.

8. **REPRESENTATIONS, WARRANTIES AND AGREEMENTS**

In order to induce the Lenders and Letter of Credit Issuers to enter into this Agreement, to make the Loans and issue or participate in Letters of Credit as provided for herein, each Borrower makes the following representations and warranties to, and agreements with, the Lenders, each Agent, each Letter of Credit Issuer, all of which shall survive the execution and delivery of this Agreement and the making of the Loans and the issuance of the Letters of Credit:

- 8.1 **Organization; Powers.** Each of the Credit Parties (a) is a partnership, limited liability company, exempted company or corporation duly organized, validly existing and in good standing (or, if applicable in a foreign jurisdiction, enjoys the equivalent status under the laws of any jurisdiction of organization outside the United States) under the laws of the jurisdiction of its organization and (b) has the power and authority to execute, deliver and perform its obligations under each of the Credit Documents and each other agreement or instrument contemplated thereby to which it is or will be a party and, in the case of the Borrowers, to borrow and otherwise obtain credit hereunder.
- 8.2 **Authorization.** The execution, delivery and performance by each of the Credit Parties of each of the Credit Documents to which it is a party, and the borrowings and extensions of credit

hereunder (a) have been duly authorized by all corporate, stockholder, shareholder, limited liability company or partnership action required to be obtained by each Credit Party and (b) will not (i) violate (A) any material provision of any material law, statute, rule or regulation, or of the certificate or articles of incorporation or other constitutive documents or by-laws of any Credit Party, (B) any applicable order of any court or any rule, regulation or order of any Governmental Authority or (C) any provision of any indenture, certificate of designation for preferred stock, agreement or other instrument to which any Credit Party is a party or by which any or any of their property is or may be bound, except for any such conflict, breach or default described in this paragraph (C) that could not reasonably be expected to have a Material Adverse Effect or otherwise have a material adverse effect on the rights and remedies of the Lenders under the Credit Documents, (ii) be in conflict with, result in a breach of or constitute (alone or with notice or lapse of time or both) a default under, give rise to a right of or result in any cancellation or acceleration of any right or obligation (including any payment) or to a loss of a benefit under any such indenture, certificate of designation for preferred stock, agreement or other instrument, except for any such conflict, breach or default described in this sub-clause (ii) that (1) could not reasonably be expected to have a Material Adverse Effect or otherwise have a material adverse effect on the rights and remedies of the Lenders under the Credit Documents, or (2) result in the creation or imposition of any Lien upon or with respect to any material property or assets now owned or hereafter acquired by any Credit Party.

- 8.3 Enforceability. This Agreement has been duly executed and delivered by each Credit Party party hereto and constitutes, and each other Credit Document when executed and delivered by each Credit Party that is party thereto will constitute, a legal, valid and binding obligation of such Credit Party enforceable against each such Credit Party in accordance with its terms, subject to Debtor Relief Laws and to general principles of equity.
- 8.4 Governmental Approvals; Other Consents. No action, consent or approval of, registration or filing with or any other action by, any Governmental Authority or any other Person is or will be required in connection with the execution, delivery and performance of the Credit Documents, except for (a) such as have been made or obtained and are in full force and effect, (b) filings necessary to perfect the Liens on the Collateral granted by the Credit Parties in favor of the Secured Parties and (c) those approvals, consents, exemptions, authorizations or other actions, notices or filings, the failure of which to obtain or make could not reasonably be expected to have a Material Adverse Effect.
- 8.5 Federal Reserve Regulations. (a) No Credit Party nor any Restricted Subsidiary is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying Margin Stock.
- (b) No part of the proceeds of any Loan or the issue of any Letter of Credit will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, for any purpose that entails a violation of Regulation U or Regulation X.
- 8.6 Investment Company Act. No Credit Party nor any Restricted Subsidiary is an “investment company” as defined in, or subject to regulation under, the Investment Company Act of 1940, as amended.
- 8.7 Use of Proceeds. The proceeds of the Loans and the issuance of Letters of Credit will be used for general corporate purposes (including refinancing or repaying Indebtedness) not in contravention of any law or any Credit Document.

- 8.8 Solvency. (a) On the date hereof and on the Closing Date (i) (A) the fair value of the assets of the Company and its Subsidiaries on a consolidated basis, at a fair valuation, will exceed the debts and liabilities, direct, subordinated, contingent or otherwise, the Company and its Subsidiaries on a consolidated basis, respectively; (B) the present fair saleable value of the property of the Company and its Subsidiaries on a consolidated basis will be greater than the amount that will be required to pay the probable liability of the Company and its Subsidiaries on a consolidated basis on their debts and other liabilities, direct, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (C) the Company and its Subsidiaries on a consolidated basis will be able to pay their debts and liabilities, direct, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (D) the Company and its Subsidiaries on a consolidated basis will not have unreasonably small capital with which to conduct the businesses in which they are engaged as such businesses are now conducted and are proposed to be conducted following the Closing Date and (ii) each Credit Party (A) has not ceased, and does not expect that it will cease, making payments on its liabilities when due and (B) can, and expects that it can, obtain credit in the ordinary course of business.
- (b) No Credit Party intends to, and does not believe that it or any of the Restricted Subsidiaries will, incur debts beyond its ability to pay such debts as they mature, taking into account the timing and amounts of cash to be received by it or any such Subsidiary and the timing and amounts of cash to be payable on or in respect of its Indebtedness or the Indebtedness of any such Subsidiary.
- 8.9 Financial Statements; No Material Adverse Effect. (a) The audited financial statements of the Company as at December 31, 2014 and for the fiscal year then ended together with the notes thereto (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (ii) fairly present, in all material respects, the consolidated financial condition of the Company as of the date thereof and its results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein.
- (b) Since the date of the audited financial statements described in clause (a) above, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.
- 8.10 Litigation. Except as specifically disclosed on Schedule 8.10, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrowers, threatened in writing, at law, in equity, in arbitration or before any governmental authority, by or against the Company or any of its Restricted Subsidiaries or against any of their properties or revenues that either individually or in the aggregate, have had or could reasonably be expected to have a Material Adverse Effect.
- 8.11 No Default. Neither the Company nor any Subsidiary thereof is in default under any contractual obligation that could, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.
- 8.12 Ownership of Properties; Liens. The Company and each Subsidiary thereof has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary in the ordinary conduct of its business, except for such defects in title as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The property of the Company and its Subsidiaries is subject to no Liens, other than Permitted Liens.



- 8.13 Environmental Compliance. The Company and its Restricted Subsidiaries conduct in the ordinary course of business a review of the effect of existing Environmental Laws and claims alleging potential liability or responsibility for violation of any Environmental Law on their respective businesses, operations and properties, and as a result thereof to the best knowledge of the Company, except as specifically disclosed in Schedule 8.13, such Environmental Laws and claims could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.
- 8.14 Taxes. Except as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, the Company and its Subsidiaries have filed all federal, state and other material tax returns and reports required to be filed, and have paid all federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those (x) which are not overdue by more than 30 days or (y) which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP.
- 8.15 Subsidiaries; Equity Interests. As of the date of this Agreement, the Company has no Restricted Subsidiaries other than those specifically disclosed in Schedule 8.15, and (except as disclosed on such Schedule) all of the outstanding equity interests in such Restricted Subsidiaries have been validly issued, are fully paid and nonassessable and are owned by the Company or a Subsidiary thereof in the amounts specified in Schedule 8.15 free and clear of all Liens other than (a) those created under the Security Documents and (b) any Permitted Lien. As of the date of this Agreement, neither the Company nor any of its Subsidiaries has any equity investments in any other corporation or entity other than those permitted under this Agreement.
- 8.16 No Material Misstatements. All written information (other than projections) (the “Information”) furnished by or on behalf of any Credit Party to any Lenders or the Administrative Agent in connection with the Transactions (as such Information may have been supplemented in writing prior to the Closing Date) or the other transactions contemplated by the Credit Documents, when taken as a whole, was true and correct in all material respects, as of the date such Information was furnished to the Lenders or the Administrative Agent (as the case may be) and (in the case of such Information delivered prior to the Closing Date) as of the Closing Date and did not contain any material misstatement of fact as of any such date or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements were made; provided that, with respect to projected financial information and pro forma financial information, the Credit Parties represent only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time of preparation; it being understood that such projections may vary from actual results and that such variances may be material.
- 8.17 Compliance With Laws. The Company and each of its Restricted Subsidiaries is in compliance in all material respects with the requirements of all laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. Without limitation of the foregoing, the Company and each of its Restricted Subsidiaries is in compliance (i) with all applicable provisions of law and all applicable regulations and published interpretations thereunder with respect to any employee pension benefit plan or other social security and employee benefit plan governed by the laws in any jurisdiction in which it operates

and (ii) with the terms of any such plan, except, in each case, for (x) such requirement of law, applicable regulation, published interpretations or plan term is being contested in good faith by appropriate proceeding diligently conducted; or (y) such noncompliance that could not reasonably be expected to have a Material Adverse Effect.

8.18 Intellectual Property Licenses. The Company and its Restricted Subsidiaries own, license or possess the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other intellectual property rights (collectively, “IP Rights”) that are reasonably necessary for the operation of their respective businesses as currently conducted, without conflict with the rights of any other person, except to the extent such conflicts, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. To the best knowledge of the Company, no slogan or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by the Company or any Subsidiary infringes upon any rights held by any other person, except to the extent such infringements, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. Except as specifically disclosed in Schedule 8.18, no claim or litigation regarding any of the foregoing against the Company or its Restricted Subsidiaries is pending or, to the knowledge of the Company, threatened in writing, which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

8.19 Indebtedness Incurred Under this Agreement. Any Indebtedness Incurred under this Agreement, including any Indebtedness Incurred under any incremental facility pursuant to Section 2.15, shall (i) be deemed to have been Incurred under Section 10.1(b)(i), (ii) have Superpriority Ranking and (iii) not be reclassified pursuant to Section 10.1(c)(i).

## 9. **AFFIRMATIVE COVENANTS**

Each Borrower hereby covenants and agrees that on the Closing Date and thereafter, until the Commitments and each Letter of Credit have terminated and the Loans and Unpaid Drawings, together with interest, Fees and all other Secured Obligations incurred hereunder, are paid and performed in full:

9.1 Financial Statements. The Company will deliver to the Administrative Agent for prompt further distribution to each Lender:

- (a) beginning with the fiscal year ending December 31, 2015 as soon as available, but in any event on or before the date on which such financial statements would be required to be filed with the SEC but no later than 120 days after the end of each fiscal year (or, if such financial statements are not required to be filed with the SEC, within 120 days after the end of each fiscal year of the Company) a consolidated balance sheet of the Company and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of income or operations, shareholders’ equity and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, audited and accompanied by a report and opinion of KPMG or another registered public accounting firm of internationally recognized standing reasonably acceptable to the Administrative Agent, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any “going concern” or like qualification or exception or any qualification or exception as to the scope of such audit; and

(b) beginning with the fiscal quarter ending March 31, 2016 as soon as available, but in any event on or before the date on which such financial statements would be required to be filed with the SEC (or, if such financial statements are not required to be filed with the SEC, within 60 days after the end of each of the first three fiscal quarters of each fiscal year of the Company), a consolidated balance sheet of the Company and its Subsidiaries as at the end of such fiscal quarter, and the related consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal quarter and for the portion of the Company's fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail and certified by the chief executive officer, chief financial officer, treasurer or controller of the Company as fairly presenting in all material respects the financial condition, results of operations, shareholders' equity and cash flows of the Company and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes.

At any time that any of the Company's Subsidiaries are Unrestricted Subsidiaries and any such Unrestricted Subsidiary or group of Unrestricted Subsidiaries, if taken together as one Subsidiary, constitutes a Significant Subsidiary of the Company, then the annual and quarterly financial information required by the clauses (a) and (b) above shall include either (i) a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, of the financial condition and results of operations of the Company and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Company or (ii) stand-alone audited or unaudited financial statements, as the case may be, of such Unrestricted Subsidiary or Unrestricted Subsidiaries (as a group or otherwise) together with an unaudited reconciliation to the financial information of the Company and its Subsidiaries, which reconciliation shall include the following items: revenue, EBITDA, net income, cash, total assets, total debt, shareholders equity, capital expenditures and interest expense.

Notwithstanding the foregoing, the obligations in clauses (a) and (b) above may be satisfied with respect to financial information of the Company and its Subsidiaries by furnishing (i) the applicable financial statements of Holdings (or any direct or indirect parent of Holdings) or (ii) the Company's or Holdings' (or any direct or indirect parent thereof), as applicable, Form 20-F or 6-K, as applicable, filed with the SEC; provided that, with respect to each of sub-clauses (i) and (ii), (A) to the extent such information relates to Holdings (or a parent thereof), such information is accompanied by consolidating information that explains in reasonable detail the differences between the information relating to Holdings (or such parent), on the one hand, and the information relating to the Company and its Subsidiaries on a standalone basis, on the other hand and (B) to the extent such information is in lieu of information required to be provided under this Section 9.1, such materials are accompanied by a report and opinion of an independent registered public accounting firm of internationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit.

- 9.2 Certificates; Other Information. The Company will deliver to the Administrative Agent for prompt further distribution to each Lender:
- (a) not later than 5 Business Days after the delivery of the financial statements referred to in Section 9.1(a), a certificate of the registered public accounting firm certifying such financial statements; and
  - (b) not later than 5 Business Days after the delivery of the financial statements referred to in Section 9.1(a) and 9.1(b), a duly completed Compliance Certificate signed by the chief executive officer, chief financial officer, treasurer or controller of the Company.

Documents required to be delivered pursuant to Section 9.1(a) or 9.1(b) above may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (a) on which Holdings or the Company posts such documents, or provides a link thereto on Holdings' or the Company's website on the internet at the website address listed on Schedule 9.2; or (b) on which such documents are posted on Holdings' or the Company's behalf on an internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that: (i) upon written request by the Administrative Agent, Holdings or the Company shall deliver paper copies of such documents to the Administrative Agent for further distribution to each Lender that requests Holdings or the Company to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (ii) Holdings or the Company shall notify the Administrative Agent for further notification to each Lender (by telecopier or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Notwithstanding anything contained herein, in every instance Company shall be required to provide paper copies of the Compliance Certificates to the Administrative Agent. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents.

- 9.3 Notices. (a) Each Borrower will, or will cause the relevant Subsidiary (other than Jilin and SSMC or any other Unrestricted Subsidiary) to, promptly after a Responsible Officer of the Company or such Subsidiary obtains knowledge thereof, notify the Administrative Agent:
- (i) of the occurrence of any Default; and
  - (ii) of any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect, including (A) breach or non-performance of, or any default under, a contractual obligation of the Company or any Subsidiary thereof; (B) any dispute, litigation, investigation, proceeding or suspension between the Company or any Subsidiary thereof and any Governmental Authority; or (C) the commencement of, or any material development in, any litigation or proceeding affecting the Company or any Subsidiary thereof, including pursuant to any applicable Environmental Laws, which, in any such case, has resulted or could reasonably be expected to result in a Material Adverse Effect.
- (b) Each notice pursuant to this Section 9.3 shall be accompanied by a statement of a Responsible Officer of the Company setting forth material details of the occurrence referred to therein and stating what action the Company or the relevant Subsidiary has taken and proposes to take with respect thereto.

- 9.4 Payment of Obligations. Each Borrower will, and will cause each of its Restricted Subsidiaries to, pay and discharge as the same shall become due and payable, all its obligations and liabilities in

respect of taxes, assessments and governmental charges or levies upon it or its properties or assets, unless (a) the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves, if any, in accordance with GAAP are being maintained by the Company or such Restricted Subsidiary; or (b) the failure to pay or discharge the same could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

9.5 Preservation of Existence; Assets. Each Borrower will, and will cause each of its Restricted Subsidiaries to:

- (a) preserve, renew and maintain in full force and effect its legal existence and good standing under the laws of the jurisdiction of its organization, except to the extent the failure to do so could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect;
- (b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except (i) to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect or (ii) pursuant to a transaction permitted by Section 10.9 or 10.10; and
- (c) preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of which could reasonably be expected to have a Material Adverse Effect.

9.6 Maintenance of Properties. Each Borrower will, and will cause each of its Restricted Subsidiaries to, maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted and casualty and condemnation excepted, and make all necessary repairs thereto and renewals and replacements thereof (in accordance with prudent industry practice) except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

9.7 Maintenance of Insurance. Each Borrower will, and will cause each of its Restricted Subsidiaries to, maintain with financially sound and reputable insurance companies, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by persons engaged in the same or similar business, of such types and in such amounts (after giving effect to any self-insurance reasonable and customary for similarly situated persons engaged in the same or similar businesses as the Company and its Restricted Subsidiaries) as are customarily carried under similar circumstances by such other persons.

9.8 Compliance with Laws. Each Borrower will, and will cause each of its Restricted Subsidiaries to, comply in all material respects with the requirements of all laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which (a) such requirement of law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted; or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect. Without limitation of the foregoing, the Company and each of its Restricted Subsidiaries shall at all times comply (i) with all applicable provisions of law and all applicable regulations and published interpretations thereunder with respect to any employee pension benefit plan or other social security and employee benefit plan governed by the laws in any jurisdiction in which it operates and (ii) with the terms of any such plan (including funding obligations thereunder), except, in each case, for (x) such requirement of law, applicable regulation, published interpretations or plan term is being contested in good faith by appropriate proceeding diligently conducted; or (y) such noncompliance that could not reasonably be expected to have a Material Adverse Effect.

- 9.9 Inspection Rights. Each Borrower will, and will cause each of its Restricted Subsidiaries to, permit representatives and independent contractors of the Administrative Agent and the Required Lenders to visit and inspect any of its properties, to examine its corporate, financial and operating records, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Company; provided, however, that, excluding any such visits and inspections during the continuation of an Event of Default, only the Administrative Agent on behalf of the Lenders may exercise rights of the Administrative Agent and the Required Lenders under this Section 9.9 and the Administrative Agent shall not exercise such rights more often than two times during any calendar year absent the existence of an Event of Default and for one such time the reasonable expenses of the Administrative Agent in connection with such visit and inspection shall be for the Company's account; provided further 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 reasonable expense of the Company at any time during normal business hours and upon reasonable advance notice.
- 9.10 Use of Proceeds. Each Borrower will use the proceeds of the extensions of credit under this Agreement for general corporate purposes (including, for the avoidance of doubt, refinancing of any existing indebtedness) not in contravention of any law or any Credit Document. The proceeds of the extensions of credit will not, directly or, to the knowledge of any Borrower, indirectly, be used, lent, contributed, or otherwise made available to any Subsidiary, joint venture partner, or other Person (i) to fund any activities or business of or with any Person, or in any country or territory, that, at the time of such funding is, or whose government is, the subject of any sanctions administered or enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control or the U.S. State Department, the United Nations Security Council, the European Union, or Her Majesty's Treasury (collectively, "Sanctions"), or (ii) in any manner that would constitute an unlawful breach of Sanctions or any applicable anti-corruption laws by any Person (including any Person participating in the Loans, whether as lender, underwriter, advisor, or otherwise).
- 9.11 Guarantees by Restricted Subsidiaries. (a) Any Wholly Owned Subsidiary of the Company that is to be designated as not an Immaterial Subsidiary pursuant to the proviso to the definition thereof, if any, shall, within 60 days after the Closing Date (or such longer period as the Administrative Agent shall agree in writing in its sole discretion), provide a Guarantee of this Agreement by executing a supplement to the Guaranty in the form attached thereto.
- (b) Subject to the Agreed Security Principles, if, as of the last day of any fiscal year for which financial statements have been delivered pursuant to Section 9.1, any Wholly Owned Subsidiary of the Company or any Restricted Subsidiary constitutes a Subsidiary that is not an Immaterial Subsidiary, such Restricted Subsidiary must, within 60 days (or such longer period as the Administrative Agent may agree in writing) after the date on which the Compliance Certificate for such fiscal year is delivered, provide a Guarantee of this Agreement by executing a supplement to the Guaranty in the form attached thereto).
- (c) If the Company or any of its Restricted Subsidiaries acquires or creates a Wholly Owned Subsidiary (other than an Immaterial Subsidiary) after the Closing Date and the issuance of a Guarantee by such Guarantor is not precluded by the Agreed Security Principles, the

new Restricted Subsidiary must, within 30 days (or such longer period as the Administrative Agent may agree in writing) after becoming a Restricted Subsidiary, provide a Guarantee of this Agreement by executing a supplement to the Guaranty in the form attached thereto.

- (d) The obligations of each Guarantor under the Guaranty will be limited to the maximum amount that would not render the Guarantors obligations subject to avoidance under applicable fraudulent conveyance provisions of the United States Bankruptcy Code or any comparable provision of foreign or state law and as otherwise set forth in the Guaranty or relevant supplement to the Guaranty.
- (e) The obligations of a Guarantor under the Guaranty will terminate upon:
  - (i) a sale or other disposition (including by way of consolidation or merger) of the Guarantor or the sale or disposition of all or substantially all the assets of the Guarantor (other than to the Company or a Restricted Subsidiary), in each case, as permitted by this Agreement;
  - (ii) the designation in accordance with this Agreement of the Guarantor as an Unrestricted Subsidiary;
  - (iii) to the extent that the Guarantor is not an Immaterial Subsidiary due to the operation of the proviso to the definition of "Immaterial Subsidiary", upon the release of the guarantee or guarantees referred to in such proviso that resulted in the Guarantor not being an Immaterial Subsidiary;
  - (iv) the Guarantor becoming an Immaterial Subsidiary, tested as of the last day of any fiscal year for which financial statements have been delivered pursuant to Section 9.1 and a Compliance Certificate has been delivered pursuant to Section 9.2(b) and that Guarantor being designated by the Company pursuant to that Compliance Certificate as an Immaterial Subsidiary whose obligations under the Guaranty should terminate; or
  - (v) repayment in full of all amounts due and payable under the Credit Documents and cancellation of Commitments hereunder.

9.12 Additional Liens and Security Interests. (a) Subject to the Agreed Security Principles, within 90 days (or such longer period as the Administrative Agent may agree in writing in its sole discretion) after (i) any Restricted Subsidiary organized under the laws of the United States or the Netherlands (the "Relevant Jurisdictions") becomes a Guarantor in accordance with Section 9.11 (each such Restricted Subsidiary, a "Relevant Jurisdiction Guarantor") who as at the Closing Date has not granted security pursuant to the Security Documents or (ii) any Relevant Jurisdiction Guarantor acquires any material property in a Relevant Jurisdiction that is not automatically subject to a perfected security interest under the Security Documents, the relevant Relevant Jurisdiction Guarantor shall, in each case at its sole cost and expense, duly execute and deliver to the Administrative Agent such mortgages, deeds of trust, mortgage amendments, deed of trust amendments, security agreement supplements and other security documents, as reasonably specified by and in form and substance reasonably satisfactory to the Administrative Agent (in form and scope, and covering such collateral on such terms, in each case consistent with the mortgages, security agreements and other security documents in effect on the Closing Date), granting a security interest in favor of the Secured Parties, and take such additional actions

(including the giving of notices, the filing of statements and the provision of all instruments and documents reasonably requested by the Administrative Agent) to perfect and protect the security interests of the Secured Parties under the Security Documents. Notwithstanding the foregoing, no Credit Party shall be required to provide a security interest pursuant to this Section 9.12 (x) except as provided in Section 9.16, in cash or bank accounts prior to the occurrence of an Enforcement Event, (y) if the Agreed Security Principles would not so require or (z) over assets or properties that are not subject to Liens under the Security Documents as a result of the application of the Agreed Security Principles. Any security interest provided pursuant to this Section 9.12 shall be accompanied with such opinions of counsel to the Company as customarily given by borrower's counsel in the relevant jurisdiction (and with respect to real property in the United States, title insurance), in form and substance customary for such jurisdiction. The Company will use reasonable endeavors to procure that its counsel or title company, as the case may be, in any relevant jurisdiction provides a legal opinion in respect of any such security interest.

- (b) The obligations of a Credit Party under the Security Documents to which it is a party will terminate upon:
  - (i) such Credit Party ceasing to be a Guarantor in accordance with Section 9.11(e);
  - (ii) the designation in accordance with this Agreement of such Credit Party as an Unrestricted Subsidiary; or
  - (iii) payment and performance in full of the Secured Obligations and the cancellation of Commitments hereunder.
- (c) The assets or property of a Credit Party forming part of the Collateral shall be released from the Lien created under any Security Document to which such Credit Party is a party upon the sale or disposition of such assets or property (other than to the Company or a Restricted Subsidiary) in a transaction permitted by this Agreement (other than a sale or disposition subject to Section 10.9 or 10.10(c)).
- (d) For the avoidance of doubt, no Guarantor incorporated in a jurisdiction that is not a Relevant Jurisdiction shall be required to take any actions referred to in this Section 9.12.

9.13 Further Assurances. Subject to the Agreed Security Principles, promptly upon request by the Administrative Agent, (a) correct any material defect or error that may be discovered in any Credit Document or in the execution, acknowledgment, filing or recordation thereof, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and reregister any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent, may reasonably require from time to time in order to carry out more effectively the purposes of any Credit Document.

9.14 Insurance Endorsements. Within 10 Business Days (or such later date as the Collateral Agent and the Borrowers may agree) after the Closing Date or such later date on which a Relevant Jurisdiction Guarantor grants security to secure the Secured Obligations and the end of each calendar year, the relevant Collateral Agent shall have received endorsements naming the relevant Collateral Agent, on behalf of the Lenders, as an additional insured or loss payee, as the case may be, under all material insurance policies to be renewed following the Closing Date or entered into prior to the end of such fiscal year with respect to the properties of the Company and its Subsidiaries forming part of the Collateral.



9.15 [Reserved]

9.16 Security Over Cash and Bank Accounts.

- (a) The Company shall maintain bank accounts held, in each case, with the Collateral Agent in London and denominated in US Dollars, Euros and Sterling (each a "Initial Secured Account" and together the "Initial Secured Accounts") (pursuant to this Agreement) and shall, on the Closing Date, if such accounts are empty, deposit a nominal amount into each Initial Secured Account.
- (b) Upon the occurrence and during the continuance of an Enforcement Event the Company shall, and shall procure that each Relevant Jurisdiction Guarantor shall (i) pay the proceeds of the sale or collection of Collateral to a bank account or bank accounts that do not contain other cash of the Company or the Relevant Jurisdiction Guarantor (as the case may be) that is not the proceeds of Collateral, (ii) not commingle the proceeds of Collateral with other cash of the Company or the Relevant Jurisdiction Guarantor and (iii) pay the proceeds of Collateral denominated in US Dollars, Sterling and Euros that are paid to, or received by, the Company or a Relevant Jurisdiction Guarantor promptly to the relevant Initial Secured Account and, to the extent practicable, direct counterparties to pay the proceeds of Collateral directly to the relevant Initial Secured Account.
- (c) Upon the occurrence and during the continuance of an Enforcement Event, the Company shall, and shall procure that each Relevant Jurisdiction Guarantor shall, grant, subject to the Agreed Security Principles, a perfected Lien in all bank accounts held by the Company or any Relevant Jurisdiction Guarantor to which proceeds of Collateral are paid, to the extent of the proceeds of such Collateral (any such account, an "Additional Secured Account", and together with the Initial Secured Accounts, the "Secured Accounts"); provided that, to the extent any of the Additional Secured Accounts are or become part of the bank accounts used in the cash management system of the Company, the Company and each Relevant Jurisdiction Guarantor shall be entitled to grant a Lien over the Additional Secured Accounts in favor of the bank providing cash management facilities to secure the Company's or any Relevant Jurisdiction Guarantor's obligations to such bank, which Lien shall rank equally and ratably with the Lien created in favor of the Collateral Agent.

9.17 Conditions Subsequent to the Closing Date.

- (a) Subject to the Agreed Security Principles, as soon as is reasonably practicable following the Closing Date and in any event within 60 days thereafter or such longer period as the Administrative Agent may agree in writing in its sole discretion:
  - (i) Freescale Semiconductor, Inc. shall have executed and delivered to the Administrative Agent either (in the reasonable discretion of the Collateral Agent) (i) mortgages or deeds of trust in respect of each of the Freescale US Properties or (ii) amendments of the Existing Fast Mortgages, in each case granting (or confirming) in favor of the Collateral Agent for the benefit of the Secured Parties a valid Lien in the Freescale US Properties, securing the payment of the Secured Obligations, subject to Liens permitted by Section 10.3, in form and substance consistent with the Existing Fast Mortgages or otherwise reasonably satisfactory to the Administrative Agent, subject to the Agreed Security Principles, together with title insurance policies in form and substance similar to the title insurance policies delivered in connection with the Existing Fast Mortgages (or endorsements to such policies);

- (ii) the Collateral Agent shall have received all documents and instruments, including Uniform Commercial Code or other applicable personal property and fixture security financing statements, required by Law or reasonably requested by the Collateral Agent, as applicable, to be filed, registered or recorded in any relevant jurisdiction to create the Liens intended to be created by the Security Documents 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 such Collateral Agent for filing, registration or recording, subject to the Agreed Security Principles;
  - (iii) the Collateral Agent shall have received the executed legal opinions of special Netherlands, Arizona and Texas counsel to the Borrowers or the relevant Credit Party, in each case in substantially the same form and substance to the extent the same was provided under and in connection with the Existing Term Facility or otherwise in form and substance reasonably satisfactory to the Collateral Agent to the extent applicable to entities that are Credit Parties. The Borrowers, the other Credit Parties and the Collateral Agent hereby instruct counsel to deliver such legal opinions; and
  - (iv) All Uniform Commercial Code financing statements required to be filed, registered or recorded to create the Liens intended to be created by any Security Document entered into by the Borrowers and each Wholly Owned U.S. Restricted Subsidiary and perfect such Liens to the extent required by such Security Document shall have been delivered to the Collateral Agent, and shall be in proper form, for filing, registration or recording.
- (b) Target Merger. Within ten (10) Business Days after the Closing Date (or such longer period as the Administrative Agent may agree in writing in its sole discretion) to the extent not consummated on the Closing Date, each of Freescale Semiconductors Holdings II, Ltd, Freescale Semiconductors Holdings III, Ltd and Freescale Semiconductors Holdings IV, Ltd shall be merged with and into Target, and the Target will merge with and into Freescale Semiconductors Holdings V, Inc., which shall be an indirect subsidiary of Holdings.

9.18 RCF Parallel Debts.

- (a) Each of the Credit Parties undertakes by way of an abstract acknowledgment of indebtedness with the Collateral Agent to pay to the Collateral Agent its RCF Parallel Debts. The parties acknowledge that the Collateral Agent is the creditor of the RCF Parallel Debts and shall act in its own name and not as agent of any of the Lenders, the Joint Lead Arrangers, the Joint Bookrunners, the Administrative Agent or the Collateral Agent (each a "RCF Parallel Debt Secured Party") (but always for the benefit of the RCF Parallel Debt Secured Parties in accordance with the provisions of the Credit Documents).
- (b) Paragraph (a) above is (i) for the purpose of ensuring the validity and effect of certain security rights governed by German laws, granted by any Credit Party pursuant to the Guaranty; and (ii) without prejudice to the other provisions of the Guaranty. For the

avoidance of doubt, (i) the respective RCF Parallel Debt shall be decreased to the extent the Underlying Debt has been repaid or discharged, (ii) the Underlying Debt shall be decreased to the extent that the respective RCF Parallel Debt has been repaid or discharged, and (iii) the amount of the RCF Parallel Debt shall at all times be equal to the amount of the Underlying Debt.

- (c) Each RCF Parallel Debt is a separate and independent obligation and shall not make the Collateral Agent or any RCF Parallel Debt Secured Party a joint and several creditor of any Underlying Debt.

## 10. NEGATIVE COVENANTS

Each Borrower hereby covenants and agrees that on the Closing Date and thereafter, until the Commitments and each Letter of Credit have terminated and the Loans and Unpaid Drawings, together with interest, Fees and all other Secured Obligations incurred hereunder, are paid and performed in full:

- 10.1 Limitation on Indebtedness. (a) The Company will not, and will not permit any of its Restricted Subsidiaries to, Incur any Indebtedness (including Acquired Indebtedness); provided, however, that the Company and any of its Restricted Subsidiaries may Incur Indebtedness if on the date of such Incurrence and after giving pro forma effect thereto (including pro forma application of the proceeds thereof), the Fixed Charge Coverage Ratio for the Company and its Restricted Subsidiaries is greater than 2.00 to 1.0.

- (b) Clause (a) will not prohibit the Incurrence of the following Indebtedness:

- (i) Indebtedness Incurred pursuant to any Credit Facility (including in respect of letters of credit or bankers' acceptances issued or created thereunder and under this Agreement) and any Refinancing Indebtedness in respect thereof and Guarantees in respect of such Indebtedness in a maximum aggregate principal amount at any time outstanding not exceeding (A) €750,000,000, plus (B) in the case of any refinancing of any Indebtedness permitted under this sub-clause (i) or any portion thereof, the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses Incurred in connection with such refinancing;
- (ii) (A) (1) Guarantees by the Company or any Restricted Subsidiary of Indebtedness of the Company or any Guarantor and (2) co-issuance by the Co-Borrower of any Indebtedness of the Company, in each case so long as the Incurrence of such Indebtedness is permitted under this Agreement; or
- (B) without limiting Section 10.3, Indebtedness arising by reason of any Lien granted by or applicable to such Person securing Indebtedness of the Company or any Restricted Subsidiary so long as the Incurrence of such Indebtedness is permitted under this Agreement;

- (iii) Indebtedness of the Company owing to and held by any Restricted Subsidiary or Indebtedness of a Restricted Subsidiary owing to and held by the Company or any Restricted Subsidiary; provided, however, that:
  - (A) any subsequent issuance or transfer of Capital Stock or any other event which results in any such Indebtedness being beneficially held by a Person other than the Company or a Restricted Subsidiary of the Company; and
  - (B) any sale or other transfer of any such Indebtedness to a Person other than the Company or a Restricted Subsidiary of the Company,

shall be deemed, in each case, to constitute an Incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be;

- (iv) Indebtedness represented by (A) any Indebtedness (other than Indebtedness described in sub-clauses (i) and (iii) above) outstanding on the Closing Date, (B) Refinancing Indebtedness Incurred in respect of any Indebtedness described in this sub-clause (iv) or sub-clauses (v), (vii), or (xi) below or Incurred pursuant to clause (a) above, (C) Management Advances, (D) the Senior Notes, (E) the Term Credit Agreement in a principal amount not exceeding the original committed amount thereunder, and (F) obligations arising under a declaration of joint and several liability in respect of a Restricted Subsidiary used for the purpose of section 2:403 of the Dutch Civil Code (*Burgerlijk Wetboek*) (and any residual liability under such declaration arising pursuant to section 2:404(2) of the Dutch Civil Code) to the extent that such obligations constitute Indebtedness;
- (v) Indebtedness of any Person (x) Incurred and outstanding on the date on which such Person becomes a Restricted Subsidiary or is merged, consolidated, amalgamated or otherwise combined with (including pursuant to any acquisition of assets and assumption of related liabilities) the Company or any Restricted Subsidiary or (y) Incurred (A) to provide all or any portion of the funds utilized to consummate the transaction or series of related transactions pursuant to which such Person became a Restricted Subsidiary or was otherwise acquired by the Company or a Restricted Subsidiary or (B) otherwise in connection with or contemplation of such acquisition); provided, however, with respect to this sub-clause (v), that at the time of such acquisition or other transaction (x) the Company would have been able to Incur €1.00 of additional Indebtedness pursuant to clause (a) above after giving pro forma effect to the Incurrence of such Indebtedness pursuant to this sub-clause (v) and such merger, consolidation, amalgamation or combination, or (y) the Fixed Charge Coverage Ratio would not be lower than it was immediately prior to giving effect to such acquisition or other transaction;
- (vi) Indebtedness under Currency Agreements, Interest Rate Agreements and Commodity Hedging Agreements entered into for bona fide hedging purposes of the Company or its Restricted Subsidiaries and not for speculative purposes (as determined in good faith by the Board of Directors or Senior Management of the Company);
- (vii) Indebtedness represented by Capitalized Lease Obligations or Purchase Money Obligations, and in each case any Refinancing Indebtedness in respect thereof, in an aggregate outstanding principal amount which, when taken together with the principal amount of all other Indebtedness Incurred pursuant to this sub-clause (vii) and then outstanding, will not exceed at any time outstanding the greater of (A) €100,000,000 and (B) 1% of Total Assets;

- (viii) Indebtedness in respect of (A) workers' compensation claims, self-insurance obligations, performance, indemnity, surety, judgment, appeal, advance payment, customs, VAT or other tax or other guarantees or other similar bonds, instruments or obligations and completion guarantees and warranties provided by the Company or a Restricted Subsidiary or relating to liabilities, obligations, indemnities or guarantees Incurred in the ordinary course of business or pursuant to any governmental or regulatory requirements, (B) letters of credit, bankers' acceptances, guarantees or other similar instruments or obligations issued or relating to liabilities or obligations Incurred in the ordinary course of business, or pursuant to any governmental or regulatory requirements (C) the financing of insurance premiums in the ordinary course of business and (D) any customary cash management, cash pooling or netting or setting off arrangements in the ordinary course of business;
- (ix) Indebtedness arising from agreements providing for customary guarantees, indemnification, obligations in respect of earnouts or other adjustments of purchase price or, in each case, similar obligations, in each case, Incurred or assumed in connection with the acquisition or disposition of any business or assets or Person or any Capital Stock of a Subsidiary (other than Guarantees of Indebtedness Incurred by any Person acquiring or disposing of such business or assets or such Subsidiary for the purpose of financing such acquisition or disposition); provided that the maximum liability of the Company and its Restricted Subsidiaries in respect of all such Indebtedness shall at no time exceed the gross proceeds, including the fair market value of non-cash proceeds (measured at the time received and without giving effect to any subsequent changes in value), actually received by the Company and its Restricted Subsidiaries in connection with such disposition;
- (x) (A) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business; provided, however, that such Indebtedness is extinguished within five Business Days of Incurrence;
  - (B) Customer deposits and advance payments received in the ordinary course of business from customers for goods purchased in the ordinary course of business;
  - (C) Indebtedness owed on a short-term basis of no longer than 30 days to banks and other financial institutions Incurred in the ordinary course of business of the Company and its Restricted Subsidiaries with such banks or financial institutions that arises in connection with ordinary banking arrangements to manage cash balances of the Company and its Restricted Subsidiaries; and
  - (D) Indebtedness incurred by a Restricted Subsidiary in connection with bankers acceptances, discounted bills of exchange or the discounting or factoring of receivables for credit management purposes, in each case Incurred or undertaken in the ordinary course of business on arm's length commercial terms on a recourse basis;

- (xi) Indebtedness in an aggregate outstanding principal amount which, when taken together with any Refinancing Indebtedness in respect thereof and the principal amount of all other Indebtedness Incurred pursuant to this sub-clause (xi) and then outstanding, will not exceed €450,000,000;
  - (xii) Indebtedness in an aggregate outstanding principal amount which, when taken together with any Refinancing Indebtedness in respect thereof and the principal amount of all other Indebtedness Incurred pursuant to this sub-clause (xii) and then outstanding, will not exceed 100% of the Net Cash Proceeds received by the Company from the issuance or sale (other than to a Restricted Subsidiary) of its Capital Stock (other than Disqualified Stock, Designated Preference Shares or an Excluded Contribution) or otherwise contributed to the equity (other than through the issuance of Disqualified Stock, Designated Preference Shares or an Excluded Contribution) of the Company, in each case, subsequent to the Closing Date; provided, however, that (A) any such Net Cash Proceeds that are so received or contributed shall be excluded for purposes of making Restricted Payments under Sections 10.2(c)(i), (vi), and (x) to the extent the Company and its Restricted Subsidiaries incur Indebtedness in reliance thereon, and (B) any Net Cash Proceeds that are so received or contributed shall be excluded for purposes of incurring Indebtedness pursuant to this sub-clause (xii) to the extent the Company or any of its Restricted Subsidiaries makes a Restricted Payment under Section 10.2 and Sections 10.2(c)(i), (vi), and (x) in reliance thereon;
  - (xiii) Indebtedness of Restricted Subsidiaries Incurred as a result of (A) any governmental or regulatory restrictions, limitations or penalties in the nature of capital controls, exchange controls or similar restrictions affecting the incurrence or repayment of intercompany Indebtedness by any Restricted Subsidiary or (B) any ordinary course country risk management policies or tax planning of the Company restricting or limiting transfers or distributions from the Company or any Restricted Subsidiary to the Company or any Restricted Subsidiary, provided that the principal amount of such Indebtedness so Incurred when aggregated with other Indebtedness previously Incurred in reliance on this sub-clause (xiii) and still outstanding shall not in the aggregate exceed €350,000,000; and
  - (xiv) the Guaranty by the Company or a Restricted Subsidiary of Indebtedness of any Person in which the Company or a Restricted Subsidiary has beneficial ownership of 15% or more of the Voting Stock in respect of performance, bid or surety bonds issued by or on behalf of any such Person in the ordinary course of business in an aggregate amount, together with all other guarantees of the Company outstanding pursuant to this sub-clause (xiv) on the date of such incurrence, not to exceed €15,000,000.
- (c) For purposes of determining compliance with, and the outstanding principal amount of any particular Indebtedness Incurred pursuant to and in compliance with, this Section 10.1:
- (i) in the event that Indebtedness meets the criteria of more than one of the types of Indebtedness described in clauses (a) and (b) above, the Company, in its sole

- discretion, will classify, and may from time to time reclassify, such item of Indebtedness and only be required to include the amount and type of such Indebtedness in one of the sub-clauses of clause (b) or clause (a);
- (ii) all Indebtedness outstanding on the Closing Date (x) under the Term Credit Agreement shall be deemed initially Incurred on the Closing Date under Clause (b)(iv) (E) above, and (Y) this Agreement shall be deemed initially Incurred under clause (b)(i) above, and in each case Indebtedness may not be reclassified pursuant to sub-clause (i) above;
  - (iii) Guarantees of, or obligations in respect of letters of credit, bankers' acceptances or other similar instruments relating to, or Liens securing, Indebtedness that is otherwise included in the determination of a particular amount of Indebtedness shall not be included;
  - (iv) if obligations in respect of letters of credit, bankers' acceptances or other similar instruments are Incurred pursuant to any Credit Facility and are being treated as Incurred pursuant to clause (b)(i), (vii), (xi), (xii) or (xiii) or clause (a) above and the letters of credit, bankers' acceptances or other similar instruments relate to other Indebtedness, then such other Indebtedness shall not be included;
  - (v) the principal amount of any Disqualified Stock of the Company or a Restricted Subsidiary, or Preferred Stock of a Restricted Subsidiary, will be equal to the greater of the maximum mandatory redemption or repurchase price (not including, in either case, any redemption or repurchase premium) or the liquidation preference thereof;
  - (vi) Indebtedness permitted by this covenant need not be permitted solely by reference to one provision permitting such Indebtedness but may be permitted in part by one such provision and in part by one or more other provisions of this covenant permitting such Indebtedness; and
  - (vii) the amount of Indebtedness issued at a price that is less than the principal amount thereof will be equal to the amount of the liability in respect thereof determined on the basis of GAAP.
- (d) Accrual of interest, accrual of dividends, the accretion of accreted value, the accretion or amortization of original issue discount, the payment of interest in the form of additional Indebtedness, the payment of dividends in the form of additional shares of Preferred Stock or Disqualified Stock or the reclassification of commitments or obligations not treated as Indebtedness due to a change in GAAP, will not be deemed to be an Incurrence of Indebtedness for purposes of this Section 10.1.
  - (e) The amount of any Indebtedness outstanding as of any date shall be (i) the accreted value thereof in the case of any Indebtedness issued with original issue discount and (ii) the principal amount, or liquidation preference thereof, in the case of any other Indebtedness.
  - (f) If at any time an Unrestricted Subsidiary becomes a Restricted Subsidiary, any Indebtedness of such Subsidiary shall be deemed to be Incurred by a Restricted Subsidiary of the Company as of such date (and, if such Indebtedness is not permitted to be Incurred as of such date under this Section 10.1 the Company shall be in Default of this covenant).

- (g) For purposes of determining compliance with any euro-denominated restriction on the Incurrence of Indebtedness, the Euro Equivalent of the aggregate principal amount of Indebtedness denominated in another currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was Incurred, in the case of term Indebtedness, or, at the option of the Company, first committed, in the case of Indebtedness Incurred under a revolving credit facility; provided that (i) if such Indebtedness is Incurred to refinance other Indebtedness denominated in a currency other than euros, and such refinancing would cause the applicable euro-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such euro-denominated restriction shall be deemed not to have been exceeded so long as the aggregate principal amount of such Refinancing Indebtedness does not exceed the aggregate principal amount of such Indebtedness being refinanced; (ii) the Euro Equivalent of the aggregate principal amount of any such Indebtedness outstanding on the Closing Date shall be calculated based on the relevant currency exchange rate in effect on the Closing Date; and (iii) if and for so long as any such Indebtedness is subject to a Currency Agreement with respect to the currency in which such Indebtedness is denominated covering principal and interest on such Indebtedness, the amount of such Indebtedness, if denominated in euros, will be the amount of the principal payment required to be made under such Currency Agreement and, otherwise, the Euro Equivalent of such amount plus the Euro Equivalent of any premium which is at such time due and payable but is not covered by such Currency Agreement.
- (h) Notwithstanding any other provision of this covenant, the maximum amount of Indebtedness that the Company or a Restricted Subsidiary may Incur pursuant to this Section 10.1 shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness Incurred to refinance other Indebtedness, if Incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.
- (i) The Company may elect irrevocably to convert all Euro-denominated restrictions into US Dollar-denominated restrictions at the applicable spot rate of exchange prevailing on the date of such election, and all references in this Agreement to determining Euro Equivalents and Euro amounts shall apply mutatis mutandis as though referring to US Dollars.

10.2 Limitation on Restricted Payments. (a) The Company will not, and will not permit any of its Restricted Subsidiaries, directly or indirectly, to:

- (i) declare or pay any dividend or make any distribution on or in respect of the Company's or any Restricted Subsidiary's Capital Stock (including any payment in connection with any merger or consolidation involving the Company or any of its Restricted Subsidiaries) except:
  - (A) dividends or distributions payable in Capital Stock of the Company (other than Disqualified Stock) or in options, warrants or other rights to purchase such Capital Stock of the Company or in Subordinated Shareholder Funding; and
  - (B) dividends or distributions payable to the Company or a Restricted Subsidiary (and, in the case of any such Restricted Subsidiary making such dividend or distribution, to holders of its Capital Stock other than the Company or another Restricted Subsidiary on no more than a pro rata basis, measured by value);



- (ii) purchase, redeem, retire or otherwise acquire for value any Capital Stock of the Company or any direct or indirect Parent of the Company held by Persons other than the Company or a Restricted Subsidiary of the Company (other than in exchange for Capital Stock of the Company (other than Disqualified Stock));
- (iii) purchase, repurchase, redeem, defease or otherwise acquire or retire for value, prior to scheduled maturity, scheduled repayment or scheduled sinking fund payment, any Subordinated Indebtedness (other than in each case (A) any capitalization of Subordinated Indebtedness, (B) any such purchase, repurchase, redemption, defeasance or other acquisition or retirement or in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case, due within one year of the date of purchase, repurchase, redemption, defeasance or other acquisition or retirement and (C) any Indebtedness Incurred pursuant to Section 10.1(b)(iii)) or any Subordinated Shareholder Funding; or
- (iv) make any Restricted Investment in any Person;

(any such dividend, distribution, purchase, redemption, repurchase, defeasance, other acquisition, retirement or Restricted Investment referred to in sub-clauses (i) through (iv) above made on or after the Closing Date are referred to herein as a “Restricted Payment”), if at the time the Company or such Restricted Subsidiary makes such Restricted Payment:

- (A) a Default shall have occurred and be continuing (or would result immediately thereafter therefrom);
- (B) the Company is not able to incur an additional €1.00 of Indebtedness pursuant to Section 10.1(a) after giving effect, on a pro forma basis, to such Restricted Payment; or
- (C) the aggregate amount of such Restricted Payment and all other Restricted Payments made subsequent to February 14, 2013 (and not returned or rescinded) (including Permitted Payments permitted below by clauses (c)(vi), (x), (xi), and (xii), but excluding all other Restricted Payments permitted by clause (c)) would exceed the sum of (without duplication):
  - (1) 50% of Consolidated Net Income for the period (treated as one accounting period) from the first day of the first fiscal quarter commencing prior to February 14, 2013 to the end of the most recent fiscal quarter ending prior to the date of such Restricted Payment for which internal consolidated financial statements of the Company are available (or, in the case such Consolidated Net Income is a deficit, minus 100% of such deficit);

- (2) 100% of the aggregate Net Cash Proceeds, and the fair market value (as determined in accordance with clause (b) below) of property or assets or marketable securities, received by the Company from the issue or sale of its Capital Stock (other than Disqualified Stock or Designated Preference Shares) or Subordinated Shareholder Funding subsequent to February 14, 2013 or otherwise contributed to the equity (other than through the issuance of Disqualified Stock or Designated Preference Shares) of the Company subsequent to February 14, 2013 (other than (x) Net Cash Proceeds or property or assets or marketable securities received from an issuance or sale of such Capital Stock to a Restricted Subsidiary or an employee stock ownership plan or trust established by the Company or any Subsidiary of the Company for the benefit of its employees to the extent funded by the Company or any Restricted Subsidiary, (y) Net Cash Proceeds or property or assets or marketable securities to the extent that any Restricted Payment has been made from such proceeds in reliance on clause (c)(vi) below, and (z) Excluded Contributions);
- (3) 100% of the aggregate Net Cash Proceeds, and the fair market value (as determined in accordance with clause (b) below) of property or assets or marketable securities, received by the Company or any Restricted Subsidiary from the issuance or sale (other than to the Company or a Restricted Subsidiary or an employee stock ownership plan or trust established by the Company or any Subsidiary of the Company for the benefit of its employees to the extent funded by the Company or any Restricted Subsidiary) by the Company or any Restricted Subsidiary subsequent to February 14, 2013 of any Indebtedness that has been converted into or exchanged for Capital Stock of the Company (other than Disqualified Stock or Designated Preference Shares) or Subordinated Shareholder Funding (plus the amount of any cash, and the fair market value (as determined in accordance with clause (b) below) of property or assets or marketable securities, received by the Company or any Restricted Subsidiary upon such conversion or exchange);
- (4) the amount equal to the net reduction in Restricted Investments made by the Company or any of its Restricted Subsidiaries subsequent to February 14, 2013 resulting from:
  - (a) repurchases, redemptions or other acquisitions or retirements of any such Restricted Investment, proceeds realized upon the sale or other disposition to a Person other than the Company or a Restricted Subsidiary of any such Restricted Investment, repayments of loans or advances or other transfers of assets (including by way of dividend, distribution, interest payments or returns of capital) to the Company or any Restricted Subsidiary; or

- (b) the redesignation of Unrestricted Subsidiaries (other than SSMC) as Restricted Subsidiaries (valued, in each case, as provided in the definition of “Investment”) not to exceed, in the case of any Unrestricted Subsidiary, the amount of Investments previously made by the Company or any Restricted Subsidiary in such Unrestricted Subsidiary, which amount, in each case under this sub-paragraph (4), was included in the calculation of the amount of Restricted Payments referred to in the first sentences of this sub-clause (C); provided, however, that no amount will be included in Consolidated Net Income for purposes of sub-paragraph (1) above to the extent that it is (at the Company’s option) included under this sub-paragraph (4); and
- (5) the amount of the cash and fair market value (as determined in accordance with the next succeeding paragraph) of property or assets or of marketable securities received by the Company or any of its Restricted Subsidiaries subsequent to February 14, 2013 in connection with:
  - (a) the sale or other disposition (other than to the Company or a Restricted Subsidiary or an employee stock ownership plan or trust established by the Company or any Subsidiary of the Company for the benefit of its employees to the extent funded by the Company or any Restricted Subsidiary) of Capital Stock of an Unrestricted Subsidiary of the Company (other than SSMC); and
  - (b) any dividend or distribution made by an Unrestricted Subsidiary or Affiliate (other than SSMC) to the Company or a Restricted Subsidiary;

provided, however, that no amount will be included in Consolidated Net Income for purposes of sub-paragraph (1) above to the extent that it is (at the Company’s option) included under this sub-paragraph (5) above; provided further, however, that such amount shall not exceed the amount included in the calculation of the amount of Restricted Payments referred to in the first sentence of this sub-clause (C).

- (b) The fair market value of property or assets other than cash covered by clause (a) above shall be the fair market value thereof as determined in good faith by the Board of Directors of the Company or the relevant Restricted Subsidiary.
- (c) Clause (a) above will not prohibit any of the following (collectively, “Permitted Payments”):
  - (i) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Capital Stock, Disqualified Stock, Designated Preference Shares, Subordinated Shareholder Funding or Subordinated Indebtedness made by

exchange (including any such exchange pursuant to the exercise of a conversion right or privilege in connection with which cash is paid in lieu of the issuance of fractional shares) for, or out of the proceeds of the substantially concurrent sale of, Capital Stock of the Company (other than Disqualified Stock or Designated Preference Shares), Subordinated Shareholder Funding or a substantially concurrent contribution to the equity (other than through the issuance of Disqualified Stock or Designated Preference Shares or through an Excluded Contribution) of the Company; provided, however, that to the extent so applied, the Net Cash Proceeds, or fair market value (as determined in accordance with the preceding sentence) of property or assets or of marketable securities, from such sale of Capital Stock, Subordinated Shareholder Funding or such contribution will be excluded from clause (a)(iv)(C)(2) above;

- (ii) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Subordinated Indebtedness made by exchange for, or out of the proceeds of the substantially concurrent sale of, Refinancing Indebtedness permitted to be Incurred pursuant to Section 10.1;
- (iii) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Preferred Stock of the Company or a Restricted Subsidiary made by exchange for or out of the proceeds of the substantially concurrent sale of Preferred Stock of the Company or a Restricted Subsidiary, as the case may be, that, in each case, is permitted to be Incurred pursuant to Section 10.1, and that in each case, constitutes Refinancing Indebtedness;
- (iv) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Subordinated Indebtedness:
  - (A) (1) from Net Available Cash to the extent permitted under Section 10.5, but only if the Company shall have first complied with Section 10.5 and purchased all Loans tendered pursuant to any offer to repurchase all the Loans required thereby, prior to purchasing, repurchasing, redeeming, defeasing or otherwise acquiring or retiring such Subordinated Indebtedness and (2) at a purchase price not greater than 100% of the principal amount of such Subordinated Indebtedness plus accrued and unpaid interest;
  - (B) to the extent required by the agreement governing such Subordinated Indebtedness, following the occurrence of a Change of Control (or other similar event described therein as a “change of control”), but only (1) if the Company shall have first paid in full all amounts due under this Agreement as a result of such Change of Control and purchased all Loans tendered pursuant to the offer to repurchase all the Loans required thereby, prior to purchasing, repurchasing, redeeming, defeasing or otherwise acquiring or retiring such Subordinated Indebtedness and (2) at a purchase price not greater than 101% of the principal amount of such Subordinated Indebtedness plus accrued and unpaid interest; or
  - (C) (1) consisting of Acquired Indebtedness (other than Indebtedness Incurred (x) to provide all or any portion of the funds utilized to consummate the transaction or series of related transactions pursuant to

which such Person became a Restricted Subsidiary or was otherwise acquired by the Company or a Restricted Subsidiary or (y) otherwise in connection with or contemplation of such acquisition) and (2) at a purchase price not greater than 100% of the principal amount of such Subordinated Indebtedness plus accrued and unpaid interest and any premium required by the terms of any Acquired Indebtedness;

- (v) any dividends paid within 60 days after the date of declaration if at such date of declaration such dividend would have complied with this provision;
- (vi) the purchase, repurchase, redemption, defeasance or other acquisition, cancellation or retirement for value of Capital Stock of any Parent (including any options, warrants or other rights in respect thereof) and loans, advances, dividends or distributions by the Company to any Parent to permit any Parent to purchase, repurchase, redeem, defease or otherwise acquire, cancel or retire for value Capital Stock of any Parent (including any options, warrants or other rights in respect thereof), or payments to purchase, repurchase, redeem, defease or otherwise acquire, cancel or retire for value Capital Stock of any Parent (including any options, warrants or other rights in respect thereof), in each case from Management Investors; provided that such payments, loans, advances, dividends or distributions do not exceed an amount (net of repayments of any such loans or advances) equal to (A) €40,000,000 plus (B) €20,000,000 multiplied by the number of calendar years that have commenced since October 12, 2006 plus (C) the Net Cash Proceeds received by the Company or its Restricted Subsidiaries since October 12, 2006 (including through receipt of proceeds from the issuance or sale of its Capital Stock or Subordinated Shareholder Funding to a Parent) from, or as a contribution to the equity (in each case under this clause (C), other than through the issuance of Disqualified Stock or Designated Preference Shares) of the Company from, the issuance or sale to Management Investors of Capital Stock (including any options, warrants or other rights in respect thereof), to the extent such Net Cash Proceeds are not included in any calculation under clause (a)(iv)(C)(2) above, less (D) any such purchases, repurchases, redemptions, defeasances or other acquisitions, cancellations or retirements for value of Capital Stock and payments, loans, advances, dividends or distributions made since October 12, 2006 and prior to February 14, 2013 pursuant to the comparable provisions of notes issued by the Company;
- (vii) the declaration and payment of dividends to holders of any class or series of Disqualified Stock, or of any Preferred Stock of a Restricted Subsidiary, Incurred in accordance with Section 10.1;
- (viii) purchases, repurchases, redemptions, defeasances or other acquisitions or retirements of Capital Stock deemed to occur upon the exercise of stock options, warrants or other rights in respect thereof if such Capital Stock represents a portion of the exercise price thereof;
- (ix) dividends, loans, advances or distributions to any Parent or other payments by the Company or any Restricted Subsidiary in amounts equal to (without duplication):
  - (A) the amounts required for any Parent to pay any Parent Expenses or any Related Taxes; or
  - (B) amounts constituting or to be used for purposes of making payments (1) in connection with, and of fees and expenses Incurred in connection with, the Transactions or (2) to the extent specified in Sections 10.6(c)(ii), (iii), (v), (vii) and (xii).

- (x) so long as no Default or Event of Default has occurred and is continuing (or would result therefrom), the declaration and payment by the Company of, or loans, advances, dividends or distributions to any Parent to pay, dividends on the common stock or common equity interests of the Company or any Parent following a Public Offering of such common stock or common equity interests, in an amount not to exceed in any fiscal year the greater of (A) 6% of the Net Cash Proceeds received by the Company from such Public Offering or contributed to the equity (other than through the issuance of Disqualified Stock or Designated Preference Shares or through an Excluded Contribution) of the Company or loaned as Subordinated Shareholder Funding to the Company and (B) following the Initial Public Offering, an amount equal to the greater of (A) 7% of the Market Capitalization and (B) 7% of the IPO Market Capitalization;
- (xi) so long as no Default or Event of Default has occurred and is continuing (or would result from), Restricted Payments (including loans or advances) in an aggregate amount outstanding at any time since February 14, 2013 not to exceed €200,000,000;
- (xii) payments by the Company, or loans, advances, dividends or distributions to any Parent to make payments, to holders of Capital Stock of the Company or any Parent in lieu of the issuance of fractional shares of such Capital Stock, provided, however, that any such payment, loan, advance, dividend or distribution shall not be for the purpose of evading any limitation of this Section 10.2 or otherwise to facilitate any dividend or other return of capital to the holders of such Capital Stock (as determined in good faith by the Board of Directors);
- (xiii) Investments in an aggregate amount outstanding at any time not to exceed the aggregate cash amount of Excluded Contributions, or consisting of non-cash Excluded Contributions, or Investments to the extent made in exchange for or using as consideration Investments previously made under this sub-clause (xiii);
- (xiv) [Reserved];
- (xv) [Reserved];
- (xvi) (A) the declaration and payment of dividends to holders of any class or series of Designated Preference Shares of the Company issued after February 14, 2013; and (B) the declaration and payment of dividends to any Parent or any Affiliate thereof, the proceeds of which will be used to fund the payment of dividends to holders of any class or series of Designated Preference Shares of such Parent issued after February 14, 2013; provided, however, that, in the case of paragraphs (xvi) and (xvi), the amount of all dividends declared or paid pursuant to sub-clause (xvi) shall not exceed the Net Cash Proceeds received by the Company or the aggregate amount contributed in cash to the equity (other than through the issuance of Disqualified Stock or an Excluded Contribution or, in the case of Designated Preference Shares by Parent or an Affiliate the issuance of

Designated Preference Shares) of the Company, or loaned as Subordinated Shareholder Funding to the Company, from the issuance or sale of such Designated Preference Shares;

- (xvii) [Reserved];
  - (xviii) dividends or other distributions of Capital Stock of Unrestricted Subsidiaries (unless the Unrestricted Subsidiary's principal asset is cash and Cash Equivalents or to the extent the assets owned by such Unrestricted Subsidiary were contributed in contemplation of such dividend or distribution); other than (x) SSMC, or (y) any Unrestricted Subsidiary that is a Permitted Joint Venture which has received Investments from the Company or any Restricted Subsidiary pursuant to clause (t) of the definition of Permitted Investments (determined at the time of making such Investment); and
  - (xix) so long as no Default or Event of Default has occurred and is continuing (or would result therefrom), any dividend, distribution, loan or other payment to any Parent; provided that the Consolidated Leverage Ratio on a pro forma basis after giving effect to any such dividend, distribution, loan or other payment does not exceed 3.25 to 1.00.
- (d) The amount of all Restricted Payments (other than cash) shall be the fair market value on the date of such Restricted Payment of the asset(s) or securities proposed to be paid, transferred or issued by the Company or such Restricted Subsidiary, as the case may be, pursuant to such Restricted Payment. The fair market value of any cash Restricted Payment shall be its face amount, and the fair market value of any non-cash Restricted Payment shall be determined conclusively by the Board of Directors of the Company acting in good faith.
- (e) In addition to the foregoing, it will be a breach of this Section 10.2 if any of the Initial Investors receives directly or indirectly from SSMC payments that would, if made by the Company, constitute Restricted Payments of the types described in clauses (a)(i) to (iii) above (inclusive), other than through distributions and dividends (x) to the Company and the making of such payments by the Company in a manner permitted by the covenant set forth above or (y) on a pro rata basis (proportionate to its ownership of SSMC) to another portfolio company of any Initial Investor, or, in the case of Philips, another operating subsidiary, engaged in an active business that owns Capital Stock of SSMC at such time.

10.3 Limitation on Liens. (a) The Company will not, and will not permit any Restricted Subsidiary to, directly or indirectly, create, incur or suffer to exist any Lien upon any of its property or assets (including Capital Stock of a Restricted Subsidiary of the Company), whether owned on the Closing Date or acquired after that date, or any interest therein or any income or profits therefrom, which Lien secures any Indebtedness (such Lien, the "Initial Lien") other than (i) Permitted Liens or (ii) Liens on property or assets that are not Collateral and are not Permitted Liens if the Loans and the obligations under this Agreement are directly secured equally and ratably with, or prior to, in the case of Liens with respect to Subordinated Indebtedness, the Indebtedness secured by such Initial Lien for so long as such Indebtedness is so secured. It is understood that Liens on Collateral in favor of Indebtedness under Section 10.1(b)(i) and obligations under Hedging Agreements provided by Lenders or Affiliates of Lenders (at the time such Hedging Agreements were entered into) may have super priority not materially less favorable to the Lenders than that accorded to this Agreement on the Closing Date.

- (b) Any such Lien created in favor of the Loans pursuant to Section 10.3(a)(ii) will be automatically and unconditionally released and discharged upon (i) the release and discharge of the Initial Lien to which it relates or (ii) any sale, exchange or transfer to any person other than the Company or any Subsidiary of the Company of the property or assets secured by such Initial Lien.
- (c) Any such Lien on Collateral shall, at the election of the Company, rank equal to or junior to the Liens securing the Loans and the obligations under this Agreement, except that any Lien in favor of Indebtedness incurred under Section 10.1(b)(i) or obligations under Hedging Agreements provided by Lenders or Affiliates of Lenders (at the time such Hedging Agreements were entered into) may have super priority not materially less favorable to the Lenders than that accorded to this Agreement on the Closing Date. Without limitation of the foregoing, (i) Indebtedness under this Agreement will in all events be entitled to the priority of “second” under Section 4.04 of the Collateral Agency Agreement as in effect on the date hereof (“Superpriority Ranking”) and (ii) in no event will the aggregate principal amount of Indebtedness (including under this Agreement but excluding obligations under Hedging Agreements provided by Lenders or Affiliates of Lenders (at the time such Hedging Agreements were entered into)) entitled to such Superpriority Ranking exceed €750,000,000.

10.4 Limitation on Restrictions on Distributions from Restricted Subsidiaries. (a) The Company will not, and will not permit any Restricted Subsidiary to, create or otherwise cause or permit to exist or become effective any consensual encumbrance or consensual restriction on the ability of any Restricted Subsidiary to:

- (i) pay dividends or make any other distributions in cash or otherwise on its Capital Stock or pay any Indebtedness or other obligations owed to the Company or any Restricted Subsidiary;
- (ii) make any loans or advances to the Company or any Restricted Subsidiary; or
- (iii) sell, lease or transfer any of its property or assets to the Company or any Restricted Subsidiary;

provided that (x) the priority of any Preferred Stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on common stock and (y) the subordination of (including the application of any standstill requirements to) loans or advances made to the Company or any Restricted Subsidiary to other Indebtedness Incurred by the Company or any Restricted Subsidiary shall not be deemed to constitute such an encumbrance or restriction.

(b) Clause (a) will not prohibit:

- (i) any encumbrance or restriction pursuant to (A) any Credit Facility (including the Credit Documents) or (B) any other agreement or instrument, in each case, in effect at or entered into on the Closing Date;
- (ii) any encumbrance or restriction pursuant to an agreement or instrument of a Person or relating to any Capital Stock or Indebtedness of a Person, entered into on or before the date on which such Person was acquired by or merged, consolidated or otherwise combined with or into the Company or any Restricted



Subsidiary, or was designated as a Restricted Subsidiary or on which such agreement or instrument is assumed by the Company or any Restricted Subsidiary in connection with an acquisition of assets (other than Capital Stock or Indebtedness Incurred as consideration in, or to provide all or any portion of the funds utilized to consummate, the transaction or series of related transactions pursuant to which such Person became a Restricted Subsidiary or was acquired by the Company or was merged, consolidated or otherwise combined with or into the Company or any Restricted Subsidiary entered into or in connection with such transaction) and outstanding on such date; provided that, for the purposes of this sub-clause (ii), if another Person is the Successor Company, any Subsidiary thereof or agreement or instrument of such Person or any such Subsidiary shall be deemed acquired or assumed by the Company or any Restricted Subsidiary when such Person becomes the Successor Company;

- (iii) any encumbrance or restriction pursuant to an agreement or instrument effecting a refinancing of Indebtedness Incurred pursuant to, or that otherwise refinances, an agreement or instrument referred to in sub-clause (i) or (ii) above or this sub-clause (iii) (an "Initial Agreement") or contained in any amendment, supplement or other modification to an agreement referred to in sub-clause (i) or (ii) above or this sub-clause (iii); provided, however, that the encumbrances and restrictions with respect to such Restricted Subsidiary contained in any such agreement or instrument are no less favorable in any material respect to the Lenders taken as a whole than the encumbrances and restrictions contained in the Initial Agreement or Initial Agreements to which such refinancing or amendment, supplement or other modification relates (as determined in good faith by the Company);
- (iv) any encumbrance or restriction:
  - (A) that restricts in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease, license or similar contract, or the assignment or transfer of any lease, license or other contract;
  - (B) contained in mortgages, pledges or other security agreements permitted under this Agreement or securing Indebtedness of the Company or a Restricted Subsidiary permitted under this Agreement to the extent such encumbrances or restrictions restrict the transfer of the property or assets subject to such mortgages, pledges or other security agreements; or
  - (C) pursuant to customary provisions restricting dispositions of real property interests set forth in any reciprocal easement agreements of the Company or any Restricted Subsidiary;
- (v) any encumbrance or restriction pursuant to Purchase Money Obligations and Capitalized Lease Obligations permitted under this Agreement, in each case, that impose encumbrances or restrictions on the property so acquired or any encumbrance or restriction pursuant to a joint venture agreement that imposes restrictions on the transfer of the assets of the joint venture;
- (vi) any encumbrance or restriction with respect to a Restricted Subsidiary (or any of its property or assets) imposed pursuant to an agreement entered into for the

- direct or indirect sale or disposition to a Person of all or substantially all the Capital Stock or assets of such Restricted Subsidiary (or the property or assets that are subject to such restriction) pending the closing of such sale or disposition;
- (vii) customary provisions in leases, licenses, joint venture agreements and other similar agreements and instruments entered into in the ordinary course of business;
  - (viii) encumbrances or restrictions arising or existing by reason of applicable law or any applicable rule, regulation or order, or required by any regulatory authority;
  - (ix) any encumbrance or restriction on cash or other deposits or net worth imposed by customers under agreements entered into in the ordinary course of business;
  - (x) any encumbrance or restriction pursuant to Currency Agreements, Interest Rate Agreements or Commodity Hedging Agreements;
  - (xi) any encumbrance or restriction arising pursuant to an agreement or instrument relating to any Indebtedness permitted to be Incurred subsequent to the Closing Date pursuant to Section 10.1 if the encumbrances and restrictions contained in any such agreement or instrument taken as a whole are not materially less favorable to the Lenders than (A) the encumbrances and restrictions contained in this Agreement, together with the Security Documents associated therewith as in effect on the Closing Date or (B) in comparable financings (as determined in good faith by the Company) and where, in the case of paragraph (B), the Company determines at the time of issuance of such Indebtedness that such encumbrances or restrictions will not adversely affect, in any material respect, the Borrowers' ability to make principal or interest payments on the Loans or Unpaid Drawings;
  - (xii) [Reserved]; or
  - (xiii) any encumbrance or restriction existing by reason of any Lien permitted under Section 10.3.

10.5 Limitation on Sales of Assets and Subsidiary Stock. (a) The Company will not, and will not permit any of its Restricted Subsidiaries to, make any Asset Disposition unless:

- (i) the Company or such Restricted Subsidiary, as the case may be, receives consideration (including by way of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise) at least equal to the fair market value (such fair market value to be determined on the date of contractually agreeing to such Asset Disposition), as determined in good faith by the Board of Directors of the Company, of the shares and assets subject to such Asset Disposition (including, for the avoidance of doubt, if such Asset Disposition is a Permitted Asset Swap);
- (ii) in any such Asset Disposition, or series of related Asset Dispositions (except to the extent the Asset Disposition is a Permitted Asset Swap), at least 75% of the consideration from such Asset Disposition (excluding any consideration by way

of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise, other than Indebtedness) received by the Company or such Restricted Subsidiary, as the case may be, is in the form of cash, Cash Equivalents or Temporary Cash Investments; and

- (iii) an amount equal to 100% of the Net Available Cash from such Asset Disposition is applied by the Company or such Restricted Subsidiary, as the case may be:
- (A) to the extent the Company or any Restricted Subsidiary, as the case may be, elects (or is required by the terms of any Indebtedness of a Restricted Subsidiary), (1) to prepay, repay or purchase any Indebtedness of a non-Guarantor Restricted Subsidiary (in each case, other than Indebtedness owed to the Company or any Restricted Subsidiary), any Secured Indebtedness secured by Other Liens or Indebtedness under this Agreement (or any Refinancing Indebtedness in respect thereof) within 365 days from the later of (x) the date of such Asset Disposition and (y) the receipt of such Net Available Cash; provided, however, that in connection with any prepayment, repayment or purchase of Indebtedness pursuant to this paragraph (A), the Company or such Restricted Subsidiary will retire such Indebtedness and will cause the related commitment (if any) (except in the case of this Agreement) to be permanently reduced in an amount equal to the principal amount so prepaid, repaid or purchased; or (2) to prepay, repay or purchase Pari Passu Indebtedness at a price of no more than 100% of the principal amount of such Pari Passu Indebtedness plus accrued and unpaid interest to the date of such prepayment, repayment or purchase; provided that the Company shall redeem, repay or repurchase Pari Passu Indebtedness pursuant to this sub-paragraph (A) only if the Company makes (at such time or subsequently in compliance with this Section 10.5 an offer to Lenders to purchase Loans in accordance with the provisions set forth below for an Asset Disposition Offer for an aggregate principal amount of Loans at least equal to the proportion that (x) the total aggregate principal amount of Loans outstanding bears to (y) the sum of the total aggregate principal amount of Loans outstanding plus the total aggregate principal amount outstanding of such Pari Passu Indebtedness; or
- (B) to the extent the Company or such Restricted Subsidiary elects, to invest in or commit to invest in Additional Assets (including by means of an investment in Additional Assets by a Restricted Subsidiary with Net Available Cash received by the Company or another Restricted Subsidiary) within 365 days from the later of (1) the date of such Asset Disposition and (2) the receipt of such Net Available Cash; provided, however, that any such reinvestment in Additional Assets made pursuant to a definitive binding agreement or a commitment approved by the Board of Directors of the Company that is executed or approved within such time will satisfy this requirement, so long as such investment is consummated within 180 days of such 365th day; provided that to the extent that any disposition in such Asset Sale was of Collateral, the assets (including Voting Stock) acquired with the Net Cash Proceeds thereof shall, subject to the Agreed Security Principles, be pledged as Collateral under the Security Documents substantially simultaneously with, or as soon as reasonably practicable after such acquisition;

provided that, pending the final application of any such Net Available Cash in accordance with paragraph (A) or paragraph (B) above, the Company and its Restricted Subsidiaries may temporarily reduce Indebtedness or otherwise invest such Net Available Cash in any manner not prohibited by this Agreement.

- (b) Any Net Available Cash from Asset Dispositions that is not applied or invested or committed to be applied or invested as provided in clause (a) above will be deemed to constitute "Excess Proceeds." On the 366th day after an Asset Disposition, or at such earlier date that the Company elects, if the aggregate amount of Excess Proceeds exceeds €50,000,000, the Borrowers will be required to make an offer ("Asset Disposition Offer") to all Lenders and, to the extent the Company elects, to all holders of other outstanding Pari Passu Indebtedness, to purchase the maximum principal amount of Loans and any such Pari Passu Indebtedness to which the Asset Disposition Offer applies that may be purchased out of the Excess Proceeds, at an offer price in respect of the Loans in an amount equal to (and, in the case of any Pari Passu Indebtedness, an offer price of no more than) 100% of the principal amount of the Loans and 100% of the principal amount of Pari Passu Indebtedness, in each case, plus accrued and unpaid interest, if any, to, but not including, the date of purchase, in accordance with the procedures set forth herein or the agreements governing the Pari Passu Indebtedness, as applicable.
- (c) To the extent that the aggregate amount of Loans and Pari Passu Indebtedness so validly tendered and not properly withdrawn pursuant to an Asset Disposition Offer is less than the Excess Proceeds, the Company may use any remaining Excess Proceeds for general corporate purposes, subject to the other provisions of this Agreement. If the aggregate principal amount of the Loans surrendered in any Asset Disposition Offer by Lenders and other Pari Passu Indebtedness surrendered by holders or lenders, collectively, exceeds the amount of Excess Proceeds, the Excess Proceeds shall be allocated among the Loans and Pari Passu Indebtedness to be purchased on a pro rata basis on the basis of the aggregate principal amount of tendered Loans and Pari Passu Indebtedness. For the purposes of calculating the principal amount of any such Indebtedness not denominated in the Base Currency, such Indebtedness shall be calculated by converting any such principal amounts into their Base Currency Equivalent determined as of a date selected by the Company that is within the Asset Disposition Offer Period (as defined in clause (e) below). Upon completion of any Asset Disposition Offer, the amount of Excess Proceeds shall be reset at zero.
- (d) To the extent that any portion of Net Available Cash payable in respect of the Loans is denominated in a currency other than the currency in which the relevant Loans are denominated, the amount thereof payable in respect of such Loans shall not exceed the net amount of funds in the currency in which such Loans are denominated that is actually received by the Company upon converting such portion into such currency.
- (e) The Asset Disposition Offer will remain open for a period of not less than 20 Business Days following its commencement (the "Asset Disposition Offer Period"). No later than five Business Days after the termination of the Asset Disposition Offer Period (the "Asset Disposition Purchase Date"), the Borrowers will purchase the principal amount of Loans and, to the extent they elect, Pari Passu Indebtedness required to be purchased pursuant to this covenant (the "Asset Disposition Offer Amount") or, if less than the Asset Disposition Offer Amount has been so validly tendered, all Loans and Pari Passu Indebtedness validly tendered in response to the Asset Disposition Offer.

- (f) On or before the Asset Disposition Purchase Date, the Borrowers will, to the extent lawful, accept for payment, on a pro rata basis to the extent necessary, the Asset Disposition Offer Amount of Loans and Pari Passu Indebtedness or portions of Loans and Pari Passu Indebtedness so validly tendered and not properly withdrawn pursuant to the Asset Disposition Offer, or if less than the Asset Disposition Offer Amount has been validly tendered and not properly withdrawn, all Loans and Pari Passu Indebtedness so validly tendered and not properly withdrawn. The Company will deliver to the Administrative Agent an Officer's Certificate stating that such Loans or portions thereof were accepted for payment by the Company in accordance with the terms of this Section 10.5. The Borrowers will promptly (but in any case not later than five Business Days after termination of the Asset Disposition Offer Period) pay to the Administrative Agent for the account of each tendering Lender an amount equal to the purchase price of the Loans so validly tendered and not properly withdrawn by such Lender, and accepted by the Borrowers for purchase.
- (g) For the purposes of clause (a)(ii) above, the following will be deemed to be cash:
- (i) the assumption by the transferee of Indebtedness of the Company or Indebtedness of a Restricted Subsidiary (other than Subordinated Indebtedness of the Company or a Guarantor) and the release of the Company or such Restricted Subsidiary from all liability on such Indebtedness in connection with such Asset Disposition;
  - (ii) securities, notes or other obligations received by the Company or any Restricted Subsidiary of the Company from the transferee that are converted by the Company or such Restricted Subsidiary into cash or Cash Equivalents within 180 days following the closing of such Asset Disposition;
  - (iii) Indebtedness of any Restricted Subsidiary that is no longer a Restricted Subsidiary as a result of such Asset Disposition, to the extent that the Company and each other Restricted Subsidiary are released from any Guarantee of payment of such Indebtedness in connection with such Asset Disposition;
  - (iv) consideration consisting of Indebtedness of the Company (other than Subordinated Indebtedness) received after the Closing Date from Persons who are not the Company or any Restricted Subsidiary; and
  - (v) any Designated Non-Cash Consideration received by the Company or any Restricted Subsidiary in such Asset Dispositions having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this Section 10.5, or designated as such pursuant to the corresponding provision of the Secured Indenture prior to the Closing Date but on or after the Closing Date that is at that time outstanding, not to exceed the greater of €100,000,000 and 1% of Total Assets (with the fair market value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value).
- (h) The RF Power Disposition and the application of the Net Available Cash therefrom in prepayment in compliance with Section 5.7 shall be deemed to satisfy the requirements of this Section 10.5.

10.6 Limitation on Affiliate Transactions.

- (a) The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, enter into or conduct any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any Affiliate of the Company (an “Affiliate Transaction”) involving aggregate value in excess of €20,000,000 unless:
- (i) the terms of such Affiliate Transaction taken as a whole are not materially less favorable to the Company or such Restricted Subsidiary, as the case may be, than those that could be obtained in a comparable transaction at the time of such transaction or the execution of the agreement providing for such transaction in arm’s-length dealings with a Person who is not such an Affiliate; and
  - (ii) in the event such Affiliate Transaction involves an aggregate value in excess of €50,000,000, the terms of such transaction have been approved by a majority of the members of the Board of Directors of the Company or the relevant Restricted Subsidiary (as applicable).
- (b) Any Affiliate Transaction shall be deemed to have satisfied the requirements set forth in clause (a)(ii) above if such Affiliate Transaction is approved by a majority of the Disinterested Directors. If there are no Disinterested Directors, any Affiliate Transaction shall be deemed to have satisfied the requirements set forth in this Section 10.6 if the Company or any of its Restricted Subsidiaries, as the case may be, delivers to the Administrative Agent a letter from an Independent Financial Advisor stating that such transaction is fair to the Company or such Restricted Subsidiary from a financial point of view or stating that the terms are not materially less favorable to the Company or its relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person on an arm’s length basis.
- (c) The provisions of clause (b) above will not apply to:
- (i) any Restricted Payment permitted to be made pursuant to Section 10.2, any Permitted Payments (other than pursuant to Section 10.2(c)(ix)(B)) or any Permitted Investment (other than Permitted Investments as defined in clauses (a)(iii), (b), (k) and (o) of the definition thereof);
  - (ii) any issuance or sale of Capital Stock, options, other equity-related interests or other securities, or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, or entering into, or maintenance of, any employment, consulting, collective bargaining or benefit plan, program, agreement or arrangement, related trust or other similar agreement and other compensation arrangements, options, warrants or other rights to purchase Capital Stock of the Company, any Restricted Subsidiary or any Parent, restricted stock plans, long-term incentive plans, stock appreciation rights plans, participation plans or similar employee benefits or consultants’ plans (including valuation,

- health, insurance, deferred compensation, severance, retirement, savings or similar plans, programs or arrangements) or indemnities provided on behalf of officers, employees, directors or consultants approved by the Board of Directors of the Company, in each case in the ordinary course of business;
- (iii) any Management Advances and any waiver or transaction with respect thereto;
  - (iv) any transaction between or among the Company and any Restricted Subsidiary (or entity that becomes a Restricted Subsidiary as a result of such transaction), or between or among Restricted Subsidiaries;
  - (v) the payment of reasonable fees and reimbursement of expenses to, and customary indemnities (including under customary insurance policies) and employee benefit and pension expenses provided on behalf of, directors, officers, consultants or employees of the Company, any Restricted Subsidiary of the Company or any Parent (whether directly or indirectly and including through any Person owned or controlled by any of such directors, officers or employees);
  - (vi) the Transactions and the entry into and performance of obligations of the Company or any of its Restricted Subsidiaries under the terms of any transaction arising out of, and any payments pursuant to or for purposes of funding, any agreement or instrument in effect as of or on the Closing Date, as these agreements and instruments may be amended, modified, supplemented, extended, renewed or refinanced from time to time in accordance with the other terms of this Section 10.6 or to the extent not more disadvantageous to the Lenders in any material respect and the entry into and performance of any registration rights or other listing agreement in connection with any Public Offering;
  - (vii) execution, delivery and performance of any Tax Sharing Agreement or the formation and maintenance of any consolidated group for tax, accounting or cash pooling or management purposes in the ordinary course of business;
  - (viii) transactions with customers, clients, suppliers or purchasers or sellers of goods or services, in each case in the ordinary course of business, which are fair to the Company or the relevant Restricted Subsidiary in the reasonable determination of the Board of Directors or the Senior Management of the Company or the relevant Restricted Subsidiary, or are on terms no less favorable than those that could reasonably have been obtained at such time from an unaffiliated party;
  - (ix) any transaction in the ordinary course of business between or among the Company or any Restricted Subsidiary and any Affiliate of the Company or an Associate or similar entity that would constitute an Affiliate Transaction solely because the Company or a Restricted Subsidiary or any Affiliate of the Company or a Restricted Subsidiary or any Affiliate of any Permitted Holder owns an equity interest in or otherwise controls such Affiliate, Associate or similar entity;
  - (x) (A) issuances or sales of Capital Stock (other than Disqualified Stock or Designated Preference Shares) of the Company or options, warrants or other rights to acquire such Capital Stock or Subordinated Shareholder Funding; provided that the interest rate and other financial terms of such Subordinated Shareholder Funding are approved by a majority of the members of the Board of

Directors in their reasonable determination and (B) any amendment, waiver or other transaction with respect to any Subordinated Shareholder Funding in compliance with the other provisions of this Agreement;

- (xi) without duplication in respect of payments made pursuant to sub-clause (xii) below, (A) payments by the Company or any Restricted Subsidiary to any Permitted Holder (whether directly or indirectly, including through any Parent) of annual customary management, consulting, monitoring or advisory fees and related expenses customary for portfolio companies of the Initial Investors described in clause (a) of the definition thereof and (B) customary payments by the Company or any Restricted Subsidiary to any Permitted Holder (whether directly or indirectly, including through any Parent) for financial advisory, financing, underwriting or placement services or in respect of other investment banking activities, including in connection with acquisitions or divestitures, which payments in respect of this paragraph (xi) are approved by a majority of the Board of Directors in good faith; and
- (xii) payment to any Permitted Holder of all reasonable out of pocket expenses Incurred by such Permitted Holder in connection with its direct or indirect investment in the Company and its Subsidiaries.

10.7 Limitation on Business Activities of the Co-Borrower. The Co-Borrower may not hold any material assets, become liable for any material obligations or engage in any business activities; provided that it may be a co-obligor with respect to any Indebtedness issued by the Company or a Guarantor, and may engage in any activities directly related thereto or necessary in connection therewith. The Co-Borrower shall be a Wholly-Owned Subsidiary of the Company at all times.

10.8 [Reserved]

10.9 Merger and Consolidation by the Company. (a) The Company will not consolidate with or merge with or into, or convey, transfer or lease all or substantially all its assets to, any Person, unless:

- (i) the resulting, surviving or transferee Person (the "Successor Company") will be a Person organized and existing under the laws of any member state of the European Union on January 1, 2004, or the United States of America, any State of the United States or the District of Columbia, Canada or any province of Canada, Norway or Switzerland and the Successor Company (if not the Company) will expressly assume, by supplemental agreements, executed and delivered to the Administrative Agent, in form reasonably satisfactory to the Administrative Agent, all the obligations of the Company under the Credit Documents;
- (ii) immediately after giving effect to such transaction (and treating any Indebtedness that becomes an obligation of the Successor Company or any Subsidiary of the Successor Company as a result of such transaction as having been Incurred by the Successor Company or such Subsidiary at the time of such transaction), no Default or Event of Default shall have occurred and be continuing;
- (iii) immediately after giving effect, on a pro forma basis, to such transaction, either (A) the Fixed Coverage Ratio of the Successor Company would exceed 2.00 to 1.00 or (B) the Fixed Charge Coverage Ratio would not be lower than it was immediately prior to giving effect to such transaction; and
- (iv) the Company shall have delivered to the Administrative Agent an Officer's Certificate and an Opinion of Counsel, each to the effect that such consolidation, merger or transfer and such supplemental agreement (if any) comply with this Agreement and an Opinion of Counsel to the effect that such supplemental agreement (if any) has been duly authorized, executed and delivered and is a legal, valid and binding agreement enforceable against the Successor Company (in each case, in form and substance reasonably satisfactory to the Administrative Agent), provided that in giving an Opinion of Counsel, counsel may rely on an Officer's Certificate as to any matters of fact, including as to satisfaction of sub-clauses (ii) and (iii) above.



- (b) Any Indebtedness that becomes an obligation of the Company or any Restricted Subsidiary (or that is deemed to be Incurred by any Restricted Subsidiary that becomes a Restricted Subsidiary) as a result of any such transaction undertaken in compliance with this covenant, and any Refinancing Indebtedness with respect thereto, shall be deemed to have been Incurred in compliance with Section 10.1.
- (c) For purposes of this covenant, the sale, lease, conveyance, assignment, transfer, or other disposition of all or substantially all of the properties and assets of one or more Subsidiaries of the Company, which properties and assets, if held by the Company instead of such Subsidiaries, would constitute all or substantially all of the properties and assets of the Company on a consolidated basis, shall be deemed to be the transfer of all or substantially all of the properties and assets of the Company.
- (d) The Successor Company will succeed to, and be substituted for, and may exercise every right and power of, the Company under this Agreement and the other Credit Documents but in the case of a lease of all or substantially all its assets, the predecessor company will not be released from its obligations under this Agreement or the other Credit Documents.
- (e) Notwithstanding clauses (a)(ii) and (a)(iii) above (which do not apply to transactions referred to in this clause 10.9 (e)) and, other than with respect to clause (c) above and clause (a)(iv) above, (i) any Restricted Subsidiary of the Company may consolidate or otherwise combine with, merge into or transfer all or part of its properties and assets to the Company and (ii) any Restricted Subsidiary may consolidate or otherwise combine with, merge into or transfer all or part of its properties and assets to any other Restricted Subsidiary. Notwithstanding clause (a)(ii) or (a)(iii) above (which does not apply to the transactions referred to in this clause 10.9(e)), the Company may consolidate or otherwise combine with or merge into an Affiliate incorporated or organized for the purpose of changing the legal domicile of the Company, reincorporating the Company in another jurisdiction, or changing the legal form of the Company.
- (f) This Section 10.9 (other than the requirements of clause (a)(ii) above) shall not apply to the creation of a new subsidiary as a Restricted Subsidiary of the Company.

- 10.10 Merger and Consolidations by the Co-Borrower and Guarantors. (a) The Co-Borrower may not consolidate with, merge with or into any person or permit any person to merge with or into the Co-Borrower unless:
- (i) concurrently therewith, a Subsidiary of the Company that is a limited liability company or corporation organized under the laws of the United States of America or any state thereof or the District of Columbia (which may be the Co-Borrower or the continuing person as a result of such transaction) expressly assumes all of the obligations of the Co-Borrower under this Agreement and the other Credit Documents; or
  - (ii) after giving effect to the transaction, at least one obligor under the Credit Documents is a limited liability company or corporation organized under the laws of the United States of America or any state thereof or the District of Columbia.
- (b) Upon the consummation of any transaction effected in accordance with this Section 10.10, the resulting, surviving or transferee Co-Borrower will succeed to, and be substituted for, and may exercise every right and power of, the Co-Borrower under each Credit Document with the same effect as if such successor Person had been named as the Co-Borrower under such Credit Documents. Upon such substitution, the Co-Borrower will be released from its obligations under each Credit Document.
- (c) No Guarantor may (i) consolidate with or merge with or into any Person, or (ii) sell, convey, transfer or dispose of, all or substantially all its assets as an entirety or substantially as an entirety, in one transaction or a series of related transactions, to any Person, or (iii) permit any Person to merge with or into the Guarantor, unless, in any such case:
- (A) the other Person is the Company or any Restricted Subsidiary that is Guarantor or becomes a Guarantor concurrently with the transaction; or
  - (B) (i) either (x) a Guarantor is the continuing Person or (y) the resulting, surviving or transferee Person expressly assumes all of the obligations of the Guarantor under the Credit Documents to which such Guarantor is a party; and
    - (1) immediately after giving effect to the transaction, no Default has occurred and is continuing; or
  - (C) the transaction constitutes a sale or other disposition (including by way of consolidation or merger) of the Guarantor or the sale or disposition of all or substantially all the assets of the Guarantor (in each case other than to the Company or a Restricted Subsidiary) otherwise permitted by this Agreement.
- 10.11 Impairment of Liens. The Company shall not, and shall not permit any Restricted Subsidiary to, take or omit to take any action that would have the result of materially impairing the Lien with respect to the Collateral (it being understood that the Incurrence of Permitted Liens shall under no circumstances be deemed to materially impair the Lien with respect to the Collateral) for the benefit of the Secured Parties, and the Company shall not, and shall not permit any Restricted Subsidiary to, grant to any Person other than the Collateral Agent, for the benefit of the Secured Parties, any interest whatsoever in any of the Collateral, except that the Company and its Restricted Subsidiaries may Incur Permitted Liens and the Collateral may be discharged and released in accordance with the Credit Documents.

10.12 Suspension of Covenants on Achievement of Investment Grade Status. If on any date following the Closing Date, Investment Grade Status is achieved and no Default or Event of Default has occurred and is continuing (a “Suspension Event”), then, beginning on that day and continuing until such time, if any, at which the Investment Grade Status ceases to apply (the “Reversion Date”), the following provisions will not apply: Section 10.1, Section 10.2, Section 10.4, Section 10.5, Section 10.6 and Section 10.9(a)(iii) and, in each case, any related default provision will cease to be effective and will not be applicable to the Company and its Restricted Subsidiaries. Such covenants and any related default provisions will again apply according to their terms from the first day on which a Suspension Event ceases to be in effect. Such covenants will not, however, be of any effect with regard to actions of the Company properly taken during the continuance of the Suspension Event, and Section 10.2 will be interpreted as if it has been in effect since the Closing Date except that no default will be deemed to have occurred solely by reason of a Restricted Payment made while that covenant was suspended. On the Reversion Date, all Indebtedness Incurred during the continuance of the Suspension Event will be classified, at the Company’s option, as having been Incurred pursuant to Section 10.1(a) or one of the clauses set forth in the second paragraph of such covenant (to the extent such Indebtedness would be permitted to be Incurred thereunder as of the Reversion Date and after giving effect to Indebtedness Incurred prior to the Suspension Event and outstanding on the Reversion Date). To the extent such Indebtedness would not be so permitted to be incurred under Section 10.1 such Indebtedness will be deemed to have been outstanding on the Closing Date, so that it is classified as permitted under Section 10.1(b)(iv).

10.13 Release of Liens. The Agents and the Lenders acknowledge that the Company and its Subsidiaries may (to the extent otherwise permitted under the terms hereof) grant or have granted Liens over assets held by Subsidiaries that are not Relevant Jurisdiction Guarantors or assets held outside of the Relevant Jurisdictions in favor of other creditors or pursuant to security documents (other than the Security Documents) that purport to also secure the obligations under this Agreement (any such Liens, “Other Liens” and any such creditors, “Other Creditors”), and that Other Liens may be regulated by the Collateral Agency Agreement which in certain circumstances may provide that the consent of the Collateral Agent or Administrative Agent (as a “Secured Party” under and as defined in the Collateral Agency Agreement) is required for any release of Other Liens in order to satisfy a “Release Condition” (under and as defined in the Collateral Agency Agreement). In the event that any Other Liens are released by the Other Creditors in favor of which such Other Liens were granted, and the Company or the Collateral Agent so requests, the Collateral Agent and Administrative Agent will promptly provide written confirmation to the Company and the Collateral Agent that, in relation to the Secured Obligations under the Credit Documents, any Release Condition in respect of such Other Liens has been satisfied.

## 11. EVENTS OF DEFAULT

11.1 Events of Default. Any of the following shall constitute an Event of Default:

- (a) Non-Payment of Interest. Default in any payment of interest on any Loan, L/C Advance or any Unpaid Drawing when due and payable and such default continues for 5 days;
- (b) Non-Payment of Principal. Default in the payment of the principal amount of or premium, if any, on any Loan or any Unpaid Drawing when due pursuant to the terms hereof, including upon any required repurchase, upon acceleration of maturity or otherwise;

- (c) Breach of Specific Covenants. Failure to comply for 30 days after notice by the Administrative Agent on behalf of the Lenders or the Required Lenders with any covenant, warranty or other agreement with respect to Section 9.11, Section 9.12 or Section 10;
- (d) Breach of Other Covenants. Failure to comply for 60 days after notice by the Administrative Agent on behalf of the Lenders or the Required Lenders with its other agreements (not specified in clause (a), (b) or (c) above) contained in any Credit Document;
- (e) Cross-Acceleration. Default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Company, the Co-Borrower or any of their Restricted Subsidiaries (or the payment of which is Guaranteed by the Company, the Co-Borrower any of their Restricted Subsidiaries) other than Indebtedness owed to the Company, the Co-Borrower or a Restricted Subsidiary whether such Indebtedness or Guarantee now exists, or is created after the date hereof, which default:
- (i) is caused by a failure to pay principal of, or interest or premium, if any, on such Indebtedness, immediately upon the expiration of the grace period provided in such Indebtedness; or
  - (ii) results in the acceleration of such Indebtedness prior to its maturity;
- and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a payment default or the maturity of which has been so accelerated, aggregates €100,000,000 or more;
- (f) Change of Control. Any Change of Control occurs;
- (g) Insolvency. Any Credit Party or any of the Restricted Subsidiaries institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar office is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for sixty (60) calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property or assets is instituted without the consent of such Person and continues undismissed or unstayed for (60) calendar days, or an order for relief is entered in any such proceeding;
- (h) Breach of Representations. Any representation or warranty made or deemed made by any Credit Party (or any of its officers) under or in connection with any Credit Document shall prove to have been incorrect in any material respect when made or deemed made;
- (i) Security Documents. (i) Any Lien under the Security Document on any material Collateral shall, at any time, cease to be in full force and effect (other than in accordance with the terms of the relevant Security Document and this Agreement) for any reason other than the satisfaction in full of all of the Secured Obligations or the release of any such Lien in accordance with the terms hereof or (ii) any Security Document or any Lien

created thereunder on any material Collateral shall be declared invalid or unenforceable or a Borrower shall assert in writing that any such Lien is invalid or unenforceable, and, in any such case, such event or circumstance continues for 10 days.

- (j) Judgments. Failure by any Credit Party or any Significant Subsidiary or group of Restricted Subsidiaries that, taken together (as of the latest audited consolidated financial statements for the Borrowers and their Restricted Subsidiaries), would constitute a Significant Subsidiary, to pay final judgments aggregating in excess of €100,000,000 (exclusive of any amounts that a solvent insurance company has acknowledged liability for), which judgments are not paid, discharged or stayed for a period of 60 days after the judgment becomes final; or
- (k) Guaranty. The Guaranty ceases to be in full force and effect, other than in accordance the terms of the Credit Documents and the Agreed Security Principles, or a Guarantor denies or disaffirms its obligations under the Guaranty, other than in accordance with the terms thereof or upon release of the Guaranty in accordance with the Credit Documents;

then, and in any such event, and at any time thereafter, if any Event of Default shall then be continuing, the Administrative Agent shall, upon the written request of the Required Lenders, by written notice to the Borrowers, take any or all of the following actions, without prejudice to the rights of the Administrative Agent or any Lender to enforce its claims against the Borrowers, except as otherwise specifically provided for in this Agreement: (i) declare the Total Commitment terminated, whereupon the Commitments of each Lender shall forthwith terminate immediately and any Fees theretofore accrued shall forthwith become due and payable without any other notice of any kind; and (ii) declare the principal of and any accrued interest and fees in respect of all Loans, L/C Advances and all other amounts owing hereunder or under any other Credit Document to be, whereupon the same shall become, forthwith due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrowers; (iii) terminate any Letter of Credit that may be terminated in accordance with its terms; and/or (iv) direct the Company to Cash Collateralize the aggregate Stated Amount of all Letters of Credit then outstanding, provided that upon the occurrence of any Event of Default under Section 11.1(g) the Total Commitment and Commitment of each Lender shall automatically terminate, the unpaid principal amount of all outstanding Loans, L/C Advances and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Company to Cash Collateralize the then Letters of Credit Outstanding as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

11.2 [Reserved]

11.3 Application of Funds. After the exercise of remedies as provided in Section 11.1 (or after the Commitments have been automatically cancelled, Loans, L/C Advances and all other amounts have automatically become due and payable and the Letters of Credit Outstanding have automatically been required to be Cash Collateralized as set forth in the proviso to Section 11.1), any amounts received by the Administrative Agent on account of the Secured Obligations shall be applied in accordance with Section 4 of the Collateral Agency Agreement.

12. **THE AGENTS**

- 12.1 Appointment. (a) Each Lender hereby irrevocably designates and appoints the Administrative Agent as the agent of such Lender under this Agreement and the other Credit Documents, and each such Lender irrevocably authorizes the Administrative Agent, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Credit Documents and to exercise such powers and perform such duties as are expressly delegated to the Administrative Agent by the terms of this Agreement and the other Credit Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with any Lender or participant, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Credit Document or otherwise exist against the Administrative Agent.
- (b) The Administrative Agent, each Lender and each Letter of Credit Issuer hereby irrevocably designate and appoint the Collateral Agent as its agent under this Agreement and the other Credit Documents, and the Administrative Agent, each Lender and each Letter of Credit Issuer irrevocably authorize the Collateral Agent, in such capacity, to take such action on their behalf under the provisions of this Agreement and the other Credit Documents and to exercise such powers and perform such duties as are expressly delegated to the Collateral Agent by the terms of this Agreement and the other Credit Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, the Collateral Agent shall not have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with the Administrative Agent, any Lender or any Letter of Credit Issuer, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Credit Document or otherwise exist against the Collateral Agent.
- (c) Notwithstanding any other provision of this Agreement or any provision of any other Credit Document, each of the Joint Lead Arrangers, Joint Bookrunners and Co-Managers are named as such for recognition purposes only, and in their respective capacities as such shall have no obligations, duties, responsibilities or liabilities with respect to this Agreement or any other Credit Document; it being understood and agreed that each of the Joint Lead Arrangers, Joint Bookrunners and Co-Managers shall be entitled to all benefits of this Section 12. Without limitation of the foregoing, no Joint Lead Arranger, Joint Bookrunner or Co-Manager in its capacity as such shall, by reason of this Agreement or any other Credit Document, have any fiduciary relationship in respect of any Lender, Credit Party or any other Person.
- (d) Each Lender and Letter of Credit Issuer confirms that each of any Joint Lead Arrangers and the Administrative Agent has authority to accept on its behalf (and ratifies the acceptance on its behalf of any letters or reports already accepted by the Joint Lead Arranger or Administrative Agent) the terms of any reliance letter or engagement letters relating to any reports or letters provided by accountants in connection with the Credit Documents or the transactions contemplated in the Credit Documents and to bind it in respect of those reports or letters and to sign such letters on its behalf and further confirms that it accepts the terms and qualifications set out in such letters.

- 12.2 Delegation of Duties. The Administrative Agent may execute any of its duties under this Agreement and the other Credit Documents by or through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it with reasonable care.
- 12.3 Exculpatory Provisions. No Agent nor any of its respective officers, directors, employees, agents, attorneys-in-fact or Affiliates shall be (a) liable for any action lawfully taken or omitted to be taken by it or such Person under or in connection with this Agreement or any other Credit Document (except for its or such Person's own gross negligence or willful misconduct) or (b) responsible in any manner to any of the Lenders for any recitals, statements, representations or warranties made by the Borrowers, any Guarantor, any other Credit Party or any officer thereof contained in this Agreement or any other Credit Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent or the Collateral Agent under or in connection with, this Agreement or any other Credit Document, or the perfection or priority of any Lien or security interest created or purported to be created under the Security Documents, or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Credit Document or for any failure of the Borrowers, any Guarantor or any other Credit Party to perform its obligations hereunder or thereunder. No Agent shall be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Credit Document, or to inspect the properties, books or records of any Credit Party.
- 12.4 Reliance by Agents. Each Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telecopy, telex or teletype message, statement, order or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including counsel to any Credit Party), independent accountants and other experts selected by such Agent. Each Agent may deem and treat the Lender specified in the Register with respect to any amount owing hereunder as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Administrative Agent. Each Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Credit Document unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. Each Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Credit Documents in accordance with a request of the Required Lenders (or such greater number or percentage of Lenders as may be expressly required by this Agreement in any instance), and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and all future holders of the Loans.
- 12.5 Notice of Default. No Agent shall be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless it has received written notice from a Lender or a 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, it shall give notice thereof to the Lenders. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders, provided that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem

advisable in the best interests of the Lenders (except to the extent that this Agreement requires that such action be taken only with the approval of the Required Lenders or each of the Lenders, as applicable).

- 12.6 Non-Reliance on Agents and Other Lenders. Each Lender expressly acknowledges that no Agent nor any of its respective officers, directors, employees, agents, attorneys-in-fact or Affiliates has made any representations or warranties to it and that no act by any Agent hereinafter taken, including any review of the affairs of a Borrower, any Guarantor or any other Credit Party, shall be deemed to constitute any representation or warranty by any Agent to any Lender or any Letter of Credit Issuer. Each Lender and Letter of Credit Issuer represents to each Agent that it has, independently and without reliance upon such Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of an investigation into the business, operations, property, financial and other condition and creditworthiness of each Borrower, any Guarantor and any other Credit Party and made its own decision to make its Loans hereunder and enter into this Agreement. Each Lender also represents that it will, independently and without reliance upon any Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Credit Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of any Borrower, any Guarantor and any other Credit Party. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder, no Agent shall have any duty or responsibility to provide any Lender with any credit or other information concerning the business, assets, operations, properties, financial condition, prospects or creditworthiness of any Borrower, any Guarantor or any other Credit Party that may come into the possession of such Agent any of its respective officers, directors, employees, agents, attorneys-in-fact or Affiliate.
- 12.7 Indemnification. The Lenders agree to indemnify each Agent, each in its capacity as such (to the extent not reimbursed by any Credit Party and without limiting the obligation of any Credit Party to do so), ratably according to their respective portions of the Total Credit Exposure in effect on the date on which indemnification is sought (or, if indemnification is sought after the date upon which the Commitments shall have terminated and the Loans shall have been paid in full, ratably in accordance with their respective portions of the Total Credit Exposure in effect immediately prior to such date), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time (including at any time following the payment of the Loans) be imposed on, incurred by or asserted against such Agent in any way relating to or arising out of, the Commitments, this Agreement, any of the other Credit Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by such Agent under or in connection with any of the foregoing, provided that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from such Agent's (i) gross negligence, bad faith or willful misconduct, as determined by a final, nonappealable judgment of a court of competent jurisdiction or (ii) material breach of the obligations of such Agent under the terms of this Agreement by such Agent as determined in a final and non-appealable judgment of a court of competent jurisdiction; it being acknowledged and agreed that no action taken in accordance with the instructions of the Required Lenders (or such other number or percentage of the Lenders as shall be required by the Credit Documents) shall constitute gross negligence, bad faith, willful misconduct or a material breach. The agreements in this Section 12.7 shall survive termination of the Commitment, the repayment of the Loans and all other amounts payable hereunder.



- 12.8 Agents in their Individual Capacity. Each Agent and its Affiliates may make loans to, accept deposits from and generally engage in any kind of business with any Borrower, any Guarantor, and any other Credit Party as though it were not an Agent hereunder and under the other Credit Documents. With respect to the Loans made by it, each Agent shall have the same rights and powers under this Agreement and the other Credit Documents as any Lender and may exercise the same as though it were not an Agent, and the terms “Lender” and “Lenders” shall include each Agent in its individual capacity.
- 12.9 Successor Agents. The Administrative Agent may resign as Administrative Agent upon 20 days’ prior written notice to the Lenders and the Borrowers. If the Administrative Agent shall resign as Administrative Agent under this Agreement and the other Credit Documents, then the Required Lenders shall appoint from among the Lenders a successor Administrative Agent which successor agent shall be approved by the Company (which approval shall not be unreasonably withheld or delayed) so long as no Default or Event of Default is continuing. If no successor agent has accepted appointment as the Administrative Agent by the date which is twenty (20) days following the retiring Administrative Agent’s notice of resignation, the retiring Administrative Agent’s resignation shall nevertheless thereupon become effective and the Lenders shall perform all of the duties of the Administrative Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above. Upon the acceptance of any appointment as the Administrative Agent hereunder by a successor (or upon the Lenders assuming such role as provided above) and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Security Documents, and such other instruments or notices, as may be necessary or desirable, as the Required Lenders may request, in order to (1) continue the perfection of the Liens granted or purported to be granted by the Security Documents or (2) otherwise ensure that the requirements set forth in Section 9.11 are satisfied, the Administrative Agent shall thereupon succeed to the rights, powers and duties of the Administrative Agent and the term “Administrative Agent” shall mean such successor agent effective upon such appointment and approval, and the former Administrative Agent’s rights, powers and duties as Administrative Agent shall be terminated, without any other or further act or deed on the part of such former Administrative Agent or any of the parties to this Agreement or any holders of the Loans. After any retiring Administrative Agent’s resignation as Administrative Agent, the provisions of this Section 12 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent under this Agreement and the other Credit Documents.
- 12.10 Withholding Tax and Deductions. To the extent required by any applicable Law, the Administrative Agent may withhold from any interest payment to any Lender an amount equivalent to any applicable withholding tax. If the Internal Revenue Service or any authority of the United States or other jurisdiction asserts a claim that the Administrative Agent did not properly withhold tax from amounts paid to or for the account of any Lender (because the appropriate form was not delivered, was not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstances which rendered the exemption from, or reduction of, withholding tax ineffective, or for any other reason), such Lender shall indemnify the Administrative Agent (to the extent that the Administrative Agent has not already been reimbursed by a Credit Party and without limiting the obligation of any Credit Party to do so) fully for all amounts paid, directly or indirectly, by the Administrative Agent as tax or otherwise, including penalties and interest, together with all expenses incurred, including legal expenses, allocated staff costs and any out of pocket expenses.

12.11 Administrative Agent May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Credit Party, the Administrative Agent (irrespective of whether the principal of any Loan or Unpaid Drawing shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on any Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

- (a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, Unpaid Drawings and all other Secured Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Letter of Credit Issuers and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, Letter of Credit Issuers and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, Letter of Credit Issuers and the Administrative Agent under Sections 4.1 and 13.6) allowed in such judicial proceeding; and
- (b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and Letter of Credit to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and Letter of Credit Issuers, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agents and their respective agents and counsel, and any other amounts due the Administrative Agent under Sections 4.1 and 13.6.

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

12.12 [Reserved]

12.13 Agents under Security Documents and Guaranty. Each Secured Party hereby further authorizes the Administrative Agent or the Collateral Agent, as applicable, on behalf of and for the benefit of the Secured Parties, to be the agent for and representative of the Secured Parties with respect to the Collateral and the Security Documents. Subject to Section 13.2, without further written consent or authorization from any Secured Party, the Administrative Agent or the Collateral Agent, as applicable, may execute any documents or instruments necessary to (a) release any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent (or any sub-agent thereof) under any Credit Document (i) upon the latest Maturity Date and the payment in full (or cash collateralization) of all Obligations (except for contingent indemnification obligations in respect of which a claim has not yet been made and secured Hedge Obligations and secured Cash Management Obligations), (ii) that is sold or to be sold or transferred as part of or in connection with any sale or other transfer permitted hereunder or under any other Credit Document to a Person that is not a Credit Party or in connection with the designation of any Restricted Subsidiary as an Unrestricted Subsidiary, (iii) if the property subject to such Lien is owned by a Credit Party, upon the release of such Credit Party from its Guaranty otherwise in

accordance with the Credit Documents, (iv) as to the extent provided in the Security Documents, or (v) if approved, authorized or ratified in writing in accordance with Section 13.2; (b) release any Guarantor from its obligations under the Guaranty if such Person ceases to be a Restricted Subsidiary (or becomes an Immaterial Subsidiary) as a result of a transaction or designation permitted hereunder; (c) subordinate any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Credit Document to the holder of any Lien permitted under clause (n) of the definition of Permitted Lien; or (d) enter into subordination or intercreditor agreements with respect to Indebtedness to the extent the Administrative Agent or the Collateral Agent is otherwise contemplated herein as being a party to such intercreditor or subordination agreement. The Collateral Agent shall have its own independent right to demand payment of the amounts payable by the Borrowers under this Section 12.13, irrespective of any discharge of the Borrower's obligations to pay those amounts to the other Lenders resulting from failure by them to take appropriate steps in insolvency proceedings affecting the Borrowers to preserve their entitlement to be paid those amounts. Any amount due and payable by the Borrowers to the Collateral Agent under this Section 12.13 shall be decreased to the extent that the other Lenders have received (and are able to retain) payment in full of the corresponding amount under the other provisions of the Credit Documents and any amount due and payable by the Borrowers to the Collateral Agent under those provisions shall be decreased to the extent that the Collateral Agent has received (and is able to retain) payment in full of the corresponding amount under this Section 12.13.

12.14 Right to Realize on Collateral and Enforce Guaranty. Anything contained in any of the Credit Documents to the contrary notwithstanding, the Company, the Agents, and each Secured Party hereby agree that (i) no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Guaranty, it being understood and agreed that all powers, rights, and remedies hereunder may be exercised solely by the Administrative Agent, on behalf of the Secured Parties in accordance with the terms hereof and all powers, rights, and remedies under the Security Documents may be exercised solely by the Collateral Agent, and (ii) in the event of a foreclosure by the Collateral Agent on any of the Collateral pursuant to a public or private sale or other disposition, the Collateral Agent or any Lender may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition and the Collateral Agent, as agent for and representative of the Secured Parties (but not any Lender or Lenders in its or their respective individual capacities unless Required Lenders shall otherwise agree in writing) shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any collateral payable by the Collateral Agent at such sale or other disposition. No holder of secured Hedge Obligations shall have any rights in connection with the management or release of any Collateral or of the obligations of any Credit Party under this Agreement. No holder of secured Hedge Obligations that obtains the benefits of any Guaranty or any Collateral by virtue of the provisions hereof or of any other Credit Document 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 or otherwise in respect of the Collateral (including the release or impairment of any Collateral) other than in its capacity as a Lender or Agent and, in such case, only to the extent expressly provided in the Credit Documents. Notwithstanding any other provision of this Agreement to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under secured Hedge Agreements, unless the Administrative Agent has received written notice of such Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Hedge bank, as the case may be.

13. **MISCELLANEOUS**

13.1 Representations to the Financial Supervision Act

(a) For the purpose of this Section 13.1, each Lender includes the domestic or foreign branch office or Affiliate making a Loan.

(b) Without limiting the Borrowers' obligations under the FMSA, each Lender which is a party to this Agreement on the date hereof represents and warrants to each party to this Agreement on the date hereof that it is not considered to be a part of the public within the meaning of the Financial Supervision Act, which requirement can be considered satisfied, in reliance upon the Explanatory Memorandum to the Implementation Act in respect of Directive 2013/36/EU and Regulation (EU) No 575/2013, until the competent authority publishes its interpretation of the term "public" (as referred to in article 4.1(1) of Regulation (EU) No 575/2013), if the amount borrowed is not less than EUR 100,000 or its equivalent in any other currency.

(c) If, a party becomes a Lender such new Lender represents and warrants to each party to this Agreement on the date on which it becomes a party to this Agreement as a Lender that it is not considered to be a part of the public within the meaning of the Financial Supervision Act, which requirement can be considered satisfied, in reliance upon the Explanatory Memorandum to the Implementation Act in respect of Directive 2013/36/EU and Regulation (EU) No 575/2013, until the competent authority publishes its interpretation of the term "public" (as referred to in article 4.1(1) of Regulation (EU) No 575/2013), if the amount borrowed is not less than EUR 100,000 or its equivalent in any other currency.

(d) Each Lender acknowledges that (b) it is aware of the consequences of the representation and warranty made by it under this Section 13.1 and (c) each of the Agents and other Lenders and the Company has relied upon such representation and warranty.

13.2 Amendments and Waivers. (a) Neither this Agreement nor any other Credit Document, nor any terms hereof or thereof may be amended, supplemented, modified or waived except in accordance with the provisions of this Section 13.2. Except as provided to the contrary in clause 2.15, and other than with respect to any amendment, modification or waiver contemplated in clause (A) below which shall only require the consent of the Lenders expressly set forth therein, the Required Lenders may, or, with the written consent of the Required Lenders, the Administrative Agent may, from time to time (i) enter into with the relevant Credit Party or Credit Parties written amendments, supplements, modifications or waivers 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 Credit Parties hereunder or thereunder or (ii) waive in writing, on such terms and conditions as the Required Lenders or the Administrative Agent, as the case may be, may specify in such instrument, any of the requirements of this Agreement or the other Credit Documents or any Default or Event of Default and its consequences; provided, however, that no such waiver and no such amendment, supplement, modification or waiver shall directly (A) forgive or reduce or waive any portion of any Loan or L/C Advance or extend or postpone the final scheduled maturity date of any Loan or any L/C Advance or reduce the stated rate (it being understood that only the consent of the Required Lenders shall be necessary to waive any obligation of the Borrowers to pay interest at the "default rate"), or forgive any portion, or extend the date for the payment, of any interest or fee payable hereunder (other than as a result of waiving the applicability of any post-default increase in interest rates), or extend the final expiration date of any Lender's Commitment or extend the final expiration date of any Letter of Credit beyond the L/C Maturity Date, or increase

the aggregate amount of the Commitments of any Lender, or amend or modify any provisions of Section 5.2(a) (with respect to the ratable allocation of any payments only) and Section 13.11(a), or release all or substantially all of the Guarantors under the Guaranty or release all or substantially all of the Collateral under the Security Documents, except that only the written consent of the Required Lenders shall be required with respect to any amendment or modification of provisions concerning loan buy-backs and Defaulting Lenders in each case without the written consent of each Lender directly and adversely affected thereby, (B) amend, modify or waive any provision of this Section 13.2 or reduce the percentages specified in the definitions of the terms “Required Lenders” or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder, or consent to the assignment or transfer by any Borrower of its rights and obligations under any Credit Document to which it is a party (except as permitted pursuant to Sections 10.9 or 10.10), (in any such case) without the written consent of each Lender; provided that a waiver of any condition precedent in Section 6 or 7 of this Agreement, the waiver of any Default, Event of Default, default interest, mandatory prepayment or reductions, any modification, waiver or amendment to the financial ratios or any component thereof or the waiver of any other covenant shall not constitute an increase of any Commitment of a Lender, a reduction or forgiveness in the interest rates or the fees or premiums or a postponement of any date scheduled for the payment of principal, premium or interest or an extension of the final maturity of any Loan or the scheduled termination date of any Commitment (C) amend Section 2.14 or the definition of “Alternative Currency” in each case without the written consent of each Lender directly and adversely affected thereby, (D) amend, modify or waive any provision of Section 12 without the written consent of each Agent, (E) in addition to the Lenders required above, amend, modify or waive any provision hereof relating to a Letter of Credit Issuer or to any Letter of Credit without the written consent of each Letter of Credit Issuer, (F) amend or modify any provisions of Section 5.3(a) (with respect to the rateable allocation of payments only), 13.11(a) or 13.20 without the written consent of each Lender, affect the rights, duties, privileges, liabilities or obligations of, or any fees or other amounts payable to, the Administrative Agent under this Agreement or the other Credit Documents, without the written consent of the Administrative Agent or (G) amend, modify or waive any provision of Section 9.17 without the written consent of each Lender or (H) change the provisions of any Loan Document in a manner that by its terms directly and adversely affects the rights of Lenders holding Loans of one Class differently from the rights of Lenders holding Loans of any other Class without the prior written consent of Lenders holding a majority in interest of the outstanding Loans and unused Commitments of each directly and adversely affected Class.

- (b) Any such waiver and any such amendment, supplement or modification shall apply equally to each of the affected Lenders and shall be binding upon the Borrowers, the Lenders, the Administrative Agent and all future holders of the affected Loans. In the case of any waiver, the Borrowers, the Lenders and the Administrative Agent shall be restored to their former positions and rights hereunder and under the other Credit Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing, it being understood that no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon. Notwithstanding the foregoing, the Administrative Agent may, without notice or consent of the Required Lenders, amend or supplement this Agreement to cure any ambiguity, omission, defect, error or inconsistency in this Agreement.
- (c) Notwithstanding the foregoing, in addition to any credit extensions and related Joinder Agreement(s) pursuant to Section 2.15, this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent

and the Borrower (i) to add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Credit Documents with the Loans and the accrued interest and fees in respect thereof and (ii) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders and other definitions related to such new Loans.

- (d) Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that the Commitment of such Lender may not be increased or extended without the consent of such Lender (it being understood that any Commitments or Loans held or deemed held by any Defaulting Lender shall be excluded for a vote of the Lenders hereunder requiring any consent of the Lenders).
- (e) The Lenders hereby irrevocably agree that the Liens granted to the Collateral Agent by the Credit Parties on any Collateral shall be automatically released (i) in full, upon the termination of this Agreement and the payment of all Obligations hereunder (except for (x) contingent indemnification obligations in respect of which a claim has not yet been made, and (y) secured Hedge Obligations, (ii) upon the sale or other disposition of such Collateral (including as part of or in connection with any other sale or other disposition permitted hereunder) to any Person other than another Credit Party, to the extent such sale or other disposition is made in compliance with the terms of this Agreement (and the Collateral Agent may rely conclusively on a certificate to that effect provided to it by any Credit Party upon its reasonable request without further inquiry), (iii) to the extent such Collateral is comprised of property leased to a Credit Party, upon termination or expiration of such lease, (iv) if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders (or such other percentage of the Lenders whose consent may be required in accordance with this Section 13.2), (v) to the extent the property constituting such Collateral is owned by any Relevant Jurisdiction Guarantor, upon the release of such Relevant Jurisdiction Guarantor from its obligations under the applicable Guarantee (in accordance with the second following sentence), (vi) as required to effect any sale or other disposition of Collateral in connection with any exercise of remedies of the Collateral Agent pursuant to the Security Documents and (vii) if the release is in accordance with Section 10.3(b). Any such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those being released) upon (or obligations (other than those being released) of the Credit Parties in respect of) all interests retained by the Credit Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral except to the extent otherwise released in accordance with the provisions of the Credit Documents. Additionally, the Lenders hereby irrevocably agree that any Restricted Subsidiary that is a Guarantor shall be released from the Guarantees upon consummation of any transaction not prohibited hereunder resulting in such Subsidiary ceasing to constitute a Restricted Subsidiary. The Lenders hereby authorize the Administrative Agent and the Collateral Agent, as applicable, to execute and deliver any instruments, documents, and agreements necessary or desirable to evidence and confirm the release of any Guarantor or Collateral pursuant to the foregoing provisions of this paragraph, all without the further consent or joinder of any Lender.

- (f) Notwithstanding anything herein to the contrary, the Credit Documents may be amended to add syndication or documentation agents and make customary changes and references related thereto with the consent of only the Borrowers and the Administrative Agent.
- (g) Notwithstanding anything in this Agreement (including, without limitation, this Section 13.2) or any other Credit Document to the contrary, (i) this Agreement and the other Credit Documents may be amended to effect an incremental facility pursuant to Section 2.15 (and the Administrative Agent and the Borrowers may effect such amendments to this Agreement and the other Credit Documents without the consent of any other party as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrowers, to effect the terms of any such incremental facility); (ii) any provision of this Agreement or any other Credit Document may be amended by an agreement in writing entered into by the Borrowers and the Administrative Agent to (x) cure any ambiguity, omission, mistake, defect or inconsistency (as reasonably determined by the Administrative Agent and the Borrowers) and (y) effect administrative changes of a technical or immaterial nature and such amendment shall be deemed approved by the Lenders if the Lenders shall have received at least five Business Days' prior written notice of such change and the Administrative Agent shall not have received, within five Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment; and (iii) guarantees, collateral documents and related documents executed by Credit Parties in connection with this Agreement may be in a form reasonably determined by the Administrative Agent and may be, together with any other Credit Document, entered into, amended, supplemented or waived, without the consent of any other Person, by the applicable Credit Party or Credit Parties and the Administrative Agent or the Collateral Agent in its or their respective sole discretion, to (A) effect the granting, perfection, protection, expansion or enhancement of any security interest in any Collateral or additional property to become Collateral for the benefit of the Secured Parties, (B) as required by local law or advice of counsel to give effect to, or protect any security interest for the benefit of the Secured Parties, in any property or so that the security interests therein comply with applicable requirements of law, or (C) to cure ambiguities, omissions, mistakes or defects (as reasonably determined by the Administrative Agent and the Borrowers) or to cause such guarantee, collateral security document or other document to be consistent with this Agreement and the other Credit Documents.
- (h) Notwithstanding anything in this Agreement or any Security Document to the contrary, the Administrative Agent may, in its sole discretion, grant extensions of time for the satisfaction of any of the requirements under Sections 9.10, 9.12 and 9.13 or any Security Documents in respect of any particular Collateral or any particular Subsidiary if it determines that the satisfaction thereof with respect to such Collateral or such Subsidiary cannot be accomplished without undue expense or unreasonable effort or due to factors beyond the control of the Company and the Restricted Subsidiaries by the time or times at which it would otherwise be required to be satisfied under this Agreement or any Security Document.

13.3 Notices. Unless otherwise expressly provided herein, all notices and other communications provided for hereunder or under any other Credit Document shall be in writing (including by facsimile transmission). All such written notices shall be mailed, faxed or delivered to the applicable address, facsimile number or electronic mail address, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

- (a) if to a Borrower, the Administrative Agent, the Collateral Agent or any Letter of Credit Issuer, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 13.2 or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the other parties; and
- (b) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the Borrowers, the Administrative Agent, the Collateral Agent and the Letter of Credit Issuers.

All such notices and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt by the relevant party hereto and (ii) (A) if delivered by hand or by courier, when signed for by or on behalf of the relevant party hereto; (B) if delivered by mail, three (3) Business Days after deposit in the mails, postage prepaid; (C) if delivered by facsimile, when sent and receipt has been confirmed by telephone; and (D) if delivered by electronic mail, when delivered; provided that notices and other communications to the Administrative Agent or the Lenders pursuant to Sections 2.3, 2.6, 2.9, 4.2 and 5.1 shall not be effective until received.

- 13.4 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Administrative Agent, the Collateral Agent, any Lender or any Letter of Credit Issuer, any right, remedy, power or privilege hereunder or under the other Credit Documents shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.
- 13.5 Survival of Representations and Warranties. All representations and warranties made hereunder, in the other Credit Documents and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Loans and the issuance of Letters of Credit hereunder.
- 13.6 Payment of Expenses and Taxes. (a) The Company and the Co-Borrower jointly and severally agree (i) to pay or reimburse the Agents for all their reasonable and documented out-of-pocket costs and expenses incurred after the Closing Date in connection with any amendment, supplement or modification to, this Agreement and the other Credit Documents and any other documents prepared in connection therewith including the reasonable fees, disbursements and other charges of the Administrative Agent's counsel, (ii) to pay or reimburse each Lender, Agent and Letters of Credit Issuers for all its reasonable and documented out-of-pocket costs and expenses incurred in connection with the enforcement or preservation of any rights under this Agreement, the other Credit Documents and any such other documents, including the reasonable fees, disbursements and other charges of counsel to each Lender, the Agents and each Letter of Credit Issuer, (iii) subject to the Agreed Security Principles, to pay, indemnify, and hold harmless each Lender, each Letter of Credit Issuer and Agent from, any and all recording and filing fees incurred on or after the Closing Date and (iv) to pay, indemnify, and hold harmless each Lender, Letter of Credit Issuer and Agent and their respective Related Parties (each an "Indemnified Person") from and against any and all other liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever, including reasonable and documented out-of-pocket fees, disbursements and expenses and other charges of counsel, with respect to the enforcement, performance and (except in the case of each



Agent and Letter of Credit Issuer) administration of this Agreement, the other Credit Documents and any such other documents, including, without limitation, any of the foregoing relating to any violation of, noncompliance with or liability under, any Environmental Law or to any actual or alleged presence, release or threatened release of Hazardous Materials involving or attributable to the operations of any Borrower, any of its Subsidiaries (all the foregoing in this sub-clause (iv), collectively, the “indemnified liabilities”), provided that the Company and the Co-Borrower shall have no obligation hereunder to the Administrative Agent, any Lender or any Letter of Credit Issuer nor any of their respective Related Parties with respect to indemnified liabilities to the extent attributable to (A) the gross negligence, bad faith or willful misconduct of the party to be indemnified or any of its Related Parties, as determined by a final, nonappealable judgment of a court of competent jurisdiction, (B) a material breach of the obligations of such Indemnified Person or any of its Related Parties under the terms of this Agreement by such Indemnified Person or any of its Related Parties as determined in a final and non-appealable judgment of a court of competent jurisdiction, or (C) any proceeding between and among Indemnified Persons and/or their transferees other than in such Indemnified Persons’ capacity as an agent or arranger or similar role. All amounts payable under this Section 13.6 shall be paid within ten Business Days of receipt by the Company or the Co-Borrower (as the case may be) of an invoice relating thereto setting forth such expense in reasonable detail. In the case of an investigation, litigation or proceeding to which the indemnity in this paragraph applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by the Company, the Co-Borrower, any Guarantors, any equityholders or creditors or an indemnified party or any other person or entity, whether or not an indemnified party is otherwise a party thereto and whether or not the transactions contemplated hereby are consummated. The agreements in this Section 13.6 shall survive resignation of any Agent, the replacement or resignation of any Lender or Letter of Credit Issuer, the termination of the Total Commitments and repayment of the Loans and all other amounts payable hereunder. This Section 13.6 shall not apply with respect to Taxes, other than any Taxes that represent losses, claims, damages, liabilities, obligations, penalties, actions, judgments, suits, costs, expenses or disbursements arising from any non-Tax claim.

- (b) Notwithstanding anything contained herein to the contrary, no Credit Party nor any Indemnified Person shall have any liability for any special, punitive, indirect or consequential damages resulting from this Agreement or any other Credit Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date); provided that the foregoing shall not limit the Company’s and the Co-Borrower’s indemnification obligations to the Indemnified Persons pursuant to Section 13.6(a) in respect of damages incurred or paid by an Indemnified Person to a third party. No Indemnified Person 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, except to the extent that such damages have resulted from the willful misconduct, bad faith or gross negligence of any Indemnified Person or any of its Related Parties as determined by a final and non-appealable judgment of a court of competent jurisdiction.

- 13.7 Successors and Assigns; Participations and Assignments. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of the Letter of Credit Issuer that issues any Letter of Credit), except that (i) no Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by any Borrower or without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 13.7. Nothing in this Agreement, expressed or implied, shall be

construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of the Letter of Credit Issuer that issues any Letter of Credit), Participants (to the extent provided in paragraph (c) of this Section 13.7) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the Letter of Credit Issuer and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans at the time owing to it) with the prior written consent (such consent not be unreasonably withheld or delayed; it being understood that, without limitation, the Company shall have the right to withhold its consent to any assignment if, in order for such assignment to comply with applicable Law, the Company would be required to obtain the consent of, or make any filing or registration with, any Governmental Authority) of:

(A) the Company (which consent shall not be unreasonably withheld or delayed), provided that no consent of the Company shall be required for an assignment to a Lender, an Affiliate of a Lender, an Agent or an Affiliate of an Agent (unless increased costs would result therefrom except if an Event of Default under Section 11.1(a), (b) or, with respect to any Credit Party, (g) has occurred and is continuing), an Approved Fund or, if an Event of Default under Section 11.1(a), (b) or, with respect to any Credit Party, (g) has occurred and is continuing, any other assignee; and

(B) the Administrative Agent and the Letter of Credit Issuers (in each case, which consent shall not be unreasonably withheld or delayed), *provided* that no consent of the Administrative Agent or any Letter of Credit Issuer shall be required for an assignment to an assignee that is a Lender, an Affiliate of a Lender, an Agent or an Affiliate of an Agent or an Approved Fund.

Notwithstanding the foregoing, no such assignment shall be made to a natural person, Disqualified Lender or Defaulting Lender. For the avoidance of doubt, the Administrative Agent shall bear no responsibility or liability for monitoring and enforcing the list of Persons who are Disqualified Lenders at any time. Upon receipt of a list of Disqualified Lenders from the Company (or any updates thereto), the Administrative Agent shall promptly provide such list or updates, as applicable, to the Lenders (including by posting to a Platform).

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

(A) except in the case of an assignment to a Lender, an Affiliate of a Lender, an Agent or an Affiliate of an Agent or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$5,000,000,

and whole increments of \$1,000,000, in each case, of, unless each of the Company and the Administrative Agent otherwise consent (which consents shall not be unreasonably withheld or delayed), provided that contemporaneous assignments to a single assignee made by Affiliates of Lenders and related Approved Funds shall be aggregated for purposes of meeting the minimum assignment amount requirements stated above;

- (B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement provided that this clause shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender's right and obligations in respect of one class of Commitments or Loans;
- (C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Acceptance via an electronic settlement system acceptable to the Administrative Agent or (B) if previously agreed with the Administrative Agent, manually execute and deliver to the Administrative Agent an Assignment and Acceptance, in each case, together with a processing and recordation fee of \$3,500, provided that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee, and provided further that only one such fee shall be payable in the event of simultaneous assignments to or from two or more Approved Funds; and
- (D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an administrative questionnaire in a form approved by the Administrative Agent (the "Administrative Questionnaire").

For the purpose of this Section 13.7(b), the term "Approved Fund" means any Person (other than a natural person) that is (or will at the time of the relevant assignment be) engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course and that is managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that manages a Lender.

- (iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(v) of this Section 13.7, from and after the effective date specified in each Assignment and Acceptance, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, 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 Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance 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 2.10, 2.11, 3.5, 5.4 and 13.6). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 13.7 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section 13.7.

- (iv) The Administrative Agent, acting for this purpose as an agent of the Borrowers shall maintain at the Administrative Agent's Office a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount of the Loans and any payment made by the Letter of Credit Issuer under any Letter of Credit owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). Further, the Register shall contain the name and address of the Administrative Agent and the lending office through which each such Person acts under this Agreement. The entries in the Register shall be conclusive absent manifest error, and the Borrowers, the Administrative Agent, the Letter of Credit Issuer and the Lenders may 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 Borrowers, the Letter of Credit Issuer and any Lender, at any reasonable time and from time to time upon reasonable prior notice. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.
- (v) Upon its receipt of a duly completed Assignment and Acceptance executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section 13.7 and any written consent to such assignment required by paragraph (b) of this Section 13.7, the Administrative Agent shall accept such Assignment and Acceptance and record the information contained therein in the Register. Promptly following any change to the Register, the Administrative Agent shall deliver to the Company an updated version thereof.
- (c) (i) Any Lender may, without the consent of or notice to the Borrowers, the Administrative Agent or any Letter of Credit Issuer, sell participations to one or more banks or other entities (other than a natural person and any Disqualified Lender) (each, a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans owing to it), provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrowers, the Administrative Agent, the Letter of Credit Issuers and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and (D) at any time it is a requirement of Dutch law on the date participations are sold to a Participant, such Participant is not considered to be a part of the public within the meaning of the Financial Supervision Act, which requirement can be considered satisfied, in reliance upon the Explanatory Memorandum to the Implementation Act in respect of Directive 2013/36/EU and Regulation (EU) No 575/2013, until the competent authority publishes its interpretation of the term "public" (as referred to in article 4.1(1) of Regulation (EU) No 575/2013), if the amount borrowed is not less than EUR 100,000 or its equivalent in any other currency. 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 or any other Credit Document, provided that such agreement or instrument may provide that such

Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 13.2 that affects such Participant. Subject to paragraph (c)(ii) of this Section 13.7, each Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.10, 2.11 and 5.4 to the same extent as if it were a Lender (subject to the requirements of those Sections) and had acquired its interest by assignment pursuant to paragraph (b) of this Section 13.7. To the extent permitted by Law, each Participant also shall be entitled to the benefits of Section 13.11(b) as though it were a Lender, provided such Participant agrees to be subject to Section 13.7(a) as though it were a Lender.

- (ii) A Participant shall not be entitled to receive any greater payment under Section 2.10 or 5.4 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Company's prior written consent (which consent shall not be unreasonably withheld or delayed). Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrowers, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest amounts) of each Participant's interest in the Loans or other obligations under this Agreement (the "Participant Register"). 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. 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.
- (d) Any Lender may, without the consent of or notice to the Borrowers or the Administrative Agent, at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section 13.7 shall not apply to any such pledge or assignment of a security interest, provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto. In order to facilitate such pledge or assignment, each Borrower hereby agrees that, upon request of any Lender at any time and from time to time after such Borrower has made its initial borrowing hereunder, such Borrower shall provide to such Lender, at such Borrower's own expense, a promissory note, substantially in the form of Exhibit E, as the case may be, evidencing the Loans owing to such Lender; provided that any such promissory note shall be governed by the laws of the State of New York and the Borrowers shall not be required to pay for any notarization of any such promissory note.
- (e) Subject to Section 13.19, each Borrower authorizes each Lender to disclose to any Participant, secured creditor of such Lender or assignee (each, a "Transferee") and any prospective Transferee any and all information in such Lender's possession concerning the Borrowers and their respective Affiliates that has been delivered to such Lender by or on behalf of the Borrowers and their respective Affiliates pursuant to this Agreement or

any other Credit Document or which has been delivered to such Lender by or on behalf of the Borrowers and their respective Affiliates in connection with such Lender's credit evaluation of the Borrowers and their respective Affiliates prior to becoming a party to this Agreement.

- 13.8 Replacements of Lenders under Certain Circumstances. (a) A Borrower shall be permitted to replace any Lender that (i) requests reimbursement for amounts owing pursuant to Section 2.10, 3.5 or 5.4; (ii) is affected in the manner described in Section 2.10(a)(iii) and as a result thereof any of the actions described in such Section is required to be taken; (iii) becomes a Defaulting Lender; or (iv) fails to approve an Additional Alternative Currency requested pursuant to Section 2.14 and with respect to which the Required Lender shall have approved such request, with (in any such case) a replacement bank or other financial institution, provided that (1) such replacement does not conflict with any Law, (2) no Event of Default shall have occurred and be continuing at the time of such replacement, (3) such Borrower shall repay (or the replacement bank or institution shall purchase, at par) all Loans, L/C Advances and other amounts (other than any disputed amounts), pursuant to Section 2.10, 2.11, 3.5 or 5.4, as the case may be) owing to such replaced Lender prior to the date of replacement, (4) the replacement bank or institution, if not already a Lender, and the terms and conditions of such replacement, shall be reasonably satisfactory to the Administrative Agent and the Letter of Credit Issuer, (5) the replaced Lender shall be obligated to make such replacement in accordance with the provisions of Section 13.7 (provided that the Borrowers shall be obligated to pay the registration and processing fee referred to therein) and (6) any such replacement shall not be deemed to be a waiver of any rights that such Borrower, the Administrative Agent or any other Lender shall have against the replaced Lender.
- (b) If any Lender (such Lender, a "Non-Consenting Lender") has failed to consent to a proposed amendment, waiver, discharge or termination which pursuant to the terms of Section 13.2 requires the consent of all of the Lenders affected and with respect to which the Required Lenders shall have granted their consent, then provided no Event of Default then exists, the Company shall have the right (unless such Non-Consenting Lender grants such consent) to replace such Non-Consenting Lender by requiring such Non-Consenting Lender to assign its Loans, and its Commitments hereunder to one or more assignees reasonably acceptable to the Administrative Agent, provided that: (i) all Secured Obligations of the Borrowers owing to such Non-Consenting Lender being replaced shall be paid in full to such Non-Consenting Lender concurrently with such assignment, and (ii) the replacement Lender shall purchase the foregoing by paying to such Non-Consenting Lender a price equal to the principal amount thereof plus accrued and unpaid interest thereon. In connection with any such assignment, the Borrowers, Administrative Agent, such Non-Consenting Lender and the replacement Lender shall otherwise comply with Section 13.7.
- 13.9 Resignation as Letter of Credit Issuer upon Assignment. (a) Notwithstanding anything to the contrary contained herein, if at any time a Lender assigns all of its Commitment and Loans pursuant to Section 13.7, it may, upon three Business Days' notice to the Company and the Administrative Agent, resign as Letter of Credit Issuer. In the event of any such resignation as Letter of Credit Issuer, the Company shall be entitled to appoint from among the Lenders a successor Letter of Credit Issuer hereunder in accordance with Section 3.6; provided, however, that no failure by the Company to appoint any such successor shall affect the resignation of the relevant Lender as Letter of Credit Issuer. If a Letter of Credit Issuer resigns, it shall retain all the rights, powers, privileges and duties of the Letter of Credit Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as Letter of Credit Issuer

and all Letter of Credit Exposure with respect thereto (including the right to require the Lenders to make Loans or fund risk participations in Unpaid Drawings pursuant to Section 3). Upon the appointment of a successor Letter of Credit Issuer such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Letter of Credit Issuer in accordance with Section 3.6.

(b) Notwithstanding anything to the contrary contained above the Lender that acts as the Administrative Agent may not be replaced hereunder except in accordance with the terms of Section 12.9.

13.10 Assignment to SPCs. Notwithstanding anything to the contrary contained herein, any Lender (a “Granting Lender”) may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Company (an “SPC”) the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; provided that (i) such SPC makes the representations and warranties applicable to Lenders set forth in Section 13.1, (ii) nothing herein shall constitute a commitment by any SPC to fund any Loan, and (iii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. Each party hereto hereby agrees that (i) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the cost or expenses or otherwise increase or change the obligations of any Borrower under this Agreement (including its obligations under Section 2.10, 2.11, 3.5 or 5.4, (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable, and (iii) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Credit Document, remain the lender of record hereunder. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Notwithstanding anything to the contrary contained herein, any SPC may disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guaranty or credit or liquidity enhancement to such SPC; provided that the information disclosed shall be limited to the extent necessary to satisfy the requirements of any such rating agency, commercial paper dealer, provider of any surety or Guaranty or credit or liquidity enhancement and shall not include (without the prior written consent of the Company) non-public projections, forecasts or any other forward looking information provided by, or relating to, the Company.

13.11 Adjustments; Set-off. (a) If any Lender (a “benefited Lender”) shall at any time receive any payment of all or part of its Loans, or interest thereon, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off, pursuant to events or proceedings of the nature referred to in Section 11.1(g), or otherwise), in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of such other Lender’s Loans, or interest thereon, such benefited Lender shall purchase for cash from the other Lenders a participating interest in such portion of each such other Lender’s Loan, or shall provide such other Lenders with the benefits of any such collateral, or the proceeds thereof, as shall be necessary to cause such benefited Lender to share the excess payment or benefits of such collateral or proceeds ratably with each of the Lenders; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such benefited Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest.

(b) After the occurrence and during the continuance of an Event of Default, in addition to any rights and remedies of the Lenders provided by law, each Lender shall have the right, without prior notice to any Borrower, any such notice being expressly waived by each Borrower to the extent permitted by applicable Law, upon any amount becoming due and payable by a Borrower hereunder (whether at the stated maturity, by acceleration or otherwise) to set-off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender or any of its Affiliates or any branch or agency thereof to or for the credit or the account of such Borrower. Each Lender agrees promptly to notify the Company and the Administrative Agent after any such set-off and application made by such Lender, provided that the failure to give such notice shall not affect the validity of such set-off and application.

- 13.12 **Counterparts.** This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Agreement signed by all the parties shall be lodged with the Borrowers and the Administrative Agent.
- 13.13 **Severability.** Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.
- 13.14 **Integration.** This Agreement and the other Credit Documents represent the agreement of the Borrowers, the Collateral Agents, the Administrative Agent and the Lenders with respect to the subject matter hereof, and there are no promises, undertakings, representations or warranties by the Borrowers, the Administrative Agent, the Collateral Agents or any Lender relative to subject matter hereof not expressly set forth or referred to herein or in the other Credit Documents.
- 13.15 **GOVERNING LAW.** THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.
- 13.16 **Submission to Jurisdiction; Waivers.** Each party hereto hereby irrevocably and unconditionally:
- (a) submits for itself and its property in any legal action or proceeding relating to this Agreement and the other Credit Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the courts of the State of New York, the courts of the United States of America for the Southern District of New York and appellate courts from any thereof;
  - (b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;



- (c) in the case of each Credit Party party hereto (other than the Co-Borrower) appoints the Co-Borrower (the “Process Agent”) as its agent to receive on behalf of such Credit Party and its property service of copies of the summons and complaint and any other process which may be served by the Administrative Agent or any Lender or Letter of Credit Issuer in any such action or proceeding in any aforementioned court in respect of any action or proceeding arising out of or relating to this Agreement. Such service may be made by delivering a copy of such process to such Credit Party by courier and by certified mail (return receipt requested), fees and postage prepaid, both (i) in care of the Process Agent at the Process Agent’s address and (ii) at the relevant Credit Party’s address specified pursuant to Section 13.3, and each Credit Party hereby irrevocably authorizes and directs the Process Agent to accept such service on its behalf that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such Person at its address set forth on Schedule 13.2 at such other address of which the Administrative Agent shall have been notified pursuant to Section 13.3;
- (d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction; and
- (e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section 13.16 any special, exemplary, punitive or consequential damages.

13.17 Acknowledgments. Each Borrower hereby acknowledges that:

- (a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Credit Documents;
- (b) no Agent nor any Lender has any fiduciary relationship with or duty to any Borrower arising out of or in connection with this Agreement or any of the other Credit Documents, and the relationship between such Agent and Lenders, on one hand, and the Borrowers, on the other hand, in connection herewith or therewith is solely that of debtor and creditor;
- (c) no joint venture is created hereby or by the other Credit Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Borrowers and the Lenders; and
- (d) each Agent and Lender may have economic interests that conflict with those of the Credit Parties, their stockholders and/or their affiliates.

13.18 **WAIVERS OF JURY TRIAL**. EACH BORROWER, EACH AGENT AND EACH LENDER HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

13.19 Confidentiality. The Administrative Agent and each Lender shall hold all non-public information furnished by or on behalf of a Borrower in connection with such Lender’s evaluation of whether to become a Lender hereunder or obtained by such Lender or the Administrative Agent pursuant to the requirements of this Agreement (“Confidential Information”), confidential in accordance with its customary procedure for handling confidential information of this nature and (in the case

of a Lender that is a bank) in accordance with safe and sound banking practices and in any event may make disclosure (a) as required or requested by any Governmental Authority or representative thereof or pursuant to legal process, or (b) to such Lender's or the Administrative Agent's directors, officers, employees, agents, attorneys, professional advisors or independent auditors or Affiliates, (c) to any other party to this Agreement, (d) to any pledgee referred to in Section 13.7(d), provided that the information disclosed shall be limited to the extent necessary to satisfy the requirements of such pledgee and shall not include (without the prior written consent of the Company) non-public projections, forecasts or other forward looking information provided by, or relating to, the Company, (e) to the extent such Confidential Information becomes publicly available other than as a result of a breach of this Section 13.19 (f) to the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the facilities or market data collectors, similar service providers to the lending industry and service providers to the Administrative Agent in connection with the administration and management of this Agreement and the Loan Documents, and (g) otherwise with prior written consent of the Company, provided that unless specifically prohibited by applicable Law or court order or similar process, each Lender and the Administrative Agent shall notify the Company of any request by any Governmental Authority or representative thereof (other than any such request in connection with an examination of the financial condition of such Lender by such Governmental Authority) for disclosure of any such non-public information prior to disclosure of such information, and provided, further, that in no event shall any Lender, Letter of Credit Issuer or the Administrative Agent be obligated or required to return any materials furnished by a Borrower or any Subsidiary of a Borrower. Each Lender and the Administrative Agent agrees that it will not provide to prospective Transferees or to prospective direct or indirect contractual counterparties in Hedge Agreements to be entered into in connection with Loans made hereunder any of the Confidential Information unless such Person is advised of and agrees to be bound by provisions at least as restrictive as those of this Section 13.19.

13.20 Payments Set Aside Communications. To the extent that any payment by or on behalf of the Company or the Co-Borrower is made to any Agent or any Lender, or any Agent or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Agent or such Lender in its discretion) to be repaid to a trustee, receiver, or any other party, in connection with any proceeding or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by any Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the applicable overnight rate from time to time in effect.

13.21 Direct Website Communications. (a)(2) A Borrower may, at its option but subject to the limitations set forth in Sections 9.1 and 9.2, provide to the Administrative Agent any information, documents and other materials that it is obligated to furnish to the Administrative Agent pursuant to the Credit Documents, including, without limitation, all notices, requests, financial statements, financial and other reports, certificates and other information materials, but excluding any such communication that (A) relates to a request for a new, or a conversion or extension of an existing, Borrowing or other Credit Event (including any election of an Interest rate or Interest Period relating thereto), (B) relates to the payment of any principal or other amount due under the Credit Agreement prior to the scheduled date therefor, (C) provides notice of any Default or Event of Default or (D) is required to be delivered to satisfy any condition precedent to the effectiveness of the Credit Agreement and/or any Borrowing or other Credit Event (all such non-excluded

communications being referred to herein collectively as “Communications”), by transmitting the Communications in an electronic/soft medium in a format reasonably acceptable to the Administrative Agent to the contact provided in Schedule 13.2 attached hereto. Nothing in this Section 13.21 shall prejudice the right of the Borrowers, the Administrative Agent or any Lender to give any notice or other communication pursuant to any Credit Document in any other manner specified in such Credit Document.

- (i) The Administrative Agent agrees that the receipt of the Communications by the Administrative Agent at its e-mail address set forth above shall constitute effective delivery of the Communications to the Administrative Agent for purposes of the Credit Documents. Each Lender agrees that notice to it (as provided in the next sentence) specifying that the Communications have been posted to the Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Credit Documents. Each Lender agrees (A) to notify the Administrative Agent in writing (including by electronic communication) from time to time of such Lender’s e-mail address to which the foregoing notice may be sent by electronic transmission and (B) that the foregoing notice may be sent to such e-mail address.
- (b) Each Borrower hereby acknowledges that (i) the Administrative Agent will make available to the Lenders and the materials and/or information provided by each Borrower hereunder (collectively, the “Borrower Materials”) by posting the Borrower Materials on Intralinks or another similar electronic system (the “Platform”) (so long as the access to such Platform is limited (x) to the Agents and the Lenders and (y) remains subject to the confidentiality requirements set forth in Section 13.19), (ii) certain of the Lenders may be “public-side” Lenders (i.e., Lenders that do not wish to receive material nonpublic information with respect to Holdings, the Borrowers or their respective securities) (each, a “Public Lender”).
- (c) Each Borrower hereby agrees that (i) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked “PUBLIC” which, at a minimum, shall mean that the word “PUBLIC” shall appear prominently on the first page thereof, (ii) by marking Borrower Materials “PUBLIC,” The Borrowers shall be deemed to have authorized the Administrative Agent and the Lenders to treat such Borrower Materials as not containing any material nonpublic information with respect to the Borrowers or their respective securities for purposes of United States Federal and state securities laws (provided that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 8.16), (iii) all Borrower Materials marked “PUBLIC” are permitted to be made available through a portion of the Platform designated as “Public Investor” and (iv) the Administrative Agent shall be entitled to treat any Borrower Materials that are not marked “PUBLIC” as being suitable only for posting on a portion of the Platform not marked as “Public Investor.” Notwithstanding the foregoing, the following Borrower Materials shall be deemed to be marked “PUBLIC,” unless the Borrowers notify the Administrative Agent promptly that any such document contains material nonpublic information: (1) the Loan Documents, (2) any notification of changes in the terms of the Credit Facilities and (3) all Information delivered pursuant to Section 8.16.
- (d) Each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the “Private Side Information” or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or

its delegate, in accordance with such Public Lender's compliance procedures and applicable law, including United States Federal and state securities laws, to make reference to Communications that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to the Borrowers or its securities for purposes of United States Federal or state securities laws.

- (e) The Platform is provided "as is" and "as available". The Agent Parties do not warrant the accuracy or completeness of the Communications, or the adequacy of the Platform and expressly disclaim liability for errors or omissions in the Communications. 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 the Agent Parties in connection with the Communications or the Platform. In no event shall the Administrative Agent, the Collateral 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 any Borrower, 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 a Borrower's or the Administrative Agent's transmission of Communications through the internet, except to the extent the liability of any Agent Party resulted from such Agent Party's (or any of its Related Parties) gross negligence or willful misconduct.

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

IN WITNESS WHEREOF, each of the parties hereto has caused a counterpart of this Agreement to be duly executed and delivered as of the date first above written.

**BORROWERS**

**NXP B.V.**

By: /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Signatory

[Signature Page to Revolving Credit Agreement]

NXP FUNDING LLC

By: /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Signatory

[Signature Page to Revolving Credit Agreement]

**COLLATERAL AGENT**

MORGAN STANLEY SENIOR FUNDING, INC.,  
as Collateral Agent

By: /s/ Jan Dorrington

\_\_\_\_\_  
Name: Jan Dorrington  
Title: Managing Director

By: /s/ Frank Fazio

\_\_\_\_\_  
Name: Frank Fazio  
Title: Managing Director

[Signature Page to Revolving Credit Agreement]

**ADMINISTRATIVE AGENT**

MORGAN STANLEY SENIOR FUNDING, INC.,  
as Administrative Agent and Lender

By: /s/ Stephen B. King

Name: Stephen B. King

Title: Authorized Signatory

[Signature Page to Revolving Credit Agreement]



By: /S/ Bill O'Daly  
Name: Bill O'Daly  
Title: Authorized Signatory

By: Andrew Maletta  
Name: Dr. Andrew Maletta  
Title: Authorized Signatory

By: /S/ Ian Dorrington  
Name: Ian Dorrington  
Title: Managing Director

By: Frank Fazio  
Name: Frank Fazio  
Title: Managing Director

By: /S/ Anca Trifan  
Name: Anca Trifan  
Title: Managing Director

By: /S/ Dusan Lazarov  
Name: Dusan Lazarov  
Title: Director

By: /S/ Peter Simpkin  
Name: Peter Simpkin  
Title: Managing Director

**CITIBANK NA,  
LONDON BRANCH**

By: /S/ Peter Simpkin  
Name: Peter Simpkin  
Title: Managing Director

**BARCLAYS BANK PLC,**

By: /S/ Ritam Shalla  
Name: Ritam Shalla  
Title: Director

**BANK OF AMERICA, NA**

By: /S/ Louise Dendle  
Name: Louise Dendle  
Title: AVP

By: /S/ Emilia Evangelides  
Name: Emilia Evangelides  
Title: AVP

By: /S/ Robert Ehudin  
Name: Robert Ehudin  
Title: Authorized Signatory



**COOPERATIVE CENTRALE RAIFFEISEN  
BOERENLEENBANK B.A.**

By: /S/ B.L.L Fransen  
Name: B.L.L Fransen  
Title: Director

By: /S/ R.G.C. Stoenbeeke  
Name: R.G.C. Stoenbeeke  
Title: Executive Director

**AGREED SECURITY PRINCIPLES**

## Agreed Security Principles

1. The Guaranties and Liens to be provided by the Credit Parties will be given in accordance with certain agreed security principles (the “Agreed Security Principles”). This Schedule 1.1(a) identifies the Agreed Security Principles and addresses the manner in which the Agreed Security Principles will impact on or be determinant of the Guaranties and Liens to be taken in relation to this Agreement.
2. All Guaranties, Liens and security shall be provided in accordance with the Guaranties, Liens and security provided under or in connection with the Term Credit Agreement (including on substantially the same terms thereof and subject to the Agreed Security Principles).
3. The Agreed Security Principles embody a recognition by all parties that there may be certain legal, commercial and practical difficulties in obtaining effective security from the Company and each of its Restricted Subsidiaries located in every jurisdiction in which the Company and its Restricted Subsidiaries are located. In particular:
  - (a) general statutory limitations, financial assistance, corporate benefit, fraudulent preference, “thin capitalization” rules, retention of title claims and similar matters may limit the ability of the Company or any of its Restricted Subsidiaries to provide a Guarantee or Liens or may require that it be limited as to amount or otherwise, and if so the same shall be limited accordingly, provided that the Company or the relevant Restricted Subsidiary shall use reasonable endeavors to overcome such obstacle. The Company will use reasonable endeavors to assist in demonstrating that adequate corporate benefit accrues to each of the Restricted Subsidiary;
  - (b) the Company and its Restricted Subsidiaries will not be required to give Guarantees or enter into Security Documents if (or to the extent) it is not within the legal capacity of the Company or its relevant Restricted Subsidiary or if the same would conflict with the fiduciary duties of their directors or contravene any legal prohibition or regulatory condition or result in, or could reasonably be expected to result in, a material risk of personal or criminal liability for any officer or director of the Company or any of the Restricted Subsidiaries, provided that the Company and each of its Restricted Subsidiaries shall use reasonable endeavors to overcome any such obstacle;
  - (c) a key factor in determining whether or not security shall be taken is the applicable cost (including adverse effects on interest deductibility, registration taxes and notarial costs) which shall not be disproportionate to the benefit to the Lenders of obtaining such security;
  - (d) where there is material incremental cost involved in creating security over all assets owned by any of the Borrowers or a Guarantor in a particular category (e.g. real estate), regard shall be had to the principle stated at paragraph 3(d) of this Schedule 1.1(a) which shall apply to the immaterial assets and, subject to the Agreed Security Principles, only the material assets in that category (e.g. real estate of material economic value) shall be subject to security;

- (e) it is expressly acknowledged that it may be either impossible or impractical to create security over certain categories of assets in which event security will not be taken over such assets;
- (f) any assets subject to contracts, leases, licenses or other arrangements with a third party that exist concurrently (but which are not created in contemplation of the Transactions) or are not prohibited by this Agreement and which (subject to override by the UCC and other relevant provisions of applicable law), effectively prevent those assets from being charged will be excluded from any relevant Security Document; provided that reasonable endeavors to obtain consent to creating Liens in any such assets shall be used by the Company and each of its Restricted Subsidiaries to avoid or overcome such restrictions if the Administrative Agent reasonably determines that the relevant asset is material (which endeavors shall not include the payment of any consent fees), but unless effectively prohibited by contracts, leases, licenses or other arrangements with a third party that exist concurrently (but which are not created in contemplation of the Transactions) or are not prohibited by this Agreement, this shall not prevent security being given over any receipt or recovery under such contract, lease or license;
- (g) the giving of a Guarantee, the granting of security or the perfection of the security granted will not be required if it would have a material adverse effect (as reasonably determined in good faith by management of the relevant obligor) on the ability of the relevant obligor to conduct its operations and business in the ordinary course as otherwise permitted by this Agreement;
- (h) in the case of accounts receivable, a material adverse effect on the Company's, the Co-Borrower's or a Guarantor's relationship with or sales to the customer generating such receivables or material legal or commercial difficulties (as reasonably determined by management of the relevant obligor in good faith) provided that none of the Borrowers and the Guarantors may utilize this exception unless, after giving effect thereto no less than a majority of the book value of the accounts receivable of the Company and its Subsidiaries on a consolidated basis (as measured at the end of each fiscal quarter) is subject to perfected liens, and provided further that any accounts receivable of the Borrowers and the Guarantors excluded from collateral by virtue of this clause (except where prohibited by law and subject to the remainder of these Agreed Security Principles) shall be subject to perfected Liens promptly if and when the corporate credit of the Company is downgraded to "B" or lower from S&P and "B-2" or lower from Moody's;
- (i) security will be limited so that the aggregate of notarial costs and all registration and like taxes relating to the provision of security shall not exceed an amount to be agreed. Any additional costs may be paid by the Lenders at their option;
- (j) all security shall be given in favor of a single security trustee or collateral agent and not the secured parties individually. "Parallel debt" provisions and other similar structural options will be used where necessary and such provisions will be contained in the intercreditor agreement and not the individual security documents unless required under local law. No action will be required to be taken in relation to the Guarantees or security when any lender assigns or transfers any of its participation in this Agreement to a new lender; and
- (k) notwithstanding anything contained in these Agreed Security Principles to the contrary, security shall only be granted by a Relevant Jurisdiction Guarantor and shall only be granted under agreements governed by the laws of a Relevant Jurisdiction.

4. Terms of Security Documents
5. The following principles will be reflected in the terms of any Security Document to be executed and delivered as part of the Transactions:
  - (a) the terms of each Security Document shall be in substantially the same form as such corresponding security document was provided under or in connection with the Existing Term Loans;
  - (b) subject to permitted liens and these Agreed Security Principles the security will be first ranking and the perfection of security (when required) and other legal formalities will be completed as soon as practicable and, in any event, within the time periods specified in the Credit Documents or, if earlier or to the extent no such time period is specified in the Credit Documents, within the time periods specified by applicable law in order to ensure due perfection;
  - (c) the security will not be enforceable until an Event of Default has occurred and notice of acceleration of the Loans has been given by the applicable Administrative Agent or the Loans have otherwise become due and payable prior to the scheduled maturity thereof (an "Enforcement Event");
  - (d) prior to the Maturity Date, notification of any Liens over bank accounts will be given (subject to legal advice) to the banks with whom the accounts are maintained only if an Enforcement Event has occurred;
  - (e) notification of receivables security to debtors who are not members of the Company or its Subsidiaries will only be given if an Enforcement Event has occurred;
  - (f) notification of any security interest over insurance policies will be served on any insurer of the Company's or any Restricted Subsidiaries' assets (other than in respect of any insurance policy maintained by the Company or any of its Restricted Subsidiaries which is due to expire on or before December 31, 2015);
  - (g) the Security Documents should only operate to create security rather than to impose new commercial obligations. Accordingly, they should not contain material additional representations, undertakings or indemnities (such as in respect of insurance, information or the payment of costs) unless these are the same as or consistent with those contained in this Agreement or are necessary for the creation or perfection of the security;
  - (h) in respect of the share pledges and pledges of intra-group receivables, until an Enforcement Event has occurred, the pledgors will be permitted to retain and to exercise voting rights to any shares pledged by them in a manner which does not materially adversely affect the value of the security (taken as a whole) or the validity or enforceability of the security or cause an Event of Default to occur, and the pledgors will be permitted to receive dividends on pledged shares and payment of intra-group receivables and retain the proceeds and/or make the proceeds available to the Company and its Subsidiaries to the extent not prohibited under this Agreement;

- (i) Secured Parties will only be able to exercise a power of attorney in any Security Document following the occurrence of an Enforcement Event or with respect to perfection or further assurance obligations that following request, the relevant obligor has failed to satisfy;
- (j) no obligor shall be required to provide surveys on real property (unless such surveys already exist in which case there shall be no requirement that such surveys be certified to the Lenders) or to remove any encumbrances on title (not created in contemplation of the Transactions) that are reflected in any title insurance or any other existing encumbrances on real property (not created in contemplation of the Transactions) (not including Liens securing Indebtedness of the Company or any of its Restricted Subsidiaries);
- (k) no obligor shall be required to protect any Liens in the United States prior to the occurrence of an Enforcement Event by means other than customary filings (including UCC-1s, mortgage or deed of trust filings and patent and trademark filings) and delivery of share certificates (accompanied by powers of attorney executed in blank) and any intercompany promissory notes; and
- (l) information, such as lists of assets, will be provided if, and only to the extent, required by local law to be provided to protect or create, perfect or register the security and, to the extent so required will be provided annually (unless required to be provided by local law more frequently, but not more frequently than quarterly) and following the occurrence and during the continuance of an Event of Default, on the applicable Administrative Agent's reasonable request.

## SCHEDULE 1.1(b)

## COMMITMENTS

Initial Lender	Revolving Commitment (\$)	Revolving Commitment (%)
CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH	\$ 112,000,000.00	18.666666667%
MORGAN STANLEY SENIOR FUNDING, INC	\$ 92,000,000.00	15.333333333%
BARCLAYS BANK PLC	\$ 92,000,000.00	15.333333333%
DEUTSCHE BANK AG, NEW YORK BRANCH	\$ 92,000,000.00	15.333333333%
BANK OF AMERICA, N.A.	\$ 92,000,000.00	15.333333333%
GOLDMAN SACHS LENDING PARTNERS LLC	\$ 44,000,000.00	7.333333333%
CITIBANK N.A., LONDON BRANCH	\$ 44,000,000.00	7.333333333%
COÖPERATIEVE CENTRALE RAIFFEISEN-BOERENLEENBANK B.A.	\$ 32,000,000.00	5.333333333%
<b>TOTAL</b>	<b>\$ 600,000,000.00</b>	<b>100.000000000%</b>

SCHEDULE 1.1(c)

FORM OF COMPLIANCE CERTIFICATE

Financial Statement Date: \_\_\_\_\_,

To: MORGAN STANLEY SENIOR FUNDING, INC., as Administrative Agent

Ladies and Gentlemen:

Reference is made to the Secured Revolving Credit Agreement dated December 7, 2015 (the "Credit Agreement"), between amongst, NXP B.V. (the "Company"), NXP FUNDING LLC, the lenders from time to time parties thereto (each a "Lender" and, collectively, the "Lenders"), MORGAN STANLEY SENIOR FUNDING, INC. as Administrative Agent and MORGAN STANLEY SENIOR FUNDING, INC. as Collateral Agent. All capitalized terms used but not defined herein shall have the meanings given in the Credit Agreement.

This is a Compliance Certificate for the purposes of the Credit Agreement.

The undersigned hereby certifies as of the date hereof that he/she is the [Title]<sup>3</sup> of the Company, and that, as such, he/she is authorized to execute and deliver this Compliance Certificate to the Administrative Agent on the behalf of the Company, and that:

*[Use following paragraph 1 for fiscal year-end financial statements]*

1. Attached hereto as Schedule 1 are the year-end audited financial statements required by Section 9.1(a) of the Credit Agreement for the fiscal year of the Company ended as of the above date, together with the report and opinion of [ ] required by and in conformance with such section.

*[Use following paragraph 1 for fiscal quarter-end financial statements]*

2. Except as otherwise permitted by the Credit Agreement, attached hereto as Schedule 1 are the unaudited financial statements required by Section 9.1(b) of the Credit Agreement for the fiscal quarter of the Company ended as of the above date. Such financial statements fairly present, in all material respects, the financial condition, results of operations shareholders' equity and cash flows of the Company and its Subsidiaries in accordance with GAAP as at such date and for such period, subject only to normal year-end audit adjustments and the absence of footnotes.

*[Use following paragraph for compliance certificate delivered in connection with fiscal year-end financial statements]*

3. [To the knowledge of the undersigned, except as otherwise disclosed to the Administrative Agent pursuant to the Credit Agreement, no Default has occurred.]<sup>4</sup>

*[Use following paragraph for compliance certificate delivered in connection with fiscal year-end financial statements]*

<sup>3</sup> Must be the chief executive officer, chief financial officer, treasurer or controller of the Company.

<sup>4</sup> If unable to provide the foregoing certification, fully describe the reasons therefor and circumstances thereof and any action taken or proposed to be taken with respect thereto

4. [As of [*date of financial statements*], the following companies are Wholly-Owned Subsidiaries which are not Immaterial Subsidiaries: [ ].]  
[Each of the following Guarantors is hereby designated as an Immaterial Subsidiary whose obligations under the Guaranty shall terminate as of the date hereof: [ ].].

5. The Consolidated Leverage Ratio as at the date hereof is [●]:1.

6. The undersigned has reviewed and is familiar with the terms of the Credit Agreement and has made, or has caused to be made under his/her supervision, a detailed review of the transactions and condition (financial or otherwise) of the Company and its Subsidiaries during the accounting period covered by the attached financial statements.



IN WITNESS WHEREOF, the undersigned has executed this Compliance Certificate as of [ \_\_\_\_\_ ].

By: \_\_\_\_\_  
Name:  
Title:

## SCHEDULE 8.10

### LITIGATION AGAINST THE COMPANY AND ITS RESTRICTED SUBSIDIARIES

Set forth below are descriptions of our most important legal proceedings pending as of [December [●], 2015], for which the related loss contingency is either probable or reasonably possible:

- Three former employees of Signetics Corp, a predecessor of NXP Semiconductors USA, Inc. and their respective children each separately filed various counts against NXP Semiconductors USA, Inc. (negligence, premises liability, strict liability, abnormal and ultra hazardous activity, willful and wanton misconduct and loss of consortium) asserting exposure to harmful chemicals and substances while the employees concerned were working in a factory “clean room” of Signetics Corp., resulting in alleged physical injuries and eventual birth defects to their children (cases No. N09C-10-032 JRJ, N10C-05-137 JRJ and 1-10-CV-188679). Initial discovery has commenced by both sides in above mentioned cases. Actual substantive responses are pending. Trial dates for Case No. N09C-10 032 and Case No. N10C-05-137 have been set at October 7, 2013 and April 28, 2014, respectively. No trial date has been set in Case No. 1-10-CV-188679 yet.
- Norit Winkelsteeg B.V. and Vitens N.V. alleged that NXP Semiconductors Netherlands B.V. breached a contract it had entered into with them to build a so-called “permeate-water” factory or, in the alternative, had terminated negotiations to enter into such contract in bad faith. Claimants hold NXP Semiconductors Netherlands B.V. liable for all costs, expenses and damages, including loss of profit. In an interim judgment dated January 27, 2009, the Court of Appeal in Arnhem, the Netherlands, recognized that part of the claim related to costs and expenses could be awarded but the Court further stated that reticence must be observed in awarding compensation for loss of profits. Court appearance is adjourned.
- In 2007, certain former employees of NXP Semiconductors France SAS employed by a subsidiary of the DSP Group, Inc. filed a claim against NXP Semiconductors France SAS before the Tribunal de Grande Instance in an emergency procedure (procédure de référé) to demand re-integration within NXP Semiconductors France SAS, following the closure of the DSP Group’s activities in France and the consequent termination of their employment agreements. The claim was rejected by the Tribunal de Grande Instance. The employees concerned then brought the same claim before the Social Court (Conseil de Prud’hommes) in Caen which, on April 27, 2010, also ruled in favor of NXP Semiconductors France SAS. The claimants filed for an appeal in last resort on May 18, 2010, which is still pending.

In addition, on January 7, 2009, the European Commission issued a release in which it confirmed it had started an investigation in the smart card chip sector. The European Commission has reason to believe that the companies concerned may have violated European Union competition rules prohibiting certain practices such as price fixing, customer allocation and the exchange of commercially sensitive information. As one of the companies active in the smart card chip sector, NXP is subject to this ongoing investigation and is assisting the regulatory authorities in this investigation. The investigation is in its initial stage and it is currently not possible to reliably estimate its outcome.

SCHEDULE 8.13

ENVIRONMENTAL CLAIMS AGAINST HOLDINGS AND ITS  
SUBSIDIARIES

<u>Site</u>	<u>Issue</u>	<u>Expected Liability</u>	<u>Additional Information</u>
<b><u>Germany</u></b>			
Hamburg	Soil and groundwater pollution	EUR 800,000 per year for next 25 years	Clean up already underway and will continue for 25 years. Investigations alternative decontamination methods and ground water containment concept ongoing. New thermal heating decontamination project started in 2011 Yearly reviews undertaken by environmental agency. Last review was in February 2011.
<b><u>Netherlands</u></b>			
Nijmegen	Soil and groundwater pollution	USD 100,000 per year for next 10 years	Soil and groundwater are contaminated. These matters have been reported to the authorities and no further action is required. However, NXP extracts groundwater of companies in neighbourhood. In consultation with authorities NXP has formally requested the municipality to legalize

<u>Site</u>	<u>Issue</u>	<u>Expected Liability</u>	<u>Additional Information</u>
	Asbestos in foundation parking lot	USD 700,000	these activities. Possible treat (cleaning) methods and monitoring for extracted ground water in the next 10 years, costing USD 100,000 per year. Decision municipality pending. NXP rents a parcel from the municipality. If the lease is ended, NXP would be required to dismantle the parcel which would result in costs in relation to the disposal of asbestos.
Lent	TCE contamination	EUR 4,000,000 if ProRail claims are successful	Site has been sold to ProRail. ProRail claims that NXP contaminated the land. Claims are being rejected (the last claim was in January 2010).  If ProRail is successful in its claims, this may result in a total liability of EUR 4,000,000 if building activities are undertaken by ProRail.  However, it is considered very unlikely that a claim against NXP in connection with this matter will be made successfully.

**United Kingdom**

Manchester (Hazel Grove)	Asbestos in building and foundation	USD 850,000 Unknown	No action required at present but removal of asbestos will be required on demolition of the building at a cost of USD 850,000
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<u>Site</u>	<u>Issue</u>	<u>Expected Liability</u>	<u>Additional Information</u>
	Possible soil and groundwater pollution	USD 5,000 per year for 25 years	Cost is in relation to testing for contamination. At present there is no cause for concern.

SCHEDULE 8.15

RESTRICTED SUBSIDIARIES

<u>No.</u>	<u>Subsidiary</u>	<u>Jurisdiction of Organization</u>	<u>Ownership Interest</u>
1.	NXP Semiconductors Netherlands B.V.	Netherlands	100%
2.	NXP Software B.V.	Netherlands	100%
3.	Catena Holding B.V.	Netherlands	100%
4.	Catena Radio Design B.V.	Netherlands	100%
5.	Catena Microelectronics B.V.	Netherlands	100%
6.	SMST Unterstützungskasse GmbH	Germany	100%
7.	NXP Semiconductors Germany GmbH	Germany	100%
8.	NXP Stresemannallee 101 Dritte Verwaltungs GmbH	Germany	100%
9.	NXP Semiconductors Austria GmbH	Austria	100%
10.	Catena DSP GmbH	Austria	100%
11.	NXP Semiconductors Switzerland AG	Switzerland	100%
12.	NXP Semiconductors Belgium N.V.	Belgium	100%
13.	NXP Semiconductors France SAS	France	100%
14.	NXP Semiconductors Finland Oy	Finland	100%
15.	NXP Semiconductors Sweden AB	Sweden	100%
16.	Catena Wireless Electronics AB	Sweden	100%
17.	NXP Semiconductors UK Limited	UK	100%
18.	NXP Semiconductors Hungary Ltd.	Hungary	100%
19.	NXP Semiconductors Elektronik Ticaret A.S	Turkey	100%
20.	NXP Semiconductors Poland Sp.z.o.o	Poland	100%

<b>No.</b>	<b>Subsidiary</b>	<b>Jurisdiction of Organization</b>	<b>Ownership Interest</b>
21.	O.O.O. NXP Semiconductors Russia	Russia	100%
22.	NXP Semiconductors Guangdong Ltd	China	100%
23.	NXP Semiconductors Hong Kong Ltd.	Hong Kong	100%
24.	Semiconductors NXP Ltd.	Hong Kong	100%
25.	NXP Semiconductors Japan Ltd	Japan	100%
26.	NXP Semiconductors Korea Ltd.	Korea	100%
27.	NXP Semiconductors Singapore Pte. Ltd	Singapore	100%
28.	NXP Semiconductors Taiwan Ltd.	Taiwan	100%
29.	NXP Semiconductors Malaysia Sdn. Bhd.	Malaysia	100%
30.	NXP Semiconductors Philippines, Inc.	Philippines	100%
31.	NXP Semiconductors Cabuyao, Inc.	Philippines	99.9%
32.	NXP Semiconductors (Thailand) Ltd under liquidation (voluntary wind up)	Thailand	100%
33.	NXP Manufacturing (Thailand) Ltd	Thailand	100%
34.	NXP Semiconductors India Pvt Ltd.	India	100%
35.	NXP Semiconductors USA, Inc.	USA	100%

<u>No.</u>	<u>Subsidiary</u>	<u>Jurisdiction of Organization</u>	<u>Ownership Interest</u>
36.	NXP Laboratories UK Holding Ltd.	UK	100%
37.	NXP Laboratories UK Ltd.	UK	100%
38.	Glonav Ltd.	Ireland	100%
39.	NXP Semiconductors Canada Inc.	Canada	100%
40.	NXP Funding LLC	USA	100%
41.	Nimble Acquisition Ltd.	Bermuda	100%
42.	NXP (China) Management Ltd. Semiconductors	China	100%
43.	Athena Smartcard Inc.	USA	100%
44.	Catena Holding B.V.	Netherlands	100%
45.	Freescale Semiconductor, Ltd. <sup>3</sup>	Bermuda	100%
46.	Freescale Semiconductor Holdings II, Ltd. <sup>4</sup>	Bermuda	100%
47.	Freescale Semiconductor Holdings III, Ltd. <sup>5</sup>	Bermuda	100%
48.	Freescale Semiconductor Holdings IV, Ltd. <sup>6</sup>	Bermuda	100%
49.	Freescale Semiconductor Holdings V, Inc.	USA	100%
50.	Freescale Semiconductor, Inc.	USA	100%

<sup>3</sup> This entity will only be a Restricted Subsidiary until completion of the mergers of Freescale Semiconductor, Ltd., Freescale Semiconductor Holdings II, Ltd., Freescale Semiconductor Holdings III, Ltd. and Freescale Semiconductor Holdings IV, Ltd. into Freescale Semiconductor Holdings V, Inc. (the “**Bermuda Mergers**”).

<sup>4</sup> This entity will only be a Restricted Subsidiary until completion of the Bermuda Mergers.

<sup>5</sup> This entity will only be a Restricted Subsidiary until completion of the Bermuda Mergers.

<sup>6</sup> This entity will only be a Restricted Subsidiary until completion of the Bermuda Mergers.



51.	Freescale Semiconductor Luxembourg Treasury Services S.à r.l.	Luxembourg	100%
52.	Freescale Semiconductor Luxembourg Investing Services S.à r.l.	Luxembourg	100%
53.	Freescale Semiconductor Cayman Holdings, Ltd.	Cayman Islands	100%
54.	Freescale Asia Fulfillment Centre Sdn. Bhd.	Malaysia	100%
55.	Freescale Semiconductor EME&A SA	Switzerland	100%
56.	Providence Holdings Kft	Hungary	100%
57.	intoto, LLC	USA	100%
58.	Chip Re Inc.	USA	100%
59.	Freescale Semiconductor Brasil Ltda.	Brasil	100%
60.	Freescale Semiconductor Canada, Inc.	Canada	100%
61.	Freescale Semiconductor Mexico, S. de R.L. de C.V.	Mexico	100%
62.	Freescale Semiconductor International Corp	USA	100%
63.	SigmaTel, LLC	USA	100%
64.	Freescale Semiconductor Holding Limited	British Virgin Islands	100%
65.	Zenverge, LLC	USA	100%
66.	Freescale Semiconduttori Italia S.r.l.	Italy	100%
67.	Freescale Semiconductor S.A.	Switzerland	100%
68.	Freescale Polovodice Ceska republika s.r.o.	Czech Republic	100%

69.	Freescale Semiconductor Nordic AB	Sweden	100%
70.	Freescale Semiconductor Romania Srl	Romania	100%
71.	Freescale Semiconductor LLC	Russia	100%
72.	Freescale Semiconductor Holding UK Limited	UK	100%
73.	Freescale Semiconductor UK Limited	UK	100%
74.	Freescale Semiconductor Israel Limited	Israel	100%
75.	Freescale Semiconducteurs France SAS	France	100%
76.	Freescale Danmark A/S	Denmark	100%
77.	Freescale Halbleiter Deutschland GmbH	Germany	100%
78.	Freescale Semiconductor Singapore Pte. Ltd.	Singapore	100%
79.	Intoto Software India Private Limited	India	100%
80.	Freescale Semiconductor India Pvt. Ltd.	India	100%
81.	Freescale Semiconductor Hong Kong Limited	Hong Kong	100%
82.	Freescale Semiconductor Malaysia Sdn. Bhd.	Malaysia	100%
83.	Freescale Semiconductor Taiwan Ltd.	Taiwan	100%
84.	Freescale Qiangxin (Tianjin) IC Design Co. Ltd.	China	75%
85.	Freescale Semiconductor Japan Limited	Japan	100%
86.	Freescale Semiconductor Asia Enablement Limited	Malaysia	100%
87.	Freescale Semiconductor (China) Limited	China	100%

88.	Freescale Semiconductor Korea, Inc.	Korea	100%
89.	Zenverge India Technologies Private Limited	India	100%
90.	Cognivue Corporation	Canada	100%

SCHEDULE 8.18

INTELLECTUAL PROPERTY LITIGATION AGAINST THE COMPANY AND ITS  
RESTRICTED SUBSIDIARIES

<u>Entity</u>	<u>Issue</u>	<u>Amount claimed</u>	<u>Additional Information</u>
NXP B.V.	Patent infringement	USD 5,000,000 for past use and USD 50,000,000 for 5 years future use	<ul style="list-style-type: none"><li>• Pre-claim discussions are ongoing. NXP believes amount claimed this figure is based on an inaccurate knowledge of NXP's market share.</li><li>• Negotiations are ongoing.</li></ul>
NXP B.V.	Patent infringement	No amount claimed	<ul style="list-style-type: none"><li>• MOSAID Technologies, Inc. asserted that NXP infringes patents and requested NXP pay USD5,500,000 damages.</li><li>• Negotiations are ongoing.</li></ul>
NXP B.V.	Patent infringement	No amount claimed	<ul style="list-style-type: none"><li>• Intravidual claims infringement by NXP based on products which practice the H.264 video compression standard seeking damages and an injunction against further sales of H.264-compliant products.</li><li>• NXP filed a motion to dismiss for lack of personal jurisdiction.</li></ul>

SCHEDULE 9.2

COMPANY'S WEBSITE

<http://www.nxp.com>

NOTICES

1. To the Administrative Agent

MORGAN STANLEY SENIOR FUNDING, INC.  
1585 Broadway  
New York, New York 10036

With copy to:

Administration Team  
1 New York Plaza, 41st floor  
New York, NY 10004  
AGENCY.BORROWERS@morganstanley.com  
GROUP HOTLINE: (917) 260-0588  
FAX: (212) 507-6680

Intralinks postings should also be sent to: [Borrower.Documents@morganstanley.com](mailto:Borrower.Documents@morganstanley.com).

Attention: Crystal Dadd  
Email: [Crystal.Dadd@morganstanley.com](mailto:Crystal.Dadd@morganstanley.com)  
(917) 260-5232

2. To the Collateral Agent

MORGAN STANLEY SENIOR FUNDING, INC.  
1300 Thames Street, 4th Floor  
Thames Street Wharf  
Baltimore, Maryland 21231  
E-mail address: [DOCS4LOANS@morganstanley.com](mailto:DOCS4LOANS@morganstanley.com)

Attention: Steven Delany  
Email: [Steven.Delany@morganstanley.com](mailto:Steven.Delany@morganstanley.com)  
(443) 627-6463

3. To the Company or the Co-Borrower:

NXP B.V.  
High Tech Campus 60  
5656 AG Eindhoven  
The Netherlands  
Telephone: (31) 40 272-2041  
Fax: (31) 40 272-4005  
Email: [guido.dierick@nxp.com](mailto:guido.dierick@nxp.com)  
Attention: Guido Dierick

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With a copy to:

NXP Semiconductors N.V.  
High Tech Campus 60  
5656 AG Eindhoven  
The Netherlands  
Telephone: (31) 20 5407575  
Fax: (31) 20 5407500  
Email: erik.thyssen@alpinvest.com  
Attn: Erik Thyssen

## FORM OF ASSIGNMENT AND ACCEPTANCE

This Assignment and Acceptance (the “**Assignment and Acceptance**”) is dated as of the Effective Date (as defined below) and is entered into by and between [the]/[each] Assignor (as defined below) and [the]/[each] Assignee (as defined below). Capitalized terms used in this Assignment and Acceptance and not otherwise defined herein shall have the meanings specified in the Secured Revolving Credit Agreement dated as of December 7, 2015 (as amended, restated, supplemented or otherwise modified, refinanced or replaced from time to time, the “**Credit Agreement**”), between, amongst others, NXP B.V. (the “**Company**”), NXP FUNDING LLC, MORGAN STANLEY SENIOR FUNDING, INC., as Administrative Agent and MORGAN STANLEY SENIOR FUNDING, INC., as Collateral Agent and the Lenders party thereto.

The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Acceptance as if set forth herein in full.

For an agreed consideration, [the]/[each] Assignor hereby irrevocably sells and assigns to the Assignee/[the respective Assignees], and [the]/[each] Assignee hereby irrevocably purchases and assumes from [the Assignor]/[the respective Assignors], subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all [the Assignor’s]/[the respective Assignors’] rights and obligations in [its capacity as a Lender]/[their respective capacities as Lenders] under the Credit Agreement, the other Credit Documents and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of the Credit Facility identified below and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of [the Assignor (in its capacity as a Lender)]/[the respective Assignors (in their respective capacities as Lenders)] against any Person, whether known or unknown, arising under or in connection with the Credit Agreement and the other Credit Documents, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned by [the]/[any] Assignor to [the]/[any] Assignee pursuant to clauses (i) and (ii) above being referred to herein collectively as [the]/[an] “**Assigned Interest**”). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Acceptance, without representation or warranty by [the]/[an] Assignor.

1. Assignor ([the]/[each an] “**Assignor**”):
2. Assignee ([the]/[each an] “**Assignee**”):



3. Assigned Interest:

<u>Total Commitment of all Lenders/Loans for all Lenders</u>	<u>Amount of Commitment/Loans Assigned</u>	<u>Percentage Assigned of Total Commitment/Loans of all Lenders (set forth, to at least 9 decimals, as a percentage of the, Total Commitment/Loans of all Lenders)</u>
\$		[0.000000000%]

4. Effective Date of Assignment (the "Effective Date": \_\_\_\_\_, 20\_\_ 1.

The terms set forth in this Assignment and Acceptance are hereby agreed to:

[NAME OF ASSIGNOR], as Assignor

By: \_\_\_\_\_  
Name:  
Title:

[NAME OF ASSIGNEE], as Assignee

By: \_\_\_\_\_  
Name:  
Title:

MORGAN STANLEY SENIOR FUNDING, INC., as  
Administrative Agent

By: \_\_\_\_\_  
Name:  
Title:

[ \_\_\_\_\_ ],  
as Letter of Credit Issuer

By: \_\_\_\_\_  
Name:  
Title:

Consented to:<sup>2</sup>

<sup>1</sup> To be inserted by Administrative Agent and which shall be the effective date of recordation of the transfer in the Register.

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NXP B.V

By: \_\_\_\_\_

Name:

Title:

**STANDARD TERMS AND CONDITIONS FOR  
ASSIGNMENT AND ACCEPTANCE**

*1. Representations and Warranties and Agreements.*

1.1 *Assignor.* The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Acceptance and to consummate the transactions contemplated hereby and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Credit Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Credit Documents or any collateral thereunder, (iii) the financial condition of any of the Credit Parties, any of their Subsidiaries or Affiliates or any other Person obligated in respect of any Credit Document or (iv) the performance or observance by any of the Credit Parties, any of their Subsidiaries or Affiliates or any other Person obligated in respect of any Credit Document of any of their respective obligations under any Credit Document.

1.2 *Assignee.* The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Acceptance and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it satisfies the requirements, if any, specified in the Credit Agreement that are required to be satisfied by it in order to acquire the Assigned Interest and become a Lender thereunder (including, if it is a requirement of Dutch law, that it is not considered to be a part of the public within the meaning of the Financial Supervision Act, which requirement can be considered satisfied, in reliance upon the Explanatory Memorandum to the Implementation Act in respect of Directive 2013/36/EU and Regulation (EU) No 575/2013, until the competent authority publishes its interpretation of the term “public” (as referred to in article 4.1(1) of Regulation (EU) No 575/2013), if the amount borrowed is not less than EUR 100,000 or its equivalent in any other currency), (iii) from and after the Effective Date, it shall be a party to the Credit Agreement and, to the extent provided in this Assignment and Acceptance, have the rights and obligations of a Lender under the Credit Agreement, and (v) it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 9.1 of the Credit Agreement, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Acceptance and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Credit Documents are required to be performed by it as a Lender.

2. *Payments.* From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date.

### 3. *General Provisions.*

3.1 In accordance with Section 13.17 of the Credit Agreement, upon execution, delivery, acceptance and recording of this Assignment and Acceptance, from and after the Effective Date, (a) the Assignee shall be a party to the Credit Agreement and, to the extent provided in this Assignment and Acceptance, have the rights and obligations of a Lender under the Credit Agreement with a Commitment as set forth herein and (b) the Assignor shall, to the extent of the Assigned Interest assigned pursuant to this Assignment and Acceptance, be released from its obligations under the Credit Agreement (and, in the case of this Assignment and Acceptance covers all of the Assignor's rights and obligations under the Credit Agreement, the Assignor shall cease to be a party to the Credit Agreement.

3.2 This Assignment and Acceptance shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Assignment and Acceptance may be executed by one or more of the parties to this Assignment and Acceptance on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. This Assignment and Acceptance and the rights and obligations of the parties hereunder shall be construed in accordance with and governed by and interpreted under the law of the state of New York.

## NOTICE OF BORROWING

Date: [ ]

[ ]  
Attention: [ ]

This Notice of Borrowing is delivered pursuant to the Secured Revolving Credit Agreement dated as of December 7, 2015 as amended, restated, supplemented or otherwise modified, refinanced or replaced from time to time (the “**Credit Agreement**”) among NXP B.V., NXP FUNDING LLC, the lending institutions from time to time parties thereto, MORGAN STANLEY SENIOR FUNDING, INC., as Administrative Agent, MORGAN STANLEY SENIOR FUNDING, INC., as Collateral Agent and the Lenders party thereto. All capitalized terms used but not defined herein shall have the meanings given in the Credit Agreement.

[NXP B.V./NXP FUNDING LLC]<sup>3</sup> (the “**Borrower**”) hereby requests a Borrowing as follows:

1. Amount of Borrowing: [ ]<sup>4</sup>
2. Date of Borrowing: [ ]<sup>5</sup>
3. Type of Borrowing: [ABR Loan][LIBOR Loan]  
[EURIBOR Loan].
4. Currency of Borrowing: [ ]<sup>6</sup>
5. Interest Period: month(s)<sup>7</sup>

The Borrower certifies that on and as of the date of the proposed Borrowing and after giving effect thereto [the Specified Representations shall be true and correct in all material respects and the Company Representations shall be true to the extent required by the Merger Agreement as a condition to closing thereunder.]:<sup>8</sup>

[(i) no Default or Event of Default shall have occurred and be continuing; and

(ii) all representations and warranties made by any Credit Party contained in the Credit Agreement or in the other Credit Documents shall be true and correct in all material respects with the same effect as though such representations and warranties had been made on and as of the date of the

<sup>3</sup> Delete as appropriate.

<sup>4</sup> Must be at least the applicable Minimum Borrowing Amount.

<sup>5</sup> Must be a Business Day.

<sup>6</sup> Must be in the Base Currency in the case of ABR Loans, Euros in the case of EURIBOR Loans or an Alternative Currency in the case of LIBOR Loans.

<sup>7</sup> Applicable only to LIBOR Loans or EURIBOR Loans.

<sup>8</sup> Relevant for a Borrowing on the Closing Date

Borrowing (except where such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects as of said earlier date).<sup>9</sup>

[NXP B.V./ NXP FUNDING LLC]<sup>10</sup>

By: \_\_\_\_\_  
Name:  
Title:

<sup>9</sup> Include for Borrowings made after the closing date.  
<sup>10</sup> Delete as appropriate.

## LETTER OF CREDIT REQUEST

[●].

Date: [ ]

Attention: [ ]

This Letter of Credit Request is delivered pursuant to the Secured Revolving Credit Agreement dated as of December 7, 2015 as amended, restated, supplemented or otherwise modified, refinanced or replaced from time to time (the “**Credit Agreement**”) among NXP B.V., NXP FUNDING LLC, the lending institutions from time to time parties thereto, MORGAN STANLEY SENIOR FUNDING, INC., as Administrative Agent, MORGAN STANLEY SENIOR FUNDING, INC., as Collateral Agent and the Lenders party thereto. All capitalized terms used but not defined herein shall have the meanings given in the Credit Agreement.

[NXP B.V./NXP FUNDING LLC]<sup>11</sup>, (the “**Borrower**”) hereby irrevocably requests the issuance of a Letter of Credit as follows:

1. Requested Date of Issuance: [ ]<sup>12</sup>
2. Initial Stated Amount and currency: [ ]<sup>13 14</sup>
3. Expiration Date: [ ]<sup>15</sup>

The Borrower certifies that on and as of the date of the proposed Credit Event and after giving effect thereto: [the Specified Representations shall be true and correct in all material respects and the Company Representations shall be true to the extent required by the Merger Agreement as a condition to closing thereunder.];<sup>16</sup>

[(i) no Default or Event of Default shall have occurred and be continuing; and

(ii) all representations and warranties made by any Credit Party contained in the Credit Agreement or in the other Credit Documents shall be true and correct in all material respects with the same effect as though such representations and warranties had been made on and as of the date of the Borrowing (except where such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects as of said earlier date)].<sup>17</sup>

<sup>11</sup> Delete as appropriate.

<sup>12</sup> Must be a Business Day.

<sup>13</sup> Must be at least the applicable Minimum Borrowing Amount.

<sup>14</sup> Must be the Base Currency or an Alternative Currency.

<sup>15</sup> Must be not more than 12 months after the issue date.

<sup>16</sup> Relevant for a Borrowing on the Closing Date

<sup>17</sup> Include for Borrowings made after the closing date.

By: \_\_\_\_\_  
Name:  
Title:

<sup>18</sup> Delete as appropriate.



[DATE],

**[Insert Name of Company]  
OFFICER'S CERTIFICATE**

I, \_\_\_\_\_, hereby certify that I am the duly elected, qualified and acting [President/Vice President/Secretary/Assistant Secretary] of **[Insert name of Company.]** (the "**Company**"), and am authorized to execute this Certificate on behalf of the Company. Reference is made to the Secured Revolving Credit Agreement (the "**Credit Agreement**"), dated as of December 7, 2015, by and among NXP B.V, NXP FUNDING LLC, MORGAN STANLEY SENIOR FUNDING, INC., as Administrative Agent and MORGAN STANLEY SENIOR FUNDING, INC., as Collateral Agent, and the Lenders party thereto. All capitalized terms used herein and not otherwise defined are used as defined in the Credit Agreement.

Solely in my capacity as [President/Vice President/Secretary/Assistant Secretary] of the Company, I hereby certify that:

1. Attached as Annex A hereto is a true, correct, and complete copy of the organizational documents of the Company.
2. Attached as Annex B hereto is a true, correct, and complete copy of the bylaws or equivalent of the Company, including all amendments, as in effect on the date hereof, and, to the extent required, an extract of the trade register of the Company.
3. Attached as Annex C hereto are true, correct, and complete copies of resolutions duly adopted by the Board of Directors of the Company authorizing the execution, delivery and performance of the Credit Documents (and any agreements relating thereto) to which it is a party. Such resolutions have not been modified or rescinded and remain in full force and effect as of the date hereof.
4. Attached as Annex D hereto are true, correct, and complete copies of resolutions duly adopted by the shareholders of the Company authorizing the execution, delivery and performance of the Credit Documents (and any agreements relating thereto) to which it is a party. Such resolutions have not been modified or rescinded and remain in full force and effect as of the date hereof.
5. Attached as Annex E hereto is a copy of the [Certificate of Good Standing] for the Company certified by [relevant authority].
6. The persons whose names appear on Annex F attached hereto are duly elected, qualified and acting officers of the Company occupying the offices set forth below their respective names on Annex F, and the signatures set forth above their respective names are their true signatures, and each such officer is duly authorized to execute and deliver on behalf of the Company the Credit Documents and any other document delivered prior to the date hereof in connection with the Credit Documents and to act as an Authorized Officer on behalf of the Company under such Credit Documents.

7. The conditions precedent specified in Sections 6.9, 6.11 and 6.12 of the Credit Agreement have been satisfied.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of the date first written above.

[Company]

By: \_\_\_\_\_  
Name:  
Title:

The undersigned, being the duly elected and qualified [President/Vice President/Secretary/Assistant Secretary] of the Company, hereby certifies that [name] is the duly elected and qualified [President/Vice President/Secretary/Assistant Secretary] of the Company and that the foregoing signature appearing above his name is his genuine signature.

IN WITNESS WHEREOF, I have hereunto set my hand on behalf of the Corporations as of the date first written above.

[Company]

By: \_\_\_\_\_  
Name:  
Title:















[DATE]  
NXP B.V.  
OFFICER'S CERTIFICATE

I, \_\_\_\_\_, hereby certify that I am the duly elected, qualified and acting [*Authorized Officer*] of NXP B.V. (the "Company"), and am authorized to execute this Certificate on behalf of the Company. Reference is made to the Secured Revolving Credit Agreement (the "Credit Agreement"), dated as of December 7, 2015 by and among NXP B.V, NXP FUNDING LLC, MORGAN STANLEY SENIOR FUNDING, INC., as Administrative Agent, MORGAN STANLEY SENIOR FUNDING, INC., as Collateral Agent and the Lenders party thereto. All capitalized terms used herein and not otherwise defined are used as defined in the Credit Agreement.

Solely in my capacity as [*Authorized Officer*] of the Company, I hereby certify that:

1. No Indebtedness or financing preferred stock of the Company or its Subsidiaries to third parties shall remain outstanding as of the date of this Certificate and no shareholder loans shall have been made without the consent of the Joint Lead Arrangers, other than Indebtedness pursuant to or permitted under the Credit Agreement.
2. I have reviewed the audited financial statements of the Company as at December 31, 2014 (the "Financial Statements"). I am familiar with the financial performance and prospects of the Company and hereby confirm that as of the date hereof, after giving effect to the transactions contemplated by the Credit Documents:
  - i. The fair value of the assets of the Company and its Subsidiaries on a consolidated basis, at a fair valuation, exceeds the debts and liabilities, direct, subordinated, contingent or otherwise, of the Company and its Subsidiaries on a consolidated basis, respectively.
  - ii. The present fair saleable value of the property of the Company and its Subsidiaries on a consolidated basis is greater than the amount that is required to pay the probable liability of the Company and its Subsidiaries on a consolidated basis on their debts and other liabilities, direct, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured.
  - iii. The Company and its Subsidiaries on a consolidated basis are able to pay their debts and liabilities, direct, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured.
  - iv. The Company and its Subsidiaries on a consolidated basis do not have unreasonably small capital with which to conduct the businesses in which they are engaged as such businesses are now conducted and are proposed to be conducted following the Closing Date.
  - v. Each Credit Party has not ceased, and does not expect that it will cease, making payments on its liabilities when due.

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- vi. Each Credit Party can, and expects that it can, obtain credit in the ordinary course of business.
  - vii. No Credit Party intends to, and does not believe that it or any of the Restricted Subsidiaries will, incur debts beyond its ability to pay such debts as they mature, taking into account the timing and amounts of cash to be received by it or any such Subsidiary and the timing and amounts of cash to be payable on or in respect of its Indebtedness or the Indebtedness of any such Subsidiary.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of the date first written above.

**NXP B.V.**

By: \_\_\_\_\_  
Name:  
Title:

## FORM OF PROMISSORY NOTE

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FOR VALUE RECEIVED, the undersigned (the "**Borrower**") hereby promises to pay to the order of [LENDER] (the "**Lender**"), on the Maturity Date (as defined in the Credit Agreement referred to below) the principal amount of \_\_\_\_\_, or such lesser principal amount of Loans (as defined in such Credit Agreement) due and payable by the Borrower to the Lender on the Maturity Date under that certain Credit Agreement dated as of December 7, 2015 (as amended, the "**Credit Agreement**") between, amongst others, NXP B.V. (the "**Company**"), NXP FUNDING LLC (the "**Co-Borrower**"), the lending institutions from time to time parties thereto (each a "**Lender**" and, collectively, the "**Lenders**") and MORGAN STANLEY SENIOR FUNDING, INC., as Administrative Agent (the terms defined therein being used herein as therein defined).

The Borrower promises to pay interest on the unpaid principal amount of each Loan from the date of such Loan until such principal amount is paid in full, at such interest rates, in the currency, in the manner and at such times as are specified in the Credit Agreement. All payments of principal and interest shall be made to the Lender in immediately available funds at the Lender's lending office. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Credit Agreement.

This Note is the promissory note referred to in Section 13.7(d) of the Credit Agreement, and is a "**Credit Document**" for the purposes of the Credit Agreement and entitled to the benefits thereof and is subject to optional and mandatory prepayment in whole or in part as provided in the Credit Agreement. This Note is also entitled to the benefits of the Guaranty. Upon the occurrence and continuation of one or more of the Events of Default specified in the Agreement, all amounts then remaining unpaid on this Note shall become, or may be declared to be, immediately due and payable all as provided in the Credit Agreement.

Loans made by the Lender shall be evidenced by one or more loan accounts or records maintained by the Lender in the ordinary course of business. The Lender may also attach schedules to this Note and endorse thereon the date, amount and maturity of the Loans and payments with respect thereto.

The Borrower, for itself, its successors and assigns, hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Note.

THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

[BORROWER]

By: \_\_\_\_\_

Name:

Title:

**GUARANTY RELATING TO SECURED REVOLVING CREDIT AGREEMENT**

**GUARANTY** (this "Guaranty") dated as of December 7, 2015, made among NXP B.V. with its corporate seat in Eindhoven, the Netherlands (the "Company"), NXP Funding LLC and each of the subsidiaries of the Company listed on the signature pages hereto (each such subsidiary individually, a "Subsidiary Guarantor" and, collectively with any Person that becomes a "Guarantor" pursuant to Section 20, the "Subsidiary Guarantors"; the Company, NXP Funding LLC and the Subsidiary Guarantors are referred to collectively as the "Guarantors") and Morgan Stanley Senior Funding, Inc., as the collateral agent (in such capacity, the "Collateral Agent") and as Administrative Agent (in such capacity, the "Administrative Agent") in each case, for the lenders (the "Lenders") and issuers of letters of credit (the "Letter of Credit Issuers") from time to time party to the Secured Revolving Credit Agreement (the "Credit Agreement") dated as of December 7, 2015, between the Company, NXP Funding LLC (the "Co-Borrower"), the Lenders from time to time party thereto and the Collateral Agent and the Administrative Agent.

**WITNESSETH:**

**WHEREAS**, (a) pursuant to the Credit Agreement, the Lenders have severally agreed to make Loans to the Borrowers and the Letter of Credit Issuers have agreed to issue Letters of Credit for the account of the Borrowers (collectively, the "Extensions of Credit") upon the terms and subject to the conditions set forth therein and (b) one or more Lenders or Affiliates of Lenders may from time to time enter into Hedge Agreements with one or more of the Borrowers;

**WHEREAS**, the proceeds of the Extensions of Credit will be used in part to enable the Borrowers to make valuable transfers to the Subsidiary Guarantors (other than the Company and the Co-Borrower) in connection with the operation of their respective businesses;

**WHEREAS**, each Guarantor acknowledges that it will derive substantial direct and indirect benefit from the making of the Extensions of Credit; and

**WHEREAS**, it is a condition precedent to the obligation of the Lenders and the Letter of Credit Issuers to make their respective Extensions of Credit to the Borrowers under the Credit Agreement that the Guarantors shall have executed and delivered this Guaranty to the Administrative Agent for the benefit of the Guaranteed Parties;

**NOW, THEREFORE**, in consideration of the premises and to induce the Administrative Agent, the Collateral Agent, the Joint Lead Arrangers, the Joint Bookrunners, the Lenders and the Letter of Credit Issuers to enter into the Credit Agreement and to induce the Lenders and the Letter of Credit Issuers to make their respective Extensions of Credit to the Borrowers under the Credit Agreement and to induce one or more Lenders or Affiliates of Lenders to enter into Hedge Agreements with the Borrowers, the Guarantors hereby agree with the Administrative Agent and the Collateral Agent for the benefit of the Guaranteed Parties, as follows:

1. Defined Terms.

(a) Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

(b) As used herein, the term “Commodity Exchange Act” means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

(c) As used herein, the term “Enforcement Event” means the occurrence of an Event of Default in respect of which notice of acceleration of the Obligations has been given by the Administrative Agent to the Borrowers or the Obligations have otherwise become due and payable prior to the scheduled maturity thereof.

(d) As used herein, the term “Excluded Swap Obligation” means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, and only for so long as, all or a portion of the Guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guarantee thereof) (a) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application of an official interpretation of any thereof) by virtue of such Guarantor’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act and the regulations thereunder at the time the Guarantee of such Guarantor or the grant of such security interest becomes effective with respect to such Swap Obligation or (b) is itself a swap or a deemed swap that is subject to a clearing requirement pursuant to section 2(h) of the Commodity Exchange Act and for which such Guarantor is a “financial entity,” as defined in section 2(h)(7)(C) the Commodity Exchange Act, at the time the Guarantee of (or grant of such security interest by, as applicable) such Guarantor becomes or would become effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guarantee or security interest is or becomes illegal.

(e) As used herein, the term “Guaranteed Parties” means (i) the Lenders, (ii) the Letter of Credit Issuers, (iii) the Administrative Agent, (iv) the Collateral Agent, (v) each counterparty to a Hedge Agreement the obligations under which constitute Obligations, (vi) the beneficiaries of each indemnification obligation undertaken by any Credit Party under any Credit Document and (vii) any successors, indorsees, transferees and assigns of each of the foregoing.

(f) As used herein, the term “Obligations” means the collective reference to (i) the due and punctual payment of (x) the principal of and premium, if any, and interest at the applicable rate provided in the Credit Agreement (including interest accruing after the commencement of any bankruptcy, insolvency, receivership or other similar proceeding (or interest that would accrue but for the operation of applicable bankruptcy or insolvency laws), regardless of whether allowed or allowable in such proceeding (for any obligation, “Post-Petition Interest”)) on the Loans, when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise, (y) each payment required to be made by any Borrower under the Credit Agreement in respect of any Letter of Credit, when and as due, including payments in respect of reimbursement of disbursement, interest thereon (including Post-Petition Interest) and

obligations to provide Cash Collateral and (z) all other monetary obligations, including fees, costs, expenses and indemnities, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred after the commencement of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), of any Borrower or any other Credit Party to any of the Guaranteed Parties under the Credit Agreement or any other Credit Document, (ii) the due and punctual performance of all covenants, agreements, obligations and liabilities of any Borrower under or pursuant to the Credit Agreement or any other Credit Document, (iii) the due and punctual payment and performance of all the covenants, agreements, obligations and liabilities of each other Credit Party under or pursuant to this Guaranty or any other Credit Document, (iv) the due and punctual payment and performance of all obligations of each Credit Party under each Hedge Agreement that (x) is in effect on the Closing Date with a counterparty that is a Lender or an Affiliate of a Lender as of the Closing Date or (y) is entered into after the Closing Date with any counterparty that is a Lender or an Affiliate of a Lender at the time such Hedge Agreement is entered into and (v) the due and punctual payment and performance of all obligations in respect of overdrafts and related liabilities owed to the Administrative Agent or its Affiliates arising from or in connection with treasury, depository or cash management services or in connection with any automated clearinghouse transfer of funds. Notwithstanding the foregoing, in no case will the term "Obligations" as used herein encompass any Excluded Swap Obligation.

(g) As used herein, the term "Swap Obligation" means, 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 (including without limitation any Hedge Agreement).

(h) References to "Lenders" in this Guaranty shall be deemed to include Affiliates of Lenders that may from time to time enter into Hedge Agreements with the Borrower.

(i) The words "hereof," "herein" and "hereunder" and words of similar import when used in this Guaranty shall refer to this Guaranty as a whole and not to any particular provision of this Guaranty, and Section references are to Sections of this Guaranty unless otherwise specified. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation", and the words "property" and "assets" shall be construed to refer to any and all tangible and intangible properties and assets.

(j) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms, any reference herein to any Person shall be construed so as to include such Person's successors and permitted assigns, and any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or modified in accordance with the terms thereof and, to the extent applicable, the terms of the Credit Agreement.

2. Guaranty.

(a) Subject to the provisions of Section 8, each of the Guarantors hereby, jointly and severally, unconditionally and irrevocably, guarantees, as primary obligor and not merely as surety, to the Administrative Agent, as agent for the benefit of the Guaranteed Parties, the punctual and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of each Obligation. If a Borrower fails to pay or perform any Obligation when due, each Guarantor agrees that it will forthwith on demand pay or perform the relevant Obligation at the place and in the manner specified in the relevant Credit Document.

(b) Each Guarantor further agrees to pay any and all reasonable expenses (including all reasonable fees and disbursements of counsel) that may be paid or incurred by the Administrative Agent or any other Guaranteed Party in enforcing, or obtaining advice of counsel in respect of, any rights with respect to, or collecting, any or all of the Obligations and/or enforcing any rights with respect to, or collecting against, such Guarantor under this Guaranty.

(c) Each Guarantor agrees that the Obligations may at any time and from time to time exceed the amount of the liability of such Guarantor hereunder without impairing this Guaranty or affecting the rights and remedies of the Administrative Agent or any other Guaranteed Party hereunder.

(d) No payment or payments made by any Borrower, any of the Guarantors, any other guarantor or any other Person or received or collected by the Administrative Agent or any other Guaranteed Party from any Borrower, any of the Guarantors, any other guarantor or any other Person by virtue of any action or proceeding or any set-off or appropriation or application at any time or from time to time in reduction of or in payment of the Obligations shall be deemed to modify, reduce, release or otherwise affect the liability of any Guarantor hereunder, which shall, notwithstanding any such payment or payments other than payments made by such Guarantor in respect of the Obligations or payments received or collected from such Guarantor in respect of the Obligations, remain liable for the Obligations up to the maximum liability of such Guarantor hereunder until the Obligations under the Credit Documents are paid and performed in full, the Commitments are terminated and no Letters of Credit shall be outstanding.

(e) Each Guarantor agrees that whenever, at any time, or from time to time, it shall make any payment to the Administrative Agent or any other Guaranteed Party on account of its liability hereunder, it will notify the Administrative Agent in writing that such payment is made under this Guaranty for such purpose.

(f) If acceleration of the time for payment of any Obligation by a Borrower is stayed by reason of the insolvency or receivership of such Borrower or otherwise, all Obligations otherwise subject to acceleration under the terms of any Credit Document shall nonetheless be payable by the Guarantors hereunder forthwith on demand by the Administrative Agent.

3. Right of Contribution.

Each Guarantor hereby agrees that to the extent that a Guarantor shall have paid more than its proportionate share of any payment made hereunder, such Guarantor shall be entitled to seek and receive contribution from and against any other Guarantor hereunder who has not paid its proportionate share of such payment. Each Guarantor's right of contribution shall be subject to the terms and conditions of Section 5 hereof. The provisions of this Section 3 shall in no respect limit the obligations and liabilities of any Guarantor to the Administrative Agent and the other Guaranteed Parties, and each Guarantor shall remain liable to the Administrative Agent and the other Guaranteed Parties for the full amount guaranteed by such Guarantor hereunder.



4. Right of Set-off.

In addition to any rights and remedies of the Administrative Agent and the other Guaranteed Parties provided by law, each Guarantor hereby irrevocably authorizes each Guaranteed Party, to the maximum extent permitted by applicable law, at any time and from time to time following the occurrence of an Enforcement Event without notice to such Guarantor or any other Guarantor, any such notice being expressly waived by each Guarantor, upon any amount becoming due and payable by such Guarantor hereunder (whether at stated maturity, by acceleration or otherwise) to set-off and appropriate and apply against such amount (whether or not such Guaranteed Party shall have made any demand hereunder) any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Guaranteed Party to or for the credit or the account of such Guarantor. Each Guaranteed Party shall notify such Guarantor promptly of any such set-off and the appropriation and application made by such Guaranteed Party, provided that the failure to give such notice shall not affect the validity of such set-off or appropriation and application.

5. Deferral of Subrogation and Contribution.

Notwithstanding any payment or payments made by any of the Guarantors hereunder or any set-off or appropriation and application of funds of any of the Guarantors by the Administrative Agent or any other Guaranteed Party, no Guarantor shall be entitled to exercise any rights of subrogation with respect to any of the rights of the Administrative Agent or any other Guaranteed Party against a Borrower or any other Guarantor or any collateral security or guarantee or right of offset held by the Administrative Agent or any other Guaranteed Party for the payment of the Obligations, nor shall any Guarantor seek or be entitled to seek any contribution or reimbursement from a Borrower or any other Guarantor in respect of payments made by such Guarantor hereunder, in each case until all of the Obligations are paid and performed in full, the Commitments are terminated and no Letters of Credit are outstanding. If any amount shall be paid to any Guarantor on account of such subrogation rights at any time when all the Obligations shall not have been paid and performed in full, such amount shall be held by such Guarantor in trust for the Administrative Agent and the other Guaranteed Parties or, in the event that a trust is not recognized by the Law applicable to such Guarantor, as agent for and on behalf of the Administrative Agent and the other Guaranteed Parties, segregated from other funds of such Guarantor, and such amount shall, forthwith upon receipt by such Guarantor, be turned over to the Administrative Agent in the exact form received by such Guarantor (duly indorsed by such Guarantor to the Administrative Agent, if required), to be applied against the Obligations, whether due or to become due, in such order as the Administrative Agent may determine; provided that nothing herein shall be effective to create a charge or other Lien over any such amount held by such Guarantor, whether or not requiring registration under any applicable Law.

6. Amendments, etc., with Respect to the Obligations; Waiver of Rights.

Subject to Section 8, the obligations of each Guarantor under this Guaranty shall be unconditional and absolute, and without limiting the foregoing, each Guarantor shall remain obligated hereunder notwithstanding that, without any reservation of rights against any Guarantor and without notice to or further assent by any Guarantor, (a) any demand for payment of any of the Obligations made by the Administrative Agent or any other Guaranteed Party may be rescinded by such party and any of the Obligations continued, (b) the Obligations, or the liability of any other party upon or for any part thereof, or any collateral security or guarantee therefor or right of offset with respect thereto, may, from time to time, in whole or in part, be renewed, extended, amended, modified, accelerated, compromised, settled, waived, surrendered or released by the Administrative Agent or any other Guaranteed Party or by operation of law, (c) the Credit Agreement, the other Credit Documents, Letters of Credit and any other documents executed and delivered in connection therewith and the Hedge Agreements and any other documents executed and delivered in connection therewith and any documents entered into with the Administrative Agent or any of its Affiliates in connection with treasury, depository or cash management services or in connection with any automated clearinghouse transfer of funds may be amended, modified, supplemented, extended or terminated, in whole or in part, as the Administrative Agent (or the Required Lenders, as the case may be, or, in the case of any Hedge Agreement or documents entered into with the Administrative Agent or any of its Affiliates in connection with treasury, depository or cash management services or in connection with any automated clearinghouse transfer of funds, the party thereto) may deem advisable from time to time, and (d) any collateral security, guarantee or right of offset at any time held by the Administrative Agent or any other Guaranteed Party for the payment of the Obligations may be sold, exchanged, waived, surrendered or released. Neither the Administrative Agent nor any other Guaranteed Party shall have any obligation to protect, secure, perfect or insure any Lien at any time held by it (or on its behalf) as security for the Obligations or for this Guaranty or any property or assets subject thereto. When making any demand hereunder against any Guarantor, the Administrative Agent or any other Guaranteed Party may, but shall be under no obligation to, make a similar demand on the relevant Borrower or any other Guarantor or guarantor (and notwithstanding any provisions of applicable law to the contrary each Guarantor irrevocably waives any right it may have of requiring the Administrative Agent or any Guaranteed Party (or any person on its behalf) to proceed against or enforce any other rights or security or claim payment from a Borrower, any other Guarantor or any other Person before making a demand against such Guarantor under the terms of this Guaranty), and any failure by the Administrative Agent or any other Guaranteed Party to make any such demand or to enforce such security or to collect any payments from any Borrower or any Guarantor or guarantor or any release of a Borrower or any Guarantor or guarantor shall not relieve any Guarantor in respect of which a demand or collection is not made or any Guarantor not so released of its several obligations or liabilities hereunder, and shall not impair or affect the rights and remedies, express or implied, or as a matter of law, of the Administrative Agent or any other Guaranteed Party against any Guarantor. For the purposes hereof, "demand" shall include the commencement and continuance of any legal proceedings.

7. Guaranty Absolute and Unconditional.

Subject to Section 8, the obligations of each Guarantor under this Guaranty shall be unconditional and absolute, and without limiting the foregoing, each Guarantor waives any and all notice of the creation, contraction, incurrence, renewal, extension, amendment, waiver or accrual of any of the Obligations, and notice of or proof of reliance by the Administrative Agent or any other Guaranteed Party upon this Guaranty or acceptance of this Guaranty, the Obligations or any of them, shall conclusively be deemed to have been created, contracted or incurred, or renewed, extended, amended, waived or accrued, in reliance upon this Guaranty; and all dealings between any Borrower and any of the Guarantors, on the one hand, and the Administrative Agent and the other Guaranteed Parties, on the other hand, likewise shall be conclusively presumed to have been had or consummated in reliance upon this Guaranty. Each Guarantor waives diligence, presentment, protest, demand for payment and notice of default or nonpayment to or upon any Borrower or any of the Guarantors with respect to the Obligations. Each Guarantor understands and agrees that this Guaranty shall be construed as a continuing, absolute and unconditional guarantee of payment and performance, to the maximum extent permitted by applicable law, and shall not be released, discharged or otherwise altered by (a) the invalidity, irregularity, non-perfection or unenforceability of the Credit Agreement, any other Credit Document, any Letter of Credit or any Hedge Agreement, any of the Obligations or any other collateral security therefor or guarantee or right of offset with respect thereto at any time or from time to time held by the Administrative Agent or any other Guaranteed Party, (b) any defense, set-off or counterclaim (other than that the Obligations have been paid and performed in full) that may at any time be available to or be asserted by a Borrower or any other Guarantor against the Administrative Agent or any other Guaranteed Party whether in connection with the Credit Documents or any unrelated transactions, (c) any release, impairment, non perfection or invalidity of any direct or indirect security for any obligation of a Borrower, any other Guarantor or any other Person, (d) any change in the corporate existence, structure or ownership of a Borrower, any other Guarantor or any other Person or any of their respective Subsidiaries, or any insolvency, bankruptcy, reorganization or other similar proceeding affecting a Borrower, any other Guarantor or any other Person or any of their properties or assets or any resulting release or discharge of any obligation of a Borrower, any other Guarantor or any other Person under any Credit Document, (e) any provision of applicable law or regulation purporting to prohibit the payment of any Obligation by a Borrower, any other Guarantor or any other Person, or (f) any other circumstance whatsoever (with or without notice to or knowledge of the Borrower or such Guarantor) that constitutes, or might be construed to constitute, an equitable or legal discharge of any Borrower for any of the Obligations, or of such Guarantor under this Guaranty, in bankruptcy or in any other instance. When pursuing its rights and remedies hereunder against any Guarantor, the Administrative Agent and any other Guaranteed Party may, but shall be under no obligation to, pursue such rights and remedies as it may have against any Borrower or any other Person or against any collateral security or guarantee for the Obligations or any right of offset with respect thereto, and any failure by the Administrative Agent or any other Guaranteed Party to pursue such other rights or remedies or to collect any payments from any Borrower or any such other Person or to realize upon any such collateral security or guarantee or to exercise any such right of offset, or any release of any Borrower or any such other Person or any such collateral security, guarantee or right of offset, shall not relieve such Guarantor of any liability hereunder, and shall not impair or affect the rights and remedies, whether express, implied or available as a matter of law, of the Administrative Agent and the other Guaranteed Parties

against such Guarantor. This Guaranty shall remain in full force and effect and be binding in accordance with and to the extent of its terms upon each Guarantor and the successors and assigns thereof, and shall inure to the benefit of the Administrative Agent and the other Guaranteed Parties, and their respective successors, indorsees, transferees and assigns, until all the Obligations under the Credit Documents shall have been satisfied by payment and performance in full, the Commitments shall be terminated and no Letters of Credit shall be outstanding (other than any Letters of Credit that shall have been cash collateralized or otherwise provided for in a manner satisfactory to the Letter of Credit Issuer in respect thereof), notwithstanding that from time to time during the term of the Credit Agreement and any Hedge Agreement the Credit Parties may be free from any Obligations. A Guarantor shall automatically be released from its obligations hereunder upon (i) a sale or other disposition (including by way of consolidation or merger) of such Guarantor or the sale or disposition of all or substantially all the assets of such Guarantor (other than, in either case, to the Company or a Restricted Subsidiary), in each case, as permitted by the Credit Agreement, (ii) the designation in accordance with the Credit Agreement of the Guarantor as an Unrestricted Subsidiary or Immaterial Subsidiary or (iii) to the extent that such Guarantor is not an Immaterial Subsidiary due to operation of the proviso to the definition of "Immaterial Subsidiary", upon the release of the guarantee referred to in such proviso that resulted in the Guarantor not being an Immaterial Subsidiary. In addition to any release permitted by the preceding sentence, the Administrative Agent may release any Guarantor with the prior written consent of the Required Lenders; provided that any release of all or substantially all the Guarantors shall require the consent of all the Lenders. In connection with any such release, the Administrative Agent shall execute and deliver to any Guarantor, at such Guarantor's expense, all documents that such Guarantor shall reasonably request to evidence such termination or release. Any execution and delivery of documents pursuant to the preceding sentence of this Section 7 shall be without recourse to or warranty by the Administrative Agent.

8. Reinstatement and Limitations.

(a) This Guaranty shall continue to be effective, or be reinstated, as the case may be, if at any time payment, or any part thereof, of any of the Obligations is rescinded or must otherwise be restored or returned by the Administrative Agent or any other Guaranteed Party upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of a Borrower or any Guarantor, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, a Borrower or any Guarantor or any part of its property or assets, or otherwise, all as though such payments had been due but not made at such time.

(b) Notwithstanding anything herein or in any other Credit Document to the contrary, each Guarantor's liability hereunder and under the other Credit Documents shall in no event exceed an aggregate amount that would render this Guaranty with respect to such Guarantor subject to avoidance under the United States Bankruptcy Code or any applicable law.

(c) A guarantee given by a Guarantor incorporated in the Netherlands shall not be valid and the right to enforce such guarantee shall be excluded to the extent that such guarantee constitutes unlawful financial assistance under applicable laws.

(d) In the case of any Person that becomes a Guarantor pursuant to Section 20, such Guarantor's maximum liability shall in no event exceed the amount specified in the applicable Supplement hereto.

(e) Any limitation applicable to a Guarantor set forth in this Section 8 will not limit or otherwise affect the liability or obligations of any other Guarantor hereunder.

9. Payments.

Each Guarantor hereby guarantees that payments hereunder will be paid to the Administrative Agent in the currency in which the relevant Obligation is due without set-off, counterclaim, deduction or withholding at the Administrative Agent's Office. The provisions of Section 5.4 of the Credit Agreement apply mutatis mutandis to this Guaranty and all payments made hereunder as though set out in full in this Guaranty.

10. Representations and Warranties; Covenants.

Each Guarantor hereby represents and warrants that the representations and warranties set forth in Section 8 of the Credit Agreement as they relate to such Guarantor or in the other Credit Documents to which such Guarantor is a party, each of which is hereby incorporated herein by reference, are true and correct in all material respects, and the Administrative Agent and each other Guaranteed Party shall be entitled to rely on each of them as if they were fully set forth herein.

11. Authority of Administrative Agent.

Each Guarantor acknowledges that the rights and responsibilities of the Administrative Agent under this Guaranty with respect to any action taken or not taken by the Administrative Agent or the exercise or non-exercise by the Administrative Agent of any option, right, request, judgment or other right or remedy provided for herein or resulting or arising out of this Guaranty shall be exclusively governed by the Credit Agreement and by such other agreements with respect thereto as may exist from time to time among them, but, as between the Administrative Agent and such Guarantor, the Administrative Agent shall be conclusively presumed to be acting as agent for the Guaranteed Parties with full and valid authority so to act or refrain from acting, and no Guarantor shall be under any obligation, or entitlement, to make any inquiry respecting such authority.

12. Joint and Several Obligations.

The Borrowers' obligations under the Credit Agreement are joint and several.

13. Notices.

All notices, requests and demands pursuant hereto shall be made in accordance with Section 13.3 of the Credit Agreement. All communications and notices hereunder to each Guarantor shall be given to it in care of the Company at the Company's address set forth in Section 13.3 of the Credit Agreement.

14. Counterparts.

This Guaranty may be executed by one or more of the parties to this Guaranty on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Guaranty signed by all the parties shall be lodged with the Administrative Agent and the Company.

15. Severability.

Any provision of this Guaranty that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. The parties hereto shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

16. Integration.

This Guaranty represents the agreement of each Guarantor and the Administrative Agent with respect to the subject matter hereof, and there are no promises, undertakings, representations or warranties by any Borrower, the Administrative Agent or any other Guaranteed Party relative to the subject matter hereof not expressly set forth or referred to herein or in the other Credit Documents.

17. Amendments in Writing; No Waiver; Cumulative Remedies.

(a) None of the terms or provisions of this Guaranty may be waived, amended, supplemented or otherwise modified except by a written instrument executed by each affected Guarantor and the Administrative Agent in accordance with Section 13.3 of the Credit Agreement.

(b) Neither the Administrative Agent nor any other Guaranteed Party shall by any act (except by a written instrument pursuant to Section 17(a) hereof), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of the Administrative Agent or any other Guaranteed Party, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Administrative Agent or any other Guaranteed Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy that the Administrative Agent or any Guaranteed Party would otherwise have on any future occasion.

(c) The rights, remedies, powers and privileges herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

18. Section Headings.

The Section headings used in this Guaranty are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

19. Successors and Assigns.

This Guaranty shall be binding upon the successors and assigns of each Guarantor and shall inure to the benefit of the Administrative Agent and the other Guaranteed Parties and their respective successors and assigns. If all or any part of the Administrative Agent's or any other Guaranteed Party's interest in any Obligation is assigned or otherwise transferred in accordance with the Credit Agreement, the transferor's rights hereunder, to the extent applicable to the obligation so transferred, shall be automatically transferred with such obligation. No Guarantor may assign, transfer or delegate any of its rights or obligations under this Guaranty without the prior written consent of the Administrative Agent other than as permitted under the Credit Agreement.

20. Additional Guarantors.

Each Subsidiary of the Company that is required to become a party to this Guaranty pursuant to Section 9.11 of the Credit Agreement shall become a Guarantor, with the same force and effect as if originally named as a Guarantor herein, for all purposes of this Guaranty upon execution and delivery by such Subsidiary of a Supplement in the form of Annex A hereto. The execution and delivery of any instrument adding an additional Guarantor as a party to this Guaranty shall not require the consent of any other Guarantor hereunder. The rights and obligations of each Guarantor hereunder shall remain in full force and effect notwithstanding the addition of any new Guarantor as a party to this Guaranty.

21. Effectiveness.

This Guaranty shall take effect on the Closing Date.

22. WAIVER OF JURY TRIAL.

EACH GUARANTOR HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS GUARANTEE, ANY OTHER CREDIT DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

23. Submission to Jurisdiction; Waivers.

Each Guarantor hereby irrevocably and unconditionally:

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

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

(c) appoints the Co-Borrower (the "Process Agent") as its agent to receive on behalf of such Guarantor and its property service of copies of the summons and complaint and any other process which may be served by the Administrative Agent or any Guaranteed Party in any such action or proceeding in any aforementioned court in respect of any action or proceeding arising out of or relating to this Guaranty. Such service may be made by delivering a copy of such process to such Guarantor by courier and by certified mail (return receipt requested), fees and postage prepaid, both (i) in care of the Process Agent at the Process Agent's address and (ii) at the Company's address specified pursuant to Section 12 of the Credit Agreement, and each Guarantor hereby irrevocably authorizes and directs the Process Agent to accept such service on its behalf;

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

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section 23 any special, exemplary, punitive or consequential damages.

24. GOVERNING LAW.

THIS GUARANTEE AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

*[Remainder of Page Intentionally Left Blank]*



**IN WITNESS WHEREOF**, each of the undersigned has caused this Guaranty to be duly executed and delivered by its duly authorized officer as of the day and year first above written.

**GUARANTORS:**

**NXP B.V.**

By: /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

**NXP FUNDING LLC**

By: /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

By: /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

By: /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

By: /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

By: /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

**MORGAN STANLEY SENIOR FUNDING, INC.**

as Administrative Agent

By: Reagan Phillip

Name: Reagan Phillip

Title: Authorized Signatory

**MORGAN STANLEY SENIOR FUNDING, INC.**

as Collateral Agent

By: Reagan Phillip

Name: Reagan Phillip

Title: Authorized Signatory



## ANNEX A

**SUPPLEMENT NO.**                      dated as of                      ,                      to the **GUARANTY** (the "Guaranty") dated as of [●], made among NXP B.V., each of the Guarantors referred to therein, Morgan Stanley Senior Funding, Inc. as Administrative Agent (in such capacity, the "Administrative Agent") and Morgan Stanley Senior Funding, Inc. as Collateral Agent (in such capacity, the "Collateral Agent"), in each case, for the lenders (the "Lenders") and issuers of letters of credit (the "Letter of Credit Issuers") from time to time parties to the Credit Agreement referred to below.

A. Reference is made to the Secured Revolving Credit Agreement dated as of [●], 2015, among NXP B.V. (the "Company"), NXP Funding LLC (the "Co-Borrower"), the Lenders, the Joint Lead Arrangers, the Joint Bookrunners, the Collateral Agent and the Administrative Agent.

B. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Guaranty.

C. The Guarantors have entered into the Guaranty in order to induce the Administrative Agent, the Joint Lead Arrangers, the Joint Bookrunners, the Collateral Agent, the Lenders and the Letter of Credit Issuers to enter into the Credit Agreement and to induce the Lenders and the Letter of Credit Issuers to make their respective Extensions of Credit to the Borrowers under the Credit Agreement and to induce one or more Lenders or Affiliates of Lenders to enter into Hedge Agreements with any of the Borrowers. Section 9.11 of the Credit Agreement and Section 20 of the Guaranty provide that additional Subsidiaries of the Company may become Guarantors under the Guaranty by execution and delivery of an instrument in the form of this Supplement. Each undersigned Subsidiary (each a "New Guarantor") is executing this Supplement in accordance with the requirements of the Credit Agreement to become a Guarantor under the Guaranty in order to induce the Lenders and the Letter of Credit Issuers to make additional Extensions of Credit as consideration for Extensions of Credit previously made.

Accordingly, the Administrative Agent, the Collateral Agent and each New Guarantor agrees as follows:

**SECTION 1.** In accordance with Section 20 of the Guaranty, on and from the date of this Supplement (the "Effective Date") each New Guarantor by its signature below becomes a Guarantor under the Guaranty with the same force and effect as if originally named therein as a Guarantor and each New Guarantor hereby (a) agrees to all the terms and provisions of, and assumes all of the liabilities and obligations under, the Guaranty applicable to it as a Guarantor thereunder and (b) represents and warrants that the representations and warranties made by it as a Guarantor thereunder are true and correct in all material respects on and as of the date hereof. On and from the Effective Date each reference to a Guarantor in the Guaranty shall be deemed to include each New Guarantor. All of the provisions of the Guaranty are hereby incorporated herein by reference. Each New Guarantor's maximum liability under the Guaranty and the other Credit Documents shall [be as set forth in Section 8 of the Guaranty].<sup>1</sup>

<sup>1</sup> Use if the Guarantor is an entity organized under the laws of a jurisdiction already referred to in Section 8(b) of the Guaranty. Otherwise, specify appropriate limitation here.

**SECTION 2.** Each New Guarantor represents and warrants to the Administrative Agent and the other Guaranteed Parties that this Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms.

**SECTION 3.** This Supplement may be executed by one or more of the parties to this Supplement on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Supplement signed by all the parties shall be lodged with the Company and the Administrative Agent. If executed by more than one New Guarantor, this Supplement shall become effective as to each New Guarantor when the Administrative Agent shall have received counterparts of this Supplement that, when taken together, bear the signatures of such New Guarantor and the Administrative Agent.

**SECTION 4.** Except as expressly supplemented hereby, the Guaranty shall remain in full force and effect.

**SECTION 5.** THIS SUPPLEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

**SECTION 6.** Any provision of this Supplement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and in the Guaranty, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. The parties hereto shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

**SECTION 7.** All notices, requests and demands pursuant hereto shall be made in accordance with Section 13.3 of the Credit Agreement. All communications and notices hereunder to each New Guarantor shall be given to it in care of the Company at the Company's address set forth in Section 13.3 of the Credit Agreement.

**SECTION 8.** Each New Guarantor agrees to reimburse the Administrative Agent for its out-of-pocket expenses in connection with this Supplement, including the fees, disbursements and other charges of counsel for the Administrative Agent.

**IN WITNESS WHEREOF**, each New Guarantor and the Administrative Agent have duly executed this Supplement to the Guaranty as of the day and year first above written.

**[NAME OF NEW GUARANTOR]**

By: \_\_\_\_\_  
Name:  
Title:

**MORGAN STANLEY SENIOR FUNDING, INC.**  
as Administrative Agent

By: \_\_\_\_\_  
Name:  
Title:

**MORGAN STANLEY SENIOR FUNDING, INC.**  
as Collateral Agent

By: \_\_\_\_\_  
Name:  
Title:

\$1,000,000,000  
SECURED BRIDGE TERM CREDIT AGREEMENT

Dated December 7, 2015

among

NXP B.V.,

NXP FUNDING LLC,  
as the Borrowers

The Lenders  
from Time to Time Parties Hereto

MORGAN STANLEY SENIOR FUNDING, INC.,  
as Collateral Agent

CREDIT SUISSE AG,  
as Administrative Agent

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Exhibit A	Assignment and Acceptance
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CREDIT AGREEMENT dated as of December 7, 2015, among NXP B.V. with its corporate seat in Eindhoven, the Netherlands (the "Company"), NXP FUNDING LLC, a Delaware limited liability company (the "Co-Borrower"), the lending institutions from time to time parties hereto (each a "Lender" and, collectively, the "Lenders") and CREDIT SUISSE AG, as Administrative Agent (in such capacity, the "Administrative Agent"), and MORGAN STANLEY SENIOR FUNDING, INC., as Collateral Agent (in such capacity, the "Collateral Agent").

WHEREAS, pursuant to a Merger Agreement (as defined below), NXP Semiconductors N.V., ("Holdings") will indirectly acquire Freescale Semiconductor, Ltd. ("Target") through an acquisition transaction, whereby Nimble Acquisition Limited ("MergerSub"), a Bermuda exempted limited liability company and a Subsidiary of the Company, will merge with and into the Target (the "Acquisition").

WHEREAS, to fund part of the Acquisition the Borrowers have requested that the Lenders extend credit in the form of Loans on the terms and conditions set forth in this Agreement.

WHEREAS, the proceeds of Loans will be used by the Borrowers on the Closing Date towards: (1) paying the Cash Consideration (as defined below) in connection with the Acquisition; (2) prepaying the Existing Fast Credit Facility (as defined below); (3) prepaying any amounts outstanding under the Existing Revolving Credit Facility (as defined below) and (4) paying Transaction Expenses.

WHEREAS, the Lenders are willing to make available to the Borrowers Loans upon the terms and subject to the conditions set forth herein.

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

#### SECTION 1. Definitions

1.1 Defined Terms. (a) As used herein, the following terms shall have the meanings specified in this Section 1.1 unless the context otherwise requires:

"ABR" shall mean for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Effective Rate plus 1/2 of 1%, (b) the rate of interest in effect for such day as determined from time to time by the Administrative Agent as its "prime rate" at its principal office in New York City and notified to the Borrower, and (c) the rate per annum determined in the manner set forth in clause (ii) of the definition of LIBOR Rate plus 1%. Any change in the ABR due to a change in such rate determined by the Administrative Agent or in the Federal Funds Effective Rate or LIBOR Rate shall take effect at the opening of business on the day specified in the announcement of such change. If the Administrative Agent shall have determined (which determination shall be conclusive absent 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 of the definition thereof, the ABR shall be determined without regard to clause (c) of the preceding sentence until the circumstances giving rise to such inability no longer exist. Any change in the ABR due to a change in the Prime Rate, the Federal Funds Effective Rate or LIBOR shall be effective on the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or LIBOR, as the case may be.

“ABR Loan” shall mean each loan bearing interest at the rate provided in Section 2.8(b).

“Acquired Indebtedness” means Indebtedness (a) of a Person or any of its Subsidiaries existing at the time such Person becomes a Restricted Subsidiary, or (b) assumed in connection with the acquisition of assets from such Person, in each case whether or not Incurred by such Person in connection with such Person becoming a Restricted Subsidiary of the Company or such acquisition or (c) of a Person at the time such Person merges with or into or consolidates or otherwise combines with the Company or any Restricted Subsidiary. Acquired Indebtedness shall be deemed to have been Incurred, with respect to clause (a) of the preceding sentence, on the date such Person becomes a Restricted Subsidiary and, with respect to clause (b) of the preceding sentence, on the date of consummation of such acquisition of assets and, with respect to clause (c) of the preceding sentence, on the date of the relevant merger, consolidation or other combination.

“Acquisition” shall have the meaning given to such term in the preamble to this Agreement.

“Additional Assets” means:

- (a) any property or assets (other than Indebtedness and Capital Stock) used or to be used by the Company, a Restricted Subsidiary or otherwise useful in a Similar Business (it being understood that capital expenditures on property or assets already used in Similar Business or to replace any property or assets that are the subject of such Asset Disposition shall be deemed an investment in Additional Assets);
- (b) the Capital Stock of a Person that is engaged in a Similar Business and becomes a Restricted Subsidiary as a result of the acquisition of such Capital Stock by the Company or a Restricted Subsidiary of the Company; or
- (c) Capital Stock constituting a minority interest in any Person that at such time is a Restricted Subsidiary of the Company.

“Additional Guarantors” means each Wholly Owned Subsidiary (other than the Original Guarantors) which is required to Guarantee the obligations of the Borrowers under this Agreement pursuant to the Guaranty and Section 9.11 of this Agreement.

“Administrative Agent” shall have the meaning given to such term in the preamble to this Agreement.

“Administrative Agent’s Office” shall mean in respect of all Loans, the office of the Administrative Agent located at the address set forth in Schedule 13.2, or such other office as the Administrative Agent may hereafter designate in writing as such to the other parties hereto.

“Administrative Questionnaire” shall have the meaning provided in Section 13.7(b)(ii)(D).

“Affiliate” of any specified Person means any other Person, directly or indirectly, controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, “control” when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Affiliate Transactions” has the meaning given in Section 10.6(a).

“Agent Parties” shall have the meaning provided in Section 13.20(c).

“Agents” shall mean the Administrative Agent and the Collateral Agent.

“Agreed Security Principles” means the principles set forth on Schedule 1.1(a) as applied reasonably and in good faith by the Company.

“Applicable ABR Margin” shall mean 1.00%.

“Applicable LIBOR Margin” shall mean 2.00%.

“Approved Fund” shall have the meaning provided in Section 13.7(b).

“Asset Disposition” means any direct or indirect sale, lease (other than an operating lease entered into in the ordinary course of business), transfer, issuance or other disposition, or a series of related sales, leases (other than operating leases entered into in the ordinary course of business), transfers, issuances or dispositions that are part of a common plan, of shares of Capital Stock of a Subsidiary (other than directors’ qualifying shares), property or other assets (each referred to for the purposes of this definition as a “disposition”) by the Company or any of its Restricted Subsidiaries, including any disposition by means of a merger, consolidation or similar transaction. Notwithstanding the preceding provisions of this definition, the following items shall not be deemed to be Asset Dispositions:

- (a) a disposition by a Restricted Subsidiary to the Company or by the Company or a Restricted Subsidiary to a Restricted Subsidiary;
- (b) a disposition of cash, Cash Equivalents, Temporary Cash Investments or Investment Grade Securities;
- (c) a disposition of inventory or other assets in the ordinary course of business;
- (d) a disposition of obsolete, surplus or worn out equipment or other assets or equipment or other assets that are no longer useful in the conduct of the business of the Company and its Restricted Subsidiaries;

- (e) transactions permitted under Section 10.9 or 10.10 or a transaction that constitutes a Change of Control;
- (f) an issuance of Capital Stock by a Restricted Subsidiary to the Company or to another Restricted Subsidiary or as part of or pursuant to an equity incentive or compensation plan approved by the Board of Directors;
- (g) any dispositions of Capital Stock, properties or assets in a single transaction or series of related transactions with a fair market value (as determined in good faith by the Company) of less than €100,000,000;
- (h) any Restricted Payment that is permitted to be made, and is made, under Section 10.2 and the making of any Permitted Payment or Permitted Investment or, solely for purposes of Section 10.5(a)(iii), asset sales (other than sales of securities or indebtedness of (x) SSMC or (y) any Unrestricted Subsidiary that is a Permitted Joint Venture which has received Investments from the Company or any Restricted Subsidiary pursuant to paragraph (t) of the definition of Permitted Investments (determined at the time of making such Investment), in each case so long as it is not a Restricted Subsidiary), the proceeds of which are used to make such Restricted Payments or Permitted Investments;
- (i) dispositions in connection with Permitted Liens;
- (j) dispositions of receivables in connection with the compromise, settlement or collection thereof in the ordinary course of business or in bankruptcy or similar proceedings and exclusive of factoring or similar arrangements;
- (k) the licensing or sub-licensing of intellectual property or other general intangibles and licenses, sub-licenses, leases or subleases of other property, in each case, in the ordinary course of business;
- (l) foreclosure, condemnation or any similar action with respect to any property or other assets;
- (m) the sale or discount (with or without recourse, and on customary or commercially reasonable terms and for credit management purposes) of accounts receivable or notes receivable arising in the ordinary course of business, or the conversion or exchange of accounts receivable for notes receivable;
- (n) any disposition of Capital Stock, Indebtedness or other securities of an Unrestricted Subsidiary (with the exception of (x) SSMC, (y) Investments in Unrestricted Subsidiaries acquired pursuant to clause (o) of the definition of Permitted Investments and (z) any Unrestricted Subsidiary that is a Permitted Joint Venture which has received Investments from the Company or any Restricted Subsidiary pursuant to paragraph (t) of the definition of Permitted Investments (determined at the time of making such Investment));

(o) any disposition of Capital Stock of a Restricted Subsidiary pursuant to an agreement or other obligation with or to a Person (other than the Company or a Restricted Subsidiary) from whom such Restricted Subsidiary was acquired, or from whom such Restricted Subsidiary acquired its business and assets (having been newly formed in connection with such acquisition), made as part of such acquisition and in each case comprising all or a portion of the consideration in respect of such sale or acquisition;

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

(q) any disposition of assets to a Person who is providing services related to such assets, the provision of which have been or are to be outsourced by the Company or any Restricted Subsidiary to such Person; provided, however, that the Board of Directors shall certify that in the opinion of the Board of Directors, the outsourcing transaction will be economically beneficial to the Company and its Restricted Subsidiaries (considered as a whole); provided, further, that the fair market value of the assets disposed of, when taken together with all other dispositions made pursuant to this clause (q) does not exceed €50,000,000;

(r) any disposition with respect to property built, owned or otherwise acquired by the Company or any Restricted Subsidiary pursuant to customary sale and lease-back transactions, asset securitizations and other similar financings permitted by this Agreement; and

(s) the RF Power Disposition.

“Assignment and Acceptance” shall mean an assignment and acceptance substantially in the form of Exhibit A.

“Associate” means (a) any Person engaged in a Similar Business of which the Company or its Restricted Subsidiaries are the legal and beneficial owners of between 20% and 50% of all outstanding Voting Stock and (b) any joint venture entered into by the Company or any Restricted Subsidiary of the Company.

“Authorized Officer” shall mean, with respect to any Person, the President, the Chief Executive Officer, the Chief Financial Officer, any Managing Director (if authorized to act individually), the Treasurer or any other senior officer (or two such officers if the Company so elects) of such Person authorized to represent such Person and designated as such in writing to the Administrative Agent by such Person.

“Board” shall mean the Board of Governors of the Federal Reserve System of the United States (or any successor).

“Board of Directors” means (a) with respect to the Company or any Credit Party organized or established under the laws of the Netherlands, its managing board; (b) with respect to any corporation, the board of directors or managers, as applicable, of the corporation, or any duly authorized committee thereof; (c) with respect to any partnership, the board of directors or other governing body of the general partner of the partnership or any duly authorized committee

thereof; and (d) with respect to any other Person, the board or any duly authorized committee of such Person serving a similar function. Whenever any provision requires any action or determination to be made by, or any approval of, a Board of Directors, such action, determination or approval shall be deemed to have been taken or made if approved by a majority of the directors (excluding employee representatives, if any) on any such Board of Directors (whether or not such action or approval is taken as part of a formal board meeting or as a formal board approval).

“Borrower Materials” shall have the meaning provided in Section 13.21(b).

“Borrowers” means collectively the Company and the Co-Borrower.

“Borrowing” shall mean Loans of the same Type, made, converted, or continued on the same date and, in the case of LIBOR Loans, as to which a single Interest Period is in effect.

“Business Day” means a day (other than a Saturday or Sunday) on which banks are open for general business in London, United Kingdom, Amsterdam, The Netherlands and New York, U.S.A. and:

(a) in relation to any date for payment or purchase of a currency other than Euro, the principal financial centre of the country of that currency; or

(b) in relation to any date for payment or purchase of Euro, any day on which the Trans-European Automated Real-time Gross Settlement Express Transfer (“TARGET”) payment system is open for the settlement of payments.

“Capital Stock” of any Person means any and all shares of, rights to purchase, warrants or options for, or other equivalents of or partnership or other interests in (however designated), equity of such Person, including any Preferred Stock, but excluding any debt securities convertible into such equity.

“Capitalized Lease Obligations” means an obligation that is required to be classified and accounted for as a capitalized lease for financial reporting purposes on the basis of GAAP. The amount of Indebtedness represented by such obligation will be the capitalized amount of such obligation at the time any determination thereof is to be made as determined on the basis of GAAP, and the Stated Maturity thereof will be the date of the last payment of rent or any other amount due under such lease prior to the first date such lease may be terminated without penalty.

“Cash Consideration” means the certain amount of cash consideration due to the shareholders of Target in connection with the Acquisition.

“Cash Equivalents” means:

(a) securities issued or directly and fully Guaranteed or insured by the United States or Canadian governments, a member state of the European Union, Switzerland or Norway or, in each case, any agency or instrumentality thereof (provided that the full faith and credit of such country or such member state is pledged in support thereof), having maturities of not more than two years from the date of acquisition;

(b) certificates of deposit, time deposits, eurodollar time deposits, overnight bank deposits or bankers' acceptances having maturities of not more than one year from the date of acquisition thereof issued by any Lender or by any bank or trust company (i) whose commercial paper is rated at least "A-1" or the equivalent thereof by S&P or at least "P-1" or the equivalent thereof by Moody's (or if at the time neither is issuing comparable ratings, then a comparable rating of another Nationally Recognized Statistical Rating Organization) or (ii) (in the event that the bank or trust company does not have commercial paper which is rated) having combined capital and surplus in excess of €500,000,000;

(c) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clauses (a) and (b) entered into with any bank meeting the qualifications specified in clause (b) above;

(d) commercial paper rated at the time of acquisition thereof at least "A-2" or the equivalent thereof by S&P or "P-2" or the equivalent thereof by Moody's or carrying an equivalent rating by a Nationally Recognized Statistical Rating Organization, if both of the two named rating agencies cease publishing ratings of investments or, if no rating is available in respect of the commercial paper, the issuer of which has an equivalent rating in respect of its long-term debt, and in any case maturing within one year after the date of acquisition thereof;

(e) readily marketable direct obligations issued by any state of the United States of America, any province of Canada, any member of the European Union, Switzerland or Norway or any political subdivision thereof, in each case, having one of the two highest rating categories obtainable from either Moody's or S&P (or, if at the time, neither is issuing comparable ratings, then a comparable rating of another Nationally Recognized Statistical Rating Organization) with maturities of not more than two years from the date of acquisition;

(f) Indebtedness or preferred stock issued by Persons with a rating of "BBB-" or higher from S&P or "Baa3" or higher from Moody's (or, if at the time, neither is issuing comparable ratings, then a comparable rating of another Nationally Recognized Statistical Rating Organization) with maturities of 12 months or less from the date of acquisition;

(g) bills of exchange issued in the United States, Canada, a member state of the European Union, Switzerland, Norway or Japan eligible for rediscount at the relevant central bank and accepted by a bank (or any dematerialized equivalent);

(h) interests in any investment company, money market or enhanced high yield fund which invests 95% or more of its assets in instruments of the type specified in clauses (a) through (g) above; and

(i) for purposes of clause (b) of the definition of “Asset Disposition”, the marketable securities portfolio owned by the Company and its Subsidiaries on the Closing Date.

“Change in Law” shall mean (a) the adoption of any law, treaty, order, policy, rule or regulation after the date of this Agreement, (b) any change in any law, treaty, order, policy, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the date of this Agreement or (c) compliance by the Lender with any guideline, request or directive issued or made after the date hereof by any central bank or other governmental or quasi-governmental authority (whether or not having the force of law); provided, however, that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith, (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III and (z) the CRD IV and any law, rule, regulation or guideline, in each case that implements CRD IV in any jurisdiction, in each case shall be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

“Change of Control” means:

(a) the Borrowers become aware (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) that any “person” or “group” of related persons (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act), other than one or more Permitted Holders, is or has become the “beneficial owner” (as such term is used in Rules 13d-3 and 13d-5 under the Exchange Act) of more than 50% of the Voting Stock of the Company (or its successor); provided, however, that (x) for purposes of this clause (1) such person or group shall be deemed to have “beneficial ownership” of all shares that any such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time, directly or indirectly; (y) a transaction will not be deemed to involve a Change of Control under this clause (1) if (a) the Company becomes a direct or indirect wholly owned subsidiary of a holding company (including the Parent) and (b)(i) the direct or indirect holders of the Voting Stock of such holding company (including the Parent) immediately following that transaction are substantially the same as the holders of the Company’s Voting Stock immediately prior to that transaction or (ii) immediately following that transaction no “person” or “group” of related persons (other than a holding company (including the Parent) satisfying the requirements of this sentence) is the beneficial owner, directly or indirectly, of more than 50% of the Voting Stock of such holding company (including the Parent); and (z) any Voting Stock of which any Permitted Holder is the “beneficial owner” (as such term is used in Rules 13d-3 and 13d-5 under the Exchange Act) shall not be included in any Voting Stock of which any such “person” or “group” of related persons is the “beneficial owner” (as so defined), unless that person or group of related persons is not an affiliate of a Permitted Holder and has greater voting power with respect to that Voting Stock;



(b) the sale, lease, transfer, conveyance or other disposition, in one transaction or a series of related transactions, of all or substantially all of the assets of the Company and its Subsidiaries taken as a whole to a Person, other than (w) where the Company is the surviving entity following such sale, lease, transfer, conveyance or other disposition, (x) a Subsidiary, (y) any such sale, lease, transfer, conveyance or other disposition where the shares of the Company's Voting Stock outstanding immediately prior to such transaction constitute, or are converted into or exchanged for, a majority of the Voting Stock of the surviving Person or parent entity thereof immediately after giving effect to such transaction or (z) one or more Permitted Holders; or

(c) any Change of Control occurs under and as defined in the Existing Term Facility, any Unsecured Note Indenture or any Fast Secured Notes Indenture.

“Change of Control Triggering Event” means, with respect to the Loans, the occurrence of (1) a Change of Control that is accompanied or followed by a downgrade of the Loans within the Ratings Decline Period for such Change of Control by each of Moody's and S&P (or, in the event Moody's or S&P or both shall cease rating the Loans, the Company shall select any other “nationally recognized statistical rating organisation” within the meaning of Section 3(a)(62) of the Exchange Act, the equivalent of such ratings by such other nationally recognized rating agency) and (2) the rating of the Loans on any day during such Ratings Decline Period is below both of the ratings by such nationally recognized rating agency in effect (a) immediately preceding the first public announcement of the Change of Control (or occurrence thereof if such Change of Control occurs prior to public announcement) and (b) on the Closing Date; provided that a Change of Control Trigger Event will not be deemed to have occurred in respect of a particular Change of Control if such nationally recognized rating agency making the reduction in rating does not publicly announce or confirm or inform the Administrative Agent at our request that the reduction was the result, in whole or in part, of any event or circumstance comprised of or arising as a result of, or in respect of or in connection with the Change of Control. For the avoidance of doubt, no Change of Control Triggering Event will be deemed to have occurred in connection with any particular Change of Control unless and until such Change of Control has actually been consummated.

“Closing Date” means the date of the satisfaction (or waiver) of the conditions precedent set forth in Section 6 hereof.

“Co-Borrower” shall have the meaning given to such term in the preamble to this Agreement.

“Code” means the United States Internal Revenue Code of 1986, as amended.

“Collateral” shall have the meaning provided in any Security Document, provided, that, for purposes of this Agreement, Collateral shall not include any assets that are subject to Other Liens but do not secure the obligations and liabilities of the Company under this Agreement.

“Collateral Agency Agreement” means the Collateral Agency Agreement dated as of 29 September, 2006 among the Collateral Agents, the Borrowers, the Secured Parties and the Guarantors, as supplemented, amended or otherwise modified from time to time.

“Collateral Agent” shall have the meaning given to such term in the preamble to this Agreement.

“Commitment” shall mean, with respect to any Lender, such Lender’s obligation to make Loans on the Closing Date in an aggregate principal amount not to exceed the amount set forth opposite such Lender’s name on Schedule 1 attached hereto and made a part hereof, as the same may be reduced or modified at any time or from time to time pursuant to the terms hereof. The Borrower and the Lenders acknowledge and agree that the aggregate Commitments of the Lenders are \$1,000,000,000 on the date hereof.

“Commodity Hedging Agreements” means in respect of a Person any commodity purchase contract, commodity futures or forward contract, commodities option contract or other similar contract (including commodities derivative agreements or arrangements), to which such Person is a party or a beneficiary.

“Communications” shall have the meaning provided in Section 13.20(a).

“Company” shall have the meaning given to such term in the preamble to this Agreement.

“Company Representations” shall mean the representations and warranties made by Target with respect to itself and its Subsidiaries in the Merger Agreement as are material to the interests of the Lenders, but only to the extent that Holdings (or one of Holdings’ Affiliates) has the right (taking into account any applicable cure provisions) to terminate its obligations under the Merger Agreement or decline to consummate the Acquisition as a result of a breach of such representations and warranties in the Merger Agreement.

“Compliance Certificate” means a certificate in substantially the form set forth in Schedule 1.1(c).

“Confidential Information” shall have the meaning provided in Section 13.19.

“Consolidated EBITDA” for any period means, without duplication, the Consolidated Net Income for such period, plus the following to the extent deducted in calculating such Consolidated Net Income:

- (a) Fixed Charges and items (A) through (F) in clause (a) of the definition of Consolidated Interest Expense;
- (b) Consolidated Income Taxes;
- (c) consolidated depreciation expense;
- (d) consolidated amortization or impairment expense;

(e) any expenses, charges or other costs related to any Equity Offering, Investment, acquisition (including one-time amounts paid in connection with the acquisition or retention of one or more individuals comprising part of a management team retained to manage the acquired business; provided that such payments are made in connection with such acquisition and are consistent with the customary practice in the industry at the time of such acquisition), disposition, recapitalization or the Incurrence of any Indebtedness permitted by this Agreement (in each case whether or not successful) (including any such fees, expenses or charges related to the Transactions (including any expenses in connection with related due diligence activities)), in each case, as determined in good faith by an Officer of the Company;

(f) any minority interest expense (whether paid or not) consisting of income attributable to minority equity interests of third parties in such period;

(g) the amount of management, monitoring, consulting and advisory fees and related expenses paid in such period to the Permitted Holders to the extent permitted by Section 10.6; and

(h) other non-cash charges, write-downs or items reducing Consolidated Net Income (excluding any such non-cash charge, write-down or item to the extent it represents an accrual of or reserve for cash charges in any future period) or other items classified by the Company as special items less other non-cash items of income increasing Consolidated Net Income (excluding any such non-cash item of income to the extent it represents a receipt of cash in any future period, or a reduced accrual or reserve for cash charges in any future period).

Notwithstanding the foregoing, the provision for taxes and the depreciation, amortization, non-cash items, charges and write-downs of a Restricted Subsidiary shall be added to Consolidated Net Income to compute Consolidated EBITDA only to the extent (and in the same proportion, including by reason of minority interests) that the net income (loss) of such Restricted Subsidiary was included in calculating Consolidated Net Income for the purposes of this definition.

“Consolidated Income Taxes” means taxes or other payments, including deferred Taxes, based on income, profits or capital (including without limitation withholding taxes) and franchise taxes of any of the Company and its Restricted Subsidiaries whether or not paid, estimated, accrued or required to be remitted to any Governmental Authority.

“Consolidated Interest Expense” means, with respect to any Person for any period, without duplication, the sum of:

(a) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, to the extent such expense was deducted (and not added back) in computing Consolidated Net Income (including (i) amortization of original issue discount resulting from the issuance of Indebtedness at less than par, (ii) all commissions, discounts and other fees and charges owed with respect to letters of credit or bankers acceptances, (iii) non-cash interest payments (but excluding any non-cash interest

expense attributable to the movement in the mark to market valuation of Hedging Obligations or other derivative instruments pursuant to GAAP), (iv) the interest component of Capitalized Lease Obligations, and (v) net payments, if any, pursuant to interest rate Hedging Obligations with respect to Indebtedness, and excluding (A) accretion or accrual of discounted liabilities other than Indebtedness, (B) any expense resulting from the discounting of any Indebtedness in connection with the application of purchase accounting in connection with any acquisition, (C) any additional interest pursuant to a registration rights agreement with respect to any securities, (D) amortization of deferred financing fees, debt issuance costs, commissions, fees and expenses, (E) any expensing of commitment and other financing fees, and (F) interest with respect to Indebtedness of any direct or indirect parent of such Person appearing upon the balance sheet of such Person solely by reason of push-down accounting under GAAP; plus

(b) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued; less

(c) interest income for such period.

For purposes of this definition, interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP.

“Consolidated Leverage” means the sum of the aggregate outstanding Indebtedness of the Company and its Restricted Subsidiaries (excluding Hedging Obligations except to the extent provided in Section 10.1(g)(iii)) minus cash and Cash Equivalents of the Company and its Restricted Subsidiaries.

“Consolidated Leverage Ratio” means, as of any date of determination, the ratio of (a) Consolidated Leverage at such date to (b) the aggregate amount of Consolidated EBITDA for the period of the most recent four consecutive fiscal quarters ending prior to the date of such determination for which internal consolidated financial statements of the Company are available; provided, however, that for the purposes of calculating Consolidated EBITDA for such period, if, as of such date of determination:

(i) since the beginning of such period the Company or any Restricted Subsidiary has disposed of any company, any business, or any group of assets constituting an operating unit of a business (any such disposition, a “Sale”) or if the transaction giving rise to the need to calculate the Consolidated Leverage Ratio is such a Sale, Consolidated EBITDA for such period will be reduced by an amount equal to the Consolidated EBITDA (if positive) attributable to the assets which are the subject of such Sale for such period or increased by an amount equal to the Consolidated EBITDA (if negative) attributable thereto for such period; provided that if any such Sale constitutes “discontinued operations” in accordance with the then applicable GAAP, Consolidated Net Income shall be reduced by an amount equal to the Consolidated Net Income (if positive) attributable to such operations for such period or increased by an amount equal to the Consolidated Net Income (if negative) attributable thereto for such period;

(ii) since the beginning of such period, the Company or any Restricted Subsidiary (by merger or otherwise) has made an Investment in any Person that thereby becomes a Restricted Subsidiary, or otherwise has acquired any company, any business, or any group of assets constituting an operating unit of a business (any such Investment or acquisition, a “Purchase”), including any such Purchase occurring in connection with a transaction causing a calculation to be made hereunder, Consolidated EBITDA for such period will be calculated after giving pro forma effect thereto, including anticipated synergies and cost savings (that are reasonably identifiable and factually supportable and projected by the Company in good faith to result from actions that have been taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Company) within 18 months) as if such Purchase occurred on the first day of such period; and

(iii) since the beginning of such period, any Person (that became a Restricted Subsidiary or was merged or otherwise combined with or into the Company or any Restricted Subsidiary since the beginning of such period) will have made any Sale or any Purchase that would have required an adjustment pursuant to clause (i) or (ii) above if made by the Company or a Restricted Subsidiary since the beginning of such period, Consolidated EBITDA for such period will be calculated after giving pro forma effect thereto, including anticipated synergies and cost savings (that are reasonably identifiable and factually supportable and projected by the Company in good faith to result from actions that have been taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Company) within 18 months), as if such Sale or Purchase occurred on the first day of such period.

For the purposes of this definition and the definitions of Consolidated EBITDA, Consolidated Income Taxes, Consolidated Interest Expense, Consolidated Net Income and Fixed Charge Coverage Ratio, (a) calculations will be as determined in good faith by a responsible financial or chief accounting officer of the Company, including in respect of cost savings and synergies, (that are reasonably identifiable and factually supportable and projected by the Company in good faith to result from actions that have been taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Company) within 18 months) as though the full effect of synergies and cost savings were realized on the first day of the relevant period and shall also include the reasonably anticipated full run rate cost savings effect (as calculated in good faith by a responsible financial or chief accounting officer of the Company) of cost savings programs that have been initiated by the Company or its Restricted Subsidiaries as though such cost savings programs had been fully implemented on the first day of the relevant period and (b) in determining the amount of Indebtedness outstanding on any date of determination, pro forma effect shall be given to any Incurrence, repayment, repurchase, defeasance or other acquisition, retirement or discharge of Indebtedness as if such transaction had occurred on the first day of the relevant period.

“Consolidated Net Income” means, for any period, the net income (loss) of the Company and its Restricted Subsidiaries determined on a consolidated basis on the basis of GAAP; provided, however, that there will not be included in such Consolidated Net Income:

(a) subject to the limitations contained in clause (c) below, any net income (loss) of any Person if such Person is not a Restricted Subsidiary, except that the Company's equity in the net income of any such Person for such period will be included in such Consolidated Net Income up to the aggregate amount of cash or Cash Equivalents actually distributed by such Person during such period to the Company or a Restricted Subsidiary as a dividend or other distribution or return on investment or (except in the case of SSMC so long as it is not a Restricted Subsidiary, but this exception shall only apply for the purposes of determining the amount available for Restricted Payments (other than Restricted Investments) under Section 10.2(c)(i) could have been distributed, as reasonably determined by an Officer of the Company (subject, in the case of a dividend or other distribution or return on investment to a Restricted Subsidiary, to the limitations contained in clause (b) below);

(b) solely for the purpose of determining the amount available for Restricted Payments under Section 10.2(a)(iv)(C)(1), any net income (loss) of any Restricted Subsidiary (other than Guarantors) if such Subsidiary is subject to restrictions, directly or indirectly, on the payment of dividends or the making of distributions by such Restricted Subsidiary, directly or indirectly, to the Company or a Guarantor by operation of the terms of such Restricted Subsidiary's charter or any agreement, instrument, judgment, decree, order, statute or governmental rule or regulation applicable to such Restricted Subsidiary or its shareholders (other than (i) restrictions that have been waived or otherwise released, (ii) restrictions pursuant to this Agreement, the Revolving Credit Agreement, the Senior Notes or any Note Indenture, and (iii) restrictions permitted by Section 10.4), except that the Company's equity in the net income of any such Restricted Subsidiary for such period will be included in such Consolidated Net Income up to the aggregate amount of cash or Cash Equivalents actually distributed or that could have been distributed by such Restricted Subsidiary during such period to the Company or another Restricted Subsidiary as a dividend or other distribution (subject, in the case of a dividend to another Restricted Subsidiary, to the limitation contained in this clause);

(c) any net gain (or loss) realized upon the sale or other disposition of any asset or disposed operations of the Company or any Restricted Subsidiaries (including pursuant to any sale/leaseback transaction) which is not sold or otherwise disposed of in the ordinary course of business (as determined in good faith by an Officer or the Board of Directors of the Company);

(d) any extraordinary, exceptional, unusual or nonrecurring gain, loss or charge (as determined in good faith by the Company) or any charges or reserves in respect of any restructuring, redundancy or severance or any expenses, charges, reserves or other costs related to the Transactions (including (i) in relation to expenses relating to consulting or operational improvement initiatives, (ii) expenses associated with the closing out of existing management equity programs and (iii) start-up and transaction costs);

(e) the cumulative effect of a change in accounting principles;

(f) any non-cash compensation charge or expense arising from any grant of stock, stock options or other equity based awards and any non-cash deemed finance charges in respect of any pension liabilities or other provisions;

(g) all deferred financing costs written off and premiums paid or other expenses incurred directly in connection with any early extinguishment of Indebtedness and any net gain (loss) from any write-off or forgiveness of Indebtedness;

(h) any unrealized gains or losses in respect of Hedging Obligations or any ineffectiveness recognized in earnings related to qualifying hedge transactions or the fair value of changes therein recognized in earnings for derivatives that do not qualify as hedge transactions, in each case, in respect of Hedging Obligations;

(i) any unrealized foreign currency transaction gains or losses in respect of Indebtedness of any Person denominated in a currency other than the functional currency of such Person and any unrealized foreign exchange gains or losses relating to translation of assets and liabilities denominated in foreign currencies;

(j) any unrealized foreign currency translation or transaction gains or losses in respect of Indebtedness or other obligations of the Company or any Restricted Subsidiary owing to the Company or any Restricted Subsidiary;

(k) any purchase accounting effects including, but not limited to, adjustments to inventory, property and equipment, software and other intangible assets and deferred revenue in component amounts required or permitted by GAAP and related authoritative pronouncements (including the effects of such adjustments pushed down to the Company and the Restricted Subsidiaries), as a result of the Transactions or the disentanglement, any consummated acquisition (including in connection with the original purchase by the Initial Investors), or the amortization or write-off of any amounts thereof (including any write-off of in process research and development);

(l) any goodwill or other intangible asset impairment charge, amortization or write-off;

(m) (i) only to the extent not otherwise added back to Consolidated Net Income, depreciation and amortization expense to the extent in excess of capital expenditures on property, plant and equipment and (ii) Consolidated Income Taxes to the extent in excess of cash payments made in respect of such Consolidated Income Taxes; and

(n) the impact of capitalized, accrued or accreting or pay-in-kind interest or principal on Subordinated Shareholder Funding.

“Consolidated Net Tangible Assets” means, at any date, the total assets appearing on the Company’s most recent consolidated balance sheet, prepared in accordance with GAAP, less all current liabilities as shown on such balance sheet, and Intangible Assets.

“Consolidated Secured Leverage Ratio” means the Consolidated Leverage Ratio, but (a) calculated by excluding all Indebtedness other than Secured Indebtedness (except Secured Indebtedness Incurred pursuant to Section 10.1(b)(xiii) and secured only by assets in the applicable jurisdiction but, for the avoidance of doubt, including Indebtedness secured by Liens permitted under clause (u) of the definition of “Permitted Liens”) and (b) calculating Consolidated EBITDA for the purposes of such definition as though (i) consolidated depreciation expense included such expense of the Company and its consolidated Subsidiaries attributable to SSMC and Jilin and (ii) consolidated amortization expense included such expense of the Company and its consolidated Subsidiaries attributable to SSMC and Jilin.

“Contingent Obligations” means, with respect to any Person, any obligation of such Person guaranteeing in any manner, whether directly or indirectly, any operating lease, dividend or other obligation that does not constitute Indebtedness (“primary obligations”) of any other Person (the “primary obligor”), including any obligation of such Person, whether or not contingent:

- (a) to purchase any such primary obligation or any property constituting direct or indirect security therefor;
- (b) to advance or supply funds:
  - (i) for the purchase or payment of any such primary obligation; or
  - (ii) to maintain the working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor; or
- (c) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

“Credit Documents” shall mean this Agreement, the Security Documents, the Guaranty (including any supplement thereto) and any promissory notes issued by any Borrower hereunder.

“Credit Facility” means, with respect to the Company or any of its Subsidiaries, one or more debt facilities, indentures or other arrangements (including this Agreement or commercial paper facilities and overdraft facilities) with banks, other financial institutions or investors providing for revolving credit loans, term loans, notes, receivables financing (including through the sale of receivables to such institutions or to special purpose entities formed to borrow from such institutions against such receivables), letters of credit or other Indebtedness, in each case, as amended, restated, modified, renewed, refunded, replaced, restructured, refinanced, repaid, increased or extended in whole or in part from time to time (and whether in whole or in part and whether or not with the original administrative agent and lenders or another administrative agent or agents or other banks or institutions and whether provided under this Agreement or one or more other credit or other agreements, indentures, financing agreements or otherwise) and in each case including all agreements, instruments and documents executed and delivered pursuant to or in connection with the foregoing (including any notes and letters of



credit issued pursuant thereto and any Guarantee and collateral agreement, patent and trademark security agreement, mortgages or letter of credit applications and other Guarantees, pledges, agreements, security agreements and security documents). Without limiting the generality of the foregoing, the term “Credit Facility” shall include any agreement or instrument (a) changing the maturity of any Indebtedness Incurred thereunder or contemplated thereby, (b) adding Subsidiaries of the Company as additional borrowers or guarantors thereunder, (c) increasing the amount of Indebtedness Incurred thereunder or available to be borrowed thereunder or (d) otherwise altering the terms and conditions thereof.

“Credit Party” shall mean each Borrower, each Guarantor or any other Subsidiary of the Company that is a party to a Credit Document.

“Currency Agreement” means in respect of a Person any foreign exchange contract, currency swap agreement, currency futures contract, currency option contract, currency derivative or other similar agreement to which such Person is a party or beneficiary.

“Debtor Relief Laws” means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally (including, in the case of Credit Parties incorporated or organized in England or Wales, administration, administrative receivership, voluntary arrangement and schemes of arrangement).

“Default” shall mean any event, act or condition that with notice or lapse of time, or both, would constitute an Event of Default.

“Designated Non-Cash Consideration” means the fair market value (as determined in good faith by the Company) of non-cash consideration received by the Company or one of its Restricted Subsidiaries in connection with an Asset Disposition that is designated as Designated Non-Cash Consideration pursuant to an Officer’s Certificate, setting forth the basis of such valuation, less the amount of cash, Cash Equivalents or Temporary Cash Investments received in connection with a subsequent payment, redemption, retirement, sale or other disposition of such Designated Non-Cash Consideration. A particular item of Designated Non-Cash Consideration will no longer be considered to be outstanding when and to the extent it has been paid, redeemed or otherwise retired or sold or otherwise disposed of in compliance with Section 10.5.

“Designated Preference Shares” means, with respect to the Company or any Parent, Preferred Stock (other than Disqualified Stock) (a) that is issued for cash (other than to the Company or a Subsidiary of the Company or an employee stock ownership plan or trust established by the Company or any such Subsidiary for the benefit of their employees to the extent funded by the Company or such Subsidiary) and (b) that is designated as “Designated Preference Shares” pursuant to an Officer’s Certificate of the Company at or prior to the issuance thereof, the Net Cash Proceeds of which are excluded from the calculation set forth in Section 10.2(a)(iv)(C)(2).

“Disinterested Director” means, with respect to any Affiliate Transaction, a member of the Board of Directors of the Company having no material direct or indirect financial interest in or with respect to such Affiliate Transaction. A member of the Board of Directors of the Company shall be deemed not to have such a financial interest by reason of such member’s holding Capital Stock of the Company or any Parent or any options, warrants or other rights in respect of such Capital Stock.

“Disqualified Lender” means any bank, financial institution or other institutional lender or investor (a) that has been separately identified in writing by the Company to the Administrative Agent prior to the date of this Agreement (or, if after such date, that are reasonably acceptable to the Administrative Agent), (b) those persons who are competitors of any Borrower or the Target and their respective subsidiaries that are separately identified in writing by the Company to the Administrative Agent from time to time, and (c) in the case of each of clauses (a) and (b), any of their Affiliates (other than any such Affiliate that is affiliated with a financial investor in such person and that is not itself an operating company or otherwise an Affiliate of an operating company so long as such Affiliate is a bona fide debt fund) that are either (i) identified in writing by the Company from time to time or (ii) clearly identifiable on the basis of such Affiliate’s name; provided that no such updates to the list shall be deemed to retroactively disqualify any person that has previously acquired an assignment or participation interest in the Loans with respect to such previously acquired interest.

“Disqualified Stock” means, with respect to any Person, any Capital Stock of such Person which by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable) or upon the happening of any event:

(a) matures or is mandatorily redeemable for cash or in exchange for Indebtedness pursuant to a sinking fund obligation or otherwise;

(b) is convertible or exchangeable for Indebtedness or Disqualified Stock (excluding Capital Stock which is convertible or exchangeable solely at the option of the Company or a Restricted Subsidiary); or

(c) is or may become (in accordance with its terms) upon the occurrence of certain events or otherwise redeemable or repurchasable for cash or in exchange for Indebtedness at the option of the holder of the Capital Stock in whole or in part,

in each case on or prior to the Maturity Date; provided, however, that (x) only the portion of Capital Stock which so matures or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date will be deemed to be Disqualified Stock and (y) any Capital Stock that would constitute Disqualified Stock solely because the holders thereof have the right to require the Company to repurchase such Capital Stock upon the occurrence of a change of control or asset sale (howsoever defined or referred to) shall not constitute Disqualified Stock if any such redemption or repurchase obligation is subject to compliance by the relevant Person with Section 10.2.

“Dutch Security Documents” shall mean the following documents, each dated 29 September 2006 and any amendments, supplements or other agreements entered into in connection therewith:

- (a) Pledge of Shares between NXP B.V., as pledgor, and Morgan Stanley Senior Funding, Inc., as pledgee, in relation to the shares in Philips Semiconductors B.V.;
- (b) Pledge of Shares between NXP B.V., as pledgor, and Morgan Stanley Senior Funding, Inc., as pledgee, in relation to the shares in Philips Software B.V.;
- (c) Pledge of Shares between KASLION Acquisition B.V., as pledgor, and Morgan Stanley Senior Funding, Inc., as pledgee, in relation to the shares in NXP B.V.;
- (d) Disclosed Pledge of Insurance Receivables between NXP B.V. and Philips Semiconductors B.V., as pledgors, and Morgan Stanley Senior Funding, Inc., as pledgee;
- (e) Disclosed Pledge of Intercompany Receivables between KASLION Acquisition B.V., NXP B.V. and Philips Semiconductors B.V., as pledgors, and Morgan Stanley Senior Funding, Inc., as pledgee;
- (f) Undisclosed Pledge of Third Party Receivables between NXP B.V. and Philips Semiconductors B.V., as pledgors, and Morgan Stanley Senior Funding, Inc., as pledgee;
- (g) Non-Possessory Pledge of Moveable Assets between KASLION Acquisition B.V., NXP B.V. and Philips Semiconductors B.V., as pledgors, and Morgan Stanley Senior Funding, Inc., as pledgee;
- (h) Pledge of IP Rights between NXP B.V., as pledgor, and Morgan Stanley Senior Funding, Inc., as pledgee; and
- (i) Deed of Mortgage between Philips Semiconductors B.V. and Morgan Stanley Senior Funding, Inc., as Global Collateral Agent.

“Effective Yield” shall mean, as to any Indebtedness, the effective yield on such Indebtedness in the reasonable determination of the Administrative Agent in consultation with the Borrowers and consistent with generally accepted financial practices, taking into account the applicable interest rate margins, any interest rate floors (the effect of which floors shall be determined in a manner set forth in the proviso below), or similar devices and all fees, including upfront or similar fees or original issue discount (amortized over the shorter of (i) the remaining weighted average life to maturity of such Indebtedness and (ii) the four years following the date of incurrence thereof) payable generally to Lenders or other institutions providing such Indebtedness, but excluding any arrangement, structuring, ticking, or other similar fees payable in connection therewith that are not generally shared with the relevant Lenders and, if applicable, consent fees for an amendment paid generally to consenting Lenders; provided that with respect to any Indebtedness that includes a “LIBOR floor” or “ABR floor,” (a) to the extent that the LIBOR Rate (with an Interest Period of one month) or ABR (without giving effect to any floors in such definitions), as applicable, on the date that the Effective Yield is being calculated is less than such floor, the amount of such difference shall be deemed added to the interest rate margin for such Indebtedness for the purpose of calculating the Effective Yield and (b) to the extent that the LIBOR Rate (with an Interest Period of one month) or ABR (without giving effect to any floors in such definitions), as applicable, on the date that the Effective Yield is being calculated is greater than such floor, then the floor shall be disregarded in calculating the Effective Yield.

“Enforcement Event” has the meaning given in the Collateral Agency Agreement.

“Environmental Law” shall mean any applicable Federal, state, foreign or local statute, Law, rule, regulation, ordinance, code and rule of common law now or hereafter in effect and in each case as amended, and any binding judicial or administrative interpretation thereof, including any binding judicial or administrative order, consent decree or judgment, relating to the protection of environment, including, without limitation, ambient air, surface water, groundwater, land surface and subsurface strata and natural resources such as wetlands, or human health or safety (to the extent relating to human exposure to hazardous materials), or hazardous materials.

“Equity Offering” means (a) a sale of Capital Stock of the Company (other than Disqualified Stock) other than offerings registered on Form S-8 (or any successor form) under the Securities Act or any similar offering in other jurisdictions, or (b) the sale of Capital Stock or other securities, the proceeds of which are contributed to the equity (other than through the issuance of Disqualified Stock or Designated Preference Shares or through an Excluded Contribution) of the Company or any of its Restricted Subsidiaries.

“Escrowed Proceeds” means the proceeds from the offering of any debt securities or other Indebtedness paid into an escrow account with an independent escrow agent on the date of the applicable offering or Incurrence pursuant to escrow arrangements that permit the release of amounts on deposit in such escrow account upon satisfaction of certain conditions or the occurrence of certain events. The term “Escrowed Proceeds” shall include any interest earned on the amounts held in escrow.

“Euro” and “€” means the lawful currency of Participating Member States.

“Euro Equivalent” shall mean, on any date of determination, (a) with respect to any amount denominated in Euro, such amount, and (b) with respect to any amount denominated in any Foreign Currency, the equivalent in Euro of such amount, determined by the Administrative Agent using the applicable Exchange Rate.

“Event of Default” shall have the meaning provided in Section 11.

“Exchange Act” means the U.S. Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder, as amended.

“Exchange Rate” means for the purposes of Section 10, the spot rate for the purchase of the Euro with the applicable currency other than Euro as published in The Financial Times in the “Currency Rates” section (or, if The Financial Times is no longer published, or if such information is no longer available in The Financial Times, such source as may be selected in good faith by the Company) on the date of such determination.

“Excluded Contribution” means Net Cash Proceeds or property or assets received by the Company as capital contributions to the equity (other than through the issuance of Disqualified Stock or Designated Preference Shares) of the Company after February 14, 2013 or from the issuance or sale (other than to a Restricted Subsidiary or an employee stock ownership plan or trust established by the Company or any Subsidiary of the Company for the benefit of its employees to the extent funded by the Company or any Restricted Subsidiary) of Capital Stock (other than Disqualified Stock or Designated Preference Shares) of the Company, in each case, to the extent designated as an Excluded Contribution pursuant to an Officer’s Certificate of the Company.

“Excluded Taxes” shall mean, with respect to any Agent, any Lender or (subject to Section 13.7(c)(ii)) any Participant (a) (i) net income taxes and franchise taxes (imposed in lieu of net income taxes) and capital taxes imposed on such Agent, such Lender or such Participant, in each case imposed on such Agent, such Lender or such Participant as a result of such Agent, such Lender or such Participant doing business in the jurisdiction of the Governmental Authority imposing such tax or any political subdivision or taxing authority thereof or therein (other than any such connection arising solely from such Agent, such Lender or such Participant having executed, delivered or performed its obligations or received a payment under, or having been a party to (or participating in) or having enforced this Agreement or any other Credit Document), (ii) any Taxes imposed on such Lender (including a Lender not party to this Agreement at the Closing Date) to the extent attributable to such Lender’s failure to comply with Section 5.3(d) and (iii) any Taxes imposed on such Agent, such Lender or such Participant as a result of the gross negligence or willful misconduct of any Agent or Lender and (b) in the case of a Lender not party to this Agreement at the Closing Date, any withholding tax that is imposed on amounts payable to such Lender by a Relevant Taxing Jurisdiction under the law in effect at the time such Lender becomes a party to this Agreement (or, in the case of a Participant, on the date such Participant became a Participant hereunder); provided that this clause (b) shall not apply to the extent that (x) the indemnity payments or additional amounts any Lender (or Participant) would be entitled to receive (without regard to this clause (b)) do not exceed the indemnity payment or additional amounts that the person making the assignment, participation or transfer to such Lender (or Participant) would have been entitled to receive in the absence of such assignment, participation or transfer or (y) any Tax is imposed on a Lender in connection with an interest or participation in any Loan or other obligation that such Lender was required to acquire pursuant to Section 13.11(a) or that such Lender acquired pursuant to Section 13.8 (it being understood and agreed, for the avoidance of doubt, that any withholding tax imposed on a Lender or (subject to Section 13.7(c)(ii)) in respect of a Participant as a result of a Change in Law occurring after the time such Lender became a party to this Agreement (or designates a new lending office) or such Participant acquired its participation shall not be an Excluded Tax).

“Existing Fast Credit Facility” means the Third Amended and Restated Credit Agreement dated as of March 1, 2013 (as amended pursuant to (i) an Incremental Agreement, dated as of September 11, 2013 and (ii) the Replacement Revolving Credit Facility Agreement and Incremental Amendment dated as of February 10, 2014 and as amended, restated, and/or supplemented prior to the date hereof) by and among, Freescale Semiconductor, Inc. and certain affiliates thereof, the lenders from time to time party thereto, and Citibank, N.A., as administrative agent and collateral agent.

“Existing Fast Mortgages” means the following documents:

(a) the Deed of Trust, Assignment of Leases and Rents, Security Agreement and Financing Statement from Freescale Semiconductor, Inc. to Chicago Title Insurance Company, as trustee for the benefit of Citibank, N.A. as collateral agent, dated June 17, 2013 relating to the premises at 1300 North Alma School Road, Chandler, Arizona;

(b) the Deed of Trust, Assignment of Leases and Rents, Security Agreement and Financing Statement from Freescale Semiconductor, Inc. to Rebecca Conrad, as trustee for the benefit of Citibank, N.A., as Collateral Agent, dated June 17, 2013 relating to the premises at 3501 Ed Bluestein Boulevard, Austin, Texas; and

(c) the Deed of Trust, Assignment of Leases and Rents, Security Agreement and Financing Statement from Freescale Semiconductor, Inc. to Rebecca Conrad, as trustee for the benefit of Citibank, N.A., as Collateral Agent, dated June 17, 2013 relating to the premises at 6501 William Cannon Drive West, Austin, Texas.

“Existing Revolving Credit Facility” means the revolving facility agreement dated as of April 27, 2012, as amended by a joinder agreement dated October 24, 2012 (as amended, restated, supplemented or otherwise modified from time to time) by and among, Holdings, the Company, the Co-Borrower, the lending institutions from time to time party thereto, Morgan Stanley Senior Funding, Inc., as administrative agent and Collateral Agent and Mizuho Corporate Bank, Ltd., as Taiwan collateral agent.

“Existing Term Facility” means the term loan facility dated as of March 4, 2011, as amended by (i) the joinder and amendment agreement dated as of November 18, 2011, (ii) the new term loan joinder agreement dated as of February 16, 2012, (iii) the new term loan joinder agreement dated as of December 10, 2012, (iv) the 2013 new term loan joinder agreement dated as of November 27, 2013 and (v) the 2014 new term loan joinder agreement dated as of February 18, 2014, by and among the Company, the Co-Borrower, the lending institutions from time to time party thereto, Barclays Bank PLC, as administrative agent, Morgan Stanley Senior Funding, Inc., as Collateral Agent and Mizuho Corporate Bank, Ltd., as Taiwan collateral agent.

“fair market value” may be conclusively established by means of an Officer’s Certificate or a resolution of the Board of Directors of the Company setting out such fair market value as determined by such Officer or such Board of Directors in good faith.

“Fast Secured Notes” means (i) the 5.00% senior secured notes due 2021 issued pursuant to an indenture, dated as of May 21, 2013, among certain affiliates of Target and The Bank of New York Mellon Trust Company, N.A. as trustee, as amended, supplemented and otherwise modified from time to time, including pursuant to the Fast Secured Notes Consent (the “2021 Fast Secured Notes Indenture”), and (ii) the 6.00% senior secured notes due 2022 issued pursuant to an indenture, dated as of November 1, 2013, among certain affiliates of Target and Wells Fargo Bank, National Association, as trustee, as amended, supplemented and otherwise modified from time to time, including pursuant to the Fast Secured Notes Consent (the “2022 Fast Secured Notes Indenture” and, together with the 2021 Fast Secured Notes Indenture, the “Fast Secured Notes Indentures”).

“Fast Secured Notes Consent” means the consent with respect to certain amendments and waivers, including a change of control waiver, as they relate to the Fast Secured Notes.

“Fast Secured Notes Indentures” shall have the meaning assigned to such term in the definition of “Fast Secured Notes”.

“Federal Funds Effective Rate” shall mean, for any day, the weighted average of the *per annum* rates on overnight federal funds transactions with members of the Federal Reserve System, 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 rate charged for the day of such transactions to the Administrative Agent as determined by the Administrative Agent.

“Fees” shall mean all amounts payable pursuant to, or referred to in, Section 4.1.

“Fitch” means Fitch Ratings or any of its successors or assigns that is a Nationally Recognized Statistical Rating Organization.

“Fixed Charge Coverage Ratio” means, with respect to any Person on any determination date, the ratio of (x) Consolidated EBITDA of such Person for the most recently completed four consecutive fiscal quarters ending immediately prior to such determination date for which internal consolidated financial statements are available to (y) the Fixed Charges of such Person for such four consecutive fiscal quarters. In the event that the Company or any Restricted Subsidiary incurs, assumes, guarantees, redeems, defeases, retires or extinguishes any Indebtedness (other than Indebtedness Incurred under any revolving credit facility unless such Indebtedness has been permanently repaid and has not been replaced) or issues or redeems Disqualified Stock or Preferred Stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated but prior to or simultaneously with the event for which the calculation of the Fixed Charge Coverage Ratio is made (the “Fixed Charge Coverage Ratio Calculation Date”), then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect to such Incurrence, assumption, guarantee, redemption, defeasance, retirement or extinguishment of Indebtedness, or such issuance or redemption of Disqualified Stock or Preferred Stock, as if the same had occurred at the beginning of the applicable four-quarter period.

For purposes of making the computation referred to above, any Investment, acquisitions, dispositions, mergers, consolidations and disposed operations that have been made by the Company or any of its Restricted Subsidiaries, including the Transactions, during the four-quarter reference period or subsequent to such reference period and on or prior to or simultaneously with the Fixed Charge Coverage Ratio Calculation Date shall be calculated on a pro forma basis assuming that all such Investments, acquisitions, dispositions, mergers, consolidations and disposed or discontinued operations (and the change in any associated fixed charge obligations and the change in Consolidated EBITDA resulting therefrom), including the full run rate effect of anticipated synergies and cost savings, (that are reasonably identifiable factually supportable and projected by the Company in good faith to result from actions that have been taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Company) within 18 months) had occurred on the first day of the four-quarter reference period. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into the Company or any of its Restricted Subsidiaries since the beginning of such period shall have made any Investment,

acquisition, disposition, merger or consolidation or disposed or discontinued any operation that would have required adjustment pursuant to this definition, then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect thereto for such period as if such Investment, acquisition, disposition, merger, consolidation, disposal or discontinuance had occurred at the beginning of the applicable four-quarter period.

For purposes of this definition, whenever pro forma effect is to be given to a transaction, the pro forma calculations shall be made in good faith by a responsible financial or chief accounting officer of the Company, including cost savings and synergies, (that are reasonably identifiable and factually supportable and projected by the Company in good faith to result from actions that have been taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Company) within 18 months) as though the full effect of synergies and cost savings were realized on the first day of the relevant period and shall also include the reasonably anticipated full run rate cost savings effect (as calculated in good faith by a responsible financial or chief accounting officer of the Company) of cost savings programs that have been initiated by the Company or its Restricted Subsidiaries as though such cost savings programs had been fully implemented on the first day of the relevant period. If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Fixed Charge Coverage Ratio Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Company to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period except as set forth in the first paragraph of this definition. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be determined to have been based upon the rate actually chosen, or if none, then based upon such optional rate chosen as the Company may designate.

“Fixed Charges” means, with respect to any Person for any period, the sum of:

- (a) Consolidated Interest Expense of such Person for such period;
- (b) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Preferred Stock during such period; and
- (c) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Disqualified Stock during this period.

“FMSA” means the Dutch Financial Markets Supervision Act (*Wet financieel toezicht*).

“Foreign Currency” shall mean any currency other than Euro.



“Freescale US Properties” shall mean the premises owned by Freescale Semiconductor, Inc. at (a) 1300 North Alma School Road, Chandler, Arizona, (b) 3501 Ed Bluestein Boulevard, Austin, Texas and (c) 6501 William Cannon Drive West, Austin, Texas.

“GAAP” means generally accepted accounting principles in the United States of America as in effect on the date of any calculation or determination required hereunder. Except as otherwise set forth in this Agreement, all ratios and calculations based on GAAP contained in this Agreement shall be computed in accordance with GAAP. At any time after the Closing Date, the Company may elect to establish that GAAP shall mean the GAAP as in effect on or prior to the date of such election, provided that any such election, once made, shall be irrevocable. The Company shall give notice of either such election to the Administrative Agent and the Lenders. At any time after the Closing Date, the Company may elect to apply IFRS accounting principles in lieu of GAAP and, upon any such election, references herein to GAAP shall thereafter be construed to mean IFRS (except as otherwise provided in this Agreement), including as to the ability of the Company to make an election pursuant to the previous sentence provided that any such election, once made, shall be irrevocable; provided, further again, that the Company may only make such election if it also elects to report any subsequent financial reports required to be made by the Company including pursuant to this Agreement in IFRS. The Company shall give notice of any such election made in accordance with this definition to the Administrative Agent.

“Governmental Authority” shall mean any nation, sovereign, government or supra-national body, any state, province, territory or other political subdivision thereof, and any entity or authority exercising executive, legislative, judicial, regulatory, self-regulatory or administrative functions of or pertaining to government, including a central bank or stock exchange.

“Guarantee” means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness of any other Person, including any such obligation, direct or indirect, contingent or otherwise, of such Person:

(a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness of such other Person (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take-or-pay or to maintain financial statement conditions or otherwise); or

(b) entered into primarily for purposes of assuring in any other manner the obligee of such Indebtedness of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part);

provided, however, that the term “Guarantee” will not include endorsements for collection or deposit in the ordinary course of business. The term “Guarantee” used as a verb has a corresponding meaning.

“Guarantor” means the Original Guarantors and each Additional Guarantor that Guarantees the obligations of the Borrowers under this Agreement pursuant to the Guaranty.

“Guaranty” means the Guaranty dated as of the date of this Agreement between, among others, the Administrative Agent and the Original Guarantors (as supplemented from time to time).

“Hazardous Materials” shall mean (a) any petroleum or petroleum products, radioactive materials, friable asbestos, urea formaldehyde foam insulation, transformers or other equipment that contain dielectric fluid containing regulated levels of polychlorinated biphenyls, and radon gas; (b) any chemicals, materials or substances defined as or included in the definition of “hazardous substances”, “hazardous waste”, “hazardous materials”, “extremely hazardous waste”, “restricted hazardous waste”, “toxic substances”, “toxic pollutants”, “contaminants”, or “pollutants”, or words of similar import, under any applicable Environmental Law; and (c) any other chemical, material or substance, which is prohibited, limited or regulated by any Environmental Law.

“Hedge Agreement” shall mean an Interest Rate Agreement, Currency Agreement or Commodity Hedging Agreement.

“Hedging Obligations” of any Person means the obligations of such Person pursuant to any Hedge Agreement.

“Holdings” shall have the meaning given to such term in the preamble to this Agreement.

“Immaterial Subsidiary” means any Restricted Subsidiary that has Total Assets and Consolidated EBITDA (in each case calculated on a basis consistent with the calculation of Total Assets and Consolidated EBITDA, but with respect to such Restricted Subsidiary rather than the Company) of less than 5.0% of the Company’s Total Assets and Consolidated EBITDA measured, in the case of Total Assets, at the end of the most recent fiscal period for which internal financial statements are available and, in the case of Consolidated EBITDA, for the four quarters ended most recently for which internal financial statements are available, in each case measured on a pro forma basis giving effect to any acquisitions or dispositions of companies, division or lines of business since such balance sheet date or the start of such four quarter period, as applicable, and on or prior to the date of acquisition of such subsidiary; provided, that if on the Closing Date the Existing Term Facility or any Senior Unsecured Notes is guaranteed by one or more Immaterial Subsidiaries that have Consolidated EBITDA that, in aggregate, exceeds the Consolidated EBITDA of those Restricted Subsidiaries that are required to guarantee this Agreement pursuant to Section 6.2 or 9.11(a) by more than 5% (such excess over 5%, the “Percentage Differential”), then the Company shall, within 60 days of the Closing Date, designate in writing to the Administrative Agent one or more Restricted Subsidiaries that would otherwise be Immaterial Subsidiaries as not being Immaterial Subsidiaries such that the Percentage Differential is no longer applicable.

“Impacted Loans” shall have the meaning provided in Section 2.10(a).

“Incur” means issue, create, assume, enter into any Guarantee of, incur, extend or otherwise become liable for; provided, however, that any Indebtedness or Capital Stock of a Person existing at the time such Person becomes a Restricted Subsidiary (whether by merger,

consolidation, acquisition or otherwise) will be deemed to be Incurred by such Restricted Subsidiary at the time it becomes a Restricted Subsidiary and the terms "Incurred" and "Incurrence" have meanings correlative to the foregoing and any Indebtedness pursuant to any revolving credit or similar facility shall only be "Incurred" at the time any funds are borrowed thereunder.

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

(a) the principal of indebtedness of such Person for borrowed money;

(b) the principal of obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;

(c) all reimbursement obligations of such Person in respect of letters of credit, bankers' acceptances or other similar instruments (the amount of such obligations being equal at any time to the aggregate then undrawn and unexpired amount of such letters of credit or other instruments plus the aggregate amount of drawings thereunder that have not been reimbursed) (except to the extent such reimbursement obligations relate to trade payables and such obligations are satisfied within 30 days of Incurrence), in each case only to the extent that the underlying obligation in respect of which the instrument was issued would be treated as Indebtedness;

(d) the principal component of all obligations of such Person to pay the deferred and unpaid purchase price of property (except trade payables), where the deferred payment is arranged primarily as a means of raising finance, which purchase price is due more than one year after the date of placing such property in service or taking final delivery and title thereto;

(e) Capitalized Lease Obligations of such Person;

(f) the principal component of all obligations, or liquidation preference, of such Person with respect to any Disqualified Stock or, with respect to any Restricted Subsidiary, any Preferred Stock (but excluding, in each case, any accrued dividends);

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

(h) Guarantees by such Person of the principal component of Indebtedness of other Persons to the extent Guaranteed by such Person; and

(i) to the extent not otherwise included in this definition, net obligations of such Person under Currency Agreements and Interest Rate Agreements (the amount of any such obligations to be equal at any time to the termination value of such agreement or arrangement giving rise to such obligation that would be payable by such Person at such time).

The term “Indebtedness” shall not include Subordinated Shareholder Funding or any lease, concession or license of property (or Guarantee thereof) which would be considered an operating lease under GAAP as in effect on the Closing Date, any asset retirement obligations, any prepayments of deposits received from clients or customers in the ordinary course of business, or obligations under any license, permit or other approval (or Guarantees given in respect of such obligations) Incurred prior to the Closing Date or in the ordinary course of business.

The amount of Indebtedness of any Person at any time in the case of a revolving credit or similar facility shall be the total amounts of funds borrowed and then outstanding. The amount of Indebtedness of any Person at any date shall be determined as set forth above or otherwise provided in this Agreement, and (other than with respect to letters of credit or Guarantees or Indebtedness specified in clause (g) or (h) above) shall equal the amount thereof that would appear on a balance sheet of such Person (excluding any notes thereto) prepared on the basis of GAAP.

Notwithstanding the above provisions, in no event shall the following constitute Indebtedness:

(i) Contingent Obligations Incurred in the ordinary course of business;

(ii) in connection with the purchase by the Company or any Restricted Subsidiary of any business, any post-closing payment adjustments to which the seller may become entitled to the extent such payment is determined by a final closing balance sheet or such payment depends on the performance of such business after the closing; provided, however, that, at the time of closing, the amount of any such payment is not determinable and, to the extent such payment thereafter becomes fixed and determined, the amount is paid within 30 days thereafter; or

(iii) for the avoidance of doubt, any obligations in respect of workers’ compensation claims, early retirement or termination obligations, pension fund obligations or contributions or similar claims, obligations or contributions or social security or wage Taxes.

“Indemnified Taxes” shall mean all Taxes (other than Excluded Taxes) and Other Taxes.

“Independent Financial Advisor” means an investment banking or accounting firm of international standing or any third party appraiser of international standing; provided, however, that such firm or appraiser is not an Affiliate of the Company.

“Information” shall have the meaning provided in Section 8.16.

“Initial Investors” means:

(1) KKR European Fund II, Limited Partnership, Bain Capital Fund IX, L.P., Bain Capital Fund VIII-E, L.P., Silver Lake Partners II Cayman, L.P., Apax Europe V-A, L.P., Apax Europe VI-A, L.P., AlpInvest Partners CS Investments 2006 C.V. and funds or partnerships related, managed or advised by any of them or any Affiliate of them; and

(2) Philips and its Subsidiaries.

“Initial Public Offering” means an Equity Offering of common stock or other common equity interests of the Company or any Parent or any successor of the Company or any Parent (the “IPO Entity”) following which there is a Public Market and, as a result of which, the shares of common stock or other common equity interests of the IPO Entity in such offering are listed on an internationally recognized exchange or traded on an internationally recognized market.

“Intangible Assets” means the value (net of applicable reserves), as shown on or reflected in the Company’s most recent consolidated balance sheet, of (i) all trade names, trademarks, licenses, patents, copyrights and goodwill, (ii) organizational and development costs, (iii) deferred charges (other than prepaid items such as insurance, taxes, interest, commissions, rents and similar items and tangible assets being amortized) and (iv) unamortized debt discount and expenses, less unamortized premium.

“Interest Period” shall mean, with respect to any Loan, the interest period applicable thereto, as determined pursuant to Section 2.9.

“Interest Rate Agreement” means with respect to any Person any interest rate protection agreement, interest rate future agreement, interest rate option agreement, interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedge agreement or other similar agreement or arrangement to which such Person is party or a beneficiary.

“Interpolated Rate” shall mean, with respect to the LIBOR Rate for any Loan, the rate which results from interpolating on a linear basis between: (a) the rate appearing on Reuters Screen LIBOR01 Page (or otherwise on the Reuters Screen) for the longest period (for which that rate is available) which is less than the Interest Period and (b) the rate appearing on Reuters Screen LIBOR01 Page (or otherwise on the Reuters Screen) for the shortest period (for which that rate is available) which exceeds the Interest Period, in each case as of approximately 11:00 A.M. (London time) on the date that is two Business Days prior to the commencement of such Interest Period.

“Investment” means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of any direct or indirect advance, loan or other extensions of credit (other than advances or extensions of credit to customers, suppliers, directors, officers or employees of any Person in the ordinary course of business, and excluding any debt or extension of credit represented by a bank deposit other than a time deposit) or capital contribution to (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others), or the Incurrence of a Guarantee of any obligation of, or any purchase or acquisition of Capital Stock, Indebtedness or other similar

instruments issued by, such other Persons and all other items that are or would be classified as investments on a balance sheet prepared on the basis of GAAP; provided, however, that endorsements of negotiable instruments and documents in the ordinary course of business will not be deemed to be an Investment. If the Company or any Restricted Subsidiary issues, sells or otherwise disposes of any Capital Stock of a Person that is a Restricted Subsidiary such that, after giving effect thereto, such Person is no longer a Restricted Subsidiary, any Investment by the Company or any Restricted Subsidiary in such Person remaining after giving effect thereto will be deemed to be a new Investment at such time.

For purposes of Section 10.2:

(a) "Investment" will include the portion (proportionate to the Company's equity interest in a Restricted Subsidiary to be designated as an Unrestricted Subsidiary) of the fair market value of the net assets of such Restricted Subsidiary of the Company at the time that such Restricted Subsidiary is designated an Unrestricted Subsidiary; provided, however, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Company will be deemed to continue to have a permanent "Investment" in an Unrestricted Subsidiary in an amount (if positive) equal to (i) the Company's "Investment" in such Subsidiary at the time of such redesignation less (ii) the portion (proportionate to the Company's equity interest in such Subsidiary) of the fair market value of the net assets (as conclusively determined by the Board of Directors of the Company in good faith) of such Subsidiary at the time that such Subsidiary is so re-designated a Restricted Subsidiary; and

(b) any property transferred to or from an Unrestricted Subsidiary will be valued at its fair market value at the time of such transfer, in each case as determined in good faith by the Board of Directors of the Company.

The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced (at the Company's option) by any dividend, distribution, interest payment, return of capital, repayment or other amount or value received in respect of such Investment.

"Investment Grade Securities" means:

(a) securities issued or directly and fully Guaranteed or insured by the United States or Canadian government or any agency or instrumentality thereof (other than Cash Equivalents);

(b) securities issued or directly and fully guaranteed or insured by a member of the European Union, or any agency or instrumentality thereof (other than Cash Equivalents);

(c) debt securities or debt instruments with a rating of "A-" or higher from S&P or "A3" or higher by Moody's or the equivalent of such rating by such rating organization or, if no rating of Moody's or S&P then exists, the equivalent of such rating by any other Nationally Recognized Statistical Ratings Organization, but excluding any debt securities or instruments constituting loans or advances among the Company and its Subsidiaries; and

(d) investments in any fund that invests exclusively in investments of the type described in clauses (a), (b) and (c) above which fund may also hold cash and Cash Equivalents pending investment or distribution.

“Investment Grade Status” shall occur when (i) the Company receives corporate credit ratings of and (ii) the Loans receive ratings of, in each case, at least two of the following:

- (1) “BBB-” or higher from S&P;
- (2) “Baa3” or higher from Moody’s; and
- (3) “BBB-” or higher from Fitch;

or the equivalent of such rating by any such rating organization or, if no rating of Moody’s, S&P or Fitch then exists, the equivalent of such rating by any other Nationally Recognized Statistical Ratings Organization.

“Investors” means The Blackstone Group, The Carlyle Group, Permira funds advised by Permira Advisers LLC, Texas Pacific Group and, if applicable, each of their respective Affiliates and funds or partnerships managed by any of them or their respective Affiliates but not including, however, any portfolio companies of any of the foregoing.

“IPO Market Capitalization” means an amount equal to (a) the total number of issued and outstanding shares of common stock or common equity interests of the IPO Entity at the time of closing of the Initial Public Offering multiplied by (b) the price per share at which such shares of common stock or common equity interests are sold in such Initial Public Offering.

“Jilin” means Jilin NXP Semiconductors Ltd. (formerly known as Philips Jilin Semiconductors Company) or any successor entity or business thereto.

“Law” includes common or customary law, principles of equity and any constitution, code of practice, decree, judgment, decision, legislation, order, ordinance, regulation, by-law, statute, treaty or other legislative measure in any jurisdiction or any present or future directive, regulation, guideline, request, rule or requirement (in each case, whether or not having the force of law but, if not having the force of law, the compliance with which is in accordance with the general practice of persons to whom the directive, regulation, guideline, request, rule or requirement is intended to apply) of any Governmental Authority.

“Legal Reservations” means:

(a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganization and other laws of any applicable jurisdiction generally affecting the rights of creditors;

(b) the time barring of claims under the applicable limitation laws, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of stamp duty (or similar taxes) may be void and defences of set-off or counterclaim; and

(c) any other matters which are set out as qualifications or reservations as to matters of law in the legal opinions referred to in Section 6 and delivered to the Administrative Agent at the Closing Date or later delivered in connection with the provision of any Guarantee or Lien under any Security Document.

“Lender” shall have the meaning given to such term in the preamble to this Agreement.

“LIBOR Loan” shall mean any Loan bearing interest at the rate provided in Section 2.8(c).

“LIBOR Rate” shall mean,

(i) for any Interest Period with respect to a LIBOR Loan, (a) the rate per annum equal to the offered rate administered by ICE Benchmark Administration (“LIBOR”) or a comparable or successor rate, which rate is approved by the Administrative Agent, on the applicable Reuters screen page (or such other commercially available source providing such quotations of LIBOR as designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period multiplied by (b) the Statutory Reserve Rate; provided that, to the extent that an interest rate is not ascertainable pursuant to the foregoing provisions of this definition, “LIBOR Rate “ shall be the Interpolated Rate, for a period equal in length to the Interest Period of the Loan;

(ii) for any interest calculation with respect to an ABR Loan on any date, the rate per annum equal to LIBOR, at or about 11:00 a.m., London time determined on such date for Dollar deposits with a term of one month commencing that day;

provided that to the extent a comparable or successor rate is approved by the Administrative Agent in connection herewith, the approved rate shall be applied in a manner consistent with market practice; provided, further, that to the extent such market practice is not administratively feasible for the Administrative Agent, such approved rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent in consultation with the Borrower; provided, further, that if the LIBOR Rate as determined pursuant to the foregoing provisions would otherwise be less than zero, the LIBOR Rate shall be deemed to be zero for purposes of this Agreement.

“Lien” means any mortgage, pledge, security interest, encumbrance, lien or charge of any kind (including any conditional sale or other title retention agreement or lease in the nature thereof).



“Loan” shall mean any ABR Loan or LIBOR Loan made by any Lender hereunder.

“Management Advances” means loans or advances made to, or Guarantees with respect to loans or advances made to, directors, officers, employees or consultants of any Parent, the Company or any Restricted Subsidiary:

(a) (i) in respect of travel, entertainment or moving related expenses Incurred in the ordinary course of business or (ii) for purposes of funding any such person’s purchase of Capital Stock or Subordinated Shareholder Funding (or similar obligations) of the Company, its Subsidiaries or any Parent with (in the case of this sub-clause (ii)) the approval of the Board of Directors;

(b) in respect of moving related expenses Incurred in connection with any closing or consolidation of any facility or office; or

(c) not exceeding €5,000,000 in the aggregate outstanding at any time.

“Management Investors” means the officers, directors, employees and other members of the management of or consultants to any Parent, the Company or any of their respective Subsidiaries, or spouses, family members or relatives thereof, or any trust, partnership or other entity for the benefit of or the beneficial owner of which (directly or indirectly) is any of the foregoing, or any of their heirs, executors, successors and legal representatives, who at any date beneficially own or have the right to acquire, directly or indirectly, Capital Stock of the Company, any Restricted Subsidiary or any Parent.

“Market Capitalization” means an amount equal to (a) the total number of issued and outstanding shares of common stock or common equity interests of the IPO Entity on the date of the declaration of the relevant dividend multiplied by (b) the arithmetic mean of the closing prices per share of such common stock or common equity interests for the 30 consecutive trading days immediately preceding the date of declaration of such dividend.

“Material Adverse Effect” means a material adverse effect on:

(a) the consolidated business, assets or financial condition of the Company and its Subsidiaries taken as a whole such that the Company and its Subsidiaries taken as a whole would be reasonably likely to be unable to perform their payment obligations under any of the Credit Documents; and/or

(b) subject to the Legal Reservations and the Agreed Security Principles, the validity of any security granted pursuant to the Credit Documents to which any Credit Party is a party in any way which is materially adverse to the interests of the Lenders under the Credit Documents taken as a whole and, without duplication of any other cure period, if capable of remedy, not remedied within 20 Business Days of the Company becoming aware of the issue or being given notice of the issue by the Administrative Agent.

“Maturity Date” shall mean March 6, 2016.

“Merger Agreement” means the agreement and plan of merger dated March 1, 2015, by and among, Holdings, MergerSub and Target.

“MergerSub” shall have the meaning given to such term in the preamble to this Agreement.

“Moody’s” means Moody’s Investors Service, Inc. or any of its successors or assigns that is a Nationally Recognized Statistical Rating Organization.

“Nationally Recognized Statistical Rating Organization” means a nationally recognized statistical rating organization within the meaning of Section 3(a)(62) of the Exchange Act.

“Net Available Cash” from an Asset Disposition (which term shall include, for purposes of Section 5.7, the RF Power Disposition) means cash payments received (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or otherwise and net proceeds from the sale or other disposition of any securities received as consideration, but only as and when received, but excluding any other consideration received in the form of assumption by the acquiring person of Indebtedness or other obligations relating to the properties or assets that are the subject of such Asset Disposition or received in any other non-cash form) therefrom, in each case net of:

(a) all legal, accounting, investment banking, title and recording tax expenses, commissions and other fees and expenses Incurred, and all Taxes paid or required to be paid or accrued as a liability under GAAP (after taking into account any available tax credits or deductions and any Tax Sharing Agreements), as a consequence of such Asset Disposition;

(b) all payments made on any Indebtedness which is secured by any assets subject to such Asset Disposition, in accordance with the terms of any Lien upon such assets, or which by applicable law be repaid out of the proceeds from such Asset Disposition;

(c) all distributions and other payments required to be made to minority interest holders (other than any Parent, the Company or any of their respective Subsidiaries) in Subsidiaries or joint ventures as a result of such Asset Disposition; and

(d) the deduction of appropriate amounts required to be provided by the seller as a reserve, on the basis of GAAP, against any liabilities associated with the assets disposed of in such Asset Disposition and retained by the Company or any Restricted Subsidiary after such Asset Disposition.

“Net Cash Proceeds,” with respect to any issuance or sale of Capital Stock or Subordinated Shareholder Funding, means the cash proceeds of such issuance or sale net of attorneys’ fees, accountants’ fees, underwriters’ or placement agents’ fees, listing fees, discounts or commissions and brokerage, consultant and other fees and charges actually Incurred in connection with such issuance or sale and net of taxes paid or payable as a result of such issuance or sale (after taking into account any available tax credit or deductions and any tax sharing arrangements).

“Non-Consenting Lender” shall have the meaning provided in Section 13.8(b).

“Note Indenture” means the Unsecured Note Indentures.

“Notice of Borrowing” shall have the meaning provided in Section 2.3(a).

“Notice of Conversion or Continuation” shall have the meaning provided in Section 2.6.

“Officer” means, with respect to any Person, (a) the Chairman of the Board of Directors, the Chief Executive Officer, the President, the Chief Financial Officer, any Vice President, the Treasurer, any Managing Director (or any two Managing Directors if elected by such Credit Party) or the Secretary (i) of such Person or (ii) if such Person is owned or managed by a single entity, of such entity; or (b) any other individual designated as an “Officer” for the purposes of this Agreement by the Board of Directors of such Person.

“Officer’s Certificate” means, with respect to any Person, a certificate signed by one Officer (or two officers, if elected by such Person) of such Person.

“Opinion of Counsel” means a written opinion from legal counsel reasonably satisfactory to the Administrative Agent. The counsel may be an employee of or counsel to the Company or its Subsidiaries.

“Original Credit Party” means each of the Company, the Co-Borrower and the Original Guarantors.

“Original Guarantors” means each of NXP Semiconductors Netherlands B.V, NXP B.V., NXP Funding LLC, NXP Semiconductors Taiwan Ltd., Freescale Semiconductor Holdings V, Inc. and Freescale Semiconductor, Inc.

“Other Creditors” shall have the meaning given in Section 10.13(b).

“Other Liens” shall have the meaning given in Section 10.13(b).

“Other Taxes” shall mean any and all present or future stamp, documentary or any other excise, property or similar taxes (including interest, fines, penalties, additions to tax and related expenses with regard thereto) arising directly from any payment made or required to be made under this Agreement or from the execution or delivery of, registration or enforcement of, consummation or administration of, or otherwise with respect to, this Agreement or any other Credit Document, other than any such taxes that arise from the assignment or participation of any rights or obligations under this Agreement in accordance with Section 13.7.

“Parallel Debt” means, in relation to the Underlying Debt, an obligation to pay to the Collateral Agent an amount equal to (and in the same currency as) the amount of the Underlying Debt outstanding from time to time.

“Parallel Debt Secured Party” shall have the meaning provided in Section 9.19(a).

“Parent” means any Person of which the Company at any time is or becomes a Subsidiary after the Closing Date and any holding companies established by any Permitted Holder for purposes of holding its investment in any Parent.

“Parent Expenses” means:

(a) costs (including all professional fees and expenses) Incurred by any Parent in connection with reporting obligations under or otherwise Incurred in connection with compliance with applicable laws, rules or regulations of any Governmental Authority, this Agreement, the Senior Notes or any other agreement or instrument relating to Indebtedness of the Company or any Restricted Subsidiary, including in respect of any reports filed with respect to the Securities Act, Exchange Act or the respective rules and regulations promulgated thereunder;

(b) customary indemnification obligations of any Parent owing to directors, officers, employees or other Persons under its charter or by-laws or pursuant to written agreements with any such Person to the extent relating to the Company and its Subsidiaries;

(c) obligations of any Parent in respect of director and officer insurance (including premiums therefor) to the extent relating to the Company and its Subsidiaries;

(d) Transaction Expenses;

(e) general corporate overhead expenses, including (i) professional fees and expenses and other operational expenses of any Parent related to the ownership or operation of the business of the Company or any of its Restricted Subsidiaries or (ii) costs and expenses with respect to any litigation or other dispute relating to the Transactions;

(f) other fees, expenses and costs relating directly or indirectly to activities of the Company and its Subsidiaries or any Parent or any other Person which holds directly or indirectly any Capital Stock or Subordinated Shareholder Funding of the Company in an amount not to exceed €25,000,000 in any fiscal year; and

(g) expenses Incurred by any Parent in connection with any public offering or other sale of Capital Stock or Indebtedness:

(i) where the net proceeds of such offering or sale are intended to be received by or contributed to the Company or a Restricted Subsidiary,

(ii) in a pro-rated amount of such expenses in proportion to the amount of such net proceeds intended to be so received or contributed, or

(iii) otherwise on an interim basis prior to completion of such offering so long as any Parent shall cause the amount of such expenses to be repaid to the Company or the relevant Restricted Subsidiary out of the proceeds of such offering promptly if completed.

“Pari Passu Indebtedness” means Indebtedness of the Company or any Guarantor if such Indebtedness ranks equally in right of payment to the Loans (or the Guaranty with respect thereto, in the case of a Guarantor) and is, in each case, secured by Liens on assets of the Company or such Guarantor.

“Participant” shall have the meaning provided in Section 13.7(c).

“Participating Member State” means any member state of the European Communities that adopts or has adopted the Euro as its lawful currency in accordance with legislation of the European Community relating to Economic and Monetary Union.

“Patriot Act” shall have the meaning provided in Section 13.21.

“Permitted Asset Swap” means the concurrent purchase and sale or exchange of assets used or useful in a Similar Business or a combination of such assets and cash, Cash Equivalents or Temporary Cash Investments between the Company or any of its Restricted Subsidiaries and another Person; provided that any cash or Cash Equivalents received in excess of the value of any cash or Cash Equivalents sold or exchanged must be applied in accordance with Section 10.5.

“Permitted Holders” means each of the Investors and members of management of the Company or its direct or indirect parent companies (including the Parent) on the Closing Date (following the closing of the Acquisition) who are holders of equity interests of the Company (or any of its direct or indirect parent companies) and any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act or any successor provision) of which any of the foregoing are members; provided, that, in the case of such group and without giving effect to the existence of such group or any other group, such Investors and members of management, collectively, have beneficial ownership of more than 50% of the total voting power of the Voting Stock of the Company or any of its direct or indirect parent companies held by such group.

“Permitted Investment” means (in each case, by the Company or any of its Restricted Subsidiaries):

(a) Investments in (i) a Restricted Subsidiary (including the Capital Stock of a Restricted Subsidiary) or the Company or (ii) a Person (including the Capital Stock of any such Person) that is engaged in any Similar Business and such Person will, upon the making of such Investment, become a Restricted Subsidiary;

(b) Investments in another Person if such Person is engaged in any Similar Business and as a result of such Investment such other Person is merged, consolidated or otherwise combined with or into, or transfers or conveys all or substantially all its assets to, the Company or a Restricted Subsidiary;

- (c) Investments in cash, Cash Equivalents, Temporary Cash Investments or Investment Grade Securities;
- (d) Investments in receivables owing to the Company or any Restricted Subsidiary created or acquired in the ordinary course of business;
- (e) Investments in payroll, travel and similar advances to cover matters that are expected at the time of such advances ultimately to be treated as expenses for accounting purposes and that are made in the ordinary course of business;
- (f) Management Advances;
- (g) Investments in Capital Stock, obligations or securities received in settlement of debts created in the ordinary course of business and owing to the Company or any Restricted Subsidiary, or as a result of foreclosure, perfection or enforcement of any Lien, or in satisfaction of judgments or pursuant to any plan of reorganization or similar arrangement including upon the bankruptcy or insolvency of a debtor;
- (h) Investments made as a result of the receipt of non-cash consideration from a sale or other disposition of property or assets, including an Asset Disposition (but excluding a Permitted Asset Swap), in each case, that was made in compliance with Section 10.5;
- (i) Investments in existence on, or made pursuant to legally binding commitments in existence on the Closing Date;
- (j) Currency Agreements, Interest Rate Agreements, Commodity Hedging Agreements and related Hedging Obligations, which transactions or obligations are Incurred in compliance with Section 10.1;
- (k) Investments, taken together with all other Investments made pursuant to this clause (k) and at any time outstanding, in an aggregate amount at the time of such Investment not to exceed €300,000,000; provided that, if an Investment is made pursuant to this clause in a Person that is not a Restricted Subsidiary and such Person subsequently becomes a Restricted Subsidiary or is subsequently designated a Restricted Subsidiary pursuant to Section 10.2, such Investment shall thereafter be deemed to have been made pursuant to clause (a) or (b) of the definition of “Permitted Investments” and not this clause;
- (l) pledges or deposits with respect to leases or utilities provided to third parties in the ordinary course of business or Liens otherwise described in the definition of “Permitted Liens” or made in connection with Liens permitted under the covenant described under Section 10.3;
- (m) any Investment to the extent made using Capital Stock of the Company (other than Disqualified Stock) or Capital Stock of any Parent as consideration;

(n) any transaction to the extent constituting an Investment that is permitted and made in accordance with the provisions of Section 10.6(b) (except those described in Section 10.6(c)(i), 10.6(c)(iii), 10.6(c)(vi), 10.6(c)(viii), 10.6(c)(ix) and 10.6(c)(xii);

(o) Investments consisting of purchases and acquisitions of inventory, supplies, materials and equipment or licenses or leases of intellectual property, in any case, in the ordinary course of business and in accordance with this Agreement;

(p) Guarantees not prohibited by Section 10.1 and (other than with respect to Indebtedness) guarantees, keepwells and similar arrangements in the ordinary course of business;

(q) Investments (i) in SSMC to increase the Company's percentage ownership thereof; provided that, after giving effect to such Investment, the Company is able to incur €1.00 of Indebtedness under Section 10.1(a) or (ii) in SSMC or any other Person partially financed by a Singapore government agency (or another project finance with a local or multilateral Governmental Authority) in an aggregate amount under this sub-clause (ii) not to exceed €300,000,000;

(r) Loans to Jilin on terms consistent with past practices between Jilin and Philips, not to exceed €25,000,000 at any one time outstanding;

(s) Investments in research and development programs to fund research and development activities and maintenance capital expenditures in an aggregate amount not to exceed €290.0 million plus €50.0 million per annum thereafter (with a carryover of unused amounts) less any amounts invested on or after October 12, 2006 and prior to February 14, 2013 pursuant to comparable provisions of notes issued by the Company; and

(t) Investments in Permitted Joint Ventures not to exceed, in the aggregate, the greater of €250,000,000 and 5% of Total Assets plus, in each case, an amount equal to 100% of the dividends or distributions (including payments received in respect of loans and advances) received by the Company or a Restricted Subsidiary from any Investment from a Permitted Joint Venture (which Investment was made in reliance on this clause (t) (which dividends or distributions are not included in the calculation under Section 10.2(a)(iv)(C)); provided that if an Investment is made pursuant to this clause in a Person that is not a Restricted Subsidiary and such Person is subsequently designated a Restricted Subsidiary pursuant to Section 10.2, such Investment shall thereafter be deemed to have been made pursuant to clause (a) of the definition of Permitted Investments and not this clause.

"Permitted Joint Venture" means (a) any corporation, association or other business entity (other than a partnership) that is not a Restricted Subsidiary and that, in each case, is engaged primarily in a Similar Business and of which a portion of the Capital Stock is at the time of determination owned or controlled, directly or indirectly, by the Company or one or more Restricted Subsidiaries or a combination thereof and (b) any partnership, joint venture, limited liability company or similar entity that is not a Restricted Subsidiary and that, in each

case, is engaged primarily in a Similar Business and of which a portion of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, are at the time of determination, owned or controlled, directly or indirectly, by the Company or one or more Restricted Subsidiaries or a combination thereof, whether in the form of membership, general, special or limited partnership interests or otherwise.

“Permitted Liens” means, with respect to any Person:

(a) Liens on assets or property of a Restricted Subsidiary that is not any of the Borrowers or a Guarantor securing Indebtedness of any Restricted Subsidiary that is not any of the Borrowers or a Guarantor;

(b) pledges, deposits or Liens under workmen’s compensation laws, unemployment insurance laws, social security laws or similar legislation, or insurance related obligations (including pledges or deposits securing liability to insurance carriers under insurance or self-insurance arrangements), or in connection with bids, tenders, completion guarantees, contracts (other than for borrowed money) or leases, or to secure utilities, licenses, public or statutory obligations, or to secure surety, indemnity, judgment, appeal or performance bonds, guarantees of government contracts (or other similar bonds, instruments or obligations), or as security for contested taxes or import or customs duties or for the payment of rent, or other obligations of like nature, in each case Incurred in the ordinary course of business;

(c) Liens imposed by law, including carriers’, warehousemen’s, mechanics’, landlords’, materialmen’s and repairmen’s or other like Liens, in each case for sums not yet overdue for a period of more than 60 days or that are bonded or being contested in good faith by appropriate proceedings;

(d) Liens for taxes, assessments or other governmental charges not yet delinquent or which are being contested in good faith by appropriate proceedings; provided that appropriate reserves required pursuant to GAAP have been made in respect thereof;

(e) Liens in favor of issuers of surety, performance or other bonds, guarantees or letters of credit or bankers’ acceptances (not issued to support Indebtedness for borrowed money) issued pursuant to the request of and for the account of the Company or any Restricted Subsidiary in the ordinary course of its business;

(f) encumbrances, ground leases, easements (including reciprocal easement agreements), survey exceptions, or reservations of, or rights of others for, licenses, rights of way, sewers, electric lines, telegraph and telephone lines and other similar purposes, or zoning, building codes or other restrictions (including minor defects or irregularities in title and similar encumbrances) as to the use of real properties or Liens incidental to the conduct of the business of the Company and its Restricted Subsidiaries or to the ownership of its properties which do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of the Company and its Restricted Subsidiaries;



- (g) Liens on assets or property of the Company or any Restricted Subsidiary securing Hedging Obligations permitted under this Agreement;
- (h) leases, licenses, subleases and sublicenses of assets (including real property and intellectual property rights), in each case entered into in the ordinary course of business;
- (i) Liens arising out of judgments, decrees, orders or awards not giving rise to an Event of Default so long as any appropriate legal proceedings which may have been duly initiated for the review of such judgment, decree, order or award have not been finally terminated or the period within which such proceedings may be initiated has not expired;
- (j) Liens on assets or property of the Company or any Restricted Subsidiary for the purpose of securing Capitalized Lease Obligations or Purchase Money Obligations, or securing the payment of all or a part of the purchase price of, or securing other Indebtedness Incurred to finance or refinance the acquisition, improvement or construction of, assets or property acquired or constructed in the ordinary course of business; provided that (i) the aggregate principal amount of Indebtedness secured by such Liens is otherwise permitted to be Incurred under this Agreement and (ii) any such Lien may not extend to any assets or property of the Company or any Restricted Subsidiary other than assets or property acquired, improved, constructed or leased with the proceeds of such Indebtedness and any improvements or accessions to such assets and property;
- (k) Liens arising by virtue of any statutory or common law provisions relating to banker's Liens, rights of set-off or similar rights and remedies as to deposit accounts or other funds maintained with a depository or financial institution;
- (l) Liens arising from Uniform Commercial Code financing statement filings (or similar filings in other applicable jurisdictions) regarding operating leases entered into by the Company and its Restricted Subsidiaries in the ordinary course of business;
- (m) Liens existing on the Closing Date;
- (n) Liens on property, other assets or shares of stock of a Person at the time such Person becomes a Restricted Subsidiary (or at the time the Company or a Restricted Subsidiary acquires such property, other assets or shares of stock, including any acquisition by means of a merger, consolidation or other business combination transaction with or into the Company or any Restricted Subsidiary); provided, however, that such Liens are not created, Incurred or assumed in anticipation of or in connection with such other Person becoming a Restricted Subsidiary (or such acquisition of such property, other assets or stock); provided, further, that such Liens are limited to all or part of the same property, other assets or stock (plus improvements, accession, proceeds or dividends or distributions in connection with the original property, other assets or stock) that secured (or, under the written arrangements under which such Liens arose, could secure) the obligations to which such Liens relate;

(o) Liens on assets or property of the Company or any Restricted Subsidiary securing Indebtedness or other obligations of the Company or such Restricted Subsidiary owing to the Company or another Restricted Subsidiary, or Liens in favor of the Company or any Restricted Subsidiary;

(p) Liens securing Refinancing Indebtedness Incurred to refinance Indebtedness that was previously so secured, and permitted to be secured under this Agreement; provided that any such Lien is limited to all or part of the same property or assets (plus improvements, accessions, proceeds or dividends or distributions in respect thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure) the Indebtedness being refinanced or is in respect of property that is or could be the security for or subject to a Permitted Lien hereunder;

(q) any interest or title of a lessor under any Capitalized Lease Obligation or operating lease;

(r) (i) mortgages, liens, security interests, restrictions, encumbrances or any other matters of record that have been placed by any government, statutory or regulatory authority, developer, landlord or other third party on property over which the Company or any Restricted Subsidiary of the Company has easement rights or on any leased property and subordination or similar arrangements relating thereto and (ii) any condemnation or eminent domain proceedings affecting any real property;

(s) any encumbrance or restriction (including put and call arrangements) with respect to Capital Stock of any joint venture or similar arrangement pursuant to any joint venture or similar agreement;

(t) Liens on property or assets under construction (and related rights) in favor of a contractor or developer or arising from progress or partial payments by a third party relating to such property or assets;

(u) Liens on cash accounts securing Indebtedness incurred under Section 10.1(b)(xi) with local financial institutions;

(v) Liens on Escrowed Proceeds for the benefit of the related holders of debt securities or other Indebtedness (or the underwriters or arrangers thereof) or on cash set aside at the time of the Incurrence of any Indebtedness or government securities purchased with such cash, in either case to the extent such cash or government securities prefund the payment of interest on such Indebtedness and are held in an escrow account or similar arrangement to be applied for such purpose;

(w) Liens securing or arising by reason of any netting or set-off arrangement entered into in the ordinary course of banking or other trading activities or Liens over cash accounts securing cash pooling or cash management arrangements;

(x) Liens arising out of conditional sale, title retention, hire purchase, consignment or similar arrangements for the sale of goods entered into in the ordinary course of business;

(y) Liens Incurred in the ordinary course of business with respect to obligations (other than Indebtedness for borrowed money) which do not exceed €50,000,000 at any one time outstanding;

(z) Liens on Capital Stock or other securities or assets of any Unrestricted Subsidiary that secure Indebtedness of such Unrestricted Subsidiary;

(aa) any security granted over the marketable securities portfolio described in clause (i) of the definition of “Cash Equivalents” in connection with the disposal thereof to a third party; and

(bb) other Liens (including successive extensions, renewals, alterations or replacements thereof) not excepted by clauses (a) through (aa) above, provided that after giving effect thereto the aggregate principal amount of the Secured Indebtedness of the Company and its Restricted Subsidiaries secured by such Liens does not exceed the greater of (A) the Post Merger Amount, (B) the amount that would cause the Consolidated Secured Leverage Ratio to exceed 2.5 to 1.0 and (C) 15% of the Consolidated Net Tangible Assets, in each case after giving effect to such Incurrence and the application of the proceeds therefrom.

“Person” means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company, government or any agency or political subdivision thereof or any other entity.

“Philips” means Koninklijke Philips Electronics N.V.

“Platform” shall have the meaning provided in Section 13.20(b).

“Post Merger Amount” means an amount equal to the aggregate principal amount of Secured Indebtedness (i) that has been, or is available to be, drawn under the Revolving Credit Agreement on the Closing Date, (ii) that the Company or any of its Subsidiaries have outstanding as of the Closing Date (including, without limitation, the Loans), plus (iii) that will remain outstanding at the Target or any of its Subsidiaries upon completion of the Acquisition (including, without limitation, the Fast Secured Notes).

“Preferred Stock,” as applied to the Capital Stock of any Person, means Capital Stock of any class or classes (however designated) which is preferred as to the payment of dividends or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such Person, over shares of Capital Stock of any other class of such Person.

“Prime Rate” shall mean the rate of interest per annum determined from time to time by Credit Suisse AG as its prime rate in effect at its principal office in New York City and notified to the Borrower. The prime rate is a rate set by Credit Suisse AG based upon various factors including Credit Suisse AG’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such rate.

“Public Lender” shall have the meaning provided in Section 13.21(b).

“**Public Market**” means any time after:

(a) an Equity Offering has been consummated; and

(b) shares of common stock or other common equity interests of the IPO Entity having a market value in excess of €100,000,000 on the date of such Equity Offering have been distributed pursuant to such Equity Offering.

“**Public Offering**” means any offering, including an Initial Public Offering, of shares of common stock or other common equity interests that are listed on an exchange or publicly offered (which shall include an offering pursuant to Rule 144A and/or Regulation S under the Securities Act to professional market investors or similar persons).

“**Purchase Money Obligations**” means any Indebtedness Incurred to finance or refinance the acquisition, leasing, construction or improvement of property (real or personal) or assets (including Capital Stock), and whether acquired through the direct acquisition of such property or assets or the acquisition of the Capital Stock of any Person owning such property or assets, or otherwise.

“**Ratings Decline Period**” means, with respect to any Change of Control, the period that (1) begins on the earlier of (a) the date of the first public announcement of the occurrence of such Change of Control or of the intention by the Company or a stockholder of the Company, as applicable, to effect such Change of Control or (b) the occurrence of such Change of Control and (2) ends on the 60th day following consummation of such Change of Control; provided, however, that such period shall be extended for so long as the rating of the Loans, as noted by the applicable rating agency, is under publicly announced consideration for downgrade by the applicable rating agency.

“**Refinance**” means refinance, refund, replace, renew, repay, modify, restate, defer, substitute, supplement, reissue, resell, extend or increase (including pursuant to any defeasance or discharge mechanism) and the terms “refinances,” “refinanced” and “refinancing” as used for any purpose in this Agreement shall have a correlative meaning.

“**Refinancing Indebtedness**” means Indebtedness that is Incurred to refund, refinance, replace, exchange, renew, repay or extend (including pursuant to any defeasance or discharge mechanism) any Indebtedness existing on the date of this Agreement or Incurred in compliance with this Agreement (including Indebtedness of the Company that refinances Indebtedness of any Restricted Subsidiary and Indebtedness of any Restricted Subsidiary that refinances Indebtedness of the Company or another Restricted Subsidiary) including Indebtedness that refinances Refinancing Indebtedness; provided, however, that:

(a) if the Indebtedness being refinanced constitutes Subordinated Indebtedness, the Refinancing Indebtedness has a final Stated Maturity at the time such Refinancing Indebtedness is Incurred that is the same as or later than the final Stated Maturity of the Indebtedness being refinanced or, if shorter, this Agreement;

(b) such Refinancing Indebtedness is Incurred in an aggregate principal amount (or if issued with original issue discount, an aggregate issue price) that is equal to

or less than the sum of the aggregate principal amount (or if issued with original issue discount, the aggregate accreted value) then outstanding of the Indebtedness being refinanced (plus, without duplication, any additional Indebtedness Incurred to pay interest or premiums required by the instruments governing such existing Indebtedness and costs, expenses and fees Incurred in connection therewith);

(c) if the Indebtedness being refinanced is expressly subordinated to this Agreement, such Refinancing Indebtedness is subordinated to this Agreement on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being refinanced;

provided, however, that Refinancing Indebtedness shall not include Indebtedness of the Company or a Restricted Subsidiary that refinances Indebtedness of an Unrestricted Subsidiary.

Refinancing Indebtedness in respect of any Credit Facility or any other Indebtedness may be Incurred from time to time after the termination, discharge or repayment of any such Credit Facility or other Indebtedness.

“Register” shall have the meaning provided in Section 13.7(b)(iii).

“Regulation D” shall mean Regulation D of the Board as from time to time in effect and any successor to all or a portion thereof establishing reserve requirements.

“Regulation T” shall mean Regulation T of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

“Regulation U” shall mean Regulation U of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

“Regulation X” shall mean Regulation X of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

“Related Parties” shall mean, with respect to any specified Person, such Person’s controlled Affiliates and the directors, officers, employees, agents, trustees, advisors, members of such Person and any Person that possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise, and any successors of each of the foregoing.

“Related Person” with respect to any Permitted Holder means:

(a) any controlling equityholder or Subsidiary of such Person; or

(b) in the case of an individual, any spouse, family member or relative of such individual, any trust or partnership for the benefit of one or more of such individual and any such spouse, family member or relative, or the estate, executor, administrator, committee or beneficiaries of any thereof; or

(c) any trust, corporation, partnership or other Person for which one or more of the Permitted Holders and other Related Persons of any thereof constitute the beneficiaries, stockholders, partners or owners thereof, or Persons beneficially holding in the aggregate a majority (or more) controlling interest therein; or

(d) in the case of the Initial Investors any investment fund or vehicle managed, sponsored or advised by such Person or any successor thereto, or by any Affiliate of such Person or any such successor.

“Related Taxes” means

(a) any Taxes, including sales, use, transfer, rental, ad valorem, value added, stamp, property, consumption, franchise, license, capital, registration, business, customs, net worth, gross receipts, excise, occupancy, intangibles or similar Taxes (other than (x) Taxes measured by income and (y) withholding imposed on payments made by any Parent), required to be paid (provided such Taxes are in fact paid) by any Parent by virtue of its:

(i) being organized or having Capital Stock outstanding (but not by virtue of owning stock or other equity interests of any corporation or other entity other than, directly or indirectly, the Company or any of the Company’s Subsidiaries);

(ii) issuing or holding Subordinated Shareholder Funding;

(iii) being a holding company parent, directly or indirectly, of the Company or any of the Company’s Subsidiaries;

(iv) receiving dividends from or other distributions in respect of the Capital Stock of, directly or indirectly, the Company or any of the Company’s Subsidiaries; or

(v) having made any payment in respect to any of the items for which the Company is permitted to make payments to any Parent pursuant to Section 10.2; or

(b) if and for so long as the Company is a member of a group filing a consolidated or combined tax return with any Parent, any Taxes measured by income for which such Parent is liable up to an amount not to exceed with respect to such Taxes the amount of any such Taxes that the Company and its Subsidiaries would have been required to pay on a separate company basis or on a consolidated basis if the Company and its Subsidiaries had paid tax on a consolidated, combined, group, affiliated or unitary basis on behalf of an affiliated group consisting only of the Company and its Subsidiaries.

“Relevant Interbank Market” means the London interbank market.

“Relevant Jurisdiction Guarantor” shall have the meaning given to that term in Section 9.12.

“Relevant Jurisdictions” shall have the meaning given to that term in Section 9.12.

“Relevant Percentage” shall mean at any time, for each Lender, (i) on or prior to the Closing Date, the percentage obtained by dividing (a) such Lender’s Commitment by (b) the aggregate amount of the Commitments and (ii) after the Closing Date, the percentage obtained by dividing (a) the outstanding principal amount of such Lender’s Loans by (b) the aggregate outstanding principal amount of all Lenders’ Loans at such time.

“Relevant Taxing Jurisdiction” shall mean any jurisdiction in which the Borrowers are organized or otherwise considered to be a resident for tax purposes at the time such Lender becomes a party to this Agreement, or any political subdivision or Governmental Authority thereof or therein having the power to tax.

“Required Lenders” shall mean, at any date, Lenders holding more than 50% of the aggregate principal amount of Loans outstanding (or, prior to the Closing Date, having more than 50% of the Total Commitment), in each case, as at such date; provided, that the aggregate principal amount of Loans held by the Company or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or any Guarantor (other than any investment fund managed or advised by an Initial Sponsor or an Affiliate of an Initial Sponsor that is a bona fide debt fund and that extends or buys loans in ordinary course of business) shall be disregarded in all respects in the determination of the Required Lenders at any time.

“Requirement of Law” shall mean, as to any Person, the Certificate of Incorporation and by-laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or assets or to which such Person or any of its property or assets is subject.

“Responsible Officer” means:

(a) when used with respect to the Administrative Agent, any officer within the Loan Operations Group (or any successor group of the Administrative Agent) or any other officer of the Administrative Agent customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject; or

(b) when used with respect to any Credit Party or any of its Subsidiaries, the chief executive officer, chief financial officer, where customary in the relevant jurisdiction, any Managing Director (or any two Managing Directors, if elected by such Credit Party), treasurer, controller or any other senior officer (or two such officers, if the relevant Credit Party so elects) authorized to represent such Credit Party and designated as such by the Company in writing to the Administrative Agent.

“Restricted Investment” means any Investment other than a Permitted Investment.

“Restricted Payment” has the meaning given in Section 10.2(a)(iv).

“Restricted Subsidiary” means any Subsidiary of the Company other than an Unrestricted Subsidiary.

“Revolving Credit Agreement” means the \$600,000,000 senior revolving credit facility agreement dated on or about the date hereof, by and among, the parties to this Agreement and certain others party thereto from time to time.

“RF Power Disposition” shall mean any disposal of all the shares and material assets comprising the RF power business of the Company and its Subsidiaries by way of the transfer of such assets to the Specified Dutch Holdco and the subsequent sale of the Specified Dutch Holdco.

“S&P” means Standard & Poor’s Investors Ratings Services or any of its successors or assigns that is a Nationally Recognized Statistical Rating Organization.

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

“Secured Indebtedness” means any Indebtedness secured by a Lien.

“Secured Obligations” shall have the meaning assigned to such term in the Security Documents.

“Secured Parties” shall have the meaning assigned to such term in the applicable Security Documents.

“Securities Act” means the U.S. Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder, as amended.

“Security Documents” shall mean, collectively, (a) the Collateral Agency Agreement, (b) the US Security Documents (c) the Dutch Security Documents and (d) each other security agreement or other instrument or document executed and delivered pursuant to Section 9.12, Section 9.17 or pursuant to any of the Security Documents to secure any of the Secured Obligations.

“Senior Management” means the officers, directors, and other members of Senior Management of the Company or any of its Subsidiaries, who at any date beneficially own or have the right to acquire, directly or indirectly, Capital Stock of the Company or any Parent and with an equity investment in excess of €250,000.

“Senior Notes” means the Senior Unsecured Notes and the Fast Secured Notes.

“Senior Unsecured Notes” means the senior unsecured notes issued by the Company pursuant to each Unsecured Note Indenture.



“Significant Subsidiary” means any Restricted Subsidiary that meets any of the following conditions:

(a) the Company’s and its Restricted Subsidiaries’ investments in and advances to the Restricted Subsidiary exceed 10% of the Total Assets of the Company and its Restricted Subsidiaries on a consolidated basis as of the end of the most recently completed fiscal year;

(b) the Company’s and its Restricted Subsidiaries’ proportionate share of the total assets (after intercompany eliminations) of the Restricted Subsidiary exceeds 10% of the Total Assets of the Company and its Restricted Subsidiaries on a consolidated basis as of the end of the most recently completed fiscal year; or

(c) the Company’s and its Restricted Subsidiaries’ equity in the income from continuing operations before income taxes, extraordinary items and cumulative effect of a change in accounting principle of the Restricted Subsidiary exceeds 10% of such income of the Company and its Restricted Subsidiaries on a consolidated basis for the most recently completed fiscal year.

“Similar Business” means (a) any businesses, services or activities engaged in by the Company or any of its Subsidiaries or any Associates on the Closing Date and (b) any businesses, services and activities engaged in by the Company or any of its Subsidiaries or any Associates that are related, complementary, incidental, ancillary or similar to any of the foregoing or are extensions or developments of any thereof.

“Specified Dutch Holdco” shall mean Samba Holdco Netherlands B.V.

“Specified Representations” shall mean the representations and warranties made by the Borrowers set forth in Sections 8.1(a) and 8.1(b) (as related to the borrowing under, guaranteeing under, granting of security interests in the Collateral to, and performance of, the Credit Documents), 8.2(a), 8.2(b)(A) (only in respect of the certificate or articles of incorporation or other constitutive documents or by-laws of any Credit Party and as related to the borrowing under, guaranteeing under, granting of security interests in the Collateral to, and performance of, the Credit Documents), 8.3, 8.5, 8.6, 8.7 and 8.8 (on the Closing Date only and after giving effect to the Transactions).

“SSMC” means Systems on Silicon Manufacturing Company Pte or any successor entity or business thereto. For purposes of Section 10.2 and the definition “Asset Disposition” references to SSMC shall also refer to any Unrestricted Subsidiary (x) any Capital Stock or debt of which is owned directly or indirectly by SSMC or (y) which has received a cash distribution or dividend from SSMC.

“Stated Maturity” means, with respect to any security, the date specified in such security as the fixed date on which the payment of principal of such security is due and payable, including pursuant to any mandatory redemption provision, but shall not include any contingent obligations to repay, redeem or repurchase any such principal prior to the date originally scheduled for the payment thereof.

“Statutory Reserve Rate” shall mean for any day as applied to any LIBOR Loan, a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages that are in effect on that day (including any marginal, special, emergency or supplemental reserves), expressed as a decimal, as prescribed by the Board and to which the Administrative Agent is subject, for eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the Board). Such reserve percentages shall include those imposed pursuant to such Regulation D. LIBOR Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“Subordinated Indebtedness” means, with respect to any person, any Indebtedness (whether outstanding on the Closing Date or thereafter Incurred) which is expressly subordinated in right of payment to the obligations of the Borrowers under this Agreement pursuant to a written agreement.

“Subordinated Shareholder Funding” means, collectively, any funds provided to the Company by a Parent in exchange for or pursuant to any security, instrument or agreement other than Capital Stock, together with any such security, instrument or agreement and any other security or instrument other than Capital Stock issued in payment of any obligation under any Subordinated Shareholder Funding; provided, however, that such Subordinated Shareholder Funding:

(a) does not mature or require any amortization, redemption or other repayment of principal or any sinking fund payment prior to the seventh anniversary of this Agreement (other than through conversion or exchange of such funding into Capital Stock (other than Disqualified Stock) of the Company or any funding meeting the “requirements of this definition);

(b) does not require, prior to the seventh anniversary of this Agreement, payment of cash interest, cash withholding amounts or other cash gross-ups, or any similar cash amounts;

(c) contains no change of control or similar provisions and does not accelerate and has no right to declare a default or event of default or take any enforcement action or otherwise require any cash payment, in each case, prior to the seventh anniversary of this Agreement;

(d) does not provide for or require any security interest or encumbrance over any asset of the Company or any of its Subsidiaries; and

(e) pursuant to its terms is fully subordinated and junior in right of payment to this Agreement and the Senior Notes pursuant to subordination, payment blockage and enforcement limitation terms which are customary in all material respects for similar funding.

“Subsidiary” means, with respect to any Person:

(a) any corporation, association, or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof; or

(b) any partnership, joint venture, limited liability company or similar entity of which:

(i) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof whether in the form of membership, general, special or limited partnership interests or otherwise; and

(ii) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

“Successor Parent” with respect to any Person means any other Person with more than 50% of the total voting power of the Voting Stock of which is, at the time the first Person becomes a Subsidiary of such other Person, “beneficially owned” (as defined below) by one or more Persons that “beneficially owned” (as defined below) more than 50% of the total voting power of the Voting Stock of the first Person immediately prior to the first Person becoming a Subsidiary of such other Person and, for the avoidance of doubt, Holdings constitutes a “Successor Parent” of the Company. For purposes hereof, “beneficially own” has the meaning correlative to the term “beneficial owner,” as such term is defined in Rules 13d-3 and 13d-5 under the Exchange Act (as in effect on the Closing Date).

“Target” shall have the meaning given to such term in the preamble to this Agreement.

“Tax Credit” means any credit against any Taxes or any relief or remission for Taxes (or their repayment).

“Tax Distribution” shall mean any distribution permitted to be paid pursuant to Section 10.2(c)(ix)(A).

“Taxes” means all present and future taxes, levies, imposts, deductions, charges, duties and withholdings and any charges of a similar nature (including interest, penalties and other liabilities with respect thereto) that are imposed by any Governmental Authority.

“Tax Sharing Agreement” means any tax sharing or profit and loss pooling or similar agreement with customary or arm’s-length terms entered into with any Parent or Unrestricted Subsidiary, as the same may be amended, supplemented, waived or otherwise modified from time to time in accordance with the terms thereof and of this Agreement.

“Temporary Cash Investments” means any of the following:

(a) any investment in:

(i) direct obligations of, or obligations Guaranteed by, (A) the United States of America or Canada, (B) any European Union member state, (C) Switzerland or Norway, (D) any country in whose currency funds are being held specifically pending application in the making of an investment or capital expenditure by the Company or a Restricted Subsidiary in that country with such funds or (E) any agency or instrumentality of any such country or member state, or

(ii) direct obligations of any country recognized by the United States of America rated at least “A” by S&P or “A-1” by Moody’s (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any Nationally Recognized Statistical Rating Organization);

(b) overnight bank deposits, and investments in time deposit accounts, certificates of deposit, bankers’ acceptances and money market deposits (or, with respect to foreign banks, similar instruments) maturing not more than one year after the date of acquisition thereof issued by:

(i) any Lender or any lender under the Revolving Credit Agreement;

(ii) any institution authorized to operate as a bank in any of the countries or member states referred to in subclause (a)(i) above; or

(iii) any bank or trust company organized under the laws of any such country or member state or any political subdivision thereof;

in each case, having capital and surplus aggregating in excess of €250,000,000 (or the Foreign Currency equivalent thereof) and whose long-term debt is rated at least “A” by S&P or “A-2” by Moody’s (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any Nationally Recognized Statistical Rating Organization) at the time such Investment is made;

(c) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clause (a) or (b) above entered into with a Person meeting the qualifications described in clause (b) above;

(d) Investments in commercial paper, maturing not more than 270 days after the date of acquisition, issued by a Person (other than the Company or any of its Subsidiaries), with a rating at the time as of which any Investment therein is made of “P-2” (or higher) according to Moody’s or “A-2” (or higher) according to S&P (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any Nationally Recognized Statistical Rating Organization);

(e) Investments in securities maturing not more than one year after the date of acquisition issued or fully Guaranteed by any state, commonwealth or territory of the United States of America, Canada, any European Union member state or Switzerland, Norway or by any political subdivision or taxing authority of any such state, commonwealth, territory, country or member state, and rated at least “BBB” by S&P or “Baa3” by Moody’s (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any Nationally Recognized Statistical Rating Organization);

(f) bills of exchange issued in the United States, Canada, a member state of the European Union, Switzerland, Norway or Japan eligible for rediscount at the relevant central bank and accepted by a bank (or any dematerialized equivalent);

(g) any money market deposit accounts issued or offered by a commercial bank organized under the laws of a country that is a member of the Organization for Economic Co-operation and Development, in each case, having capital and surplus in excess of €250,000,000 (or the Foreign Currency equivalent thereof) or whose long term debt is rated at least “A” by S&P or “A2” by Moody’s (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any Nationally Recognized Statistical Rating Organization) at the time such Investment is made;

(h) investment funds investing 95% of their assets in securities of the type described in clauses (a) through (g) above (which funds may also hold reasonable amounts of cash pending investment and/or distribution); and

(i) investments in money market funds complying with the risk limiting conditions of Rule 2a-7 (or any successor rule) of the SEC under the U.S. Investment Company Act of 1940, as amended.

“Term Credit Agreement” means that certain Credit Agreement, dated as of the Closing Date, among the Borrowers, Morgan Stanley Senior Funding, Inc., as the collateral agent and as administrative agent, the lenders party thereto and the guarantors party thereto.

“Term Facility” means the senior secured term loan facility made available under the Term Credit Agreement.

“Total Assets” means the consolidated total assets of the Company and its Restricted Subsidiaries in accordance with GAAP as shown on the most recent balance sheet of such Person;

“Total Commitments” shall mean the sum of the Commitments of all the Lenders.

“Transactions” shall mean, collectively, the transactions contemplated by this Agreement, the Revolving Credit Agreement, the Acquisition, the Fast Secured Notes Consent, the consummation of any other transactions in connection with the foregoing (including in connection with the Merger Agreement and the payment of the fees and expenses incurred in connection with any of the foregoing (including the Transaction Expenses)).

“Transaction Expenses” shall mean any fees or expenses incurred or paid by the Holdings, the Company or any of its Subsidiaries in connection with the Transactions, this Agreement and the other Credit Documents and the transactions contemplated hereby and thereby.

“Transferee” shall have the meaning provided in Section 13.7(e).

“Transformative Acquisition” shall mean any acquisition by the Borrowers or any Restricted Subsidiary that either (a) is not permitted by the terms of the Credit Documents immediately prior to the consummation of such acquisition or (b) if permitted by the terms of the Credit Documents immediately prior to the consummation of such acquisition, would not provide the Borrowers and their Subsidiaries with adequate flexibility under the Credit Documents for the continuation and/or contemplated expansion of their combined operations following such consummation, as determined by the Company acting in good faith.

“Type” shall mean, in relation to any Loan, its nature as an ABR Loan or as a LIBOR Loan.

“Underlying Debt” means, in relation to each of the Credit Parties and at any given time, each obligation (whether present or future, actual or contingent) owing by that Credit Party to a Parallel Debt Secured Party under the Credit Documents (including, for the avoidance of doubt, any change or increase in those obligations pursuant to or in connection with any amendment or supplement or restatement or novation of this Agreement, whether or not anticipated as of the date of this Agreement) excluding that obligor’s Parallel Debts.

“Uniform Commercial Code” means the New York Uniform Commercial Code.

“Unrestricted Subsidiary” means SSMC, Jilin and:

- (a) any Subsidiary of the Company (other than the Co-Borrower) that at the time of determination is an Unrestricted Subsidiary (as designated by the Board of Directors of the Company in the manner provided below); and
- (b) any Subsidiary of an Unrestricted Subsidiary.

The Board of Directors of the Company may designate any Subsidiary of the Company (including any newly acquired or newly formed Subsidiary or a Person becoming a Subsidiary through merger, consolidation or other business combination transaction, or Investment therein) to be an Unrestricted Subsidiary only if:

(i) such Subsidiary or any of its Subsidiaries does not own any Capital Stock or Indebtedness of, or own or hold any Lien on any property of, the Company or any other Subsidiary of the Company which is not a Subsidiary of the Subsidiary to be so designated or otherwise an Unrestricted Subsidiary; and

(ii) such designation and the Investment of the Company in such Subsidiary complies with Section 10.2.

Any such designation by the Board of Directors of the Company shall be evidenced to the Administrative Agent by filing with the Administrative Agent a resolution of the Board of Directors of the Company giving effect to such designation and an Officer's Certificate certifying that such designation complies with the foregoing conditions.

The Board of Directors of the Company may designate any Unrestricted Subsidiary to be a Restricted Subsidiary; provided, that immediately after giving effect to such designation (a) no Default or Event of Default would result therefrom, and (b)(i) the Company could Incur at least €1.00 of additional Indebtedness under Section 10.1(a) or (ii) the Fixed Charge Coverage Ratio would not be worse than it was immediately prior to giving effect to such designation, in each case, on a pro forma basis taking into account such designation. Any such designation by the Board of Directors shall be evidenced to the Administrative Agent by promptly filing with the Administrative Agent a copy of the resolution of the Board of Directors giving effect to such designation or an Officer's Certificate certifying that such designation complied with the foregoing provisions.

"Unsecured Note Indenture" means each of (i) the indenture relating to the issuance of Senior Unsecured Notes entered into on February 14, 2013 between the Company, certain subsidiary guarantors party thereto and Deutsche Bank Trust Company Americas, as trustee, (ii) the indenture relating to the issuance of Senior Unsecured Notes entered into on March 12, 2013 between the Company, certain subsidiary guarantors party thereto and Deutsche Bank Trust Company Americas, as trustee, (iii) the indenture relating to the issuance of Senior Unsecured Notes entered into on May 20, 2013 between the Company, certain subsidiary guarantors party thereto and Deutsche Bank Trust Company Americas, as trustee, (iv) the indenture relating to the issuance of the Senior Unsecured Notes entered into on September 24, 2013 between the Company, certain subsidiary guarantors party thereto and Deutsche Bank Trust Company Americas, as trustee and (v) the indenture relating to the issuance of Senior Notes entered into on June 2, 2015, between the Company, the Co-Borrower and Deutsche Bank Trust Company Americas, as trustee.

"US Dollars", "Dollars" and "US\$" means the lawful currency of the United States of America.

"US Government Obligations" means securities that are (a) direct obligations of the United States of America for the timely payment of which its full faith and credit is pledged or (b) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the timely payment of which is unconditionally Guaranteed as a full faith and credit obligation of the United States of America, which, in either case, are not callable or redeemable at the option of the Company thereof, and shall also include

a depositary receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act), as custodian with respect to any such US Government Obligations or a specific payment of principal of or interest on any such US Government Obligations held by such custodian for the account of the holder of such depositary receipt, provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depositary receipt from any amount received by the custodian in respect of the US Government Obligations or the specific payment of principal of or interest on the US Government Obligations evidenced by such depositary receipt.

“US Security Agreement” shall have the meaning given in the definition of “US Security Documents”.

“US Security Documents” shall mean the following documents, each dated as of September 29, 2006 and any amendments, supplements or other agreements entered into in connection therewith:

(a) Security Agreement among Philips Semiconductors USA Inc., NXP Funding LLC, and Morgan Stanley Senior Funding, Inc., as Global Collateral Agent (the “US Security Agreement”);

(b) Pledge of Shares between NXP B.V., as pledgor, and Morgan Stanley Senior Funding, Inc., as pledgee in relation to the shares in Philips Semiconductors USA Inc.; and

(c) IP Security Agreement between NXP B.V. and Morgan Stanley Senior Funding, Inc., as Global Collateral Agent, relating to intellectual property in the United States and any short form version thereof filed with any relevant governmental authorities.

“Voting Stock” of a Person means all classes of Capital Stock of such Person then outstanding and normally entitled to vote in the election of directors.

“Wholly-Owned Subsidiary” means a Restricted Subsidiary of the Company, all of the Capital Stock of which (other than directors’ qualifying shares or shares required by any applicable law or regulation to be held by a Person other than the Company or another Wholly-Owned Subsidiary) is owned by the Company or another Wholly-Owned Subsidiary.

“Wholly Owned U.S. Restricted Subsidiary” means a Wholly-Owned Subsidiary which has been incorporated in the United States of America.

1.2 Other Interpretive Provisions. With reference to this Agreement and each other Credit Document, unless otherwise specified herein or in such other Credit Document:

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) The words “herein”, “hereto”, “hereof” and “hereunder” and words of similar import when used in any Credit Document shall refer to such Credit Document as a whole and not to any particular provision thereof.



(c) Article, Section, Exhibit and Schedule references are to the Credit Document in which such reference appears.

(d) The term “including” is by way of example and not limitation.

(e) The term “documents” includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.

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

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

(h) Any reference herein to any Person shall be construed to include such Person’s successors and assigns.

(i) Any reference to a “Managing Director” of the Company or a Credit Party organized or established under the laws of the Netherlands means a managing director (*bestuurder*).

### 1.3 Accounting Terms.

(a) All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP.

(b) Where reference is made to “the Company and its Restricted Subsidiaries on a consolidated basis” or similar language, such consolidation shall not include any Subsidiaries of the Company other than Restricted Subsidiaries.

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

1.5 References to Agreements, Laws, Etc. Unless otherwise expressly provided herein, (a) references to organizational and constitutive documents, agreements (including this Agreement and each of the other Credit Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, amendment and restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, amendment and restatements, extensions, supplements and other modifications are permitted by any Credit Document; and (b) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

1.6 Exchange Rates. For purposes of determining compliance under Sections 10.2 (other than with respect to determining the amount of any Indebtedness) and 10.5, with respect to any amount in a Foreign Currency, such amount shall be deemed to equal the Euro Equivalent thereof based on the average Exchange Rate for a Foreign Currency for the most recent twelve-month period immediately prior to the date of determination determined in a manner consistent with that used in calculating Consolidated EBITDA for the related period. For purposes of determining compliance with Sections 10.1, 10.2 and 10.3, with respect to any amount of Indebtedness in a Foreign Currency, compliance will be determined at the time of Incurrence or advancing thereof using the Euro Equivalent thereof at the Exchange Rate in effect at the time of such Incurrence or advancement.

1.7 Liability of Co-Borrower. The Co-Borrower shall be jointly and severally liable for all of the obligations and liabilities of the Company under this Agreement and the other Credit Documents; provided that the obligations of the Co-Borrower under this Agreement and the other Credit Documents shall be limited to an aggregate amount that would not render such obligations subject to avoidance under Section 548 of the United States Bankruptcy Code or any comparable provisions of applicable law.

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

1.9 Timing of Payment or Performance. Except as otherwise provided herein, when the payment of any obligation or the performance of any covenant, duty, or obligation is stated to be due or performance required on (or before) a day which is not a Business Day, the date of such payment (other than as described in the definition of Interest Period) or performance shall extend to the immediately succeeding Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

1.10 Certifications. All certifications to be made hereunder by an officer or representative of a Credit Party shall be made by such a Person in his or her capacity solely as an officer or a representative of such Credit Party, on such Credit Party's behalf and not in such Person's individual capacity.

1.11 Compliance with Certain Sections. In the event that any Lien, Investment, Indebtedness (whether at the time of incurrence or upon application of all or a portion of the proceeds thereof), disposition, Restricted Payment, Affiliate transaction, contractual requirement, or prepayment of Indebtedness meets the criteria of one or more than one of the categories of transactions then permitted pursuant to any clause or subsection of Sections 10.1, 10.2, 10.3, 10.5 or 10.6 then, such transaction (or portion thereof) at any time shall be allocated to one or more of such clauses or subsections within the relevant sections as determined by the Borrower in its sole discretion at such time.

## SECTION 2. Amount and Terms of Credit

2.1 Commitments. (a) Subject to and upon the terms and conditions herein set forth, each Lender having a Commitment severally agrees to make a Loan denominated in US Dollars to the Borrowers on the Closing Date in an aggregate principal amount not to exceed such Lender's Commitment. All Loans (i) may not be reborrowed once paid and (ii) may, at the option of the Company be incurred and maintained as, and/or converted into, ABR Loans or LIBOR Loans; provided that all Loans made by each of the Lenders pursuant to the same Borrowing shall, unless otherwise specifically provided herein, consist entirely of Loans of the same Type.

(b) Each Lender may at its option make any LIBOR Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan, provided that (i) any exercise of such option shall not affect the obligation of the Borrowers to repay such Loan and (ii) in exercising such option, such Lender shall use its reasonable efforts to minimize any increased costs to the Borrowers resulting therefrom (which obligation of the Lender shall not require it to take, or refrain from taking, actions that it determines would result in increased costs for which it will not be compensated hereunder or that it determines would be otherwise disadvantageous to it and in the event of such request for costs for which compensation is provided under this Agreement, the provisions of Section 2.10 shall apply). In the event that any Loan is made by any domestic or foreign branch or Affiliate of a Lender on behalf of such Lender as contemplated by this clause (b) all of the provisions of this Agreement applicable to Lenders shall apply to and be enforceable by any such domestic or foreign branch or Affiliate.

### 2.2 [Reserved].

2.3 Notice of Borrowing. (a) To request the borrowing of any Loans, the relevant Borrower shall give the Administrative Agent at the Administrative Agent's Office, written notice (or telephonic notice promptly confirmed in writing (i) prior to 10:00 a.m. on at least the second Business Day prior to the date of Borrowing. Each such notice (a "Notice of Borrowing"), except as otherwise expressly provided in Section 2.10, shall specify (i) the aggregate principal amount of the Loans to be made, (ii) the date of Borrowing (which shall be a Business Day and the Closing Date); (iii) the portions of the Loans so made that shall consist of ABR Loans or LIBOR Loans, and (iv) the Interest Period to be initially applicable thereto. If the relevant Borrower fails to specify an Interest Period of a Loan in a Notice of Borrowing then the Loan so requested shall have an initial Interest Period of three months. The Administrative Agent shall promptly give each Lender written notice (or telephonic notice promptly confirmed in writing) of the proposed Borrowing, of such Lender's proportionate share thereof and of the other matters covered by the Notice of Borrowing.

(b) Without in any way limiting the obligation of any Borrower to confirm in writing any notice it may give hereunder by telephone, the Administrative Agent may act prior to receipt of written confirmation without liability upon the basis of such telephonic notice believed by the Administrative Agent in good faith to be from an Authorized Officer of such Borrower. In each such case, such Borrower hereby waives the right to dispute the Administrative Agent's record of the terms of any such telephonic notice. Any Notice of Borrowing delivered in writing to the Administrative Agent shall be in substantially the form set forth in Exhibit B.

2.4 Disbursement of Funds. (a) No later than 12 Noon on the date specified in the Notice of Borrowing, each Lender will make available its pro rata portion of the Borrowings requested to be made on such date and in the manner provided below, provided that, on the Closing Date such funds may be made available at such earlier time as may be agreed among the Lenders, the Company and the Administrative Agent for the purpose of consummating the Transactions.

(b) Unless otherwise agreed by the Company and the Administrative Agent in writing, each Lender shall make available all amounts it is to fund to the Borrowers under any Borrowing for its applicable Commitments in immediately available funds in Dollars to the Administrative Agent at the Administrative Agent's Office and the Administrative Agent will make available to the Borrowers, by depositing to an account designated by the Company to the Administrative Agent the aggregate of the amounts so made available. Unless the Administrative Agent shall have been notified by any Lender prior to the date of any such Borrowing that such Lender does not intend to make available to the Administrative Agent its portion of the Borrowing or Borrowings to be made on such date, the Administrative Agent may assume that such Lender has made such amount available to the Administrative Agent on such date of Borrowing, and the Administrative Agent, in reliance upon such assumption, may (in its sole discretion and without any obligation to do so) make available to the Borrowers a corresponding amount. If such corresponding amount is not in fact made available to the Administrative Agent by such Lender and the Administrative Agent has made available same to the Borrowers, the Administrative Agent shall be entitled to recover such corresponding amount from such Lender. If such Lender does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor the Administrative Agent shall promptly notify the Borrowers, and the Borrowers shall immediately pay such corresponding amount to the Administrative Agent. The Administrative Agent shall also be entitled to recover from such Lender or the Borrowers interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by the Administrative Agent to the Borrowers to the date such corresponding amount is recovered by the Administrative Agent, at a rate per annum equal to (i) if paid by such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry practice on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing, or (ii) if paid by the Borrower, the then-applicable rate of interest, calculated in accordance with Section 2.8, for the relevant Loans.

(c) Nothing in this Section 2.4 shall be deemed to relieve any Lender from its obligation to fulfill its commitments hereunder or to prejudice any rights that any Borrower may have against any Lender as a result of any default by such Lender hereunder (it being understood, however, that the obligations of each Lender hereunder are several and no Lender shall be responsible for the failure of any other Lender to fulfill its obligations hereunder).

## 2.5 Repayment of Loans; Evidence of Debt.

(a) [Reserved]

(b) Notwithstanding anything to the contrary contained herein, all outstanding principal amounts of the Loans, including interest payable thereon, shall be due and payable on the Maturity Date.

(c) [Reserved]

(d) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of each Borrower to the appropriate lending office of such Lender resulting from each Loan made by such lending office of such Lender from time to time, including the amounts of principal and interest payable and paid to such lending office of such Lender from time to time under this Agreement.

(e) The Administrative Agent shall maintain the Register pursuant to Section 13.7(b), in which Register shall be recorded (i) the amount of each Loan made hereunder, the relevant Borrower of such Loan, the Type of each Loan made and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the relevant Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder from the relevant Borrower and each Lender's share thereof.

(f) The entries made in the Register and accounts maintained pursuant to paragraphs (d) and (e) of this Section 2.5 shall, to the extent permitted by applicable Law, be prima facie evidence of the existence and amounts of the obligations of a Borrower therein recorded; provided, however, that the failure of any Lender or the Administrative Agent to maintain such account, such Register or such subaccount, as applicable, or any error therein, shall not in any manner affect the obligation of any Borrower to repay (with applicable interest) the Loans made to such Borrower by such Lender in accordance with the terms of this Agreement.

2.6 Conversions and Continuations. (a) The Company shall have the option on any Business Day to convert all or a portion of the outstanding principal amount of Loans of one Type into a Borrowing or Borrowings of another Type and shall have the option on any Business Day to continue the outstanding principal amount of any LIBOR Loans, as the case may be, for an additional Interest Period, provided that (i) ABR Loans may not be converted into LIBOR Loans if a Default or Event of Default is in existence on the date of the conversion and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such conversion and (ii) LIBOR Loans denominated in US Dollars may not be continued as LIBOR Loans for an additional Interest Period if an Event of Default is in existence on the date of the proposed continuation and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such continuation. Each such conversion or continuation shall be effected by the Company by giving the Administrative Agent at the Administrative Agent's Office prior to 10:00 a.m., New York City time, at least three Business Days' (or one Business Day's notice in the case of a conversion into ABR Loans) prior written notice (or telephonic notice promptly confirmed in writing) (each, a "Notice of Conversion or Continuation") specifying the Loans to be so converted or continued, the Type of Loans to be converted or continued into and, if such Loans or are to be converted into or continued as LIBOR Loans, the Interest Period to be initially applicable thereto. The Administrative Agent shall give each Lender notice as promptly as practicable of any such proposed conversion or continuation affecting any of its Loans.

(b) If any Default or Event of Default is in existence at the time of any proposed continuation of any LIBOR Loans and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such continuation, such LIBOR Loans shall be automatically converted on the last day of the current Interest Period into ABR Loans. If upon the expiration of any Interest Period in respect of LIBOR Loans, a Borrower has failed to specify a new Interest Period to be applicable thereto as provided in paragraph (a) above, such Borrower shall be deemed to have specified an Interest Period of one month, effective as of the expiration date of such current Interest Period. If a Borrower requests the conversion to, or continuation of, a LIBOR Loan, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month.

2.7 Pro Rata Borrowings. The borrowing of Loans under this Agreement and each Borrowing outstanding from time to time hereunder shall be made or maintained, as applicable, by the Lenders pro rata on the basis of their then-applicable Commitments (in the case of Loans made on the Closing Date) or the aggregate outstanding amount of their Loans (in the case of separate Borrowings consisting of different Types or having different Interest Periods). It is understood that (a) no Lender shall be responsible for any default by any other Lender in its obligation to make Loans hereunder and that each Lender shall be obligated to make the Loans provided to be made by it hereunder, regardless of the failure of any other Lender to fulfill its commitments hereunder and (b) failure by a Lender to perform any of its obligations under any of the Credit Documents shall not release any Person from performance of its obligation under any Credit Document.

2.8 Interest. (a) [Reserved]

(b) The unpaid principal amount of each ABR Loan shall bear interest from the date of the Borrowing thereof until maturity thereof (whether by acceleration or otherwise) at a rate *per annum* that shall at all times be aggregate of the Applicable ABR Margin plus the ABR in effect from time to time.

(c) The unpaid principal amount of each LIBOR Loan shall bear interest from the date of the Borrowing thereof until maturity thereof (whether by acceleration or otherwise) at a rate *per annum* that shall at all times be aggregate of the Applicable LIBOR Margin in effect from time to time and the relevant LIBOR Rate.

(d) If all or a portion of the principal amount of any Loan or any interest payable thereon shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), such overdue amount shall bear interest at a rate *per annum* that is (x) in the case of overdue principal on any Loan, the rate that would otherwise be applicable thereto plus 2% or (y) in the case of any overdue interest, to the extent permitted by applicable law, the Applicable ABR Margin and the ABR in effect from time to time, plus 2%, in each case from and including the date of such non-payment to but excluding the date on which such amount is paid in full (after as well as before judgment).

(e) Interest on each Loan shall accrue from and including the date of the borrowing thereof to but excluding the date of any repayment thereof and shall be payable (i) on in respect of each ABR Loan, quarterly in arrears on the last day of each March, June, September and December, (ii) in respect of each LIBOR Loan the last day of each Interest Period applicable thereto and, in the case of an Interest Period in excess of three months, on each date occurring at three-month intervals after the first day of such Interest Period, and (iii) on any prepayment (on the amount prepaid), at maturity (whether by acceleration or otherwise) and, after such maturity, on demand.

(f) All computations of interest hereunder shall be made in accordance with Section 5.4.

(g) The Administrative Agent, upon determining the interest rate for any Borrowing of Loans, shall promptly notify the Company and the relevant Lenders thereof. Each such determination shall, absent clearly demonstrable error, be final and conclusive and binding on all parties hereto.

2.9 Interest Periods. At the time the Company gives the Notice of Borrowing or a Notice of Conversion or Continuation in respect of the making of, or conversion into or continuation as, a Borrowing of LIBOR Loans (in the case of the initial Interest Period applicable thereto) or prior to 10:00 a.m., New York City time, at least three Business Days prior to the expiration of an Interest Period applicable to a Borrowing of LIBOR Loans (provided that for any Notice of Conversion or Continuation prior to December 31, 2015 in respect of a (i) conversion of a LIBOR Loan to an ABR Loan, such notice may be delivered by the Company at least one Business Day prior to the applicable expiration and (ii) continuation of a LIBOR Loan or conversion of an ABR Loan to a LIBOR Loan, such notice may be delivered by the Company two Business Days prior to the applicable expiration), the Company shall have the right to elect by giving the Administrative Agent written notice (or telephonic notice promptly confirmed in writing) the Interest Period applicable to a Borrowing, which Interest Period shall, at the option of the Company, be a period commencing on the date of Borrowing specified in the applicable Notice of Borrowing or on the date specified in the applicable Notice of Conversion or Continuation and ending one (1), two (2), or three (3) months (or if agreed by all relevant Lenders, such shorter period as the Borrowers may elect in the applicable notice, provided that the initial Interest Period may be for a period less than one month if agreed upon by the Company and the Administrative Agent (it being understood and agreed that such initial Interest Period may be one week).

Notwithstanding anything to the contrary contained above:

(a) the initial Interest Period for any Borrowing of LIBOR Loans shall commence on the date of such Borrowing (including the date of any conversion from a Borrowing of ABR Loans) and each Interest Period occurring thereafter in respect of such Borrowing shall commence on the day on which the next preceding Interest Period expires;

(b) if any Interest Period relating to a Borrowing of LIBOR Loans begins on the last Business Day of a calendar month or begins on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period, such Interest Period shall end on the last Business Day of the calendar month at the end of such Interest Period;

(c) if any Interest Period would otherwise expire on a day that is not a Business Day, such Interest Period shall expire on the next succeeding Business Day, provided that if any Interest Period in respect of a LIBOR Loan would otherwise expire on a day that is not a Business Day but is a day of the month after which no further Business Day occurs in such month, such Interest Period shall expire on the next preceding Business Day;

(d) the Borrowers shall not be entitled to elect any Interest Period in respect of any LIBOR Loan if such Interest Period would extend beyond the Maturity Date; and

(e) after giving effect to the initial borrowing, all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not be more than 25 Interest Periods in effect with respect to LIBOR Loans.

#### 2.10 Increased Costs, Illegality, etc.

(a) In the event that (x) in the case of clause (i) below, the Administrative Agent or (y) in the case of clauses (ii) and (iii) below, any Lender shall have reasonably determined (which determination shall, absent clearly demonstrable error, be final and conclusive and binding upon all parties hereto):

(i) on any date for determining the LIBOR Rate for any Interest Period that (x) deposits in the principal amounts of the Loans comprising such Borrowing are not generally available in Dollars in the Relevant Interbank Market for a period equivalent to the relevant Interest Period or (y) by reason of any changes arising on or after the Closing Date affecting the Relevant Interbank Market, adequate and fair means do not exist for ascertaining the applicable interest rate on the basis provided for in the definition of LIBOR Rate (as the case may be); or

(ii) at any time, that such Lender shall incur any increase in the cost to such Lender or reductions in the amounts received or receivable hereunder in connection with making or agreeing to make, funding or maintaining, LIBOR Loans or its Commitment hereunder (other than any such increase or reduction attributable to Taxes) because of (x) any Change in Law, such as, for example, without limitation, a change in official reserve requirements, and/or (y) other circumstances affecting the Relevant Interbank Market or the position of such Lender in such market; or

(iii) at any time, that the making or continuance of any LIBOR Loan or its Commitment hereunder has become unlawful by compliance by such Lender in good faith with any Law, governmental rule, regulation, guideline or order (or would conflict with any such Law, governmental rule, regulation, guideline or order not having the force of law even though the failure to comply therewith would not be unlawful), or has become impracticable as a result of a contingency occurring after the date hereof that materially and adversely affects the Relevant Interbank Market;



(such Loans, “Impacted Loans”), then, and in any such event, such Lender (or the Administrative Agent, in the case of clause (i) above) shall within a reasonable time thereafter give notice (if by telephone, confirmed in writing) to the Company and to the Administrative Agent of such determination (which notice the Administrative Agent shall promptly transmit to each of the other Lenders). Thereafter (x) in the case of clause (i) above, LIBOR Loans shall no longer be available until such time as the Administrative Agent notifies the Company and the Lenders that the circumstances giving rise to such notice by the Administrative Agent no longer exist (which notice the Administrative Agent agrees to give at such time when such circumstances no longer exist), and the Notice of Borrowing or any Notice of Conversion or Continuation with respect to LIBOR Loans that have not yet been incurred, converted or continued (as applicable) shall be deemed rescinded by the Company (y) in the case of clause (ii) above, the Company shall pay to such Lender, promptly after receipt of written demand therefor such additional amounts (in the form of an increased rate of, or a different method of calculating, interest or otherwise as such Lender in its reasonable discretion shall determine) as shall be required to compensate such Lender for such increased costs or reductions in amounts receivable hereunder (it being agreed that a written notice as to the additional amounts owed to such Lender, showing in reasonable detail the basis for the calculation thereof, submitted to the Company by such Lender shall, absent clearly demonstrable error, be final and conclusive and binding upon all parties hereto) and (z) in the case of clause (iii) above, the Borrowers shall take one of the actions specified in subclause (x) or (y), as applicable, of Section 2.10(b) as promptly as possible and, in any event, within the time period required by Law.

Notwithstanding the foregoing, if the Administrative Agent has made the determination described in Section 2.10(a)(i)(x), the Administrative Agent, in consultation with the Borrowers and the affected Lenders, may establish an alternative interest rate for the Impacted Loans, in which case, such alternative rate of interest shall apply with respect to the Impacted Loans until (1) the Administrative Agent revokes the notice delivered with respect to the Impacted Loans under clause (x) of the first sentence of the immediately preceding paragraph, (2) the Administrative Agent or the affected Lenders notify the Administrative Agent and the Borrowers that such alternative interest rate does not adequately and fairly reflect the cost to such Lenders of funding the Impacted Loans, or (3) any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender or its applicable lending office to make, maintain or fund Loans whose interest is determined by reference to such alternative rate of interest or to determine or charge interest rates based upon such rate or any Governmental Authority has imposed material restrictions on the authority of such Lender to do any of the foregoing and provides the Administrative Agent and the Borrowers written notice thereof.

(b) At any time that any LIBOR Loan is affected by the circumstances described in Section 2.10(a)(ii) or (iii), the Borrowers may (and in the case of a LIBOR Loan affected pursuant to Section 2.10(a)(iii) shall) either (i) if the affected LIBOR Loan has been requested pursuant to the Notice of Borrowing or a Notice of Conversion or Continuation but has not been made, converted or continued (as applicable), cancel said Borrowing, conversion or continuation (as applicable) by giving the Administrative Agent telephonic notice (confirmed promptly in writing) thereof on the same date that the Company was notified by a Lender pursuant to 2.10(a)(ii) or (iii); or (ii) if the affected LIBOR Loan is then outstanding (x) upon at least three Business Days’ notice to the Administrative Agent (if such Lender may lawfully continue to maintain such LIBOR Loans to such day or immediately, if such Lender may not lawfully continue to maintain such LIBOR Loans), require the affected Lender to convert each such LIBOR Loan into an ABR Loan if such conversion would overcome the illegality and each Loan so converted shall, (y) prepay the affected LIBOR Loans on the last day of the Interest

Period applicable thereto, if such Lender may lawfully continue to maintain such LIBOR Loan to such date, or immediately, if such Lender may not lawfully continue to maintain such LIBOR Loan or cause any affected Lender to assign the affected LIBOR Loans to another Lender or to another bank or institution willing to accept such assignment (which assignment shall be subject to and in compliance with Section 13.7) to the extent any such affected Lender may lawfully continue to maintain the relevant LIBOR Loans until such time as such assignment becomes effective in accordance with the terms hereof. Upon any such conversion or prepayment, the Borrowers shall also pay accrued interest on the amount so converted or prepaid all amounts due, if any, in connection with such prepayment or conversion under Section 2.11. The Borrowers shall pay all reasonable costs and expenses incurred by any Lender in connection with any assignment pursuant to sub-clause (z). If more than one Lender is affected at any time, then all affected Lenders must be treated in the same manner pursuant to this Section 2.10(b).

(c) If, after the Closing Date, the adoption of any applicable Law, rule or regulation regarding capital adequacy or liquidity, or any Change in Law, or any change in the interpretation or administration thereof by any Governmental Authority, the National Association of Insurance Commissioners, any central bank or comparable agency charged with the interpretation or administration thereof, or compliance by any Lender or its parent with any request or directive made or adopted after the date hereof regarding capital adequacy or liquidity occurring after the Closing Date, of any such authority, association, central bank or comparable agency, has or would have the effect of reducing the rate of return on such Lender's or its parent's or its Affiliate's capital or assets as a consequence of such Lender's commitments or obligations hereunder to a level below that which such Lender or its parent or its Affiliate could have achieved but for such adoption, effectiveness, change or compliance (taking into consideration such Lender's or its parent's policies with respect to capital adequacy or liquidity), then from time to time, promptly after demand by such Lender (with a copy to the Administrative Agent), the Borrowers shall pay to such Lender such additional amount or amounts as will compensate such Lender or its parent or its Affiliates for such reduction, it being understood and agreed, however, that (i) a Lender shall not be entitled to compensation for such reduction except to the extent resulting from the adoption of any applicable Law, rule or regulation regarding capital adequacy or liquidity, or any Change in Law, or any change in the interpretation or administration thereof by any Governmental Authority, the National Association of Insurance Commissioners, any central bank or comparable agency charged with the interpretation or administration thereof, after the date hereof and (ii) a Lender shall not be entitled to such compensation to the extent such Lender is not generally imposing such charges on, or requesting such compensation from, borrowers (similarly situated to the Company) under syndicated credit facilities. Each Lender, upon determining in good faith that any additional amounts will be payable pursuant to this Section 2.10(c), will give prompt written notice thereof to the Company which notice shall set forth in reasonable detail the basis of the calculation of such additional amounts, although the failure to give any such notice shall not, subject to Section 2.13, release or diminish the Borrowers' obligations to pay additional amounts pursuant to this Section 2.10(c) promptly following receipt of such notice.

(d) It is understood that this Section 2.10 shall not apply to Excluded Taxes and shall apply without duplication of Section 5.3.

2.11 Compensation. If (a) any payment of principal of any LIBOR Loan is made by a Borrower to or for the account of a Lender, or is converted or continued, other than on the last day of the Interest Period for such LIBOR Loan as a result of a payment or conversion pursuant to Section 2.6, 2.10, 5.1 or 13.8, as a result of acceleration of the maturity of the Loans pursuant to Section 11 or for any other reason, (b) any Borrowing of LIBOR Loans is not made as a result of a withdrawn Notice of Borrowing or as a result of the operation of any of the provisions of this Agreement, (c) any ABR Loan is not converted into a LIBOR Loan as a result of a withdrawn Notice of Conversion or Continuation or as a result of the operation of any of the provisions of this Agreement, (d) any LIBOR Loan is not continued as a LIBOR Loan (as the case may be), as a result of a withdrawn Notice of Conversion or Continuation or as a result of the operation of any of the provisions of this Agreement, (e) any prepayment of principal of any LIBOR Loan is not made as a result of a withdrawn notice of prepayment pursuant to Section 5.1 or as a result of the operation of any of the provisions of this Agreement, (f) any assignment of a LIBOR Loan on a day other than the last day of the Interest Period for such Loan as a result of a request by the Company pursuant to Section 13.8(a), the Borrowers shall, after receipt of a written request by such Lender (which request shall set forth in reasonable detail the basis for requesting such amount), pay to the Administrative Agent for the account of such Lender any amounts required to compensate such Lender for any additional losses, costs or expenses that such Lender may reasonably incur as a result of such payment, failure to convert, failure to continue or failure to prepay, including any loss, cost or expense (excluding loss of anticipated profits) actually incurred by reason of the liquidation or reemployment of deposits or other funds acquired by any Lender to fund or maintain such LIBOR Loan.

For purposes of calculating amounts payable by the Borrowers to the Lenders under this Section 2.11, each Lender shall be deemed to have funded each LIBOR Loan made by it by a matching deposit or other borrowing in the Relevant Interbank Market in Dollars for a comparable amount and for a comparable period, whether or not such LIBOR Loan was in fact so funded.

2.12 Change of Lending Office. Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 2.10(a)(ii), 2.10(a)(iii), 2.10(b), or 5.3 with respect to such Lender, it will, if requested by the Company use commercially reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Loans affected by such event or to assign its rights and obligations hereunder to another of its branches or Affiliates, provided that such designation or assignment is made on such terms that would eliminate or reduce amounts payable pursuant to Section 2.10(a)(ii), 2.10(a)(iii), 2.10(b) or 5.3, as the case may be, and that, in such Lender's judgment, cause such Lender and its lending office suffer no economic (including becoming subject to any unreimbursed cost or expense), legal or regulatory disadvantage. Nothing in this Section 2.12 shall affect or postpone any of the obligations of any Borrower or the right of any Lender provided in Section 2.10 or 5.3.

2.13 Notice of Certain Costs. Notwithstanding anything in this Agreement to the contrary, to the extent any notice required by Section 2.10, 2.11 or 5.3 is given by any Lender more than 180 days after such Lender has knowledge (or should have had knowledge) of the occurrence of the event giving rise to the additional cost, reduction in amounts, loss, tax or other additional amounts described in such Sections, such Lender shall not be entitled to compensation under Section 2.10, 2.11 or 5.3, as the case may be, for any such amounts incurred or accruing prior to the 181st day prior to the giving of such notice to the Borrowers.

SECTION 3. [Reserved]

SECTION 4. Fees; Commitments

4.1 **Duration Fee.** Notwithstanding anything to the contrary in this Agreement, and without duplication, the Company shall pay the Administrative Agent for the ratable account of the Lenders, in accordance with their Commitment listed on Schedule 1, a duration fee in an amount equal to (i) 0.10% of the aggregate principal amount of the Loans outstanding on December 18, 2015, due and payable in cash on such date and (ii) 0.25% of the aggregate principal amount of the Loans outstanding on January 1, 2016, due and payable in cash on such date.

4.2 **Voluntary Reduction of Commitments.** Upon at least three Business Days prior written notice (or telephonic notice promptly confirmed in writing) to the Administrative Agent at the Administrative Agent's Office (which notice the Administrative Agent shall promptly transmit to each of the Lenders), the Company (on behalf of each of the Borrowers) shall have the right at any time, without premium or penalty, permanently to terminate or reduce the Commitments in whole or in part, provided that (a) any such reduction shall apply proportionately and permanently to reduce the Commitment of each of the Lenders and (b) any partial reduction pursuant to this Section 4.2 shall be in the amount of at least \$5,000,000 and in integral multiples of \$1,000,000 in excess thereof.

4.3 **Mandatory Termination or Reduction of Commitments.** The Commitments shall terminate upon the funding thereof on the Closing Date.

SECTION 5. Payments

5.1 **Voluntary Prepayments.** (a) The Borrowers shall have the right at any time to prepay Loans, without premium or penalty (except as provided below), in whole or in part from time to time on the following terms and conditions: (i) the Company shall give the Administrative Agent and at the Administrative Agent's Office written notice (or telephonic notice promptly confirmed in writing) of its intent to make such prepayment, the amount of such prepayment and (in the case of LIBOR Loans) the specific Borrowing(s) to be prepaid, which notice shall be given by the Company no later than 10:00 a.m., New York City time, at least one Business Day prior to the date of such prepayment and shall promptly be transmitted by the Administrative Agent to each of the Lenders; and (ii) each partial prepayment of any LIBOR Loans shall be in an integral multiple of \$1,000,000 and in an aggregate principal amount of at least \$5,000,000 and each partial prepayment of ABR Loans shall be in an integral multiple of \$1,000,000 and in an aggregate principal amount of at least \$1,000,000 or, in each case, if less, the entire principal amount thereof then outstanding, and any prepayment of Loans pursuant to this Section 5.1 on any day other than the last day of an Interest Period applicable thereto shall be subject to compliance by the Borrowers with the applicable provisions of Section 2.10. Each prepayment pursuant to this Section 5.1 shall be applied to such Loans as the Company may specify.

5.2 Method and Place of Payment. (a) Except as otherwise specifically provided herein, all payments under this Agreement shall be made by each Borrower, without set-off, counterclaim or deduction of any kind, to the Administrative Agent for the ratable account of the Lenders entitled thereto, not later than 12:00 Noon on the date when due and shall be made in immediately available funds at the Administrative Agent's Office or at such other office as the Administrative Agent shall specify for such purpose by notice to the Company, it being understood that written or facsimile notice by a Borrower to the Administrative Agent to make a payment from the funds in such Borrower's account at the Administrative Agent's Office shall constitute the making of such payment to the extent of such funds held in such account. All repayments or prepayments of Loans (whether of principal, interest or otherwise) hereunder shall be made in Dollars. The Administrative Agent will thereafter cause to be distributed on the same day (if payment was actually received by the Administrative Agent prior to 12:00 noon on such day) like funds relating to the payment of principal or interest or Fees ratably to the Lenders entitled thereto.

(b) Any payments under this Agreement that are made later than 1:00 p.m. shall be deemed to have been made on the next succeeding Business Day. Whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day and, such extension of time shall be reflected in computing interest or fees (as the case may be) at the applicable rate in effect immediately prior to such extension.

5.3 Net Payments. (a) Any and all payments made by or on behalf of any Credit Party under this Agreement or any other Credit Document shall be made free and clear of, and without deduction or withholding for or on account of, any Indemnified Taxes; provided that if a Credit Party shall be required by law to deduct or withhold any Indemnified Taxes from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions and withholdings (including deductions or withholdings applicable to additional sums payable under this Section 5.3), the Administrative Agent, the Collateral Agent or any Lender, as the case may be, receives an amount equal to the after tax sum it would have received had no such deductions or withholdings been made, (ii) the relevant Credit Party shall make such deductions or withholdings and (iii) the relevant Credit Party shall pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law. Whenever any Indemnified Taxes are payable by a Credit Party, as promptly as possible thereafter, such Credit Party shall send to the Administrative Agent for its own account or for the account of such Lender, as the case may be, a certified copy of an original official receipt in such form as provided in the ordinary course by the relevant Governmental Authority and as is reasonably available to the relevant Credit Party (or other evidence acceptable to such Lender, acting reasonably) received by such Credit Party showing payment thereof.

(b) Each Credit Party shall pay and shall jointly and severally indemnify and hold harmless, on an after tax basis, the Administrative Agent, the Collateral Agent and each Lender (whether or not such Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority) with regard to any Other Taxes.

(c) Each Credit Party shall jointly and severally indemnify and hold harmless, on an after tax basis, the Administrative Agent, the Collateral Agent and each Lender within 15 Business Days after written demand therefor, for the full amount of any Indemnified Taxes imposed on the Administrative Agent, the Collateral Agent or such Lender as the case may be, on or with respect to any payment by or on account of any obligation of any Credit Party hereunder or under any other Credit Document (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 5.3) and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. Upon the request of the Company, such Administrative Agent, Collateral Agent, or a Lender must provide details of how it calculated the amount of Indemnified Taxes for which it claimed liability under this Section 5.3. A certificate as to the amount of such payment or liability delivered to a Credit Party by a Lender or by the Administrative Agent or the Collateral Agent on its own behalf or on behalf of a Lender shall be conclusive absent manifest error.

(d) Each Lender shall to the extent it is legally entitled to do so:

(i) upon the request of the Company or the Administrative Agent deliver to the Borrowers and the Administrative Agent two copies of any certification, information, documents or other evidence concerning the nationality, residence or identity of such Lender or make any declaration of similar claim or satisfy any other reporting requirement relating to such matters, which is required by a statute, regulation or administrative practice of a relevant Governmental Authority as a precondition to exemption from all or a part of any Taxes, assessment or other governmental charge; and

(ii) deliver to the Borrowers and the Administrative Agent two further copies of any such form or certification (or any applicable successor form) on or before the date that any such form or certification expires or becomes obsolete and after the occurrence of any event requiring a change in the most recent form previously delivered by it to any Borrower;

unless in any such case any Change in Law has occurred prior to the date on which any such delivery would otherwise be required that renders any such form inapplicable or would prevent such Lender from duly completing and delivering any such form with respect to it and such Lender so advises the Borrowers and the Administrative Agent. Each Person that shall become a Participant pursuant to Section 13.7 or a Lender pursuant to Section 13.7 shall, upon the effectiveness of the related transfer, be required to provide all the forms and statements required pursuant to this Section 5.3(d), provided that in the case of a Participant such Participant shall furnish all such required forms and statements to the Lender from which the related participation shall have been purchased.

(e) If a Credit Party determines in good faith that a reasonable basis exists for contesting any taxes for which indemnification has been demanded hereunder or any other Credit Document, the relevant Lender, the Administrative Agent or the Collateral Agent, as applicable, shall cooperate with such Credit Party in challenging such taxes at such Credit Party's expense if so requested by such Credit Party. If any Lender, the Administrative Agent or the Collateral Agent, as applicable, receives a refund of, or determines that a Tax Credit is available to it with respect to, a tax for which a payment has been made by a Credit Party pursuant to this Agreement, which refund or Tax Credit in the good faith judgment of such Lender, the

Administrative Agent or the Collateral Agent, as the case may be, is attributable to such payment made by such Credit Party, then the Lender, the Administrative Agent or the Collateral Agent, as the case may be, shall reimburse such Credit Party for such amount (together with any interest received thereon) as the Lender, the Administrative Agent or the Collateral Agent, as the case may be, determines to be the proportion of the refund or Tax Credit as will leave it, after such reimbursement, in no better or worse position (taking into account expenses or any taxes imposed on the refund) than it would have been in if the payment had not been required. A Lender, the Administrative Agent or the Collateral Agent shall claim any refund or Tax Credit that it determines is available to it, unless it concludes in its reasonable discretion that it would be adversely affected by making such a claim. Neither the Lender, the Administrative Agent nor any Collateral Agent shall be obliged to disclose any information regarding its tax affairs or computations to the any Credit Party in connection with this paragraph (e) or any other provision of this Section 5.3.

(f) The agreements in this Section 5.3 shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

5.4 Computations of Interest and Fees. Interest on LIBOR Loans shall be calculated on the basis of a 360-day year for the actual days elapsed. Interest on ABR Loans and interest on overdue interest shall be calculated on the basis of a 365- (or 366-, as the case may be) day year for the actual days elapsed.

#### 5.5 Limit on Rate of Interest.

(a) No Payment shall exceed Lawful Rate. Notwithstanding any other term of this Agreement, no Borrower shall be obliged to pay any interest or other amounts under or in connection with this Agreement in excess of the amount or rate permitted under or consistent with any applicable law, rule or regulation.

(b) Payment at Highest Lawful Rate. If a Borrower is not obliged to make a payment which it would otherwise be required to make, as a result of Section 5.5(a), such Borrower shall make such payment to the maximum extent permitted by or consistent with applicable laws, rules and regulations.

(c) Adjustment if any Payment exceeds Lawful Rate. If any provision of this Agreement or any of the other Credit Documents would obligate any Borrower to make any payment of interest or other amount payable to any Lender in an amount or calculated at a rate which would be prohibited by any applicable Law, rule or regulation, then notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to, in the case of LIBOR Loans the beginning of the relevant Interest Period or, in the case of ABR Loans, the relevant date, the maximum amount or rate of interest, as the case may be, as would not be so prohibited by Law, such adjustment to be effected, to the extent necessary, by reducing the amount or rate of interest required to be paid by such Borrower to the affected Lender under Section 2.8.

Notwithstanding the foregoing, and after giving effect to all adjustments contemplated thereby, if any Lender shall have received from any Borrower an amount in excess of the maximum permitted by any applicable Law, rule or regulation, then such Borrower shall be entitled, by notice in writing to the Administrative Agent to obtain reimbursement from that Lender in an amount equal to such excess, and pending such reimbursement, such amount shall be deemed to be an amount payable by that Lender to such Borrower.

#### 5.6 Currency Indemnity

(a) If any sum due from a Credit Party under the Credit Documents (a "Sum"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "First Currency") in which that Sum is payable into another currency (the "Second Currency") for the purpose of: (i) making or filing a claim or proof against that Credit Party; (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings, in either case that Credit Party shall as an independent obligation, within three Business Days of demand, indemnify each Lender to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

(b) Each Credit Party waives any right it may have in any jurisdiction to pay any amount under the Credit Documents in a currency or currency unit other than that in which it is expressed to be payable.

#### 5.7 Mandatory Prepayments

The Borrowers shall prepay the Loans in an amount equal to 100% of the Net Available Cash from the RF Power Disposition (or such lesser amount as is sufficient to prepay the Loans in full, together with accrued interest and fees thereon to the date fixed for prepayment) not later than the later of (i) three (3) Business Days following the receipt by such Borrower or any Subsidiary thereof and (ii) if such Loans have an Interest Period of one week, at the end of such Interest Period. The Borrowers shall notify the Administrative Agent of the receipt of such Net Available Cash within one (1) Business Day of receipt (accompanied, in the event that such Net Available Cash is less than an amount sufficient to prepay the loans in full, together with accrued interest and fees thereon to the date fixed for prepayment, by a reasonably detailed calculation of such Net Available Cash) and the Administrative Agent will promptly notify each Lender of its receipt of such notice. Any prepayment of the Loans pursuant to this Section 5.7 shall be applied ratably to the outstanding Loans. Each such prepayment shall be made by the payment of the principal amount to be prepaid and accrued interest and fees thereon to the date fixed for prepayment.

### SECTION 6. Conditions Precedent to the Closing Date

#### 6.1 Conditions Precedent.

The initial Borrowing under this Agreement on the Closing Date is subject to the satisfaction of the following conditions precedent, except as otherwise agreed in writing between the Company and the Administrative Agent (with the consent of the requisite percentage of Lenders in accordance with the terms hereof). The Administrative Agent shall, upon such conditions precedent being satisfied (or waived as the case may be), promptly confirm such satisfaction (or waiver) in writing to the Lenders and the Company.



6.2 Credit Documents. The Administrative Agent shall have received:

- (i) this Agreement, executed and delivered by a duly authorized signatory of each Borrower and each Lender;
- (ii) the Guaranty, executed and delivered by a duly authorized signatory of each of the Original Guarantors;
- (iii) a Lien Grantor Supplement (under and as defined in the Collateral Agency Agreement), executed and delivered by each of the Original Guarantors not already party to the Collateral Agency Agreement as a Lien Grantor;
- (iv) an additional secured obligations certification (under and as described in the Collateral Agency Agreement), executed and delivered by the Company, designating the Loans as Additional Secured Obligations with “fourth” ranking priority under Section 4.04 of the Collateral Agency Agreement and designating the Collateral Agent as Additional Secured Parties under the Collateral Agency Agreement;
- (v) an Additional Secured Obligations Supplement (under and as defined in the Collateral Agency Agreement) executed and delivered by the Company and the Collateral Agent; and
- (vi) a supplement to the US Security Agreement, substantially in the form of Exhibit A thereto, executed and delivered by each Original Guarantor incorporated or formed under the laws of any State of the United States which is not already a Grantor thereunder.
- (vii) A duly executed pledge agreement, pursuant to which NXP B.V. has pledged all of the equity interests held by the Company in the Specified Dutch Holdco (to the extent such pledge agreement has not been subsequently released as a result of the consummation of the RF Power Disposition prior to the effective time of this Agreement).

6.3 Collateral.

- (a) All outstanding equity interests in whatever form that is directly owned by or on behalf of the Borrower or any Original Guarantor and required to be pledged pursuant to the Security Documents shall have been pledged pursuant thereto;
- (b) the Collateral Agent shall have received the certificates to the extent required to be delivered under the Security Documents and pledged under the Security Documents to the extent certificated, accompanied by instruments of transfer and undated stock powers or allonges endorsed in blank, in each case to the extent not previously delivered to the Collateral Agent in connection with other Secured Obligations under the Collateral Agency Agreement; and

(c) evidence that all other actions, recordings and filings required by the Security Documents as of the Closing Date and such additional actions (including the giving of notices, the filing of statements and the provision of all instruments and documents reasonably requested by the Administrative Agent) to perfect and protect the security interests of the Secured Parties under the Security Documents have been taken, completed or otherwise provided for in a manner reasonably satisfactory to the Administrative Agent;

provided that each of the requirements in clauses (a), (b) and (c) above (other than the pledge and perfection of the security interests (1) in the certificated equity securities of any (x) Wholly Owned U.S. Restricted Subsidiary (other than an Immaterial Subsidiary) held directly by the Company or any Wholly Owned U.S. Restricted Subsidiary (other than an Immaterial Subsidiary) and (2) any Wholly Owned U.S. Restricted Subsidiary (other than an Immaterial Subsidiary) of the Target (to the extent received from the Target after the Company's use of commercially reasonable efforts to procure delivery) and (2) in other assets of (x) the Company, Wholly Owned U.S. Restricted Subsidiaries (other than an Immaterial Subsidiary) of the Company and Wholly Owned U.S. Restricted Subsidiaries (other than an Immaterial Subsidiary) of the Target, in each case with respect to which a Lien may be perfected by the filing of a financing statement under the Uniform Commercial Code) shall not constitute conditions precedent to the Closing Date after the Company's use of commercially reasonable efforts to provide such items or without undue burden or expense but instead shall be subject to Section 9.12 and 9.17.

6.4 Solvency Certificate. On the Closing Date, the Administrative Agent shall have received a certificate from an Authorized Officer of the Company substantially in the form of Exhibit C-2, demonstrating as of the Closing Date, that the Company on a consolidated basis with its Subsidiaries is solvent.

6.5 Legal Opinions. The Administrative Agent (or its counsel) shall have received the executed legal opinions of (i) special New York and Delaware counsel to the Borrowers reasonably satisfactory to the Administrative Agent and (ii) special Dutch counsel to the Borrowers reasonably satisfactory to the Administrative Agent, in each case in substantially the same form and substance as provided under and in connection with the Revolving Credit Agreement or otherwise in form and substance reasonably satisfactory to the Administrative Agent and, in each case, to the extent applicable to entities that are Original Credit Parties. The Borrowers, the other Original Credit Parties and the Administrative Agent hereby instruct counsel to deliver such legal opinions.

6.6 Closing Certificate. The Administrative Agent shall have received a certificate of each Original Credit Party, dated the Closing Date, substantially in the form of Exhibit C-1, with appropriate insertions, executed by the President or any Vice President and the Secretary or any Assistant Secretary of such Original Credit Party (or where customary in the relevant jurisdiction, executed by a director of such Original Credit Party), attaching the documents referred to in Sections 6.7 and 6.8 below and certifying as to each of Sections 6.9, 6.11 and 6.12 below.

6.7 Corporate Proceedings of Each Original Credit Party. The Administrative Agent shall have received a copy of the resolutions, in form and substance satisfactory to the Administrative Agent, of the Board of Directors and, to the extent required under applicable Law or the organizational documents of any Original Credit Party, the shareholders of each Original Credit Party (or a duly authorized committee thereof) authorizing (i) the execution, delivery and performance of the Credit Documents (and any agreements relating thereto) to which it is a party and (ii) in the case of the Borrowers, the Loans contemplated hereunder.

6.8 Corporate Documents. The Administrative Agent shall have received true and complete copies of the certificate of incorporation, by-laws (or equivalent organizational documents) and, to the extent available in the relevant jurisdiction, an extract of the trade register of each Original Credit Party.

6.9 Representations and Warranties. (a) On the Closing Date, the Specified Representations shall be true and correct in all material respects and the Company Representations shall be true to the extent required by the Merger Agreement as a condition to closing thereunder.

(b) All filings and other actions necessary to perfect and protect the Liens in the Collateral created under and in the manner contemplated by the US Security Documents and the Dutch Security Documents shall have been duly made or taken or otherwise provided for and are in full force and effect, and the US Security Documents and Dutch Security Documents shall create in favor of the Collateral Agent for the benefit of the Secured Parties a valid and, together with such filings and other actions, perfected first priority Lien in the Collateral covered thereby, securing the payment of the Secured Obligations, subject to Liens permitted by Section 10.3. The Credit Parties shall be the legal and beneficial owners of the Collateral covered by the US Security Documents and Dutch Security Documents free and clear of any Lien, except for the Liens created or permitted under the Loan Documents. By execution of this Agreement, the Credit Parties confirm the satisfaction of this clause (b).

6.10 Notice of Borrowing. The Administrative Agent (or its counsel) shall have received a Notice of Borrowing with respect to the Loans to be made on the Closing Date meeting the requirements of Section 2.3.

6.11 Acquisition. The Acquisition shall have been or, substantially concurrently with the initial borrowing of the Loans shall be, consummated in all material respects in accordance with the terms of the Merger Agreement shall be reasonably satisfied with the arrangements in place for the consummation of the Acquisition reasonably promptly after the initial borrowing of the Loans hereunder and shall have received confirmation from representatives of the Company that such actions shall be taken promptly after the initial borrowing of the Loans hereunder).

6.12 No Company Material Adverse Effect. Since the date of the Merger Agreement, there has not been any Company Material Adverse Effect (as defined in the Merger Agreement), provided that clause (b) of the definition of "Company Material Adverse Effect" shall be excluded from such definition for the purposes of determining compliance with this Section 6.12.

6.13 [Reserved]

6.14 Financial Statements. The Lead Arrangers shall have received (a) the audited consolidated balance sheets of Holdings and its subsidiaries as at December 31, 2012 and December 31, 2013, and of Target and its subsidiaries as at December 31, 2012, December 31, 2013 and December 31, 2014 and the related consolidated statements of income or operations, shareholders' equity and cash flows of Holdings and its subsidiaries for the years ended December 31, 2012 and December 31, 2013 and of Target and its subsidiaries for the years ended December 31, 2012, December 31, 2013 and December 31, 2014, and, with respect to each of Holdings and its subsidiaries and Target and its subsidiaries, for any subsequent fiscal year ended at least 120 days or, in the case of Target and its subsidiaries, 90 days before the Closing Date and (b) the unaudited consolidated balance sheets of each of Holdings and its subsidiaries and Target and its subsidiaries, and the related consolidated statements of income or operations, shareholders' equity and cash flows of each of Holdings and its subsidiaries and Target and its subsidiaries for each subsequent fiscal quarter ended at least 60 days or, in the case of Target, 45 days before the Closing Date; provided that the Lead Arrangers hereby acknowledge receipt of the audited financial statements referred to in clause (a) and the unaudited financial statements of Holdings and its subsidiaries and for Target and its subsidiaries for the quarters ended March 31, 2015, June 30, 2015 and September 30, 2015; provided further that, in the case of Holdings and its subsidiaries, filing of the required financial statements on Form 20-F or 6-K, with the SEC and, in the case of Target and its subsidiaries, the filing of the required financial statements on Form 10-K or 10-Q, as applicable, with C-2 the SEC, in each case on or prior to the Closing Date will satisfy the foregoing requirements of this Section 6.14.

6.15 Pro Forma Balance Sheet. The Lead Arrangers shall have received a pro forma consolidated balance sheet and related pro forma consolidated statements of income and cash flows of Holdings as of and for the twelve-month period ending on the last day of the most recently completed four-fiscal quarter period for which financial statements have been delivered pursuant to Section 6.14 above, prepared after giving effect to the Transactions as if the Transactions had occurred as of such date (in the case of such balance sheet) or at the beginning of such period (in the case of such other financial statements); provided that, the financial statements made available on the Form F-4 filed with the SEC on May 28, 2015 will satisfy the foregoing requirements of this Section 6.15.

6.16 PATRIOT Act. The Administrative Agent shall have received, at least two Business Days prior to the Closing Date, all documentation and other information about the Borrower and the Guarantors as shall have been reasonably requested in writing by the Administrative Agent at least seven calendar days prior to the Closing Date and as is mutually agreed to be required by U.S. regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation the PATRIOT Act.

The acceptance of the benefits of the Loans shall constitute a representation and warranty by each Credit Party to each of the Lenders that all of the applicable conditions specified above exist as of that time.

SECTION 7. [Reserved]

## SECTION 8. Representations, Warranties and Agreements

In order to induce the Lenders to enter into this Agreement and to make the Loans as provided for herein, each Borrower makes the following representations and warranties to, and agreements with, the Lenders, each Agent, all of which shall survive the execution and delivery of this Agreement and the making of the Loans:

8.1 Organization; Powers. Each of the Credit Parties (a) is a partnership, limited liability company, exempted company or corporation duly organized, validly existing and in good standing (or, if applicable in a foreign jurisdiction, enjoys the equivalent status under the laws of any jurisdiction of organization outside the United States) under the laws of the jurisdiction of its organization and (b) has the power and authority to execute, deliver and perform its obligations under each of the Credit Documents and each other agreement or instrument contemplated thereby to which it is or will be a party and, in the case of the Borrowers, to borrow and otherwise obtain credit hereunder.

8.2 Authorization. The execution, delivery and performance by each of the Credit Parties of each of the Credit Documents to which it is a party, and the borrowings hereunder (a) have been duly authorized by all corporate, stockholder, shareholder, limited liability company or partnership action required to be obtained by each Credit Party and (b) will not (i) violate (A) any material provision of any material law, statute, rule or regulation, or of the certificate or articles of incorporation or other constitutive documents or by-laws of any Credit Party, (B) any applicable order of any court or any rule, regulation or order of any Governmental Authority or (C) any provision of any indenture, certificate of designation for preferred stock, agreement or other instrument to which any Credit Party is a party or by which any or any of their property is or may be bound, except for any such conflict, breach or default described in this paragraph (C) that could not reasonably be expected to have a Material Adverse Effect or otherwise have a material adverse effect on the rights and remedies of the Lenders under the Credit Documents, (ii) be in conflict with, result in a breach of or constitute (alone or with notice or lapse of time or both) a default under, give rise to a right of or result in any cancellation or acceleration of any right or obligation (including any payment) or to a loss of a benefit under any such indenture, certificate of designation for preferred stock, agreement or other instrument, except for any such conflict, breach or default described in this sub-clause (ii) that (1) could not reasonably be expected to have a Material Adverse Effect or otherwise have a material adverse effect on the rights and remedies of the Lenders under the Credit Documents, or (2) result in the creation or imposition of any Lien upon or with respect to any material property or assets now owned or hereafter acquired by any Credit Party.

8.3 Enforceability. This Agreement has been duly executed and delivered by each Credit Party party hereto and constitutes, and each other Credit Document when executed and delivered by each Credit Party that is party thereto will constitute, a legal, valid and binding obligation of such Credit Party enforceable against each such Credit Party in accordance with its terms, subject to Debtor Relief Laws and to general principles of equity.

8.4 Governmental Approvals; Other Consents. No action, consent or approval of, registration or filing with or any other action by, any Governmental Authority or any other Person is or will be required in connection with the execution, delivery and performance of the Credit Documents, except for (a) such as have been made or obtained and are in full force and effect, (b) filings necessary to perfect the Liens on the Collateral granted by the Credit Parties in favor of the Secured Parties and (c) those approvals, consents, exemptions, authorizations or other actions, notices or filings, the failure of which to obtain or make could not reasonably be expected to have a Material Adverse Effect.

8.5 Federal Reserve Regulations. (a) No Credit Party nor any Restricted Subsidiary is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying Margin Stock.

(b) No part of the proceeds of any Loan will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, for any purpose that entails a violation of Regulation U or Regulation X.

8.6 Investment Company Act. No Credit Party nor any Restricted Subsidiary is an “investment company” as defined in, or subject to regulation under, the Investment Company Act of 1940, as amended.

8.7 Use of Proceeds. The proceeds of the Loans will be used for general corporate purposes (including refinancing or repaying Indebtedness) not in contravention of any law or any Credit Document.

8.8 Solvency. (a) On the date hereof, and on the Closing Date (i) (A) the fair value of the assets of the Company and its Subsidiaries on a consolidated basis, at a fair valuation, will exceed the debts and liabilities, direct, subordinated, contingent or otherwise, of the Company and its Subsidiaries on a consolidated basis, respectively; (B) the present fair saleable value of the property of the Company and its Subsidiaries on a consolidated basis will be greater than the amount that will be required to pay the probable liability of the Company and its Subsidiaries on a consolidated basis on their debts and other liabilities, direct, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (C) the Company and its Subsidiaries on a consolidated basis will be able to pay their debts and liabilities, direct, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (D) the Company and its Subsidiaries on a consolidated basis will not have unreasonably small capital with which to conduct the businesses in which they are engaged as such businesses are now conducted and are proposed to be conducted following the Closing Date and (ii) each Credit Party (A) has not ceased, and does not expect that it will cease, making payments on its liabilities when due and (B) can, and expects that it can, obtain credit in the ordinary course of business.

(b) No Credit Party intends to, and does not believe that it or any of the Restricted Subsidiaries will, incur debts beyond its ability to pay such debts as they mature, taking into account the timing and amounts of cash to be received by it or any such Subsidiary and the timing and amounts of cash to be payable on or in respect of its Indebtedness or the Indebtedness of any such Subsidiary.

8.9 Financial Statements; No Material Adverse Effect. (a) The audited financial statements of the Company as at December 31, 2014 and for the fiscal year then ended together with the notes thereto (ii) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (ii)

fairly present, in all material respects, the consolidated financial condition of the Company as of the date thereof and its results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein.

(b) Since the date of the audited financial statements described in clause (a) above, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

8.10 Litigation. Except as specifically disclosed on Schedule 8.10, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrowers, threatened in writing, at law, in equity, in arbitration or before any governmental authority, by or against the Company or any of its Restricted Subsidiaries or against any of their properties or revenues that either individually or in the aggregate, have had or could reasonably be expected to have a Material Adverse Effect.

8.11 No Default. Neither the Company nor any Subsidiary thereof is in default under any contractual obligation that could, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

8.12 Ownership of Properties; Liens. The Company and each Subsidiary thereof has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary in the ordinary conduct of its business, except for such defects in title as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The property of the Company and its Subsidiaries is subject to no Liens, other than Permitted Liens.

8.13 Environmental Compliance. The Company and its Restricted Subsidiaries conduct in the ordinary course of business a review of the effect of existing Environmental Laws and claims alleging potential liability or responsibility for violation of any Environmental Law on their respective businesses, operations and properties, and as a result thereof to the best knowledge of the Company, except as specifically disclosed in Schedule 8.13, such Environmental Laws and claims could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

8.14 Taxes. Except as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, the Company and its Subsidiaries have filed all federal, state and other material tax returns and reports required to be filed, and have paid all federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those (x) which are not overdue by more than 30 days or (y) which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP.

8.15 Subsidiaries; Equity Interests. As of the date of this Agreement, the Company has no Restricted Subsidiaries other than those specifically disclosed in Schedule 8.15, and (except as disclosed on such Schedule) all of the outstanding equity interests in such Restricted Subsidiaries have been validly issued, are fully paid and nonassessable and are owned by the Company or a Subsidiary thereof in the amounts specified in Schedule 8.15 free and clear of all Liens other than (a) those created under the Security Documents and (b) any Permitted Lien. As of the date of this Agreement, neither the Company nor any of its Subsidiaries has any equity investments in any other corporation or entity other than those permitted under this Agreement.

8.16 No Material Misstatements. All written information (other than projections) (the "Information") furnished by or on behalf of any Credit Party to any Lenders or the Administrative Agent in connection with the Transactions (as such Information may have been supplemented in writing prior to the Closing Date) or the other transactions contemplated by the Credit Documents, when taken as a whole, was true and correct in all material respects, as of the date such Information was furnished to the Lenders or the Administrative Agent (as the case may be) and (in the case of such Information delivered prior to the Closing Date) as of the Closing Date and did not contain any material misstatement of fact as of any such date or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements were made; provided that, with respect to projected financial information and pro forma financial information, the Credit Parties represent only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time of preparation; it being understood that such projections may vary from actual results and that such variances may be material.

8.17 Compliance With Laws. The Company and each of its Restricted Subsidiaries is in compliance in all material respects with the requirements of all laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. Without limitation of the foregoing, the Company and each of its Restricted Subsidiaries is in compliance (i) with all applicable provisions of law and all applicable regulations and published interpretations thereunder with respect to any employee pension benefit plan or other social security and employee benefit plan governed by the laws in any jurisdiction in which it operates and (ii) with the terms of any such plan, except, in each case, for (x) such requirement of law, applicable regulation, published interpretations or plan term is being contested in good faith by appropriate proceeding diligently conducted; or (y) such noncompliance that could not reasonably be expected to have a Material Adverse Effect.

8.18 Intellectual Property Licenses. The Company and its Restricted Subsidiaries own, license or possess the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other intellectual property rights (collectively, "IP Rights") that are reasonably necessary for the operation of their respective businesses as currently conducted, without conflict with the rights of any other person, except to the extent such conflicts, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. To the best knowledge of the Company, no slogan or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by the Company or any Subsidiary infringes upon any rights held by any other person, except to the extent such infringements,



either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. Except as specifically disclosed in Schedule 8.18, no claim or litigation regarding any of the foregoing against the Company or its Restricted Subsidiaries is pending or, to the knowledge of the Company, threatened in writing, which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

#### SECTION 9. Affirmative Covenants

Each Borrower hereby covenants and agrees that on the Closing Date and thereafter, until the Commitments have terminated and the Loans, together with interest, Fees and all other Secured Obligations incurred hereunder, are paid and performed in full:

9.1 Financial Statements. The Company will deliver to the Administrative Agent for prompt further distribution to each Lender:

(a) beginning with the fiscal year ending December 31, 2015, as soon as available, but in any event on or before the date on which such financial statements would be required to be filed with the SEC but no later than 120 days after the end of each fiscal year (or, if such financial statements are not required to be filed with the SEC, within 120 days after the end of each fiscal year of the Company) a consolidated balance sheet of the Company and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, audited and accompanied by a report and opinion of KPMG or another registered public accounting firm of internationally recognized standing reasonably acceptable to the Administrative Agent, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit; and

(b) beginning with the fiscal quarter ending March 31, 2016, as soon as available, but in any event on or before the date on which such financial statements would be required to be filed with the SEC (or, if such financial statements are not required to be filed with the SEC, within 60 days after the end of each of the first three fiscal quarters of each fiscal year of the Company), a consolidated balance sheet of the Company and its Subsidiaries as at the end of such fiscal quarter, and the related consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal quarter and for the portion of the Company's fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail and certified by the chief executive officer, chief financial officer, treasurer or controller of the Company as fairly presenting in all material respects the financial condition, results of operations, shareholders' equity and cash flows of the Company and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes.

At any time that any of the Company's Subsidiaries are Unrestricted Subsidiaries and any such Unrestricted Subsidiary or group of Unrestricted Subsidiaries, if taken together as one Subsidiary, constitutes a Significant Subsidiary of the Company, then the annual and quarterly financial information required by the clauses (a) and (b) above shall include either (i) a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, of the financial condition and results of operations of the Company and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Company or (ii) stand-alone audited or unaudited financial statements, as the case may be, of such Unrestricted Subsidiary or Unrestricted Subsidiaries (as a group or otherwise) together with an unaudited reconciliation to the financial information of the Company and its Subsidiaries, which reconciliation shall include the following items: revenue, EBITDA, net income, cash, total assets, total debt, shareholders equity, capital expenditures and interest expense.

Notwithstanding the foregoing, the obligations in clauses (a) and (b) above may be satisfied with respect to financial information of the Company and its Subsidiaries by furnishing (i) the applicable financial statements of Holdings (or any direct or indirect parent of Holdings) or (ii) the Company's or Holdings' (or any direct or indirect parent thereof), as applicable, Form 20-F or 6-K, as applicable, filed with the SEC; provided that, with respect to each of sub-clauses (i) and (ii), (A) to the extent such information relates to Holdings (or a parent thereof), such information is accompanied by consolidating information that explains in reasonable detail the differences between the information relating to Holdings (or such parent), on the one hand, and the information relating to the Company and its Subsidiaries on a standalone basis, on the other hand and (B) to the extent such information is in lieu of information required to be provided under this Section 9.1, such materials are accompanied by a report and opinion of an independent registered public accounting firm of internationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit.

**9.2 Certificates; Other Information.** The Company will deliver to the Administrative Agent for prompt further distribution to each Lender:

(a) not later than 5 Business Days after the delivery of the financial statements referred to in Section 9.1(a), a certificate of the registered public accounting firm certifying such financial statements; and

(b) not later than 5 Business Days after the delivery of the financial statements referred to in Section 9.1(a) and 9.1(b), a duly completed Compliance Certificate signed by the chief executive officer, chief financial officer, treasurer or controller of the Company.

Documents required to be delivered pursuant to Section 9.1(a) or 9.1(b) above may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (a) on which Holdings or the Company posts such documents, or provides a link thereto on Holdings' or the Company's website on the internet at the website address listed on Schedule 9.2; or (b) on which such documents are posted on Holdings' or the Company's behalf on an internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that: (i) upon written request by the Administrative Agent, Holdings or the

Company shall deliver paper copies of such documents to the Administrative Agent for further distribution to each Lender that requests Holdings or the Company to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (ii) Holdings or the Company shall notify the Administrative Agent for further notification to each Lender (by telecopier or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Notwithstanding anything contained herein, in every instance Company shall be required to provide paper copies of the Compliance Certificates to the Administrative Agent. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents.

9.3 Notices. (a) Each Borrower will, or will cause the relevant Subsidiary (other than Jilin and SSMC or any other Unrestricted Subsidiary) to, promptly after a Responsible Officer of the Company or such Subsidiary obtains knowledge thereof, notify the Administrative Agent:

(i) of the occurrence of any Default; and

(ii) of any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect, including (A) breach or non-performance of, or any default under, a contractual obligation of the Company or any Subsidiary thereof; (B) any dispute, litigation, investigation, proceeding or suspension between the Company or any Subsidiary thereof and any Governmental Authority; or (C) the commencement of, or any material development in, any litigation or proceeding affecting the Company or any Subsidiary thereof, including pursuant to any applicable Environmental Laws, which, in any such case, has resulted or could reasonably be expected to result in a Material Adverse Effect.

(b) Each notice pursuant to this Section 9.3 shall be accompanied by a statement of a Responsible Officer of the Company setting forth material details of the occurrence referred to therein and stating what action the Company or the relevant Subsidiary has taken and proposes to take with respect thereto.

9.4 Payment of Obligations. Each Borrower will, and will cause each of its Restricted Subsidiaries to, pay and discharge as the same shall become due and payable, all its obligations and liabilities in respect of taxes, assessments and governmental charges or levies upon it or its properties or assets, unless (a) the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves, if any, in accordance with GAAP are being maintained by the Company or such Restricted Subsidiary; or (b) the failure to pay or discharge the same could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

9.5 Preservation of Existence; Assets. Each Borrower will, and will cause each of its Restricted Subsidiaries to:

(a) preserve, renew and maintain in full force and effect its legal existence and good standing under the laws of the jurisdiction of its organization, except to the extent the failure to do so could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect;

(b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except (i) to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect or (ii) pursuant to a transaction permitted by Section 10.9 or 10.10; and

(c) preserve or renew all of its registered patents, trademarks, trade names and service marks, the non preservation of which could reasonably be expected to have a Material Adverse Effect.

9.6 Maintenance of Properties. Each Borrower will, and will cause each of its Restricted Subsidiaries to, maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted and casualty and condemnation excepted, and make all necessary repairs thereto and renewals and replacements thereof (in accordance with prudent industry practice) except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

9.7 Maintenance of Insurance. Each Borrower will, and will cause each of its Restricted Subsidiaries to, maintain with financially sound and reputable insurance companies, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by persons engaged in the same or similar business, of such types and in such amounts (after giving effect to any self-insurance reasonable and customary for similarly situated persons engaged in the same or similar businesses as the Company and its Restricted Subsidiaries) as are customarily carried under similar circumstances by such other persons.

9.8 Compliance with Laws. Each Borrower will, and will cause each of its Restricted Subsidiaries to, comply in all material respects with the requirements of all laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which (a) such requirement of law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted; or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect. Without limitation of the foregoing, the Company and each of its Restricted Subsidiaries shall at all times comply (i) with all applicable provisions of law and all applicable regulations and published interpretations thereunder with respect to any employee pension benefit plan or other social security and employee benefit plan governed by the laws in any jurisdiction in which it operates and (ii) with the terms of any such plan (including funding obligations thereunder), except, in each case, for (x) such requirement of law, applicable regulation, published interpretations or plan term is being contested in good faith by appropriate proceeding diligently conducted; or (y) such noncompliance that could not reasonably be expected to have a Material Adverse Effect.

9.9 Inspection Rights. Each Borrower will, and will cause each of its Restricted Subsidiaries to, permit representatives and independent contractors of the Administrative Agent and the Required Lenders to visit and inspect any of its properties, to examine its corporate, financial and operating records, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Company; provided, however, that, excluding any such visits and inspections during the continuation of an Event of Default, only the Administrative Agent on behalf of the Lenders may exercise rights of the Administrative Agent and the Required Lenders under this Section 9.9 and the Administrative Agent shall not exercise such rights more often than two times during any calendar year absent the existence of an Event of Default and for one such time the reasonable expenses of the Administrative Agent in connection with such visit and inspection shall be for the Company's account; provided further 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 reasonable expense of the Company at any time during normal business hours and upon reasonable advance notice.

9.10 Use of Proceeds. Each Borrower will use the proceeds of the Loans under this Agreement for general corporate purposes (including, for the avoidance of doubt, refinancing of any existing indebtedness) not in contravention of any law or any Credit Document.

9.11 Guarantees Restricted Subsidiaries. (a) Any Wholly Owned Subsidiary of the Company that is to be designated as not an Immaterial Subsidiary pursuant to the proviso to the definition thereof, if any, shall, within 60 days after the Closing Date (or such longer period as the Administrative Agent shall agree in writing in its sole discretion), provide a Guarantee of this Agreement by executing a supplement to the Guaranty in the form attached thereto.

(b) Subject to the Agreed Security Principles, if, as of the last day of any fiscal year for which financial statements have been delivered pursuant to Section 9.1, any Wholly Owned Subsidiary of the Company or any Restricted Subsidiary constitutes a Subsidiary that is not an Immaterial Subsidiary, such Restricted Subsidiary must, within 60 days (or such longer period as the Administrative Agent may agree in writing) after the date on which the Compliance Certificate for such fiscal year is delivered, provide a Guarantee of this Agreement by executing a supplement to the Guaranty in the form attached thereto).

(c) If the Company or any of its Restricted Subsidiaries acquires or creates a Wholly Owned Subsidiary (other than an Immaterial Subsidiary) after the Closing Date and the issuance of a Guarantee by such Guarantor is not precluded by the Agreed Security Principles, the new Restricted Subsidiary must, within 30 days (or such longer period as the Administrative Agent may agree in writing) after becoming a Restricted Subsidiary, provide a Guarantee of this Agreement by executing a supplement to the Guaranty in the form attached thereto.

(d) The obligations of each Guarantor under the Guaranty will be limited to the maximum amount that would not render the Guarantors' obligations subject to avoidance under applicable fraudulent conveyance provisions of the United States Bankruptcy Code or any comparable provision of foreign or state law and as otherwise set forth in the Guaranty or relevant supplement to the Guaranty.

(e) The obligations of a Guarantor under the Guaranty will terminate upon:

(i) a sale or other disposition (including by way of consolidation or merger) of the Guarantor or the sale or disposition of all or substantially all the assets of the Guarantor (other than to the Company or a Restricted Subsidiary), in each case, as permitted by this Agreement;

(ii) the designation in accordance with this Agreement of the Guarantor as an Unrestricted Subsidiary;

(iii) to the extent that the Guarantor is not an Immaterial Subsidiary due to the operation of the proviso to the definition of "Immaterial Subsidiary", upon the release of the guarantee or guarantees referred to in such proviso that resulted in the Guarantor not being an Immaterial Subsidiary;

(iv) the Guarantor becoming an Immaterial Subsidiary, tested as of the last day of any fiscal year for which financial statements have been delivered pursuant to Section 9.1 and a Compliance Certificate has been delivered pursuant to Section 9.2(b), and that Guarantor being designated by the Company pursuant to that Compliance Certificate as an Immaterial Subsidiary whose obligations under the Guaranty should terminate; or

(v) repayment in full of all amounts due and payable under the Credit Documents and cancellation of Commitments hereunder.

9.12 Additional Liens and Security Interests. (a) Subject to the Agreed Security Principles, within 90 days (or such longer period as the Administrative Agent may agree in writing in its sole discretion) after (i) any Restricted Subsidiary organized under the laws of the United States or the Netherlands (the "Relevant Jurisdictions") becomes a Guarantor in accordance with Section 9.11 (each such Restricted Subsidiary, a "Relevant Jurisdiction Guarantor") who as at the Closing Date has not granted security pursuant to the Security Documents or (ii) any Relevant Jurisdiction Guarantor acquires any material property in a Relevant Jurisdiction that is not automatically subject to a perfected security interest under the Security Documents, the relevant Relevant Jurisdiction Guarantor shall, in each case at its sole cost and expense, duly execute and deliver to the Administrative Agent such mortgages, deeds of trust, mortgage amendment, deed of trust amendments, security agreement supplements and other security documents, as reasonably specified by and in form and substance reasonably satisfactory to the Administrative Agent (in form and scope, and covering such collateral on such terms, in each case consistent with the mortgages, security agreements and other security documents in effect on the Closing Date), granting a security interest in favor of the Secured Parties, and take such additional actions (including the giving of notices, the filing of statements and the provision of all instruments and documents reasonably requested by the Administrative Agent) to perfect and protect the security interests of the Secured Parties under the Security Documents. Notwithstanding the foregoing, no Credit Party shall be required to provide a security interest pursuant to this Section 9.12 (x) except as provided in Section 9.16, in cash or

bank accounts prior to the occurrence of an Enforcement Event, (y) if the Agreed Security Principles would not so require or (z) over assets or properties that are not subject to Liens under the Security Documents as a result of the application of the Agreed Security Principles. Any security interest provided pursuant to this Section 9.12 shall be accompanied with such opinions of counsel to the Company as customarily given by borrower's counsel in the relevant jurisdiction (and, with respect to real property in the United States, title insurance), in form and substance customary for such jurisdiction. The Company will use reasonable endeavors to procure that its counsel or title company, as the case may be, in any relevant jurisdiction provides a legal opinion in respect of any such security interest.

(b) The obligations of a Credit Party under the Security Documents to which it is a party will terminate upon:

- (i) such Credit Party ceasing to be a Guarantor in accordance with Section 9.11(d);
- (ii) the designation in accordance with this Agreement of such Credit Party as an Unrestricted Subsidiary; or
- (iii) payment and performance in full of the Secured Obligations and the cancellation of Commitments hereunder.

(c) The assets or property of a Credit Party forming part of the Collateral shall be released from the Lien created under any Security Document to which such Credit Party is a party upon the sale or disposition of such assets or property (other than to the Company or a Restricted Subsidiary) in a transaction permitted by this Agreement (other than a sale or disposition subject to Section 10.9 or 10.10(c)).

(d) For the avoidance of doubt, no Guarantor incorporated in a jurisdiction that is not a Relevant Jurisdiction shall be required to take any actions referred to in this Section 9.12.

9.13 Further Assurances. Subject to the Agreed Security Principles, promptly upon request by the Administrative Agent, (a) correct any material defect or error that may be discovered in any Credit Document or in the execution, acknowledgment, filing or recordation thereof, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent, may reasonably require from time to time in order to carry out more effectively the purposes of any Credit Document.

9.14 Insurance Endorsements. Within 10 Business Days (or such later date as the Collateral Agent and the Borrowers may agree) after the Closing Date or such later date on which a Relevant Jurisdiction Guarantor grants security to secure the Secured Obligations and the end of each calendar year, the relevant Collateral Agent shall have received endorsements naming the relevant Collateral Agent, on behalf of the Lenders, as an additional insured or loss payee, as the case may be, under all material insurance policies to be renewed following the Closing Date or entered into prior to the end of such fiscal year with respect to the properties of the Company and its Subsidiaries forming part of the Collateral.

9.15 [Reserved].

9.16 Security Over Cash and Bank Accounts. (a) The Company shall maintain bank accounts held, in each case, with the Collateral Agent in London and denominated in US Dollars, Euros and Sterling (each a “Initial Secured Account” and together the “Initial Secured Accounts”) (pursuant to Clause 9.16 of the Revolving Credit Agreement) and shall, on the Closing Date, if such accounts are empty, deposit a nominal amount into each Initial Secured Account.

(b) Upon the occurrence and during the continuance of an Enforcement Event the Company shall, and shall procure that each Relevant Jurisdiction Guarantor shall (i) pay the proceeds of the sale or collection of Collateral to a bank account or bank accounts that do not contain other cash of the Company or Relevant Jurisdiction Guarantor (as the case may be) that is not the proceeds of Collateral, (ii) not commingle the proceeds of Collateral with other cash of the Company or the Relevant Jurisdiction Guarantor and (iii) pay the proceeds of Collateral denominated in US Dollars, Sterling and Euros that are paid to, or received by, the Company or a Relevant Jurisdiction Guarantor promptly to the relevant Initial Secured Account and, to the extent practicable, direct counterparties to pay the proceeds of Collateral directly to the relevant Initial Secured Account.

(c) Upon the occurrence and during the continuance of an Enforcement Event, the Company shall, and shall procure that each Relevant Jurisdiction Guarantor shall, grant, subject to the Agreed Security Principles, a perfected Lien in all bank accounts held by the Company or any Relevant Jurisdiction Guarantor to which proceeds of Collateral are paid, to the extent of the proceeds of such Collateral (any such account, an “Additional Secured Account”, and together with the Initial Secured Accounts, the “Secured Accounts”); provided that, to the extent any of the Additional Secured Accounts are or become part of the bank accounts used in the cash management system of the Company, the Company and each Relevant Jurisdiction Guarantor shall be entitled to grant a Lien over the Additional Secured Accounts in favor of the bank providing cash management facilities to secure the Company’s or any Relevant Jurisdiction Guarantor’s obligations to such bank, which Lien shall rank equally and ratably with the Lien created in favor of the Collateral Agent.

9.17 Conditions Subsequent to the Closing Date.

(a) Subject to the Agreed Security Principles, as soon as is reasonably practicable following the Closing Date and in any event within 60 days thereafter or such longer period as the Administrative Agent may agree in writing in its sole discretion:

(i) Freescale Semiconductor, Inc. shall have executed and delivered to the Administrative Agent either (in the reasonable discretion of the Collateral Agent) (i) mortgages or deeds of trust in respect of each of the Freescale US Properties or (ii) amendments of the Existing Fast Mortgages, in each case granting (or confirming) in favor of the Collateral Agent for the benefit of the Secured Parties a valid Lien in the Freescale US Properties, securing the payment of the Secured Obligations, subject to Liens permitted by Section 10.3, in form and substance consistent with the Existing Fast Mortgages or otherwise reasonably satisfactory to the Administrative Agent, subject to the Agreed Security Principles, together with title insurance policies in form and substance similar to the title insurance policies delivered in connection with the Existing Fast Mortgages (or endorsements to such policies);



(ii) the Collateral Agent shall have received all documents and instruments, including Uniform Commercial Code or other applicable personal property and fixture security financing statements, required by Law or reasonably requested by the Collateral Agent, as applicable, to be filed, registered or recorded in any relevant jurisdiction to create the Liens intended to be created by the Security Documents 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 such Collateral Agent for filing, registration or recording, subject to the Agreed Security Principles;

(iii) the Collateral Agent shall have received the executed legal opinions of special Netherlands, Arizona and Texas counsel to the Borrowers or the relevant Credit Party, in each case in substantially the same form and substance to the extent the same was provided under and in connection with the Existing Term Credit Agreement or otherwise in form and substance reasonably satisfactory to Collateral Agent to the extent applicable to entities that are Credit Parties. The Borrowers, the other Credit Parties, Collateral Agent hereby instruct counsel to deliver such legal opinions; and

(iv) All Uniform Commercial Code financing statements required to be filed, registered or recorded to create the Liens intended to be created by any Security Document entered into by the Borrowers and each Wholly Owned U.S. Restricted Subsidiary and perfect such Liens to the extent required by such Security Document shall have been delivered to the Collateral Agent, and shall be in proper form, for filing, registration or recording.

(b) Target Merger. Within ten (10) Business Days after the Closing Date (or such longer period as the Administrative Agent may agree in writing in its sole discretion) to the extent not consummated on the Closing Date, each of Freescale Semiconductors Holdings II, Ltd, Freescale Semiconductors Holdings III, Ltd and Freescale Semiconductors Holdings IV, Ltd shall be merged with and into Target, and the Target will merge with and into Freescale Semiconductors Holdings V, Inc., which shall be an indirect subsidiary of Holdings.

#### 9.18 Change in Control Repurchase

(a) Within 30 days from the occurrence of a Change of Control Triggering Event, the Borrowers shall provide written notice to the Administrative Agent (a "Change of Control Offer Notice") of its offer to repurchase the Loans of each lender in whole (and not in part) at a purchase price in cash equal to 101% of the principal amount of all such Loans plus accrued and unpaid interest to the date of purchase (the "Change of Control Purchase Price").

(b) Within 20 days from the Administrative Agent's receipt of the Change of Control Offer Notice, the Borrowers shall pay to the Administrative Agent for the account of each Lender who has elected to have the Borrowers repurchase its Loans in an amount sufficient to repurchase all such Loans at the Change of Control Purchase Price; provided that Lenders

shall notify the Administrative Agent of its election to have the Borrowers repurchase its Loans within 10 days of the Administrative Agent's receipt of the Change of Control Offer Notice; provided further, that a Lender shall be deemed to have elected not to have its Loans repurchased if it fails to notify the Company and Administrative Agent of such election within such 10 day period.

(c) The Borrowers will not be required to make a Change of Control Offer upon a Change of Control Triggering Event if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in the indenture applicable to a Change of Control Offer made by the Borrowers and repurchases all Loans elected for repurchase under such Change of Control Offer.

(d) The Borrowers shall not be obliged to repurchase Loans pursuant to this Section 9.18 in the event and to the extent that they have exercised their right to repay all of the Loans.

(e) The provisions of this Section 9.18 may be waived or modified with the consent of the Required Lenders.

9.19 Parallel Debts. (a) Each of the Credit Parties undertakes by way of an abstract acknowledgment of indebtedness with the Collateral Agent to pay to the Collateral Agent its Parallel Debts. The parties acknowledge that the Collateral Agent is the creditor of the Parallel Debts and shall act in its own name and not as agent of any of the Lenders, the Administrative Agent or the Collateral Agent (each a "Parallel Debt Secured Party") (but always for the benefit of the Parallel Debt Secured Parties in accordance with the provisions of the Credit Documents).

(b) Paragraph (a) above is (i) for the purpose of ensuring the validity and effect of certain security rights governed by German laws, granted by any Credit Party pursuant to the Guaranty; and (ii) without prejudice to the other provisions of the Guaranty. For the avoidance of doubt, (i) the respective Parallel Debt shall be decreased to the extent the Underlying Debt has been repaid or discharged, (ii) the Underlying Debt shall be decreased to the extent that the respective Parallel Debt has been repaid or discharged, and (iii) the amount of the Parallel Debt shall at all times be equal to the amount of the Underlying Debt.

(c) Each Parallel Debt is a separate and independent obligation and shall not make the Collateral Agent or any Parallel Debt Secured Party a joint and several creditor of any Underlying Debt.

#### SECTION 10. Negative Covenants

Each Borrower hereby covenants and agrees that on the Closing Date and thereafter, until the Commitments have terminated and the Loans, together with interest, Fees and all other Secured Obligations incurred hereunder, are paid and performed in full:

10.1 Limitation on Indebtedness. (a) The Company will not, and will not permit any of its Restricted Subsidiaries to, Incur any Indebtedness (including Acquired Indebtedness); provided, however, that the Company and any of its Restricted Subsidiaries may Incur Indebtedness if on the date of such Incurrence and after giving pro forma effect thereto (including pro forma application of the proceeds thereof), the Fixed Charge Coverage Ratio for the Company and its Restricted Subsidiaries is greater than 2.00 to 1.0.

(b) Clause (a) will not prohibit the Incurrence of the following Indebtedness:

(i) Indebtedness Incurred pursuant to any Credit Facility (including in respect of letters of credit or bankers' acceptances issued or created thereunder) and any Refinancing Indebtedness in respect thereof and Guarantees in respect of such Indebtedness in a maximum aggregate principal amount at any time outstanding not exceeding (A) €750,000,000, plus (B) in the case of any refinancing of any Indebtedness permitted under this sub-clause (i) or any portion thereof, the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses Incurred in connection with such refinancing;

(ii) (A) (1) Guarantees by the Company or any Restricted Subsidiary of Indebtedness of the Company or any Guarantor and (2) co-issuance by the Co-Borrower of any Indebtedness of the Company, in each case so long as the Incurrence of such Indebtedness is permitted under this Agreement; or

(B) without limiting Section 10.3, Indebtedness arising by reason of any Lien granted by or applicable to such Person securing Indebtedness of the Company or any Restricted Subsidiary so long as the Incurrence of such Indebtedness is permitted under this Agreement;

(iii) Indebtedness of the Company owing to and held by any Restricted Subsidiary or Indebtedness of a Restricted Subsidiary owing to and held by the Company or any Restricted Subsidiary; provided, however, that:

(A) any subsequent issuance or transfer of Capital Stock or any other event which results in any such Indebtedness being beneficially held by a Person other than the Company or a Restricted Subsidiary of the Company; and

(B) any sale or other transfer of any such Indebtedness to a Person other than the Company or a Restricted Subsidiary of the Company,

shall be deemed, in each case, to constitute an Incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be;

(iv) Indebtedness represented by (A) any Indebtedness (other than Indebtedness described in sub-clauses (i) and (iii) above) outstanding on the Closing Date, (B) Refinancing Indebtedness Incurred in respect of any Indebtedness described in this sub-clause (iv) or sub-clauses (v), (vii), or (xi) below or Incurred pursuant to clause (a) above, (C) Management Advances, (D) the Senior Notes, (E) Indebtedness incurred under this Agreement in a principal amount not exceeding the original committed amount

hereunder and Indebtedness incurred under the Term Credit Agreement in a principal amount not exceeding the original committed amount thereunder, and (F) obligations arising under a declaration of joint and several liability in respect of a Restricted Subsidiary used for the purpose of section 2:403 of the Dutch Civil Code (*Burgerlijk Wetboek*) (and any residual liability under such declaration arising pursuant to section 2:404(2) of the Dutch Civil Code) to the extent that such obligations constitute Indebtedness;

(v) Indebtedness of any Person (x) Incurred and outstanding on the date on which such Person becomes a Restricted Subsidiary or is merged, consolidated, amalgamated or otherwise combined with (including pursuant to any acquisition of assets and assumption of related liabilities) the Company or any Restricted Subsidiary or (y) Incurred (A) to provide all or any portion of the funds utilized to consummate the transaction or series of related transactions pursuant to which such Person became a Restricted Subsidiary or was otherwise acquired by the Company or a Restricted Subsidiary or (B) otherwise in connection with or contemplation of such acquisition); provided, however, with respect to this sub-clause (v), that at the time of such acquisition or other transaction (x) the Company would have been able to Incur €1.00 of additional Indebtedness pursuant to clause (a) above after giving pro forma effect to the Incurrence of such Indebtedness pursuant to this sub-clause (v) and such merger, consolidation, amalgamation or combination, or (y) the Fixed Charge Coverage Ratio would not be lower than it was immediately prior to giving effect to such acquisition or other transaction;

(vi) Indebtedness under Currency Agreements, Interest Rate Agreements and Commodity Hedging Agreements entered into for bona fide hedging purposes of the Company or its Restricted Subsidiaries and not for speculative purposes (as determined in good faith by the Board of Directors or Senior Management of the Company);

(vii) Indebtedness represented by Capitalized Lease Obligations or Purchase Money Obligations, and in each case any Refinancing Indebtedness in respect thereof, in an aggregate outstanding principal amount which, when taken together with the principal amount of all other Indebtedness Incurred pursuant to this sub-clause (vii) and then outstanding, will not exceed at any time outstanding the greater of (A) €100,000,000 and (B) 1% of Total Assets;

(viii) Indebtedness in respect of (A) workers' compensation claims, self-insurance obligations, performance, indemnity, surety, judgment, appeal, advance payment, customs, VAT or other tax or other guarantees or other similar bonds, instruments or obligations and completion guarantees and warranties provided by the Company or a Restricted Subsidiary or relating to liabilities, obligations, indemnities or guarantees Incurred in the ordinary course of business or pursuant to any governmental or regulatory requirements, (B) letters of credit, bankers' acceptances, guarantees or other similar instruments or obligations issued or relating to liabilities or obligations Incurred in the ordinary course of business or pursuant to any governmental or regulatory requirements, (C) the financing of insurance premiums in the ordinary course of business and (D) any customary cash management, cash pooling or netting or setting off arrangements in the ordinary course of business;

(ix) Indebtedness arising from agreements providing for customary guarantees, indemnification, obligations in respect of earnouts or other adjustments of purchase price or, in each case, similar obligations, in each case, Incurred or assumed in connection with the acquisition or disposition of any business or assets or Person or any Capital Stock of a Subsidiary (other than Guarantees of Indebtedness Incurred by any Person acquiring or disposing of such business or assets or such Subsidiary for the purpose of financing such acquisition or disposition); provided that the maximum liability of the Company and its Restricted Subsidiaries in respect of all such Indebtedness shall at no time exceed the gross proceeds, including the fair market value of non-cash proceeds (measured at the time received and without giving effect to any subsequent changes in value), actually received by the Company and its Restricted Subsidiaries in connection with such disposition;

(x) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business; provided, however, that such Indebtedness is extinguished within five Business Days of Incurrence;

(A) Customer deposits and advance payments received in the ordinary course of business from customers for goods purchased in the ordinary course of business;

(B) Indebtedness owed on a short-term basis of no longer than 30 days to banks and other financial institutions Incurred in the ordinary course of business of the Company and its Restricted Subsidiaries with such banks or financial institutions that arises in connection with ordinary banking arrangements to manage cash balances of the Company and its Restricted Subsidiaries; and

(C) Indebtedness Incurred by a Restricted Subsidiary in connection with bankers acceptances, discounted bills of exchange or the discounting or factoring of receivables for credit management purposes, in each case Incurred or undertaken in the ordinary course of business on arm's length commercial terms on a recourse basis;

(xi) Indebtedness in an aggregate outstanding principal amount which, when taken together with any Refinancing Indebtedness in respect thereof and the principal amount of all other Indebtedness Incurred pursuant to this sub-clause (xi) and then outstanding, will not exceed €450,000,000;

(xii) Indebtedness in an aggregate outstanding principal amount which, when taken together with any Refinancing Indebtedness in respect thereof and the principal amount of all other Indebtedness Incurred pursuant to this sub-clause (xii) and then outstanding, will not exceed 100% of the Net Cash Proceeds received by the Company from the issuance or sale (other than to a Restricted Subsidiary) of its Capital Stock

(other than Disqualified Stock, Designated Preference Shares or an Excluded Contribution) or otherwise contributed to the equity (other than through the issuance of Disqualified Stock, Designated Preference Shares or an Excluded Contribution) of the Company, in each case, subsequent to the Closing Date; provided, however, that (A) any such Net Cash Proceeds that are so received or contributed shall be excluded for purposes of making Restricted Payments under Sections 10.2(c)(i), (vi) and (x) to the extent the Company and its Restricted Subsidiaries incur Indebtedness in reliance thereon, and (B) any Net Cash Proceeds that are so received or contributed shall be excluded for purposes of Incurring Indebtedness pursuant to this sub-clause (xii) to the extent the Company or any of its Restricted Subsidiaries makes a Restricted Payment under Section 10.2 and Sections 10.2(c)(i), (vi), and (x) in reliance thereon;

(xiii) Indebtedness of Restricted Subsidiaries Incurred as a result of (A) any governmental or regulatory restrictions, limitations or penalties in the nature of capital controls, exchange controls or similar restrictions affecting the incurrence or repayment of intercompany Indebtedness by any Restricted Subsidiary or (B) any ordinary course country risk management policies or tax planning of the Company restricting or limiting transfers or distributions from the Company or any Restricted Subsidiary to the Company or any Restricted Subsidiary, provided that the principal amount of such Indebtedness so Incurred when aggregated with other Indebtedness previously Incurred in reliance on this sub-clause (xiii) and still outstanding shall not in the aggregate exceed €350,000,000; and

(xiv) the Guaranty by the Company or a Restricted Subsidiary of Indebtedness of any Person in which the Company or a Restricted Subsidiary has beneficial ownership of 15% or more of the Voting Stock in respect of performance, bid or surety bonds issued by or on behalf of any such Person in the ordinary course of business in an aggregate amount, together with all other guarantees of the Company outstanding pursuant to this sub-clause (xiv) on the date of such incurrence, not to exceed €15,000,000.

(c) For purposes of determining compliance with, and the outstanding principal amount of any particular Indebtedness Incurred pursuant to and in compliance with, this Section 10.1:

(i) in the event that Indebtedness meets the criteria of more than one of the types of Indebtedness described in clauses (a) and (b) above, the Company, in its sole discretion, will classify, and may from time to time reclassify, such item of Indebtedness and only be required to include the amount and type of such Indebtedness in one of the sub-clauses of clause (b) or clause (a);

(ii) all Indebtedness outstanding on the Closing Date (x) under this Agreement and under the Term Facility shall be deemed initially Incurred on the Closing Date under Clause (b)(iv)(E) above, and (y) the Revolving Credit Facility shall be deemed initially Incurred under clause (b)(i) above, and in each case such Indebtedness may not be reclassified pursuant to sub-clause (i) above;

(iii) Guarantees of, or obligations in respect of letters of credit, bankers' acceptances or other similar instruments relating to, or Liens securing, Indebtedness that is otherwise included in the determination of a particular amount of Indebtedness shall not be included;

(iv) if obligations in respect of letters of credit, bankers' acceptances or other similar instruments are Incurred pursuant to any Credit Facility and are being treated as Incurred pursuant to clause (b)(i), (vii), (xi), (xii) or (xiii) or clause (a) above and the letters of credit, bankers' acceptances or other similar instruments relate to other Indebtedness, then such other Indebtedness shall not be included;

(v) the principal amount of any Disqualified Stock of the Company or a Restricted Subsidiary, or Preferred Stock of a Restricted Subsidiary, will be equal to the greater of the maximum mandatory redemption or repurchase price (not including, in either case, any redemption or repurchase premium) or the liquidation preference thereof;

(vi) Indebtedness permitted by this covenant need not be permitted solely by reference to one provision permitting such Indebtedness but may be permitted in part by one such provision and in part by one or more other provisions of this covenant permitting such Indebtedness; and

(vii) the amount of Indebtedness issued at a price that is less than the principal amount thereof will be equal to the amount of the liability in respect thereof determined on the basis of GAAP.

(d) Accrual of interest, accrual of dividends, the accretion of accreted value, the accretion or amortization of original issue discount, the payment of interest in the form of additional Indebtedness, the payment of dividends in the form of additional shares of Preferred Stock or Disqualified Stock or the reclassification of commitments or obligations not treated as Indebtedness due to a change in GAAP, will not be deemed to be an Incurrence of Indebtedness for purposes of this Section 10.1.

(e) The amount of any Indebtedness outstanding as of any date shall be (i) the accreted value thereof in the case of any Indebtedness issued with original issue discount and (ii) the principal amount, or liquidation preference thereof, in the case of any other Indebtedness.

(f) If at any time an Unrestricted Subsidiary becomes a Restricted Subsidiary, any Indebtedness of such Subsidiary shall be deemed to be Incurred by a Restricted Subsidiary of the Company as of such date (and, if such Indebtedness is not permitted to be Incurred as of such date under this Section 10.1 the Company shall be in Default of this covenant).

(g) For purposes of determining compliance with any euro-denominated restriction on the Incurrence of Indebtedness, the Euro Equivalent of the aggregate principal amount of Indebtedness denominated in another currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was Incurred, in the case of term Indebtedness, or, at the option of the Company, first committed, in the case of Indebtedness Incurred under a revolving credit facility; provided that (i) if such Indebtedness is Incurred to refinance other Indebtedness denominated in a currency other than euros, and such refinancing would cause the applicable euro-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such euro-

denominated restriction shall be deemed not to have been exceeded so long as the aggregate principal amount of such Refinancing Indebtedness does not exceed the aggregate principal amount of such Indebtedness being refinanced; (ii) the Euro Equivalent of the aggregate principal amount of any such Indebtedness outstanding on the Closing Date shall be calculated based on the relevant currency exchange rate in effect on the Closing Date; and (iii) if and for so long as any such Indebtedness is subject to a Currency Agreement with respect to the currency in which such Indebtedness is denominated covering principal and interest on such Indebtedness, the amount of such Indebtedness, if denominated in euros, will be the amount of the principal payment required to be made under such Currency Agreement and, otherwise, the Euro Equivalent of such amount plus the Euro Equivalent of any premium which is at such time due and payable but is not covered by such Currency Agreement.

(h) Notwithstanding any other provision of this covenant, the maximum amount of Indebtedness that the Company or a Restricted Subsidiary may incur pursuant to this Section 10.1 shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness Incurred to refinance other Indebtedness, if Incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

(i) The Company may elect irrevocably to convert all Euro-denominated restrictions into US Dollar-denominated restrictions at the applicable spot rate of exchange prevailing on the date of such election, and all references in this Agreement to determining Euro Equivalents and Euro amounts shall apply mutatis mutandis as though referring to US Dollars.

10.2 Limitation on Restricted Payments. (a) The Company will not, and will not permit any of its Restricted Subsidiaries, directly or indirectly, to:

(i) declare or pay any dividend or make any distribution on or in respect of the Company's or any Restricted Subsidiary's Capital Stock (including any payment in connection with any merger or consolidation involving the Company or any of its Restricted Subsidiaries) except:

(A) dividends or distributions payable in Capital Stock of the Company (other than Disqualified Stock) or in options, warrants or other rights to purchase such Capital Stock of the Company or in Subordinated Shareholder Funding; and

(B) dividends or distributions payable to the Company or a Restricted Subsidiary (and, in the case of any such Restricted Subsidiary making such dividend or distribution, to holders of its Capital Stock other than the Company or another Restricted Subsidiary on no more than a pro rata basis, measured by value);

(ii) purchase, redeem, retire or otherwise acquire for value any Capital Stock of the Company or any direct or indirect Parent of the Company held by Persons other than the Company or a Restricted Subsidiary of the Company (other than in exchange for Capital Stock of the Company (other than Disqualified Stock));



(iii) purchase, repurchase, redeem, defease or otherwise acquire or retire for value, prior to scheduled maturity, scheduled repayment or scheduled sinking fund payment, any Subordinated Indebtedness (other than, in each case (A) any capitalization of Subordinated Indebtedness, (B) any such purchase, repurchase, redemption, defeasance or other acquisition or retirement or in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case, due within one year of the date of purchase, repurchase, redemption, defeasance or other acquisition or retirement and (C) any Indebtedness Incurred pursuant to Section 10.1(b)(iii)) or any Subordinated Shareholder Funding; or

(iv) make any Restricted Investment in any Person;

(any such dividend, distribution, purchase, redemption, repurchase, defeasance, other acquisition, retirement or Restricted Investment referred to in sub-clauses (i) through (iv) above made on or after the Closing Date are referred to herein as a “Restricted Payment”), if at the time the Company or such Restricted Subsidiary makes such Restricted Payment:

(A) a Default shall have occurred and be continuing (or would result immediately thereafter therefrom);

(B) the Company is not able to incur an additional €1.00 of Indebtedness pursuant to Section 10.1(a) after giving effect, on a pro forma basis, to such Restricted Payment; or

(C) the aggregate amount of such Restricted Payment and all other Restricted Payments made subsequent to February 14, 2013 (and not returned or rescinded) (including Permitted Payments permitted below by clauses (c)(vi), (x), (xi), and (xii), but excluding all other Restricted Payments permitted by clause (c)) would exceed the sum of (without duplication):

(1) 50% of Consolidated Net Income for the period (treated as one accounting period) from the first day of the first fiscal quarter commencing prior to February 14, 2013 to the end of the most recent fiscal quarter ending prior to the date of such Restricted Payment for which internal consolidated financial statements of the Company are available (or, in the case such Consolidated Net Income is a deficit, minus 100% of such deficit);

(2) 100% of the aggregate Net Cash Proceeds, and the fair market value (as determined in accordance with clause (b) below) of property or assets or marketable securities, received by the Company from the issue or sale of its Capital Stock (other than Disqualified Stock or Designated Preference Shares) or Subordinated Shareholder Funding subsequent to February 14, 2013 or otherwise contributed to the equity (other than through the issuance of Disqualified Stock or Designated Preference Shares) of the Company subsequent to February 14, 2013

(other than (x) Net Cash Proceeds or property or assets or marketable securities received from an issuance or sale of such Capital Stock to a Restricted Subsidiary or an employee stock ownership plan or trust established by the Company or any Subsidiary of the Company for the benefit of its employees to the extent funded by the Company or any Restricted Subsidiary, (y) Net Cash Proceeds or property or assets or marketable securities to the extent that any Restricted Payment has been made from such proceeds in reliance on clause (c)(vi) below, and (z) Excluded Contributions);

(3) 100% of the aggregate Net Cash Proceeds, and the fair market value (as determined in accordance with clause (b) below) of property or assets or marketable securities, received by the Company or any Restricted Subsidiary from the issuance or sale (other than to the Company or a Restricted Subsidiary or an employee stock ownership plan or trust established by the Company or any Subsidiary of the Company for the benefit of its employees to the extent funded by the Company or any Restricted Subsidiary) by the Company or any Restricted Subsidiary subsequent to February 14, 2013 of any Indebtedness that has been converted into or exchanged for Capital Stock of the Company (other than Disqualified Stock or Designated Preference Shares) or Subordinated Shareholder Funding (plus the amount of any cash, and the fair market value (as determined in accordance with clause (b) below) of property or assets or marketable securities, received by the Company or any Restricted Subsidiary upon such conversion or exchange);

(4) the amount equal to the net reduction in Restricted Investments made by the Company or any of its Restricted Subsidiaries subsequent to February 14, 2013 resulting from:

- (a) repurchases, redemptions or other acquisitions or retirements of any such Restricted Investment, proceeds realized upon the sale or other disposition to a Person other than the Company or a Restricted Subsidiary of any such Restricted Investment, repayments of loans or advances or other transfers of assets (including by way of dividend, distribution, interest payments or returns of capital) to the Company or any Restricted Subsidiary; or
- (b) the redesignation of Unrestricted Subsidiaries (other than SSMC) as Restricted Subsidiaries (valued, in each case, as provided in the definition of "Investment") not to exceed, in the case of any Unrestricted Subsidiary, the amount of Investments previously made by the Company or any Restricted Subsidiary in such Unrestricted Subsidiary, which amount, in each case under this sub-paragraph (4), was included in the calculation of the amount of Restricted Payments referred to in the first sentences of this sub-clause (C); provided, however, that no amount will be included in Consolidated Net Income for purposes of sub-paragraph (1) above to the extent that it is (at the Company's option) included under this sub-paragraph (4); and

(5) the amount of the cash and fair market value (as determined in accordance with the next succeeding paragraph) of property or assets or of marketable securities received by the Company or any of its Restricted Subsidiaries subsequent to February 14, 2013 in connection with:

- (a) the sale or other disposition (other than to the Company or a Restricted Subsidiary or an employee stock ownership plan or trust established by the Company or any Subsidiary of the Company for the benefit of its employees to the extent funded by the Company or any Restricted Subsidiary) of Capital Stock of an Unrestricted Subsidiary of the Company (other than SSMC); and
- (b) any dividend or distribution made by an Unrestricted Subsidiary or Affiliate (other than SSMC) to the Company or a Restricted Subsidiary;

provided, however, that no amount will be included in Consolidated Net Income for purposes of sub-paragraph (1) above to the extent that it is (at the Company's option) included under this sub-paragraph (5) above; provided further, however, that such amount shall not exceed the amount included in the calculation of the amount of Restricted Payments referred to in the first sentence of this sub-clause (C).

(b) The fair market value of property or assets other than cash covered by clause (a) above shall be the fair market value thereof as determined in good faith by the Board of Directors of the Company or the relevant Restricted Subsidiary.

(c) Clause (a) above will not prohibit any of the following (collectively, "Permitted Payments"):

(i) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Capital Stock, Disqualified Stock, Designated Preference Shares, Subordinated Shareholder Funding or Subordinated Indebtedness made by exchange (including any such exchange pursuant to the exercise of a conversion right or privilege in connection with which cash is paid in lieu of the issuance of fractional shares) for, or out of the proceeds of the substantially concurrent sale of, Capital Stock of the Company

(other than Disqualified Stock or Designated Preference Shares), Subordinated Shareholder Funding or a substantially concurrent contribution to the equity (other than through the issuance of Disqualified Stock or Designated Preference Shares or through an Excluded Contribution) of the Company; provided, however, that to the extent so applied, the Net Cash Proceeds, or fair market value (as determined in accordance with the preceding sentence) of property or assets or of marketable securities, from such sale of Capital Stock, Subordinated Shareholder Funding or such contribution will be excluded from clause (a)(iv)(C)(2) above;

(ii) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Subordinated Indebtedness made by exchange for, or out of the proceeds of the substantially concurrent sale of, Refinancing Indebtedness permitted to be Incurred pursuant to Section 10.1;

(iii) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Preferred Stock of the Company or a Restricted Subsidiary made by exchange for or out of the proceeds of the substantially concurrent sale of Preferred Stock of the Company or a Restricted Subsidiary, as the case may be, that, in each case, is permitted to be Incurred pursuant to Section 10.1, and that in each case, constitutes Refinancing Indebtedness;

(iv) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Subordinated Indebtedness:

(A) (1) from Net Available Cash to the extent permitted under Section 10.5, but only if the Company shall have first complied with Section 10.5 and purchased all Loans tendered pursuant to any offer to repurchase all the Loans required thereby, prior to purchasing, repurchasing, redeeming, defeasing or otherwise acquiring or retiring such Subordinated Indebtedness and (2) at a purchase price not greater than 100% of the principal amount of such Subordinated Indebtedness plus accrued and unpaid interest;

(B) to the extent required by the agreement governing such Subordinated Indebtedness, following the occurrence of a Change of Control (or other similar event described therein as a "change of control"), but only (1) if the Company shall have first complied with Section 9.18 and purchased all Loans tendered pursuant to the offer to repurchase all the Loans required thereby, prior to purchasing, repurchasing, redeeming, defeasing or otherwise acquiring or retiring such Subordinated Indebtedness and (2) at a purchase price not greater than 101% of the principal amount of such Subordinated Indebtedness plus accrued and unpaid interest; or

(C) (1) consisting of Acquired Indebtedness (other than Indebtedness Incurred (x) to provide all or any portion of the funds utilized to consummate the transaction or series of related transactions pursuant to which such Person became a Restricted Subsidiary or was otherwise acquired by the Company or a Restricted Subsidiary or (y) otherwise in connection with or contemplation of such acquisition) and (2) at a purchase price not greater than 100% of the principal amount of such Subordinated Indebtedness plus accrued and unpaid interest and any premium required by the terms of any Acquired Indebtedness;

(v) any dividends paid within 60 days after the date of declaration if at such date of declaration such dividend would have complied with this provision;

(vi) the purchase, repurchase, redemption, defeasance or other acquisition, cancellation or retirement for value of Capital Stock of any Parent (including any options, warrants or other rights in respect thereof) and loans, advances, dividends or distributions by the Company to any Parent to permit any Parent to purchase, repurchase, redeem, defease or otherwise acquire, cancel or retire for value Capital Stock of any Parent (including any options, warrants or other rights in respect thereof), or payments to purchase, repurchase, redeem, defease or otherwise acquire, cancel or retire for value Capital Stock of any Parent (including any options, warrants or other rights in respect thereof), in each case from Management Investors; provided that such payments, loans, advances, dividends or distributions do not exceed an amount (net of repayments of any such loans or advances) equal to (A) €40,000,000 plus (B) €20,000,000 multiplied by the number of calendar years that have commenced since October 12, 2006 plus (C) the Net Cash Proceeds received by the Company or its Restricted Subsidiaries since October 12, 2006 (including through receipt of proceeds from the issuance or sale of its Capital Stock or Subordinated Shareholder Funding to a Parent) from, or as a contribution to the equity (in each case under this clause (C), other than through the issuance of Disqualified Stock or Designated Preference Shares) of the Company from, the issuance or sale to Management Investors of Capital Stock (including any options, warrants or other rights in respect thereof), to the extent such Net Cash Proceeds are not included in any calculation under clause (a)(iv)(C)(2) above, less (D) any such purchases, repurchases, redemptions, defeasances or other acquisitions, cancellations or retirements for value of Capital Stock and payments, loans, advances, dividends or distributions made since October 12, 2006 and prior to February 14, 2013 pursuant to the comparable provisions of notes issued by the Company;

(vii) the declaration and payment of dividends to holders of any class or series of Disqualified Stock, or of any Preferred Stock of a Restricted Subsidiary, Incurred in accordance with Section 10.1;

(viii) purchases, repurchases, redemptions, defeasances or other acquisitions or retirements of Capital Stock deemed to occur upon the exercise of stock options, warrants or other rights in respect thereof if such Capital Stock represents a portion of the exercise price thereof;

(ix) dividends, loans, advances or distributions to any Parent or other payments by the Company or any Restricted Subsidiary in amounts equal to (without duplication):

(A) the amounts required for any Parent to pay any Parent Expenses or any Related Taxes; or

(B) amounts constituting or to be used for purposes of making payments (1) in connection with, and of fees and expenses Incurred in connection with, the Transactions or (2) to the extent specified in Sections 10.6(c)(ii), (iii), (v), (vii) and (xii).

(x) so long as no Default or Event of Default has occurred and is continuing (or would result therefrom), the declaration and payment by the Company of, or loans, advances, dividends or distributions to any Parent to pay, dividends on the common stock or common equity interests of the Company or any Parent following a Public Offering of such common stock or common equity interests, in an amount not to exceed in any fiscal year the greater of (A) 6% of the Net Cash Proceeds received by the Company from such Public Offering or contributed to the equity (other than through the issuance of Disqualified Stock or Designated Preference Shares or through an Excluded Contribution) of the Company or loaned as Subordinated Shareholder Funding to the Company and (B) following the Initial Public Offering, an amount equal to the greater of (A) 7% of the Market Capitalization and (B) 7% of the IPO Market Capitalization;

(xi) so long as no Default or Event of Default has occurred and is continuing (or would result from), Restricted Payments (including loans or advances) in an aggregate amount outstanding at any time since February 14, 2013 not to exceed €200,000,000;

(xii) payments by the Company, or loans, advances, dividends or distributions to any Parent to make payments, to holders of Capital Stock of the Company or any Parent in lieu of the issuance of fractional shares of such Capital Stock, provided, however, that any such payment, loan, advance, dividend or distribution shall not be for the purpose of evading any limitation of this Section 10.2 or otherwise to facilitate any dividend or other return of capital to the holders of such Capital Stock (as determined in good faith by the Board of Directors);

(xiii) Investments in an aggregate amount outstanding at any time not to exceed the aggregate cash amount of Excluded Contributions, or consisting of non-cash Excluded Contributions, or Investments to the extent made in exchange for or using as consideration Investments previously made under this sub-clause (xiii);

(xiv) [Reserved];

(xv) [Reserved];

(xvi) (A) the declaration and payment of dividends to holders of any class or series of Designated Preference Shares of the Company issued after February 14, 2013; and (B) the declaration and payment of dividends to any Parent or any Affiliate thereof, the proceeds of which will be used to fund the payment of dividends to holders of any class or series of Designated Preference Shares of such Parent issued after February 14, 2013; provided, however, that, in the case of paragraphs (xvi) and (xvi), the amount of all dividends declared or paid pursuant to sub-clause (xvi) shall not exceed the Net Cash Proceeds received by the Company or the aggregate amount contributed in cash to the

equity (other than through the issuance of Disqualified Stock or an Excluded Contribution or, in the case of Designated Preference Shares by Parent or an Affiliate the issuance of Designated Preference Shares) of the Company or loaned as Subordinated Shareholder Funding to the Company, from the issuance or sale of such Designated Preference Shares;

(xvii) [Reserved];

(xviii) dividends or other distributions of Capital Stock of Unrestricted Subsidiaries (unless the Unrestricted Subsidiary's principal asset is cash and Cash Equivalents or to the extent the assets owned by such Unrestricted Subsidiary were contributed in contemplation of such dividend or distribution) other than (x) SSMC, or (y) any Unrestricted Subsidiary that is a Permitted Joint Venture which has received Investments from the Company or any Restricted Subsidiary pursuant to clause (t) of the definition of Permitted Investments (determined at the time of making such Investment); and

(xix) so long as no Default or Event of Default has occurred and is continuing (or would result therefrom), any dividend, distribution, loan or other payment to any Parent; provided that the Consolidated Leverage Ratio on a pro forma basis after giving effect to any such dividend, distribution, loan or other payment does not exceed 3.25 to 1.00.

(d) The amount of all Restricted Payments (other than cash) shall be the fair market value on the date of such Restricted Payment of the asset(s) or securities proposed to be paid, transferred or issued by the Company or such Restricted Subsidiary, as the case may be, pursuant to such Restricted Payment. The fair market value of any cash Restricted Payment shall be its face amount, and the fair market value of any non-cash Restricted Payment shall be determined conclusively by the Board of Directors of the Company acting in good faith.

(e) In addition to the foregoing, it will be a breach of this Section 10.2 if any of the Initial Investors receives directly or indirectly from SSMC payments that would, if made by the Company, constitute Restricted Payments of the types described in clauses (a)(i) to (iii) above (inclusive), other than through distributions and dividends (x) to the Company and the making of such payments by the Company in a manner permitted by the covenant set forth above or (y) on a pro rata basis (proportionate to its ownership of SSMC) to another portfolio company of any Initial Investor, or, in the case of Philips, another operating subsidiary, engaged in an active business that owns Capital Stock of SSMC at such time.

**10.3 Limitation on Liens.** (a) The Company will not, and will not permit any Restricted Subsidiary to, directly or indirectly, create, Incur or suffer to exist any Lien upon any of its property or assets (including Capital Stock of a Restricted Subsidiary of the Company), whether owned on the Closing Date or acquired after that date, or any interest therein or any income or profits therefrom, which Lien secures any Indebtedness (such Lien, the "Initial Lien") other than (i) Permitted Liens or (ii) Liens on property or assets that are not Collateral and are not Permitted Liens if the Loans and the obligations under this Agreement are directly secured equally and ratably with, or prior to, in the case of Liens with respect to Subordinated

Indebtedness, the Indebtedness secured by such Initial Lien for so long as such Indebtedness is so secured. It is understood that Liens on Collateral in favor of Indebtedness under Section 10.1(b)(1) and obligations under Hedging Agreements provided by Lenders or Affiliates of Lenders (at the time such Hedging Agreements were entered into) may have super priority not materially less favorable to the Lenders than that accorded to the Revolving Credit Agreement on the Closing Date.

(b) Any such Lien created in favor of the Loans pursuant to Section 10.03(a)(ii) will be automatically and unconditionally released and discharged upon (i) the release and discharge of the Initial Lien to which it relates, (ii) any sale, exchange or transfer to any person other than the Company or any Subsidiary of the Company of the property or assets secured by such Initial Lien or (iii) the collateral suspension in accordance with Section 10.13(a) of this Agreement.

(c) Any such Lien on Collateral shall, at the election of the Company, rank equal to or junior to the Liens securing the Loans and the obligations under this Agreement, except that any Lien in favor of Indebtedness incurred under Section 10.1(b)(i) or obligations under Hedging Agreements provided by Lenders or Affiliates of Lenders (at the time such Hedging Agreements were entered into) may have super priority not materially less favorable to the Lenders than that accorded to the Revolving Credit Agreement on the Closing Date.

10.4 Limitation on Restrictions on Distributions from Restricted Subsidiaries. (a) The Company will not, and will not permit any Restricted Subsidiary to, create or otherwise cause or permit to exist or become effective any consensual encumbrance or consensual restriction on the ability of any Restricted Subsidiary to:

(i) pay dividends or make any other distributions in cash or otherwise on its Capital Stock or pay any Indebtedness or other obligations owed to the Company or any Restricted Subsidiary;

(ii) make any loans or advances to the Company or any Restricted Subsidiary; or

(iii) sell, lease or transfer any of its property or assets to the Company or any Restricted Subsidiary;

provided that (x) the priority of any Preferred Stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on common stock and (y) the subordination of (including the application of any standstill requirements to) loans or advances made to the Company or any Restricted Subsidiary to other Indebtedness Incurred by the Company or any Restricted Subsidiary shall not be deemed to constitute such an encumbrance or restriction.

(b) Clause (a) above will not prohibit:

(i) any encumbrance or restriction pursuant to (A) any Credit Facility (including the Credit Documents) or (B) any other agreement or instrument, in each case, in effect at or entered into on the Closing Date;



(ii) any encumbrance or restriction pursuant to an agreement or instrument of a Person or relating to any Capital Stock or Indebtedness of a Person, entered into on or before the date on which such Person was acquired by or merged, consolidated or otherwise combined with or into the Company or any Restricted Subsidiary, or was designated as a Restricted Subsidiary or on which such agreement or instrument is assumed by the Company or any Restricted Subsidiary in connection with an acquisition of assets (other than Capital Stock or Indebtedness Incurred as consideration in, or to provide all or any portion of the funds utilized to consummate, the transaction or series of related transactions pursuant to which such Person became a Restricted Subsidiary or was acquired by the Company or was merged, consolidated or otherwise combined with or into the Company or any Restricted Subsidiary entered into or in connection with such transaction) and outstanding on such date; provided that, for the purposes of this sub-clause (ii), if another Person is the Successor Company, any Subsidiary thereof or agreement or instrument of such Person or any such Subsidiary shall be deemed acquired or assumed by the Company or any Restricted Subsidiary when such Person becomes the Successor Company;

(iii) any encumbrance or restriction pursuant to an agreement or instrument effecting a refinancing of Indebtedness Incurred pursuant to, or that otherwise refinances, an agreement or instrument referred to in sub-clause (i) or (ii) above or this sub-clause (iii) (an "Initial Agreement") or contained in any amendment, supplement or other modification to an agreement referred to in sub-clause (i) or (ii) above or this sub-clause (iii); provided, however, that the encumbrances and restrictions with respect to such Restricted Subsidiary contained in any such agreement or instrument are no less favorable in any material respect to the Lenders taken as a whole than the encumbrances and restrictions contained in the Initial Agreement or Initial Agreements to which such refinancing or amendment, supplement or other modification relates (as determined in good faith by the Company);

(iv) any encumbrance or restriction:

(A) that restricts in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease, license or similar contract, or the assignment or transfer of any lease, license or other contract;

(B) contained in mortgages, pledges or other security agreements permitted under this Agreement or securing Indebtedness of the Company or a Restricted Subsidiary permitted under this Agreement to the extent such encumbrances or restrictions restrict the transfer of the property or assets subject to such mortgages, pledges or other security agreements; or

(C) pursuant to customary provisions restricting dispositions of real property interests set forth in any reciprocal easement agreements of the Company or any Restricted Subsidiary;

(v) any encumbrance or restriction pursuant to Purchase Money Obligations and Capitalized Lease Obligations permitted under this Agreement, in each case, that impose encumbrances or restrictions on the property so acquired or any encumbrance or restriction pursuant to a joint venture agreement that imposes restrictions on the transfer of the assets of the joint venture;

(vi) any encumbrance or restriction with respect to a Restricted Subsidiary (or any of its property or assets) imposed pursuant to an agreement entered into for the direct or indirect sale or disposition to a Person of all or substantially all the Capital Stock or assets of such Restricted Subsidiary (or the property or assets that are subject to such restriction) pending the closing of such sale or disposition;

(vii) customary provisions in leases, licenses, joint venture agreements and other similar agreements and instruments entered into in the ordinary course of business;

(viii) encumbrances or restrictions arising or existing by reason of applicable law or any applicable rule, regulation or order, or required by any regulatory authority;

(ix) any encumbrance or restriction on cash or other deposits or net worth imposed by customers under agreements entered into in the ordinary course of business;

(x) any encumbrance or restriction pursuant to Currency Agreements, Interest Rate Agreements or Commodity Hedging Agreements;

(xi) any encumbrance or restriction arising pursuant to an agreement or instrument relating to any Indebtedness permitted to be Incurred subsequent to the Closing Date pursuant to Section 10.1 if the encumbrances and restrictions contained in any such agreement or instrument taken as a whole are not materially less favorable to the Lenders than (A) the encumbrances and restrictions contained in this Agreement, together with the Security Documents associated therewith as in effect on the Closing Date or (B) in comparable financings (as determined in good faith by the Company) and where, in the case of paragraph (B), the Company determines at the time of issuance of such Indebtedness that such encumbrances or restrictions will not adversely affect, in any material respect, the Borrowers' ability to make principal or interest payments on the Loans or Unpaid Drawings;

(xii) [Reserved]; or

(xiii) any encumbrance or restriction existing by reason of any Lien permitted under Section 10.3.

10.5 Limitation on Sales of Assets and Subsidiary Stock. (a) The Company will not, and will not permit any of its Restricted Subsidiaries to, make any Asset Disposition unless:

(i) the Company or such Restricted Subsidiary, as the case may be, receives consideration (including by way of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise) at least equal to the fair market value (such fair market value to be determined on the date of contractually agreeing to such Asset Disposition), as determined in good faith by the Board of Directors of the Company, of the shares and assets subject to such Asset Disposition (including, for the avoidance of doubt, if such Asset Disposition is a Permitted Asset Swap);

(ii) in any such Asset Disposition, or series of related Asset Dispositions (except to the extent the Asset Disposition is a Permitted Asset Swap), at least 75% of the consideration from such Asset Disposition (excluding any consideration by way of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise, other than Indebtedness) received by the Company or such Restricted Subsidiary, as the case may be, is in the form of cash, Cash Equivalents or Temporary Cash Investments; and

(iii) an amount equal to 100% of the Net Available Cash from such Asset Disposition is applied by the Company or such Restricted Subsidiary, as the case may be:

(A) to the extent the Company or any Restricted Subsidiary, as the case may be, elects (or is required by the terms of any Indebtedness of a Restricted Subsidiary), (1) to prepay, repay or purchase any Indebtedness of a non-Guarantor Restricted Subsidiary (in each case, other than Indebtedness owed to the Company or any Restricted Subsidiary), any Secured Indebtedness secured by Other Liens or Indebtedness under the Revolving Credit Agreement (or any Refinancing Indebtedness in respect thereof) within 365 days from the later of (x) the date of such Asset Disposition and (y) the receipt of such Net Available Cash; provided, however, that in connection with any prepayment, repayment or purchase of Indebtedness pursuant to this paragraph (A), the Company or such Restricted Subsidiary will retire such Indebtedness and will cause the related commitment (if any) (except in the case of the Revolving Credit Agreement) to be permanently reduced in an amount equal to the principal amount so prepaid, repaid or purchased; or (2) to prepay, repay or purchase Pari Passu Indebtedness at a price of no more than 100% of the principal amount of such Pari Passu Indebtedness plus accrued and unpaid interest to the date of such prepayment, repayment or purchase; provided that the Company shall redeem, repay or repurchase Pari Passu Indebtedness pursuant to this sub-paragraph (A) only if the Company makes (at such time or subsequently in compliance with this Section 10.5) an offer to Lenders to purchase Loans in accordance with the provisions set forth below for an Asset Disposition Offer for an aggregate principal amount of Loans at least equal to the proportion that (x) the total aggregate principal amount of Loans outstanding bears to (y) the sum of the total aggregate principal amount of Loans outstanding plus the total aggregate principal amount outstanding of such Pari Passu Indebtedness; or

(B) to the extent the Company or such Restricted Subsidiary elects, to invest in or commit to invest in Additional Assets (including by means of an investment in Additional Assets by a Restricted Subsidiary with Net Available Cash received by the Company or another Restricted Subsidiary) within 365 days from the later of (1) the date of such Asset Disposition and (2) the receipt of such Net Available Cash; provided, however, that any such reinvestment in Additional Assets made pursuant to a definitive binding agreement or a commitment

approved by the Board of Directors of the Company that is executed or approved within such time will satisfy this requirement, so long as such investment is consummated within 180 days of such 365th day; provided that to the extent that any disposition in such Asset Sale was of Collateral, the assets (including Voting Stock) acquired with the Net Cash Proceeds thereof shall, subject to the Agreed Security Principles, be pledged as Collateral under the Security Documents substantially simultaneously with, or as soon as reasonably practicable after, such acquisition; provided that, pending the final application of any such Net Available Cash in accordance with paragraph (A) or paragraph (B) above, the Company and its Restricted Subsidiaries may temporarily reduce Indebtedness or otherwise invest such Net Available Cash in any manner not prohibited by this Agreement.

(b) Any Net Available Cash from Asset Dispositions that is not applied or invested or committed to be applied or invested as provided in clause (a) above will be deemed to constitute "Excess Proceeds." On the 366th day after an Asset Disposition, or at such earlier date that the Company elects, if the aggregate amount of Excess Proceeds exceeds €50,000,000, the Borrowers will be required to make an offer ("Asset Disposition Offer") to all Lenders and, to the extent the Company elects, to all holders of other outstanding Pari Passu Indebtedness, to purchase the maximum principal amount of Loans and any such Pari Passu Indebtedness to which the Asset Disposition Offer applies that may be purchased out of the Excess Proceeds, at an offer price in respect of the Loans in an amount equal to (and, in the case of any Pari Passu Indebtedness, an offer price of no more than) 100% of the principal amount of the Loans and 100% of the principal amount of Pari Passu Indebtedness, in each case, plus accrued and unpaid interest, if any, to, but not including, the date of purchase, in accordance with the procedures set forth herein or the agreements governing the Pari Passu Indebtedness, as applicable.

(c) To the extent that the aggregate amount of Loans and Pari Passu Indebtedness so validly tendered and not properly withdrawn pursuant to an Asset Disposition Offer is less than the Excess Proceeds, the Company may use any remaining Excess Proceeds for general corporate purposes, subject to the other provisions of this Agreement. If the aggregate principal amount of the Loans surrendered in any Asset Disposition Offer by Lenders and other Pari Passu Indebtedness surrendered by holders or lenders, collectively, exceeds the amount of Excess Proceeds, the Excess Proceeds shall be allocated among the Loans and Pari Passu Indebtedness to be purchased on a pro rata basis on the basis of the aggregate principal amount of tendered Loans and Pari Passu Indebtedness. For the purposes of calculating the principal amount of any such Indebtedness not denominated in Euro, such Indebtedness shall be calculated by converting any such principal amounts into their Euro Equivalent determined as of a date selected by the Company that is within the Asset Disposition Offer Period (as defined in clause (e) below). Upon completion of any Asset Disposition Offer, the amount of Excess Proceeds shall be reset at zero.

(d) To the extent that any portion of Net Available Cash payable in respect of the Loans is denominated in a currency other than Dollars, the amount thereof payable in respect of such Loans shall not exceed the net amount of funds in Dollars that is actually received by the Company upon converting such portion into Dollars.

(e) The Asset Disposition Offer will remain open for a period of not less than 20 Business Days following its commencement (the “Asset Disposition Offer Period”). No later than five Business Days after the termination of the Asset Disposition Offer Period (the “Asset Disposition Purchase Date”), the Borrowers will purchase the principal amount of Loans and, to the extent they elect, Pari Passu Indebtedness required to be purchased pursuant to this covenant (the “Asset Disposition Offer Amount”) or, if less than the Asset Disposition Offer Amount has been so validly tendered, all Loans and Pari Passu Indebtedness validly tendered in response to the Asset Disposition Offer.

(f) On or before the Asset Disposition Purchase Date, the Borrowers will, to the extent lawful, accept for payment, on a pro rata basis to the extent necessary, the Asset Disposition Offer Amount of Loans and Pari Passu Indebtedness or portions of Loans and Pari Passu Indebtedness so validly tendered and not properly withdrawn pursuant to the Asset Disposition Offer, or if less than the Asset Disposition Offer Amount has been validly tendered and not properly withdrawn, all Loans and Pari Passu Indebtedness so validly tendered and not properly withdrawn. The Company will deliver to the Administrative Agent an Officer’s Certificate stating that such Loans or portions thereof were accepted for payment by the Company in accordance with the terms of this Section 10.5. The Borrowers will promptly (but in any case not later than five Business Days after termination of the Asset Disposition Offer Period) pay to the Administrative Agent for the account of each tendering Lender an amount equal to the purchase price of the Loans so validly tendered and not properly withdrawn by such Lender, and accepted by the Borrowers for purchase.

(g) For the purposes of clause (a)(ii) above, the following will be deemed to be cash:

(i) the assumption by the transferee of Indebtedness of the Company or Indebtedness of a Restricted Subsidiary (other than Subordinated Indebtedness of the Company or a Guarantor) and the release of the Company or such Restricted Subsidiary from all liability on such Indebtedness in connection with such Asset Disposition;

(ii) securities, notes or other obligations received by the Company or any Restricted Subsidiary of the Company from the transferee that are converted by the Company or such Restricted Subsidiary into cash or Cash Equivalents within 180 days following the closing of such Asset Disposition;

(iii) Indebtedness of any Restricted Subsidiary that is no longer a Restricted Subsidiary as a result of such Asset Disposition, to the extent that the Company and each other Restricted Subsidiary are released from any Guarantee of payment of such Indebtedness in connection with such Asset Disposition;

(iv) consideration consisting of Indebtedness of the Company (other than Subordinated Indebtedness) received after the Closing Date from Persons who are not the Company or any Restricted Subsidiary; and

(v) any Designated Non-Cash Consideration received by the Company or any Restricted Subsidiary in such Asset Dispositions having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this Section 10.5, or designated as such pursuant to the corresponding provision of the Secured Indenture prior to the Closing Date but on or after the Closing Date that is at that time outstanding, not to exceed the greater of €100,000,000 and 1% of Total Assets (with the fair market value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value).

(vi) The RF Power Disposition and the application of the Net Available Cash therefrom in prepayment in compliance with Section 5.7 shall be deemed to satisfy the requirements of this Section 10.5.

10.6 Limitation on Affiliate Transactions. The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, enter into or conduct any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any Affiliate of the Company (an "Affiliate Transaction") involving aggregate value in excess of €20,000,000 unless:

(i) the terms of such Affiliate Transaction taken as a whole are not materially less favorable to the Company or such Restricted Subsidiary, as the case may be, than those that could be obtained in a comparable transaction at the time of such transaction or the execution of the agreement providing for such transaction in arm's-length dealings with a Person who is not such an Affiliate; and

(ii) in the event such Affiliate Transaction involves an aggregate value in excess of €50,000,000, the terms of such transaction have been approved by a majority of the members of the Board of Directors of the Company or the relevant Restricted Subsidiary (as applicable).

(b) Any Affiliate Transaction shall be deemed to have satisfied the requirements set forth in clause (a)(ii) above if such Affiliate Transaction is approved by a majority of the Disinterested Directors. If there are no Disinterested Directors, any Affiliate Transaction shall be deemed to have satisfied the requirements set forth in this Section 10.6 if the Company or any of its Restricted Subsidiaries, as the case may be, delivers to the Administrative Agent a letter from an Independent Financial Advisor stating that such transaction is fair to the Company or such Restricted Subsidiary from a financial point of view or stating that the terms are not materially less favorable to the Company or its relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person on an arm's length basis.

(c) The provisions of clause (b) above will not apply to:

(i) any Restricted Payment permitted to be made pursuant to Section 10.2, any Permitted Payments (other than pursuant to Section 10.2(c)(ix)(B)) or any Permitted Investment (other than Permitted Investments as defined in clauses (a)(ii), (b), (k) and (o) of the definition thereof);

(ii) any issuance or sale of Capital Stock, options, other equity-related interests or other securities, or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, or entering into, or maintenance of, any employment, consulting, collective bargaining or benefit plan, program, agreement or arrangement, related trust or other similar agreement and other compensation arrangements, options, warrants or other rights to purchase Capital Stock of the Company, any Restricted Subsidiary or any Parent, restricted stock plans, long-term incentive plans, stock appreciation rights plans, participation plans or similar employee benefits or consultants' plans (including valuation, health, insurance, deferred compensation, severance, retirement, savings or similar plans, programs or arrangements) or indemnities provided on behalf of officers, employees, directors or consultants approved by the Board of Directors of the Company, in each case in the ordinary course of business;

(iii) any Management Advances and any waiver or transaction with respect thereto;

(iv) any transaction between or among the Company and any Restricted Subsidiary (or entity that becomes a Restricted Subsidiary as a result of such transaction), or between or among Restricted Subsidiaries;

(v) the payment of reasonable fees and reimbursement of expenses to, and customary indemnities (including under customary insurance policies) and employee benefit and pension expenses provided on behalf of, directors, officers, consultants or employees of the Company, any Restricted Subsidiary of the Company or any Parent (whether directly or indirectly and including through any Person owned or controlled by any of such directors, officers or employees);

(vi) the Transactions and the entry into and performance of obligations of the Company or any of its Restricted Subsidiaries under the terms of any transaction arising out of, and any payments pursuant to or for purposes of funding, any agreement or instrument in effect as of or on the Closing Date, as these agreements and instruments may be amended, modified, supplemented, extended, renewed or refinanced from time to time in accordance with the other terms of this Section 10.6 or to the extent not more disadvantageous to the Lenders in any material respect and the entry into and performance of any registration rights or other listing agreement in connection with any Public Offering;

(vii) execution, delivery and performance of any Tax Sharing Agreement or the formation and maintenance of any consolidated group for tax, accounting or cash pooling or management purposes in the ordinary course of business;

(viii) transactions with customers, clients, suppliers or purchasers or sellers of goods or services, in each case in the ordinary course of business, which are fair to the Company or the relevant Restricted Subsidiary in the reasonable determination of the Board of Directors or the Senior Management of the Company or the relevant Restricted Subsidiary, or are on terms no less favorable than those that could reasonably have been obtained at such time from an unaffiliated party;

(ix) any transaction in the ordinary course of business between or among the Company or any Restricted Subsidiary and any Affiliate of the Company or an Associate or similar entity that would constitute an Affiliate Transaction solely because the Company or a Restricted Subsidiary or any Affiliate of the Company or a Restricted Subsidiary or any Affiliate of any Permitted Holder owns an equity interest in or otherwise controls such Affiliate, Associate or similar entity;

(x) (A) issuances or sales of Capital Stock (other than Disqualified Stock or Designated Preference Shares) of the Company or options, warrants or other rights to acquire such Capital Stock or Subordinated Shareholder Funding; provided that the interest rate and other financial terms of such Subordinated Shareholder Funding are approved by a majority of the members of the Board of Directors in their reasonable determination and (B) any amendment, waiver or other transaction with respect to any Subordinated Shareholder Funding in compliance with the other provisions of this Agreement;

(xi) without duplication in respect of payments made pursuant to sub-clause (xii) below, (C) payments by the Company or any Restricted Subsidiary to any Permitted Holder (whether directly or indirectly, including through any Parent) of annual customary management, consulting, monitoring or advisory fees and related expenses customary for portfolio companies of the Initial Investors described in clause (a) of the definition thereof and (D) customary payments by the Company or any Restricted Subsidiary to any Permitted Holder (whether directly or indirectly, including through any Parent) for financial advisory, financing, underwriting or placement services or in respect of other investment banking activities, including in connection with acquisitions or divestitures, which payments in respect of this paragraph (xi) are approved by a majority of the Board of Directors in good faith; and

(xii) payment to any Permitted Holder of all reasonable out of pocket expenses Incurred by such Permitted Holder in connection with its direct or indirect investment in the Company and its Subsidiaries.

10.7 Limitation on Business Activities of the Co-Borrower. The Co-Borrower may not hold any material assets, become liable for any material obligations or engage in any business activities; provided that it may be a co-obligor with respect to any Indebtedness issued by the Company or a Guarantor, and may engage in any activities directly related thereto or necessary in connection therewith. The Co-Borrower shall be a Wholly-Owned Subsidiary of the Company at all times.

10.8 [Reserved]

10.9 Merger and Consolidation by the Company. (a) The Company will not consolidate with or merge with or into, or convey, transfer or lease all or substantially all its assets to, any Person, unless:

(i) the resulting, surviving or transferee Person (the "Successor Company") will be a Person organized and existing under the laws of any member state of the European Union on January 1, 2004, or the United States of America, any State of the United States or the District of Columbia, Canada or any province of Canada, Norway or Switzerland and the Successor Company (if not the Company) will expressly assume, by supplemental agreements, executed and delivered to the Administrative Agent, in form reasonably satisfactory to the Administrative Agent, all the obligations of the Company under the Credit Documents;



(ii) immediately after giving effect to such transaction (and treating any Indebtedness that becomes an obligation of the Successor Company or any Subsidiary of the Successor Company as a result of such transaction as having been Incurred by the Successor Company or such Subsidiary at the time of such transaction), no Default or Event of Default shall have occurred and be continuing;

(iii) immediately after giving effect, on a pro forma basis, to such transaction, either (A) the Fixed Coverage Ratio of the Successor Company would exceed 2.00 to 1.00 or (B) the Fixed Charge Coverage Ratio would not be lower than it was immediately prior to giving effect to such transaction; and

(iv) the Company shall have delivered to the Administrative Agent an Officer's Certificate and an Opinion of Counsel, each to the effect that such consolidation, merger or transfer and such supplemental agreement (if any) comply with this Agreement and an Opinion of Counsel to the effect that such supplemental agreement (if any) has been duly authorized, executed and delivered and is a legal, valid and binding agreement enforceable against the Successor Company (in each case, in form and substance reasonably satisfactory to the Administrative Agent), provided that in giving an Opinion of Counsel, counsel may rely on an Officer's Certificate as to any matters of fact, including as to satisfaction of sub-clauses (ii) and (iii) above.

(b) Any Indebtedness that becomes an obligation of the Company or any Restricted Subsidiary (or that is deemed to be Incurred by any Restricted Subsidiary that becomes a Restricted Subsidiary) as a result of any such transaction undertaken in compliance with this covenant, and any Refinancing Indebtedness with respect thereto, shall be deemed to have been Incurred in compliance with Section 10.1.

(c) For purposes of this covenant, the sale, lease, conveyance, assignment, transfer, or other disposition of all or substantially all of the properties and assets of one or more Subsidiaries of the Company, which properties and assets, if held by the Company instead of such Subsidiaries, would constitute all or substantially all of the properties and assets of the Company on a consolidated basis, shall be deemed to be the transfer of all or substantially all of the properties and assets of the Company.

(d) The Successor Company will succeed to, and be substituted for, and may exercise every right and power of, the Company under this Agreement and the other Credit Documents but in the case of a lease of all or substantially all its assets, the predecessor company will not be released from its obligations under this Agreement or the other Credit Documents.

(e) Notwithstanding clauses (a)(ii) and (a)(iii) above (which do not apply to transactions referred to in this clause 10.9(e) and, other than with respect to clause (c) above and clause (a)(iv) above, (i) any Restricted Subsidiary of the Company may consolidate or otherwise combine with, merge into or transfer all or part of its properties and assets to the Company and (ii) any Restricted Subsidiary may consolidate or otherwise combine with, merge into or transfer all or part of its properties and assets to any other Restricted Subsidiary. Notwithstanding clause (a)(ii) or (a)(iii) above (which does not apply to the transactions referred to in this clause 10.9(e), the Company may consolidate or otherwise combine with or merge into an Affiliate incorporated or organized for the purpose of changing the legal domicile of the Company, reincorporating the Company in another jurisdiction, or changing the legal form of the Company.

(f) This Section 10.9 (other than the requirements of clause (a)(ii) above) shall not apply to the creation of a new subsidiary as a Restricted Subsidiary of the Company.

10.10 Merger and Consolidations by the Co-Borrower and Guarantors. (a) The Co-Borrower may not consolidate with, merge with or into any person or permit any person to merge with or into the Co-Borrower unless:

(i) concurrently therewith, a Subsidiary of the Company that is a limited liability company or corporation organized under the laws of the United States of America or any state thereof or the District of Columbia (which may be the Co-Borrower or the continuing person as a result of such transaction) expressly assumes all of the obligations of the Co-Borrower under this Agreement and the other Credit Documents; or

(ii) after giving effect to the transaction, at least one obligor under the Credit Documents is a limited liability company or corporation organized under the laws of the United States of America or any state thereof or the District of Columbia.

(b) Upon the consummation of any transaction effected in accordance with this Section 10.10, the resulting, surviving or transferee Co-Borrower will succeed to, and be substituted for, and may exercise every right and power of, the Co-Borrower under each Credit Document with the same effect as if such successor Person had been named as the Co-Borrower under such Credit Documents. Upon such substitution, the Co-Borrower will be released from its obligations under each Credit Document.

(c) No Guarantor may (i) consolidate with or merge with or into any Person, or (ii) sell, convey, transfer or dispose of, all or substantially all its assets as an entirety or substantially as an entirety, in one transaction or a series of related transactions, to any Person, or (iii) permit any Person to merge with or into the Guarantor, unless, in any such case:

(A) the other Person is the Company or any Restricted Subsidiary that is Guarantor or becomes a Guarantor concurrently with the transaction; or

(B) (i) either (x) a Guarantor is the continuing Person or (y) the resulting, surviving or transferee Person expressly assumes all of the obligations of the Guarantor under the Credit Documents to which such Guarantor is a party; and

(1) immediately after giving effect to the transaction, no Default has occurred and is continuing; or

(C) the transaction constitutes a sale or other disposition (including by way of consolidation or merger) of the Guarantor or the sale or disposition of all or substantially all the assets of the Guarantor (in each case other than to the Company or a Restricted Subsidiary) otherwise permitted by this Agreement.

10.11 Impairment of Liens. The Company shall not, and shall not permit any Restricted Subsidiary to, take or omit to take any action that would have the result of materially impairing the Lien with respect to the Collateral (it being understood that the Incurrence of Permitted Liens shall under no circumstances be deemed to materially impair the Lien with respect to the Collateral) for the benefit of the Secured Parties, and the Company shall not, and shall not permit any Restricted Subsidiary to, grant to any Person other than the Collateral Agent, for the benefit of the Secured Parties, any interest whatsoever in any of the Collateral, except that the Company and its Restricted Subsidiaries may Incur Permitted Liens and the Collateral may be discharged and released in accordance with the Credit Documents.

10.12 Suspension of Covenants on Achievement of Investment Grade Status. If on any date following the Closing Date, Investment Grade Status is achieved and no Default or Event of Default has occurred and is continuing (a "Suspension Event"), then, beginning on that day and continuing until such time, if any, at which the Investment Grade Status ceases to apply (the "Reversion Date"), the following provisions will not apply: Section 9.12, Section 9.13, Section 9.14, Section 9.16, Section 9.17, Section 10.1, Section 10.2, Section 10.4, Section 10.5, Section 10.6 and Section 10.9(a)(iii) and, in each case, any related default provision will cease to be effective and will not be applicable to the Company and its Restricted Subsidiaries. Such covenants and any related default provisions will again apply according to their terms from the first day on which a Suspension Event ceases to be in effect. Such covenants will not, however, be of any effect with regard to actions of the Company properly taken during the continuance of the Suspension Event, and Section 10.2 will be interpreted as if it has been in effect since the Closing Date except that no default will be deemed to have occurred solely by reason of a Restricted Payment made while that covenant was suspended. On the Reversion Date, all Indebtedness Incurred during the continuance of the Suspension Event will be classified, at the Company's option, as having been Incurred pursuant to Section 10.1(a) or one of the clauses set forth in the second paragraph of such covenant (to the extent such Indebtedness would be permitted to be Incurred thereunder as of the Reversion Date and after giving effect to Indebtedness Incurred prior to the Suspension Event and outstanding on the Reversion Date). To the extent such Indebtedness would not be so permitted to be incurred under Section 10.1 such Indebtedness will be deemed to have been outstanding on the Closing Date, so that it is classified as permitted under Section 10.1(b)(iv).

10.13 Release of Liens. (a) In addition, so long as each of Moody's, S&P and/or Fitch, as applicable (or another Nationally Recognized Statistical Ratings Organization which has provided a rating used to achieve Investment Grade Status) has been notified in advance that such Investment Grade Status will result in such release, then upon the occurrence of a Suspension Event, all Liens securing Secured Obligations hereunder will be released. All such Liens shall, subject to the Agreed Security Principles, be reinstated promptly upon the request of the Collateral Agent at any time following the Reversion Date and during a period where Investment Grade Status is not achieved.

(b) The Agents and the Lenders acknowledge that the Company and its Subsidiaries may (to the extent otherwise permitted under the terms hereof) grant or have granted Liens over assets held by Subsidiaries that are not Relevant Jurisdiction Guarantors or assets held outside of the Relevant Jurisdictions in favor of other creditors or pursuant to security documents (other than the Security Documents) that purport to also secure the obligations under this Agreement (any such Liens, "Other Liens" and any such creditors, "Other Creditors"), and that Other Liens may be regulated by the Collateral Agency Agreement which in certain circumstances may provide that the consent of the Collateral Agent or Administrative Agent (as a "Secured Party" under and as defined in the Collateral Agency Agreement) is required for any release of Other Liens in order to satisfy a "Release Condition" (under and as defined in the Collateral Agency Agreement). In the event that any Other Liens are released by the Other Creditors in favor of which such Other Liens were granted, and the Company or the Collateral Agent so requests, the Collateral Agent and Administrative Agent will promptly provide written confirmation to the Company and the Collateral Agent that, in relation to the Secured Obligations under the Credit Documents, any Release Condition in respect of such Other Liens has been satisfied.

#### SECTION 11. Events of Default

11.1 Events of Default. Any of the following shall constitute an Event of Default:

(a) Non-Payment of Interest. Default in any payment of interest on any Loan when due and payable and such default continues for 5 days;

(b) Non-Payment of Principal. Default in the payment of the principal amount of or premium, if any, on any Loan when due pursuant to the terms hereof, including upon any required repurchase, upon acceleration of maturity or otherwise;

(c) Breach of Specific Covenants. Failure to comply for 30 days after notice by the Administrative Agent on behalf of the Lenders or the Required Lenders with any covenant, warranty or other agreement with respect to Section 9.11, Section 9.12 or Section 10;

(d) Breach of Other Covenants. Failure to comply for 60 days after notice by the Administrative Agent on behalf of the Lenders or the Required Lenders with its other agreements (not specified in clause (a), (b) or (c) above) contained in any Credit Document;

(e) Cross-Acceleration. Default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Company, the Co-Borrower or any of their Restricted Subsidiaries (or the payment of which is Guaranteed by the Company, the Co-Borrower any of their Restricted Subsidiaries) other than Indebtedness owed to the Company, the Co-Borrower or a Restricted Subsidiary whether such Indebtedness or Guarantee now exists, or is created after the date hereof, which default:

(i) is caused by a failure to pay principal of, or interest or premium, if any, on such Indebtedness, immediately upon the expiration of the grace period provided in such Indebtedness; or

(ii) results in the acceleration of such Indebtedness prior to its maturity;

and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a payment default or the maturity of which has been so accelerated, aggregates €100,000,000 or more;

(f) [Reserved]

(g) Insolvency. Any Credit Party or any of the Restricted Subsidiaries institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar office is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for sixty (60) calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property or assets is instituted without the consent of such Person and continues undischarged or unstayed for (60) calendar days, or an order for relief is entered in any such proceeding;

(h) Breach of Representations. Any representation or warranty made or deemed made by any Credit Party (or any of its officers) under or in connection with any Credit Document shall prove to have been incorrect in any material respect when made or deemed made;

(i) Security Documents. (i) Any Lien under the Security Document on any material Collateral shall, at any time, cease to be in full force and effect (other than in accordance with the terms of the relevant Security Document and this Agreement) for any reason other than the satisfaction in full of all of the Secured Obligations or the release of any such Lien in accordance with the terms hereof or (ii) any Security Document or any Lien created thereunder on any material Collateral shall be declared invalid or unenforceable or a Borrower shall assert in writing that any such Lien is invalid or unenforceable, and, in any such case, such event or circumstance continues for 10 days.

(j) Judgments. Failure by any Credit Party or any Significant Subsidiary or group of Restricted Subsidiaries that, taken together (as of the latest audited consolidated financial statements for the Borrowers and their Restricted Subsidiaries), would constitute a Significant Subsidiary, to pay final judgments aggregating in excess of €100,000,000 (exclusive of any amounts that a solvent insurance company has acknowledged liability for), which judgments are not paid, discharged or stayed for a period of 60 days after the judgment becomes final; or

(k) Guaranty. The Guaranty ceases to be in full force and effect, other than in accordance the terms of the Credit Documents and the Agreed Security Principles, or a Guarantor denies or disaffirms its obligations under the Guaranty, other than in accordance with the terms thereof or upon release of the Guaranty in accordance with the Credit Documents;

then, and in any such event, and at any time thereafter, if any Event of Default shall then be continuing, the Administrative Agent shall, upon the written request of the Required Lenders, by written notice to the Borrowers, take any or all of the following actions, without prejudice to the rights of the Administrative Agent or any Lender to enforce its claims against the Borrowers, except as otherwise specifically provided for in this Agreement: (i) declare the Total Commitment terminated, whereupon the Commitments of each Lender shall forthwith terminate immediately and any Fees theretofore accrued shall forthwith become due and payable without any other notice of any kind; and (ii) declare the principal of and any accrued interest and fees in respect of all Loans, and all other amounts owing hereunder or under any other Credit Document to be, whereupon the same shall become, forthwith due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrowers; provided that upon the occurrence of any Event of Default under Section 11.1(g) the Total Commitment and Commitment of each Lender shall automatically terminate, the unpaid principal amount of all outstanding Loans, and all interest and other amounts as aforesaid shall automatically become due and payable, in each case without further act of the Administrative Agent or any Lender.

#### 11.2 [Reserved]

11.3 Application of Funds. After the exercise of remedies as provided in Section 11.1 (or after the Commitments have been automatically cancelled, Loans and all other amounts have automatically become due and payable), any amounts received by the Administrative Agent on account of the Secured Obligations shall be applied in accordance with Section 4 of the Collateral Agency Agreement.

#### SECTION 12. The Agents

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

(b) The Administrative Agent and each Lender hereby irrevocably designate and appoint the Collateral Agent as its agent under this Agreement and the other Credit Documents, and the Administrative Agent and each Lender irrevocably authorize the Collateral Agent, in such capacity, to take such action on their behalf under the provisions of this Agreement and the other Credit Documents and to exercise such powers and perform such duties as are expressly delegated to the Collateral Agent by the terms of this Agreement and the other Credit Documents, together with such other powers as are reasonably incidental thereto.

Notwithstanding any provision to the contrary elsewhere in this Agreement, the Collateral Agent shall not have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with the Administrative Agent or any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Credit Document or otherwise exist against the Collateral Agent.

(c) [Reserved]

(d) Each Lender confirms that the Administrative Agent has authority to accept on its behalf (and ratifies the acceptance on its behalf of any letters or reports already accepted by the Administrative Agent) the terms of any reliance letter or engagement letters relating to any reports or letters provided by accountants in connection with the Credit Documents or the transactions contemplated in the Credit Documents and to bind it in respect of those reports or letters and to sign such letters on its behalf and further confirms that it accepts the terms and qualifications set out in such letters.

12.2 Delegation of Duties. The Administrative Agent may execute any of its duties under this Agreement and the other Credit Documents by or through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it with reasonable care.

12.3 Exculpatory Provisions. No Agent nor any of its respective officers, directors, employees, agents, attorneys-in-fact or Affiliates shall be (a) liable for any action lawfully taken or omitted to be taken by it or such Person under or in connection with this Agreement or any other Credit Document (except for its or such Person's own gross negligence or willful misconduct) or (b) responsible in any manner to any of the Lenders for any recitals, statements, representations or warranties made by the Borrowers, any Guarantor, any other Credit Party or any officer thereof contained in this Agreement or any other Credit Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent or the Collateral Agent under or in connection with, this Agreement or any other Credit Document, or the perfection or priority of any Lien or security interest created or purported to be created under the Security Documents, or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Credit Document or for any failure of the Borrowers, any Guarantor or any other Credit Party to perform its obligations hereunder or thereunder. No Agent shall be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Credit Document, or to inspect the properties, books or records of any Credit Party.

12.4 Reliance by Agents. Each Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telecopy, telex or teletype message, statement, order or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including counsel to any Credit Party), independent accountants and other experts selected by such Agent. Each Agent may deem and treat the Lender specified in the Register with respect to any amount

owing hereunder as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Administrative Agent. Each Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Credit Document unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. Each Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Credit Documents in accordance with a request of the

Required Lenders (or such greater number or percentage of Lenders as may be expressly required by this Agreement in any instance), and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and all future holders of the Loans.

12.5 Notice of Default. No Agent shall be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless it has received written notice from a Lender or a 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, it shall give notice thereof to the Lenders. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders, provided that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders (except to the extent that this Agreement requires that such action be taken only with the approval of the Required Lenders or each of the Lenders, as applicable).

12.6 Non-Reliance on Agents and Other Lenders. Each Lender expressly acknowledges that no Agent nor any of its respective officers, directors, employees, agents, attorneys-in-fact or Affiliates has made any representations or warranties to it and that no act by any Agent hereinafter taken, including any review of the affairs of a Borrower, any Guarantor or any other Credit Party, shall be deemed to constitute any representation or warranty by any Agent to any Lender. Each Lender represents to each Agent that it has, independently and without reliance upon such Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of an investigation into the business, operations, property, financial and other condition and creditworthiness of each Borrower, any Guarantor and any other Credit Party and made its own decision to make its Loans hereunder and enter into this Agreement. Each Lender also represents that it will, independently and without reliance upon any Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Credit Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of any Borrower, any Guarantor and any other Credit Party. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder, no Agent shall have any duty or responsibility to provide any Lender with any credit or other information concerning the business, assets, operations, properties, financial condition, prospects or creditworthiness of any Borrower, any Guarantor or any other Credit Party that may come into the possession of such Agent any of its respective officers, directors, employees, agents, attorneys-in-fact or Affiliate.



12.7 Indemnification. The Lenders agree to indemnify each Agent, each in its capacity as such (to the extent not reimbursed by any Credit Party and without limiting the obligation of any Credit Party to do so), ratably according to their respective portions of the aggregate principal amount of the Loans outstanding on the date on which indemnification is sought (or, if indemnification is sought (x) before the Loans shall have been made, each Lender's share of the Total Commitment or (y) after the Loans shall have been paid in full, ratably in accordance with their respective portions of the aggregate principal amount of the Loans outstanding immediately prior to the repayment thereof), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time (including at any time following the payment of the Loans) be imposed on, incurred by or asserted against such Agent in any way relating to or arising out of, the Commitments, this Agreement, any of the other Credit Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by such Agent under or in connection with any of the foregoing, provided that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from such Agent's gross negligence or willful misconduct, as determined by a final, nonappealable judgment of a court of competent jurisdiction; it being acknowledged and agreed that no action taken in accordance with the instructions of the Required Lenders (or such other number or percentage of the Lenders as shall be required by the Credit Documents) shall constitute gross negligence or willful misconduct. The agreements in this Section 12.7 shall survive termination of the Commitment, the repayment of the Loans and all other amounts payable hereunder.

12.8 Agents in their Individual Capacity. Each Agent and its Affiliates may make loans to, accept deposits from and generally engage in any kind of business with any Borrower, any Guarantor, and any other Credit Party as though it were not an Agent hereunder and under the other Credit Documents. With respect to the Loans made by it, each Agent shall have the same rights and powers under this Agreement and the other Credit Documents as any Lender and may exercise the same as though it were not an Agent, and the terms "Lender" and "Lenders" shall include each Agent in its individual capacity.

12.9 Successor Agents. The Administrative Agent may resign as Administrative Agent upon 20 days' prior written notice to the Lenders and the Borrowers. If the Administrative Agent shall resign as Administrative Agent under this Agreement and the other Credit Documents, then the Required Lenders shall appoint from among the Lenders a successor Administrative Agent which successor agent shall be approved by the Company (which approval shall not be unreasonably withheld or delayed) so long as no Default or Event of Default is continuing. If no successor agent has accepted appointment as the Administrative Agent by the date which is twenty (20) days following the retiring Administrative Agent's notice of resignation, the retiring Administrative Agent's resignation shall nevertheless thereupon become effective and the Lenders shall perform all of the duties of the Administrative Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above. Upon the acceptance of any appointment as the Administrative Agent hereunder by a successor

(or upon the Lenders assuming such role as provided above) and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Security Documents, and such other instruments or notices, as may be necessary or desirable, as the Required Lenders may request, in order to (1) continue the perfection of the Liens granted or purported to be granted by the Security Documents or (2) otherwise ensure that the requirements set forth in Section 9.11 are satisfied, the Administrative Agent shall thereupon succeed to the rights, powers and duties of the Administrative Agent and the term "Administrative Agent" shall mean such successor agent effective upon such appointment and approval, and the former Administrative Agent's rights, powers and duties as Administrative Agent shall be terminated, without any other or further act or deed on the part of such former Administrative Agent or any of the parties to this Agreement or any holders of the Loans. After any retiring Administrative Agent's resignation as Administrative Agent, the provisions of this Section 12 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent under this Agreement and the other Credit Documents.

12.10 Withholding Tax and Deductions. To the extent required by any applicable Law, the Administrative Agent may withhold from any interest payment to any Lender an amount equivalent to any applicable withholding tax. If the Internal Revenue Service or any authority of the United States or other jurisdiction asserts a claim that the Administrative Agent did not properly withhold tax from amounts paid to or for the account of any Lender (because the appropriate form was not delivered, was not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstances which rendered the exemption from, or reduction of, withholding tax ineffective, or for any other reason), such Lender shall indemnify the Administrative Agent (to the extent that the Administrative Agent has not already been reimbursed by a Credit Party and without limiting the obligation of any Credit Party to do so) fully for all amounts paid, directly or indirectly, by the Administrative Agent as tax or otherwise, including penalties and interest, together with all expenses incurred, including legal expenses, allocated staff costs and any out of pocket expenses.

12.11 Administrative Agent May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Credit Party, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on any Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Secured Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Section 4.1 and 13.6) allowed in such judicial proceeding; and

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

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agents and their respective agents and counsel, and any other amounts due the Administrative Agent under Sections 4.1 and 13.6.

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

12.12 [Reserved]

12.13 Agents Under Security Documents and Guarantee. Each Secured Party hereby further authorizes the Administrative Agent or the Collateral Agent, as applicable, on behalf of and for the benefit of the Secured Parties, to be the agent for and representative of the Secured Parties with respect to the Collateral and the Security Documents. Subject to Section 13.2, without further written consent or authorization from any Secured Party, the Administrative Agent or the Collateral Agent, as applicable, may execute any documents or instruments necessary to (a) release any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent (or any sub-agent thereof) under any Credit Document (i) upon the Maturity Date and the payment in full (or cash collateralization) of all Obligations (except for contingent indemnification obligations in respect of which a claim has not yet been made and secured Hedge Obligations and secured Cash Management Obligations), (ii) that is sold or to be sold or transferred as part of or in connection with any sale or other transfer permitted hereunder or under any other Credit Document to a Person that is not a Credit Party or in connection with the designation of any Restricted Subsidiary as an Unrestricted Subsidiary, (iii) if the property subject to such Lien is owned by a Credit Party, upon the release of such Credit Party from its Guarantee otherwise in accordance with the Credit Documents, (iv) as to the extent provided in the Security Documents, or (v) if approved, authorized or ratified in writing in accordance with Section 13.2; (b) release any Guarantor from its obligations under the Guaranty if such Person ceases to be a Restricted Subsidiary (or becomes an Immaterial Subsidiary) as a result of a transaction or designation permitted hereunder; (c) subordinate any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Credit Document to the holder of any Lien permitted under clause (n) of the definition of Permitted Lien; or (d) enter into subordination or intercreditor agreements with respect to Indebtedness to the extent the Administrative Agent or the Collateral Agent is otherwise contemplated herein as being a party to such intercreditor or subordination agreement.

The Collateral Agent shall have its own independent right to demand payment of the amounts payable by the Borrowers under this Section 12.13, irrespective of any discharge of the Borrowers' obligations to pay those amounts to the other Lenders resulting from failure by them to take appropriate steps in insolvency proceedings affecting the Borrowers to preserve their entitlement to be paid those amounts.

Any amount due and payable by the Borrowers to the Collateral Agent under this Section 12.13 shall be decreased to the extent that the other Lenders have received (and are able to retain) payment in full of the corresponding amount under the other provisions of the Credit Documents and any amount due and payable by the Borrowers to the Collateral Agent under those provisions shall be decreased to the extent that the Collateral Agent has received (and is able to retain) payment in full of the corresponding amount under this Section 12.13.

12.14 Right to Realize on Collateral and Enforce Guarantee. Anything contained in any of the Credit Documents to the contrary notwithstanding, the Company, the Agents, and each Secured Party hereby agree that (i) no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Guaranty, it being understood and agreed that all powers, rights, and remedies hereunder may be exercised solely by the Administrative Agent, on behalf of the Secured Parties in accordance with the terms hereof and all powers, rights, and remedies under the Security Documents may be exercised solely by the Collateral Agent, and (ii) in the event of a foreclosure by the Collateral Agent on any of the Collateral pursuant to a public or private sale or other disposition, the Collateral Agent or any Lender may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition and the Collateral Agent, as agent for and representative of the Secured Parties (but not any Lender or Lenders in its or their respective individual capacities unless Required Lenders shall otherwise agree in writing) shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any collateral payable by the Collateral Agent at such sale or other disposition. No holder of secured Hedge Obligations shall have any rights in connection with the management or release of any Collateral or of the obligations of any Credit Party under this Agreement. No holder of secured Hedge Obligations that obtains the benefits of any Guarantee or any Collateral by virtue of the provisions hereof or of any other Credit Document 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 or otherwise in respect of the Collateral (including the release or impairment of any Collateral) other than in its capacity as a Lender or Agent and, in such case, only to the extent expressly provided in the Credit Documents. Notwithstanding any other provision of this Agreement to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under secured Hedge Agreements, unless the Administrative Agent has received written notice of such Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Hedge bank, as the case may be.

#### SECTION 13. Miscellaneous.

13.1 Representations relating to the Financial Supervision Act (a) For the purpose of this Section 13.1, each Lender includes the domestic or foreign branch office or Affiliate making a Loan.

(b) Without limiting the Borrowers' obligations under the FMSA, each Lender which is a party to this Agreement on the date hereof represents and warrants to each party to this Agreement on the date hereof that it is not considered to be a part of the public within the meaning of the Financial Supervision Act, which requirement can be considered satisfied, in reliance upon the Explanatory Memorandum to the Implementation Act in respect of Directive 2013/36/EU and Regulation (EU) No 575/2013, until the competent authority publishes its interpretation of the term "public" (as referred to in article 4.1(1) of Regulation (EU) No 575/2013), if the amount borrowed is not less than EUR 100,000 or its equivalent in any other currency.

(c) If, a party becomes a Lender such new Lender represents and warrants to each party to this Agreement on the date on which it becomes a party to this Agreement as a Lender that it is not considered to be a part of the public within the meaning of the Financial Supervision Act, which requirement can be considered satisfied, in reliance upon the Explanatory Memorandum to the Implementation Act in respect of Directive 2013/36/EU and Regulation (EU) No 575/2013, until the competent authority publishes its interpretation of the term "public" (as referred to in article 4.1(1) of Regulation (EU) No 575/2013), if the amount borrowed is not less than EUR 100,000 or its equivalent in any other currency.

(d) Each Lender acknowledges that (b) it is aware of the consequences of the representation and warranty made by it under this Section 13.1 and (c) each of the Agents and other Lenders and the Company has relied upon such representation and warranty.

13.2 Amendments and Waivers. (a) Neither this Agreement nor any other Credit Document, nor any terms hereof or thereof may be amended, supplemented, modified or waived except in accordance with the provisions of this Section 13.2. Other than with respect to any amendment, modification or waiver contemplated in clause (A) below which shall only require the consent of the Lenders expressly set forth therein, the Required Lenders may, or, with the written consent of the Required Lenders, the Administrative Agent may, from time to time (i) enter into with the relevant Credit Party or Credit Parties written amendments, supplements, modifications or waivers 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 Credit Parties hereunder or thereunder or (ii) waive in writing, on such terms and conditions as the Required Lenders or the Administrative Agent, as the case may be, may specify in such instrument, any of the requirements of this Agreement or the other Credit Documents or any Default or Event of Default and its consequences; provided, however, that no such waiver and no such amendment, supplement, modification or waiver shall directly (A) forgive or reduce or waive any portion of any Loan or extend or postpone the final scheduled maturity date of any Loan (it being understood that only the consent of the Required Lenders shall be necessary to waive any obligation of the Borrowers to pay interest at the "default rate"), or forgive any portion, or extend the date for the payment, of any interest or fee payable hereunder (other than as a result of waiving the applicability of any post-default increase in interest rates), or extend the final expiration date of any Lender's Commitment, or increase the aggregate amount of the Commitments of any Lender, or amend or modify any provisions of Section 5.2(a) (with respect to the ratable allocation of any payments only) and Section 13.11(a) or release all or substantially all of the Guarantors under the Guaranty or release all or substantially all of the Collateral under the Security Documents (in each case other than pursuant to Section 10.13), except that only the written consent of the Required Lenders shall be required

with respect to any amendment or modification of provisions concerning loan buy-backs, in each case without the written consent of each Lender directly and adversely affected thereby, (B) amend, modify or waive any provision of this Section 13.2 or reduce the percentages specified in the definitions of the terms "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder, or consent to the assignment or transfer by any Borrower of its rights and obligations under any Credit Document to which it is a party (except as permitted pursuant to Sections 10.9 or 10.10), (in any such case) without the written consent of each Lender; provided that a waiver of any condition precedent in Section 6 or 7 of this Agreement, the waiver of any Default, Event of Default, default interest, mandatory prepayment or reductions, any modification, waiver or amendment to the financial ratios or any component thereof or the waiver of any other covenant shall not constitute an increase of any Commitment of a Lender, a reduction or forgiveness in the interest rates or the fees or premiums or a postponement of any date scheduled for the payment of principal, premium or interest or an extension of the final maturity of any Loan or the scheduled termination date of any Commitment, (C) amend, modify or waive any provision of Section 12 without the written consent of each Agent, (D) amend or modify any provisions of Section 5.3(a) (with respect to the rateable allocation of payments only), 13.11(a) or 13.20 without the written consent of each Lender, (E) affect the rights, duties, privileges, liabilities or obligations of, or any fees or other amounts payable to, the Administrative Agent under this Agreement or the other Credit Documents, without the written consent of the Administrative Agent or (F) amend, modify or waive any provision of Section 9.17 without the written consent of each Lender.

(b) Any such waiver and any such amendment, supplement or modification shall apply equally to each of the affected Lenders and shall be binding upon the Borrowers, the Lenders, the Administrative Agent and all future holders of the affected Loans. In the case of any waiver, the Borrowers, the Lenders and the Administrative Agent shall be restored to their former positions and rights hereunder and under the other Credit Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing, it being understood that no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon. Notwithstanding the foregoing, the Administrative Agent may, without notice or consent of the Required Lenders, amend or supplement this Agreement to cure any ambiguity, omission, defect, error or inconsistency in this Agreement.

(c) [Reserved]

(d) [Reserved]

(e) [Reserved]

(f) The Lenders hereby irrevocably agree that the Liens granted to the Collateral Agent by the Credit Parties on any Collateral shall be automatically released (i) in full, upon the termination of this Agreement and the payment of all Obligations hereunder (except for (x) contingent indemnification obligations in respect of which a claim has not yet been made, and (y) secured Hedge Obligations), (ii) upon the sale or other disposition of such Collateral (including as part of or in connection with any other sale or other disposition permitted hereunder) to any Person other than another Credit Party, to the extent such sale or other

disposition is made in compliance with the terms of this Agreement (and the Collateral Agent may rely conclusively on a certificate to that effect provided to it by any Credit Party upon its reasonable request without further inquiry), (iii) to the extent such Collateral is comprised of property leased to a Credit Party, upon termination or expiration of such lease, (iv) if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders (or such other percentage of the Lenders whose consent may be required in accordance with this Section 13.2), (v) to the extent the property constituting such Collateral is owned by any Relevant Jurisdiction Guarantor, upon the release of such Relevant Jurisdiction Guarantor from its obligations under the applicable Guarantee (in accordance with the second following sentence), (vi) as required to effect any sale or other disposition of Collateral in connection with any exercise of remedies of the Collateral Agent pursuant to the Security Documents and (vii) if the release is in accordance with Section 10.3(b) or Section 10.13. Any such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those being released) upon (or obligations (other than those being released) of the Credit Parties in respect of) all interests retained by the Credit Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral except to the extent otherwise released in accordance with the provisions of the Credit Documents. Additionally, the Lenders hereby irrevocably agree that any Restricted Subsidiary that is a Guarantor shall be released from the Guaranties upon consummation of any transaction not prohibited hereunder resulting in such Subsidiary ceasing to constitute a Restricted Subsidiary. The Lenders hereby authorize the Administrative Agent and the Collateral Agent, as applicable, to execute and deliver any instruments, documents, and agreements necessary or desirable to evidence and confirm the release of any Guarantor or Collateral pursuant to the foregoing provisions of this paragraph, all without the further consent or joinder of any Lender.

(g) Notwithstanding anything herein to the contrary, the Credit Documents may be amended to add syndication or documentation agents and make customary changes and references related thereto with the consent of only the Borrowers and the Administrative Agent.

(h) Notwithstanding anything in this Agreement (including, without limitation, this Section 13.2) or any other Credit Document to the contrary, (i) any provision of this Agreement or any other Credit Document may be amended by an agreement in writing entered into by the Borrowers and the Administrative Agent to (x) cure any ambiguity, omission, mistake, defect or inconsistency (as reasonably determined by the Administrative Agent and the Borrowers) and (y) effect administrative changes of a technical or immaterial nature and such amendment shall be deemed approved by the Lenders if the Lenders shall have received at least five Business Days' prior written notice of such change and the Administrative Agent shall not have received, within five Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment; and (ii) guarantees, collateral documents and related documents executed by Credit Parties in connection with this Agreement may be in a form reasonably determined by the Administrative Agent and may be, together with any other Credit Document, entered into, amended, supplemented or waived, without the consent of any other Person, by the applicable Credit Party or Credit Parties and the Administrative Agent or the Collateral Agent in its or their respective sole discretion, to (A) effect the granting, perfection, protection, expansion or enhancement of any security interest in any Collateral or additional property to become Collateral for the benefit of the Secured Parties, (B) as required by local law or advice of counsel to give effect to, or

protect any security interest for the benefit of the Secured Parties, in any property or so that the security interests therein comply with applicable requirements of law, or (C) to cure ambiguities, omissions, mistakes or defects (as reasonably determined by the Administrative Agent and the Borrowers) or to cause such guarantee, collateral security document or other document to be consistent with this Agreement and the other Credit Documents.

(i) Notwithstanding anything in this Agreement or any Security Document to the contrary, the Administrative Agent may, in its sole discretion, grant extensions of time for the satisfaction of any of the requirements under Sections 9.10, 9.12 and 9.13 or any Security Documents in respect of any particular Collateral or any particular Subsidiary if it determines that the satisfaction thereof with respect to such Collateral or such Subsidiary cannot be accomplished without undue expense or unreasonable effort or due to factors beyond the control of the Company and the Restricted Subsidiaries by the time or times at which it would otherwise be required to be satisfied under this Agreement or any Security Document.

13.3 Notices. Unless otherwise expressly provided herein, all notices and other communications provided for hereunder or under any other Credit Document shall be in writing (including by facsimile transmission). All such written notices shall be mailed, faxed or delivered to the applicable address, facsimile number or electronic mail address, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(a) if to a Borrower, the Administrative Agent or the Collateral Agent, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 13.2 or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the other parties; and

(b) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the Borrowers, the Administrative Agent and the Collateral Agent.

All such notices and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt by the relevant party hereto and (ii) (A) if delivered by hand or by courier, when signed for by or on behalf of the relevant party hereto; (B) if delivered by mail, three (3) Business Days after deposit in the mails, postage prepaid; (C) if delivered by facsimile, when sent and receipt has been confirmed by telephone; and (D) if delivered by electronic mail, when delivered; provided that notices and other communications to the Administrative Agent or the Lenders pursuant to Sections 2.3, 2.6, 2.9, 4.2 and 5.1 shall not be effective until received.

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



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

13.6 Payment of Expenses and Taxes.

(a) The Company and the Co-Borrower jointly and severally agree (i) to pay or reimburse the Agents for all their reasonable and documented out-of-pocket costs and expenses incurred after the Closing Date in connection with any amendment, supplement or modification to, this Agreement and the other Credit Documents and any other documents prepared in connection therewith including the reasonable fees, disbursements and other charges of the Administrative Agent's counsel, (ii) to pay or reimburse each Lender and Agent for all its reasonable and documented out-of-pocket costs and expenses incurred in connection with the enforcement or preservation of any rights under this Agreement, the other Credit Documents and any such other documents, including the reasonable fees, disbursements and other charges of counsel to each Lender and the Agents, (iii) subject to the Agreed Security Principles, to pay, indemnify, and hold harmless each Lender and Agent from, any and all recording and filing fees incurred on or after the Closing Date and (iv) to pay, indemnify, and hold harmless each Lender and Agent and their respective Related Parties (each an "Indemnified Person") from and against any and all other liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever, including reasonable and documented out-of-pocket fees, disbursements, expenses and other charges of counsel, with respect to the enforcement, performance and (except in the case of each Agent) administration of this Agreement, the other Credit Documents and any such other documents, including, without limitation, any of the foregoing relating to any violation of, noncompliance with or liability under, any Environmental Law or to any actual or alleged presence, release or threatened release of Hazardous Materials involving or attributable to the operations of any Borrower, any of its Subsidiaries (all the foregoing in this clause (iv), collectively, the "indemnified liabilities"), provided that the Company and the Co-Borrower shall have no obligation hereunder to the Administrative Agent or any Lender nor any of their respective Related Parties with respect to indemnified liabilities to the extent attributable to (A) the gross negligence, bad faith or willful misconduct of the party to be indemnified or any of its Related Parties, as determined by a final, nonappealable judgment of a court of competent jurisdiction, (B) a material breach of the obligations of such Indemnified Person or any of its Related Parties under the terms of this Agreement by such Indemnified Person or any of its Related Parties as determined in a final and non-appealable judgment of a court of competent jurisdiction, or (C) any proceeding between and among Indemnified Persons and or their transferees other than in such Indemnified Persons' capacity as an agent or arranger or similar role. All amounts payable under this Section 13.6 shall be paid within ten Business Days of receipt by the Company or the Co-Borrower (as the case may be) of an invoice relating thereto setting forth such expense in reasonable detail. In the case of an investigation, litigation or proceeding to which the indemnity in this paragraph applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by the Company, the Co-Borrower, any Guarantors, any equityholders or creditors or an

indemnified party or any other person or entity, whether or not an indemnified party is otherwise a party thereto and whether or not the transactions contemplated hereby are consummated. The agreements in this Section 13.6 shall survive resignation of any Agent, the replacement of any Lender, the termination of the Total Commitments and repayment of the Loans and all other amounts payable hereunder. This Section 13.6 shall not apply with respect to Taxes, other than any Taxes that represent losses, claims, damages, liabilities, obligations, penalties, actions, judgments, suits, costs, expenses or disbursements arising from any non-Tax claim.

(b) Notwithstanding anything contained herein to the contrary, no Credit Party nor any Indemnified Person shall have any liability for any special, punitive, indirect or consequential damages resulting from this Agreement or any other Credit Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date); *provided* that the foregoing shall not limit the Company's and the Co-Borrower's indemnification obligations to the Indemnified Persons pursuant to Section 13.6(a) in respect of damages incurred or paid by an Indemnified Person to a third party. No Indemnified Person 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, except to the extent that such damages have resulted from the willful misconduct, bad faith or gross negligence of any Indemnified Person or any of its Related Parties as determined by a final and non-appealable judgment of a court of competent jurisdiction.

#### 13.7 Successors and Assigns; Participations and Assignments.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) no Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by any Borrower or without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 13.7. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants (to the extent provided in paragraph (c) of this Section 13.7) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below and Section 13.8, any Lender may assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans at the time owing to it) with the prior written consent of (i) the Administrative Agent, which consent shall not be unreasonably withheld or delayed), provided that no consent of the Administrative Agent shall be required for (x) an assignment of any Commitment to an assignee that is a Lender or (y) any Loan to a Lender, or an Affiliate of an Agent or an Approved Fund; (ii) the Company (which consent shall not be unreasonably withheld or delayed), it being understood that, without limitation, the Company shall have the right to withhold its consent to any assignment if, in order for such assignment to comply with applicable law, the Company

would be required to obtain the consent of, or make any filing, or registration with a Government Authority; provided that no consent of the Company shall be required for an assignment to a Lender, an Affiliate of a Lender, an Agent or an Affiliate of an Agent (unless increased costs would result therefrom except if an Event of Default under Section 11.1(a), (b) or, with respect to any Credit Party, (g) has occurred and is continuing), an Approved Fund or, if an Event of Default under Section 11.1(a), (b) or, with respect to any Credit Party, (g) has occurred and is continuing, any other assignee; provided that the Company shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within 10 Business Days after having received notice thereof. Notwithstanding the foregoing, no such assignment shall be made to a natural Person or Disqualified Lender. For the avoidance of doubt, the Administrative Agent shall bear no responsibility or liability for monitoring and enforcing the list of Persons who are Disqualified Lenders at any time. Upon receipt of a list of Disqualified Lenders from the Company (or any updates thereto), the Administrative Agent shall promptly provide such list or updates, as applicable, to the Lenders (including by posting to a Platform).

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

(A) except in the case of an assignment to a Lender, an Affiliate of a Lender, an Agent or an Affiliate of an Agent or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$1,000,000 and shall be in increments of \$1,000,000, in each case, unless each of the Company and the Administrative Agent otherwise consents (which consent shall not be unreasonably withheld or delayed), provided that contemporaneous assignments to a single assignee made by Affiliates of Lenders and related Approved Funds shall be aggregated for purposes of meeting the minimum assignment amount requirements stated above;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement provided that this clause shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender's right and obligations in respect of one class of Commitments or Loans;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Acceptance via an electronic settlement system acceptable to the Administrative Agent or (B) if previously agreed with the Administrative Agent, manually execute and deliver to the Administrative Agent an Assignment and Acceptance, in each case, together with a processing and recordation fee of \$3,500, provided that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee, and provided further that only one such fee shall be payable in the event of simultaneous assignments to or from two or more Approved Funds; and

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an administrative questionnaire in a form approved by the Administrative Agent (the "Administrative Questionnaire").

For the purpose of this Section 13.7(b), the term "Approved Fund" means any Person (other than a natural person) that is (or will at the time of the relevant assignment be) engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course and that is managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that manages a Lender.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(v) of this Section 13.7, from and after the effective date specified in each Assignment and Acceptance, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, 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 Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance 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 2.10, 2.11, 5.3 and 13.6). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 13.7 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section 13.7.

(iv) The Administrative Agent, acting for this purpose as an agent of the Borrowers shall maintain at the Administrative Agent's Office a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). Further, the Register shall contain the name and address of the Administrative Agent and the lending office through which each such Person acts under this Agreement. The entries in the Register shall be conclusive absent manifest error, and the Borrowers, the Administrative Agent and the Lenders may 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 Borrowers and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of a duly completed Assignment and Acceptance executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section 13.7 and any written consent to such assignment required by paragraph (b) of this Section 13.7, the Administrative Agent shall accept such Assignment and Acceptance and record the information contained therein in the Register. Promptly following any change to the Register, the Administrative Agent shall deliver to the Company an updated version thereof.

(c) (i) Any Lender may, without the consent of or notice to the Borrowers or the Administrative Agent, sell participations to one or more banks or other entities (other than a natural person and any Disqualified Lender) (each, a “Participant”) in all or a portion of such Lender’s rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans owing to it), provided that (A) such Lender’s obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (C) the Borrowers, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement and (D) at any time it is a requirement of Dutch law on the date participations are sold to a Participant, such Participant is not considered to be a part of the public within the meaning of the Financial Supervision Act, which requirement can be considered satisfied, in reliance upon the Explanatory Memorandum to the Implementation Act in respect of Directive 2013/36/EU and Regulation (EU) No 575/2013, until the competent authority publishes its interpretation of the term “public” (as referred to in article 4.1(1) of Regulation (EU) No 575/2013), if the amount borrowed is not less than EUR 100,000 or its equivalent in any other currency. 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 or any other Credit Document, provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 13.2 that affects such Participant. Subject to paragraph (c)(ii) of this Section 13.7, each Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.10, 2.11 and 5.3 to the same extent as if it were a Lender (subject to the requirements of those Sections) and had acquired its interest by assignment pursuant to paragraph (b) of this Section 13.7. To the extent permitted by Law, each Participant also shall be entitled to the benefits of Section 13.11(b) as though it were a Lender, provided such Participant agrees to be subject to Section 13.7(a) as though it were a Lender.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.10 or 5.3 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Company’s prior written consent (which consent shall not be unreasonably withheld or delayed). Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrowers, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest amounts) of each Participant’s interest in the Loans or other obligations under this Agreement (the “Participant Register”). 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. 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.

(d) Any Lender may, without the consent of or notice to the Borrowers or the Administrative Agent, at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section 13.7 shall not apply to any such pledge or assignment of a security interest, provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto. In order to facilitate such pledge or assignment, each Borrower hereby agrees that, upon request of any Lender at any time and from time to time after such Borrower has made its initial borrowing hereunder, such Borrower shall provide to such Lender, at such Borrower's own expense, a promissory note, substantially in the form of Exhibit D, as the case may be, evidencing the Loans owing to such Lender; provided that any such promissory note shall be governed by the laws of the State of New York and the Borrowers shall not be required to pay for any notarization of any such promissory note.

(e) Subject to Section 13.19, each Borrower authorizes each Lender to disclose to any Participant, secured creditor of such Lender or assignee (each, a "Transferee") and any prospective Transferee any and all information in such Lender's possession concerning the Borrowers and their respective Affiliates that has been delivered to such Lender by or on behalf of the Borrowers and their respective Affiliates pursuant to this Agreement or any other Credit Document or which has been delivered to such Lender by or on behalf of the Borrowers and their respective Affiliates in connection with such Lender's credit evaluation of the Borrowers and their respective Affiliates prior to becoming a party to this Agreement.

**13.8 Replacements of Lenders under Certain Circumstances.** (a) A Borrower shall be permitted to replace any Lender that (i) requests reimbursement for amounts owing pursuant to Section 2.10, or 5.3 or (ii) is affected in the manner described in Section 2.10(a)(iii) and as a result thereof any of the actions described in such Section is required to be taken, with (in any such case) a replacement bank or other financial institution; provided that (1) such replacement does not conflict with any Law, (2) no Event of Default shall have occurred and be continuing at the time of such replacement, (3) such Borrower shall repay (or the replacement bank or institution shall purchase, at par) all Loans and other amounts (other than any disputed amounts), pursuant to Section 2.10, 2.11, or 5.3, as the case may be) owing to such replaced Lender prior to the date of replacement, (4) the replacement bank or institution, if not already a Lender, and the terms and conditions of such replacement, shall be reasonably satisfactory to the Administrative Agent, (5) the replaced Lender shall be obligated to make such replacement in accordance with the provisions of Section 13.7 (provided that the Borrowers shall be obligated to pay the registration and processing fee referred to therein) and (6) any such replacement shall not be deemed to be a waiver of any rights that such Borrower, the Administrative Agent or any other Lender shall have against the replaced Lender.

(b) If any Lender (such Lender, a "Non-Consenting Lender") has failed to consent to a proposed amendment, waiver, discharge or termination which pursuant to the terms of Section 13.2 requires the consent of all of the Lenders affected and with respect to which the Required Lenders shall have granted their consent, then provided no Event of Default then exists, the Company shall have the right (unless such Non-Consenting Lender grants such consent) to replace such Non-Consenting Lender by requiring such Non-Consenting Lender to assign its

Loans, and its Commitments hereunder to one or more assignees reasonably acceptable to the Administrative Agent, provided that: (i) all Secured Obligations of the Borrowers owing to such Non-Consenting Lender being replaced shall be paid in full to such Non-Consenting Lender concurrently with such assignment, and (ii) the replacement Lender shall purchase the foregoing by paying to such Non-Consenting Lender a price equal to the principal amount thereof plus accrued and unpaid interest thereon. In connection with any such assignment, the Borrowers, Administrative Agent, such Non-Consenting Lender and the replacement Lender shall otherwise comply with Section 13.7.

13.9 [Reserved]

13.10 Assignment to SPCs. Notwithstanding anything to the contrary contained herein, any Lender (a "Granting Lender") may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Company (an "SPC") the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; provided that (i) such SPC makes the representations and warranties applicable to Lenders set forth in Section 13.1 (ii) nothing herein shall constitute a commitment by any SPC to fund any Loan, and (iii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. Each party hereto hereby agrees that (i) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the cost or expenses or otherwise increase or change the obligations of any Borrower under this Agreement (including its obligations under Section 2.10, 2.11, or 5.3, (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable, and (iii) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Credit Document, remain the lender of record hereunder. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Notwithstanding anything to the contrary contained herein, any SPC may disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPC; provided that the information disclosed shall be limited to the extent necessary to satisfy the requirements of any such rating agency, commercial paper dealer, provider of any surety or Guarantee or credit or liquidity enhancement and shall not include (without the prior written consent of the Company) non-public projections, forecasts or any other forward looking information provided by, or relating to, the Company.

13.11 Adjustments; Set-off. (a) If any Lender (a "benefited Lender") shall at any time receive any payment of all or part of its Loans, or interest thereon, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off, pursuant to events or proceedings of the nature referred to in Section 11.1(g), or otherwise), in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of such other Lender's Loans, or interest thereon, such benefited Lender shall purchase for cash from the other Lenders a participating interest in such portion of each such other Lender's Loan, or shall provide such other Lenders with the benefits of any such collateral, or the proceeds thereof, as shall be necessary to cause such benefited Lender to share the excess payment or benefits of such collateral or proceeds ratably with each of the Lenders; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such benefited Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest.

(b) After the occurrence and during the continuance of an Event of Default, in addition to any rights and remedies of the Lenders provided by law, each Lender shall have the right, without prior notice to any Borrower, any such notice being expressly waived by each Borrower to the extent permitted by applicable Law, upon any amount becoming due and payable by a Borrower hereunder (whether at the stated maturity, by acceleration or otherwise) to set-off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender or any of its Affiliates or any branch or agency thereof to or for the credit or the account of such Borrower. Each Lender agrees promptly to notify the Company and the Administrative Agent after any such set-off and application made by such Lender, provided that the failure to give such notice shall not affect the validity of such set-off and application.

13.12 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Agreement signed by all the parties shall be lodged with the Borrowers and the Administrative Agent.

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

13.14 Integration. This Agreement and the other Credit Documents represent the agreement of the Borrowers, the Collateral Agents, the Administrative Agent and the Lenders with respect to the subject matter hereof, and there are no promises, undertakings, representations or warranties by the Borrowers, the Administrative Agent, the Collateral Agents or any Lender relative to subject matter hereof not expressly set forth or referred to herein or in the other Credit Documents.

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

13.16 Submission to Jurisdiction; Waivers. Each party hereto hereby irrevocably and unconditionally:

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



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

(c) in the case of each Credit Party party hereto (other than the Co-Borrower) appoints the Co-Borrower (the "Process Agent") as its agent to receive on behalf of such Credit Party and its property service of copies of the summons and complaint and any other process which may be served by the Administrative Agent or any Lender in any such action or proceeding in any aforementioned court in respect of any action or proceeding arising out of or relating to this Agreement. Such service may be made by delivering a copy of such process to such Credit Party by courier and by certified mail (return receipt requested), fees and postage prepaid, both (i) in care of the Process Agent at the Process Agent's address and (ii) at the relevant Credit Party's address specified pursuant to Section 13.3, and each Credit Party hereby irrevocably authorizes and directs the Process Agent to accept such service on its behalf that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such Person at its address set forth on Schedule 13.2 at such other address of which the Administrative Agent shall have been notified pursuant to Section 13.3;

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

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section 13.16 any special, exemplary, punitive or consequential damages.

13.17 Acknowledgments. Each Borrower hereby acknowledges that:

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

(b) no Agent nor any Lender has any fiduciary relationship with or duty to any Borrower arising out of or in connection with this Agreement or any of the other Credit Documents, and the relationship between such Agent and Lenders, on one hand, and the Borrowers, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

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

13.18 WAIVERS OF JURY TRIAL. EACH BORROWER, EACH AGENT AND EACH LENDER HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

13.19 Confidentiality. The Administrative Agent and each Lender shall hold all non-public information furnished by or on behalf of a Borrower in connection with such Lender's evaluation of whether to become a Lender hereunder or obtained by such Lender or the Administrative Agent pursuant to the requirements of this Agreement ("Confidential Information"), confidential in accordance with its customary procedure for handling confidential information of this nature and (in the case of a Lender that is a bank) in accordance with safe and sound banking practices and in any event may make disclosure (a) as required or requested by any Governmental Authority or representative thereof or pursuant to legal process, or (b) to such Lender's or the Administrative Agent's directors, officers, employees, agents, attorneys, professional advisors or independent auditors or Affiliates, (c) to any other party to this Agreement, (d) to any pledgee referred to in Section 13.7(d), provided that the information disclosed shall be limited to the extent necessary to satisfy the requirements of such pledgee and shall not include (without the prior written consent of the Company) non-public projections, forecasts or other forward looking information provided by, or relating to, the Company, (e) to the extent such Confidential Information becomes publicly available other than as a result of a breach of this Section 13.19, (f) to the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the facilities or market data collectors, similar service providers to the lending industry and service providers to the Administrative Agent in connection with the administration and management of this Agreement and the Loan Documents, and (g) otherwise with prior written consent of the Company, provided that unless specifically prohibited by applicable Law or court order or similar process, each Lender and the Administrative Agent shall notify the Company of any request by any Governmental Authority or representative thereof (other than any such request in connection with an examination of the financial condition of such Lender by such Governmental Authority) for disclosure of any such non-public information prior to disclosure of such information, and provided, further, that in no event shall any Lender or the Administrative Agent be obligated or required to return any materials furnished by a Borrower or any Subsidiary of a Borrower. Each Lender and the Administrative Agent agrees that it will not provide to prospective Transferees or to prospective direct or indirect contractual counterparties in Hedge Agreements to be entered into in connection with Loans made hereunder any of the Confidential Information unless such Person is advised of and agrees to be bound by provisions at least as restrictive as those of this Section 13.19.

13.20 Payments Set Aside Communications. To the extent that any payment by or on behalf of the Company or the Co-Borrower is made to any Agent or any Lender, or any Agent or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Agent or such Lender in its discretion) to be repaid to a trustee, receiver, or any other party, in connection with any proceeding or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by any Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the applicable overnight rate from time to time in effect.

13.21 Direct Website Communications. (a) (i) A Borrower may, at its option but subject to the limitations set forth in Sections 9.1 and 9.2, provide to the Administrative Agent any information, documents and other materials that it is obligated to furnish to the Administrative Agent pursuant to the Credit Documents, including, without limitation, all notices, requests, financial statements, financial and other reports, certificates and other information materials, but excluding any such communication that (A) relates to a request for a new, or a conversion or extension of an existing Borrowing (including any election of an Interest rate or Interest Period relating thereto), (B) relates to the payment of any principal or other amount due under the Credit Agreement prior to the scheduled date therefor, (C) provides notice of any Default or Event of Default or (D) is required to be delivered to satisfy any condition precedent to the effectiveness of the Credit Agreement and/or any Borrowing (all such non-excluded communications being referred to herein collectively as "Communications"), by transmitting the Communications in an electronic/soft medium in a format reasonably acceptable to the Administrative Agent to the contact provided in Schedule 13.2 attached hereto. Nothing in this Section 13.20 shall prejudice the right of the Borrowers, the Administrative Agent or any Lender to give any notice or other communication pursuant to any Credit Document in any other manner specified in such Credit Document.

(ii) The Administrative Agent agrees that the receipt of the Communications by the Administrative Agent at its e-mail address set forth above shall constitute effective delivery of the Communications to the Administrative Agent for purposes of the Credit Documents. Each Lender agrees that notice to it (as provided in the next sentence) specifying that the Communications have been posted to the Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Credit Documents. Each Lender agrees (A) to notify the Administrative Agent in writing (including by electronic communication) from time to time of such Lender's e-mail address to which the foregoing notice may be sent by electronic transmission and (B) that the foregoing notice may be sent to such e-mail address.

(b) Each Borrower hereby acknowledges that (i) the Administrative Agent will make available to the Lenders and the materials and/or information provided by each Borrower hereunder (collectively, the "Borrower Materials") by posting the Borrower Materials on Intralinks or another similar electronic system (the "Platform") (so long as the access to such Platform is limited (x) to the Agents and the Lenders and (y) remains subject to the confidentiality requirements set forth in Section 13.19), (ii) certain of the Lenders may be "public-side" Lenders (i.e., Lenders that do not wish to receive material nonpublic information with respect to Holdings, the Borrowers or their respective securities) (each, a "Public Lender").

(c) Each Borrower hereby agrees that (i) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof, (ii) by marking Borrower Materials "PUBLIC," The Borrowers shall be deemed to have authorized the Administrative Agent and the Lenders to treat such Borrower Materials as not

containing any material nonpublic information with respect to the Borrowers or their respective securities for purposes of United States Federal and state securities laws (provided that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 8.16), (iii) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated as "Public Investor" and (iv) the Administrative Agent shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not marked as "Public Investor." Notwithstanding the foregoing, the following Borrower Materials shall be deemed to be marked "PUBLIC," unless the Borrowers notify the Administrative Agent promptly that any such document contains material nonpublic information: (1) the Loan Documents, (2) any notification of changes in the terms of the Credit Facilities and (3) all Information delivered pursuant to Section 8.16.

(d) Each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable law, including United States Federal and state securities laws, to make reference to Communications that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to the Borrowers or its securities for purposes of United States Federal or state securities laws.

(e) The Platform is provided "as is" and "as available". The Agent Parties do not warrant the accuracy or completeness of the Communications, or the adequacy of the Platform and expressly disclaim liability for errors or omissions in the Communications. 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 the Agent Parties in connection with the Communications or the Platform. In no event shall the Administrative Agent, the Collateral 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 any Borrower, 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 a Borrower's or the Administrative Agent's transmission of Communications through the internet, except to the extent the liability of any Agent Party resulted from such Agent Party's (or any of its Related Parties) gross negligence or willful misconduct.

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

IN WITNESS WHEREOF, each of the parties hereto has caused a counterpart of this Agreement to be duly executed and delivered as of the date first above written.

BORROWERS

NXP B.V.

By: /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Signatory

NXP FUNDING LLC

By: /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Signatory

**COLLATERAL AGENT**  
MORGAN STANLEY SENIOR FUNDING, INC. as  
Collateral Agent

By: /s/ Stephen B. King  
Name: Stephen B. King  
Title: Authorised Signatory

**ADMINISTRATIVE AGENT**

CREDIT SUISSE AG,  
CAYMAN ISLANDS BRANCH  
as Administrative Agent and Lender

By: Bill O'Daly  
Name: Bill O'Daly  
Title: Authorized Signatory

By: Andrew Maletta  
Name: Dr. Andrew Maletta  
Title: Authorized Signatory

AGREED SECURITY PRINCIPLES

1. Agreed Security Principles
  - 1.1. The Guarantees and Liens to be provided by the Credit Parties will be given in accordance with certain agreed security principles (the “Agreed Security Principles”). This Schedule 1.1(a) identifies the Agreed Security Principles and addresses the manner in which the Agreed Security Principles will impact on or be determinant of the Guaranties and Liens to be taken in relation to this Agreement.
  - 1.2. All Guarantees, Liens and security shall be provided in accordance with the Guaranties, Liens and security provided under or in connection with the Existing Term Facility (including on substantially the same terms thereof and subject to the Agreed Security Principles).
  - 1.3. The Agreed Security Principles embody a recognition by all parties that there may be certain legal, commercial and practical difficulties in obtaining effective security from the Company and each of its Restricted Subsidiaries located in every jurisdiction in which the Company and its Restricted Subsidiaries are located. In particular:
    - (a) general statutory limitations, financial assistance, corporate benefit, fraudulent preference, “thin capitalization” rules, retention of title claims and similar matters may limit the ability of the Company or any of its Restricted Subsidiaries to provide a Guarantee or Liens or may require that it be limited as to amount or otherwise, and if so the same shall be limited accordingly, provided that the Company or the relevant Restricted Subsidiary shall use reasonable endeavors to overcome such obstacle. The Company will use reasonable endeavors to assist in demonstrating that adequate corporate benefit accrues to each of the Restricted Subsidiary;
    - (b) the Company and its Restricted Subsidiaries will not be required to give Guarantees or enter into Security Documents if (or to the extent) it is not within the legal capacity of the Company or its relevant Restricted Subsidiary or if the same would conflict with the fiduciary duties of their directors or contravene any legal prohibition or regulatory condition or result in, or could reasonably be expected to result in, a material risk of personal or criminal liability for any officer or director of the Company or any of the Restricted Subsidiaries, provided that the Company and each of its Restricted Subsidiaries shall use reasonable endeavors to overcome any such obstacle;
    - (c) a key factor in determining whether or not security shall be taken is the applicable cost (including adverse effects on interest deductibility, registration taxes and notarial costs) which shall not be disproportionate to the benefit to the Lenders of obtaining such security;



- (d) where there is material incremental cost involved in creating security over all assets owned by any of the Borrowers or a Guarantor in a particular category (e.g. real estate), regard shall be had to the principle stated at paragraph 1.3(c) of this Schedule 1.1(a) which shall apply to the immaterial assets and, subject to the Agreed Security Principles, only the material assets in that category (e.g. real estate of material economic value) shall be subject to security;
- (e) it is expressly acknowledged that it may be either impossible or impractical to create security over certain categories of assets in which event security will not be taken over such assets;
- (f) any assets subject to contracts, leases, licenses or other arrangements with a third party that exist concurrently (but which are not created in contemplation of the Transactions) or are not prohibited by this Agreement and which (subject to override by the UCC and other relevant provisions of applicable law), effectively prevent those assets from being charged will be excluded from any relevant Security Document; provided that reasonable endeavors to obtain consent to creating Liens in any such assets shall be used by the Company and each of its Restricted Subsidiaries to avoid or overcome such restrictions if the Administrative Agent reasonably determines that the relevant asset is material (which endeavors shall not include the payment of any consent fees), but unless effectively prohibited by contracts, leases, licenses or other arrangements with a third party that exist concurrently (but which are not created in contemplation of the Transactions) or are not prohibited by this Agreement, this shall not prevent security being given over any receipt or recovery under such contract, lease or license;
- (g) the giving of a Guarantee, the granting of security or the perfection of the security granted will not be required if it would have a material adverse effect (as reasonably determined in good faith by management of the relevant obligor) on the ability of the relevant obligor to conduct its operations and business in the ordinary course as otherwise permitted by this Agreement;
- (h) in the case of accounts receivable, a material adverse effect on the Company's, the Co-Borrower's or a Guarantor's relationship with or sales to the customer generating such receivables or material legal or commercial difficulties (as reasonably determined by management of the relevant obligor in good faith) provided that none of the Borrowers and the Guarantors may utilize this exception unless, after giving effect thereto no less than a majority of the book value of the accounts receivable of the Company and its Subsidiaries on a consolidated basis (as measured at the end of each fiscal quarter) is subject to perfected liens, and provided further that any accounts receivable of the Borrowers and the Guarantors excluded from collateral by virtue of this clause (except where prohibited by law and subject to the remainder of these Agreed Security Principles) shall be subject to perfected Liens promptly if and when the corporate credit of the Company is downgraded to "B" or lower from S&P and "B-2" or lower from Moody's;

- (i) security will be limited so that the aggregate of notarial costs and all registration and like taxes relating to the provision of security shall not exceed an amount to be agreed. Any additional costs may be paid by the Lenders at their option;
- (j) all security shall be given in favor of a single security trustee or collateral agent and not the secured parties individually. "Parallel debt" provisions and other similar structural options will be used where necessary and such provisions will be contained in the intercreditor agreement and not the individual security documents unless required under local law. No action will be required to be taken in relation to the Guarantees or security when any lender assigns or transfers any of its participation in this Agreement to a new lender; and
- (k) notwithstanding anything contained in these Agreed Security Principles to the contrary, security shall only be granted by a Relevant Jurisdiction Guarantor and shall only be granted under agreements governed by the laws of a Relevant Jurisdiction.

## 2. Terms of Security Documents

2.1. The following principles will be reflected in the terms of any Security Document to be executed and delivered as part of the Transactions:

- (a) the terms of each Security Document shall be in substantially the same form as such corresponding security document was provided under or in connection with the Existing Term Loans;
- (b) subject to permitted liens and these Agreed Security Principles the security will be first ranking and the perfection of security (when required) and other legal formalities will be completed as soon as practicable and, in any event, within the time periods specified in the Credit Documents or, if earlier or to the extent no such time period is specified in the Credit Documents, within the time periods specified by applicable law in order to ensure due perfection;
- (c) the security will not be enforceable until an Event of Default has occurred and notice of acceleration of the Loans has been given by the applicable Administrative Agent or the Loans have otherwise become due and payable prior to the scheduled maturity thereof (an "Enforcement Event");
- (d) prior to the Maturity Date, notification of any Liens over bank accounts will be given (subject to legal advice) to the banks with whom the accounts are maintained only if an Enforcement Event has occurred;
- (e) notification of receivables security to debtors who are not members of the Company or its Subsidiaries will only be given if an Enforcement Event has occurred;
- (f) notification of any security interest over insurance policies will be served on any insurer of the Company's or any Restricted Subsidiaries' assets (other than in respect of any insurance policy maintained by the Company or any of its Restricted Subsidiaries which is due to expire on or before December 31, 2015);

- (g) the Security Documents should only operate to create security rather than to impose new commercial obligations. Accordingly, they should not contain material additional representations, undertakings or indemnities (such as in respect of insurance, information or the payment of costs) unless these are the same as or consistent with those contained in this Agreement or are necessary for the creation or perfection of the security;
- (h) in respect of the share pledges and pledges of intra-group receivables, until an Enforcement Event has occurred, the pledgors will be permitted to retain and to exercise voting rights to any shares pledged by them in a manner which does not materially adversely affect the value of the security (taken as a whole) or the validity or enforceability of the security or cause an Event of Default to occur, and the pledgors will be permitted to receive dividends on pledged shares and payment of intra-group receivables and retain the proceeds and/or make the proceeds available to the Company and its Subsidiaries to the extent not prohibited under this Agreement;
- (i) Secured Parties will only be able to exercise a power of attorney in any Security Document following the occurrence of an Enforcement Event or with respect to perfection or further assurance obligations that following request, the relevant obligor has failed to satisfy;
- (j) no obligor shall be required to provide surveys on real property (unless such surveys already exist in which case there shall be no requirement that such surveys be certified to the Lenders) or to remove any encumbrances on title (not created in contemplation of the Transactions) that are reflected in any title insurance or any other existing encumbrances on real property (not created in contemplation of the Transactions) (not including Liens securing Indebtedness of the Company or any of its Restricted Subsidiaries);
- (k) no obligor shall be required to protect any Liens in the United States prior to the occurrence of an Enforcement Event by means other than customary filings (including UCC-1s, mortgage or deed of trust filings and patent and trademark filings) and delivery of share certificates (accompanied by powers of attorney executed in blank) and any intercompany promissory notes; and
- (l) information, such as lists of assets, will be provided if, and only to the extent, required by local law to be provided to protect or create, perfect or register the security and, to the extent so required will be provided annually (unless required to be provided by local law more frequently, but not more frequently than quarterly) and following the occurrence and during the continuance of an Event of Default, on the applicable Administrative Agent's reasonable request.

SCHEDULE 1.1(b)

COMMITMENTS

<u>Initial Lender</u>	<u>Commitment (\$)</u>	<u>Commitment (%)</u>
CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH	\$1,000,000,000.00	100.000000000%
<b>TOTAL</b>	<b>\$1,000,000,000.00</b>	<b>100.000000000%</b>

FORM OF COMPLIANCE CERTIFICATE

Financial Statement Date: \_\_\_\_\_,

To: Credit Suisse AG, as Administrative Agent

Ladies and Gentlemen:

Reference is made to the Secured Bridge Term Credit Agreement dated as of December 7, 2015, (the "Credit Agreement"), between, amongst others, NXP B.V. (the "Company"), NXP FUNDING LLC, the lenders from time to time parties thereto (each a "Lender" and, collectively, the "Lenders"), Credit Suisse AG, as Administrative Agent and Morgan Stanley Senior Funding, Inc., as Collateral Agent. All capitalized terms used but not defined herein shall have the meanings given in the Credit Agreement.

This is a Compliance Certificate for the purposes of the Credit Agreement.

The undersigned hereby certifies as of the date hereof that he/she is the [Title]<sup>1</sup> of the Company, and that, as such, he/she is authorized to execute and deliver this Compliance Certificate to the Administrative Agent on the behalf of the Company, and that:

*[Use following paragraph for fiscal year-end financial statements]*

1. Attached hereto as Schedule 1 are the year-end audited financial statements required by Section 9.01(a) of the Credit Agreement for the fiscal year of the Company ended as of the above date, together with the report and opinion of [ ] required by and in conformance with such section.

*[Use following paragraph for fiscal quarter-end financial statements]*

2. Except as otherwise permitted by the Credit Agreement, attached hereto as Schedule 1 are the unaudited financial statements required by Section 9.01(b) of the Credit Agreement for the fiscal quarter of the Company ended as of the above date. Such financial statements fairly present, in all material respects, the financial condition, results of operations shareholders' equity and cash flows of the Company and its Subsidiaries in accordance with GAAP as at such date and for such period, subject only to normal year-end audit adjustments and the absence of footnotes.

*[Use following paragraph for compliance certificate delivered in connection with fiscal year-end financial statements]*

3. [To the knowledge of the undersigned, except as otherwise disclosed to the Administrative Agent pursuant to the Credit Agreement, no Default has occurred.]<sup>2</sup>

<sup>1</sup> Must be the chief executive officer, chief financial officer, treasurer or controller of the Company.

<sup>2</sup> If unable to provide the foregoing certification, fully describe the reasons therefor and circumstances thereof and any action taken or proposed to be taken with respect thereto.

[Use following paragraph for compliance certificated delivered in connection with fiscal **year-end** financial statements]

4. [As of [date of financial statements], the following companies are Wholly-Owned Subsidiaries which are not Immaterial Subsidiaries: [ ].]  
[Each of the following Guarantors is hereby designated as an Immaterial Subsidiary whose obligations under the Guaranty shall terminate as of the date hereof: [ ].]<sup>3</sup>

5. The undersigned has reviewed and is familiar with the terms of the Credit Agreement and has made, or has caused to be made under his/her supervision, a detailed review of the transactions and condition (financial or otherwise) of the Company and its Subsidiaries during the accounting period covered by the attached financial statements.

IN WITNESS WHEREOF, the undersigned has executed this Compliance Certificate as of [ ].

By: \_\_\_\_\_

Name:

Title:

<sup>3</sup> Use if the Company is electing to terminate the Guaranty obligations of any Immaterial Subsidiary.

LITIGATION AGAINST THE COMPANY AND ITS RESTRICTED SUBSIDIARIES

Set forth below are descriptions of our most important legal proceedings pending as of [December [•] , 2015], for which the related loss contingency is either probable or reasonably possible:

Three former employees of Signetics Corp, a predecessor of NXP Semiconductors USA, Inc. and their respective children each separately filed various counts against NXP Semiconductors USA, Inc. (negligence, premises liability, strict liability, abnormal and ultra hazardous activity, willful and wanton misconduct and loss of consortium) asserting exposure to harmful chemicals and substances while the employees concerned were working in a factory “clean room” of Signetics Corp., resulting in alleged physical injuries and eventual birth defects to their children (cases No. N09C-10-032 JRJ, N10C-05-137 JRJ and 1-10-CV-188679). Initial discovery has commenced by both sides in above mentioned cases. Actual substantive responses are pending. Trial dates for Case No. N09C-10 032 and Case No. N10C-05-137 have been set at October 7, 2013 and April 28, 2014, respectively. No trial date has been set in Case No. 1-10-CV-188679 yet.

Norit Winkelsteeg B.V. and Vitens N.V. alleged that NXP Semiconductors Netherlands B.V. breached a contract it had entered into with them to build a so-called “permeate-water” factory or, in the alternative, had terminated negotiations to enter into such contract in bad faith. Claimants hold NXP Semiconductors Netherlands B.V. liable for all costs, expenses and damages, including loss of profit. In an interim judgment dated January 27, 2009, the Court of Appeal in Arnhem, the Netherlands, recognized that part of the claim related to costs and expenses could be awarded but the Court further stated that reticence must be observed in awarding compensation for loss of profits. Court appearance is adjourned.

In 2007, certain former employees of NXP Semiconductors France SAS employed by a subsidiary of the DSP Group, Inc. filed a claim against NXP Semiconductors France SAS before the Tribunal de Grande Instance in an emergency procedure (procédure de référé) to demand re-integration within NXP Semiconductors France SAS, following the closure of the DSP Group’s activities in France and the consequent termination of their employment agreements. The claim was rejected by the Tribunal de Grande Instance. The employees concerned then brought the same claim before the Social Court (Conseil de Prud’hommes) in Caen which, on April 27, 2010, also ruled in favor of NXP Semiconductors France SAS. The claimants filed for an appeal in last resort on May 18, 2010, which is still pending.

In addition, on January 7, 2009, the European Commission issued a release in which it confirmed it had started an investigation in the smart card chip sector. The European Commission has reason to believe that the companies concerned may have violated European Union competition rules prohibiting certain practices such as price fixing, customer allocation and the exchange of commercially sensitive information. As one of the companies active in the smart card chip sector, NXP is subject to this ongoing investigation and is assisting the regulatory authorities in this investigation. The investigation is in its initial stage and it is currently not possible to reliably estimate its outcome.

SCHEDULE 8.13

ENVIRONMENTAL CLAIMS AGAINST HOLDINGS AND ITS  
SUBSIDIARIES

<i>Site</i>	<i>Issue</i>	<i>Expected Liability</i>	<i>Additional Information</i>
<b><u>Germany</u></b>			
Hamburg	Soil and groundwater pollution	EUR 800,000 per year for next 25 years	<ul style="list-style-type: none"><li>• Clean up already underway and will continue for 25 years.</li><li>• Investigations alternative decontamination methods and ground water containment concept ongoing.</li><li>• New thermal heating decontamination project started in 2011</li><li>• Yearly reviews undertaken by environmental agency. Last review was in February 2011.</li></ul>
<b><u>Netherlands</u></b>			
Nijmegen	Soil and groundwater pollution	USD 100,000 per year for next 10 years	<ul style="list-style-type: none"><li>• Soil and groundwater are contaminated. These matters have been reported to the authorities and no further action is required.</li><li>• However, NXP extracts groundwater of companies in neighbourhood. In consultation with authorities NXP has formally requested the municipality to legalize</li></ul>



<u>Site</u>	<u>Issue</u>	<u>Expected Liability</u>	<u>Additional Information</u>
			these activities. Possible treat (cleaning) methods and monitoring for extracted ground water in the next 10 years, costing USD 100,000 per year. Decision municipality pending.
	Asbestos in foundation parking lot	USD 700,000	<ul style="list-style-type: none"> <li>NXP rents a parcel from the municipality. If the lease is ended, NXP would be required to dismantle the parcel which would result in costs in relation to the disposal of asbestos.</li> </ul>
Lent	TCE contamination	EUR 4,000,000 if ProRail claims are successful	<ul style="list-style-type: none"> <li>Site has been sold to ProRail. ProRail claims that NXP contaminated the land. Claims are being rejected (the last claim was in January 2010).</li> <li>If ProRail is successful in its claims, this may result in a total liability of EUR 4,000,000 if building activities are undertaken by ProRail.</li> <li>However, it is considered very unlikely that a claim against NXP in connection with this matter will be made successfully.</li> </ul>

**United Kingdom**

Manchester (Hazel Grove)	Asbestos in building and foundation	USD 850,000 Unknown	<ul style="list-style-type: none"> <li>No action required at present but removal of asbestos will be required on demolition of the building at a cost of USD 850,000</li> </ul>
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<i>Site</i>	<i>Issue</i>	<i>Expected Liability</i>	<i>Additional Information</i>
	Possible soil and groundwater pollution	USD 5,000 per year for 25 years	<ul style="list-style-type: none"><li>• Cost is in relation to testing for contamination.</li><li>• At present there is no cause for concern.</li></ul>

SCHEDULE 8.15

RESTRICTED SUBSIDIARIES

<u>No.</u>	<u>Subsidiary</u>	<u>Jurisdiction of Organization</u>	<u>Ownership Interest</u>
1.	NXP Semiconductors Netherlands B.V.	Netherlands	100%
2.	NXP Software B.V.	Netherlands	100%
3.	Catena Holding B.V.	Netherlands	100%
4.	Catena Radio Design B.V.	Netherlands	100%
5.	Catena Microelectronics B.V.	Netherlands	100%
6.	SMST Unterstützungskasse GmbH	Germany	100%
7.	NXP Semiconductors Germany GmbH	Germany	100%
8.	NXP Stresemannallee 101 Dritte Verwaltungs GmbH	Germany	100%
9.	NXP Semiconductors Austria GmbH	Austria	100%
10.	Catena DSP GmbH	Austria	100%
11.	NXP Semiconductors Switzerland AG	Switzerland	100%
12.	NXP Semiconductors Belgium N.V.	Belgium	100%
13.	NXP Semiconductors France SAS	France	100%
14.	NXP Semiconductors Finland Oy	Finland	100%
15.	NXP Semiconductors Sweden AB	Sweden	100%
16.	Catena Wireless Electronics AB	Sweden	100%
17.	NXP Semiconductors UK Limited	UK	100%
18.	NXP Semiconductors Hungary Ltd.	Hungary	100%
19.	NXP Semiconductors Elektronik Ticaret A.S	Turkey	100%
20.	NXP Semiconductors Poland Sp.z.o.o	Poland	100%

<b>No.</b>	<b>Subsidiary</b>	<b>Jurisdiction of Organization</b>	<b>Ownership Interest</b>
21.	O.O.O. NXP Semiconductors Russia	Russia	100%
22.	NXP Semiconductors Guangdong Ltd	China	100%
23.	NXP Semiconductors Hong Kong Ltd.	Hong Kong	100%
24.	Semiconductors NXP Ltd.	Hong Kong	100%
25.	NXP Semiconductors Japan Ltd	Japan	100%
26.	NXP Semiconductors Korea Ltd.	Korea	100%
27.	NXP Semiconductors Singapore Pte. Ltd	Singapore	100%
28.	NXP Semiconductors Taiwan Ltd.	Taiwan	100%
29.	NXP Semiconductors Malaysia Sdn. Bhd.	Malaysia	100%
30.	NXP Semiconductors Philippines, Inc.	Philippines	100%
31.	NXP Semiconductors Cabuyao, Inc.	Philippines	99.9%
32.	NXP Semiconductors (Thailand) Ltd under liquidation (voluntary wind up)	Thailand	100%
33.	NXP Manufacturing (Thailand) Ltd	Thailand	100%
34.	NXP Semiconductors India Pvt Ltd.	India	100%
35.	NXP Semiconductors USA, Inc.	USA	100%

<u>No.</u>	<u>Subsidiary</u>	<u>Jurisdiction of Organization</u>	<u>Ownership Interest</u>
36.	NXP Laboratories UK Holding Ltd.	UK	100%
37.	NXP Laboratories UK Ltd.	UK	100%
38.	Glonav Ltd.	Ireland	100%
39.	NXP Semiconductors Canada Inc.	Canada	100%
40.	NXP Funding LLC	USA	100%
41.	Nimble Acquisition Ltd.	Bermuda	100%
42.	NXP (China) Management Ltd. Semiconductors	China	100%
43.	Athena Smartcard Inc.	USA	100%
44.	Catena Holding B.V.	Netherlands	100%
45.	Freescale Semiconductor, Ltd. <sup>4</sup>	Bermuda	100%
46.	Freescale Semiconductor Holdings II, Ltd. <sup>5</sup>	Bermuda	100%
47.	Freescale Semiconductor Holdings III, Ltd. <sup>6</sup>	Bermuda	100%
48.	Freescale Semiconductor Holdings IV, Ltd. <sup>7</sup>	Bermuda	100%
49.	Freescale Semiconductor Holdings V, Inc.	USA	100%
50.	Freescale Semiconductor, Inc.	USA	100%

4 This entity will only be a Restricted Subsidiary until completion of the mergers of Freescale Semiconductor, Ltd., Freescale Semiconductor Holdings II, Ltd., Freescale Semiconductor Holdings III, Ltd. and Freescale Semiconductor Holdings IV, Ltd. into Freescale Semiconductor Holdings V, Inc. (the “**Bermuda Mergers**”).

5 This entity will only be a Restricted Subsidiary until completion of the Bermuda Mergers.

6 This entity will only be a Restricted Subsidiary until completion of the Bermuda Mergers.

7 This entity will only be a Restricted Subsidiary until completion of the Bermuda Mergers.

51. Freescale Semiconductor Luxembourg Treasury Services S.à r.l.	Luxembourg	100%
52. Freescale Semiconductor Luxembourg Investing Services S.à r.l.	Luxembourg	100%
53. Freescale Semiconductor Cayman Holdings, Ltd.	Cayman Islands	100%
54. Freescale Asia Fulfillment Centre Sdn. Bhd.	Malaysia	100%
55. Freescale Semiconductor EME&A SA	Switzerland	100%
56. Providence Holdings Kft	Hungary	100%
57. intoto, LLC	USA	100%
58. Chip Re Inc.	USA	100%
59. Freescale Semiconductor Brasil Ltda.	Brasil	100%
60. Freescale Semiconductor Canada, Inc.	Canada	100%
61. Freescale Semiconductor Mexico, S. de R.L. de C.V.	Mexico	100%
62. Freescale Semiconductor International Corp	USA	100%
63. SigmaTel, LLC	USA	100%
64. Freescale Semiconductor Holding Limited	British Virgin Islands	100%
65. Zenverge, LLC	USA	100%
66. Freescale Semiconduttori Italia S.r.l.	Italy	100%
67. Freescale Semiconductor S.A.	Switzerland	100%
68. Freescale Polovodice Ceska republika s.r.o.	Czech Republic	100%

69.	Freescale Semiconductor Nordic AB	Sweden	100%
70.	Freescale Semiconductor Romania Srl	Romania	100%
71.	Freescale Semiconductor LLC	Russia	100%
72.	Freescale Semiconductor Holding UK Limited	UK	100%
73.	Freescale Semiconductor UK Limited	UK	100%
74.	Freescale Semiconductor Israel Limited	Israel	100%
75.	Freescale Semiconducteurs France SAS	France	100%
76.	Freescale Danmark A/S	Denmark	100%
77.	Freescale Halbleiter Deutschland GmbH	Germany	100%
78.	Freescale Semiconductor Singapore Pte. Ltd.	Singapore	100%
79.	Intoto Software India Private Limited	India	100%
80.	Freescale Semiconductor India Pvt. Ltd.	India	100%
81.	Freescale Semiconductor Hong Kong Limited	Hong Kong	100%
82.	Freescale Semiconductor Malaysia Sdn. Bhd.	Malaysia	100%
83.	Freescale Semiconductor Taiwan Ltd.	Taiwan	100%
84.	Freescale Qiangxin (Tianjin) IC Design Co. Ltd.	China	75%
85.	Freescale Semiconductor Japan Limited	Japan	100%
86.	Freescale Semiconductor Asia Enablement Limited	Malaysia	100%
87.	Freescale Semiconductor (China) Limited	China	100%

88. Freescale Semiconductor Korea, Inc.	Korea	100%
89. Zenverge India Technologies Private Limited	India	100%
90. Cognivue Corporation	Canada	100%



SCHEDULE 8.18

INTELLECTUAL PROPERTY LITIGATION AGAINST THE COMPANY AND ITS

RESTRICTED SUBSIDIARIES

<u>Entity</u>	<u>Issue</u>	<u>Amount claimed</u>	<u>Additional Information</u>
NXP B.V.	Patent infringement	USD 5,000,000 for past use and USD 50,000,000 for 5 years future use	<ul style="list-style-type: none"><li>• Pre-claim discussions are ongoing. NXP believes amount claimed this figure is based on an inaccurate knowledge of NXP's market share.</li><li>• Negotiations are ongoing.</li></ul>
NXP B.V.	Patent infringement	No amount claimed	<ul style="list-style-type: none"><li>• MOSAID Technologies, Inc. asserted that NXP infringes patents and requested NXP pay USD5,500,000 damages.</li><li>• Negotiations are ongoing.</li></ul>
NXP B.V.	Patent infringement	No amount claimed	<ul style="list-style-type: none"><li>• Intravidual claims infringement by NXP based on products which practice the H.264 video compression standard seeking damages and an injunction against further sales of H.264-compliant products.</li><li>• NXP filed a motion to dismiss for lack of personal jurisdiction .</li></ul>

SCHEDULE 9.2

COMPANY'S WEBSITE

<http://www.nxp.com>

NOTICES

1. To the Administrative Agent

Credit Suisse AG, Cayman Islands Branch  
Eleven Madison Avenue, 6th Floor  
New York, New York 10010  
Attention: Loan Operators – Agency Manager  
Telephone: (919) 994-6369  
Facsimile: (212) 322-2291  
Email: [agency.loanops@credit-suisse.com](mailto:agency.loanops@credit-suisse.com)

2. To the Collateral Agent

Morgan Stanley Senior Funding, Inc.  
1300 Thames Street, 4th Floor  
Thames Street Wharf  
Baltimore, Maryland 21231

or

Morgan Stanley Senior Funding, Inc.  
1 New York Plaza, 41st floor  
New York, NY 10004

Group e-mail address: [DOCS4LOANS@morganstanley.com](mailto:DOCS4LOANS@morganstanley.com)

ESCALATIONS

Primary Contact:

STEVEN DELANY (443) 627-6463 [Steven.Delany@morganstanley.com](mailto:Steven.Delany@morganstanley.com)  
(MANAGER)

Alternative Contact

KIMBERLY REED (443) 627-4337 [Kimberly.Reed@morganstanley.com](mailto:Kimberly.Reed@morganstanley.com)  
(VICE PRESIDENT)

3. To the Company or the Co-Borrower:

NXP B.V.  
High Tech Campus 60  
5656 AG Eindhoven  
The Netherlands  
Telephone: (31) 40 272-2041  
Fax: (31) 40 272-4005

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Email: [guido.dierick@nxp.com](mailto:guido.dierick@nxp.com)

Attention: Guido Dierick

With a copy to:

NXP Semiconductors N.V.

High Tech Campus 60

5656 AG Eindhoven

The Netherlands

Telephone: (31) 20 5407575

Fax: (31) 20 5407500

Email: [erik.thyssen@alpinvest.com](mailto:erik.thyssen@alpinvest.com)

Attn: Erik Thyssen

## FORM OF ASSIGNMENT AND ACCEPTANCE

This Assignment and Acceptance (the “Assignment and Acceptance”) is dated as of the Effective Date (as defined below) and is entered into by and between [the] [each] Assignor (as defined below) and [the] [each] Assignee (as defined below). Capitalized terms used in this Assignment and Acceptance and not otherwise defined herein shall have the meanings specified in the Secured Bridge Term Credit Agreement dated as of December 7, 2015 (as amended, restated, supplemented or otherwise modified, refinanced or replaced from time to time, the “Credit Agreement”), between, amongst others, NXP B.V. (the “Company”), NXP FUNDING LLC, CREDIT SUISSE AG, as Administrative Agent, MORGAN STANLEY SENIOR FUNDING, INC, as Collateral Agent and the Lenders party thereto.

The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Acceptance as if set forth herein in full.

For an agreed consideration, [the] [each] Assignor hereby irrevocably sells and assigns to [the Assignee] [the respective Assignees], and [the] [each] Assignee hereby irrevocably purchases and assumes from [the Assignor] [the respective Assignors], subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all [the Assignor’s] [the respective Assignors’] rights and obligations in [its capacity as a Lender] [their respective capacities as Lenders] under the Credit Agreement, the other Credit Documents and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of the Credit Facility identified below and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of [the Assignor (in its capacity as a Lender)] [the respective Assignors (in their respective capacities as Lenders)] against any Person, whether known or unknown, arising under or in connection with the Credit Agreement and the other Credit Documents, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned by [the] [any] Assignor to [the] [any] Assignee pursuant to clauses (i) and (ii) above being referred to herein collectively as the [the] [an] “Assigned Interest”). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Acceptance, without representation or warranty by [the ] [any] Assignor.

1. Assignor ([the][each, an] “Assignor”):
2. Assignee ([the][each, an] “Assignee”):
3. Assigned Interest:

	Amount of Commitment/Loans Assigned	Percentage Assigned of Total Commitment/ Loans of all Lenders (set forth, to at least 9 decimals, as a percentage of the, Total Commitment/ Loans of all Lenders)
<b>Total Commitment of all Lenders/Loans for all Lenders</b>		
\$		[0.000000000%]

4. Effective Date of Assignment (the "Effective Date"): \_\_\_\_\_, 20\_\_ .1

The terms set forth in this Assignment and Acceptance are hereby agreed to:

[NAME OF ASSIGNOR], as Assignor

By: \_\_\_\_\_  
Name:  
Title:

[NAME OF ASSIGNEE], as Assignee

By: \_\_\_\_\_  
Name:  
Title:

Accepted:

CREDIT SUISSE AG  
as Administrative Agent

By: \_\_\_\_\_  
Name:  
Title:

Consented to:

NXP B.V

By: \_\_\_\_\_  
Name:  
Title: ]

<sup>1</sup> To be inserted by Administrative Agent and which shall be the effective date of recordation of the transfer in the Register.

**STANDARD TERMS AND CONDITIONS FOR  
ASSIGNMENT AND ACCEPTANCE**

**1. Representations and Warranties and Agreements.**

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Acceptance and to consummate the transactions contemplated hereby and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Credit Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Credit Documents or any collateral thereunder, (iii) the financial condition of any of the Credit Parties, any of their Subsidiaries or Affiliates or any other Person obligated in respect of any Credit Document or (iv) the performance or observance by any of the Credit Parties, any of their Subsidiaries or Affiliates or any other Person obligated in respect of any Credit Document of any of their respective obligations under any Credit Document.

1.2 Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Acceptance and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it satisfies the requirements, if any, specified in the Credit Agreement that are required to be satisfied by it in order to acquire the Assigned Interest and become a Lender thereunder, (iii) from and after the Effective Date, it shall be a party to the Credit Agreement and, to the extent provided in this Assignment and Acceptance, have the rights and obligations of a Lender under the Credit Agreement, and (v) it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 9.1 of the Credit Agreement, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Acceptance and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Credit Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date.

### 3. General Provisions.

3.1 In accordance with Section 13.17 of the Credit Agreement, upon execution, delivery, acceptance and recording of this Assignment and Acceptance, from and after the Effective Date, (a) the Assignee shall be a party to the Credit Agreement and, to the extent provided in this Assignment and Acceptance, have the rights and obligations of a Lender under the Credit Agreement with a Commitment as set forth herein and (b) the Assignor shall, to the extent of the Assigned Interest assigned pursuant to this Assignment and Acceptance, be released from its obligations under the Credit Agreement (and, in the case of this Assignment and Acceptance covers all of the Assignor's rights and obligations under the Credit Agreement, the Assignor shall cease to be a party to the Credit Agreement).

3.2 This Assignment and Acceptance shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Assignment and Acceptance may be executed by one or more of the parties to this Assignment and Acceptance on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. This Assignment and Acceptance and the rights and obligations of the parties hereunder shall be construed in accordance with and governed by and interpreted under the law of the state of New York.



NOTICE OF BORROWING

To: Credit Suisse AG

[•]

Attention: [•]

With a copy to:

Credit Suisse Securities

[•]

Attention: [•]

Date: [ ]

This Notice of Borrowing is delivered pursuant to the Secured Bridge Term Credit Agreement dated as of December 7, 2015 as amended, restated, supplemented or otherwise modified, refinanced or replaced from time to time, the "Credit Agreement") among NXP B.V., NXP FUNDING LLC, CREDIT SUISSE AG, as Administrative Agent, MORGAN STANLEY SENIOR FUNDING, INC., as Collateral Agent and the Lenders party thereto. All capitalized terms used but not defined herein shall have the meanings given in the Credit Agreement.

[NXP B.V./NXP FUNDING LLC]<sup>9</sup> (the "Borrower") hereby requests a Borrowing as follows:

- 1. Amount of Borrowing: [ ]
- 2. Date of Borrowing: [ ]<sup>10</sup>
- 3. Type of Borrowing: [ABR Loan][LIBOR Loan].
- 4. Interest Period: month(s)

<sup>9</sup> Delete as appropriate.  
<sup>10</sup> Must be a Business Day.

The Borrower certifies that on and as of the date of the proposed Borrowing and after giving effect thereto, the Specified Representations shall be true and correct in all material respects and the Company Representations shall be true to the extent required by the Merger Agreement as a condition to closing thereunder.

[NXP B.V./  
NXP FUNDING LLC]<sup>11</sup>

By: \_\_\_\_\_

Name:

Title:

<sup>11</sup> Delete as appropriate.

[DATE]  
[Insert Name of Company]  
OFFICER'S CERTIFICATE

I, \_\_\_\_\_, hereby certify that I am the duly elected, qualified and acting [*President/Vice President/Secretary/Assistant Secretary*] of [Insert Name of Company] (the "Company"), and am authorized to execute this Certificate on behalf of the Company. Reference is made to the Secured Bridge Term Credit Agreement (the "Credit Agreement"), dated as of December 7, 2015, by and among NXP B.V, NXP FUNDING LLC, CREDIT SUISSE AG, as Administrative Agent, MORGAN STANLEY SENIOR FUNDING, INC., as Collateral Agent and the Lenders party thereto. All capitalized terms used herein and not otherwise defined are used as defined in the Credit Agreement.

Solely in my capacity as [President/Vice President/Secretary/Assistant Secretary] of the Company, I hereby certify that:

1. Attached as Annex A hereto is a true, correct, and complete copy of the organizational documents of the Company.
2. Attached as Annex B hereto is a true, correct, and complete copy of the bylaws or equivalent of the Company, including all amendments, as in effect on the date hereof, and, to the extent required, an extract of the trade register of the Company.
3. Attached as Annex C hereto are true, correct, and complete copies of resolutions duly adopted by the Board of Directors of the Company authorizing the execution, delivery and performance of the Credit Documents (and any agreements relating thereto) to which it is a party. Such resolutions have not been modified or rescinded and remain in full force and effect as of the date hereof.
4. Attached as Annex D hereto are true, correct, and complete copies of resolutions duly adopted by the shareholders of the Company authorizing the execution, delivery and performance of the Credit Documents (and any agreements relating thereto) to which it is a party. Such resolutions have not been modified or rescinded and remain in full force and effect as of the date hereof.
5. Attached as Annex E hereto is a copy of the [Certificate of Good Standing] for the Company certified by [relevant authority].
6. The persons whose names appear on Annex F attached hereto are duly elected, qualified and acting officers of the Company occupying the offices set forth below their respective names on Annex F, and the signatures set forth above their respective names are their true signatures, and each such officer is duly authorized to execute and deliver on behalf of the Company the Credit Documents and any other document delivered prior to the date hereof in connection with the Credit Documents and to act as an Authorized Officer on behalf of the Company under such Credit Documents.

7. The conditions precedent specified in Sections 6.9, 6.11 and 6.12 of the Credit Agreement have been satisfied.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of the date first written above.

[Company]

By: \_\_\_\_\_  
Name:  
Title:

The undersigned, being the duly elected and qualified [*President/Vice President/Secretary/Assistant Secretary*] of the Company, hereby certifies that [name] is the duly elected and qualified [*President/Vice President/Secretary/Assistant Secretary*] of the Company and that the foregoing signature appearing above his name is his genuine signature.

IN WITNESS WHEREOF, I have hereunto set my hand on behalf of the Corporations as of the date first written above.

By: \_\_\_\_\_  
Name:  
Title:

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**Annex A**













[DATE]  
NXP B.V.  
OFFICER'S CERTIFICATE

I, \_\_\_\_\_, hereby certify that I am the duly elected, qualified and acting [*Authorized Officer*] of NXP B.V. (the "Company"), and am authorized to execute this Certificate on behalf of the Company. Reference is made to the Secured Bridge Term Credit Agreement (the "Credit Agreement"), dated as of December 7, 2015 between, amongst others, NXP B.V, NXP FUNDING LLC, CREDIT SUISSE AG, as Administrative Agent, MORGAN STANLEY SENIOR FUNDING, INC., as Collateral Agent and the Lenders party thereto. All capitalized terms used herein and not otherwise defined are used as defined in the Credit Agreement.

Solely in my capacity as [*Authorized Officer*] of the Company, I hereby certify that:

1. No Indebtedness or financing preferred stock of the Company or its Subsidiaries to third parties shall remain outstanding as of the date of this Certificate and no shareholder loans shall have been made without the consent of the Administrative Agent, other than Indebtedness pursuant to or permitted under the Credit Agreement.
2. I have reviewed the audited financial statements of the Company as at December 31, 2014 (the "Financial Statements"). I am familiar with the financial performance and prospects of the Company and hereby confirm that as of the date hereof, after giving effect to the transactions contemplated by the Credit Documents:
  - i. The fair value of the assets of the Company and its Subsidiaries on a consolidated basis, at a fair valuation, exceeds the debts and liabilities, direct, subordinated, contingent or otherwise, of the Company and its Subsidiaries on a consolidated basis, respectively.
  - ii. The present fair saleable value of the property of the Company and its Subsidiaries on a consolidated basis is greater than the amount that is required to pay the probable liability of the Company and its Subsidiaries on a consolidated basis on their debts and other liabilities, direct, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured.
  - iii. The Company and its Subsidiaries on a consolidated basis are able to pay their debts and liabilities, direct, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured.
  - iv. The Company and its Subsidiaries on a consolidated basis do not have unreasonably small capital with which to conduct the businesses in which they are engaged as such businesses are now conducted and are proposed to be conducted following the Closing Date.

- 
- v. Each Credit Party has not ceased, and does not expect that it will cease, making payments on its liabilities when due.
  - vi. Each Credit Party can, and expects that it can, obtain credit in the ordinary course of business.
  - vii. No Credit Party intends to, and does not believe that it or any of the Restricted Subsidiaries will, incur debts beyond its ability to pay such debts as they mature, taking into account the timing and amounts of cash to be received by it or any such Subsidiary and the timing and amounts of cash to be payable on or in respect of its Indebtedness or the Indebtedness of any such Subsidiary.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of the date first written above.

**NXP B.V.**

By: \_\_\_\_\_  
Name:  
Title:

## FORM OF PROMISSORY NOTE

\$ \_\_\_\_\_

\_\_\_\_\_

FOR VALUE RECEIVED, the undersigned (the "Borrower") hereby promises to pay to the order of [LENDER] (the "Lender"), on the Maturity Date (as defined in the Credit Agreement referred to below) the principal amount of \_\_\_\_\_, or such lesser principal amount of Loans (as defined in such Credit Agreement) due and payable by the Borrower to the Lender on the Maturity Date under that certain Credit Agreement dated as of December 7, 2015 (as amended, the "Credit Agreement") between, amongst others, NXP B.V. (the "Company"), NXP FUNDING LLC (the "Co-Borrower"), the lending institutions from time to time parties thereto (each a "Lender" and, collectively, the "Lenders") and CREDIT SUISSE AG, as Administrative Agent (the terms defined therein being used herein as therein defined).

The Borrower promises to pay interest on the unpaid principal amount of each Loan from the date of such Loan until such principal amount is paid in full, at such interest rates, in the currency, in the manner and at such times as are specified in the Credit Agreement. All payments of principal and interest shall be made to the Lender in immediately available funds at the Lender's lending office. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Credit Agreement.

This Note is the promissory note referred to in Section 13.7(d) of the Credit Agreement, and is a "Credit Document" for the purposes of the Credit Agreement and entitled to the benefits thereof and is subject to optional and mandatory prepayment in whole or in part as provided in the Credit Agreement. This Note is also entitled to the benefits of the Guaranty. Upon the occurrence and continuation of one or more of the Events of Default specified in the Agreement, all amounts then remaining unpaid on this Note shall become, or may be declared to be, immediately due and payable all as provided in the Credit Agreement. Loans made by the Lender shall be evidenced by one or more loan accounts or records maintained by the Lender in the ordinary course of business. The Lender may also attach schedules to this Note and endorse thereon the date, amount and maturity of the Loans and payments with respect thereto.

The Borrower, for itself, its successors and assigns, hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Note.

THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

**[BORROWER]**

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

**GUARANTY RELATING TO SECURED BRIDGE TERM CREDIT AGREEMENT**

**GUARANTY** (this "Guaranty") dated as of December 7, 2015, made among NXP B.V. with its corporate seat in Eindhoven, the Netherlands (the "Company"), NXP Funding LLC and each of the subsidiaries of the Company listed on the signature pages hereto (each such subsidiary individually, a "Subsidiary Guarantor" and, collectively with any Person that becomes a "Guarantor" pursuant to Section 20, the "Subsidiary Guarantors"; the Company, NXP Funding LLC and the Subsidiary Guarantors are referred to collectively as the "Guarantors"), Morgan Stanley Senior Funding, Inc., as the collateral agent (in such capacity, the "Collateral Agent") and Credit Suisse AG, as the administrative agent (in such capacity, the "Administrative Agent"), in each case, for the lenders (the "Lenders") from time to time party to the Secured Bridge Term Credit Agreement (the "Credit Agreement") dated as of December 7, 2015, between the Company, NXP Funding LLC (the "Co-Borrower"), the Lenders from time to time party thereto, the Collateral Agent and the Administrative Agent.

**WITNESSETH:**

**WHEREAS**, (a) pursuant to the Credit Agreement, the Lenders have severally agreed to make Loans to the Borrowers upon the terms and subject to the conditions set forth therein and (b) one or more Lenders or Affiliates of Lenders may from time to time enter into Hedge Agreements with one or more of the Borrowers;

**WHEREAS**, the proceeds of Loans may be used by the Borrowers on the Closing Date for general corporate purposes.

**WHEREAS**, each Guarantor acknowledges that it will derive substantial direct and indirect benefit from the making of the Loans; and

**WHEREAS**, it is a condition precedent to the obligation of the Lenders to make their respective Loan to the Borrowers under the Credit Agreement that the Guarantors shall have executed and delivered this Guaranty to the Administrative Agent for the benefit of the Guaranteed Parties;

**NOW, THEREFORE**, in consideration of the premises and to induce the Administrative Agent, the Collateral Agent and the Lenders to enter into the Credit Agreement and to induce the Lenders to make their respective Loans to the Borrowers under the Credit Agreement and to induce one or more Lenders or Affiliates of Lenders to enter into Hedge Agreements with the Borrowers, the Guarantors hereby agree with the Administrative Agent and the Collateral Agent, for the benefit of the Guaranteed Parties, as follows:

1. Defined Terms.

(a) Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

(b) As used herein, the term "Commodity Exchange Act" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.



(c) As used herein, the term “Enforcement Event” means the occurrence of an Event of Default in respect of which notice of acceleration of the Obligations has been given by the Administrative Agent to the Borrowers or the Obligations have otherwise become due and payable prior to the scheduled maturity thereof.

(d) As used herein, the term “Excluded Swap Obligation” means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, and only for so long as, all or a portion of the Guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guarantee thereof) (a) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application of an official interpretation of any thereof) by virtue of such Guarantor’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act and the regulations thereunder at the time the Guarantee of such Guarantor or the grant of such security interest becomes effective with respect to such Swap Obligation or (b) is itself a swap or a deemed swap that is subject to a clearing requirement pursuant to section 2(h) of the Commodity Exchange Act and for which such Guarantor is a “financial entity,” as defined in section 2(h)(7)(C) the Commodity Exchange Act, at the time the Guarantee of (or grant of such security interest by, as applicable) such Guarantor becomes or would become effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guarantee or security interest is or becomes illegal.

(e) As used herein, the term “Guaranteed Parties” means (i) the Lenders, (ii) the Administrative Agent, (iv) the Collateral Agent, (vi) each counterparty to a Hedge Agreement to the extent that the obligations under which constitute Obligations, (vi) the beneficiaries of each indemnification obligation undertaken by any Credit Party under any Credit Document and (vii) any successors, indorsees, transferees and assigns of each of the foregoing.

(f) As used herein, the term “Obligations” means the collective reference to (i) the due and punctual payment of (x) the principal of and premium, if any, and interest at the applicable rate provided in the Credit Agreement (including interest accruing after the commencement of any bankruptcy, insolvency, receivership or other similar proceeding (or interest that would accrue but for the operation of applicable bankruptcy or insolvency laws), regardless of whether allowed or allowable in such proceeding (for any obligation, “Post-Petition Interest”)) on the Loans, when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise and (y) all other monetary obligations, including fees, costs, expenses and indemnities, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred after the commencement of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), of any Borrower or any other Credit Party to any of the Guaranteed Parties under the Credit Agreement or any other Credit Document, (ii) the due and punctual performance of all covenants, agreements, obligations and liabilities of any Borrower under or pursuant to the Credit Agreement or any other Credit Document, (iii) the due and punctual payment and performance of all the covenants, agreements, obligations and liabilities of each other Credit Party under or pursuant to this Guaranty or any other Credit Document, (iv) the due and punctual payment and performance of all obligations of each Credit Party under each Hedge

Agreement that (x) is in effect on the Closing Date with a counterparty that is a Lender or an Affiliate of a Lender as of the Closing Date or (y) is entered into after the Closing Date with any counterparty that is a Lender or an Affiliate of a Lender at the time such Hedge Agreement is entered into and (v) the due and punctual payment and performance of all obligations in respect of overdrafts and related liabilities owed to the Administrative Agent or its Affiliates arising from or in connection with treasury, depositary or cash management services or in connection with any automated clearinghouse transfer of funds. Notwithstanding the foregoing, in no case will the term "Obligations" as used herein encompass any Excluded Swap Obligation.

(g) As used herein, the term "Swap Obligation" means, 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 (including without limitation any Hedge Agreement).

(h) References to "Lenders" in this Guaranty shall be deemed to include Affiliates of Lenders that may from time to time enter into Hedge Agreements with the Borrower.

(i) The words "hereof," "herein" and "hereunder" and words of similar import when used in this Guaranty shall refer to this Guaranty as a whole and not to any particular provision of this Guaranty, and Section references are to Sections of this Guaranty unless otherwise specified. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation", and the words "property" and "assets" shall be construed to refer to any and all tangible and intangible properties and assets.

(j) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms, any reference herein to any Person shall be construed so as to include such Person's successors and permitted assigns, and any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or modified in accordance with the terms thereof and, to the extent applicable, the terms of the Credit Agreement.

## 2. Guaranty.

(a) Subject to the provisions of Section 8, each of the Guarantors hereby, jointly and severally, unconditionally and irrevocably, guarantees, as primary obligor and not merely as surety, to the Administrative Agent, as agent for the benefit of the Guaranteed Parties, the punctual and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of each Obligation. If a Borrower fails to pay or perform any Obligation when due, each Guarantor agrees that it will forthwith on demand pay or perform the relevant Obligation at the place and in the manner specified in the relevant Credit Document.

(b) Each Guarantor further agrees to pay any and all reasonable expenses (including all reasonable fees and disbursements of counsel) that may be paid or incurred by the Administrative Agent or any other Guaranteed Party in enforcing, or obtaining advice of counsel in respect of, any rights with respect to, or collecting, any or all of the Obligations and/or enforcing any rights with respect to, or collecting against, such Guarantor under this Guaranty.

(c) Each Guarantor agrees that the Obligations may at any time and from time to time exceed the amount of the liability of such Guarantor hereunder without impairing this Guaranty or affecting the rights and remedies of the Administrative Agent or any other Guaranteed Party hereunder.

(d) No payment or payments made by any Borrower, any of the Guarantors, any other guarantor or any other Person or received or collected by the Administrative Agent or any other Guaranteed Party from any Borrower, any of the Guarantors, any other guarantor or any other Person by virtue of any action or proceeding or any set-off or appropriation or application at any time or from time to time in reduction of or in payment of the Obligations shall be deemed to modify, reduce, release or otherwise affect the liability of any Guarantor hereunder, which shall, notwithstanding any such payment or payments other than payments made by such Guarantor in respect of the Obligations or payments received or collected from such Guarantor in respect of the Obligations, remain liable for the Obligations up to the maximum liability of such Guarantor hereunder until the Obligations under the Credit Documents are paid and performed in full, the Commitments are terminated.

(e) Each Guarantor agrees that whenever, at any time, or from time to time, it shall make any payment to the Administrative Agent or any other Guaranteed Party on account of its liability hereunder, it will notify the Administrative Agent in writing that such payment is made under this Guaranty for such purpose.

(f) If acceleration of the time for payment of any Obligation by a Borrower is stayed by reason of the insolvency or receivership of such Borrower or otherwise, all Obligations otherwise subject to acceleration under the terms of any Credit Document shall nonetheless be payable by the Guarantors hereunder forthwith on demand by the Administrative Agent.

3. Right of Contribution. Each Guarantor hereby agrees that to the extent that a Guarantor shall have paid more than its proportionate share of any payment made hereunder, such Guarantor shall be entitled to seek and receive contribution from and against any other Guarantor hereunder who has not paid its proportionate share of such payment. Each Guarantor's right of contribution shall be subject to the terms and conditions of Section 5 hereof. The provisions of this Section 3 shall in no respect limit the obligations and liabilities of any Guarantor to the Administrative Agent and the other Guaranteed Parties, and each Guarantor shall remain liable to the Administrative Agent and the other Guaranteed Parties for the full amount guaranteed by such Guarantor hereunder.

4. Right of Set-off. In addition to any rights and remedies of the Administrative Agent and the other Guaranteed Parties provided by law, each Guarantor hereby irrevocably authorizes each Guaranteed Party, to the maximum extent permitted by applicable law, at any time and from time to time following the occurrence of an Enforcement Event without notice to such Guarantor or any other Guarantor, any such notice being expressly waived by each Guarantor, upon any amount becoming due and payable by such Guarantor hereunder (whether at stated maturity, by acceleration or otherwise) to set-off and appropriate and apply

against such amount (whether or not such Guaranteed Party shall have made any demand hereunder) any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Guaranteed Party to or for the credit or the account of such Guarantor. Each Guaranteed Party shall notify such Guarantor promptly of any such set-off and the appropriation and application made by such Guaranteed Party, provided that the failure to give such notice shall not affect the validity of such set-off or appropriation and application.

5. Deferral of Subrogation and Contribution. Notwithstanding any payment or payments made by any of the Guarantors hereunder or any set-off or appropriation and application of funds of any of the Guarantors by the Administrative Agent or any other Guaranteed Party, no Guarantor shall be entitled to exercise any rights of subrogation with respect to any of the rights of the Administrative Agent or any other Guaranteed Party against a Borrower or any other Guarantor or any collateral security or guarantee or right of offset held by the Administrative Agent or any other Guaranteed Party for the payment of the Obligations, nor shall any Guarantor seek or be entitled to seek any contribution or reimbursement from a Borrower or any other Guarantor in respect of payments made by such Guarantor hereunder, in each case until all of the Obligations are paid and performed in full, the Commitments are terminated. If any amount shall be paid to any Guarantor on account of such subrogation rights at any time when all the Obligations shall not have been paid and performed in full, such amount shall be held by such Guarantor in trust for the Administrative Agent and the other Guaranteed Parties or, in the event that a trust is not recognized by the Law applicable to such Guarantor, as agent for and on behalf of the Administrative Agent and the other Guaranteed Parties, segregated from other funds of such Guarantor, and such amount shall, forthwith upon receipt by such Guarantor, be turned over to the Administrative Agent in the exact form received by such Guarantor (duly indorsed by such Guarantor to the Administrative Agent, if required), to be applied against the Obligations, whether due or to become due, in such order as the Administrative Agent may determine; provided that nothing herein shall be effective to create a charge or other Lien over any such amount held by such Guarantor, whether or not requiring registration under any applicable Law.

6. Amendments, etc., with Respect to the Obligations; Waiver of Rights. Subject to Section 8, the obligations of each Guarantor under this Guaranty shall be unconditional and absolute, and without limiting the foregoing, each Guarantor shall remain obligated hereunder notwithstanding that, without any reservation of rights against any Guarantor and without notice to or further assent by any Guarantor, (a) any demand for payment of any of the Obligations made by the Administrative Agent or any other Guaranteed Party may be rescinded by such party and any of the Obligations continued, (b) the Obligations, or the liability of any other party upon or for any part thereof, or any collateral security or guarantee therefor or right of offset with respect thereto, may, from time to time, in whole or in part, be renewed, extended, amended, modified, accelerated, compromised, settled, waived, surrendered or released by the Administrative Agent or any other Guaranteed Party or by operation of law, (c) the Credit Agreement, the other Credit Documents and any other documents executed and delivered in connection therewith and the Hedge Agreements and any other documents executed and delivered in connection therewith and any documents entered into with the Administrative Agent or any of its Affiliates in connection with treasury, depository or cash management

services or in connection with any automated clearinghouse transfer of funds may be amended, modified, supplemented, extended or terminated, in whole or in part, as the Administrative Agent (or the Required Lenders, as the case may be, or, in the case of any Hedge Agreement or documents entered into with the Administrative Agent or any of its Affiliates in connection with treasury, depository or cash management services or in connection with any automated clearinghouse transfer of funds, the party thereto) may deem advisable from time to time, and (d) any collateral security, guarantee or right of offset at any time held by the Administrative Agent or any other Guaranteed Party for the payment of the Obligations may be sold, exchanged, waived, surrendered or released. Neither the Administrative Agent nor any other Guaranteed Party shall have any obligation to protect, secure, perfect or insure any Lien at any time held by it (or on its behalf) as security for the Obligations or for this Guaranty or any property or assets subject thereto. When making any demand hereunder against any Guarantor, the Administrative Agent or any other Guaranteed Party may, but shall be under no obligation to, make a similar demand on the relevant Borrower or any other Guarantor or guarantor (and notwithstanding any provisions of applicable law to the contrary each Guarantor irrevocably waives any right it may have of requiring the Administrative Agent or any Guaranteed Party (or any person on its behalf) to proceed against or enforce any other rights or security or claim payment from a Borrower, any other Guarantor or any other Person before making a demand against such Guarantor under the terms of this Guaranty), and any failure by the Administrative Agent or any other Guaranteed Party to make any such demand or to enforce such security or to collect any payments from any Borrower or any Guarantor or guarantor or any release of a Borrower or any Guarantor or guarantor shall not relieve any Guarantor in respect of which a demand or collection is not made or any Guarantor not so released of its several obligations or liabilities hereunder, and shall not impair or affect the rights and remedies, express or implied, or as a matter of law, of the Administrative Agent or any other Guaranteed Party against any Guarantor. For the purposes hereof, "demand" shall include the commencement and continuance of any legal proceedings.

7. Guaranty Absolute and Unconditional. Subject to Section 8, the obligations of each Guarantor under this Guaranty shall be unconditional and absolute, and without limiting the foregoing, each Guarantor waives any and all notice of the creation, contraction, incurrence, renewal, extension, amendment, waiver or accrual of any of the Obligations, and notice of or proof of reliance by the Administrative Agent or any other Guaranteed Party upon this Guaranty or acceptance of this Guaranty, the Obligations or any of them, shall conclusively be deemed to have been created, contracted or incurred, or renewed, extended, amended, waived or accrued, in reliance upon this Guaranty; and all dealings between any Borrower and any of the Guarantors, on the one hand, and the Administrative Agent and the other Guaranteed Parties, on the other hand, likewise shall be conclusively presumed to have been had or consummated in reliance upon this Guaranty. Each Guarantor waives diligence, presentment, protest, demand for payment and notice of default or nonpayment to or upon any Borrower or any of the Guarantors with respect to the Obligations. Each Guarantor understands and agrees that this Guaranty shall be construed as a continuing, absolute and unconditional guarantee of payment and performance, to the maximum extent permitted by applicable law, and shall not be released, discharged or otherwise altered by (a) the invalidity, irregularity, non-perfection or unenforceability of the Credit Agreement, any other Credit Document or any Hedge Agreement, any of the Obligations or any other collateral security therefor or guarantee or right of offset with respect thereto at any time or from time to time held by the Administrative Agent or any other Guaranteed Party, (b) any defense, set-off or counterclaim (other than that the

Obligations have been paid and performed in full) that may at any time be available to or be asserted by a Borrower or any other Guarantor against the Administrative Agent or any other Guaranteed Party whether in connection with the Credit Documents or any unrelated transactions, (c) any release, impairment, non perfection or invalidity of any direct or indirect security for any obligation of a Borrower, any other Guarantor or any other Person, (d) any change in the corporate existence, structure or ownership of a Borrower, any other Guarantor or any other Person or any of their respective Subsidiaries, or any insolvency, bankruptcy, reorganization or other similar proceeding affecting a Borrower, any other Guarantor or any other Person or any of their properties or assets or any resulting release or discharge of any obligation of a Borrower, any other Guarantor or any other Person under any Credit Document, (e) any provision of applicable law or regulation purporting to prohibit the payment of any Obligation by a Borrower, any other Guarantor or any other Person, or (f) any other circumstance whatsoever (with or without notice to or knowledge of the Borrower or such Guarantor) that constitutes, or might be construed to constitute, an equitable or legal discharge of any Borrower for any of the Obligations, or of such Guarantor under this Guaranty, in bankruptcy or in any other instance. When pursuing its rights and remedies hereunder against any Guarantor, the Administrative Agent and any other Guaranteed Party may, but shall be under no obligation to, pursue such rights and remedies as it may have against any Borrower or any other Person or against any collateral security or guarantee for the Obligations or any right of offset with respect thereto, and any failure by the Administrative Agent or any other Guaranteed Party to pursue such other rights or remedies or to collect any payments from any Borrower or any such other Person or to realize upon any such collateral security or guarantee or to exercise any such right of offset, or any release of any Borrower or any such other Person or any such collateral security, guarantee or right of offset, shall not relieve such Guarantor of any liability hereunder, and shall not impair or affect the rights and remedies, whether express, implied or available as a matter of law, of the Administrative Agent and the other Guaranteed Parties against such Guarantor. This Guaranty shall remain in full force and effect and be binding in accordance with and to the extent of its terms upon each Guarantor and the successors and assigns thereof, and shall inure to the benefit of the Administrative Agent and the other Guaranteed Parties, and their respective successors, indorsees, transferees and assigns, until all the Obligations under the Credit Documents shall have been satisfied by payment and performance in full, the Commitments shall be terminated), notwithstanding that from time to time during the term of the Credit Agreement and any Hedge Agreement the Credit Parties may be free from any Obligations. A Guarantor shall automatically be released from its obligations hereunder upon (i) a sale or other disposition (including by way of consolidation or merger) of such Guarantor or the sale or disposition of all or substantially all the assets of such Guarantor (other than, in either case, to the Company or a Restricted Subsidiary), in each case, as permitted by the Credit Agreement, (ii) the designation in accordance with the Credit Agreement of the Guarantor as an Unrestricted Subsidiary or Immaterial Subsidiary or (iii) to the extent that such Guarantor is not an Immaterial Subsidiary due to operation of the proviso to the definition of "Immaterial Subsidiary", upon the release of the guarantee referred to in such proviso that resulted in the Guarantor not being an Immaterial Subsidiary. In addition to any release permitted by the preceding sentence, the Administrative Agent may release any Guarantor with the prior written consent of the Required Lenders; *provided* that any release of all or substantially all the Guarantors shall require the consent of all the Lenders. In connection with any such release, the Administrative Agent shall execute and deliver to any Guarantor, at such Guarantor's expense, all documents that such Guarantor shall reasonably request to evidence such termination or release. Any execution and delivery of documents pursuant to the preceding sentence of this Section 7 shall be without recourse to or warranty by the Administrative Agent.

**8. Reinstatement and Limitations.**

(a) This Guaranty shall continue to be effective, or be reinstated, as the case may be, if at any time payment, or any part thereof, of any of the Obligations is rescinded or must otherwise be restored or returned by the Administrative Agent or any other Guaranteed Party upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of a Borrower or any Guarantor, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, a Borrower or any Guarantor or any part of its property or assets, or otherwise, all as though such payments had been due but not made at such time.

(b) Notwithstanding anything herein or in any other Credit Document to the contrary, each Guarantor's liability hereunder and under the other Credit Documents shall in no event exceed an aggregate amount that would render this Guaranty with respect to such Guarantor subject to avoidance under the United States Bankruptcy Code or any applicable law.

(c) A guarantee given by a Guarantor incorporated in the Netherlands shall not be valid and the right to enforce such guarantee shall be excluded to the extent that such guarantee constitutes unlawful financial assistance under applicable laws.

(d) In the case of any Person that becomes a Guarantor pursuant to Section 20, such Guarantor's maximum liability shall in no event exceed the amount specified in the applicable Supplement hereto.

(e) Any limitation applicable to a Guarantor set forth in this Section 8 will not limit or otherwise affect the liability or obligations of any other Guarantor hereunder.

9. Payments. Each Guarantor hereby guarantees that payments hereunder will be paid to the Administrative Agent in the currency in which the relevant Obligation is due without set-off, counterclaim, deduction or withholding at the Administrative Agent's Office. The provisions of Section 5.4 of the Credit Agreement apply *mutatis mutandis* to this Guaranty and all payments made hereunder as though set out in full in this Guaranty.

10. Representations and Warranties; Covenants. Each Guarantor hereby represents and warrants that the representations and warranties set forth in Section 8 of the Credit Agreement as they relate to such Guarantor or in the other Credit Documents to which such Guarantor is a party, each of which is hereby incorporated herein by reference, are true and correct in all material respects, and the Administrative Agent and each other Guaranteed Party shall be entitled to rely on each of them as if they were fully set forth herein.

11. Authority of Administrative Agent. Each Guarantor acknowledges that the rights and responsibilities of the Administrative Agent under this Guaranty with respect to any action taken or not taken by the Administrative Agent or the exercise or non-exercise by the Administrative Agent of any option, right, request, judgment or other right or remedy provided for herein or resulting or arising out of this Guaranty shall be exclusively governed by the Credit Agreement and by such other agreements with respect thereto as may exist from time to time among them, but, as between the Administrative Agent and such Guarantor, the Administrative Agent shall be conclusively presumed to be acting as agent for the Guaranteed Parties with full and valid authority so to act or refrain from acting, and no Guarantor shall be under any obligation, or entitlement, to make any inquiry respecting such authority.

12. Joint and Several Obligations. The Borrowers' obligations under the Credit Agreement are joint and several.

13. Notices. All notices, requests and demands pursuant hereto shall be made in accordance with Section 13.3 of the Credit Agreement. All communications and notices hereunder to each Guarantor shall be given to it in care of the Company at the Company's address set forth in Section 13.3 of the Credit Agreement.

14. Counterparts. This Guaranty may be executed by one or more of the parties to this Guaranty on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Guaranty signed by all the parties shall be lodged with the Administrative Agent and the Company.

15. Severability. Any provision of this Guaranty that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. The parties hereto shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

16. Integration. This Guaranty represents the agreement of each Guarantor and the Administrative Agent with respect to the subject matter hereof, and there are no promises, undertakings, representations or warranties by any Borrower, the Administrative Agent or any other Guaranteed Party relative to the subject matter hereof not expressly set forth or referred to herein or in the other Credit Documents.

17. Amendments in Writing; No Waiver; Cumulative Remedies.

(a) None of the terms or provisions of this Guaranty may be waived, amended, supplemented or otherwise modified except by a written instrument executed by each affected Guarantor and the Administrative Agent in accordance with Section 13.2 of the Credit Agreement.

(b) Neither the Administrative Agent nor any other Guaranteed Party shall by any act (except by a written instrument pursuant to Section 17(a) hereof), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of the Administrative Agent or any other Guaranteed Party, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Administrative Agent or any other Guaranteed Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy that the Administrative Agent or any Guaranteed Party would otherwise have on any future occasion.



(c) The rights, remedies, powers and privileges herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

18. Section Headings. The Section headings used in this Guaranty are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

19. Successors and Assigns. This Guaranty shall be binding upon the successors and assigns of each Guarantor and shall inure to the benefit of the Administrative Agent and the other Guaranteed Parties and their respective successors and assigns. If all or any part of the Administrative Agent's or any other Guaranteed Party's interest in any Obligation is assigned or otherwise transferred in accordance with the Credit Agreement, the transferor's rights hereunder, to the extent applicable to the obligation so transferred, shall be automatically transferred with such obligation. No Guarantor may assign, transfer or delegate any of its rights or obligations under this Guaranty without the prior written consent of the Administrative Agent other than as permitted under the Credit Agreement.

20. Additional Guarantors. Each Subsidiary of the Company that is required to become a party to this Guaranty pursuant to Section 9.11 of the Credit Agreement shall become a Guarantor, with the same force and effect as if originally named as a Guarantor herein, for all purposes of this Guaranty upon execution and delivery by such Subsidiary of a Supplement in the form of Annex A hereto. The execution and delivery of any instrument adding an additional Guarantor as a party to this Guaranty shall not require the consent of any other Guarantor hereunder. The rights and obligations of each Guarantor hereunder shall remain in full force and effect notwithstanding the addition of any new Guarantor as a party to this Guaranty.

21. Effectiveness.

This Guaranty shall take effect on the Closing Date.

22. WAIVER OF JURY TRIAL.

EACH GUARANTOR HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS GUARANTEE, ANY OTHER CREDIT DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

23. Submission to Jurisdiction; Waivers. Each Guarantor hereby irrevocably and unconditionally:

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

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

(c) appoints the Co-Borrower (the "Process Agent") as its agent to receive on behalf of such Guarantor and its property service of copies of the summons and complaint and any other process which may be served by the Administrative Agent or any Guaranteed Party in any such action or proceeding in any aforementioned court in respect of any action or proceeding arising out of or relating to this Guaranty. Such service may be made by delivering a copy of such process to such Guarantor by courier and by certified mail (return receipt requested), fees and postage prepaid, both (i) in care of the Process Agent at the Process Agent's address and (ii) at the Company's address specified pursuant to Section 12 of the Credit Agreement, and each Guarantor hereby irrevocably authorizes and directs the Process Agent to accept such service on its behalf;

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

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section 23 any special, exemplary, punitive or consequential damages.

#### 24. GOVERNING LAW.

THIS GUARANTEE AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

*[Remainder of Page Intentionally Left Blank]*

IN WITNESS WHEREOF, each of the undersigned has caused this Guaranty to be duly executed and delivered by its duly authorized officer as of the day and year first above written.

**GUARANTORS:**

**NXP B.V.**

By: /s/ Jean Schreurs

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Name: Jean Schreurs

Title: Authorized Signatory

[Signature Page – Bridge Loan Guaranty]

**NXP FUNDING LLC**

By: /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Signatory

[Signature Page – Bridge Loan Guaranty]

**NXP SEMICONDUCTORS  
NETHERLANDS B.V.**

By: /s/ Jean Schreurs

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Name: Jean Schreurs

Title: Authorized Signatory

[Signature Page – Bridge Loan Guaranty]

**NXP SEMICONDUCTORS  
TAIWAN LTD.**

By: /s/ Jean Schreurs

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Name: Jean Schreurs

Title: Authorized Signatory

[Signature Page – Bridge Loan Guaranty]

By: /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Signatory

[Signature Page – Bridge Loan Guaranty]

**FREESCALE SEMICONDUCTO  
HOLDINGS V, INC.**

By: /s/ Jean Schreurs

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Name: Jean Schreurs

Title: Authorized Signatory

[Signature Page – Bridge Loan Guaranty]



**CREDIT SUISSE AG,  
CAYMAN ISLANDS BRANCH**  
as Administrative Agent

By: /s/ Bill O'Daly

Name: Bill O'Daly

Title: Authorized Signatory

By: Andrew Maletta

Name: Dr. Andrew Maletta

Title: Authorized Signatory

[Signature Page – Bridge Loan Guaranty]

**MORGAN STANLEY SENIOR  
FUNDING, INC.**  
as Collateral Agent

By: /s/ Reagan Phillip

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Name: Reagan Phillip

Title: Authorized Signatory

[Signature Page – Bridge Loan Guaranty]

SUPPLEMENT NO. [ ] dated as of [ ], [ ] to the GUARANTY (the “Guaranty”) dated as of [•], made among NXP B.V. (the “Company”), each of the Guarantors referred to therein, Credit Suisse AG, as Administrative Agent (in such capacity, the “Administrative Agent”) and Morgan Stanley Senior Funding, Inc. as Collateral Agent (in such capacity, the “Collateral Agent”), in each case, for the lenders (the “Lenders”) from time to time parties to the Credit Agreement referred to below.

A. Reference is made to the Credit Agreement dated as of [•], among NXP B.V. (the “Company”), NXP Funding LLC (the “Co-Borrower”), the Lenders, the Administrative Agent and the Collateral Agent.

B. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Guaranty.

C. The Guarantors have entered into the Guaranty in order to induce the Administrative Agent, the Collateral Agent and the Lenders to enter into the Credit Agreement and to induce the Lenders to make their respective Loan to the Borrowers under the Credit Agreement and to induce one or more Lenders or Affiliates of Lenders to enter into Hedge Agreements with any of the Borrowers. Section 9.11 of the Credit Agreement and Section 20 of the Guaranty provide that additional Subsidiaries of the Company may become Guarantors under the Guaranty by execution and delivery of an instrument in the form of this Supplement. Each undersigned Subsidiary (each a “New Guarantor”) is executing this Supplement in accordance with the requirements of the Credit Agreement to become a Guarantor under the Guaranty as consideration for Loans previously made.

Accordingly, the Administrative Agent, the Collateral Agent and each New Guarantor agrees as follows:

SECTION 1. In accordance with Section 20 of the Guaranty, on and from the date of this Supplement (the “Effective Date”) each New Guarantor by its signature below becomes a Guarantor under the Guaranty with the same force and effect as if originally named therein as a Guarantor and each New Guarantor hereby (a) agrees to all the terms and provisions of, and assumes all of the liabilities and obligations under, the Guaranty applicable to it as a Guarantor thereunder and (b) represents and warrants that the representations and warranties made by it as a Guarantor thereunder are true and correct in all material respects on and as of the date hereof. On and from the Effective Date each reference to a Guarantor in the Guaranty shall be deemed to include each New Guarantor. All of the provisions of the Guaranty are hereby incorporated herein by reference. Each New Guarantor’s maximum liability under the Guaranty and the other Credit Documents shall [be as set forth in Section 8 of the Guaranty].<sup>1</sup>

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<sup>1</sup> Use if the Guarantor is an entity organized under the laws of a jurisdiction already referred to in Section 8(b) of the Guaranty. Otherwise, specify appropriate limitation here.

SECTION 2. Each New Guarantor represents and warrants to the Administrative Agent and the other Guaranteed Parties that this Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms.

SECTION 3. This Supplement may be executed by one or more of the parties to this Supplement on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Supplement signed by all the parties shall be lodged with the Company and the Administrative Agent. If executed by more than one New Guarantor, this Supplement shall become effective as to each New Guarantor when the Administrative Agent shall have received counterparts of this Supplement that, when taken together, bear the signatures of such New Guarantor and the Administrative Agent.

SECTION 4. Except as expressly supplemented hereby, the Guaranty shall remain in full force and effect.

**SECTION 5. THIS SUPPLEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.**

SECTION 6. Any provision of this Supplement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and in the Guaranty, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. The parties hereto shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

SECTION 7. All notices, requests and demands pursuant hereto shall be made in accordance with Section 13.3 of the Credit Agreement. All communications and notices hereunder to each New Guarantor shall be given to it in care of the Company at the Company's address set forth in Section 13.3 of the Credit Agreement.

SECTION 8. Each New Guarantor agrees to reimburse the Administrative Agent for its out-of-pocket expenses in connection with this Supplement, including the fees, disbursements and other charges of counsel for the Administrative Agent.

IN WITNESS WHEREOF, each New Guarantor and the Administrative Agent have duly executed this Supplement to the Guaranty as of the day and year first above written.

[NAME OF NEW GUARANTOR]

By: \_\_\_\_\_  
Name:  
Title:

**CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH**  
as Administrative Agent

By: \_\_\_\_\_  
Name:  
Title:

**MORGAN STANLEY SENIOR  
FUNDING, INC.**  
as Collateral Agent

By: \_\_\_\_\_  
Name:  
Title:

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AMENDED AND RESTATED INDENTURE

Dated as of December 7, 2015

Among

FREESCALE SEMICONDUCTOR, INC.,

the Guarantors listed herein

and

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,

as Trustee

5.000% SENIOR SECURED NOTES DUE 2021

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Exhibit D	Form of Supplemental Indenture to Be Delivered by Subsequent Guarantors
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AMENDED AND RESTATED INDENTURE, dated as of December 7, 2015, among Freescale Semiconductor, Inc., a Delaware corporation, and the Guarantors (as defined herein) listed on the signature pages hereto and The Bank of New York Mellon Trust Company, N.A., a national banking association, as Trustee.

WITNESSETH

WHEREAS, the Issuer (as defined herein) has duly authorized the creation of an issue of \$500,000,000 aggregate principal amount of the Issuer's 5.000% senior secured notes due 2021 (the "Initial Notes");

WHEREAS, the Issuer and each of the Guarantors has duly authorized the execution and delivery of this Indenture; and

WHEREAS, this Indenture has been amended and restated in accordance with its terms following the successful solicitation of consents from the Holders of the Notes pursuant to a consent solicitation that was launched on March 23, 2015 and that expired on April 2, 2015. The Issuer is undertaking the consent solicitation pursuant to the Merger Agreement (as defined herein).

NOW, THEREFORE, the Issuer, the Guarantors and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of the Notes.

ARTICLE I

DEFINITIONS

SECTION 1.01. Definitions.

"144A Global Note" means a Global Note substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depository or its nominee that will be issued in a denomination equal to the outstanding principal amount of the applicable series of Notes sold in reliance on Rule 144A.

"300 Millimeter R&D Expenses" means, with respect to any period, the amount of research and development expenses of Holdings III and its Restricted Subsidiaries for such period, on a consolidated basis, relating to any 300 millimeter or larger wafer fabrication alliance or arrangement of Holdings III or any of its Restricted Subsidiaries other than the strategic alliance relating to the manufacturing of 300 millimeter wafers in Crolles, France in existence on the Transaction Date (any such alliance or arrangement, a "300 Millimeter Arrangement"); provided, that the amount of such research and development expenses with respect to any such 300 Millimeter Arrangement constituting 300 Millimeter R&D Expenses for such period for purposes hereof shall not exceed the greater of (i) the amount of any negative EBITDA with respect to such 300 Millimeter Arrangement for such period and (ii) the amount of any Equalization Payments with respect to such 300 Millimeter Arrangement for such period.

"300 Millimeter Asset Sale" means any sale of any assets of Holdings III or any Restricted Subsidiary relating to the Issuer's alliance with respect to the 300 millimeter wafer fabrication in Crolles, France; provided that no asset sale shall constitute a 300 Millimeter Asset Sale to the extent that, after giving effect to such asset sale, the aggregate amount of 300 Millimeter Asset Sale Proceeds with respect to all 300 Millimeter Asset Sales shall exceed \$500 million.

“300 Millimeter Asset Sale Proceeds” means the aggregate cash proceeds received by Holdings III or any of its Restricted Subsidiaries in respect of any 300 Millimeter Asset Sale, including any cash received upon the sale or other disposition of any Designated Non-cash Consideration received in any 300 Millimeter Asset Sale, net of the direct costs relating to such 300 Millimeter Asset Sale and the sale or disposition of such Designated Non-cash Consideration, including legal, accounting and investment banking fees, and brokerage and sales commissions, any relocation expenses incurred as a result thereof, taxes paid or payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements), amounts required to be applied to the repayment of principal, premium, if any, and interest on Senior Indebtedness required to be paid as a result of such transaction and any deduction of appropriate amounts to be provided by Holdings III or any of its Restricted Subsidiaries as a reserve in accordance with GAAP against any liabilities associated with the asset disposed of in such transaction and retained by Holdings III or any of its Restricted Subsidiaries after such sale or other disposition thereof, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction.

“Acquired Indebtedness” means, with respect to any specified Person,

(1) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Restricted Subsidiary of such specified Person, including Indebtedness incurred in connection with, or in contemplation of, such other Person merging with or into or becoming a Restricted Subsidiary of such specified Person, and

(2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

“Acquisition” means the transactions contemplated by the Transaction Agreement.

“Additional First Lien Debt” means the Notes (including Guarantees of the Notes), the Existing Secured Notes (including Guarantees of the Existing Secured Notes) and any indebtedness of the Issuer and any Guarantor (other than indebtedness constituting Senior Credit Agreement Obligations) secured by the Collateral on a *pari passu* basis (but without regard to control of remedies) with the Senior Credit Agreement Obligations (subject to the priority of payments to the Credit Facility Obligations permitted under the definition of Permitted Liens); provided, however, that (i) such indebtedness is permitted to be incurred, secured and guaranteed on such basis by each First Lien Debt Document and (ii) the representative for the holders of such indebtedness is, in the case of the Collateral Agent, a party to the Intercreditor Agreement, or in the case of any Additional First Lien Debt entered into after the Issue Date, shall have become party to the Intercreditor Agreement.

“Additional First Lien Debt Collateral Documents” means the Collateral Documents relating to the Notes and each other agreement, instrument or other document entered into in favor of the representative for any class of Secured Parties under any class of Additional First Lien Debt for the purposes of securing such Additional First Lien Debt Obligations.

“Additional First Lien Debt Documents” means, with respect to any class of Additional First Lien Debt, the promissory notes, indentures, Additional First Lien Debt Collateral Documents or other operative agreements evidencing or governing such Additional First Lien Debt Obligations, as the same may be amended, restated, supplemented or otherwise modified from time to time.

“Additional First Lien Debt Obligations” means, with respect to any class of Additional First Lien Debt, (a) all principal of and interest (including, without limitation, any interest which accrues after the commencement of any case, proceeding or other action relating to the bankruptcy, insolvency or reorganization of the Issuer, whether or not allowed or allowable as a claim in any such proceeding) payable with respect to such Additional First Lien Debt, (b) all other amounts payable to the related Additional First Lien Debt Parties under the related Additional First Lien Debt Documents and (c) any renewals, extensions or refinancings of the foregoing, provided that in the case of this clause (c), the representative in respect of such class has executed and delivered a joinder agreement in compliance with the Intercreditor Agreement.

“Additional First Lien Debt Parties” means, with respect to any class of Additional First Lien Debt, the holders of such Indebtedness from time to time, any trustee or agent therefor under any related Additional First Lien Debt Documents, and the beneficiaries of each indemnification obligation undertaken by the Issuer or any obligor under any related Additional First Lien Debt Documents.

“Additional Notes” means additional Notes (other than the Initial Notes) issued from time to time under this Indenture in accordance with Sections 2.01 and 4.09 hereof.

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise.

“Agent” means any Registrar or Paying Agent.

“Agreed Security Principles” means the Agreed Security Principles as set out in Exhibit E, as applied reasonably and in good faith by the Company.

“Applicable Authorized Representative” shall have the meaning set forth in the Intercreditor Agreement.

“Applicable Currency Equivalent” means, with respect to any monetary amount in a currency other than U.S. dollars, at any time for the determination thereof, the amount of U.S. dollars obtained by converting such foreign currency involved in such computation into U.S. dollars, at the spot rate for the purchase of U.S. dollars, with the applicable foreign currency as quoted by Reuters at approximately 10:00 A.M. (New York time) on the date that is two Business Days prior to such determination.

“Applicable Premium” means, with respect to any Note on any Redemption Date, the greater of:

(1) 1.0% of the principal amount of such Note; and

(2) the excess, if any, of (a) the present value at such Redemption Date of (i) the redemption price of such Note at May 15, 2016 (such redemption price being set forth in Section 3.07(d) hereof) plus (ii) all required interest payments due on such Note through May 15, 2016 (excluding accrued but unpaid interest to the Redemption Date), computed using a discount rate equal to the Treasury Rate as of such Redemption Date plus 50 basis points; over (b) the principal amount of such Note.

“Applicable Procedures” means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depository that apply to such transfer or exchange.

“Asset Sale” means:

(1) the sale, conveyance, transfer or other disposition, whether in a single transaction or a series of related transactions, of property or assets (including by way of a Sale and Lease-Back Transaction) of the Company or any of its Restricted Subsidiaries (each referred to in this definition as a “disposition”); or

(2) the issuance or sale of Equity Interests of any Restricted Subsidiary (other than Preferred Stock of Restricted Subsidiaries issued in compliance with Section 4.09 hereof), whether in a single transaction or a series of related transactions;

in each case, other than:

(a) any disposition of Cash Equivalents or Investment Grade Securities or obsolete or worn out equipment in the ordinary course of business or any disposition of inventory or goods (or other assets) no longer used in the ordinary course of business;

(b) the disposition of all or substantially all of the assets of the Company or the Issuer in a manner permitted pursuant to the provisions described under Section 5.01 hereof or any disposition that constitutes a Change of Control pursuant to this Indenture;

(c) the making of any Restricted Payment or Permitted Investment that is permitted to be made, and is made, under Section 4.07 hereof;

(d) any disposition of assets or issuance or sale of Equity Interests of any Restricted Subsidiary in any transaction or series of related transactions with an aggregate fair market value of less than \$50.0 million;

(e) any disposition of property or assets by the Company or a Restricted Subsidiary of the Company, or the issuance of securities by a Restricted Subsidiary of the Company, in either case, to the Company or another Restricted Subsidiary of the Company;

(f) to the extent allowable under Section 1031 of the Internal Revenue Code of 1986, any exchange of like property (excluding any boot thereon) for use in a Similar Business;

(g) the lease, assignment or sub-lease of any real or personal property in the ordinary course of business;

(h) any issuance or sale of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary;

(i) foreclosures, condemnation or any similar action on assets or the granting of Liens not prohibited by this Indenture;

(j) sales of accounts receivable, or participations therein, or Securitization Assets or related assets in connection with any Qualified Securitization Facility;

(k) any financing transaction with respect to property built or acquired by the Company or any Restricted Subsidiary after the Issue Date, including Sale and Lease-Back Transactions and asset securitizations permitted by this Indenture;

(l) the sale or discount of inventory, accounts receivable or notes receivable in the ordinary course of business or the conversion of accounts receivable to notes receivable;

(m) the licensing or sub-licensing of intellectual property or other general intangibles in the ordinary course of business, other than the licensing of intellectual property on a long-term basis;

(n) the licensing or sub-licensing of intellectual property or other general intangibles on a long-term basis in the ordinary course of business and which do not materially interfere with the business of the Company and its Subsidiaries, taken as a whole;

(o) any surrender or waiver of contract rights or the settlement, release or surrender of contract rights or other litigation claims in the ordinary course of business; and

(p) any 300 Millimeter Asset Sale.

“Authorized Person” of the Issuer or any other Person means the person or persons authorized to act on behalf of such entity by its chief executive officer, president, chief operating officer, chief financial officer or any vice president (or the equivalent of any of the foregoing) or its Board of Directors or any other governing body of such entity.

“Bankruptcy Law” means Title 11, U.S. Code or any similar federal or state law for the relief of debtors. “Business Day” means each day which is not a Legal Holiday.

“Capital Stock” means:

(1) in the case of a corporation, corporate stock;

(2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;

(3) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and

(4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

“Capitalized Lease Obligation” means, at the time any determination thereof is to be made, the amount of the liability in respect of a capital lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with GAAP.

“Capitalized Software Expenditures” shall mean, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities) by a Person and its Restricted Subsidiaries during such period in respect of licensed or purchased software or internally developed software and software enhancements that, in conformity with GAAP, are or are required to be reflected as capitalized costs on the consolidated balance sheet of a Person and its Restricted Subsidiaries.

“Cash Equivalents” means:

(1) United States dollars;

(2) (a) pounds sterling, euros or any national currency of any participating member state of the EMU; or

(b) in the case of any Foreign Subsidiary that is a Restricted Subsidiary, such local currencies held by them from time to time in the ordinary course of business;

(3) securities issued or directly and fully and unconditionally guaranteed or insured by the U.S. government or any agency or instrumentality thereof the securities of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 24 months or less from the date of acquisition;

(4) certificates of deposit, time deposits and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers' acceptances with maturities not exceeding one year and overnight bank deposits, in each case with any domestic or foreign commercial bank having capital and surplus of not less than \$500.0 million in the case of U.S. banks and \$100.0 million (or the U.S. dollar equivalent as of the date of determination) in the case of non-U.S. banks;

(5) repurchase obligations for underlying securities of the types described in clauses (3), (4) and (8) entered into with any financial institution meeting the qualifications specified in clause (4) above;

(6) commercial paper rated at least P-1 by Moody's or at least A-1 by S&P and in each case maturing within 24 months after the date of creation thereof and Indebtedness or Preferred Stock issued by Persons with a rating of "A" or higher from S&P or "A2" or higher from Moody's with maturities of 24 months or less from the date of acquisition;

(7) marketable short-term money market and similar securities having a rating of at least P-2 or A-2 from either Moody's or S&P, respectively (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another Rating Agency) and in each case maturing within 24 months after the date of creation or acquisition thereof;

(8) readily marketable direct obligations issued by any state, commonwealth or territory of the United States or any political subdivision or taxing authority thereof having an Investment Grade Rating from either Moody's or S&P with maturities of 24 months or less from the date of acquisition;

(9) readily marketable direct obligations issued by any foreign government or any political subdivision or public instrumentality thereof, in each case having an Investment Grade Rating from either Moody's or S&P with maturities of 24 months or less from the date of acquisition;

(10) Investments with average maturities of 12 months or less from the date of acquisition in money market funds rated AAA- (or the equivalent thereof) or better by S&P or Aaa3 (or the equivalent thereof) or better by Moody's; and



(11) investment funds investing 90% of their assets in securities of the types described in clauses (1) through (10) above.

Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in currencies other than those set forth in clauses (1) and (2) above, provided that such amounts are converted into any currency listed in clauses (1) and (2) as promptly as practicable and in any event within ten Business Days following the receipt of such amounts.

At any time at which the value, calculated in accordance with GAAP, of all investments of the Company and its Restricted Subsidiaries that were deemed, when made, to be Cash Equivalents in accordance with clauses (1) through (11) above exceeds the Indebtedness of the Company and its Restricted Subsidiaries, "Cash Equivalents" shall also mean any investment (a "Qualifying Investment") that satisfies the following two conditions: (a) the Qualifying Investment is of a type described in clauses (1) through (11) of this definition, but has an effective maturity (whether by reason of final maturity, a put option or, in the case of an asset-backed security, an average life) of five years and one month or less from the date of such Qualifying Investment (notwithstanding any provision contained in such clauses (1) through (10) requiring a shorter maturity); and (b) the weighted average effective maturity of such Qualifying Investment and all other investments that were made as Qualifying Investments in accordance with this paragraph, does not exceed two years from the date of such Qualifying Investment.

"Change of Control" means the occurrence of any of the following:

(1) the sale, lease or transfer, in one or a series of related transactions, of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person other than a Permitted Holder; or

(2) the Company becomes aware of (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) the acquisition by any Person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision), including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b) (1) under the Exchange Act), other than one or more Permitted Holders, in a single transaction or in a related series of transactions, by way of merger, amalgamation, consolidation or other business combination or purchase of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision) of 50% or more of the total voting power of the Voting Stock of the Company (directly or through the acquisition of voting power of Voting Stock of any of the Company's direct or indirect parent companies).

"Clearstream" means Clearstream Banking, Société Anonyme.

"Collateral" means all assets and properties subject to Liens created pursuant to any Collateral Document to secure any Obligation under the Notes.

"Collateral Agent" means Citibank, N.A. prior to the Merger Date, or Morgan Stanley Senior Funding, Inc., as of and after the Merger Date, each in their capacity as collateral agent for the Trustee and the Holders under the Security Agreement, and in their capacity as the collateral agent for the Senior Credit Agreement Secured Parties under the Senior Credit Agreement Collateral Documents, and, in each case, any successor thereof.

"Collateral Documents" means collectively, the Senior Credit Agreement Collateral Documents, the Additional First Lien Debt Collateral Documents and the Intercreditor Agreement.

“Company” means NXP B.V. a private company with limited liability incorporated under the laws of The Netherlands and its successors.

“Consolidated Depreciation and Amortization Expense” means with respect to any Person for any period, the total amount of depreciation and amortization expense, including the amortization of deferred financing fees or costs and Capitalized Software Expenditures of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP.

“Consolidated Interest Expense” means, with respect to any Person for any period, without duplication, the sum of:

(1) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, to the extent such expense was deducted (and not added back) in computing Consolidated Net Income (including (a) amortization of original issue discount resulting from the issuance of Indebtedness at less than par, (b) all commissions, discounts and other fees and charges owed with respect to letters of credit or bankers acceptances, (c) non-cash interest payments (but excluding any non-cash interest expense attributable to the movement in the mark to market valuation of Hedging Obligations or other derivative instruments pursuant to GAAP), (d) the interest component of Capitalized Lease Obligations, and (e) net payments, if any made (less net payments, if any, received), pursuant to interest rate Hedging Obligations with respect to Indebtedness, and excluding (t) any expense resulting from the discounting of any Indebtedness in connection with the application of purchase accounting in connection with the Transaction, the Merger or any acquisition, (u) penalties and interest relating to taxes, (v) any “additional interest” with respect to the Existing Secured Notes, the NXP Notes or other securities, (w) amortization of deferred financing fees, debt issuance costs, commissions, fees and expenses, (x) any expensing of bridge, commitment and other financing fees, (y) commissions, discounts, yield and other fees and charges (including any interest expense) related to any Qualified Securitization Facility and (z) any accretion of accrued interest on discounted liabilities); plus

(2) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued; less

(3) interest income for such period.

For purposes of this definition, interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP.

“Consolidated Net Income” means, with respect to any Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period, on a consolidated basis, and otherwise determined in accordance with GAAP; provided, that, without duplication,

(1) any after-tax effect of extraordinary, non-recurring or unusual gains or losses (less all fees and expenses relating thereto) or expenses (including relating to the Transaction, the Merger or any multi-year strategic initiatives), severance, relocation costs and curtailments or modifications to pension and post-retirement employee benefit plans shall be excluded,

(2) the Net Income for such period shall not include the cumulative effect of a change in accounting principles and changes as a result of the adoption or modification of accounting policies during such period,

(3) any net after-tax gains or losses on disposal of disposed, abandoned or discontinued operations shall be excluded,

(4) any after-tax effect of gains or losses (less all fees and expenses relating thereto) attributable to asset dispositions or abandonments or the sale or other disposition of any Capital Stock of any Person other than in the ordinary course of business shall be excluded,

(5) the Net Income for such period of any Person that is not a Subsidiary, or is an Unrestricted Subsidiary, or that is accounted for by the equity method of accounting, shall be excluded; provided that Consolidated Net Income of the Company shall be increased by the amount of dividends or distributions or other payments that are actually paid in cash (or to the extent converted into cash) to the Company or a Restricted Subsidiary thereof in respect of such period,

(6) solely for the purpose of determining the amount available for Restricted Payments under clause (3) (A) of Section 4.07(a) hereof, the Net Income for such period of any Restricted Subsidiary (other than any Guarantor) shall be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of its Net Income is not at the date of determination permitted without any prior governmental approval (which has not been obtained) or, directly or indirectly, by the operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule, or governmental regulation applicable to that Restricted Subsidiary or its stockholders, unless such restriction with respect to the payment of dividends or similar distributions has been legally waived, provided that Consolidated Net Income of the Company will be increased by the amount of dividends or other distributions or other payments actually paid in cash (or to the extent converted into cash) to the Company or a Restricted Subsidiary thereof in respect of such period, to the extent not already included therein, effects of adjustments (including the effects of such adjustments pushed down to the Company and its Restricted Subsidiaries) in the inventory, property and equipment, software, goodwill, other intangible assets, in-process research and development, deferred revenue and debt line items in such Person's consolidated financial statements pursuant to GAAP resulting from the application of purchase accounting in relation to the Transaction, the Merger or any consummated acquisition or the amortization or write-off of any amounts thereof, net of taxes, shall be excluded,

(7) any after-tax effect of income (loss) from the early extinguishment of (i) Indebtedness, (ii) Hedging Obligations or (iii) other derivative instruments shall be excluded,

(8) any impairment charge or asset write-off or write-down, including impairment charges or asset write-offs or write-downs related to intangible assets, long-lived assets, investments in debt and equity securities or as a result of a change in law or regulation, in each case, pursuant to GAAP, and the amortization of intangibles arising pursuant to GAAP shall be excluded,

(9) any non-cash compensation charge or expense including any such charge arising from the grants of stock appreciation or similar rights, stock options, restricted stock or other rights shall be excluded,

(10) any fees and expenses incurred during such period, or any amortization thereof for such period, in connection with any acquisition, Investment, Asset Sale, issuance or repayment of Indebtedness, issuance of Equity Interests, refinancing transaction or amendment or modification of any debt instrument (in each case, including any such transaction consummated prior to the Issue Date and any such transaction undertaken but not completed) and any charges or non-recurring merger costs incurred during such period as a result of any such transaction shall be excluded,

(11) [intentionally omitted]; and

(12) the following items shall be excluded:

(a) any net unrealized gain or loss (after any offset) resulting in such period from Hedging Obligations and the application of Statement of Financial Accounting Standards No. 133; and

(b) any net unrealized gain or loss (after any offset) resulting in such period from currency translation gains or losses including those (i) related to currency remeasurements of Indebtedness and (ii) resulting from hedge agreements for currency exchange risk.

In addition, to the extent not already included in the Consolidated Net Income of such Person and its Restricted Subsidiaries, notwithstanding anything to the contrary in the foregoing, Consolidated Net Income shall include the amount of proceeds received from business interruption insurance and reimbursements of any expenses and charges that are covered by indemnification or other reimbursement provisions in connection with any Permitted Investment or any sale, conveyance, transfer or other disposition of assets permitted under this Indenture.

Notwithstanding the foregoing, for the purpose of Section 4.07 hereof only (other than clause (3)(D) of Section 4.07(a) hereof), there shall be excluded from Consolidated Net Income any income arising from any sale or other disposition of Restricted Investments made by the Company and its Restricted Subsidiaries, any repurchases and redemptions of Restricted Investments from the Company and its Restricted Subsidiaries, any repayments of loans and advances which constitute Restricted Investments by the Company or any of its Restricted Subsidiaries, any sale of the stock of an Unrestricted Subsidiary or any distribution or dividend from an Unrestricted Subsidiary, in each case only to the extent such amounts increase the amount of Restricted Payments permitted under clause (3)(D) of Section 4.07(a) hereof.

“Consolidated Secured Debt Ratio” as of any date of determination means, the ratio of (1) Consolidated Total Indebtedness of the Company and its Restricted Subsidiaries that is secured by Liens as of the end of the most recent fiscal quarter for which internal financial statements are available immediately preceding the date on which such event for which such calculation is being made shall occur to (2) the Company’s EBITDA for the most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such event for which such calculation is being made shall occur, in each case with such pro forma adjustments to Consolidated Total Indebtedness and EBITDA as are appropriate and consistent with the pro forma adjustment provisions set forth in the definition of Fixed Charge Coverage Ratio.

“Consolidated Total Indebtedness” means, as at any date of determination, an amount equal to the sum of (1) the aggregate amount of all outstanding Indebtedness of the Company and its Restricted Subsidiaries on a consolidated basis consisting of Indebtedness for borrowed money, Obligations in respect of Capitalized Lease Obligations and debt obligations evidenced by promissory notes and similar instruments (and excluding, for the avoidance of doubt, all obligations relating to Qualified Securitization Facilities) and (2) the aggregate amount of all outstanding Disqualified Stock of the Company and all Preferred Stock of its Restricted Subsidiaries on a consolidated basis, with the amount of such Disqualified Stock and Preferred Stock equal to the greater of their respective voluntary or involuntary liquidation preferences and maximum fixed repurchase prices, in each case determined on a consolidated basis in accordance with GAAP. For purposes hereof, the “maximum fixed repurchase price” of any Disqualified Stock or Preferred Stock that does not have a fixed repurchase price shall be calculated in accordance with the terms of such Disqualified Stock or Preferred Stock as if such Disqualified Stock or Preferred Stock were purchased on any date on which Consolidated Total Indebtedness shall be required to be determined pursuant to this Indenture, and if such price is based upon, or measured by, the fair market value of such Disqualified Stock or Preferred Stock, such fair market value shall be determined reasonably and in good faith by the Company.

“Contingent Obligations” means, with respect to any Person, any obligation of such Person guaranteeing any leases, dividends or other obligations that do not constitute Indebtedness (“primary obligations”) of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, including, without limitation, any obligation of such Person, whether or not contingent,

- (1) to purchase any such primary obligation or any property constituting direct or indirect security therefor,
- (2) to advance or supply funds
  - (a) for the purchase or payment of any such primary obligation, or
  - (b) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, or
- (3) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

“Corporate Trust Office of the Trustee” shall be at the address of the Trustee specified in Section 13.01 hereof or such other address as to which the Trustee may give notice to the Holders and the Issuer.

“Credit Facilities” means, with respect to the Company or any of its Restricted Subsidiaries, one or more debt facilities, including the Senior Credit Facilities, or other financing arrangements (including, without limitation, commercial paper facilities or indentures) providing for revolving credit loans, term loans, letters of credit or other long-term indebtedness, including any notes, mortgages, guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements or refundings thereof and any indentures or credit facilities or commercial paper facilities that replace, refund or refinance any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount permitted to be borrowed thereunder or alters the maturity thereof (provided that such increase in borrowings is permitted under Section 4.09 hereof) or adds Restricted Subsidiaries as additional borrowers or guarantors thereunder and whether by the same or any other agent, lender or group of lenders.

“Credit Facilities Obligations” means, with respect to any Person, the Obligations of such Person under any Credit Facilities.

“Custodian” means the Trustee, as custodian with respect to the Notes, each in global form, or any successor entity thereto.

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

“Definitive Note” means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06(c) hereof, substantially in the form of Exhibit A hereto except that such Note shall not bear the Global Note Legend and shall not have the “Schedule of Exchanges of Interests in the Global Note” attached thereto.

“Depository” means, with respect to the Notes issuable or issued in whole or in part in global form, any Person specified in Section 2.03 hereof as the Depository with respect to the Notes, and any and all successors thereto appointed as Depository hereunder and having become such pursuant to the applicable provision of this Indenture.

“Designated Non-cash Consideration” means the fair market value of non-cash consideration received by the Company or a Restricted Subsidiary in connection with an Asset Sale that is so designated as Designated Non-cash Consideration pursuant to an Officer’s Certificate, setting forth the basis of such valuation, executed by the principal financial officer of the Company, less the amount of cash or Cash Equivalents received in connection with a subsequent sale of or collection on such Designated Non-cash Consideration.

“Designated Preferred Stock” means Preferred Stock of the Company or any parent corporation thereof (in each case other than Disqualified Stock) that is issued for cash (other than to a Restricted Subsidiary or an employee stock ownership plan or trust established by the Company or any of its Subsidiaries) and is so designated as Designated Preferred Stock, pursuant to an Officer’s Certificate executed by the principal financial officer of the Company or the applicable parent corporation thereof, as the case may be, on the issuance date thereof, the cash proceeds of which are excluded from the calculation set forth in clause (3) of Section 4.07(a) hereof.

“Directing Agent” means Citibank, N.A. prior to the Merger Date, or Morgan Stanley Senior Funding, Inc., as of and after the Merger Date, as the agent for the Collateral Agent under the Senior Credit Facilities Documents, the Collateral Agent under the Collateral Documents relating to the Existing Secured Notes, the Collateral Agent and each additional Authorized Representative (as defined in the Intercreditor Agreement) from time to time party to the Intercreditor Agreement, and any successor thereof or replacement agent appointed in accordance with the terms of the Intercreditor Agreement.

“Disqualified Stock” means, with respect to any Person, any Capital Stock of such Person which, by its terms, or by the terms of any security into which it is convertible or for which it is putable or exchangeable, or upon the happening of any event, matures or is mandatorily redeemable (other than solely as a result of a change of control or asset sale) pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof (other than solely as a result of a change of control or asset sale), in whole or in part, in each case prior to the date 91 days after the earlier of the maturity date of the Notes or the date the Notes are no longer outstanding; provided, that if such Capital Stock is issued to any plan for the benefit of employees of the Company or its Subsidiaries or by any such plan to such employees, such Capital Stock shall not constitute Disqualified Stock solely because it may be required to be repurchased by the Company or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations.

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

“EBITDA” means, with respect to any Person for any period, the Consolidated Net Income of such Person for such period

(1) increased (without duplication) by the following, in each case to the extent deducted in determining Consolidated Net Income for such period:

(a) provision for taxes based on income or profits or capital, including, without limitation, state, franchise and similar taxes (such as the Pennsylvania capital tax and Texas margin tax) and foreign withholding taxes of such Person paid or accrued during such period deducted (and not added back) in computing Consolidated Net Income; plus

(b) Fixed Charges of such Person for such period (including (x) net losses or Hedging Obligations or other derivative instruments entered into for the purpose of hedging interest rate risk, (y) bank fees and (z) costs of surety bonds in connection with financing activities, plus amounts excluded from Consolidated Interest Expense as set forth in clauses (1)(t) through (z) in the definition thereof) to the extent the same were deducted (and not added back) in calculating such Consolidated Net Income; plus

(c) Consolidated Depreciation and Amortization Expense of such Person for such period to the extent the same were deducted (and not added back) in computing Consolidated Net Income; plus

(d) any expenses or charges (other than depreciation or amortization expense) related to any Equity Offering, Permitted Investment, acquisition, disposition, recapitalization or the incurrence of Indebtedness permitted to be incurred by this Indenture (including a refinancing thereof) (whether or not successful), including (i) such fees, expenses or charges related to the offering of the Notes, the Existing Secured Notes, the NXP Notes and the Credit Facilities and (ii) any amendment or other modification of the Notes, the Existing Secured Notes, the NXP Notes and the Credit Facilities and, in each case, deducted (and not added back) in computing Consolidated Net Income; plus

(e) the amount of any restructuring charges, integration costs or other business optimization expenses (including cost and expenses relating to inventory optimization programs, wafer fabrication facility closures and new systems design and implementation costs) or reserves deducted (and not added back) in such period in computing Consolidated Net Income, including any one-time costs incurred in connection with acquisitions after the Measurement Date, and costs related to the closure and/or consolidation of facilities; plus

(f) any other non-cash charges, including any write offs or write downs reducing Consolidated Net Income for such period (provided that if any such non-cash charges represent an accrual or reserve for potential cash items in any future period, the cash payment in respect thereof in such future period shall be subtracted from EBITDA to such extent, and excluding amortization of a prepaid cash item that was paid in a prior period); plus

(g) the amount of any minority interest expense consisting of Subsidiary income attributable to minority equity interests of third parties in any non-Wholly Owned Subsidiary deducted (and not added back) in such period in calculating Consolidated Net Income; plus

(h) [intentionally omitted]; plus

(i) the amount of net cost savings projected by the Company in good faith to be realized as a result of specified actions taken or initiated during or prior to such period (calculated on a pro forma basis as though such cost savings had been realized on the first day of such period), net of the amount of actual benefits realized during such period from such actions; provided that (x) such cost savings are reasonably identifiable and factually supportable, (y) such actions are taken no later than 36 months after the Measurement Date and (z) the aggregate amount of cost savings added pursuant to this clause (i) shall not exceed \$200 million for any four consecutive quarter period (which adjustments may be incremental to pro forma cost savings adjustments made pursuant to the definition of “Fixed Charge Coverage Ratio”); plus

(j) the amount of loss on sale of receivables, Securitization Assets and related assets to the Securitization Subsidiary in connection with a Qualified Securitization Facility; plus

(k) any costs or expense incurred by the Company or a Restricted Subsidiary pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, to the extent that such cost or expenses are funded with cash proceeds contributed to the capital of the Company or net cash proceeds of an issuance of Equity Interest of the Company (other than Disqualified Stock) solely to the extent that such net cash proceeds are excluded from the calculation set forth in clause (3) of Section 4.07(a) hereof; plus

(l) cash receipts (or any netting arrangements resulting in reduced cash expenditures) not representing EBITDA or Net Income in any period to the extent non-cash gains relating to such income were deducted in the calculation of EBITDA pursuant to clause (2) below for any previous period and not added back; plus

(m) any net loss from disposed or discontinued operations; plus

(n) interest income or investment earnings on retiree medical and intellectual property, royalty or license receivables; plus

(o) 300 Millimeter R&D Expenses to the extent that the amount of such 300 Millimeter R&D Expenses could have been made as investments under clause (18) of the definition of “Permitted Investments”;

(2) decreased by (without duplication) by the following, in each case to the extent included in determining Consolidated Net Income for such period:



(a) non-cash gains increasing Consolidated Net Income of such Person for such period, excluding any non-cash gains to the extent they represent the reversal of an accrual or reserve for a potential cash item that reduced EBITDA in any prior period and any non-cash gains with respect to cash actually received in a prior period so long as such cash did not increase EBITDA in such prior period; plus

(b) any net income from disposed or discontinued operations; and

(3) increased or decreased by (without duplication), as applicable, any adjustments resulting from the application of FASB Interpretation No. 45 (Guarantees).

“EMU” means economic and monetary union as contemplated in the Treaty on European Union.

“Equalization Payment” means, with respect to any period for any 300 Millimeter Arrangement, the payment made by Holdings III or any of its Restricted Subsidiaries in respect of its applicable share, determined pursuant to the terms of such 300 Millimeter Arrangement, of the depreciation and amortization expenses or charges in respect of capital expenditures made with respect to such 300 Millimeter Arrangement for such period that are recorded as research and development expenses of, but do not otherwise constitute Consolidated Depreciation and Amortization Expense of, Holdings III and its Restricted Subsidiaries on a consolidated basis for such period.

“Equity Interests” means Capital Stock and all warrants, options or other rights to acquire Capital Stock, but excluding any debt security that is convertible into, or exchangeable for, Capital Stock.

“Equity Offering” means any public or private sale of common stock or Preferred Stock of the Company or any of its direct or indirect parent companies (excluding Disqualified Stock), other than:

- (1) public offerings with respect to the Company’s or any direct or indirect parent company’s common stock registered on Form S-4 or Form S-8;
- (2) issuances to any Subsidiary of the Company; and
- (3) any such public or private sale that constitutes an Excluded Contribution.

“euro” means the single currency of participating member states of the EMU.

“Euroclear” means Euroclear S.A./N.V., as operator of the Euroclear system.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

“Excluded Assets” means certain items of property, as provided in the Collateral Documents.

“Excluded Contribution” means net cash proceeds, marketable securities or Qualified Proceeds received by the Company from

- (1) contributions to its common equity capital, and

(2) the sale (other than to a Subsidiary of the Company or to any management equity plan or stock option plan or any other management or employee benefit plan or agreement of the Company) of Capital Stock (other than Disqualified Stock and Designated Preferred Stock) of the Company,

in each case designated as Excluded Contributions pursuant to an officer's certificate executed by the principal financial officer of the Company on the date such capital contributions are made or the date such Capital Stock is sold, as the case may be, which are excluded from the calculation set forth in clause (3) of Section 4.07(a) hereof.

"Excluded Proceeds" has the meaning specified in the definition of "Net Proceeds."

"Existing Secured Notes" means the Issuer's 6.00% Senior Secured Notes due 2022 issued pursuant to the Indenture dated as of November 1, 2013, among the Issuer, the Guarantors listed therein and Wells Fargo Bank, National Association, as Trustee.

"Existing Senior Notes" means (a) the Issuer's Senior Floating Rate Notes due 2014, and the Issuer's 8 <sup>7</sup>/<sub>8</sub>% Senior Notes due 2014 issued pursuant to the Indenture dated as of December 1, 2006, among the Issuer, the Guarantors listed therein and The Bank of New York Mellon, as Trustee, (b) the Issuer's 103/4% Senior Notes due 2020 issued pursuant to the Indenture, dated as of September 30, 2010, among the Issuer, the Guarantors listed therein and The Bank of New York Mellon Trust Company, N.A., as Trustee, and (c) the Issuer's 8.05% Senior Notes due 2020 issued pursuant to the Indenture, dated as of June 10, 2011, among the Issuer, the Guarantors listed therein and The Bank of New York Mellon Trust Company, N.A., as Trustee.

"Existing Senior Subordinated Notes" means the Issuer's 10 <sup>1</sup>/<sub>8</sub>% Senior Subordinated Notes due 2016 issued pursuant to the Indenture dated as of December 1, 2006, among the Issuer, the Guarantors listed therein and The Bank of New York Mellon as Trustee.

"Existing Term Loan Facilities" means the term loan facilities dated as of March 4, 2011, as amended by (i) the joinder and amendment agreement dated as of November 18, 2011, (ii) the new term loan joinder agreement dated as of February 16, 2012, (iii) the new term loan joinder agreement dated as of December 10, 2012, (iv) the 2013 new term loan joinder agreement dated as of November 27, 2013 and (v) the 2014 new term loan joinder agreement dated as of February 18, 2014, by and among, the Company, NXP Funding LLC, the other Restricted Subsidiaries party thereto, the lenders party thereto in their capacities as lenders thereunder and the administrative agent named therein, including any guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements, refundings or refinancings thereof and any indentures or credit facilities or commercial paper facilities with banks or other institutional lenders or investors that replace, refund or refinance any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount borrowable thereunder or alters the maturity thereof (provided that such increase in borrowings is permitted under Section 4.09 hereof)

"fair market value" means, with respect to any asset or liability, the fair market value of such asset or liability as determined by the Company in good faith; provided that if the fair market value is equal to or exceeds \$100.0 million, such determination shall be made by the board of directors of the Company in good faith.

“First Lien” means the liens on the Collateral in favor of the Secured Parties under the Collateral Documents relating to the Notes and the other Secured Parties under the other Collateral Documents.

“First Lien Debt Documents” means the Intercreditor Agreement, the Senior Credit Facilities Documents and any Additional First Lien Debt Documents.

“First Lien Obligations” means the Senior Credit Agreement Obligations and any Additional First Lien Debt Obligations.

“Fixed Charge Coverage Ratio” means, with respect to any Person for any period, the ratio of EBITDA of such Person for such period to the Fixed Charges of such Person for such period. In the event that the Company or any Restricted Subsidiary incurs, assumes, guarantees, redeems, retires or extinguishes any Indebtedness (other than Indebtedness incurred under any revolving credit facility unless such Indebtedness has been permanently repaid and has not been replaced) or issues or redeems Disqualified Stock or Preferred Stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated but prior to or simultaneously with the event for which the calculation of the Fixed Charge Coverage Ratio is made (the “Fixed Charge Coverage Ratio Calculation Date”), then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect to such incurrence, assumption, guarantee, redemption, retirement or extinguishment of Indebtedness, or such issuance or redemption of Disqualified Stock or Preferred Stock, as if the same had occurred at the beginning of the applicable four-quarter period.

For purposes of making the computation referred to above, Investments, acquisitions, dispositions, mergers, amalgamations, consolidations and disposed operations (as determined in accordance with GAAP) that have been made by the Company or any of its Restricted Subsidiaries during the four-quarter reference period or subsequent to such reference period and on or prior to or simultaneously with the Fixed Charge Coverage Ratio Calculation Date shall be calculated on a pro forma basis assuming that all such Investments, acquisitions, dispositions, mergers, amalgamations, consolidations and disposed operations (and the change in any associated fixed charge obligations and the change in EBITDA resulting therefrom) had occurred on the first day of the four-quarter reference period. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into the Company or any of its Restricted Subsidiaries since the beginning of such period shall have made any Investment, acquisition, disposition, merger, amalgamation, consolidation or disposed operation that would have required adjustment pursuant to this definition, then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect thereto for such period as if such Investment, acquisition, disposition, merger, consolidation or disposed operation had occurred at the beginning of the applicable four-quarter period.

For purposes of this definition, whenever pro forma effect is to be given to a transaction, Investment, acquisition, disposition, merger, amalgamation or consolidation (including the Transaction and the Merger) and the amount of income or earnings relating thereto, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Company (and may include, for the avoidance of doubt, cost savings and operating expense reductions resulting from such Investment, acquisition, merger, amalgamation or consolidation (including the Transaction and the Merger) which is being given pro forma effect that have been or are expected to be realized). If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Fixed Charge Coverage Ratio Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Company to be the rate of

interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period except as set forth in the first paragraph of this definition. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Company may designate.

“Fixed Charges” means, with respect to any Person for any period, the sum of, without duplication:

- (1) Consolidated Interest Expense of such Person for such period;
- (2) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Preferred Stock during such period; and
- (3) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Disqualified Stock during such period.

“Foreign Acquisition Co.” means a direct Subsidiary of Holdings III or Holdings IV formed after the Issue Date as a holding company for the Transferred Foreign Subsidiaries and other Foreign Subsidiaries of Holdings III that are not Subsidiaries of Holdings V and (a) that provides a Guarantee and (b) all of whose stock shall be pledged by Holdings III or Holdings IV, as applicable, to secure the Obligations under this Indenture and the Notes, which Foreign Acquisition Co. shall be organized under the laws of Hungary, Luxembourg, The Netherlands, Iceland, Bermuda, Barbados, Mauritius, the British Virgin Islands, Malta, Cyprus or such other jurisdiction requested by Holdings III and reasonably acceptable to each administrative agent under the Senior Credit Facilities.

“Foreign Reorganization” means the transfer of any Foreign Subsidiary of the Issuer or any transfer of any assets or property of any Foreign Subsidiary of the Issuer to Foreign Acquisition Co. or any Subsidiary thereof; provided that such transferred Foreign Subsidiary and any Person who holds such transferred assets or property (in each case, a “Transferred Foreign Subsidiary”) shall become a Guarantor of the Obligations under this Indenture and the Notes and Foreign Acquisition Co., shall pledge or cause to be pledged 100% of the Equity Interests of such Transferred Foreign Subsidiary to secure the Obligations under this Indenture and the Notes.

“Foreign Subsidiary” means, with respect to any Person, any Restricted Subsidiary of such Person that is not organized or existing under the laws of the United States, any state thereof, the District of Columbia, or any territory thereof and any Restricted Subsidiary of such Foreign Subsidiary.

“GAAP” means generally accepted accounting principles in the United States which are in effect on the Transaction Date.

“Global Note Legend” means the legend set forth in Section 2.06(f)(ii) hereof, which is required to be placed on all Global Notes issued under this Indenture.

“Global Notes” means, individually and collectively, each of the Restricted Global Notes and the Unrestricted Global Notes, substantially in the form of Exhibit A hereto, issued in accordance with Section 2.01, 2.06(b) or 2.06(d) hereof.

“Government Securities” means securities that are:

(1) direct obligations of the United States of America for the timely payment of which its full faith and credit is pledged; or

(2) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the timely payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America,

which, in either case, are not callable or redeemable at the option of the issuers thereof, and shall also include a depository receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act), as custodian with respect to any such Government Securities or a specific payment of principal of or interest on any such Government Securities held by such custodian for the account of the holder of such depository receipt; provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the Government Securities or the specific payment of principal of or interest on the Government Securities evidenced by such depository receipt.

“guarantee” means a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner (including letters of credit and reimbursement agreements in respect thereof), of all or any part of any Indebtedness or other obligations.

“Guarantee” means the guarantee by any Guarantor of the Issuer’s Obligations under this Indenture and the Notes.

“Guarantor” means the Parent Guarantors and each Subsidiary of the Company, if any, that Guarantees the Notes in accordance with the terms of this Indenture.

“Hedging Obligations” means, with respect to any Person, the obligations of such Person under any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, commodity swap agreement, commodity cap agreement, commodity collar agreement, foreign exchange contract, currency swap agreement or similar agreement providing for the transfer or mitigation of interest rate or currency risks either generally or under specific contingencies.

“Holder” means the Person in whose name a Note is registered on the Registrar’s books.

“Holdings I” means Freescale Semiconductor, Ltd., a Bermuda exempted limited liability company, and its successors.

“Holdings II” means Freescale Semiconductor Holdings II, Ltd., a Bermuda exempted limited liability company, and its successors.

“Holdings III” means Freescale Semiconductor Holdings III, Ltd., a Bermuda exempted limited liability company, and its successors.

“Holdings IV” means Freescale Semiconductor Holdings IV, Ltd., a Bermuda exempted limited liability company, and its successors.

“Holdings V” means Freescale Semiconductor Holdings V, Inc., a Delaware corporation.

“Indebtedness” means, with respect to any Person, without duplication:

(1) any indebtedness (including principal and premium) of such Person, whether or not contingent:

(a) in respect of borrowed money;

(b) evidenced by bonds, notes, debentures or similar instruments or letters of credit or bankers' acceptances (or, without duplication, reimbursement agreements in respect thereof);

(c) representing the balance deferred and unpaid of the purchase price of any property (including Capitalized Lease Obligations), except (i) any such balance that constitutes an obligation in respect of a commercial letter of credit, a trade payable or similar obligation to a trade creditor, in each case accrued in the ordinary course of business and (ii) any earn-out obligations until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP and if not paid after becoming due and payable;

(d) representing any Hedging Obligations; or

(e) during a Suspension Period only, obligations of the lessee for rental payments in respect of Sale and Lease-Back Transactions in an amount equal to the present value of such obligations during the remaining term of the lease using a discount rate equal to the rate of interest implicit in such transaction determined in accordance with GAAP,

if and to the extent that any of the foregoing Indebtedness (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP; provided, that Indebtedness of any direct or indirect parent of the Company appearing upon the balance sheet of the Company solely by reason of push-down accounting under GAAP shall be excluded.

(2) to the extent not otherwise included, any obligation by such Person to be liable for, or to pay, as obligor, guarantor or otherwise, on the obligations of the type referred to in clause (1) of a third Person (whether or not such items would appear upon the balance sheet of such obligor or guarantor), other than by endorsement of negotiable instruments for collection in the ordinary course of business; and

(3) to the extent not otherwise included, the obligations of the type referred to in clause (1) of a third Person secured by a Lien on any asset owned by such first Person, whether or not such Indebtedness is assumed by such first Person;

provided, that notwithstanding the foregoing, Indebtedness shall be deemed not to include (a) Contingent Obligations incurred in the ordinary course of business or (b) obligations under or in respect of Qualified Securitization Facilities.

"Indenture" means this Amended and Restated Indenture, as amended or supplemented from time to time.

"Independent Financial Advisor" means an accounting, appraisal, investment banking firm or consultant to Persons engaged in Similar Businesses of nationally recognized standing that is, in the good faith judgment of the Company, qualified to perform the task for which it has been engaged.

“Indirect Participant” means a Person who holds a beneficial interest in a Global Note through a Participant.

“Intellectual Property Security Agreement” means the intellectual property security agreement dated on or about the Issue Date, among the Issuer, Holdings V, SigmaTel, the subsidiaries of Holdings III from time to time party thereto and the Collateral Agent, as amended, supplemented, modified, extended, renewed or restated from time to time.

“Intercreditor Agreement” means the collateral agency agreement dated September 29, 2006 among, *inter alios*, the Company, the Guarantors listed therein, the secured parties listed therein and Morgan Stanley Senior Funding, Inc., as amended, supplemented, modified, extended, renewed or restated from time to time.

“Initial Notes” as defined in the recitals hereto.

“Initial Purchasers” means Credit Suisse Securities (USA) LLC, Barclays Capital Inc., Citigroup Global Markets Inc., Deutsche Bank Securities Inc., Goldman, Sachs & Co. and J.P. Morgan Securities LLC.

“Interest Payment Date” means May 15 and November 15 of each year to stated maturity.

“Investment Grade Rating” means a rating equal to or higher than Baa3 (or the equivalent) by Moody’s and BBB- (or the equivalent) by S&P, or an equivalent rating by any other Rating Agency.

“Investment Grade Securities” means:

(1) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof (other than Cash Equivalents);

(2) debt securities or debt instruments with an Investment Grade Rating, but excluding any debt securities or instruments constituting loans or advances among the Company and its Subsidiaries;

(3) investments in any fund that invests exclusively in investments of the type described in clauses (1) and (2) which fund may also hold immaterial amounts of cash pending investment or distribution; and

(4) corresponding instruments in countries other than the United States customarily utilized for high quality investments.

“Investments” means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of loans (including guarantees), advances or capital contributions (excluding accounts receivable, trade credit, advances to customers, commission, travel and similar advances to officers and employees, in each case made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities issued by any other Person and investments that are required by GAAP to be classified on the balance sheet (excluding the footnotes) of the Company in the same manner as the other investments included in this definition to the extent such transactions involve the transfer of cash or other property. For purposes of the definition of “Unrestricted Subsidiary” and Section 4.07 hereof:

(1) “Investments” shall include the portion (proportionate to the Company’s equity interest in such Subsidiary) of the fair market value of the net assets of a Subsidiary of the Company at the time that such Subsidiary is designated an Unrestricted Subsidiary; provided, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Company shall be deemed to continue to have a permanent “Investment” in an Unrestricted Subsidiary in an amount (if positive) equal to:

(a) the Company’s “Investment” in such Subsidiary at the time of such redesignation; less

(b) the portion (proportionate to the Company’s Equity Interest in such Subsidiary) of the fair market value of the net assets of such Subsidiary at the time of such redesignation; and

(2) any property transferred to or from an Unrestricted Subsidiary shall be valued at its fair market value at the time of such transfer.

The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced by any dividend, distribution, interest payment, return of capital, repayment or other amount received in cash by the Company or a Restricted Subsidiary in respect of such Investment.

“Investors” means The Blackstone Group, The Carlyle Group, Permira funds advised by Permira Advisers LLC, Texas Pacific Group and, if applicable, each of their respective Affiliates and funds or partnerships managed by any of them or their respective Affiliates but not including, however, any portfolio companies of any of the foregoing.

“Issue Date” means May 21, 2013.

“Issuer” means Freescale Semiconductor, Inc., a Delaware corporation (and not any of its Subsidiaries), and its successors.

“Issuer Order” means a written request or order signed on behalf of the Issuer by an Officer of the Issuer, who must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of the Issuer, and delivered to the Trustee.

“Legal Holiday” means a Saturday, a Sunday or a day on which commercial banking institutions are not required to be open in the State of New York.

“Lien” means, with respect to any asset, any mortgage, lien (statutory or otherwise), pledge, hypothecation, charge, security interest, preference, priority or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction; provided that in no event shall an operating lease be deemed to constitute a Lien.

“Material Domestic Subsidiary” means, at any date of determination, each of the Company’s Domestic Subsidiaries other than Holdings V and the Issuer (a) whose total assets at the last day of the most recent test period were equal to or greater than 5% of at such date or (b) whose gross revenues for such test period were equal to or greater than 5% of the consolidated gross revenues of the Company and the Restricted Subsidiaries for such period, determined in accordance with GAAP.



“Material Foreign Subsidiary” means, at any date of determination, each of the Company’s Foreign Subsidiaries other than Holdings IV (a) whose total assets at the last day of the most recent test period were equal to or greater than 5% of the Total Assets of the Company and the Restricted Subsidiaries at such date or (b) whose gross revenues for such test period were equal to or greater than 5% of the consolidated gross revenues of the Company and the Restricted Subsidiaries for such period, in each case determined in accordance with GAAP.

“Material Real Property” means any real property owned by the Issuer or any Secured Guarantor with a book value in excess of \$25,000,000.

“Measurement Date” means September 30, 2010.

“Merger” means the merger of Nimble Acquisition Limited, a Bermuda exempted limited liability company, and Holdings I pursuant to the Merger Agreement.

“Merger Agreement” means the merger agreement in relation to the Merger between NXP Holdings, Nimble Acquisition Limited, a Bermuda exempted limited liability company, and Holdings I dated March 1, 2015.

“Merger Date” means the date the Merger closes in accordance with the Merger Agreement.

“Moody’s” means Moody’s Investors Service, Inc. and any successor to its rating agency business.

“Mortgage” means collectively, the deeds of trust, trust deeds, hypothecs and mortgages made by the Secured Guarantors in favor or for the benefit of the Collateral Agent on behalf of the Secured Parties under the Collateral Documents relating to the Notes in form and substance reasonably satisfactory to the Collateral Agent and Trustee, and any other mortgages executed and delivered pursuant to this Indenture, as amended, supplemented, modified, extended, renewed or restated from time to time.

“Net Income” means, with respect to any Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of Preferred Stock dividends.

“Net Proceeds” means the aggregate cash proceeds received by the Company or any of its Restricted Subsidiaries in respect of any Asset Sale, including any cash received upon the sale or other disposition of any Designated Non-cash Consideration received in any Asset Sale, net of the direct costs relating to such Asset Sale and the sale or disposition of such Designated Non-cash Consideration, including legal, accounting and investment banking fees, and brokerage and sales commissions, any relocation expenses incurred as a result thereof, taxes paid or payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements), amounts required to be applied to the repayment of principal, premium, if any, and interest on Senior Indebtedness required (other than required by clause (1) of Section 4.10(b) hereof) to be paid as a result of such transaction and any deduction of appropriate amounts to be provided by the Company or any of its Restricted Subsidiaries as a reserve in accordance with GAAP against any liabilities associated with the asset disposed of in such transaction and retained by the Company or any of its Restricted Subsidiaries after such sale or other disposition thereof, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction; provided that net proceeds in an aggregate amount of up to \$500,000,000 (the “Excluded Proceeds”) shall not constitute Net Proceeds so long as such net proceeds are, within 60 days following receipt thereof, applied to repay the NXP Notes or other unsecured Indebtedness in respect of borrowed money, or Refinancing Indebtedness of any of the foregoing (and to correspondingly reduce commitments with respect thereto) (provided that to the extent not so applied within such period, such net proceeds shall constitute Net Proceeds for all purposes hereof).

“Non-U.S. Person” means a Person who is not a U.S. Person.

“Notes” means the Initial Notes and more particularly means any Note authenticated and delivered under this Indenture. For all purposes of this Indenture, the term “Notes” shall also include any Additional Notes that may be issued under a supplemental indenture. For purposes of this Indenture, all references to Notes to be issued or authenticated upon transfer, replacement or exchange shall be deemed to refer to Notes.

“NXP February 2013 Indenture” means the indenture dated February 14, 2013, among, inter alios, the Company, the NXP Notes Co-Issuer, the guarantors listed therein and Deutsche Bank Trust Company Americas, as trustee, as amended from time to time.

“NXP February 2013 Notes” means the \$500 million in aggregate principal amount of 5.75% senior unsecured notes due 2021 issued by the Company and the NXP Notes Co-Issuer on February 14, 2013 pursuant to the NXP February 2013 Indenture.

“NXP Holdings” means NXP Semiconductors N.V., a public company with limited liability incorporated under the laws of The Netherlands, and its successors.

“NXP Indentures” means, collectively, the NXP February 2013 Indenture, the NXP March 2013 Indenture, the NXP May 2013 Indenture and the NXP September 2013 Indenture.

“NXP March 2013 Indenture” means the indenture dated March 12, 2013, among, inter alios, the Company, the NXP Notes Co-Issuer, the guarantors listed therein and Deutsche Bank Trust Company Americas, as trustee, as amended from time to time.

“NXP March 2013 Notes” means the \$500 million in aggregate principal amount of 5.75% senior unsecured notes due 2023 issued by the Company and the NXP Notes Co-Issuer on March 12, 2013 pursuant to the NXP March 2013 Indenture.

“NXP May 2013 Indenture” means the indenture dated May 20, 2013, among, inter alios, the Company, the NXP Notes Co-Issuer, the guarantors listed therein and Deutsche Bank Trust Company Americas, as trustee, as amended from time to time.

“NXP May 2013 Notes” means the \$750 million in aggregate principal amount of 3.75% senior unsecured notes due 2018 issued by the Company and the NXP Notes Co-Issuer on May 20, 2013 pursuant to the NXP May 2013 Indenture.

“NXP Measurement Date” means January 1, 2013.

“NXP Notes” means, collectively, the NXP February 2013 Notes, the NXP March 2013 Notes, the NXP May 2013 Notes and the NXP September 2013 Notes.

“NXP Notes Co-Issuer” means NXP Funding LLC, a company with limited liability incorporated under the laws of Delaware, and its successors.

“NXP Original Issue Date” means October 12, 2006.

“NXP September 2013 Indenture” means the indenture dated September 24, 2013, among, inter alios, the Company, the NXP Notes Co-Issuer, the guarantors listed therein and Deutsche Bank Trust Company Americas, as trustee, as amended from time to time.

“NXP September 2013 Notes” means the \$500 million in aggregate principal amount of 3.50% senior unsecured notes due 2016 issued by the Company and the NXP Notes Co-Issuer on September 24, 2013 pursuant to the NXP September 2013 Indenture.

“Obligations” means any principal, interest (including any interest accruing on or subsequent to the filing of a petition in bankruptcy, reorganization or similar proceeding at the rate provided for in the documentation with respect thereto, whether or not such interest is an allowed claim under applicable state, federal or foreign law), penalties, fees, indemnifications, reimbursements (including reimbursement obligations with respect to letters of credit and banker’s acceptances), damages and other liabilities, and guarantees of payment of such principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities, payable under the documentation governing any Indebtedness.

“Offering Memorandum” means the confidential offering memorandum, dated May 16, 2013, relating to the sale of the Initial Notes.

“Officer” means the Chairman of the Board, the Chief Executive Officer, the President, any Executive Vice President, Senior Vice President or Vice President, the Treasurer or the Secretary of any Person. Unless otherwise indicated, Officer shall refer to an Officer of the Company.

“Officer’s Certificate” means a certificate signed on behalf of a Person by an Officer of such Person, who must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of such Person, that meets the requirements set forth in this Indenture.

“Old Notes” means the 6.875% Senior Notes due 2011 issued by the Issuer and the 7.125% Notes due 2014 issued by the Issuer.

“Opinion of Counsel” means a written opinion from legal counsel who is acceptable to the Trustee. The counsel may be an employee of or counsel to the Company, the Issuer or the Trustee.

“Parent Guarantors” means the Company, Holdings I, Holdings II, Holdings III, Holdings IV and Holdings V.

“Participant” means, with respect to the Depository a Person who has an account with the Depository (and, with respect to DTC, shall include Euroclear and Clearstream).

“Permitted Asset Swap” means the substantially concurrent purchase and sale or exchange of Related Business Assets or a combination of Related Business Assets and cash or Cash Equivalents between the Company or any of its Restricted Subsidiaries and another Person; provided, that any cash or Cash Equivalents received must be applied in accordance with Section 4.10 hereof.

“Permitted Holders” means each of the Investors and members of management of the Company or its direct or indirect parent companies on the Merger Date who are holders of Equity Interests of the Company (or any of its direct or indirect parent companies) and any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act or any successor provision) of which any of the foregoing are members; provided, that, in the case of such group and without giving effect to the existence of such group or any other group, such Investors and members of management, collectively, have beneficial ownership of more than 50% of the total voting power of the Voting Stock of the Company or any of its direct or indirect parent companies.

“Permitted Investments” means:

- (1) any Investment in the Company or any of its Restricted Subsidiaries;
- (2) any Investment in cash and Cash Equivalents or Investment Grade Securities;
- (3) any Investment by the Company or any of its Restricted Subsidiaries in a Person that is engaged in a Similar Business if as a result of such Investment:

- (a) such Person becomes a Restricted Subsidiary; or

- (b) such Person, in one transaction or a series of related transactions, is merged, amalgamated or consolidated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Company or a Restricted Subsidiary,

and, in each case, any Investment held by such Person; provided, that such Investment was not acquired by such Person in contemplation of such acquisition, merger, consolidation or transfer;

- (4) any Investment in securities or other assets not constituting cash, Cash Equivalents or Investment Grade Securities and received in connection with an Asset Sale made pursuant to the provisions described under Section 4.10 hereof or any other disposition of assets not constituting an Asset Sale;

- (5) any Investment existing on the NXP Measurement Date;

- (6) any Investment acquired by the Company or any of its Restricted Subsidiaries:

- (a) in exchange for any other Investment or accounts receivable held by the Company or any such Restricted Subsidiary in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of the issuer of such other Investment or accounts receivable (including any trade creditor or customer); or

- (b) as a result of a foreclosure by the Company or any of its Restricted Subsidiaries with respect to any secured Investment or other transfer of title with respect to any secured Investment in default;

- (7) Hedging Obligations permitted under clause (10) of Section 4.09(b) hereof;

- (8) any Investment in a Similar Business having an aggregate fair market value, taken together with all other Investments made pursuant to this clause (8) after the NXP Measurement Date that are at that time outstanding, not to exceed 3.5% of Total Assets at the time of such Investment (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value);

- (9) Investments the payment for which consists of Equity Interests (exclusive of Disqualified Stock) of the Company, or any of its direct or indirect parent companies; provided, that such Equity Interests will not increase the amount available for Restricted Payments under clause (3) of Section 4.07(a) hereof;

- (10) guarantees of Indebtedness permitted under Section 4.09 hereof;
- (11) any transaction to the extent it constitutes an Investment that is permitted and made in accordance with the provisions of Section 4.11(b) hereof (except transactions described in clauses (2), (5) and (9) of Section 4.11(b) hereof);
- (12) Investments consisting of purchases and acquisitions of inventory, supplies, material or equipment;
- (13) additional Investments having an aggregate fair market value, taken together with all other Investments made pursuant to this clause (13) after the NXP Measurement Date that are at that time outstanding (without giving effect to the sale of an Unrestricted Subsidiary to the extent the proceeds of such sale do not consist of cash or marketable securities), not to exceed 4.0% of Total Assets at the time of such Investment (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value);
- (14) Investments in or relating to a Securitization Subsidiary that, in the good faith determination of the Company are necessary or advisable to effect any Qualified Securitization Facility or any repurchase obligation in connection therewith;
- (15) advances to, or guarantees of Indebtedness of, employees not in excess of \$25.0 million outstanding at any one time, in the aggregate;
- (16) loans and advances to officers, directors and employees for business-related travel expenses, moving expenses and other similar expenses, in each case incurred in the ordinary course of business or consistent with past practices or to fund such Person's purchase of Equity Interests of the Company or any direct or indirect parent company thereof;
- (17) advances, loans or extensions of trade credit in the ordinary course of business by the Company or any of its Restricted Subsidiaries; and
- (18) Investments in or with respect to the Issuer's jointly funded alliance with respect to the 300 millimeter wafer fabrication in Crolles, France, as in effect on the Issue Date, and any amendment, modification or restructuring thereof, or any successor or replacement alliance or arrangement with respect thereto, or any additional alliance or arrangement with respect to 300 millimeter or larger wafer fabrication (in each case whether or not located in Crolles, France); provided that the aggregate fair market value of any such Investments in any calendar year shall not exceed an amount equal to:
- (a) \$150.0 million, with unused amounts in any calendar year being carried over to succeeding calendar years subject to a maximum carryover of \$250.0 million; plus
- (b) the amount of 300 Millimeter Asset Sale Proceeds received during such calendar year, with unused 300 Millimeter Asset Sale Proceeds in any calendar year being carried over to succeeding calendar years without any maximum carryover amount; provided that the aggregate amount of Investments made pursuant to this clause (b) shall not exceed \$500.0 million; minus

(c) the amount of 300 Millimeter R&D Expenses incurred during such calendar year that is added back to Consolidated Net Income of the Company with respect to such calendar year in arriving at EBITDA of the Company with respect to such calendar year (including with respect to such calendar year reducing the amounts available under the immediately preceding clauses (a) and (b), as applicable, for carryovers to succeeding calendar years).

“Permitted Liens” means, with respect to any Person:

(1) pledges or deposits by such Person under workmen’s compensation laws, unemployment insurance laws or similar legislation, or good faith deposits in connection with bids, tenders, contracts (other than for the payment of Indebtedness) or leases to which such Person is a party, or deposits to secure public or statutory obligations of such Person or deposits of cash or U.S. government bonds to secure surety or appeal bonds to which such Person is a party, or deposits as security for contested taxes or import duties or for the payment of rent, in each case incurred in the ordinary course of business;

(2) Liens imposed by law, such as carriers’, warehousemen’s and mechanics’ Liens, in each case for sums not yet overdue for a period of more than 30 days or being contested in good faith by appropriate proceedings or other Liens arising out of judgments or awards against such Person with respect to which such Person shall then be proceeding with an appeal or other proceedings for review if adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP;

(3) Liens for taxes, assessments or other governmental charges not yet overdue for a period of more than 30 days or payable or subject to penalties for nonpayment or which are being contested in good faith by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP;

(4) Liens in favor of issuers of performance and surety bonds or bid bonds or with respect to other regulatory requirements or letters of credit issued pursuant to the request of and for the account of such Person in the ordinary course of its business;

(5) minor survey exceptions, minor encumbrances, easements or reservations of, or rights of others for, licenses, rights-of-way, sewers, electric lines, telegraph and telephone lines and other similar purposes, or zoning or other restrictions as to the use of real properties or Liens incidental, to the conduct of the business of such Person or to the ownership of its properties which were not incurred in connection with Indebtedness and which do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;

(6) Liens securing Credit Facilities Obligations permitted to be incurred pursuant to clause (1) of Section 4.09(b);

(7) Liens securing Credit Facilities Obligations permitted to be incurred pursuant to Section 4.09; provided that at the time of incurrence, and after giving pro forma effect thereto, the Consolidated Secured Debt Ratio would be no greater than 3.25x to 1;

(8) Liens securing the Notes, any Guarantee of the Notes and other Obligations under the Notes and this Indenture;

- (9) Liens securing the Existing Secured Notes, any Guarantee of the Existing Secured Notes and other obligations under the Existing Secured Notes, and the indenture governing the Existing Secured Notes;
- (10) Liens securing Indebtedness permitted to be incurred pursuant to clause (4) or (12)(b) of Section 4.09 (b) hereof;
- (11) Liens existing on the Issue Date and the Merger Date (including the Liens granted pursuant to Section 7.06 hereof);
- (12) Liens on property or shares of stock or other assets of a Person at the time such Person becomes a Subsidiary; provided, that such Liens are not created or incurred in connection with, or in contemplation of, such other Person becoming such a Subsidiary; provided, further, that such Liens may not extend to any other property or other assets owned by the Company or any of its Restricted Subsidiaries;
- (13) Liens on property or other assets at the time the Company or a Restricted Subsidiary acquired the property or such other assets, including any acquisition by means of a merger, amalgamation or consolidation with or into the Company or any of its Restricted Subsidiaries; provided, that such Liens are not created or incurred in connection with, or in contemplation of, such acquisition; provided, further, that the Liens may not extend to any other property owned by the Company or any of its Restricted Subsidiaries;
- (14) Liens securing Indebtedness or other obligations of a Restricted Subsidiary owing to the Company or another Restricted Subsidiary permitted to be incurred in accordance with the Section 4.09;
- (15) Liens securing Hedging Obligations so long as related Indebtedness is, and is permitted to be under this Indenture, secured by a Lien on the same property securing such Hedging Obligations;
- (16) Liens on specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;
- (17) leases, subleases, licenses or sublicenses granted to others in the ordinary course of business which do not materially interfere with the ordinary conduct of the business of the Company or any of its Restricted Subsidiaries and do not secure any Indebtedness;
- (18) Liens arising from Uniform Commercial Code financing statement filings regarding operating leases entered into by the Company and its Restricted Subsidiaries in the ordinary course of business;
- (19) Liens in favor of the Company, the Issuer or any Subsidiary Guarantor;
- (20) Liens on equipment of the Company or any of its Restricted Subsidiaries granted in the ordinary course of business to the Company's clients;
- (21) Liens on accounts receivable, Securitization Assets and related assets incurred in connection with a Qualified Securitization Facility;

(22) Liens to secure any refinancing, refunding, extension, renewal or replacement (or successive refinancing, refunding, extensions, renewals or replacements) as a whole, or in part, of any Indebtedness secured by any Lien referred to in the foregoing clauses (10), (11), (12) and (13); provided, that (a) such new Lien shall be limited to all or part of the same property that secured the original Lien (plus improvements on such property), and (b) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (i) the outstanding principal amount or, if greater, committed amount of the Indebtedness described under clauses (10), (11), (12) and (13) at the time the original Lien became a Permitted Lien under this Indenture, and (ii) an amount necessary to pay any fees and expenses, including premiums, related to such refinancing, refunding, extension, renewal or replacement;

(23) deposits made in the ordinary course of business to secure liability to insurance carriers;

(24) other Liens securing obligations incurred in the ordinary course of business which obligations do not exceed \$65.0 million at any one time outstanding;

(25) Liens securing judgments for the payment of money not constituting an Event of Default under clause (5) under Section 6.01 hereof so long as such Liens are adequately bonded and any appropriate legal proceedings that may have been duly initiated for the review of such judgment have not been finally terminated or the period within which such proceedings may be initiated has not expired;

(26) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business;

(27) Liens (i) of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection, (ii) attaching to commodity trading accounts or other commodity brokerage accounts incurred in the ordinary course of business, and (iii) in favor of banking institutions arising as a matter of law encumbering deposits (including the right of set-off) and which are within the general parameters customary in the banking industry;

(28) Liens deemed to exist in connection with Investments in repurchase agreements permitted under Section 4.09 hereof; provided that such Liens do not extend to any assets other than those that are the subject of such repurchase agreement;

(29) Liens encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business and not for speculative purposes;

(30) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit or sweep accounts of the Company or any of its Restricted Subsidiaries to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Company and its Restricted Subsidiaries or (iii) relating to purchase orders and other agreements entered into with customers of the Company or any of its Restricted Subsidiaries in the ordinary course of business;



(31) Liens securing obligations owed by the Company or any Restricted Subsidiary to any lender under the Senior Credit Facilities or any Affiliate of such a lender in respect of any overdraft and related liabilities arising from treasury, depository and cash management services or any automated clearing house transfers of funds;

(32) Liens securing Indebtedness the proceeds of which are used to develop or construct new facilities (or any improvements to existing facilities) or equipment (or any improvements to existing equipment) designed primarily for the purpose of air or water pollutions control; provided that such Indebtedness is permitted to be incurred by the terms of this Indenture and such Liens do not extend to any assets of the Company or its Restricted Subsidiaries other than the assets acquired or improved with the proceeds of the Indebtedness secured by such Lien; and

(33) any encumbrance or restriction (including put and call arrangements) with respect to capital stock of any joint venture or similar arrangement pursuant to any joint venture or similar agreement.

For purposes of this definition, the term “Indebtedness” shall be deemed to include interest on such Indebtedness. The Permitted Liens listed in (6) and (7) may grant priority in right of payment to the Credit Facilities Obligations secured thereby, and to Hedging Obligations provided by any lender or letter of credit issuer (or any affiliate thereof) under the Revolving Credit Facility, but only for an aggregate principal amount not exceeding €750 million.

“Person” means any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

“Preferred Stock” means any Equity Interest with preferential rights of payment of dividends or upon liquidation, dissolution, or winding up.

“Private Placement Legend” means the legend set forth in Section 2.06(f)(i) hereof to be placed on all Notes issued under this Indenture, except where otherwise permitted by the provisions of this Indenture.

“QIB” means a “qualified institutional buyer” as defined in Rule 144A.

“Qualified Proceeds” means the fair market value of assets that are used or useful in, or Capital Stock of any Person engaged in, a Similar Business.

“Qualified Securitization Facility” means any Securitization Facility (a) constituting a securitization financing facility that meets the following conditions: (1) the board of directors of the Company shall have determined in good faith that such Securitization Facility (including financing terms, covenants, termination events and other provisions) is in the aggregate economically fair and reasonable to the Company and the applicable Securitization Subsidiary, (2) all sales and/or contributions of Securitization Assets and related assets to the applicable Securitization Subsidiary are made at fair market value (as determined in good faith by the Company) and (3) the financing terms, covenants, termination events and other provisions thereof shall be market terms (as determined in good faith by the Company) or (b) constituting a receivables financing facility.

“Rating Agencies” means Moody’s and S&P or if Moody’s or S&P or both shall not make a rating on the Notes publicly available, a nationally recognized statistical rating agency or agencies, as the case may be, selected by the Issuer which shall be substituted for Moody’s or S&P or both, as the case may be.

“Record Date” for the interest payable on any applicable Interest Payment Date means the May 1 or November 1 (whether or not a Business Day) immediately preceding such Interest Payment Date.

“Regulation S” means Regulation S promulgated under the Securities Act.

“Regulation S Global Note” means a Regulation S Temporary Global Note or Regulation S Permanent Global Note, as applicable.

“Regulation S Permanent Global Note” means a permanent Global Note in the form of Exhibit A hereto, bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depository or its nominee, issued in a denomination equal to the outstanding principal amount of the Regulation S Temporary Global Note of the applicable series upon expiration of the Restricted Period.

“Regulation S Temporary Global Note” means a temporary Global Note in the form of Exhibit A hereto, bearing the Global Note Legend, the Private Placement Legend and the Regulation S Temporary Global Note Legend and deposited with or on behalf of and registered in the name of the Depository or its nominee, issued in a denomination equal to the outstanding principal amount of the Notes of the applicable series initially sold in reliance on Rule 903.

“Regulation S Temporary Global Note Legend” means the legend set forth in Section 2.06(f)(iii) hereof.

“Related Business Assets” means assets (other than cash or Cash Equivalents) used or useful in a Similar Business, provided that any assets received by the Company or a Restricted Subsidiary in exchange for assets transferred by the Company or a Restricted Subsidiary shall not be deemed to be Related Business Assets if they consist of securities of a Person, unless upon receipt of the securities of such Person, such Person would become a Restricted Subsidiary.

“Responsible Officer” means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such Person’s knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

“Restricted Definitive Note” means a Definitive Note bearing, or that is required to bear, the Private Placement Legend.

“Restricted Global Note” means a Global Note bearing, or that is required to bear, the Private Placement Legend.

“Restricted Investment” means an Investment other than a Permitted Investment.

“Restricted Parent Guarantor” means the Company, Holdings I, Holdings II, Holdings III, Holdings IV and Holdings V.

“Restricted Period” means the 40-day distribution compliance period as defined in Regulation S.

“Restricted Subsidiary” means, at any time, Holdings I, Holdings II, Holdings III, Holdings IV, Holdings V, the Issuer and any other direct or indirect Subsidiary of the Company (including any Foreign Subsidiary) that is not then an Unrestricted Subsidiary; provided, that upon an Unrestricted Subsidiary ceasing to be an Unrestricted Subsidiary, such Subsidiary shall be included in the definition of “Restricted Subsidiary” if it is then a Subsidiary of the Company.

“Revolving Credit Facility” means the \$600 million super senior secured revolving credit facility entered into as of the Merger Date by and among NXP Holdings, the Company, NXP Funding LLC, the other Restricted Subsidiaries party thereto, the lenders party thereto in their capacities as lenders thereunder and the administrative agent named therein, including any guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements, refundings or refinancings thereof and any indentures or credit facilities or commercial paper facilities with banks or other institutional lenders or investors that replace, refund or refinance any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount borrowable thereunder or alters the maturity thereof (provided that such increase in borrowings is permitted under Section 4.09 hereof).

“Rule 144” means Rule 144 promulgated under the Securities Act.

“Rule 144A” means Rule 144A promulgated under the Securities Act.

“Rule 903” means Rule 903 promulgated under the Securities Act.

“Rule 904” means Rule 904 promulgated under the Securities Act.

“S&P” means Standard & Poor’s Rating Services, and any successor to its rating agency business.

“Sale and Lease-Back Transaction” means any arrangement providing for the leasing by the Company or any of its Restricted Subsidiaries of any real or tangible personal property, which property has been or is to be sold or transferred by the Company or such Restricted Subsidiary to a third Person in contemplation of such leasing.

“SEC” means the U.S. Securities and Exchange Commission.

“Secured Guarantors” means the Restricted Parent Guarantors, the Domestic Subsidiary Guarantors and the Foreign Subsidiary Guarantors providing secured Guarantees.

“Secured Indebtedness” means any Indebtedness of the Company or any of its Restricted Subsidiaries secured by a Lien.

“Secured Parties” means the Senior Credit Agreement Secured Parties and the Additional First Lien Debt Parties.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

“Securitization Assets” means the accounts receivable, royalty or other revenue streams and other rights to payment related to the Specified Contract Rights subject to a Qualified Securitization Facility that is a securitization financing facility (and not a receivables financing facility) and the proceeds thereof.

“Securitization Facility” means any of one or more receivables or securitization financing facilities as amended, supplemented, modified, extended, renewed, restated or refunded from time to time, the Obligations of which are non-recourse (except for customary representations, warranties, covenants and indemnities made in connection with such facilities) to the Company or any of its Restricted Subsidiaries (other than a Securitization Subsidiary) pursuant to which the Company or any of its Restricted Subsidiaries sells or grants a security interest in its accounts receivable or Securitization Assets or assets related thereto to either (a) a Person that is not a Restricted Subsidiary or (b) a Securitization Subsidiary that in turn sells its accounts receivable to a Person that is not a Restricted Subsidiary.

“Securitization Fees” means distributions or payments made directly or by means of discounts with respect to any participation interest issued or sold in connection with, and other fees paid to a Person that is not a Securitization Subsidiary in connection with, any Qualified Securitization Financing.

“Securitization Subsidiary” means any Subsidiary formed for the purpose of, and that solely engages only in one or more Qualified Securitization Facilities and other activities reasonably related thereto.

“Security Agreement” means the security agreement dated as of May 21, 2013, among the Issuer, Holdings IV, SigmaTel, the subsidiaries of Holdings III from time to time party thereto and the Collateral Agent, as amended, supplemented, modified, extended, renewed or restated from time to time.

“Senior Credit Agreement Collateral Documents” means each security agreement, each intellectual property security agreement, each mortgage, each pledge of shares, each pledge of receivables, each pledge of moveable assets, the security agreement supplements and each other agreement, instrument or other document entered into in favor of the collateral agents under the Senior Credit Facilities Documents, the Collateral Agent or any of the other Senior Credit Agreement Secured Parties for purposes of securing the Senior Credit Agreement Obligations.

“Senior Credit Agreement Obligations” has the meaning assigned to the term “Secured Obligations” in the Revolving Credit Facility and/or the Term Loan Facilities (as the case may be).

“Senior Credit Agreement Secured Parties” has the meaning assigned to the term “Secured Parties” in the Revolving Credit Facility and/or the Term Loan Facilities (as applicable).

“Senior Credit Facilities” means the Revolving Credit Facility and the Term Loan Facilities.

“Senior Credit Facilities Documents” means the Senior Credit Facilities, any promissory notes issued to any lender pursuant to the Revolving Credit Facility and/or the Term Loan Facilities (as applicable), the Senior Credit Agreement Collateral Documents and each other Loan Document (as defined in the Senior Credit Facilities), as the same may be amended, restated, supplemented or otherwise modified from time to time.

“Senior Indebtedness” means:

(1) all Indebtedness of the Issuer or any Guarantor outstanding under the Senior Credit Facilities, the Existing Secured Notes and the related Guarantees, the Notes and related Guarantees and the NXP Notes and related Guarantees (including interest accruing on or after the filing of any petition in bankruptcy or similar proceeding or for reorganization of the Issuer or any Guarantor (at the rate provided for in the documentation with respect thereto, regardless of whether or not a claim for post-filing interest is allowed in such proceedings)), and any and all other fees, expense reimbursement obligations, indemnification amounts, penalties, and other amounts (whether existing on the Issue Date or thereafter created or incurred) and all obligations of the Issuer or any Guarantor to reimburse any bank or other Person in respect of amounts paid under letters of credit, acceptances or other similar instruments;

(2) all Hedging Obligations (and guarantees thereof) owing to a Lender (as defined in the Senior Credit Facilities) or any Affiliate of such Lender (or any Person that was a Lender or an Affiliate of such Lender at the time the applicable agreement giving rise to such Hedging Obligation was entered into), provided that such Hedging Obligations are permitted to be incurred under the terms of this Indenture;

(3) any other Indebtedness of the Issuer or any Guarantor permitted to be incurred under the terms of this Indenture, unless the instrument under which such Indebtedness is incurred expressly provides that it is on a parity with or subordinated in right of payment to the Existing Senior Subordinated Notes or any related Guarantee, if such notes or guarantee were still outstanding; and

(4) all Obligations with respect to the items listed in the preceding clauses (1), (2) and (3);

provided, that Senior Indebtedness shall not include:

(a) any obligation of such Person to the Company or any of its Subsidiaries;

(b) any liability for federal, state, local or other taxes owed or owing by such Person;

(c) any accounts payable or other liability to trade creditors arising in the ordinary course of business;

(d) any Indebtedness or other Obligation of such Person which is subordinate or junior in right of payment to any other Indebtedness or other Obligation of such Person; provided that Indebtedness is not deemed to be subordinated or junior to other Indebtedness or Obligations merely because it is unsecured or because it has a junior priority with respect to the same collateral; or

(e) that portion of any Indebtedness which at the time of incurrence is incurred in violation of this Indenture.

“SigmaTel” means SigmaTel LLC, a Delaware limited liability company.

“Significant Subsidiary” means any Restricted Subsidiary that would be a “significant subsidiary” as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such regulation is in effect on the Issue Date.

“Similar Business” means any business conducted or proposed to be conducted by the Company and its Restricted Subsidiaries on the Issue Date and any reasonable extension thereof or any business that is similar, reasonably related, incidental or ancillary thereto.

“Specified Contract Rights” means certain intellectual property licenses, agreements or other contracts giving rise to not more than \$100 million of annual accounts receivable, royalty or other intellectual property revenue streams or other rights to payment.

“Specified Foreign Subsidiaries” means each Material Foreign Subsidiary that is not a direct or indirect Subsidiary of Holdings V, each Transferred Foreign Subsidiary and, after its formation, Foreign Acquisition Co.

“Subordinated Indebtedness” means, with respect to the Notes,

- (1) any Indebtedness of the Issuer which is by its terms subordinated in right of payment to the Notes, and
- (2) any Indebtedness of any Guarantor which is by its terms subordinated in right of payment to the Guarantee of such entity of the Notes.

“Subsidiary” means, with respect to any Person:

(1) any corporation, association, or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof or is consolidated under GAAP with such Person at such time; and

(2) any partnership, joint venture, limited liability company or similar entity of which

(x) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof whether in the form of membership, general, special or limited partnership or otherwise, and

(y) such Person or any Restricted Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

“Subsidiary Guarantor” means each Guarantor other than the Parent Guarantors.

“Term Loan Facilities” means (A) (i) the senior secured B1 term loan facility in an aggregate principal amount of up to \$3.25billion and; (ii) the senior secured B2 term loan facility in an aggregate principal amount of up to \$3.25billion, entered into as of the Merger Date by and among, the Company, NXP Funding LLC, the other Restricted Subsidiaries party thereto, the lenders party thereto in their capacities as lenders thereunder and the administrative agent named therein, including any guarantees, collateral documents, instruments and agreements executed in connection therewith, and any

amendments, supplements, modifications, extensions, renewals, restatements, refundings or refinancings thereof and any indentures or credit facilities or commercial paper facilities with banks or other institutional lenders or investors that replace, refund or refinance any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount borrowable thereunder or alters the maturity thereof (provided that such increase in borrowings is permitted under Section 4.09 hereof); and (B) the Existing Term Loan Facilities.

“Total Assets” means the total assets of the Company and its Restricted Subsidiaries, determined on a consolidated basis in accordance with GAAP, as shown on the most recent balance sheet of the Company or such other Person as may be expressly stated.

“Transaction” means the transactions contemplated by the Transaction Agreement, the tender offer and consent solicitation relating to the Old Notes, the issuance of Existing Senior Notes and the Existing Senior Subordinated Notes and borrowings under the senior credit facilities agreement as in effect on the Transaction Date.

“Transaction Agreement” means the Agreement and Plan of Merger, dated as of September 15, 2006 by and among the Issuer, Firestone Acquisition Corporation and Firestone Holdings LLC, as in effect on the Transaction Date.

“Transaction Date” means December 1, 2006.

“Transferred Foreign Subsidiary” has the meaning specified in the definition of “Foreign Reorganization.”

“Treasury Rate” means, as of any Redemption Date, the yield to maturity as of such Redemption Date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to the Redemption Date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the Redemption Date to May 15, 2016; provided, that if the period from the Redemption Date to such date is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used.

“Trustee” means The Bank of New York Mellon Trust Company, N.A., as trustee, until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving hereunder.

“Uniform Commercial Code” means the New York Uniform Commercial Code as in effect from time to time.

“Unrestricted Definitive Note” means one or more Definitive Notes that do not bear and are not required to bear the Private Placement Legend.

“Unrestricted Global Note” means a permanent Global Note, substantially in the form of Exhibit A attached hereto that bears the Global Note Legend and that has the “Schedule of Exchanges of Interests in the Global Note” attached thereto, and that is deposited with or on behalf of and registered in the name of the Depository, representing Notes that do not bear the Private Placement Legend.

“Unrestricted Subsidiary” means:

(1) any Subsidiary of the Company which at the time of determination is an Unrestricted Subsidiary (as designated by the Company, as provided below); and

(2) any Subsidiary of an Unrestricted Subsidiary.

The Company may designate any Subsidiary of the Company (including any existing Subsidiary and any newly acquired or newly formed Subsidiary but excluding the Issuer and any Subsidiary of the Company as to which the Issuer is a Subsidiary) to be an Unrestricted Subsidiary unless such Subsidiary or any of its Subsidiaries owns any Equity Interests or Indebtedness of, or owns or holds any Lien on, any property of, the Company or any Subsidiary of the Company (other than solely any Subsidiary of the Subsidiary to be so designated); provided that

(1) any Unrestricted Subsidiary must be an entity of which the Equity Interests entitled to cast at least a majority of the votes that may be cast by all Equity Interests having ordinary voting power for the election of directors or Persons performing a similar function are owned, directly or indirectly, by the Company;

(2) such designation complies with Section 4.07 hereof; and

(3) each of:

(a) the Subsidiary to be so designated; and

(b) its Subsidiaries

has not at the time of designation, and does not thereafter, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable with respect to any Indebtedness pursuant to which the lender has recourse to any of the assets of the Company or any Restricted Subsidiary.

The Company may designate any Unrestricted Subsidiary to be a Restricted Subsidiary; provided that, immediately after giving effect to such designation, no Default shall have occurred and be continuing and either:

(1) the Company could incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Test described in Section 4.09(a) hereof; or

(2) the Fixed Charge Coverage Ratio for the Company and its Restricted Subsidiaries would be equal to or greater than such ratio for the Company and its Restricted Subsidiaries immediately prior to such designation, in each case on a pro forma basis taking into account such designation.

Any such designation by the Company shall be notified by the Company to the Trustee by promptly filing with the Trustee a copy of the resolution of the board of directors of the Company or any committee thereof giving effect to such designation and an Officer's Certificate certifying that such designation complied with the foregoing provisions.

“U.S. Dollar Equivalent” means, with respect to any monetary amount in a currency other than U.S. dollars, at any time for the determination thereof, the amount of U.S. dollars obtained by converting such foreign currency involved in such computation into U.S. dollars at the spot rate for the purchase of U.S. dollars with the applicable foreign currency as quoted by Reuters at approximately 10:00 A.M. (New York City time) on such date of determination (or if no such quote is available on such date, on the immediately preceding Business Day for which such a quote is available).



“U.S. Person” means a U.S. person as defined in Rule 902(k) under the Securities Act.

“Voting Stock” of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the board of directors of such Person.

“Weighted Average Life to Maturity” means, when applied to any Indebtedness, Disqualified Stock or Preferred Stock, as the case may be, at any date, the quotient obtained by dividing:

(1) the sum of the products of the number of years from the date of determination to the date of each successive scheduled principal payment of such Indebtedness or redemption or similar payment with respect to such Disqualified Stock or Preferred Stock multiplied by the amount of such payment; by

(2) the sum of all such payments.

“Wholly-Owned Subsidiary” means, with respect to a Subsidiary of any Person, a Subsidiary of such Person, 100% of the outstanding Equity Interests of which (other than directors’ qualifying shares) shall at the time be owned by such Person or by one or more Wholly-Owned Subsidiaries of such Person.

#### SECTION 1.02. Other Definitions.

<u>Term</u>	<u>Defined in Section</u>
“Acceptable Commitment”	4.10
“Affiliate Transaction”	4.11
“Asset Sale Offer”	4.10
“Authentication Order”	2.02
“Change of Control Offer”	4.14
“Change of Control Payment”	4.14
“Change of Control Payment Date”	4.14
“Covenant Defeasance”	8.03
“Covenant Suspension Event”	4.16
“DTC”	2.03
“Event of Default”	6.01
“Excess Proceeds”	4.10
“Excluded Assets”	11.02
“Fixed Charge Coverage Test”	4.09
“Foreign Payor”	4.05
“incur”	4.09
“Initial Lien”	4.12
“Legal Defeasance”	8.02
“Note Register”	2.03
“Offer Amount”	3.09
“Offer Period”	3.09
“Paying Agent”	2.03
“Purchase Date”	3.09
“Redemption Date”	3.07

“Refinancing Indebtedness”	4.09
“Refunding Capital Stock”	4.07
“Registrar”	2.03
“Relevant Taxing Jurisdiction”	4.05
“Restricted Payments”	4.07
“Reversion Date”	4.16
“Second Commitment”	4.10
“Successor Company”	5.01
“Successor Guarantor”	5.01
“Successor Person”	5.01
“Suspended Covenants”	4.16
“Suspension Date”	4.16
“Suspension Period”	4.16
“Taxes”	4.05
“Treasury Capital Stock”	4.07

SECTION 1.03. Rules of Construction. Unless the context otherwise requires:

- (a) a term has the meaning assigned to it;
- (b) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (c) “or” is not exclusive;
- (d) “including” means including without limitation;
- (e) words in the singular include the plural, and in the plural include the singular;
- (f) “will” shall be interpreted to express a command;
- (g) provisions apply to successive events and transactions;
- (h) references to sections of, or rules under, the Securities Act shall be deemed to include substitute, replacement or successor sections or rules adopted by the SEC from time to time;
- (i) unless the context otherwise requires, any reference to an “Article,” “Section” or “clause” refers to an Article, Section or clause, as the case may be, of this Indenture; and
- (j) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not any particular Article, Section, clause or other subdivision.

#### SECTION 1.04. Acts of Holders.

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing. Except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments or record or both are delivered to the Trustee and, where it is hereby expressly required, to the Issuer. Proof of execution of any such instrument or of a writing appointing any such agent, or the holding by any Person of a Note, shall be sufficient for any purpose of this Indenture and (subject to Section 7.01) conclusive in favor of the Trustee and the Issuer, if made in the manner provided in this Section 1.04.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by or on behalf of any legal entity other than an individual, such certificate or affidavit shall also constitute proof of the authority of the Person executing the same. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner that the Trustee deems sufficient.

(c) The ownership of Notes shall be proved by the Note Register.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other action by the Holder of any Note shall bind every future Holder of the same Note and the Holder of every Note issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof, in respect of any action taken, suffered or omitted by the Trustee, the Collateral Agent or the Issuer in reliance thereon, whether or not notation of such action is made upon such Note.

(e) The Issuer may set a record date for purposes of determining the identity of Holders entitled to give any request, demand, authorization, direction, notice, consent, waiver or take any other act, or to vote or consent to any action by vote or consent authorized or permitted to be given or taken by Holders.

(f) Without limiting the foregoing, a Holder entitled to take any action hereunder with regard to any particular Note may do so with regard to all or any part of the principal amount of such Note or by one or more duly appointed agents, each of which may do so pursuant to such appointment with regard to all or any part of such principal amount. Any notice given or action taken by a Holder or its agents with regard to different parts of such principal amount pursuant to this paragraph shall have the same effect as if given or taken by separate Holders of each such different part.

(g) Without limiting the generality of the foregoing, a Holder, including DTC, may make, give or take, by a proxy or proxies duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other action provided in this Indenture to be made, given or taken by Holders, and DTC may provide its proxy to the beneficial owners of interests in any such Global Note through such depository's standing instructions and customary practices.

(h) The Issuer may fix a record date for the purpose of determining the Persons who are beneficial owners of interests in any Global Note held by DTC entitled under the procedures of such depository to make, give or take, by a proxy or proxies duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other action provided in this Indenture to be made, given or taken by Holders. If such a record date is fixed, the Holders on such record date or their duly appointed proxy or proxies, and only such Persons, shall be entitled to make, give or take such request, demand, authorization, direction, notice, consent, waiver or other action, whether or not such Holders remain Holders after such record date. No such request, demand, authorization, direction, notice, consent, waiver or other action shall be valid or effective if made, given or taken more than 90 days after such record date.

ARTICLE II

THE NOTES

SECTION 2.01. Form and Dating; Terms.

(a) General. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rules or usage. Each Note shall be dated the date of its authentication. The Notes shall be in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof.

(b) Global Notes. Notes issued in global form shall be substantially in the form of Exhibit A hereto (including the Global Note Legend thereon and the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Notes issued in definitive form shall be substantially in the form of Exhibit A hereto (but without the Global Note Legend thereon and without the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Each Global Note shall represent such of the outstanding Notes as shall be specified in the "Schedule of Exchanges of Interests in the Global Note" attached thereto and each shall provide that it shall represent up to the aggregate principal amount of Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as applicable, to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby shall be made by the Trustee or the Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06 hereof.

(c) Temporary Global Notes. Notes offered and sold in reliance on Regulation S shall be issued initially in the form of the Regulation S Temporary Global Note, which shall be deposited on behalf of the purchasers of the Notes represented thereby with the Custodian and registered in the name of the Depository or the nominee of the Depository for the accounts of designated agents holding on behalf of Euroclear or Clearstream, duly executed by the Issuer and authenticated by the Trustee as hereinafter provided. The Restricted Period shall be terminated upon the receipt by the Trustee of:

(i) a written certificate from the Depository, together with copies of certificates from Euroclear and Clearstream certifying that they have received certification of non-United States beneficial ownership of 100% of the aggregate principal amount of each Regulation S Temporary Global Note (except to the extent of any beneficial owners thereof who acquired an interest therein during the Restricted Period pursuant to another exemption from registration under the Securities Act and who shall take delivery of a beneficial ownership interest in a 144A Global Note bearing a Private Placement Legend, all as contemplated by Section 2.06(b) hereof); and

(ii) an Officer's Certificate from the Issuer.

Following the termination of the Restricted Period, beneficial interests in each Regulation S Temporary Global Note shall be exchanged for beneficial interests in a Regulation S Permanent Global Note of the same series pursuant to the Applicable Procedures. Simultaneously with the authentication of the corresponding Regulation S Permanent Global Note, the Trustee shall cancel the corresponding Regulation S Temporary Global Note. The aggregate principal amount of a Regulation S Temporary Global Note and a Regulation S Permanent Global Note may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depository or its nominee, as the case may be, in connection with transfers of interest as hereinafter provided.

(d) Terms. The aggregate principal amount of Notes that may be authenticated and delivered under this Indenture is unlimited.

The terms and provisions contained in the Notes shall constitute, and are hereby expressly made, a part of this Indenture and the Issuer, the Guarantors and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

The Notes shall be subject to repurchase by the Issuer pursuant to an Asset Sale Offer as provided in Section 4.10 hereof or a Change of Control Offer as provided in Section 4.14 hereof. The Notes shall not be redeemable, other than as provided in Article 3 hereof.

Additional Notes ranking pari passu with the Initial Notes may be created and issued from time to time by the Issuer without notice to or consent of the Holders and shall be consolidated with and form a single class with the Initial Notes and shall have the same terms as to status, redemption or otherwise as the Initial Notes; provided that the Issuer's ability to issue Additional Notes shall be subject to the Issuer's compliance with Section 4.09 hereof. Any Additional Notes shall be issued with the benefit of an indenture supplemental to this Indenture.

SECTION 2.02. Execution and Authentication. At least one Officer of the Issuer shall execute the Notes on behalf of the Issuer by manual or facsimile signature.

If an Officer of the Issuer whose signature is on a Note no longer holds that office at the time the Trustee authenticates the Note, the Note shall nevertheless be valid.

A Note shall not be entitled to any benefit under this Indenture or be valid or obligatory for any purpose until authenticated substantially in the form of Exhibit A attached hereto by the manual signature of the Trustee. The signature shall be conclusive evidence that the Note has been duly authenticated and delivered under this Indenture.

On the Issue Date, the Trustee shall, upon receipt of an Issuer Order (an "Authentication Order"), authenticate and deliver the Initial Notes. In addition, at any time, from time to time, the Trustee shall upon an Authentication Order authenticate and deliver any Additional Notes for an aggregate principal amount specified in such Authentication Order for such Additional Notes issued or increased hereunder.

The Trustee may appoint an authenticating agent acceptable to the Issuer to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an Agent to deal with Holders or an Affiliate of the Issuer.

SECTION 2.03. Registrar and Paying Agent. (a) The Issuer shall maintain (i) an office or agency where Notes may be presented for registration of transfer or for exchange ("Registrar") and (ii) an office or agency where Notes may be presented for payment ("Paying Agent"). The Registrar shall keep a register of the Notes ("Note Register") and of their transfer and exchange. The Issuer may appoint one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any

co-registrar, and the term “Paying Agent” includes any additional paying agents. The Issuer initially appoints the Trustee as Paying Agent. The Issuer may change any Paying Agent or Registrar without prior notice to any Holder. The Issuer shall notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. If the Issuer fails to appoint or maintain another entity as Registrar or Paying Agent, the Trustee shall, to the extent that it is capable, act as such. The Issuer or any of its domestic Subsidiaries may act as Paying Agent or Registrar.

(b) The Issuer initially appoints The Depository Trust Company (“DTC”) to act as Depository with respect to the Global Notes representing the Notes.

(c) The Issuer initially appoints the Trustee to act as the Registrar for the Notes.

SECTION 2.04. Paying Agent to Hold Money in Trust. The Issuer shall require each Paying Agent other than the Trustee to agree in writing that the Paying Agent shall hold in trust for the benefit of Holders or the Trustee all money held by the Paying Agent for the payment of principal and premium, if any, or interest on the Notes, and will notify the Trustee of any default by the Issuer in making any such payment. While any such default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee. The Issuer at any time may require a Paying Agent to pay all money held by it to the Trustee. Upon payment over to the Trustee, the Paying Agent (if other than the Issuer or a Subsidiary) shall have no further liability for the money. If the Issuer or a Subsidiary acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders all money held by it as Paying Agent. Upon any bankruptcy or reorganization proceedings relating to the Issuer, the Trustee shall serve as Paying Agent for the Notes.

SECTION 2.05. Holder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Holders. If the Trustee is not the Registrar, the Issuer shall furnish to the Trustee at least five Business Days before each Interest Payment Date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders of Notes.

SECTION 2.06. Transfer and Exchange.

(a) Transfer and Exchange of Global Notes. Except as otherwise set forth in this Section 2.06, a Global Note may be transferred, in whole and not in part, only to another nominee of the Depository or to a successor thereto or a nominee of such successor thereto. A beneficial interest in a Global Note may not be exchanged for a Definitive Note of the same series unless (A) the Depository (x) notifies the Issuer that it is unwilling or unable to continue as Depository for such Global Note or (y) has ceased to be a clearing agency registered under the Exchange Act, and, in either case, a successor Depository is not appointed by the Issuer within 120 days or (B) there shall have occurred and be continuing a Default with respect to the Notes. Upon the occurrence of any of the preceding events in (A) above, Definitive Notes delivered in exchange for any Global Note of the same series or beneficial interests therein will be registered in the names, and issued in any approved denominations, requested by or on behalf of the Depository (in accordance with its customary procedures). Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10 hereof. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note of the same series or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or 2.10 hereof, shall be authenticated and delivered in the form of, and shall be, a Global Note, except for Definitive Notes issued subsequent to any of the preceding events in (A) or (B) above and pursuant to Section 2.06(c) hereof. A Global Note may not be exchanged for another Note other than as provided in this Section 2.06(a); provided, however, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b) or (c) hereof.

(b) Transfer and Exchange of Beneficial Interests in the Global Notes. The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depositary in accordance with the provisions of this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Notes shall be subject to restrictions on transfer comparable to those set forth herein to the extent required by the Securities Act. Transfers of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i) or (ii) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(i) Transfer of Beneficial Interests in the Same Global Note. Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Private Placement Legend; provided, that prior to the expiration of the Restricted Period, transfers of beneficial interests in the Regulation S Temporary Global Note may not be made to a U.S. Person or for the account or benefit of a U.S. Person other than pursuant to Rule 144A. Beneficial interests in any Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(i).

(ii) All Other Transfers and Exchanges of Beneficial Interests in Global Notes. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(i) hereof, the transferor of such beneficial interest must deliver to the Registrar either (A) (1) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase or (B) (1) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to cause to be issued a Definitive Note of the same series in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (1) above; provided that in no event shall Definitive Notes be issued upon the transfer or exchange of beneficial interests in a Regulation S Temporary Global Note prior to (A) the expiration of the Restricted Period and (B) the receipt by the Registrar of any certificates required pursuant to Rule 903. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.06(g) hereof.

(iii) Transfer of Beneficial Interests to Another Restricted Global Note. A beneficial interest in any Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Note if the transfer complies with the requirements of Section 2.06(b)(ii) hereof and the Registrar receives the following:

(A) if the transferee will take delivery in the form of a beneficial interest in a 144A Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof; or

(B) if the transferee will take delivery in the form of a beneficial interest in a Regulation S Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof.

(iv) Transfer and Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in an Unrestricted Global Note. A beneficial interest in any Restricted Global Note may be exchanged by any holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note if the exchange or transfer complies with the requirements of Section 2.06(b)(ii) hereof and the Registrar receives the following:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Note of the same series, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (1)(a) thereof; or

(B) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note of the same series, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof; and, in each such case, if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer is effected pursuant to this paragraph (iv) at a time when an Unrestricted Global Note has not yet been issued, the Issuer shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred pursuant to this paragraph (iv).

Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Note.

(c) Transfer or Exchange of Beneficial Interests for Definitive Notes.

(i) Beneficial Interests in Restricted Global Notes to Restricted Definitive Notes. If any holder of a beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Restricted Definitive Note, then, upon the occurrence of any of the events in subsection (A) of Section 2.06(a) hereof and receipt by the Registrar of the following documentation:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note, a certificate from such holder substantially in the form of Exhibit C hereto, including the certifications in item (2)(a) thereof;



(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such beneficial interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such beneficial interest is being transferred to the Issuer or any of its Restricted Subsidiaries, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(F) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(g) hereof, and the Issuer shall execute and the Trustee shall authenticate and mail to the Person designated in the instructions a Definitive Note in the applicable principal amount. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depository and the Participant or Indirect Participant. The Trustee shall mail such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c)(i) shall bear the Private Placement Legend and shall be subject to all restrictions on transfer contained therein.

(ii) Beneficial Interests in Regulation S Temporary Global Note to Definitive Notes. Notwithstanding Sections 2.06(c)(i)(A) and (C) hereof, a beneficial interest in the Regulation S Temporary Global Note may not be exchanged for a Definitive Note or transferred to a Person who takes delivery thereof in the form of a Definitive Note prior to (A) the expiration of the Restricted Period and (B) the receipt by the Registrar of any certificates required pursuant to Rule 903(b)(3)(ii)(B) of the Securities Act, except in the case of a transfer pursuant to an exemption from the registration requirements of the Securities Act other than Rule 903 or Rule 904.

(iii) Beneficial Interests in Restricted Global Notes to Unrestricted Definitive Notes. A holder of a beneficial interest in a Restricted Global Note may exchange such beneficial interest for an Unrestricted Definitive Note or may transfer such beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note only upon the occurrence of any of the events in subsection (A) of Section 2.06(a) hereof and if the Registrar receives the following:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for an Unrestricted Definitive Note, a certificate from such holder substantially in the form of Exhibit C hereto, including the certifications in item (1)(b) thereof; or

(B) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such holder substantially in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case, if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iv) Beneficial Interests in Unrestricted Global Notes to Unrestricted Definitive Notes. If any holder of a beneficial interest in an Unrestricted Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon the occurrence of any of the events in subsection (A) of Section 2.06(a) hereof and satisfaction of the conditions set forth in Section 2.06(b)(ii) hereof, the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(g) hereof, and the Issuer shall execute and the Trustee shall authenticate and mail to the Person designated in the instructions a Definitive Note in the applicable principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(iv) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from or through the Depositary and the Participant or Indirect Participant. The Trustee shall mail such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(iv) shall not bear the Private Placement Legend.

(d) Transfer and Exchange of Definitive Notes for Beneficial Interests.

(i) Restricted Definitive Notes to Beneficial Interests in Restricted Global Notes. If any Holder of a Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note or to transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note, then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (2)(b) thereof;

(B) if such Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such Restricted Definitive Note is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such Restricted Definitive Note is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such Restricted Definitive Note is being transferred to the Issuer or any of its Restricted Subsidiaries, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(F) if such Restricted Definitive Note is being transferred pursuant to an effective registration statement under the Securities Act, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cancel the Restricted Definitive Note, increase or cause to be increased the aggregate principal amount of, in the case of clause (A) above, the applicable Restricted Global Note, in the case of clause (B) above, the applicable 144A Global Note, and in the case of clause (C) above, the applicable Regulation S Global Note.

(ii) Restricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of a Restricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note only if the Registrar receives the following:

(A) if the Holder of such Definitive Notes proposes to exchange such Notes for a beneficial interest in the Unrestricted Global Note, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (1)(c) thereof; or

(B) if the Holder of such Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of a beneficial interest in the Unrestricted Global Note, a certificate from such Holder substantially in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case, if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

Upon satisfaction of the conditions of any of the subparagraphs in this Section 2.06(d)(ii), the Trustee shall cancel the Definitive Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note.

(iii) Unrestricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of an Unrestricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee shall cancel the applicable Unrestricted Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes.

If any such exchange or transfer from a Definitive Note to a beneficial interest is effected pursuant to subparagraph (ii) or (iii) above at a time when an Unrestricted Global Note has not yet been issued, the Issuer shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of Definitive Notes so transferred.

(e) Transfer and Exchange of Definitive Notes for Definitive Notes. Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.06(e), the Registrar shall register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder shall present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the requesting Holder shall provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.06(e):

(i) Restricted Definitive Notes to Restricted Definitive Notes. Any Restricted Definitive Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note if the Registrar receives the following:

(A) if the transfer will be made pursuant to a QIB in accordance with Rule 144A, then the transferor must deliver a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transfer will be made pursuant to Rule 903 or Rule 904 then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; or

(C) if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications required by item (3) thereof, if applicable.

(ii) Restricted Definitive Notes to Unrestricted Definitive Notes. Any Restricted Definitive Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note if the Registrar receives the following:

(A) if the Holder of such Restricted Definitive Notes proposes to exchange such Notes for an Unrestricted Definitive Note, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (1)(d) thereof; or

(B) if the Holder of such Restricted Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such Holder substantially in the form of Exhibit B hereto, including the certifications in item (4) thereof;

(C) and, in each such case, if the Registrar so requests, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iii) Unrestricted Definitive Notes to Unrestricted Definitive Notes. A Holder of Unrestricted Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Notes pursuant to the instructions from the Holder thereof.

(f) Legends. The following legends shall appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture:

(i) Private Placement Legend.

(A) Except as permitted by subparagraph (B) below, each Global Note and each Definitive Note (and all Notes issued in exchange therefor or substitution thereof) shall bear the legend in substantially the following form:

“THE NOTE EVIDENCED HEREBY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER SECTION 5 OF THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND THE NOTE EVIDENCED HEREBY MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THE NOTE EVIDENCED HEREBY IS HEREBY NOTIFIED THAT THE SELLER MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER. THE HOLDER OF THE NOTE EVIDENCED HEREBY AGREES FOR THE BENEFIT OF THE COMPANY THAT (A) SUCH NOTE MAY BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED ONLY (1) (a) IN THE UNITED STATES TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (b) OUTSIDE THE UNITED STATES IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH RULE 904 UNDER THE SECURITIES ACT, (c) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144 UNDER THE SECURITIES ACT, (d) TO AN INSTITUTIONAL “ACCREDITED INVESTOR” (AS DEFINED IN RULE 501 (a) (1), (2), (3) OR (7) UNDER THE SECURITIES ACT) THAT, PRIOR TO SUCH TRANSFER, FURNISHES THE TRUSTEE A SIGNED LETTER CONTAINING CERTAIN REPRESENTATIONS AND AGREEMENTS (THE FORM OF WHICH CAN BE OBTAINED FROM THE TRUSTEE) AND, IF SUCH TRANSFER IS IN RESPECT OF AN AGGREGATE PRINCIPAL AMOUNT OF NOTES LESS THAN \$250,000, AN OPINION OF COUNSEL ACCEPTABLE TO THE COMPANY THAT SUCH TRANSFER IS IN COMPLIANCE WITH THE SECURITIES ACT OR (e) IN

ACCORDANCE WITH ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL IF THE COMPANY SO REQUESTS), (2) TO THE COMPANY OR (3) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT AND, IN EACH CASE, IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR ANY OTHER APPLICABLE JURISDICTION AND (B) THE HOLDER WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY ANY PURCHASER FROM IT OF THE NOTE EVIDENCED HEREBY OF THE RESALE RESTRICTIONS SET FORTH IN (A) ABOVE.”

(B) Notwithstanding the foregoing, any Global Note or Definitive Note issued pursuant to subparagraph (b)(iv), (c)(iii), (c)(iv), (d)(ii), (d)(iii), (e)(ii) or (e)(iii) of this Section 2.06 (and all Notes issued in exchange therefor or substitution thereof) shall not bear the Private Placement Legend.

(ii) Global Note Legend. Each Global Note representing the Notes shall bear a legend in substantially the following form (with appropriate changes in the last sentence if DTC is not the Depository):

“THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06(g) OF THE INDENTURE, (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (III) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (IV) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE ISSUER. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) (“DTC”) TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.”

(iii) Regulation S Temporary Global Note Legend. The Regulation S Temporary Global Note shall bear a legend in substantially the following form:

“THIS NOTE (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION ORIGINALLY EXEMPT FROM REGISTRATION UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND MAY NOT BE TRANSFERRED IN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, ANY U.S. PERSON EXCEPT PURSUANT TO AN AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND ALL APPLICABLE STATE SECURITIES LAWS. TERMS USED ABOVE HAVE THE MEANINGS GIVEN TO THEM IN REGULATION S UNDER THE SECURITIES ACT.”

(g) Cancellation and/or Adjustment of Global Notes. At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.11 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(h) General Provisions Relating to Transfers and Exchanges.

(i) To permit registrations of transfers and exchanges, the Issuer shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon receipt of an Authentication Order in accordance with Section 2.02 hereof or at the Registrar’s request.

(ii) No service charge shall be made to a holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Issuer may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.07, 2.10, 3.06, 3.09, 4.10, 4.14 and 9.04 hereof).

(iii) Neither the Registrar nor the Issuer shall be required to register the transfer of or exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(iv) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes shall be the valid obligations of the Issuer, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(v) The Issuer shall not be required (A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of any selection of Notes for redemption under Section 3.02 hereof and ending at the close of business on the day of selection, (B) to register the transfer of or to exchange any Note so selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part or (C) to register the transfer of or to exchange a Note between a Record Date with respect to such Note and the next succeeding Interest Payment Date with respect to such Note.

(vi) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Issuer may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of (and premium, if any) and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Issuer shall be affected by notice to the contrary.

(vii) Upon surrender for registration of transfer of any Note at the office or agency of the Issuer designated pursuant to Section 4.02 hereof, the Issuer shall execute, and the Trustee shall authenticate and mail, in the name of the designated transferee or transferees, one or more replacement Notes of any authorized denomination or denominations of a like aggregate principal amount.

(viii) At the option of the Holder, Notes may be exchanged for other Notes of any authorized denomination or denominations of a like aggregate principal amount upon surrender of the Notes to be exchanged at such office or agency. Whenever any Global Notes or Definitive Notes are so surrendered for exchange, the Issuer shall execute, and the Trustee shall authenticate and mail, the replacement Global Notes and Definitive Notes which the Holder making the exchange is entitled to in accordance with the provisions of Section 2.02 hereof.

(ix) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.06 to effect a registration of transfer or exchange may be submitted by facsimile.

**SECTION 2.07. Replacement Notes.** If any mutilated Note is surrendered to the Trustee, the Registrar or the Issuer and the Trustee receives evidence to its satisfaction of the ownership and destruction, loss or theft of any Note, the Issuer shall issue and the Trustee, upon receipt of an Authentication Order, shall authenticate a replacement Note if the Trustee's requirements are met. If required by the Trustee or the Issuer, an indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Issuer to protect the Issuer, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a Note is replaced. The Issuer and the Trustee may charge the Holder for their expenses in replacing a Note.

Every replacement Note is a contractual obligation of the Issuer and shall be entitled to all of the benefits of this Indenture equally and proportionately with all other Notes duly issued hereunder.

**SECTION 2.08. Outstanding Notes.** The Notes outstanding at any time are all the Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with the provisions hereof and those described in this Section 2.08 as not outstanding. Except as set forth in Section 2.09 hereof, a Note does not cease to be outstanding because the Issuer, a Guarantor or an Affiliate of the Issuer or a Guarantor holds the Note.



If a Note is replaced pursuant to Section 2.07 hereof, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a protected purchaser (as defined in Section 8-303 of the Uniform Commercial Code).

If the principal amount of any Note is considered paid under Section 4.01 hereof, it ceases to be outstanding and interest on it ceases to accrue.

If the Paying Agent (other than the Issuer, a Guarantor or an Affiliate of the Issuer or a Guarantor) holds, on a Redemption Date or maturity date, money sufficient to pay Notes (or portions thereof) payable on that date, then on and after that date such Notes (or portions thereof) shall be deemed to be no longer outstanding and shall cease to accrue interest.

SECTION 2.09. Treasury Notes. In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Issuer, a Guarantor or by any Affiliate of the Issuer or a Guarantor, shall be considered as though not outstanding, except that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes that a Responsible Officer of the Trustee knows are so owned shall be so disregarded. Notes so owned which have been pledged in good faith shall not be disregarded if the pledgee establishes to the satisfaction of the Trustee the pledgee's right to deliver any such direction, waiver or consent with respect to the Notes and that the pledgee is not the Issuer, a Guarantor or any obligor upon the Notes or any Affiliate of the Issuer, a Guarantor or of such other obligor.

SECTION 2.10. Temporary Notes. Until certificates representing Notes are ready for delivery, the Issuer may prepare and the Trustee, upon receipt of an Authentication Order, shall authenticate temporary Notes. Temporary Notes shall be substantially in the form of certificated Notes but may have variations that the Issuer considers appropriate for temporary Notes and as shall be reasonably acceptable to the Trustee. Without unreasonable delay, the Issuer shall prepare and the Trustee shall authenticate definitive Notes in exchange for temporary Notes.

Holders and beneficial holders, as the case may be, of temporary Notes shall be entitled to all of the benefits accorded to Holders, or beneficial holders, respectively, of Notes under this Indenture.

SECTION 2.11. Cancellation. The Issuer at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee or, at the direction of the Trustee, the Registrar or the Paying Agent and no one else shall cancel all Notes surrendered for registration of transfer, exchange, payment, replacement or cancellation and shall destroy cancelled Notes (subject to the record retention requirement of the Exchange Act). Certification of the destruction of all cancelled Notes shall be delivered to the Issuer. The Issuer may not issue new Notes to replace Notes that it has paid or that have been delivered to the Trustee for cancellation.

SECTION 2.12. Defaulted Interest. If the Issuer defaults in a payment of interest on the Notes, it shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, in each case at the rate provided in the Notes and in Section 4.01 hereof. The Issuer may pay the defaulted interest to the Persons who are Holders on a subsequent special record date.

The Issuer shall notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Note and the date of the proposed payment, and at the same time the Issuer shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such defaulted interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such defaulted interest as provided in this Section 2.12. The Trustee shall fix or cause to be fixed any such special record date and payment date; provided that no such special record date shall be less than 10 days prior to the related payment date for such defaulted interest. The Trustee shall promptly notify the Issuer of any such special record date. At least 15 days before any such special record date, the Issuer (or, upon the written request of the Issuer, the Trustee in the name and at the expense of the Issuer) shall mail or cause to be mailed, first-class postage prepaid, to each Holder, with a copy to the Trustee, a notice at his or her address as it appears in the Note Register that states the special record date, the related payment date and the amount of such interest to be paid.

Subject to the foregoing provisions of this Section 2.12 and for greater certainty, each Note delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Note shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Note.

SECTION 2.13. CUSIP/ISIN Numbers. The Issuer in issuing the Notes may use CUSIP and ISIN numbers (in each case, if then generally in use) and, if so, the Trustee shall use CUSIP and ISIN numbers in notices of redemption as a convenience to Holders; provided, that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice of redemption and that reliance may be placed only on the other identification numbers printed on the Notes, and any such redemption shall not be affected by any defect in or omission of such numbers. The Issuer will as promptly as practicable notify the Trustee in writing of any change in the CUSIP and ISIN numbers.

### ARTICLE III

#### REDEMPTION

SECTION 3.01. Notices to Trustee. If the Issuer elects to redeem Notes pursuant to Section 3.07 hereof, it shall furnish to the Trustee, at least 2 Business Days before notice of redemption is required to be mailed or caused to be mailed to Holders pursuant to Section 3.03 hereof but not more than 60 days before a Redemption Date, an Officer's Certificate of the Issuer setting forth (i) the paragraph or subparagraph of the Note and/or Section of this Indenture pursuant to which the redemption shall occur, (ii) the Redemption Date, (iii) the principal amount of the Notes to be redeemed and (iv) the redemption price.

SECTION 3.02. Selection of Notes to Be Redeemed. If less than all of the Notes are to be redeemed at any time, the Trustee shall select the Notes to be redeemed (a) if the Notes are listed on any national securities exchange, in compliance with the requirements of the principal national securities exchange on which the Notes are listed or (b) on a pro rata basis to the extent practicable, or, if the pro rata basis is not practicable for any reason, by lot or by such other method the Trustee shall deem fair and appropriate. In the event of partial redemption by lot, the particular Notes to be redeemed shall be selected, unless otherwise provided herein, not less than 30 nor more than 60 days prior to the Redemption Date by the Trustee from the outstanding Notes not previously called for redemption.

The Trustee shall promptly notify the Issuer in writing of the Notes selected for redemption and, in the case of any Note selected for partial redemption, the principal amount thereof to be redeemed. Notes and portions of Notes selected shall be in amounts of \$2,000 or whole multiples of \$1,000 in excess thereof; no Notes of less than \$2,000 can be redeemed in part, except that if all of the Notes of a Holder are to be redeemed, the entire outstanding amount of Notes held by such Holder, even if not a multiple of \$1,000 shall be redeemed. Except as provided in the preceding sentence, provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption.

SECTION 3.03. Notice of Redemption. Subject to Section 3.09 hereof, the Issuer shall transmit or cause to be transmitted notices of redemption at least 30 days but not more than 60 days before the Redemption Date to each Holder of Notes to be redeemed at such Holder's registered address or otherwise in accordance with Applicable Procedures, except that redemption notices may be transmitted more than 60 days prior to a Redemption Date if the notice is issued in connection with Article 8 or Article 12 hereof. Except pursuant to a notice of redemption delivered in accordance with a redemption pursuant to Sections 3.07(b) hereof, notices of redemption may not be conditional.

The notice shall identify the Notes to be redeemed and shall state:

(a) the Redemption Date;

(b) the redemption price;

(c) if any Note is to be redeemed in part only, the portion of the principal amount of that Note that is to be redeemed and that, after the Redemption Date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion of the original Note representing the same indebtedness to the extent not redeemed will be issued in the name of the Holder of the Notes upon cancellation of the original Note;

(d) the name and address of the Paying Agent;

(e) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;

(f) that, unless the Issuer defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the Redemption Date;

(g) the paragraph or subparagraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed;

(h) the CUSIP and ISIN number, if any, printed on the Notes being redeemed and that no representation is made as to the correctness or accuracy of any such CUSIP and ISIN number that is listed in such notice or printed on the Notes; and

(i) if in connection with a redemption pursuant to Section 3.07(b) hereof, any condition to such redemption.

At the Issuer's request, the Trustee shall give the notice of redemption in the Issuer's name and at its expense; provided that the Issuer shall have delivered to the Trustee, at least 2 Business Days before notice of redemption is required to be transmitted or caused to be transmitted to Holders pursuant to this Section 3.03 (unless a shorter notice shall be agreed to by the Trustee), an Officer's Certificate of the Issuer requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph.

SECTION 3.04. Effect of Notice of Redemption. Once notice of redemption is transmitted in accordance with Section 3.03 hereof, Notes called for redemption become irrevocably due and payable on the Redemption Date at the redemption price (except as provided for in Sections 3.07(b) hereof). The notice, if transmitted in a manner herein provided, shall be conclusively presumed to have been given, whether or not the Holder receives such notice. In any case, failure to give such notice or any defect in the notice to the Holder of any Note designated for redemption in whole or in part shall not affect the validity of the proceedings for the redemption of any other Note. Subject to Section 3.05 hereof, on and after the Redemption Date, interest ceases to accrue on Notes or portions of Notes called for redemption.

SECTION 3.05. Deposit of Redemption Price.

(a) Prior to 11:00 a.m. (New York City time) on the Redemption Date, the Issuer shall deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption price of and accrued and unpaid interest on all Notes to be redeemed on that Redemption Date. The Trustee or the Paying Agent shall promptly return to the Issuer any money deposited with the Trustee or the Paying Agent by the Issuer in excess of the amounts necessary to pay the redemption price of, and accrued and unpaid interest on, all Notes to be redeemed.

(b) If the Issuer complies with the provisions of the preceding paragraph (a), on and after the Redemption Date, interest shall cease to accrue on the applicable series of Notes or the portions of Notes called for redemption. If a Note is redeemed on or after a Record Date but on or prior to the related Interest Payment Date, then any accrued and unpaid interest to the Redemption Date shall be paid to the Person in whose name such Note was registered at the close of business on such Record Date. If any Note called for redemption shall not be so paid upon surrender for redemption because of the failure of the Issuer to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the Redemption Date until such principal is paid, and to the extent lawful on any interest accrued to the Redemption Date not paid on such unpaid principal, in each case at the rate provided in the Notes and in Section 4.01 hereof.

SECTION 3.06. Notes Redeemed in Part. Upon surrender of a Note that is redeemed in part, the Issuer shall issue and the Trustee shall authenticate for the Holder at the expense of the Issuer a new Note equal in principal amount to the unredeemed portion of the Note surrendered representing the same indebtedness to the extent not redeemed; provided that each new Note will be in a principal amount of \$2,000 or an integral multiple of \$1,000 in excess thereof. It is understood that, notwithstanding anything in this Indenture to the contrary, only an Authentication Order and not an Opinion of Counsel or Officer's Certificate of the Issuer is required for the Trustee to authenticate such new Note.

SECTION 3.07. Optional Redemption.

(a) At any time prior to May 15, 2016, the Issuer may redeem all or a part of the Notes, upon notice in accordance with Section 3.03, at a redemption price equal to 100% of the principal amount of the Notes redeemed plus the Applicable Premium as of, and accrued and unpaid interest, if any, to, the date of redemption (the "Redemption Date"), subject to the right of Holders of record on the relevant record date to receive interest due on the relevant interest payment date.

(b) Until May 15, 2016, the Issuer may, at its option, redeem up to 35% of the aggregate principal amount of Notes issued by it at a redemption price equal to 105.000% of the aggregate principal amount thereof, plus accrued and unpaid interest, if any, to, the Redemption Date, subject to the right of Holders of Notes of record on the relevant record date to receive interest due on the relevant interest payment date, with the net cash proceeds received by it from one or more Equity

Offerings; provided that (i) at least 50% of the sum of the aggregate principal amount of Notes originally issued under this Indenture and any Additional Notes that are Notes issued under this Indenture after the Issue Date remain outstanding immediately after the occurrence of each such redemption; and (ii) each such redemption occurs within 180 days of the date of closing of each such Equity Offering.

(c) Except pursuant to clause (a) or (b) of this Section 3.07, the Notes will not be redeemable at the Issuer's option prior to May 15, 2016.

(d) On and after May 15, 2016, the Issuer may redeem the Notes, in whole or in part, upon notice in accordance with Section 3.03 at the redemption prices (expressed as percentages of principal amount of the Notes to be redeemed) set forth below, plus accrued and unpaid interest, if any, to the Redemption Date, subject to the right of Holders of record on the relevant record date to receive interest due on the relevant interest payment date, if redeemed during the twelvemonth period beginning on May 15 of each of the years indicated below:

<u>Year</u>	<u>Percentage</u>
2016	103.750%
2017	102.500%
2018	101.250%
2019 and thereafter	100.000%

(e) Any redemption pursuant to this Section 3.07 shall be made pursuant to the provisions of Sections 3.01 through 3.06 hereof.

SECTION 3.08. Mandatory Redemption. The Issuer shall not be required to make any mandatory redemption or sinking fund payments with respect to the Notes.

SECTION 3.09. Offers to Repurchase by Application of Excess Proceeds.

(a) In the event that, pursuant to Section 4.10 hereof, the Issuer shall be required to commence an Asset Sale Offer, it shall follow the procedures specified below.

(b) The Asset Sale Offer shall remain open for a period of 20 Business Days following its commencement and no longer, except to the extent that a longer period is required by applicable law (the "Offer Period"). No later than five Business Days after the termination of the Offer Period (the "Purchase Date"), the Issuer shall apply all Excess Proceeds (the "Offer Amount") to the purchase of Notes and, if required, any other Indebtedness constituting First Lien Obligations (on a pro rata basis, if applicable), or, if less than the Offer Amount has been tendered, all Notes and any other Indebtedness constituting First Lien Obligations tendered in response to the Asset Sale Offer. Payment for any Notes so purchased shall be made in the same manner as interest payments are made.

(c) If the Purchase Date is on or after a Record Date and on or before the related Interest Payment Date, any accrued and unpaid interest, up to but excluding the Purchase Date, shall be paid to the Person in whose name a Note is registered at the close of business on such Record Date, and no additional interest shall be payable to Holders who tender Notes pursuant to the Asset Sale Offer.

(d) Upon the commencement of an Asset Sale Offer, the Issuer shall send, by first-class mail, postage prepaid, a notice to each of the Holders, with a copy to the Trustee. The notice shall contain all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Asset Sale Offer. The Asset Sale Offer shall be made to all Holders and holders of any other Indebtedness constituting First Lien Obligations. The notice, which shall govern the terms of the Asset Sale Offer, shall state:

(i) that the Asset Sale Offer is being made pursuant to this Section 3.09 and Section 4.10 hereof and the length of time the Asset Sale Offer shall remain open;

(ii) the Offer Amount, the purchase price and the Purchase Date;

(iii) that any Note not tendered or accepted for payment shall continue to accrue interest;

(iv) that, unless the Issuer defaults in making such payment, any Note accepted for payment pursuant to the Asset Sale Offer shall cease to accrue interest after the Purchase Date;

(v) that any Holder electing to have less than all of the aggregate principal amount of its Notes purchased pursuant to an Asset Sale Offer may elect to have Notes purchased in denominations of \$2,000 or whole multiples of \$1,000 in excess thereof;

(vi) that Holders electing to have a Note purchased pursuant to any Asset Sale Offer shall be required to surrender the Note, with the form entitled "Option of Holder to Elect Purchase" attached to the Note completed, or transfer by book-entry transfer, to the Issuer, the Depositary, if appointed by the Issuer, or a Paying Agent at the address specified in the notice at least two Business Days before the Purchase Date;

(vii) that Holders shall be entitled to withdraw their election if the Issuer, the Depositary or the Paying Agent, as the case may be, receives, not later than the expiration of the Offer Period, a facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Note the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have such Note purchased;

(viii) that, if the aggregate principal amount of Notes and any other Indebtedness constituting First Lien Obligations surrendered by the holders thereof exceeds the Offer Amount, the Trustee shall select the Notes and such other Indebtedness constituting First Lien Obligations to be purchased on a pro rata basis based on the accreted value or principal amount of the Notes or such other Indebtedness constituting First Lien Obligations tendered (with such adjustments as may be deemed appropriate by the Trustee so that only Notes in denominations of \$2,000 or whole multiples of \$1,000 in excess thereof are purchased); and

(ix) that Holders whose Notes were purchased only in part shall be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered (or transferred by book-entry transfer) representing the same indebtedness to the extent not repurchased.

(e) On or before the Purchase Date, the Issuer shall, to the extent lawful, (1) accept for payment, on a pro rata basis as described in clause (d) (viii) of this Section 3.09, the Offer Amount of Notes or portions thereof validly tendered pursuant to the Asset Sale Offer, or if less than the Offer Amount has been tendered, all Notes tendered and (2) deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officer's Certificate stating the aggregate principal amount of Notes or portions thereof so tendered.

(f) The Issuer, the Depositary or the Paying Agent, as the case may be, shall promptly mail or deliver to each tendering Holder an amount equal to the purchase price of the Notes properly tendered by such Holder and accepted by the Issuer for purchase, and the Issuer shall promptly issue a new Note, and the Trustee, upon receipt of an Authentication Order, shall authenticate and mail or deliver (or cause to be transferred by book-entry) such new Note to such Holder (it being understood that, notwithstanding anything in this Indenture to the contrary, no Opinion of Counsel or Officer's Certificate of the Issuer is required for the Trustee to authenticate and mail or deliver such new Note) in a principal amount equal to any unpurchased portion of the Note surrendered representing the same indebtedness to the extent not repurchased. Any Note not so accepted shall be promptly mailed or delivered by the Issuer to the Holder thereof. The Issuer shall publicly announce the results of the Asset Sale Offer on or as soon as practicable after the Purchase Date.

(g) Prior to 11:00 a.m. (New York City time) on the Purchase Date, the Issuer shall deposit with the Trustee or with the Paying Agent money sufficient to pay the purchase price of and accrued and unpaid interest on all Notes to be purchased on that purchase date. The Trustee or the Paying Agent shall promptly return to the Issuer any money deposited with the Trustee or the Paying Agent by the Issuer in excess of the amounts necessary to pay the purchase price of, and accrued and unpaid interest on, all Notes to be redeemed.

Other than as specifically provided in this Section 3.09 or Section 4.10 hereof, any purchase pursuant to this Section 3.09 shall be made pursuant to the applicable provisions of Sections 3.01 through 3.06 hereof, and references therein to "redeem," "redemption" and similar words shall be deemed to refer to "purchase," "repurchase" and similar words, as applicable.

#### ARTICLE IV

#### COVENANTS

SECTION 4.01. Payment of Notes. The Issuer shall pay or cause to be paid the principal of, premium, if any, and interest on the Notes on the dates and in the manner provided in the Notes. Principal, premium, if any, and interest shall be considered paid on the date due if the Paying Agent, if other than the Issuer, a Guarantor or an Affiliate of the Issuer or a Guarantor, holds as of 11:00 a.m. Eastern Time on the due date money deposited by the Issuer in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due.

The Issuer shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the rate equal to the then applicable interest rate on the Notes to the extent lawful; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace period) at the same rate to the extent lawful.

SECTION 4.02. Maintenance of Office or Agency. The Issuer shall maintain the offices or agencies (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) required under Section 2.03 where Notes may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Issuer in respect of the Notes and this Indenture may be served. The Issuer shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Issuer shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

The Issuer may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; provided that no such designation or rescission shall in any manner relieve the

Issuer of its obligation to maintain such offices or agencies as required by Section 2.03 for such purposes. The Issuer shall give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

The Issuer hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Issuer in accordance with Section 2.03 hereof.

**SECTION 4.03. Reports and Other Information.**

(a) Notwithstanding that Holdings III may not be subject to the reporting requirements of Section 13 or 15 (d) of the Exchange Act or that Holdings III does not otherwise report on an annual and quarterly basis on forms provided for such annual and quarterly reporting pursuant to rules and regulations promulgated by the SEC, Holdings III shall file with the SEC (and make available to the Trustee and Holders of the Notes (without exhibits), without cost to any Holder, within 15 days after it files them with the SEC) from and after the Issue Date,

(1) within 90 days (or any other time period then in effect under the rules and regulations of the Exchange Act with respect to the filing of a Form 10-K by a non-accelerated filer) after the end of each fiscal year, annual reports on Form 10-K, or any successor or comparable form, containing the information required to be contained therein, or required in such successor or comparable form;

(2) within 45 days (or any other time period then in effect under the rules and regulations of the Exchange Act with respect to the filing of a Form 10-Q by a non-accelerated filer) after the end of each of the first three fiscal quarters of each fiscal year, reports on Form 10-Q containing all quarterly information that would be required to be contained in Form 10-Q, or any successor or comparable form;

(3) promptly from time to time after the occurrence of an event required to be therein reported, such other reports on Form 8-K, or any successor or comparable form; and

(4) any other information, documents and other reports which Holdings III would be required to file with the SEC if it were subject to Section 13 or 15(d) of the Exchange Act;

in each case, in a manner that complies in all material respects with the requirements specified in such form (assuming Holdings III were a U.S. person with only unsecured debt registered under the Securities Act); provided, that Holdings III shall not be so obligated to file such reports with the SEC if the SEC does not permit such filing, in which event Holdings III will make available such information to prospective purchasers of Notes, in addition to providing such information to the Trustee and the Holders of the Notes, in each case within 15 days after the time Holdings III would be required to file such information with the SEC, if it were subject to Sections 13 or 15(d) of the Exchange Act. Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein, including compliance with any of the covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officer's Certificates).

In addition, to the extent not satisfied by the foregoing, for so long as any Notes are outstanding, Holdings III shall furnish to Holders and to securities analysts and prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.



(b) For so long as Parent, Holdings II or any other direct or indirect parent company of Holdings III is a Guarantor, Holdings III shall be permitted to satisfy its obligations under this Section 4.03 with respect to financial information relating to Holdings III by furnishing financial information relating to Parent, Holdings II or such other parent; provided that the same is accompanied by consolidating information that explains in reasonable detail the differences between the information relating to Parent, Holdings II or such other parent, on the one hand, and the information relating to Holdings III and its Restricted Subsidiaries on a standalone basis, on the other hand or, at Holdings III's option, substantially in the form required by Rule 3-10(d) of Regulation S-X or any successor thereto. Notwithstanding anything in Section 4.03(a) to the contrary, Holdings III shall be deemed to have satisfied all its obligations under Section 4.03(a) without any further action so long as (i) the Company is a Guarantor, (ii) the shares of NXP Holdings are listed on a national securities exchange and (iii) NXP Holdings complies with all of its reporting obligations applicable to it under the Exchange Act within the time periods applicable pursuant to the Exchange Act.

(c) Notwithstanding anything herein to the contrary, Holdings III will not be deemed to have failed to comply with any of its obligations under this Section 4.03 for purposes of clause (3) under Section 6.01 until 120 days after the date any report is due under this Section 4.03.

#### SECTION 4.04. Compliance Certificate.

(a) The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year ending after the Issue Date, a certificate from the principal executive officer, principal financial officer or principal accounting officer stating that a review of the activities of the Company and its Restricted Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officer with a view to determining whether the Company and its Restricted Subsidiaries have kept, observed, performed and fulfilled their obligations under this Indenture, and further stating, as to such Officer signing such certificate, that to the best of his or her knowledge the Company and its Restricted Subsidiaries have kept, observed, performed and fulfilled each and every condition and covenant contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions, covenants and conditions of this Indenture (or, if a Default shall have occurred, describing all such Defaults of which he or she may have knowledge and what action the Company is taking or proposes to take with respect thereto).

(b) When any Default has occurred and is continuing under this Indenture, or if the Trustee or the holder of any other evidence of Indebtedness of the Company or any Subsidiary gives any notice or takes any other action with respect to a claimed Default, the Company shall within 30 days after the occurrence of such Default or receiving such notice deliver to the Trustee by registered or certified mail or by facsimile transmission an Officer's Certificate specifying any event of which it is aware would constitute a Default and what action the Company proposes to take with respect thereto.

#### SECTION 4.05. Taxes.

(a) The Company shall pay, and shall cause each of its Restricted Subsidiaries to pay, prior to delinquency, all material taxes, assessments, and governmental levies except such as are contested in good faith and by appropriate negotiations or proceedings or where the failure to effect such payment is not adverse in any material respect to the Holders of the Notes.

(b) All payments that any Guarantor that is not organized or existing under the laws of the United States, any state thereof, the District of Columbia, or any territory thereof (each a "Foreign Payor") makes under or with respect to the Notes or any Guarantee, will be made free and clear of, and without withholding or deduction for or on account of, any present or future tax, duty, levy, impost,

assessment or other governmental charges (including penalties, interest and other similar liabilities related thereto) of whatever nature (collectively, “Taxes”) imposed or levied by or on behalf of any jurisdiction in which any Foreign Payor is incorporated, organized or otherwise resident for tax purposes or from or through which any of the foregoing makes any payment on the Notes or by any taxing authority therein or political subdivision thereof (each, as applicable, a “Relevant Taxing Jurisdiction”), unless the applicable Foreign Payor is required to withhold or deduct Taxes by law or by the interpretation or administration of law. If a Foreign Payor is required to withhold or deduct any amount for, or on account of, Taxes of a Relevant Taxing Jurisdiction from any payment made under or with respect to the Notes or any Guarantee, such Foreign Payor will pay such additional amounts (“Additional Amounts”) as may be necessary to ensure that the net amount received by each Holder of the Notes after such withholding or deduction will be not less than the amount such Holder would have received if such Taxes had not been required to be withheld or deducted.

(c) Notwithstanding the foregoing, no Foreign Payor will be required to pay Additional Amounts to a Holder of Notes in respect of or on account of:

(1) any Taxes that are imposed or levied by a Relevant Taxing Jurisdiction by reason of such Holder’s present or former connection with such Relevant Taxing Jurisdiction, including such Holder being or having been a citizen, national, or resident, being or having been engaged in a trade or business, being, or having been, physically present in or having or having had a permanent establishment in a Relevant Taxing Jurisdiction (but not including, in each case, any connection arising from the mere receipt or holding of Notes or the receipt of payments thereunder or under a Guarantee or the exercise or enforcement of rights under any Notes or this Indenture or a Guarantee);

(2) any Taxes that are imposed or levied by reason of the failure of such Holder, following the written request of any Foreign Payor (as the case may be) addressed to such Holder (and made at a time that would enable such Holder acting reasonably to comply with that request) made in accordance with the notice procedures set forth in this Indenture, to comply with any certification, identification, information or other reporting requirements, whether required by statute, treaty, regulation or administrative practice of a Relevant Taxing Jurisdiction, as a precondition to exemption from, or reduction in the rate of withholding or deduction of, Taxes imposed by the Relevant Taxing Jurisdiction (including a certification that such Holder is not resident in the Relevant Taxing Jurisdiction);

(3) any estate, inheritance, gift, sales, transfer, personal property or similar Taxes;

(4) any Tax that is payable otherwise than by withholding or deduction from payments made under or with respect to the Notes;

(5) any Tax that is imposed or levied by reason of the presentation (where presentation is required in order to receive payment) of the Notes for payment on a date more than 30 days after the date on which such payment became due and payable or the date on which payment thereof is duly provided for, whichever is later, except to the extent that the beneficial owner or holder thereof would have been entitled to Additional Amounts had the Notes been presented for payment on any date during such 30 day period;

(6) any Tax except to the extent it exceeds any Tax that would have been required to be withheld from payments to the Holder if such payments were made by the Issuer; or

(7) any combination of items (1) through (6) above.

(d) Additional Amounts will not be paid with respect to the Notes to a Holder who is a fiduciary, a partnership, a limited liability company or other than the sole beneficial owner of the payment under or with respect to the Notes, to the extent that payment would be required by the laws of a Relevant Taxing Jurisdiction to be included in the income, for tax purposes, of a beneficiary or settlor with respect to the fiduciary, a member of that partnership, an interest holder in that limited liability company or a beneficial owner who would not have been entitled to the Additional Amounts had it been the Holder of the Notes.

(e) The relevant Foreign Payor shall (i) make such withholding or deduction as is required by applicable law and (ii) remit the full amount withheld or deducted to the relevant taxing authority in accordance with applicable law.

At least 30 calendar days prior to each date on which any payment under or with respect to the Notes is due and payable, if the relevant Foreign Payor will be obligated to pay Additional Amounts with respect to such payment (unless such obligation to pay Additional Amounts arises after the 30th day prior to the date on which payment under or with respect to the Notes is due and payable, in which case it will be promptly thereafter), the relevant Foreign Payor will deliver to the Trustee an Officer's Certificate of such Foreign Payor stating that such Additional Amounts will be payable and the amounts so payable and will set forth such other information necessary to enable the Trustee to pay such Additional Amounts to the applicable Holders on the payment date.

The relevant Foreign Payor shall promptly publish a notice in accordance with the notice provisions set forth in this Indenture stating that such Additional Amounts will be payable and describing the obligation to pay such amounts.

(f) Upon written request, the relevant Foreign Payor shall furnish to the Trustee or to a Holder of the Notes copies of tax receipts evidencing the payment of any Taxes by such Foreign Payor in such form as provided in the normal course by the taxing authority imposing such Taxes and as is reasonably available to such Foreign Payor. If, notwithstanding the efforts of such Foreign Payor to obtain such receipts, the same are not obtainable, such Foreign Payor shall provide the Trustee or the applicable Holder with other evidence reasonably satisfactory to the Trustee or such Holder.

(g) The Issuer and any Guarantor, as the case may be, will pay any present or future stamp, issue, registration, court, documentation, excise or property taxes or other similar taxes, charges and duties, including interest and penalties with respect thereto, imposed by or in any Relevant Taxing Jurisdiction in respect of the execution, issue, enforcement or delivery of the Notes or any other document or instrument referred to thereunder (other than on or in connection with a transfer of the Notes other than the initial resale by the Initial Purchasers).

(h) Whenever this Indenture or the Notes refers to, in any context, the payment of principal, premium, if any, interest or any other amount payable under or with respect to any Note or with respect to any Guarantee, such reference includes the payment of Additional Amounts, if applicable.

SECTION 4.06. Stay, Extension and Usury Laws. The Issuer and each of the Guarantors covenant (to the extent that they may lawfully do so) that they shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and the Issuer and each of the Guarantors (to the extent that they may lawfully do so) hereby expressly waive all benefit or advantage of any such law, and covenant that they shall not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law has been enacted.

SECTION 4.07. Limitation on Restricted Payments.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly:

(I) declare or pay any dividend or make any payment or distribution on account of the Company's, or any of its Restricted Subsidiaries' Equity Interests, including any dividend or distribution payable in connection with any merger, amalgamation or consolidation other than:

(A) dividends or distributions by the Company payable solely in Equity Interests (other than Disqualified Stock) of the Company; or

(B) dividends or distributions by a Restricted Subsidiary so long as, in the case of any dividend or distribution payable on or in respect of any class or series of securities issued by a Restricted Subsidiary other than a Wholly-Owned Subsidiary, the Company or a Restricted Subsidiary receives at least its pro rata share of such dividend or distribution in accordance with its Equity Interests in such class or series of securities;

(II) purchase, redeem, defease or otherwise acquire or retire for value any Equity Interests of the Company or any direct or indirect parent of the Company, including in connection with any merger, amalgamation or consolidation;

(III) make any principal payment on, or redeem, repurchase, defease or otherwise acquire or retire for value in each case, prior to any scheduled repayment, sinking fund payment or maturity, any Subordinated Indebtedness, other than:

(A) Indebtedness permitted under clauses (7) and (8) of Section 4.09(b) hereof; or

(B) the purchase, repurchase or other acquisition of Subordinated Indebtedness purchased in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of purchase, repurchase or acquisition; or

(IV) make any Restricted Investment

(all such payments and other actions set forth in clauses (I) through (IV) above being collectively referred to as "Restricted Payments"), unless, at the time of such Restricted Payment:

(1) no Default shall have occurred and be continuing or would occur as a consequence thereof;

(2) immediately after giving effect to such transaction on a pro forma basis, the Company could incur \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Test set forth in Section 4.09(a) hereof; and

(3) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Company and its Restricted Subsidiaries after the NXP Measurement Date (including Restricted Payments permitted by clauses (1), (2) (with respect to the payment of dividends on Refunding Capital Stock pursuant to clause (b) thereof only), (6)(c) and (14) of Section 4.07(b) hereof, but excluding all other Restricted Payments permitted by Section 4.07(b) hereof), is less than the sum of (without duplication):

(A) 50% of the Consolidated Net Income of the Company for the period (taken as one accounting period and including the predecessor) beginning on the NXP Measurement Date, to the end of the Company's recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment, or, in the case such Consolidated Net Income for such period is a deficit, minus 100% of such deficit; plus

(B) 100% of the aggregate net cash proceeds and the fair market value of marketable securities or other property received by the Company since immediately after the NXP Measurement Date (other than net cash proceeds to the extent such net cash proceeds have been used to incur Indebtedness, Disqualified Stock or Preferred Stock pursuant to clause (12)(a) of Section 4.09(b) hereof) from the issue or sale of:

(i) (A) Equity Interests of the Company, including Treasury Capital Stock, but excluding cash proceeds and the fair market value of marketable securities or other property received from the sale of:

(x) Equity Interests to members of management, directors or consultants of the Company, any direct or indirect parent company of the Company and the Company's Subsidiaries after the NXP Measurement Date to the extent such amounts have been applied to Restricted Payments made in accordance with clause (4) of Section 4.07(b) hereof; and

(y) Designated Preferred Stock;

and (B) to the extent such net cash proceeds are actually contributed to the Company, Equity Interests of the Company's direct or indirect parent companies (excluding contributions of the proceeds from the sale of Designated Preferred Stock of such companies or contributions to the extent such amounts have been applied to Restricted Payments made in accordance with clause (4) of Section 4.07(b) hereof; or

(ii) debt securities of the Company that have been converted into or exchanged for such Equity Interests of the Company;

provided, that this clause (B) shall not include the proceeds from (W) Refunding Capital Stock, (X) Equity Interests or convertible debt securities of the Company sold to a Restricted Subsidiary, (Y) Disqualified Stock or debt securities that have been converted into Disqualified Stock or (Z) Excluded Contributions; plus

(C) 100% of the aggregate amount of cash and the fair market value of marketable securities or other property contributed to the capital of the Company following the NXP Measurement Date (other than net cash proceeds to the extent such net cash proceeds have been used to incur Indebtedness, Disqualified Stock or Preferred Stock pursuant to clause (12)(a) of Section 4.09(b) hereof) (other than by a Restricted Subsidiary and other than by any Excluded Contributions); plus

(D) 100% of the aggregate amount received in cash and the fair market value of marketable securities or other property received by means of:

(i) the sale or other disposition (other than to the Company or a Restricted Subsidiary) of Restricted Investments made by the Company or its Restricted Subsidiaries and repurchases and redemptions of such Restricted Investments from the Company or its Restricted Subsidiaries and repayments of loans or advances, and releases of guarantees, which constitute Restricted Investments by the Company or its Restricted Subsidiaries, in each case after the NXP Measurement Date; or

(ii) the sale (other than to the Company or a Restricted Subsidiary) of the stock of an Unrestricted Subsidiary or a distribution from an Unrestricted Subsidiary (other than in each case to the extent the Investment in such Unrestricted Subsidiary was made by the Company or a Restricted Subsidiary pursuant to clause (7) of Section 4.07(b) hereof or to the extent such Investment constituted a Permitted Investment) or a dividend from an Unrestricted Subsidiary after the NXP Measurement Date; plus

(E) in the case of the redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary after the NXP Measurement Date, the fair market value of the Investment in such Unrestricted Subsidiary (which, if the fair market value of such Investment shall exceed \$100.0 million, shall be set forth in writing by an Independent Financial Advisor), at the time of the redesignation of such Unrestricted Subsidiary as a Restricted Subsidiary other than an Unrestricted Subsidiary to the extent the Investment in such Unrestricted Subsidiary was made by the Company or a Restricted Subsidiary pursuant to clause (7) of Section 4.07(b) hereof or to the extent such Investment constituted a Permitted Investment;

provided, further, that, notwithstanding anything to the contrary provided in this Section 4.07(a)(3), such sum shall equal \$1,780 million as of the Merger Date, with no further adjustments for financial results or actions occurring on or prior to the Merger Date.

(b) The foregoing provisions of Section 4.07(a) hereof will not prohibit:

(1) the payment of any dividend within 60 days after the date of declaration thereof, if at the date of declaration such payment would have complied with the provisions of this Indenture;

(2) (a) the redemption, repurchase, retirement or other acquisition of any Equity Interests ("Treasury Capital Stock") or Subordinated Indebtedness of the Company or any Equity Interests of any direct or indirect parent company of the Company, in exchange for, or out of the proceeds of the substantially concurrent sale (other than to a Restricted Subsidiary) of, Equity Interests of the Company or any direct or indirect parent company of the Company to the extent contributed to the Company (in each case, other than any Disqualified Stock) ("Refunding Capital Stock") and (b) if immediately prior to the retirement of Treasury Capital Stock, the declaration and payment of dividends thereon was permitted under clause (6) of this Section 4.07(b), the declaration and payment of dividends on the Refunding Capital Stock (other than Refunding Capital Stock the proceeds of which were used to redeem, repurchase, retire or otherwise acquire any Equity Interests of any direct or indirect parent company of the Company) in an aggregate amount per year no greater than the aggregate amount of dividends per annum that were declarable and payable on such Treasury Capital Stock immediately prior to such retirement;

(3) the defeasance, redemption, repurchase or other acquisition or retirement of Subordinated Indebtedness of the Company, the Issuer or a Subsidiary Guarantor made (i) with Excluded Proceeds or (ii) by exchange for, or out of the proceeds of the substantially concurrent sale of, new Indebtedness of the Company, the Issuer or a Subsidiary Guarantor, as the case may be, which is incurred in compliance with Section 4.09 hereof so long as, in the case of clause (ii):

(A) the principal amount of such new Indebtedness does not exceed the principal amount of (or accreted value, if applicable), plus any accrued and unpaid interest on, the Subordinated Indebtedness being so redeemed, repurchased, acquired or retired for value, plus the amount of any reasonable premium required to be paid under the terms of the instrument governing the Subordinated Indebtedness being so redeemed, repurchased, acquired or retired and any reasonable fees and expenses incurred in connection with the issuance of such new Indebtedness;

(B) such new Indebtedness is subordinated to the Notes or the applicable Guarantee at least to the same extent as such Subordinated Indebtedness so purchased, exchanged, redeemed, repurchased, acquired or retired for value;

(C) such new Indebtedness has a final scheduled maturity date equal to or later than the final scheduled maturity date of the Subordinated Indebtedness being so redeemed, repurchased, acquired or retired; and

(D) such new Indebtedness has a Weighted Average Life to Maturity equal to or greater than the remaining Weighted Average Life to Maturity of the Subordinated Indebtedness being so redeemed, repurchased, acquired or retired;

(4) a Restricted Payment to pay for the repurchase, retirement or other acquisition or retirement for value of Equity Interests (other than Disqualified Stock) of the Company or any of its direct or indirect parent companies held by any future, present or former employee, director or consultant of the Company, any of its Subsidiaries or any of its direct or indirect parent companies pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement; provided, that the aggregate Restricted Payments made under this clause (4) do not exceed in any calendar year \$75.0 million (with unused amounts in any calendar year being carried over to succeeding calendar years subject to a maximum (without giving effect to the following proviso) of \$100.0 million in any calendar year); provided further that such amount in any calendar year may be increased by an amount not to exceed:

(A) the cash proceeds from the sale of Equity Interests (other than Disqualified Stock) of the Company and, to the extent contributed to the Company, Equity Interests of any of the Company's direct or indirect parent companies, in each case to members of management, directors or consultants of the Company, any of its Subsidiaries or any of its direct or indirect parent companies that occurs after the NXP Original Issue Date, to the extent the cash proceeds from the sale of such Equity Interests have not otherwise been applied to the payment of Restricted Payments by virtue of clause (3) of Section 4.07 (a) hereof; plus

(B) the cash proceeds of key man life insurance policies received by the Company or its Restricted Subsidiaries after the NXP Original Issue Date; less

(C) the amount of any Restricted Payments made after the NXP Original Issue Date with the cash proceeds described in clauses (A) and (B) of this clause (4);

and provided further that cancellation of Indebtedness owing to the Company from members of management of the Company, any of the Company's direct or indirect parent companies or any of the Company's Restricted Subsidiaries in connection with a repurchase of Equity Interests of the Company or any of its direct or indirect parent companies will not be deemed to constitute a Restricted Payment for purposes of this Section 4.07 or any other provision of this Indenture;

(5) the declaration and payment of dividends to holders of any class or series of Disqualified Stock of the Company or any of its Restricted Subsidiaries or any class or series of Preferred Stock of any Restricted Subsidiary issued in accordance with Section 4.09 hereof to the extent such dividends are included in the definition of "Fixed Charges";

(6) (A) the declaration and payment of dividends to holders of any class or series of Designated Preferred Stock (other than Disqualified Stock) issued by the Company after the NXP Measurement Date;

(B) the declaration and payment of dividends to a direct or indirect parent company of the Company, the proceeds of which will be used to fund the payment of dividends to holders of any class or series of Designated Preferred Stock (other than Disqualified Stock) of such parent corporation issued after the NXP Measurement Date, provided that the amount of dividends paid pursuant to this clause (B) shall not exceed the aggregate amount of cash actually contributed to the Company from the sale of such Designated Preferred Stock; or

(C) the declaration and payment of dividends on Refunding Capital Stock that is Preferred Stock in excess of the dividends declarable and payable thereon pursuant to clause (2) of this Section 4.07(b);

provided, in the case of each of (A), (B) and (C) of this clause (6), that for the most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date of issuance of such Designated Preferred Stock or the declaration of such dividends on Refunding Capital Stock that is Preferred Stock, after giving effect to such issuance or declaration on a pro forma basis, the Company and its Restricted Subsidiaries on a consolidated basis would have had a Fixed Charge Coverage Ratio of at least 2.00 to 1.00;

(7) Investments in Unrestricted Subsidiaries having an aggregate fair market value, taken together with all other Investments made after the NXP Measurement Date pursuant to this clause (7) that are at the time outstanding, without giving effect to the sale of an Unrestricted Subsidiary to the extent the proceeds of such sale do not consist of cash or marketable securities, not to exceed 2.0% of Total Assets at the time of such Investment (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value);

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



(9) the declaration and payment of dividends on the Company's common stock (or the payment of dividends to any direct or indirect parent entity to fund a payment of dividends on such entity's common stock) following the first public offering of the Company's common stock or the common stock of any of its direct or indirect parent companies after the NXP Original Issue Date of up to 6.0% per annum of the net cash proceeds received by or contributed to the Company in or from any such public offering, other than public offerings with respect to the Company's common stock registered on Form S-4 or Form S-8 and other than any public sale constituting an Excluded Contribution;

(10) Restricted Payments that are made with Excluded Contributions;

(11) other Restricted Payments in an aggregate amount taken together with all other Restricted Payments made pursuant to this clause (11) not to exceed \$450.0 million;

(12) distributions or payments of Securitization Fees;

(13) any Restricted Payment made in connection with the Transaction and the Merger and the fees and expenses related thereto or owed to Affiliates, in each case to the extent permitted by Section 4.11 hereof;

(14) the repurchase, redemption or other acquisition or retirement for value of any Subordinated Indebtedness pursuant to the provisions similar to those described under Section 4.10 and Section 4.14 hereof; provided that all Notes validly tendered by Holders in connection with a Change of Control Offer or Asset Sale Offer, as applicable, have been repurchased, redeemed or acquired for value;

(15) the declaration and payment of dividends by the Company to, or the making of loans to, any direct or indirect parent in amounts required for any direct or indirect parent companies to pay, in each case without duplication,

(A) franchise and excise taxes and other fees, taxes and expenses required to maintain their corporate existence;

(B) foreign, federal, state and local income taxes, to the extent such income taxes are attributable to the income of the Company and its Restricted Subsidiaries and, to the extent of the amount actually received from its Unrestricted Subsidiaries, in amounts required to pay such taxes to the extent attributable to the income of such Unrestricted Subsidiaries; provided that in each case the amount of such payments in any fiscal year does not exceed the amount that the Company and its Restricted Subsidiaries would be required to pay in respect of foreign, federal, state and local taxes for such fiscal year were the Company, its Restricted Subsidiaries and its Unrestricted Subsidiaries (to the extent described above) to pay such taxes separately from any such parent entity;

(C) customary salary, bonus and other benefits payable to officers and employees of any direct or indirect parent company of the Company to the extent such salaries, bonuses and other benefits are attributable to the ownership or operation of the Company and its Restricted Subsidiaries;

(D) general corporate operating and overhead costs and expenses of any direct or indirect parent company of the Company to the extent such costs and expenses are attributable to the ownership or operation of the Company and its Restricted Subsidiaries; and

(E) fees and expenses other than to Affiliates of the Company related to any unsuccessful equity or debt offering of such parent entity;

(16) the distribution, by dividend or otherwise, of shares of Capital Stock of, or Indebtedness owed to the Company or a Restricted Subsidiary by, Unrestricted Subsidiaries (other than Unrestricted Subsidiaries, the primary assets of which are cash and/or Cash Equivalents); and

provided, that at the time of, and after giving effect to, any Restricted Payment permitted under clauses (11) and (16) of this Section 4.07(b), no Default shall have occurred and be continuing or would occur as a consequence thereof.

(c) As of the Merger Date, all of the Company's Subsidiaries, including Holdings I, Holdings II, Holdings III, Holdings IV, Holdings V and the Issuer, will be Restricted Subsidiaries. The Company shall not permit any Unrestricted Subsidiary to become a Restricted Subsidiary except pursuant to the last sentence of the definition of "Unrestricted Subsidiary." For purposes of designating any Restricted Subsidiary as an Unrestricted Subsidiary, all outstanding Investments by the Company and its Restricted Subsidiaries (except to the extent repaid) in the Subsidiary so designated will be deemed to be Restricted Payments in an amount determined as set forth in the last sentence of the definition of "Investments." Such designation will be permitted only if a Restricted Payment in such amount would be permitted at such time, whether pursuant to Section 4.07(a) hereof or under clause (7), (10) or (11) of Section 4.07(b) hereof, or pursuant to the definition of "Permitted Investments," and if such Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. Unrestricted Subsidiaries will not be subject to any of the restrictive covenants set forth in this Indenture.

**SECTION 4.08. Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries.**

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries that are not Guarantors to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or consensual restriction on the ability of any such Restricted Subsidiary to:

(1) (A) pay dividends or make any other distributions to the Company or any of its Restricted Subsidiaries on its Capital Stock or with respect to any other interest or participation in, or measured by, its profits, or

(B) pay any Indebtedness owed to the Company or any of its Restricted Subsidiaries;

(2) make loans or advances to the Company or any of its Restricted Subsidiaries; or

(3) sell, lease or transfer any of its properties or assets to the Company or any of its Restricted Subsidiaries.

(b) The restrictions in Section 4.08(a) hereof shall not apply to encumbrances or restrictions existing under or by reason of:

(1) contractual encumbrances or restrictions in effect on the Issue Date or the Merger Date, including, without limitation, pursuant to the Senior Credit Facilities and the related documentation, Hedging Obligations and the indentures governing the Existing Secured Notes and the NXP Notes, and, in each case, the related documentation, including any guarantees, collateral documents, instruments and agreements executed in connection therewith, and any additional Indebtedness of the Company or any Restricted Subsidiary with provisions that are, in the good faith judgment of the Company, no more restrictive with respect to such encumbrances and other restrictions taken as a whole than those in effect on the Issue Date or the Merger Date pursuant to the foregoing;

(2) this Indenture and the Notes;

(3) purchase money obligations for property acquired in the ordinary course of business that impose restrictions of the nature discussed in clause (3) of Section 4.08(a) hereof on the property so acquired;

(4) applicable law or any applicable rule, regulation or order;

(5) any agreement or other instrument of a Person acquired by the Company or any of its Restricted Subsidiaries in existence at the time of such acquisition or at the time it merges or amalgamates with or into the Company or any of its Restricted Subsidiaries or assumed in connection with the acquisition of assets from such Person (but, in any such case, not created in contemplation thereof), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person and its Subsidiaries, or the property or assets of the Person and its Subsidiaries, so acquired or the property or assets so assumed;

(6) contracts for the sale of assets, including customary restrictions with respect to a Subsidiary of the Company pursuant to an agreement that has been entered into for the sale or disposition of all or substantially all of the Capital Stock or assets of such Subsidiary;

(7) Secured Indebtedness otherwise permitted to be incurred pursuant to Section 4.09 hereof and Section 4.12 hereof that limit the right of the debtor to dispose of the assets securing such Indebtedness;

(8) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;

(9) other Indebtedness, Disqualified Stock or Preferred Stock of Foreign Subsidiaries permitted to be incurred subsequent to the Issue Date pursuant to the provisions of Section 4.09 hereof;

(10) customary provisions in joint venture agreements and other similar agreements relating solely to such joint venture;

(11) customary provisions contained in leases, licenses or similar agreements, including with respect to intellectual property and other agreements, in each case, entered into in the ordinary course of business;

(12) any encumbrances or restrictions of the type referred to in clauses (1), (2) and (3) of Section 4.08 (a) hereof imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or

obligations referred to in clauses (1) through (11) of this Section 4.08(b); provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Company, no more restrictive with respect to such encumbrance and other restrictions taken as a whole than those prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing; and

(13) restrictions created in connection with any Qualified Securitization Facility that, in the good faith determination of the Company, are necessary or advisable to effect such Qualified Securitization Facility.

**SECTION 4.09. Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock.**

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise (collectively, “incur” and collectively, an “incurrence”) with respect to any Indebtedness (including Acquired Indebtedness) and the Company will not issue any shares of Disqualified Stock and will not permit any Restricted Subsidiary to issue any shares of Disqualified Stock or Preferred Stock; provided, that the Company may incur Indebtedness (including Acquired Indebtedness) or issue shares of Disqualified Stock, and, subject to Section 4.09(c) hereof, any Restricted Subsidiary may incur Indebtedness (including Acquired Indebtedness), issue shares of Disqualified Stock and issue shares of Preferred Stock, if the Fixed Charge Coverage Ratio on a consolidated basis for the Company and its Restricted Subsidiaries’ most recently ended four fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock or Preferred Stock is issued would have been at least 2.00 to 1.00 (the “Fixed Charge Coverage Test”), determined on a pro forma basis (including a pro forma application of the net proceeds therefrom), as if the additional Indebtedness had been incurred, or the Disqualified Stock or Preferred Stock had been issued, as the case may be, and the application of proceeds therefrom had occurred at the beginning of such four-quarter period.

(b) The provisions of Section 4.09(a) hereof shall not apply to:

(1) the incurrence of Indebtedness under Credit Facilities by the Company, the Issuer or any other Restricted Subsidiary and the issuance and creation of letters of credit and bankers’ acceptances thereunder (with letters of credit and bankers’ acceptances being deemed to have a principal amount equal to the face amount thereof), and any Refinancing Indebtedness in respect thereof and Guarantees in respect of such Indebtedness, up to an aggregate principal amount outstanding at any one time, when taken together with the aggregate principal amount (or, if issued with original issue discount, the accreted value) of Existing Secured Notes, the NXP Notes and Notes then outstanding, of (i) \$5,250.0 million, plus (ii) €750.0 million, plus (iii) in the case of any refinancing of any Indebtedness permitted under this clause (1) or any portion thereof, the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses Incurred in connection with such refinancing;

(2) the incurrence by the Issuer and any Guarantor of Indebtedness represented by the Notes (not including any Additional Notes), including any Guarantee of the Notes;

(3) Indebtedness of the Company, the Issuer and their Subsidiaries in existence on the Issue Date or the Merger Date (other than Indebtedness described in clauses (1) and (2) of this Section 4.09(b));

(4) Indebtedness (including Capitalized Lease Obligations), Disqualified Stock and Preferred Stock incurred by the Company or any of its Restricted Subsidiaries, to finance the purchase, lease or improvement of property (real or personal) or equipment that is used or useful in a Similar Business, whether through the direct purchase of assets or the Capital Stock of any Person owning such assets in an aggregate principal amount, together with any Refinancing Indebtedness in respect thereof and all other Indebtedness, Disqualified Stock and/or Preferred Stock issued and outstanding under this clause (4), not to exceed 4.0% of Total Assets at any time outstanding; so long as such Indebtedness exists at the date of such purchase, lease or improvement or is created within 270 days thereafter;

(5) Indebtedness incurred by the Company or any of its Restricted Subsidiaries constituting reimbursement obligations with respect to letters of credit issued in the ordinary course of business, including letters of credit in respect of workers' compensation claims, or other Indebtedness with respect to reimbursement type obligations regarding workers' compensation claims; provided, that upon the drawing of such letters of credit or the incurrence of such Indebtedness, such obligations are reimbursed within 30 days following such drawing or incurrence;

(6) Indebtedness arising from agreements of the Company or its Restricted Subsidiaries providing for indemnification, adjustment of purchase price, earnouts or similar obligations, in each case, incurred or assumed in connection with the disposition of any business, assets or a Subsidiary, other than guarantees of Indebtedness incurred by any Person acquiring all or any portion of such business, assets or a Subsidiary for the purpose of financing such acquisition; provided, that

(A) such Indebtedness is not reflected on the balance sheet of the Company or any of its Restricted Subsidiaries (contingent obligations referred to in a footnote to financial statements and not otherwise reflected on the balance sheet will not be deemed to be reflected on such balance sheet for purposes of this clause (6) (a)); and

(B) the maximum assumable liability in respect of all such Indebtedness shall at no time exceed the gross proceeds including non-cash proceeds (the fair market value of such non-cash proceeds being measured at the time received and without giving effect to any subsequent changes in value) actually received by the Company and its Restricted Subsidiaries in connection with such disposition;

(7) Indebtedness of the Company to a Restricted Subsidiary; provided that any such Indebtedness owing to a Restricted Subsidiary that is not a Guarantor (other than the Issuer) is expressly subordinated in right of payment to the Notes; provided further that any subsequent issuance or transfer of any Capital Stock or any other event which results in any Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness (except to the Company or another Restricted Subsidiary) shall be deemed, in each case, to be an incurrence of such Indebtedness;

(8) Indebtedness of a Restricted Subsidiary to the Company or another Restricted Subsidiary; provided that if a Guarantor incurs such Indebtedness to a Restricted Subsidiary that is not a Guarantor (other than the Issuer), such Indebtedness is expressly subordinated in right of payment to the Guarantee of the Notes of such Guarantor; provided further that any subsequent transfer of any such Indebtedness (except to the Company or another Restricted Subsidiary) shall be deemed, in each case, to be an incurrence of such Indebtedness;

(9) shares of Preferred Stock of a Restricted Subsidiary issued to the Company or another Restricted Subsidiary; provided that any subsequent issuance or transfer of any Capital Stock or any other event which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such shares of Preferred Stock (except to the Company or another of its Restricted Subsidiaries) shall be deemed in each case to be an issuance of such shares of Preferred Stock;

(10) Hedging Obligations (excluding Hedging Obligations entered into for speculative purposes) for the purpose of limiting interest rate risk with respect to any Indebtedness permitted to be incurred pursuant to this Section 4.09, exchange rate risk or commodity pricing risk;

(11) obligations in respect of performance, bid, appeal and surety bonds and completion guarantees provided by the Company or any of its Restricted Subsidiaries in the ordinary course of business;

(12) (a) Indebtedness or Disqualified Stock of the Company and Indebtedness, Disqualified Stock or Preferred Stock of the Company or any Restricted Subsidiary equal to 200.0% of the net cash proceeds received by the Company since immediately after the Transaction Date from the issue or sale of Equity Interests of the Company or any of its direct or indirect parent companies or cash contributed to the capital of the Company (in each case, other than proceeds of Disqualified Stock or sales of Equity Interests to the Company or any of its Subsidiaries) as determined in accordance with clauses (3)(B) and (3)(C) of Section 4.07(a) hereof to the extent such net cash proceeds or cash have not been applied pursuant to such clauses to make Restricted Payments or to make other Investments, payments or exchanges pursuant to Section 4.07(b) hereof or to make Permitted Investments (other than Permitted Investments specified in clauses (1) and (3) of the definition thereof) and (b) Indebtedness or Disqualified Stock of the Company and Indebtedness, Disqualified Stock or Preferred Stock of the Company or, subject to Section 4.09(c) hereof, any Restricted Subsidiary not otherwise permitted hereunder in an aggregate principal amount or liquidation preference, which when aggregated with the principal amount and liquidation preference of all other Indebtedness, Disqualified Stock and Preferred Stock then outstanding and incurred pursuant to this clause (12)(b), does not at any one time outstanding exceed \$900.0 million (it being understood that any Indebtedness, Disqualified Stock or Preferred Stock incurred pursuant to this clause (12) (b) shall cease to be deemed incurred or outstanding for purposes of this clause (12)(b) but shall be deemed incurred for the purposes of Section 4.09(a) hereof from and after the first date on which the Company or such Restricted Subsidiary could have incurred such Indebtedness, Disqualified Stock or Preferred Stock under Section 4.09 (a) hereof without reliance on this clause (12)(b));

(13) the incurrence by the Company or any Restricted Subsidiary, of Indebtedness, Disqualified Stock or Preferred Stock which serves to refund or refinance any Indebtedness, Disqualified Stock or Preferred Stock incurred as permitted under Section 4.09(a) hereof and clauses (2), (3), (4) and (12)(a) of this Section 4.09(b), this clause (13) and clause (14) of this Section 4.09(b) or any Indebtedness, Disqualified Stock or Preferred Stock issued to so refund or refinance such Indebtedness, Disqualified Stock or Preferred Stock including additional Indebtedness, Disqualified Stock or Preferred Stock incurred to pay premiums (including reasonable tender premiums), defeasance costs and fees in connection therewith (the "Refinancing Indebtedness") prior to its respective maturity; provided, that such Refinancing Indebtedness:

(A) has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is incurred which is not less than the remaining Weighted Average Life to Maturity of, the Indebtedness, Disqualified Stock or Preferred Stock being refunded or refinanced,

(B) to the extent such Refinancing Indebtedness refinances (i) Indebtedness subordinated or pari passu to the Notes or any Guarantee thereof, such Refinancing Indebtedness is subordinated or pari passu to the Notes or the Guarantee at least to the same extent as the Indebtedness being refinanced or refunded or (ii) Disqualified Stock or Preferred Stock, such Refinancing Indebtedness must be Disqualified Stock or Preferred Stock, respectively,

(C) in the case of any Refinancing Indebtedness in respect of Indebtedness under the Senior Credit Facilities, the Notes, the NXP Notes or the Existing Secured Notes, or Refinancing Indebtedness of any of the foregoing, such Refinancing Indebtedness shall not be required to be incurred substantially contemporaneously with the related refinancing of the Senior Credit Facilities, such Notes, NXP Notes or Existing Secured Note, or Refinancing Indebtedness of any of the foregoing, as applicable; provided that any portion of the net proceeds of such Refinancing Indebtedness that is not applied to the repayment or prepayment of the Senior Credit Facilities, such Notes, NXP Notes or Existing Secured Note, or Refinancing Indebtedness of any of the foregoing, as applicable, within 45 days following the incurrence of such Refinancing Indebtedness shall not constitute Refinancing Indebtedness in respect of the Senior Credit Facilities, such Notes, NXP Notes or Existing Secured Note, or Refinancing Indebtedness of any of the foregoing, as applicable, and

(D) shall not include:

(i) Indebtedness, Disqualified Stock or Preferred Stock of a Subsidiary of the Company that is not a Guarantor (other than the Issuer) that refinances Indebtedness, Disqualified Stock or Preferred Stock of the Company or the Issuer;

(ii) Indebtedness, Disqualified Stock or Preferred Stock of a Subsidiary of the Company that is not a Guarantor (other than the Issuer) that refinances Indebtedness, Disqualified Stock or Preferred Stock of a Guarantor or the Issuer; or

(iii) Indebtedness, Disqualified Stock or Preferred Stock of the Company or a Restricted Subsidiary that refinances Indebtedness, Disqualified Stock or Preferred Stock of an Unrestricted Subsidiary;

(14) Indebtedness, Disqualified Stock or Preferred Stock of (x) the Company or, subject to Section 4.09 (c) hereof, a Restricted Subsidiary incurred to finance an acquisition or (y) Persons that are acquired by the Company or any Restricted Subsidiary or merged or amalgamated into the Company or a Restricted Subsidiary in accordance with the terms of this Indenture; provided that after giving effect to such acquisition, merger or amalgamation either

(A) the Company would be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Test set forth in Section 4.09(a) hereof, or

(B) the Fixed Charge Coverage Ratio of the Company and the Restricted Subsidiaries is equal to or greater than immediately prior to such acquisition, merger or amalgamation;

(15) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business, provided that such Indebtedness is extinguished within five Business Days of its incurrence;

(16) Indebtedness of the Company or any of its Restricted Subsidiaries supported by a letter of credit issued pursuant to the Credit Facilities, in a principal amount not in excess of the stated amount of such letter of credit;

(17) (A) any guarantee by the Company or a Restricted Subsidiary of Indebtedness or other obligations of any Restricted Subsidiary so long as the incurrence of such Indebtedness incurred by such Restricted Subsidiary is permitted under the terms of this Indenture, or

(B) any guarantee by a Restricted Subsidiary of Indebtedness of the Issuer; provided that such guarantee is incurred in accordance with Section 4.15 hereof;

(18) Indebtedness consisting of Indebtedness issued by the Company or any of its Restricted Subsidiaries to current or former officers, directors and employees thereof, their respective estates, spouses or former spouses, in each case to finance the purchase or redemption of Equity Interests of the Company or any direct or indirect parent company of the Company to the extent described in clause (4) of Section 4.07(b) hereof.

(19) customer deposits and advance payments received in the ordinary course of business from customers for goods purchased in the ordinary course of business;

(20) Indebtedness owed on a short-term basis of no longer than 30 days to banks and other financial institutions incurred in the ordinary course of business of the Company and its Restricted Subsidiaries with such banks or financial institutions that arises in connection with ordinary banking arrangements to manage cash balances of the Company and its Restricted Subsidiaries;

(21) Indebtedness incurred by a Restricted Subsidiary in connection with bankers' acceptances, discounted bills of exchange or the discounting or factoring of receivables for credit management purposes, in each case incurred or undertaken in the ordinary course of business on arm's length commercial terms on a recourse basis; and

(22) Indebtedness of the Company or any of its Restricted Subsidiaries consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply arrangements in each case, incurred in the ordinary course of business.

(c) Restricted Subsidiaries of the Company that are not Guarantors (other than the Issuer) may not incur Indebtedness or Disqualified Stock or Preferred Stock under Section 4.09(a) hereof or clause 12(b) or 14(x) of Section 4.09(b) hereof if, after giving pro forma effect to such incurrence or issuance (including a pro forma application of the net proceeds therefrom), the aggregate amount of Indebtedness and Disqualified Stock and Preferred Stock of Restricted Subsidiaries that are not Guarantors (other than the Issuer) incurred or issued pursuant to Section 4.09(a) hereof and clauses 12(b) and 14(x) of Section 4.09(b) hereof, collectively, would exceed \$1,250.0 million.



(d) For purposes of determining compliance with this Section 4.09:

(1) in the event that an item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) meets the criteria of more than one of the categories of Permitted Indebtedness, Disqualified Stock or Preferred Stock described in clauses (1) through (22) of Section 4.09(b) hereof or is entitled to be incurred pursuant to Section 4.09(a) hereof, the Company, in its sole discretion, will classify or reclassify such item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) and will only be required to include the amount and type of such Indebtedness, Disqualified Stock or Preferred Stock in one of the above clauses or under Section 4.09 (a) hereof; provided that all Indebtedness outstanding under the Senior Credit Facilities on the Merger Date will be treated as incurred on the Merger Date under clause (1) of Section 4.09(b) hereof; and

(2) at the time of incurrence, the Company will be entitled to divide and classify an item of Indebtedness in more than one of the types of Indebtedness described in Section 4.09(a) and Section 4.09(b) hereof.

Accrual of interest or dividends, the accretion of accreted value, the accretion or amortization of original issue discount and the payment of interest or dividends in the form of additional Indebtedness, Disqualified Stock or Preferred Stock, as the case may be, of the same class will not be deemed to be an incurrence of Indebtedness, Disqualified Stock or Preferred Stock for purposes of this Section 4.09.

For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed, in the case of revolving credit debt; provided that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced.

The principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such refinancing.

Notwithstanding anything to the contrary, the Company shall not, and shall not permit any Guarantor or the Issuer to, directly or indirectly, incur any Indebtedness (including Acquired Indebtedness) that is subordinated or junior in right of payment to any Indebtedness of the Company, such Guarantor or the Issuer, as the case may be, unless such Indebtedness is expressly subordinated in right of payment to the Notes or the Company's or such Guarantor's Guarantee to the extent and in the same manner as such Indebtedness is subordinated to other Indebtedness of the Company, such Guarantor or the Issuer, as the case may be. For the purposes of this Indenture, Indebtedness that is unsecured is not deemed to be subordinated or junior to Secured Indebtedness merely because it is unsecured, and Senior Indebtedness is not deemed to be subordinated or junior to any other Senior Indebtedness merely because it has a junior priority with respect to the same collateral.

SECTION 4.10. Asset Sales.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, cause, make or suffer to exist an Asset Sale, unless:

(1) the Company or such Restricted Subsidiary, as the case may be, receives consideration at the time of such Asset Sale at least equal to the fair market value of the assets sold or otherwise disposed of; and

(2) except in the case of a Permitted Asset Swap, at least 75% of the consideration therefor received by the Company or such Restricted Subsidiary, as the case may be, is in the form of cash or Cash Equivalents; provided that the amount of:

(A) any liabilities (as shown on the Company's or such Restricted Subsidiary's most recent balance sheet or in the footnotes thereto) of the Company or such Restricted Subsidiary, other than liabilities that are by their terms subordinated to the Notes, that are assumed by the transferee of any such assets and for which the Company and all of its Restricted Subsidiaries have been validly released by all creditors in writing,

(B) any securities received by the Company or such Restricted Subsidiary from such transferee that are converted by the Company or such Restricted Subsidiary into cash (to the extent of the cash received) within 180 days following the closing of such Asset Sale, and

(C) any Designated Non-cash Consideration received by the Company or such Restricted Subsidiary in such Asset Sale having an aggregate fair market value, taken together with all other Designated Non-cash Consideration received pursuant to this clause (c) that is at that time outstanding, not to exceed 2.5% of Total Assets at the time of the receipt of such Designated Non-cash Consideration, with the fair market value of each item of Designated Non-cash Consideration being measured at the time received and without giving effect to subsequent changes in value,

shall be deemed to be cash for purposes of this provision and for no other purpose.

(b) Within 450 days after the receipt of any Net Proceeds of any Asset Sale, the Company or such Restricted Subsidiary, at its option, may apply the Net Proceeds from such Asset Sale,

(1) to permanently reduce:

(A) First Lien Obligations (including Obligations under the Senior Credit Facilities and the Existing Secured Notes), and to correspondingly reduce commitments with respect thereto;

(B) Obligations under Senior Indebtedness that is secured by a Lien, which Lien is permitted by this Indenture, and to correspondingly reduce commitments with respect thereto; or

(C) Indebtedness of a Restricted Subsidiary that is not a Guarantor, other than Indebtedness owed to the Company or another Restricted Subsidiary;

(2) to make (a) an Investment in any one or more businesses, provided that such Investment in any business is in the form of the acquisition of Capital Stock and results in the Company or another of its Restricted Subsidiaries, as the case may be, owning an amount of the Capital Stock of such business such that it constitutes a Restricted Subsidiary, (b) capital expenditures or (c) acquisitions of other assets, in each of (a), (b) and (c), used or useful in a Similar Business, or

(3) to make an investment in (a) any one or more businesses, provided that such investment in any business is in the form of the acquisition of Capital Stock and results in the Company or another of its Restricted Subsidiaries, as the case may be, owning an amount of the Capital Stock of such business such that it constitutes a Restricted Subsidiary, (b) properties or (c) acquisitions of other assets that, in each of (a), (b) and (c), replace the businesses, properties and/or assets that are the subject of such Asset Sale;

provided that, in the case of clauses (2) and (3) above, a binding commitment shall be treated as a permitted application of the Net Proceeds from the date of such commitment so long as the Company or such other Restricted Subsidiary enters into such commitment with the good faith expectation that such Net Proceeds will be applied to satisfy such commitment within 180 days of such commitment (an "Acceptable Commitment") and, in the event any Acceptable Commitment is later cancelled or terminated for any reason before the Net Proceeds are applied in connection therewith, the Company or such Restricted Subsidiary enters into another Acceptable Commitment (a "Second Commitment") within 180 days of such cancellation or termination; provided further that if any Second Commitment is later cancelled or terminated for any reason before such Net Proceeds are applied, then such Net Proceeds shall constitute Excess Proceeds.

(c) Any Net Proceeds from the Asset Sale that are not invested or applied as provided and within the time period set forth in Section 4.10(b) hereof will be deemed to constitute "Excess Proceeds." When the aggregate amount of Excess Proceeds exceeds \$100.0 million, the Issuer shall make an offer to all Holders of the Notes and, if required by the terms of any other Indebtedness constituting First Lien Obligations, to the holders of such other First Lien Obligations (an "Asset Sale Offer"), to purchase the maximum aggregate principal amount of the Notes and such other First Lien Obligations that is at least \$2,000 or an integral multiple of \$1,000 thereafter that may be purchased out of the Excess Proceeds at an offer price in cash in an amount equal to 100% of the principal amount thereof (or accreted value, if less), plus accrued and unpaid interest, if any, to the date fixed for the closing of such offer, in accordance with the procedures set forth in this Indenture. The Issuer will commence an Asset Sale Offer with respect to Excess Proceeds within ten Business Days after the date that Excess Proceeds exceed \$100.0 million by mailing the notice required pursuant to the terms of this Indenture, with a copy to the Trustee. The Issuer may satisfy the foregoing obligations with respect to any Net Proceeds from an Asset Sale by making an Asset Sale Offer with respect to such Net Proceeds prior to the expiration of the relevant 450 days or with respect to Excess Proceeds of \$100.0 million or less.

To the extent that the aggregate amount of Notes and such other First Lien Obligations tendered pursuant to an Asset Sale Offer is less than the Excess Proceeds, the Issuer may use any remaining Excess Proceeds for general corporate purposes, subject to other covenants contained in this Indenture. If the aggregate principal amount of Notes or the other First Lien Obligations surrendered by such holders thereof exceeds the amount of Excess Proceeds, the Trustee shall select the Notes and such other First Lien Obligations to be purchased on a pro rata basis based on the accreted value or principal amount of the Notes or such other First Lien Obligations tendered. Upon completion of any such Asset Sale Offer, the amount of Excess Proceeds that resulted in the Asset Sale Offer shall be reset to zero.

(d) Pending the final application of any Net Proceeds pursuant to this Section 4.10, the holder of such Net Proceeds may apply such Net Proceeds temporarily to reduce Indebtedness outstanding under a revolving credit facility or otherwise invest such Net Proceeds in any manner not prohibited by this Indenture.

(e) The Issuer will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws or regulations are applicable in connection with the repurchase of the Notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Indenture, the Issuer will comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations described in this Indenture by virtue thereof.

SECTION 4.11. Transactions with Affiliates. (a) The Company will not, and will not permit any of its Restricted Subsidiaries to, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Company (each of the foregoing, an "Affiliate Transaction") involving aggregate payments or consideration in excess of \$25.0 million, unless:

(1) such Affiliate Transaction is on terms that are not materially less favorable to the Company or its relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person on an arm's-length basis; and

(2) the Issuer delivers to the Trustee with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate payments or consideration in excess of \$60.0 million, a resolution adopted by the majority of the board of directors of the Issuer approving such Affiliate Transaction and set forth in an Officer's Certificate certifying that such Affiliate Transaction complies with clause (1) of this Section 4.11(a).

(b) The provisions of Section 4.11(a) will not apply to the following:

(1) transactions between or among the Company or any of its Restricted Subsidiaries;

(2) Restricted Payments permitted by Section 4.07 hereof and the definition of "Permitted Investments";

(3) [intentionally omitted];

(4) the payment of reasonable and customary fees paid to, and indemnities provided for the benefit of, current or former officers, directors, employees or consultants of the Company, any of its direct or indirect parent companies or any of its Restricted Subsidiaries;

(5) transactions in which the Company or any of its Restricted Subsidiaries, as the case may be, delivers to the Trustee a letter from an Independent Financial Advisor stating that such transaction is fair to the Company or such Restricted Subsidiary from a financial point of view or stating that the terms are not materially less favorable to the Company or its relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person on an arm's-length basis;

(6) any agreement as in effect as of the Merger Date, or any amendment thereto (so long as any such amendment is not disadvantageous to the Holders when taken as a whole as compared to the applicable agreement as in effect on the Merger Date);

(7) the existence of, or the performance by the Company or any of its Restricted Subsidiaries of its obligations under the terms of, any stockholders agreement (including any registration rights agreement or purchase agreement related thereto) to which it is a party as of the Issue Date and any similar agreements which it may enter into thereafter; provided, that the existence of, or the performance by the Company or any of its Restricted Subsidiaries of obligations under any future amendment to any such existing agreement or under any similar agreement entered into after the Issue Date shall only be permitted by this clause (7) to the extent that the terms of any such amendment or new agreement are not otherwise disadvantageous to the Holders when taken as a whole;

(8) the Transaction, the Merger and the payment of all fees and expenses related to the Transaction or the Merger;

(9) transactions with customers, clients, suppliers, or purchasers or sellers of goods or services that are Affiliates, in each case in the ordinary course of business and otherwise in compliance with the terms of this Indenture which are fair to the Company and its Restricted Subsidiaries, in the reasonable determination of the board of directors of the Company or the senior management thereof, or are on terms at least as favorable as might reasonably have been obtained at such time from an unaffiliated party;

(10) the issuance of Equity Interests (other than Disqualified Stock) of the Company to any Permitted Holder or to any director, officer, employee or consultant of the Company, any of its direct or indirect parent companies or any of its Restricted Subsidiaries;

(11) sales of accounts receivable, or participations therein, or Securitization Assets or related assets in connection with any Qualified Securitization Facility;

(12) payments by the Company or any of its Restricted Subsidiaries to any of the Investors made for any financial advisory, financing, underwriting or placement services or in respect of other investment banking activities, including, without limitation, in connection with acquisitions or divestitures which payments are approved by a majority of the board of directors of the Company in good faith;

(13) payments or loans (or cancellation of loans) to employees or consultants of the Company, any of its direct or indirect parent companies or any of its Restricted Subsidiaries and employment agreements, stock option plans and other similar arrangements with such employees or consultants which, in each case, are approved by a majority of the board of directors of the Company in good faith;

(14) investments by any of the Investors in securities of the Company or any of its Restricted Subsidiaries (and payment of reasonable out-of-pocket expenses incurred by such investors in connection therewith) so long as (i) the investment is being offered generally to other investors on the same or more favorable terms and (ii) the investment constitutes less than 5% of the proposed or outstanding issue amount of such class of securities; and

(15) any transactions with respect to the Issuer's jointly funded alliance with respect to the 300 millimeter wafer fabrication in Crolles, France, as in effect on the Merger Date, and any amendment, modification or restructuring thereof, or any successor or replacement alliance or arrangement with respect thereto, or any additional alliance or arrangement with respect to 300 millimeter or larger wafer fabrication (in each case whether or not located in Crolles, France) which successor or replacement alliance or arrangement is otherwise permitted under this Indenture.

SECTION 4.12. Liens. The Company shall not, and shall not permit the Issuer, Holdings IV, Holdings V or any Subsidiary Guarantor to, directly or indirectly, create, incur, assume or suffer to exist any Lien that secures obligations under any Indebtedness or any related guarantee (the "Initial Lien"), on any asset or property of the Company, the Issuer, Holdings I, Holdings II, Holdings III, Holdings IV, Holdings V or any Subsidiary Guarantor, or any income or profits therefrom, or assign or convey any right to receive income therefrom, except:

(1) in the case of any Initial Lien on any Collateral, such Initial Lien if such Initial Lien is a Permitted Lien; and

(2) in the case of any Initial Lien on any asset or property not constituting or required to become Collateral, such Initial Lien if (a) the Notes and Guarantees are equally and ratably secured with (or on a senior basis to, in the case such Initial Lien secures any Subordinated Indebtedness) the Obligations secured by such Initial Lien, or (b) such Initial Lien is a Permitted Lien.

Any Lien created for the benefit of the Holders pursuant to clause (2) of this Section 4.12 shall provide by its terms that such Lien shall be automatically and unconditionally released and discharged upon the release and discharge of the Initial Lien which release and discharge in the case of any sale of any such asset or property shall not affect any Lien that the Trustee, the Collateral Agent or any other Authorized Representative may have on the proceeds from such sale.

If the Issuer or any Guarantor creates any additional Lien upon any property or assets to secure any First Lien Obligations, it must concurrently grant a First Lien upon such property or assets as security for the Notes or the applicable Guarantee of the Notes such that the property or assets subject to such Lien becomes Collateral subject to the First Lien, except to the extent such property constitutes cash or cash equivalents required to secure only letter of credit obligations under the Senior Credit Facilities.

SECTION 4.13. Company Existence. Subject to Article 5 hereof, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect (i) its company existence, and the corporate, partnership or other existence of each of its Restricted Subsidiaries, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Company or any such Restricted Subsidiary and (ii) the rights (charter and statutory), licenses and franchises of the Company and its Restricted Subsidiaries; provided that the Company shall not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence of any of its Restricted Subsidiaries (other than the Issuer), if the Company in good faith shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Restricted Subsidiaries, taken as a whole.

SECTION 4.14. Offer to Repurchase Upon Change of Control. If a Change of Control occurs, unless the Issuer has previously or concurrently transmitted a redemption notice with respect to all the outstanding Notes as described under Section 3.07 hereof, the Issuer shall make an offer to purchase all of the Notes pursuant to the offer described below (the "Change of Control Offer") at a price in cash (the "Change of Control Payment") equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest, if any, to the date of purchase, subject to the right of Holders of the Notes of record

on the relevant Record Date to receive interest due on the relevant Interest Payment Date. Within 30 days following any Change of Control, the Issuer shall send notice of such Change of Control Offer by first-class mail, with a copy to the Trustee, or otherwise transmit to each Holder of Notes to the address of such Holder appearing in the Note Register or otherwise in accordance with Applicable Procedures, with a copy to the Trustee, with the following information:

- (1) that a Change of Control Offer is being made pursuant to this Section 4.14 and that all Notes properly tendered pursuant to such Change of Control Offer will be accepted for payment by the Issuer;
- (2) the purchase price and the purchase date, which will be no earlier than 30 days nor later than 60 days from the date such notice is mailed (the "Change of Control Payment Date");
- (3) that any Note not properly tendered will remain outstanding and continue to accrue interest;
- (4) that unless the Issuer defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer will cease to accrue interest on the Change of Control Payment Date;
- (5) that Holders electing to have any Notes purchased pursuant to a Change of Control Offer will be required to surrender such Notes, with the form entitled "Option of Holder to Elect Purchase" on the reverse of such Notes completed, to the paying agent specified in the notice at the address specified in the notice prior to the close of business on the third Business Day preceding the Change of Control Payment Date;
- (6) that Holders will be entitled to withdraw their tendered Notes and their election to require the Issuer to purchase such Notes, provided that the paying agent receives, not later than the close of business on the expiration date of the Change of Control Offer, a telegram, facsimile transmission or letter setting forth the name of the Holder of the Notes, the principal amount of Notes tendered for purchase, and a statement that such Holder is withdrawing its tendered Notes and its election to have such Notes purchased;
- (7) that if the Issuer is redeeming less than all of the Notes, the Holders of the remaining Notes will be issued new Notes and such new Notes will be equal in principal amount to the unpurchased portion of the Notes surrendered. The unpurchased portion of the Notes must be equal to at least \$2,000 or an integral multiple of \$1,000 thereafter;
- (8) if such notice is mailed prior to the occurrence of a Change of Control, stating that the Change of Control Offer is conditional on the occurrence of such Change of Control; and
- (9) the other instructions, as determined by the Issuer, consistent with this Section 4.14 described hereunder, that a Holder must follow.

The notice, if transmitted in a manner herein provided, shall be conclusively presumed to have been given, whether or not the Holder receives such notice. If (a) the notice is transmitted in a manner herein provided and (b) any Holder fails to receive such notice or a Holder receives such notice but it is defective, such Holder's failure to receive such notice or such defect shall not affect the validity of the proceedings for the purchase of the Notes as to all other Holders that properly received such notice without defect. The Issuer shall comply with the requirements of Rule 14e-1 under the Exchange Act and

any other securities laws and regulations thereunder to the extent such laws or regulations are applicable in connection with the repurchase of Notes pursuant to a Change of Control Offer. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Indenture, the Issuer shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under this Indenture by virtue thereof.

(b) On the Change of Control Payment Date, the Issuer shall, to the extent permitted by law,

(1) accept for payment all Notes issued by it or portions thereof properly tendered pursuant to the Change of Control Offer,

(2) deposit with the Paying Agent an amount equal to the aggregate Change of Control Payment in respect of all Notes or portions thereof so tendered, and

(3) deliver, or cause to be delivered, to the Trustee for cancellation the Notes so accepted together with an Officer's Certificate to the Trustee stating that such Notes or portions thereof have been tendered to and purchased by the Issuer.

(c) The Issuer shall not be required to make a Change of Control Offer following a Change of Control if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Indenture applicable to a Change of Control Offer made by the Issuer and purchases all Notes validly tendered and not withdrawn under such Change of Control Offer. Notwithstanding anything to the contrary herein, a Change of Control Offer may be made in advance of a Change of Control, conditional upon such Change of Control, if a definitive agreement is in place for the Change of Control at the time of making of the Change of Control Offer.

(d) Other than as specifically provided in this Section 4.14, any purchase pursuant to this Section 4.14 shall be made pursuant to the provisions of Sections 3.02, 3.05 and 3.06 hereof, and references therein to "redeem," "redemption" and similar words shall be deemed to refer to "purchase," "repurchase" and similar words, as applicable.

SECTION 4.15. Limitation on Guarantees of Indebtedness by Restricted Subsidiaries. The Company shall not permit any of its Restricted Subsidiaries, other than a Guarantor or the Issuer, to guarantee the payment of any First Lien Obligations, including any Indebtedness (or any interest on such Indebtedness) under the Senior Credit Facilities, the NXP Notes and the Existing Secured Notes unless:

(1) such Restricted Subsidiary within 30 days executes and delivers a supplemental indenture to this Indenture, the form of which is attached as Exhibit D hereto, providing for a Guarantee by such Restricted Subsidiary, except that with respect to a guarantee of Indebtedness of the Issuer or any Guarantor, if such Indebtedness is by its express terms subordinated in right of payment to the Notes or such Guarantor's Guarantee, any such guarantee by such Restricted Subsidiary with respect to such Indebtedness shall be subordinated in right of payment to such Guarantee substantially to the same extent as such Indebtedness is subordinated to the Notes;

(2) such Restricted Subsidiary waives and shall not in any manner whatsoever claim or take the benefit or advantage of, any rights of reimbursement, indemnity or subrogation or any other rights against any Guarantor or any other Restricted Subsidiary as a result of any payment by such Person under its Guarantee or otherwise; and



(3) such Restricted Subsidiary shall deliver to the Trustee an Opinion of Counsel to the effect that:

(A) such Guarantee has been duly executed and authorized; and

(B) such Guarantee constitutes a valid, binding and enforceable obligation of such Restricted Subsidiary, except insofar as enforcement thereof may be limited by bankruptcy, insolvency or similar laws (including, without limitation, all laws relating to fraudulent transfers) and except insofar as enforcement thereof is subject to general principles of equity.

SECTION 4.16. Suspension of Covenants.

(a) During any period of time that (i) the Notes have Investment Grade Ratings from both Rating Agencies and (ii) no Default has occurred and is continuing under this Indenture (the occurrence of the events described in the foregoing clauses (i) and (ii) being collectively referred to as a "Covenant Suspension Event" and the date thereof being referred to as the "Suspension Date") then, Section 4.07 hereof, Section 4.08 hereof, Section 4.09 hereof, Section 4.10 hereof, Section 4.11 hereof, clause (4) of Section 5.01(a) hereof and clause (4) of Section 5.01(c) hereof shall not be applicable to the Notes (collectively, the "Suspended Covenants").

(b) During any period that the foregoing covenants have been suspended, the Company may not designate any of its Subsidiaries as Unrestricted Subsidiaries pursuant to the second sentence of the definition of "Unrestricted Subsidiary."

(c) In the event that the Company and its Restricted Subsidiaries are not subject to the Suspended Covenants under this Indenture for any period of time as a result of the foregoing, and on any subsequent date (the "Reversion Date") one or both of the Rating Agencies withdraw their Investment Grade Rating or downgrade the rating assigned to the Notes below an Investment Grade Rating, then the Company and its Restricted Subsidiaries will thereafter again be subject to the Suspended Covenants under this Indenture with respect to future events. The period of time between the Suspension Date and the Reversion Date is referred to in this Section 4.16 as the "Suspension Period." Additionally, upon the occurrence of a Covenant Suspension Event, the amount of Excess Proceeds from Net Proceeds shall be reset to zero.

(d) During any Suspension Period, the Company will not, and will not permit any Restricted Subsidiary to, enter into any Sale and Lease-Back Transaction; provided, that the Company or any Restricted Subsidiary may enter into a Sale and Lease-Back Transaction if (i) the Company or such Restricted Subsidiary could have incurred a Lien to secure the Indebtedness attributable to such Sale and Lease-Back Transaction pursuant to Section 4.12 hereof without equally and ratably securing the Notes pursuant to the covenant described under such section; and (ii) the consideration received by the Company or such Restricted Subsidiary in that Sale and Lease-Back Transaction is at least equal to the fair market value of the property sold and otherwise complies with Section 4.10 hereof; provided, further, that the foregoing provisions shall cease to apply on and subsequent to the Reversion Date following such Suspension Period.

(e) Notwithstanding the foregoing, in the event of any such reinstatement, no action taken or omitted to be taken by the Company or any of its Restricted Subsidiaries prior to such reinstatement will give rise to a Default or Event of Default under this Indenture; provided that (1) with respect to Restricted Payments made after such reinstatement, the amount of Restricted Payments made will be calculated as though Section 4.07 had been in effect prior to, but not during, the Suspension

Period; and (2) all Indebtedness incurred, or Disqualified Stock issued, during the Suspension Period will be classified to have been incurred or issued pursuant to Section 4.09(b)(3). In addition, for purposes of clause (3) of Section 4.07(a) hereof, all events set forth in such clause (3) occurring during a Suspension Period shall be disregarded for purposes of determining the amount of Restricted Payments the Company or any Restricted Subsidiary is permitted to make pursuant to such clause (3).

(f) The Issuer shall deliver promptly to the Trustee an Officer's Certificate of the Issuer notifying it of any event set forth under this Section 4.16.

## ARTICLE V

### SUCCESSORS

#### SECTION 5.01. Merger, Consolidation or Sale of All or Substantially All Assets.

(a) The Issuer may not consolidate or merge with or into or wind up into (whether or not the Issuer is the surviving corporation), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets, in one or more related transactions, to any Person unless:

(1) the Issuer is the surviving corporation or the Person formed by or surviving any such consolidation or merger (if other than the Issuer) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made, is a Person organized or existing under the laws of the jurisdiction of organization of the Issuer or the laws of the United States, any state thereof, the District of Columbia, any member state of the European Union on January 1, 2014, Canada or any province of Canada, Norway, Switzerland, Bermuda or any territory thereof (such Person, as the case may be, being herein called the "Successor Company"); provided that in the case where the surviving Person is not a corporation, a co-obligor of the Notes is a corporation;

(2) the Successor Company, if other than the Issuer, expressly assumes all the obligations of the Issuer under this Indenture and the Notes pursuant to supplemental indentures or other documents or instruments and the performance of the covenants and obligations of the Issuer under the Collateral Documents relating to the Notes and shall cause such amendments, supplements, or other instruments to be executed, filed and recorded in such jurisdictions as may be required by applicable law to preserve and protect the Lien on the Collateral owned by or transferred to the Successor Company, together with such financing statements or comparable documents as may be required to perfect any security interests in such Collateral which may be perfected by the filing of a financing statement or a similar document under the UCC or other similar statute or regulation of the relevant states or jurisdictions;

(3) immediately after such transaction, no Default exists;

(4) immediately after giving pro forma effect to such transaction and any related financing transactions, as if such transactions had occurred at the beginning of the applicable four-quarter period,

(A) the Successor Company or the Issuer would be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Test set forth in Section 4.09(a) hereof, or

(B) the Fixed Charge Coverage Ratio for the Company and the Restricted Subsidiaries would be equal to or greater than the Fixed Charge Coverage Ratio for the Company and its Restricted Subsidiaries immediately prior to such transaction;

(5) each Guarantor, unless it is the other party to the transactions described above, in which case Section 5.01(e)(1)(B) hereof shall apply, shall have by supplemental indenture confirmed that its Guarantee shall apply to such Person's obligations under this Indenture and the Notes; and

(6) the Issuer shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, merger or transfer and such supplemental indentures, if any, comply with this Indenture.

(b) The Successor Company will succeed to, and be substituted for the Issuer under this Indenture, the Guarantees and the Notes, as applicable. Notwithstanding clauses (3) and (4) of Section 5.01(a) hereof,

(1) any Restricted Subsidiary may consolidate with or merge into or transfer all or part of its properties and assets to the Issuer, and

(2) the Issuer may merge with an Affiliate of the Issuer solely for the purpose of reincorporating the Issuer in a State of the United States, the District of Columbia, any member state of the European Union on January 1, 2014, Canada or any province of Canada, Norway or Switzerland, Bermuda or any territory thereof so long as the amount of Indebtedness of the Company and its Restricted Subsidiaries is not increased thereby.

(c) The Company may not consolidate, amalgamate or merge with or into or wind up into (whether or not the Company is the surviving corporation), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets, in one or more related transactions, to any Person unless:

(1) the Company is the surviving corporation or the Person formed by or surviving any such consolidation, amalgamation or merger (if other than the Company) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made, is a Person organized or existing under the laws of the jurisdiction of organization of the Company or the laws of the United States, any state thereof, the District of Columbia, any member state of the European Union on January 1, 2014, Canada or any province of Canada, Norway, Switzerland, Bermuda or any territory thereof (such Person, as the case may be, being herein called the "Successor Guarantor");

(2) the Successor Guarantor, if other than the Company, expressly assumes all the obligations of the Company under this Indenture and the Notes pursuant to supplemental indentures or other documents or instruments and the performance of the covenants and obligations of the Company under the Collateral Documents relating to the Notes and shall cause such amendments, supplements, or other instruments to be executed, filed and recorded in such jurisdictions as may be required by applicable law to preserve and protect the Lien on the Collateral owned by or transferred to the Successor Guarantor, together with such financing statements or comparable documents as may be required to perfect any security interests in such Collateral which may be perfected by the filing of a financing statement or a similar document under the UCC or other similar statute or regulation of the relevant states or jurisdictions;

(3) immediately after such transaction, no Default exists;

(4) immediately after giving pro forma effect to such transaction and any related financing transactions, as if such transactions had occurred at the beginning of the applicable four-quarter period,

(A) the Successor Guarantor or the Company would be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Test set forth in Section 4.09(a) hereof, or

(B) the Fixed Charge Coverage Ratio for the Successor Guarantor or the Company, as applicable, and the Restricted Subsidiaries would be equal to or greater than the Fixed Charge Coverage Ratio for the Company and its Restricted Subsidiaries immediately prior to such transaction; and

(5) the Company shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, amalgamation, merger or transfer and such supplemental indentures, if any, comply with this Indenture.

(d) The Successor Guarantor, if other than the Company, will succeed to, and be substituted for the Company under this Indenture, the Guarantees and the Notes, as applicable. Notwithstanding the clauses (3) and (4) of Section 5.01 (c) hereof,

(1) any Restricted Subsidiary may consolidate or amalgamate with or merge into or transfer all or part of its properties and assets to the Company, and

(2) the Company may amalgamate or merge with its Affiliate solely for the purpose of reincorporating the Company in another jurisdiction (regardless of clause (1) of paragraph (c) above) so long as the amount of Indebtedness of the Company and its Restricted Subsidiaries is not increased thereby and so long as the surviving entity (if not the Company) assumes all of the Company's obligations under this Indenture, the Notes and its Guarantee in connection with such reincorporation.

(e) Subject to Section 10.06 hereof, no Guarantor (other than the Company, subject to Section 5.01(c) above) will, and the Company will not permit any such Guarantor to, consolidate, amalgamate or merge with or into or wind up into (whether or not the Issuer or such Guarantor is the surviving corporation), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets, in one or more related transactions, to any Person unless:

(1) (A) such Guarantor is the surviving corporation or the Person formed by or surviving any such consolidation, amalgamation or merger (if other than such Guarantor) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made is a Person organized or existing under the laws of the jurisdiction of organization of such Guarantor, as the case may be, or the laws of the United States, any state thereof, the District of Columbia, any member state of the European Union on January 1, 2014, Canada or any province of Canada, Norway, Switzerland, Bermuda or any territory thereof (such Person being herein called the "Successor Person");

(B) the Successor Person, if other than such Guarantor, expressly assumes all the obligations of such Guarantor under this Indenture and such Guarantor's related Guarantee pursuant to supplemental indentures or other documents or instruments and the performance of

the covenants and obligations of such Guarantor under the Collateral Documents relating to the Notes and shall cause such amendments, supplements, or other instruments to be executed, filed and recorded in such jurisdictions as may be required by applicable law to preserve and protect the Lien on the Collateral owned by or transferred to the Successor Person, together with such financing statements or comparable documents as may be required to perfect any security interests in such Collateral which may be perfected by the filing of a financing statement or a similar document under the UCC or other similar statute or regulation of the relevant states or jurisdictions;

(C) immediately after such transaction, no Default exists; and

(D) the Issuer shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, amalgamation, merger or transfer and such supplemental indentures, if any, comply with this Indenture; or

(2) the transaction is made in compliance with Section 4.10 hereof.

(f) Subject to Section 10.06 hereof, the Successor Person will succeed to, and be substituted for, such Guarantor under this Indenture and such Guarantor's Guarantee. Notwithstanding the foregoing, (x) any Guarantor (other than the Company, subject to Section 5.01(d) above) may merge or amalgamate into or transfer all or part of its properties and assets to the Company, the Issuer or any Guarantor and (y) any such Guarantor may merge or amalgamate with a Subsidiary of the Company solely for the purpose of reincorporating such Guarantor in another jurisdiction (regardless of clause (1) of paragraph (e) above) so long as the amount of Indebtedness of the Company and its Restricted Subsidiaries is not increased thereby and so long as the surviving entity (if not the Guarantor) assumes all of the Guarantor's obligations under its Guarantee in connection with such reincorporation.

(g) The Company shall, directly or indirectly, at all times own 100% of the Equity Interests of the Issuer (other than Equity Interests held by employees of the Issuer or any Restricted Subsidiary as of the Issue Date and Equity Interests issued in exchange therefor).

SECTION 5.02. Successor Corporation Substituted. Upon any consolidation, amalgamation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the assets of the Issuer or a Guarantor in accordance with Section 5.01 hereof, the successor corporation formed by such consolidation or into or with which the Issuer or such Guarantor, as applicable, is merged, amalgamated or to which such sale, assignment, transfer, lease, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, amalgamation, merger, sale, lease, conveyance or other disposition, the provisions of this Indenture referring to the Issuer or such Guarantor, as applicable, shall refer instead to the successor corporation and not to the Issuer or such Guarantor, as applicable), and may exercise every right and power of the Issuer or such Guarantor, as applicable, under this Indenture with the same effect as if such successor Person had been named as the Issuer or a Guarantor, as applicable, herein; provided that the predecessor Issuer shall not be relieved from the obligation to pay the principal of and interest on the Notes except in the case of a sale, assignment, transfer, conveyance or other disposition of all of the Issuer's assets that meets the requirements of Section 5.01 hereof.

DEFAULTS AND REMEDIESSECTION 6.01. Events of Default.

An “Event of Default” wherever used herein, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(1) default in payment when due and payable, upon redemption, acceleration or otherwise, of principal of, or premium, if any, on the Notes;

(2) default for 30 days or more in the payment when due of interest on or with respect to the Notes;

(3) failure by the Company, the Issuer or any other Guarantor for 60 days after receipt of written notice given by the Trustee or the Holders of not less than 30% in principal amount of the Notes to comply with any of its obligations, covenants or agreements (other than a default referred to in clauses (1) and (2) above) contained in this Indenture or the Notes;

(4) default under any mortgage, indenture or instrument under which there is issued or by which there is secured or evidenced any Indebtedness for money borrowed by the Company or any of its Restricted Subsidiaries or the payment of which is guaranteed by the Company or any of its Restricted Subsidiaries, other than Indebtedness owed to the Company or a Restricted Subsidiary, whether such Indebtedness or guarantee now exists or is created after the issuance of the Notes, if both:

(A) such default either results from the failure to pay any principal of such Indebtedness at its stated final maturity (after giving effect to any applicable grace periods) or relates to an obligation other than the obligation to pay principal of any such Indebtedness at its stated final maturity and results in the holder or holders of such Indebtedness causing such Indebtedness to become due prior to its stated maturity; and

(B) the principal amount of such Indebtedness, together with the principal amount of any other such Indebtedness in default for failure to pay principal at stated final maturity (after giving effect to any applicable grace periods), or the maturity of which has been so accelerated, aggregate \$50.0 million or more at any one time outstanding;

(5) failure by the Company or any Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) to pay final judgments aggregating in excess of \$50.0 million, which final judgments remain unpaid, undischarged and unstayed for a period of more than 60 days after such judgment becomes final, and in the event such judgment is covered by insurance, an enforcement proceeding has been commenced by any creditor upon such judgment or decree which is not promptly stayed;

(6) the Company, the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary (or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary), pursuant to or within the meaning of any Bankruptcy Law:

(i) commences proceedings to be adjudicated bankrupt or insolvent;

(ii) consents to the institution of bankruptcy or insolvency proceedings against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under applicable Bankruptcy law;

(iii) consents to the appointment of a receiver, liquidator, assignee, trustee, sequestrator or other similar official of it or for all or substantially all of its property;

(iv) makes a general assignment for the benefit of its creditors; or

(v) generally is not paying its debts as they become due;

(7) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(i) is for relief against the Company, the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary (or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary), in a proceeding in which the Company, the Issuer or any such Restricted Subsidiaries, that is a Significant Subsidiary (or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary), is to be adjudicated bankrupt or insolvent;

(ii) appoints a receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company, the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary (or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary), or for all or substantially all of the property of the Company, the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary (or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary); or

(iii) orders the liquidation of the Company, the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary (or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary);

and the order or decree remains unstayed and in effect for 60 consecutive days;

(8) the Guarantee of any Restricted Parent Guarantor or Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) shall for any reason cease to be in full force and effect or be declared null and void or any responsible officer of any Restricted Parent Guarantor or any Guarantor that is a Significant Subsidiary (or the responsible officers of any group of Subsidiaries that together would constitute a Significant Subsidiary), as the case may be, denies that it has any further liability under its Guarantee or gives notice to such effect, other than by reason of the termination of this Indenture or the release of any such Guarantee in accordance with this Indenture; or

(9) the Liens created by the Collateral Documents relating to the Notes shall not constitute a valid and perfected Lien on any portion of the Collateral with a fair market value or book value equal to or more than \$25.0 million intended to be covered thereby (to the extent perfection is required by the First Lien Debt Documents) except as otherwise permitted by the terms of this Indenture or the relevant First Lien Debt Documents and other than the satisfaction in full of all obligations of the Issuer and the Guarantors under this Indenture or the release or amendment of any such Lien in accordance with the terms of the First Lien Debt Documents, or, except for expiration in accordance with its terms or amendment, modification, waiver, termination or release in accordance with the terms of the First Lien Debt Documents, any of the Collateral Documents relating to the Notes shall for whatever reason be terminated or cease to be in full force and effect, if, in either case, such default continues for 60 days after notice, or the enforceability thereof shall be contested by the Issuer or any Guarantor, except to the extent that

any such loss of perfection or priority results from the failure of the Collateral Agent to make filings, renewals and continuations (or other equivalent filings) or take other appropriate action or the failure of the Collateral Agent to maintain possession of certificates, instruments or other documents actually delivered to it representing securities pledged or other possessory collateral pledged under the applicable Collateral Documents relating to the Notes.

SECTION 6.02. Acceleration. If any Event of Default (other than an Event of Default specified in clause (6) or (7) of Section 6.01 hereof) occurs and is continuing under this Indenture, the Trustee, upon receipt of actual written notice of a default, or the Holders of at least 30% in principal amount of the then total outstanding Notes may declare the principal, premium, if any, interest and any other monetary obligations on all the then outstanding Notes to be due and payable immediately. Upon the effectiveness of such declaration, such principal and interest shall be due and payable immediately. The Trustee shall have no obligation to accelerate the Notes if it believes in good faith that acceleration is not in the best interests of the Holders of the Notes.

Notwithstanding the foregoing, in the case of an Event of Default arising under clause (6) or (7) of Section 6.01 hereof, all outstanding Notes shall be due and payable immediately without further action or notice.

The Holders of a majority in aggregate principal amount of the then outstanding Notes by written notice to the Trustee may on behalf of all of the Holders of all of the Notes rescind any acceleration with respect to the Notes and its consequences if such rescission would not conflict with any judgment or decree of a court of competent jurisdiction and if all existing Events of Default (except nonpayment of principal, interest or premium that has become due solely because of the acceleration) have been cured or waived.

In the event of any Event of Default specified in clause (4) of Section 6.01 hereof, such Event of Default and all consequences thereof (excluding any resulting payment default, other than as a result of acceleration of the Notes) shall be annulled, waived and rescinded, automatically and without any action by the Trustee or the Holders, if within 20 days after such Event of Default arose:

- (1) the Indebtedness or guarantee that is the basis for such Event of Default has been discharged; or
- (2) holders thereof have rescinded or waived the acceleration, notice or action (as the case may be) giving rise to such Event of Default; or
- (3) the default that is the basis for such Event of Default has been cured.

SECTION 6.03. Other Remedies. If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal, premium, if any, and interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Note in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.



SECTION 6.04. Waiver of Past Defaults. Subject to Section 6.02 hereof, Holders of not less than a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default and its consequences hereunder (except a continuing Default in the payment of the principal of, premium, if any, or interest on, any Note held by a non-consenting Holder) (including in connection with an Asset Sale Offer or a Change of Control Offer). Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

SECTION 6.05. Control by Majority. Holders of a majority in principal amount of the then total outstanding Notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee without any liability to the Trustee. The Trustee, however, may refuse to follow any direction that conflicts with law or this Indenture or that the Trustee determines is unduly prejudicial to the rights of any other Holder of a Note or that would involve the Trustee in personal liability.

SECTION 6.06. Limitation on Suits. Subject to Section 6.07 hereof, no Holder of a Note may pursue any remedy with respect to this Indenture or the Notes unless:

- (1) such Holder has previously given the Trustee notice that an Event of Default is continuing;
- (2) Holders of at least 30% in principal amount of the total outstanding Notes have requested the Trustee to pursue the remedy;
- (3) Holders of the Notes have offered the Trustee security or indemnity satisfactory to it against any loss, liability or expense;
- (4) the Trustee has not complied with such request within 60 days after the receipt thereof and the offer of security or indemnity; and
- (5) Holders of a majority in principal amount of the total outstanding Notes have not given the Trustee a direction inconsistent with such request within such 60-day period.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note.

SECTION 6.07. Rights of Holders of Notes to Receive Payment. Notwithstanding any other provision of this Indenture, the right of any Holder of a Note to receive payment of principal of, premium, if any, and interest on the Note, on or after the respective due dates expressed in the Note (including in connection with an Asset Sale Offer or a Change of Control Offer), or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

SECTION 6.08. Collection Suit by Trustee. If an Event of Default specified in Section 6.01(1) or (2) hereof occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Issuer for the whole amount of principal of, premium, if any, and interest remaining unpaid on the Notes and interest on overdue principal and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

SECTION 6.09. Restoration of Rights and Remedies. If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceedings, the Issuer, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding has been instituted.

SECTION 6.10. Rights and Remedies Cumulative. Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes in Section 2.07 hereof, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

SECTION 6.11. Delay or Omission Not Waiver. No delay or omission of the Trustee or of any Holder of any Note to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

SECTION 6.12. Trustee May File Proofs of Claim. The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Issuer (or any other obligor upon the Notes including the Guarantors), its creditors or its property and shall be entitled and empowered to participate as a member in any official committee of creditors appointed in such matter and to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.06 hereof. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.06 hereof out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

SECTION 6.13. Priorities. If the Trustee or any Agent collects any money pursuant to this Article 6, it shall pay out the money in the following order:

(i) to the Trustee, such Agent, their agents and attorneys for amounts due under Section 7.06 hereof, including payment of all compensation, expenses and liabilities incurred, and all advances made, by the Trustee or such Agent and the costs and expenses of collection;

(ii) to Holders of Notes for amounts due and unpaid on the Notes for principal, premium, if any, and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal, premium, if any, and interest, respectively; and

(iii) to the Issuer or to such party as a court of competent jurisdiction shall direct including a Guarantor, if applicable.

The Trustee may fix a record date and payment date for any payment to Holders of Notes pursuant to this Section 6.13.

SECTION 6.14. Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.14 does not apply to a suit by the Trustee, a suit by a Holder of a Note pursuant to Section 6.07 hereof, or a suit by Holders of more than 10% in principal amount of the then outstanding Notes.

## ARTICLE VII

### TRUSTEE

#### SECTION 7.01. Duties of Trustee.

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) Except during the continuance of an Event of Default:

(i) the duties of the Trustee shall be determined solely by the express provisions of this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

(c) The Trustee may not be relieved from liabilities for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) this paragraph does not limit the effect of paragraph (b) of this Section 7.01;

(ii) the Trustee shall not be liable for any error of judgment made in good faith, unless it is proved in a court of competent jurisdiction that the Trustee was negligent in ascertaining the pertinent facts; and

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.02, 6.04 or 6.05 hereof.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b) and (c) of this Section 7.01.

(e) The Trustee shall be under no obligation to exercise any of its rights or powers under this Indenture at the request or direction of any of the Holders of the Notes unless the Holders have offered to the Trustee indemnity or security reasonably satisfactory to it against any loss, liability or expense.

(f) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Issuer. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

#### SECTION 7.02. Rights of Trustee.

(a) The Trustee may conclusively rely upon any document believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company and its Restricted Subsidiaries, personally or by agent or attorney at the sole cost of the Issuer and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation.

(b) Before the Trustee acts or refrains from acting, it may require an Officer's Certificate of the Issuer or the Company or an Opinion of Counsel or both. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Officer's Certificate or Opinion of Counsel. The Trustee may consult with counsel of its selection and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any agent or attorney appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Issuer shall be sufficient if signed by an Officer of the Issuer.

(f) None of the provisions of this Indenture shall require the Trustee to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not assured to it.

(g) The Trustee shall not be deemed to have notice of any Default or Event of Default unless written notice of any event which is in fact such a Default is received by a Responsible Officer of the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture.

(h) In no event shall the Trustee be responsible or liable for any punitive, special, indirect, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(i) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder.

SECTION 7.03. Individual Rights of Trustee. The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Issuer or any Affiliate of the Issuer with the same rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days, apply to the SEC for permission to continue as trustee or resign. Any Agent may do the same with like rights and duties. The Trustee is also subject to Section 7.09 hereof.

SECTION 7.04. Trustee's Disclaimer. The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes, it shall not be accountable for the Issuer's use of the proceeds from the Notes or any money paid to the Issuer or upon the Issuer's direction under any provision of this Indenture, it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it shall not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication.

The Trustee shall not be responsible or liable for noncompliance by the Issuer or the Depositary. The Trustee also shall not be responsible or liable for any failure of the Issuer or any other party to comply with any securities laws, including, without limitation, the Securities Act, that may be caused by or result from the failure of the Issuer to comply with the requirements of the Indenture or the failure of the Depositary to comply with any request related to this Indenture.

The Trustee shall not have any obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among the depositary participants, members or beneficial owners in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

SECTION 7.05. Notice of Defaults. If a Default occurs and is continuing and if it is known to the Trustee, the Trustee shall mail to Holders of Notes a notice of the Default within 90 days after it occurs. Except in the case of a Default relating to the payment of principal, premium, if any, or

interest on any Note, the Trustee may withhold from the Holders notice of any continuing Default if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders of the Notes. The Trustee shall not be deemed to know of any Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is such a Default is received by the Trustee in accordance with Section 13.01 hereof at the Corporate Trust Office of the Trustee and such notice references the Notes and this Indenture.

SECTION 7.06. Compensation and Indemnity. The Issuer shall pay to the Trustee from time to time such compensation for its acceptance of this Indenture and services hereunder as the parties shall agree in writing from time to time. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Issuer shall reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

The Issuer and the Guarantors, jointly and severally, shall indemnify the Trustee and its officers, directors, employees, agents and any predecessor trustee and its officers, directors, employees and agents for, and hold the Trustee harmless against, any and all loss, damage, claims, liability or expense (including attorneys' fees) incurred by it in connection with the acceptance or administration of this trust and the performance of its duties hereunder (including the costs and expenses of enforcing this Indenture against the Issuer or any of the Guarantors (including this Section 7.06) or defending itself against any claim whether asserted by any Holder, the Issuer or any Guarantor, or liability in connective with the acceptance, exercise or performance of any of its powers or duties hereunder). The Trustee shall notify the Issuer promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Issuer shall not relieve the Issuer of its obligations hereunder. The Issuer shall defend the claim and the Trustee may have separate counsel and the Issuer shall pay the fees and expenses of such counsel. The Issuer need not reimburse any expense or indemnify against any loss, liability or expense incurred by the Trustee through the Trustee's own willful misconduct, negligence or bad faith.

The obligations of the Issuer under this Section 7.06 shall survive the satisfaction and discharge of this Indenture or the earlier resignation or removal of the Trustee.

Notwithstanding anything contrary in Section 4.12 hereof, to secure the payment obligations of the Issuer and the Guarantors in this Section 7.06, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal and interest on particular Notes. Such Lien shall survive the satisfaction and discharge of this Indenture.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(6) or (7) hereof occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

SECTION 7.07. Replacement of Trustee. A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.07. The Trustee may resign in writing at any time and be discharged from the trust hereby created by so notifying the Issuer. The Holders of a majority in principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Issuer in writing. The Issuer may remove the Trustee if:

(A) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;

(B) a custodian or public officer takes charge of the Trustee or its property; or

(C) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Issuer shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Issuer.

If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee (at the Issuer's expense), the Issuer or the Holders of at least 10% in principal amount of the then outstanding Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee, after written request by any Holder who has been a Holder for at least six months, fails to comply with Section 7.09 hereof, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Issuer. Thereupon, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee; provided all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.06 hereof. Notwithstanding replacement of the Trustee pursuant to this Section 7.07, the Issuer's obligations under Section 7.06 hereof shall continue for the benefit of the retiring Trustee.

SECTION 7.08. Successor Trustee by Merger, etc. If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act shall be the successor Trustee.

SECTION 7.09. Eligibility; Disqualification. There shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has, together with its parent, a combined capital and surplus of at least \$50,000,000 as set forth in its most recent published annual report of condition.

SECTION 7.10. Incumbency Certificate; Specimen Signatures. The Issuer shall furnish, within five (5) Business Days following the Issue Date, to the Trustee, and from time to time thereafter may furnish, an Officer's Certificate identifying and certifying the incumbency and specimen signatures of the Authorized Persons of the Issuer. Until the Trustee receives a subsequent Officer's Certificate, the Trustee shall be entitled to conclusively rely on the last such Officer's Certificate delivered to it for purposes of determining the Authorized Persons of the Issuer.

LEGAL DEFEASANCE AND COVENANT DEFEASANCE

SECTION 8.01. Option to Effect Legal Defeasance or Covenant Defeasance. The Issuer may, at its option and at any time, elect to have either Section 8.02 or 8.03 hereof applied to all outstanding Notes upon compliance with the conditions set forth below in this Article 8.

SECTION 8.02. Legal Defeasance and Discharge. Upon the Issuer's exercise under Section 8.01 hereof of the option applicable to this Section 8.02, the Issuer and the Guarantors shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be deemed to have been discharged from their obligations with respect to all outstanding Notes and Guarantees on the date the conditions set forth below are satisfied ("Legal Defeasance"). For this purpose, Legal Defeasance means that the Issuer shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes, which shall thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 hereof and the other Sections of this Indenture referred to in (a) and (b) below, and to have satisfied all its other obligations under such Notes and this Indenture including that of the Guarantors (and the Trustee, on demand of and at the expense of the Issuer, shall execute proper instruments acknowledging the same), except for the following provisions which shall survive until otherwise terminated or discharged hereunder:

- (A) the rights of Holders of Notes to receive payments in respect of the principal of, premium, if any, and interest on the Notes when such payments are due solely out of the trust created pursuant to this Indenture referred to in Section 8.04 hereof;
- (B) the Issuer's obligations with respect to Notes concerning issuing temporary Notes, registration of such Notes, mutilated, destroyed, lost or stolen Notes and the maintenance of an office or agency for payment and money for security payments held in trust;
- (C) the rights, powers, trusts, duties and immunities of the Trustee, and the Issuer's obligations in connection therewith; and
- (D) this Section 8.02.

Subject to compliance with this Article 8, the Issuer may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 hereof.

If the Issuer exercises its legal defeasance option, the First Liens, as they pertain to the Notes and the Guarantees, will be released and each Guarantor will be released from all its obligations under its Guarantee of the Notes.

SECTION 8.03. Covenant Defeasance. Upon the Issuer's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, the Issuer and the Guarantors shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be released from their obligations under the covenants contained in Sections 4.03, 4.04, 4.05, 4.07, 4.08, 4.09, 4.10, 4.11, 4.12, 4.13, 4.14 and 4.15 hereof and clauses (4) and (5) of Section 5.01(a), clause (4) of Section 5.01(c), Sections 5.01(e) and 5.01(f) hereof with respect to the outstanding Notes on and after the date the conditions set forth in Section 8.04 hereof are satisfied ("Covenant Defeasance"), and the Notes shall thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed



“outstanding” for all other purposes hereunder (it being understood that such Notes shall not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Notes, the Issuer may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 6.01 hereof, but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby. In addition, upon the Issuer’s exercise under Section 8.01 hereof of the option applicable to this Section 8.03 hereof, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, Sections 6.01(3) (solely with respect to the covenants that are released upon a Covenant Defeasance), 6.01(4), 6.01(5), 6.01(6) (solely with respect to the Company and its Restricted Subsidiaries other than the Issuer), 6.01(7) (solely with respect to the Company and its Restricted Subsidiaries other than the Issuer) and 6.01(8) hereof shall not constitute Events of Default.

If the Issuer exercises its covenant defeasance option, the First Liens, as they pertain to the Notes and the Guarantees, will be released and each Guarantor will be released from all its obligations under its Guarantee of the Notes.

SECTION 8.04. Conditions to Legal or Covenant Defeasance. The following shall be the conditions to the application of either Section 8.02 or 8.03 hereof to the outstanding Notes:

In order to exercise either Legal Defeasance or Covenant Defeasance with respect to the Notes:

(1) the Issuer must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders of the Notes, cash in U.S. dollars, U.S. dollar-denominated Government Securities, or a combination thereof, in such amounts as will be sufficient, in the opinion of a nationally recognized firm of independent public accountants, to pay the principal of, premium, if any, and interest due on the Notes on the stated maturity date or on the Redemption Date, as the case may be, of such principal, premium, if any, or interest on such Notes and the Issuer must specify whether such Notes are being defeased to maturity or to a particular Redemption Date.

(2) in the case of Legal Defeasance, the Issuer shall have delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that, subject to customary assumptions and exclusions,

(A) the Issuer has received from, or there has been published by, the United States Internal Revenue Service a ruling, or

(B) since the issuance of the Notes, there has been a change in the applicable U.S. federal income tax law,

in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, subject to customary assumptions and exclusions, the Holders of the Notes will not recognize income, gain or loss for U.S. federal income tax purposes, as applicable, as a result of such Legal Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(3) in the case of Covenant Defeasance, the Issuer shall have delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that, subject to customary assumptions and exclusions, the Holders of the Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and will be subject to such tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(4) no Default (other than that resulting from borrowing funds to be applied to make such deposit and any similar and simultaneous deposit relating to other Indebtedness and, in each case, the granting of Liens in connection therewith) shall have occurred and be continuing on the date of such deposit;

(5) such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under the Senior Credit Facilities, the Existing Secured Notes, the NXP Notes, the indentures pursuant to which the Existing Secured Notes were issued, the indentures pursuant to which the NXP Notes were issued or any other material agreement or instrument (other than this Indenture) to which, the Issuer or any Guarantor is a party or by which the Issuer or any Guarantor is bound (other than that resulting from any borrowing of funds to be applied to make the deposit required to effect such Legal Defeasance or Covenant Defeasance and any similar and simultaneous deposit relating to other Indebtedness, and the granting of Liens in connection therewith);

(6) the Issuer shall have delivered to the Trustee an Opinion of Counsel to the effect that, as of the date of such opinion and subject to customary assumptions and exclusions following the deposit, the trust funds will not be subject to the effect of any applicable bankruptcy, insolvency, reorganization, or similar laws affecting creditors' rights generally (including Section 547 of Title 11 of the United States Code) under any applicable U.S. Federal or state law, and that the Trustee has a perfected security interest in such trust funds for the ratable benefit of the Holders;

(7) the Issuer shall have delivered to the Trustee an Officer's Certificate stating that the deposit was not made by the Issuer with the intent of defeating, hindering, delaying or defrauding any creditors of the Issuer or any Guarantor or others; and

(8) the Issuer shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel (which Opinion of Counsel may be subject to customary assumptions and exclusions) each stating that all conditions precedent provided for or relating to the Legal Defeasance or the Covenant Defeasance, as the case may be, have been complied with.

**SECTION 8.05. Deposited Money and Government Securities to Be Held in Trust; Other Miscellaneous Provisions.** Subject to Section 8.06 hereof, all money and Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the "Trustee") pursuant to Section 8.04 hereof in respect of the outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Issuer or a Guarantor acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium and interest, but such money need not be segregated from other funds except to the extent required by law.

The Issuer shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or Government Securities deposited pursuant to Section 8.04 hereof or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Notes.

Anything in this Article 8 to the contrary notwithstanding, the Trustee shall deliver or pay to the Issuer from time to time upon the request of the Issuer any money or Government Securities held by it as provided in Section 8.04 hereof which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04(a) hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

SECTION 8.06. Repayment to Issuer. Subject to any applicable abandoned property law, any money deposited with the Trustee or any Paying Agent, or then held by the Issuer, in trust for the payment of the principal of, premium, if any, or interest on any Note and remaining unclaimed for two years after such principal, and premium, if any, or interest has become due and payable shall be paid to the Issuer on its request or (if then held by the Issuer) shall be discharged from such trust; and the Holder of such Note shall thereafter look only to the Issuer for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Issuer as trustee thereof, shall thereupon cease.

SECTION 8.07. Reinstatement. If the Trustee or Paying Agent is unable to apply any United States dollars or Government Securities in accordance with Section 8.02 or 8.03 hereof, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Issuer's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 hereof until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02 or 8.03 hereof, as the case may be; provided that, if the Issuer makes any payment of principal of, premium, if any, or interest on any Note following the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

## ARTICLE IX

### AMENDMENT, SUPPLEMENT AND WAIVER

SECTION 9.01. Without Consent of Holders of Notes. Notwithstanding Section 9.02 hereof, the Issuer, the Guarantors and the Trustee may amend or supplement this Indenture and any Guarantee or Notes without the consent of any Holder:

- (1) to cure any ambiguity, omission, mistake, defect or inconsistency;
- (2) to provide for uncertificated Notes of such series in addition to or in place of certificated Notes;
- (3) to comply with Section 5.01 hereof;
- (4) to provide the assumption of the Issuer's or any Guarantor's obligations to the Holders;
- (5) to make any change that would provide any additional rights or benefits to the Holders or that does not adversely affect the legal rights under this Indenture of any such Holder;
- (6) to add covenants for the benefit of the Holders or to surrender any right or power conferred upon the Issuer or any Guarantor;

(7) to evidence and provide for the acceptance and appointment under this Indenture of a successor Trustee hereunder pursuant to the requirements hereof;

(8) to add a Guarantor under this Indenture or to remove any Parent Guarantor that is not a Restricted Parent Guarantor;

(9) to conform the text of this Indenture, Guarantees or the Notes to any provision of the "Description of the Notes" section of the Offering Memorandum to the extent that such provision in such "Description of the notes" section was intended to be a verbatim recitation of a provision of this Indenture, Guarantee or Notes; or

(10) to make any amendment to the provisions of this Indenture relating to the transfer and legending of Notes as permitted by this Indenture, including, without limitation to facilitate the issuance and administration of the Notes; provided, that (i) compliance with this Indenture as so amended would not result in Notes being transferred in violation of the Securities Act or any applicable securities law and (ii) such amendment does not materially and adversely affect the rights of Holders to transfer Notes.

(11) to add additional assets as Collateral or to release any Collateral from the liens securing the Notes, in each case pursuant to the terms of this Indenture, the Collateral Documents relating to the Notes and the Intercreditor Agreement, as and when permitted or required by this Indenture, the Collateral Documents relating to the Notes or the Intercreditor Agreement.

In addition, the Collateral Agent and the Trustee are authorized to amend the Collateral Documents relating to the Notes to comply with the provisions hereof and thereof.

Upon the request of the Issuer accompanied by a resolution of its board of directors authorizing the execution of any such amended or supplemental indenture, and upon receipt by the Trustee of the documents described in Section 7.02 hereof, the Trustee shall join with the Issuer and the Guarantors in the execution of any amended or supplemental indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall have the right, but not be obligated to, enter into such amended or supplemental indenture that affects its own rights, duties or immunities under this Indenture or otherwise. Notwithstanding the foregoing, neither an Opinion of Counsel nor an Officer's Certificate shall be required in connection with the addition of a Guarantor under this Indenture (other than as required by Section 4.15 hereof) upon execution and delivery by such Guarantor and the Trustee of a supplemental indenture to this Indenture, the form of which is attached as Exhibit D hereto.

**SECTION 9.02. With Consent of Holders of Notes.** Except as provided below in this Section 9.02, the Issuer, the Guarantors and the Trustee may amend or supplement this Indenture, the Notes, any Guarantee, the Collateral Documents relating to the Notes with the consent of the Holders of at least a majority in principal amount of the Notes (including Additional Notes, if any) then outstanding voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes), and, subject to Sections 6.04 and 6.07 hereof, any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium, if any, or interest on the Notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of this Indenture, any Guarantee, the Collateral Documents relating to the Notes or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes (including Additional Notes, if any) voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes).

Upon the request of the Issuer accompanied by a resolution of its board of directors authorizing the execution of any such amended or supplemental indenture, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of Notes as aforesaid, and upon receipt by the Trustee of the documents described in Section 7.02 hereof, the Trustee shall join with the Issuer in the execution of such amended or supplemental indenture unless such amended or supplemental indenture directly affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such amended or supplemental indenture.

It shall not be necessary for the consent of the Holders of Notes under this Section 9.02 to approve the particular form of any proposed amendment or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Issuer shall mail to the Holders of Notes affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Issuer to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amended or supplemental indenture or waiver.

Without the consent of each affected Holder of Notes, an amendment or waiver under this Section 9.02 may not (with respect to any Notes held by a non-consenting Holder):

- (1) reduce the principal amount of such Notes whose Holders must consent to an amendment, supplement or waiver;
- (2) reduce the principal of or change the fixed final maturity of any such Note or alter or waive the provisions with respect to the redemption of such Note (other than provisions relating to Section 3.09, Section 4.10 and Section 4.14 hereof to the extent that any such amendment or waiver does not have the effect of reducing the principal of or changing the fixed final maturity of any such Note or altering or waiving the provisions with respect to the redemption of such Notes);
- (3) reduce the rate of or change the time for payment of interest on any Note;
- (4) waive a Default in the payment of principal of or premium, if any, or interest on the Notes, except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the Notes and a waiver of the payment default that resulted from such acceleration, or in respect of a covenant or provision contained in this Indenture or any Guarantee which cannot be amended or modified without the consent of all Holders;
- (5) make any Note payable in money other than that stated therein;
- (6) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders to receive payments of principal of or premium, if any, or interest on the Notes;
- (7) make any change in these amendment and waiver provisions;
- (8) impair the right of any Holder to receive payment of principal of, or interest on such Holder's Notes on or after the due dates therefor or to institute suit for the enforcement of any payment on or with respect to such Holder's Notes;

(9) make any change to or modify the ranking of the Notes that would adversely affect the Holders;

(10) except as expressly permitted by this Indenture, modify the Guarantees of any Restricted Parent Guarantor or Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) in any manner adverse to the Holders of the Notes; or

(11) make any change in the provisions described under Section 4.05(b)—(h) hereof that adversely affects the rights of any Holder of Notes or amend the terms of any Notes or this Indenture in a way that would result in the loss of an exemption from any of the Taxes described in such Section.

Without the consent of at least two-thirds in aggregate principal amount of Notes then outstanding, an amendment or waiver may not:

(1) modify any Collateral Document relating to the Notes or the provisions of this Indenture dealing with the Collateral Documents or the application of trust moneys, or otherwise release all or substantially all of the Collateral, except as otherwise permitted by this Indenture or the Collateral Documents; or

(2) modify the Intercreditor Agreement in any manner materially adverse to the Holders except as otherwise permitted by this Indenture or the Collateral Documents.

SECTION 9.03. Revocation and Effect of Consents. Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder of a Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the waiver, supplement or amendment becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

The Issuer may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to consent to any amendment, supplement, or waiver. If a record date is fixed, then, notwithstanding the preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only such Persons, shall be entitled to consent to such amendment, supplement, or waiver or to revoke any consent previously given, whether or not such Persons continue to be Holders after such record date. No such consent shall be valid or effective for more than 120 days after such record date unless the consent of the requisite number of Holders has been obtained.

SECTION 9.04. Notation on or Exchange of Notes. The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Issuer in exchange for all Notes may issue and the Trustee shall, upon receipt of an Authentication Order, authenticate new Notes that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

SECTION 9.05. Trustee to Sign Amendments, etc. The Trustee shall sign, and shall direct the Collateral Agent to sign (as applicable), any amendment, supplement or waiver authorized pursuant to this Article 9 if the amendment or supplement does not adversely affect the rights, duties,

liabilities or immunities of the Trustee and the Collateral Agent, as applicable. The Issuer may not sign an amendment, supplement or waiver until the board of directors of the Issuer approves it. In executing any amendment, supplement or waiver, the Trustee and the Collateral Agent shall be entitled to receive, upon request, and (subject to Section 7.01 hereof) shall be fully protected in relying upon, in addition to the documents required by Section 13.03 hereof, an Officer's Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by this Indenture and that such amendment, supplement or waiver is the legal, valid and binding obligation of the Issuer and any Guarantors party thereto, enforceable against them in accordance with its terms, subject to customary exceptions, and complies with the provisions hereof. Notwithstanding the foregoing, except as required by Section 4.15 hereof, neither an Opinion of Counsel nor an Officer's Certificate will be required for the Trustee to execute any amendment or supplement adding a new Guarantor under this Indenture.

SECTION 9.06. Payment for Consent. Neither the Issuer, the Company nor any Affiliate of the Issuer shall, directly or indirectly, pay or cause to be paid any consideration, whether by way of interest, fee or otherwise, to any Holder for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of this Indenture or the Notes unless such consideration is offered to all Holders and is paid to all Holders that so consent, waive or agree to amend in the time frame set forth in solicitation documents relating to such consent, waiver or agreement.

SECTION 9.07. Additional Voting Terms; Calculation of Principal Amount. Except as provided in the proviso to the first sentence of Section 9.02, all Notes issued under this Indenture shall vote and consent together on all matters (as to which any of such Notes may vote) as one class and no series of Notes will have the right to vote or consent as a separate series on any matter. Determinations as to whether Holders of the requisite aggregate principal amount of Notes have concurred in any direction, waiver or consent shall be made in accordance with this Article Nine.

## ARTICLE X

### GUARANTEES

SECTION 10.01. Guarantee. Subject to this Article 10, each of the Guarantors hereby, jointly and severally, unconditionally guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the obligations of the Issuer hereunder or thereunder, that: (a) the principal of and interest and premium, if any, on the Notes shall be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Notes, if any, if lawful, and all other obligations of the Issuer to the Holders or the Trustee hereunder or thereunder shall be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and (b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same shall be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors shall be jointly and severally obligated to pay the same immediately. Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

The Guarantors hereby agree that their obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Issuer, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or

defense of a guarantor. Each Guarantor hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Issuer, any right to require a proceeding first against the Issuer, protest, notice and all demands whatsoever and covenants that this Guarantee shall not be discharged except by complete performance of the obligations contained in the Notes and this Indenture.

Each Guarantor also agrees to pay any and all costs and expenses (including reasonable attorneys' fees) incurred by the Trustee or any Holder in enforcing any rights under this Section 10.01.

If any Holder or the Trustee is required by any court or otherwise to return to the Issuer, the Guarantors or any custodian, trustee, liquidator or other similar official acting in relation to either the Issuer or the Guarantors, any amount paid either to the Trustee or such Holder, this Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect.

Each Guarantor agrees that it shall not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 hereof for the purposes of this Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such obligations as provided in Article 6 hereof, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantors for the purpose of this Guarantee. The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Guarantees.

Each Guarantee shall remain in full force and effect and continue to be effective should any petition be filed by or against the Issuer for liquidation, reorganization, should the Issuer become insolvent or make an assignment for the benefit of creditors or should a receiver or trustee be appointed for all or any significant part of the Issuer's assets, and shall, to the fullest extent permitted by law, continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Notes are, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee on the Notes or Guarantees, whether as a "voidable preference," "fraudulent transfer" or otherwise, all as though such payment or performance had not been made. In the event that any payment or any part thereof, is rescinded, reduced, restored or returned, the Notes shall, to the fullest extent permitted by law, be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

In case any provision of any Guarantee shall be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

The Guarantees issued by each Unrestricted Parent Guarantor shall be a general unsecured senior obligation of such Guarantor and shall be pari passu in right of payment with all existing and future Senior Indebtedness of such Guarantor, and the Guarantees issued by each Secured Guarantor will be senior secured obligations of such Guarantor and shall be pari passu in right of payment with all existing and future First Lien Obligations and Senior Indebtedness of such Guarantor, provided that, in each case and for the avoidance of doubt, nothing herein prevents the Credit Facilities Obligations, and Hedging Obligations provided by any lender or letter of credit issuer (or any affiliate thereof) under the Revolving Credit Facility, having priority in right of payment in relation to the Collateral specified by the Intercreditor Agreement for an aggregate principal amount not exceeding €750 million.



Each payment to be made by a Guarantor in respect of its Guarantee shall be made without set-off, counterclaim, reduction or diminution of any kind or nature.

SECTION 10.02. Limitation on Guarantor Liability. Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law to the extent applicable to any Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the obligations of each Guarantor shall be limited to the maximum amount as will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Guarantor that are relevant under such laws and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under this Article 10, result in the obligations of such Guarantor under its Guarantee not constituting a fraudulent conveyance or fraudulent transfer under applicable law. Each Subsidiary Guarantor that makes a payment under its Guarantee shall be entitled upon payment in full of all guaranteed obligations under this Indenture to a contribution from each other Subsidiary Guarantor in an amount equal to such other Subsidiary Guarantor's pro rata portion of such payment based on the respective net assets of all the Subsidiary Guarantors at the time of such payment determined in accordance with GAAP.

SECTION 10.03. Execution and Delivery. To evidence its Guarantee set forth in Section 10.01 hereof, each Guarantor hereby agrees that this Indenture shall be executed on behalf of such Guarantor by its President, one of its Vice Presidents or one of its Assistant Vice Presidents.

Each Guarantor hereby agrees that its Guarantee set forth in Section 10.01 hereof shall remain in full force and effect notwithstanding the absence of the endorsement of any notation of such Guarantee on the Notes.

If an Officer whose signature is on this Indenture no longer holds that office at the time the Trustee authenticates the Note, the Guarantee shall be valid nevertheless.

The delivery of any Note by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Guarantee set forth in this Indenture on behalf of the Guarantors.

If required by Section 4.15 hereof, the Issuer shall cause any newly created or acquired Restricted Subsidiary to comply with the provisions of Section 4.15 hereof and this Article 10, to the extent applicable.

SECTION 10.04. Subrogation. Each Guarantor shall be subrogated to all rights of Holders of Notes against the Issuer in respect of any amounts paid by any Guarantor pursuant to the provisions of Section 10.01 hereof; provided that, if an Event of Default has occurred and is continuing, no Guarantor shall be entitled to enforce or receive any payments arising out of, or based upon, such right of subrogation until all amounts then due and payable by the Issuer under this Indenture or the Notes shall have been paid in full.

SECTION 10.05. Benefits Acknowledged. Each Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by this Indenture and that the guarantee and waivers made by it pursuant to its Guarantee are knowingly made in contemplation of such benefits.

SECTION 10.06. Release of Guarantees. A Guarantee by a Guarantor shall be automatically and unconditionally released and discharged, and no further action by such Guarantor, the Issuer or the Trustee is required for the release of such Guarantor's Guarantee, upon:

(1) (A) any sale, exchange or transfer (by merger or otherwise) of (i) the Capital Stock of such Guarantor (including any sale, exchange or transfer), after which the applicable Guarantor is no longer a Restricted Subsidiary or (ii) all or substantially all the assets of such Guarantor, in each case made in compliance with the applicable provisions of this Indenture;

(B) the release or discharge of the guarantee by such Guarantor of Indebtedness under all other First Lien Obligations (including the Senior Credit Facilities, the NXP Notes and the Existing Secured Notes) or such other guarantee that resulted in the creation of such Guarantee, except a discharge or release by or as a result of payment under such guarantee;

(C) the designation of any Restricted Subsidiary that is a Guarantor as an Unrestricted Subsidiary in compliance with the applicable provisions of this Indenture;

(D) the release of an Unrestricted Parent Guarantor of all Senior Credit Agreement Obligations; or

(E) the exercise by the Issuer of its Legal Defeasance option or Covenant Defeasance option in accordance with Article 8 hereof or the discharge of the Issuer's obligations under this Indenture in accordance with the terms of this Indenture; and

(2) such Guarantor delivering to the Trustee an Officer's Certificate of such Guarantor and an Opinion of Counsel, each stating that all conditions precedent provided for in this Indenture relating to such transaction have been complied with.

SECTION 10.07. Agreed Security Principles. Notwithstanding anything to the contrary provided elsewhere in this Article 10, the obligations of the Company and each Guarantor pursuant to this Article 10 shall be subject to the Agreed Security Principles.

## ARTICLE XI

### COLLATERAL AND SECURITY

#### SECTION 11.01. The Collateral Agent.

(a) Each of the Trustee and, by accepting the Notes, the Holders hereby appoints and authorizes the Collateral Agent to act as collateral agent and in such capacity to act as the agent of (and to hold any security interest created by the Collateral Documents relating to the Notes for and on behalf of or on trust for) the Trustee and each Holders for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by the Issuer or any Secured Guarantor to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. The use of the term "agent" herein with reference to the Collateral Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law other than as a "representative" as such term is used in Section 9-102(a)(72)(E) of the Uniform Commercial Code. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties.

(b) The Collateral Agent shall be subject to such directions as may be given it by the Trustee from time to time as required or permitted by this Indenture and the Intercreditor Agreement. Except as directed by the Trustee and as required or permitted by this Indenture, the Intercreditor Agreement or the other Collateral Documents relating to the Notes, the Collateral Agent shall not be obligated:

(i) to act upon directions purported to be delivered to it by any other Person;

(ii) to foreclose upon or otherwise enforce any Lien securing the Notes and the Guarantees of the Notes; or

(iii) to take any other action whatsoever with regard to any or all of the Liens securing the Notes and the Guarantees of the Notes, the Collateral Documents relating to the Notes or the Collateral.

(c) The Collateral Agent is authorized and empowered to appoint one or more co-agents or sub-agents or attorneys-in-fact as it deems necessary or appropriate in connection herewith and shall not be liable for the negligence or misconduct of any such agents or attorneys-in-fact selected by it in good faith.

(d) The Collateral Agent shall be accountable only for amounts that it actually receives as a result of the enforcement of this Indenture, the Collateral Documents relating to the Notes or the Liens created by the Collateral Documents relating to the Notes.

(e) The Trustee may, from time to time, appoint another financial institution to act as Collateral Agent so long as such institution meets the requirements applicable to the Trustee as set forth in Section 7.09. Subject to the appointment and acceptance of a successor Collateral Agent as provided in this subsection, the Collateral Agent (if other than the Trustee) may resign at any time by notifying the Trustee and the Issuer. Upon any such resignation, the Trustee shall have the right to appoint a successor Collateral Agent. If no successor shall have been so appointed by the Trustee and shall have accepted such appointment within 30 days after the retiring Collateral Agent gives notice of its resignation, then the retiring Collateral Agent may, on behalf of the Holders and the Trustee, appoint a successor Collateral Agent which shall meet the eligibility requirements applicable to the Trustee as set forth in Section 7.09 and shall accept and comply in all material respects with the Collateral Documents. Upon a successor's acceptance of its appointment as Collateral Agent hereunder, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Collateral Agent hereunder and under the Collateral Documents, and the retiring Collateral Agent shall be discharged from its duties and obligations hereunder and under the Collateral Documents. If the Trustee shall be acting at any time as the Collateral Agent, then it will be deemed to have resigned as Collateral Agent upon its replacement as Trustee pursuant to Section 7.07, and the successor Trustee shall select (or may act as) the replacement Collateral Agent.

(f) The Collateral Agent shall have all of the rights of the Trustee under Article VII of this Indenture, including, without limitation, the rights to compensation, indemnification and resignation.

(g) At all times when the Trustee is not itself the Collateral Agent, the Issuer will deliver to the Trustee copies of all Collateral Documents relating to the Notes delivered to the Collateral Agent and copies of all documents delivered to the Collateral Agent pursuant to the Collateral Documents relating to the Notes.

SECTION 11.02. The Collateral.

(a) The payment of the principal of and interest, and premium, if any, on the Notes when and as the same shall be due and payable, whether on an interest payment date, at maturity, by acceleration, repurchase, redemption or otherwise and whether by the Issuer pursuant to the Notes or by any Secured Guarantor pursuant to its Guarantee and the payment of all other First Lien Obligations of the Issuer and the Guarantors under this Indenture, the Notes, the Guarantees and the Collateral Documents relating to the Notes are secured by First Liens on the Collateral, subject to Permitted Liens, as provided in the Collateral Documents relating to the Notes which the Issuer and the Guarantors have entered into simultaneously with the execution of this Indenture, or in certain circumstances, subsequent to the Issue Date or the Merger Date, and will be secured as provided in the Collateral Document relating to the Notes hereafter delivered as required or permitted by this Indenture.

(b) Each Holder of Notes, by its acceptance of the Notes and the Guarantees of the Notes, will be deemed to have consented and agreed to the terms of each Collateral Document relating to the Notes, as originally in effect and as amended, supplemented or replaced from time to time in accordance with its terms or the terms of this Indenture, to have authorized and directed the Trustee and the Collateral Agent, as applicable, to enter into the Collateral Documents relating to the Notes to which it is a party, and to have authorized and empowered the Trustee and the Collateral Agent, as applicable, and (through the Intercreditor Agreement) the Directing Agent to bind the Holders of Notes and other holders of First Lien Obligations as set forth in the Collateral Documents to which they are a party and to perform its respective obligations and exercise its respective rights and powers thereunder. Notwithstanding the foregoing, no such consent or deemed consent shall be deemed or construed to represent an amendment or waiver, in whole or in part, of any provision of this Indenture or the Notes. The foregoing will not limit the right of the Issuer to amend, waive or otherwise modify the Collateral Documents relating to the Notes in accordance with their terms.

(c) The Trustee and each Holder, by accepting the Notes and the Guarantees of the Notes, acknowledges that, as more fully set forth in the Collateral Documents relating to the Notes, the Collateral as now or hereafter constituted shall be held by the Collateral Agent for the benefit of all the Holders, the Collateral Agent and the Trustee, and that the Lien granted by the Collateral Documents relating to the Notes in respect of the Trustee and the Holders is subject to and qualified and limited in all respects by the Collateral Documents relating to the Notes and actions that may be taken thereunder. In the event of conflict between the Intercreditor Agreement, any of the other Collateral Documents and this Indenture, the Intercreditor Agreement shall control.

SECTION 11.03. Impairment of Security Interest.

Neither the Issuer nor any Secured Guarantor will take or omit to take any action which would materially adversely affect or impair the Liens in favor of the Collateral Agent and the Holders with respect to the Collateral; provided, however, that the foregoing shall not be deemed to prohibit any action or inaction that is otherwise permitted by this Indenture or required by law.

SECTION 11.04. After-Acquired Collateral. If:

(a) property (other than Excluded Assets) is acquired by the Issuer or a Secured Guarantor that is intended to be subject to the Lien created by the Collateral Documents relating to the Notes but is not so subject;

(b) an Excluded Asset ceases to be an Excluded Asset;

(c) a Subsidiary of the Company becomes a Secured Guarantor; or

(d) any property of the Issuer or any Secured Guarantor becomes subject to a Lien with respect to any First Lien Obligations (or the Guarantees thereof) and is not already subject to the Lien created by the Collateral Documents relating to the Notes, then the Issuer or such Secured Guarantor will, as soon as practical after such property's acquisition or such property no longer being an Excluded Asset or such Subsidiary becoming a Secured Guarantor or such property becoming subject to a Lien securing any First Lien Obligation (or the Guarantees thereof), as applicable, provide security over such property (or, in the case of a new Secured Guarantor, all of its assets that are not Excluded Assets) in favor of the Collateral Agent on a basis that would create a Lien on such terms, in each case, consistent with the Collateral Documents in effect at such time, and take such additional actions as are reasonable and appropriate or advisable to create and fully perfect in favor of the Secured Parties under the Collateral Documents relating to the Notes a valid and enforceable security interest in such Collateral (to the extent such perfection is required under the Collateral Documents), which shall be free of all other Liens except for Permitted Liens; provided that, with regard to Material Real Property, the Issuer and any Guarantor shall have 90 days (or such longer period as the Trustee may agree in its sole discretion) from the date of acquisition to execute and deliver the items described under Section 11.05 with respect to such real property and with respect to the pledge of equity interests in a Foreign Subsidiary, the Issuer and any Guarantor shall have 90 days or such longer period as the Trustee may agree in its sole discretion from the date of acquisition to provide, execute and deliver the items described in Section 11.05 (b). Any security interest provided pursuant to this Section 11.04 (other than with respect to assets specified in (a) and (b) above that are automatically subject to a perfected security interest under the Collateral Documents relating to the Notes) shall be accompanied by such Opinions of Counsel to the Issuer or the Subsidiary Guarantors addressed to the Trustee and the Collateral Agent as are reasonably requested by the Trustee or the Collateral Agent and customarily given by such counsel in the relevant jurisdiction, in form and substance customary for such jurisdiction. In addition, if perfection is required by the Collateral Documents relating to the Notes (other than with respect to assets specified in (a) and (b) above that are automatically subject to a perfected security interest under the Collateral Documents related to the Notes), the Issuer shall deliver an Officer's Certificate to the Trustee and the Collateral Agent upon reasonable request by the Trustee or the Collateral Agent, certifying that the necessary measures have been taken to perfect the security interest in such property.

SECTION 11.05. Real Estate Mortgages and Filing; Pledge of Foreign Collateral.

(a) With respect to Material Real Property that secures (or will secure) the Notes or the Guarantees, the Issuer or the Secured Guarantor must provide the Trustee with filed Mortgages with respect to such owned real property within 90 days (or such longer period as the Trustee may agree in its sole discretion) of the Issue Date or 90 days (or such longer period as the Trustee may agree in its sole discretion) of the acquisition of, or, if requested by the Trustee, entry into, or renewal of, a ground lease in respect of, such real property, as the case may be, in each case together with:

(i) evidence that counterparts of the Mortgages have been duly executed, acknowledged and delivered and are in form suitable for filing or recording in all filing or recording offices that the Trustee may deem reasonably necessary or desirable in order to create a valid and subsisting perfected Lien on the property and/or rights described therein in favor of the Trustee for the benefit of the Holders, pari passu with the Liens securing the Senior Credit Agreement Obligations, the Existing Secured Notes and the other First Lien Obligations as among the holders thereof in accordance with the Intercreditor Agreement, and that all filing and recording taxes and fees have been paid or otherwise provided for in a manner reasonably satisfactory to the Trustee;

(ii) fully paid American Land Title Association Lender's Extended Coverage title insurance policies or the equivalent or other form available in each applicable jurisdiction in form and substance, with endorsements and in amount, reasonably acceptable to the Trustee (not to exceed the value of the real properties covered thereby), issued, coinsured and reinsured by title insurers reasonably acceptable to the Trustee, insuring the Mortgages to be valid subsisting Liens on the property described therein, free and clear of all defects and encumbrances, subject to Permitted Liens, and providing for such other affirmative insurance and such coinsurance and direct access reinsurance as the Trustee may reasonably request;

(iii) surveys with respect to such owned real property;

(iv) opinions of local counsel for the Issuer and the Secured Guarantors in states in which the real properties are located, with respect to the enforceability and perfection of the Mortgages and any related fixture filings in form and substance reasonably satisfactory to the Trustee; and

(v) such other evidence that all other actions that the Trustee may reasonably deem necessary or desirable in order to create valid and subsisting Liens on the property described in the Mortgages has been taken.

(b) With respect to the equity interests of wholly owned Material Foreign Subsidiaries of the Company and Specified Foreign Subsidiaries that secure (or will secure) the Notes or the Guarantees, the Issuer or the Secured Guarantor must provide the Trustee within 90 days (or such longer period as the Trustee may agree in its sole discretion) of the Issue Date or 90 days (or such longer period as the Trustee may agree in its sole discretion) upon the formation or acquisition of a wholly owned Material Foreign Subsidiary of the Company or Specified Foreign Subsidiaries: (a) counterparts of each pledge agreement to be entered into in connection with the pledge of the equity interests of each such wholly owned Material Foreign Subsidiary of the Company or such Specified Foreign Subsidiary, and all other documents and instruments required by law or reasonably requested by the Trustee to be filed, registered or recorded to create the Liens in such equity interests and to perfect such Liens to the extent required by, this Indenture and the Collateral Documents relating to the Notes; and (b) a signed copy of an opinion, addressed to the Trustee, of counsel for the Issuer and the Secured Guarantors as reasonably acceptable to the Trustee as to such matters set forth in clause (a), as the Trustee may reasonably request

#### SECTION 11.06. Release of Collateral.

(a) Liens on the Collateral will be automatically released without requirement for consent or approval from the Holders, the Trustee or the Collateral Agent:

(i) with respect to any Collateral securing the Guarantee of the Notes of any Secured Guarantor, when such Secured Guarantor's Guarantee is released in accordance with the terms of this Indenture;

(ii) upon payment in full of principal, interest and all other obligations on the Notes issued under this Indenture;

(iii) as provided in Section 9.02;

(iv) in connection with any disposition of Collateral (but excluding any transaction subject to Section 5.01 where the recipient is required to become the obligor on the Notes or a Secured Guarantor) that is permitted by this Indenture;

(v) with respect to any particular item of Collateral, if there are outstanding Obligations under the Revolving Credit Facility and/or the Term Loan Facilities (as applicable), upon release by Collateral Agent of the Liens on such item of Collateral securing the Senior Credit Agreement Obligations and the concurrent release of the Liens on such item of Collateral securing any other First Lien Obligations; provided, however, that there is then outstanding under the Revolving Credit Facility and/or the Term Loan Facilities (as applicable) aggregate debt and debt commitments in an amount that exceeds the aggregate principal amount of the then outstanding Notes; and provided further, however, that the Collateral Agent may not release all or substantially all of the Collateral without the consent of the Trustee on behalf of the Holders of the Notes;

(vi) with respect to any particular item of Collateral, if there are no outstanding Obligations under the Senior Credit Facilities, upon release by the collateral agent for the largest class of outstanding First Lien Obligations at such time of the Liens on such item of Collateral securing such First Lien Obligations and the concurrent release of the Liens on such item of Collateral securing any other First Lien Obligations; provided, however, that the Applicable Authorized Representative may not release all or substantially all of the Collateral without the consent of the Trustee on behalf of the Holders of the Notes;

(vii) if such property or other assets is or becomes Excluded Assets; or

(viii) upon the exercise by the Issuer of its legal defeasance or covenant defeasance options under Sections 8.02 and 8.03, respectively, or the satisfaction and discharge of the Issuer's obligations under Section 12.01.

In addition, subject to certain limitations set forth in the Collateral Documents, all Collateral used, sold, transferred or otherwise disposed of in accordance with the terms of the applicable First Lien Debt Documents, including any waiver or amendment of these documents, will automatically be released from the Lien securing the Notes or the Guarantees of the Notes so that the use, sale, transfer or other disposition may be made free of such Lien.

(b) At the request of the Issuer, the Trustee shall execute and deliver any documents, instructions or instruments evidencing the consent of the Holders of the Notes to any permitted release. The Trustee and the Collateral Agent shall take such action under this Indenture and the Collateral Documents relating to the Notes or otherwise as may be reasonably requested by the Issuer to give effect to or evidence any such release.

SECTION 11.07. Authorization of Actions to be Taken by the Trustee or the Collateral Agent under the Collateral Documents relating to the Notes.

(a) Subject to the provisions of the Collateral Documents relating to the Notes and unless otherwise expressly provided herein or therein, the Trustee may, at the direction of a majority of the Holders, direct the Collateral Agent to take all actions necessary or appropriate in order to (i) enforce any of the terms of the Collateral Documents relating to the Notes and (ii) collect and receive any and all amounts payable in respect of the Collateral in respect of the obligations of the Issuer and the Secured Guarantors hereunder and thereunder. Subject to the provisions of the Collateral Documents relating to the Notes, the Collateral Agent shall have the power to institute and to maintain such suits and

proceedings in order to prevent any impairment of the Collateral by any acts that may be unlawful or in violation of the Collateral Documents relating to the Notes or this Indenture, and such suits and proceedings as are necessary to preserve or protect its interest and the interests of the Holders in the Collateral (including power to institute and maintain suits or proceedings to restrain the enforcement of or compliance with any legislative or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid if the enforcement of, or compliance with, such enactment, rule or order would impair the security interest granted pursuant to any Collateral Document relating to the Notes or be prejudicial to the interests of the Holders or the Trustee).

(b) The Trustee or the Collateral Agent shall not be responsible for the existence, genuineness or value of any of the Collateral or for the validity, perfection, priority or enforceability of the Liens in any of the Collateral, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder, except to the extent such action or omission constitutes negligence (or gross negligence in the case of the Collateral Agent) or willful misconduct on the part of the Trustee or the Collateral Agent, for the validity or sufficiency of the Collateral or any agreement or assignment contained therein, for the validity of the title of the Issuer to the Collateral, for insuring the Collateral or for the payment of taxes, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of the Collateral. Notwithstanding the foregoing, neither the Trustee nor the Collateral Agent shall have responsibility for recording, filing, re-recording or refiling any financing statement, continuation statement, document, instrument or other notice in any public office at any time or times or to otherwise take any action to perfect or maintain the perfection of any security interest granted to it under the Collateral Documents relating to the Notes or otherwise.

(c) Where any provision of the Collateral Documents relating to the Notes requires that additional property or assets be provided as Collateral, the Issuer shall, or shall cause the applicable Secured Guarantors to, take any and all actions reasonably required to cause such additional property or assets to be provided as Collateral and to create and perfect a valid and enforceable first-priority security interest in such property or assets (subject to Permitted Liens and other exceptions in the Collateral Documents relating to the Notes) in favor of the Collateral Agent for the benefit of the Holders in accordance with and to the extent required under the Collateral Documents relating to the Notes.

(d) The Trustee, in giving any consent or approval under this Indenture or the Collateral Documents relating to the Notes, shall be entitled to receive, as a condition to such consent or approval, an Officer's Certificate to the effect that the action or omission for which consent or approval is to be given does not violate this Indenture or the Collateral Documents relating to the Notes, and the Trustee shall be fully protected in giving such consent or approval on the basis of such Officer's Certificate.

SECTION 11.08. Agreed Security Principles. Notwithstanding anything to the contrary provided elsewhere in this Article 11, the obligations of the Company and each Guarantor pursuant to this Article 11 shall be subject to the Agreed Security Principles.

## ARTICLE XII

### SATISFACTION AND DISCHARGE

SECTION 12.01. Satisfaction and Discharge. This Indenture shall be discharged and shall cease to be of further effect as to all Notes, when either:



(1) all Notes heretofore authenticated and delivered, except lost, stolen or destroyed Notes which have been replaced or paid and Notes for whose payment money has heretofore been deposited in trust, have been delivered to the Trustee for cancellation; or

(2) (A) all Notes not heretofore delivered to the Trustee for cancellation have become due and payable by reason of the making of a notice of redemption or otherwise, will become due and payable within one year or are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Issuer, and the Issuer or any Guarantor has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders of the Notes, cash in U.S. dollars, U.S. dollar-denominated Government Securities, or a combination thereof, in such amounts as will be sufficient without consideration of any reinvestment of interest to pay and discharge the entire indebtedness on the Notes not heretofore delivered to the Trustee for cancellation for principal, premium, if any, and accrued interest to the date of maturity or redemption;

(B) no Default (other than that resulting from borrowing funds to be applied to make such deposit or any similar and simultaneous deposit relating to other Indebtedness and the granting of Liens in connection therewith) with respect to this Indenture or the Notes shall have occurred and be continuing on the date of such deposit or shall occur as a result of such deposit and such deposit will not result in a breach or violation of, or constitute a default under the Senior Credit Facilities, the Existing Secured Notes, the NXP Notes, the indentures pursuant to which the Existing Secured Notes were issued, the indentures pursuant to which the NXP Notes were issued or any other material agreement or instrument (other than this Indenture) to which the Issuer or any Guarantor is a party or by which the Issuer or any Guarantor is bound (other than resulting from any borrowing of funds to be applied to make such deposit and any similar and simultaneous deposit relating to other Indebtedness and the granting of Liens in connection therewith);

(C) the Issuer has paid or caused to be paid all sums payable by it under this Indenture; and

(D) the Issuer has delivered irrevocable instructions to the Trustee to apply the deposited money toward the payment of the Notes at maturity or the Redemption Date, as the case may be.

In addition, the Issuer must deliver an Officer's Certificate and an Opinion of Counsel to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

Notwithstanding the satisfaction and discharge of this Indenture, if money shall have been deposited with the Trustee pursuant to subclause (A) of clause (2) of this Section 12.01, the provisions of Section 12.02 and Section 8.06 hereof shall survive.

**SECTION 12.02. Application of Trust Money.** Subject to the provisions of Section 8.06 hereof, all money deposited with the Trustee pursuant to Section 12.01 hereof shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Issuer acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal (and premium, if any) and interest for whose payment such money has been deposited with the Trustee; but such money need not be segregated from other funds except to the extent required by law.

If the Trustee or Paying Agent is unable to apply any money or Government Securities in accordance with Section 12.01 hereof by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Issuer's and any Guarantor's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 12.01 hereof; provided that if the Issuer has made any payment of principal of, premium, if any, or interest on any Notes because of the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or Government Securities held by the Trustee or Paying Agent.

### ARTICLE XIII

#### MISCELLANEOUS

SECTION 13.01. Notices. Any notice or communication by the Issuer, any Guarantor or the Trustee to the others is duly given if in writing and delivered in person or mailed by first-class mail (registered or certified, return receipt requested), fax or overnight air courier guaranteeing next day delivery, to the others' address:

If to the Issuer and/or any Guarantor:

Freescall Semiconductor, Inc.  
6501 William Cannon Drive West  
Austin, Texas 78735  
Fax: (512) 996-6853  
Attention: General Counsel

With a copy to:

NXP Semiconductors N.V.  
High Tech Campus 60  
5656 AG Eindhoven  
The Netherlands  
Attention: Erik Thyssen  
Fax: +(31) 20 5407500

If to the Trustee:

The Bank of New York Mellon Trust Company, N.A.  
601 Travis Street, 16th Floor  
Houston, Texas 77002  
Fax No.: 713-483-6954  
Attn: Freescall Semiconductor Trustee

The Issuer, any Guarantor or the Trustee, by notice to the others, may designate additional or different addresses for subsequent notices or communications.

All notices and communications (other than those sent to Holders) shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five calendar days after being deposited in the mail, postage prepaid, if mailed by first-class mail; when receipt acknowledged, if faxed; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery; provided that any notice or communication delivered to the Trustee shall be deemed effective upon actual receipt thereof.

Any notice or communication to a Holder shall be mailed by first-class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the Note Register kept by the Registrar. Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

If a notice or communication is mailed in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Issuer mails a notice or communication to Holders, it shall mail a copy to the Trustee and each Agent at the same time.

SECTION 13.02. Communication by Holders of Notes with Other Holders of Notes. Holders may communicate with other Holders with respect to their rights under this Indenture or the Notes.

SECTION 13.03. Certificate and Opinion as to Conditions Precedent. Upon any request or application by the Issuer or any of the Guarantors to the Trustee to take any action under this Indenture, the Issuer or such Guarantor, as the case may be, shall furnish to the Trustee:

(A) An Officer's Certificate of the Issuer in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 13.04 hereof) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied; and

(B) An Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 13.04 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

SECTION 13.04. Statements Required in Certificate or Opinion. Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

(A) a statement that the Person making such certificate or opinion has read such covenant or condition;

(B) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(C) a statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with (and, in the case of an Opinion of Counsel, may be limited to reliance on an Officer's Certificate as to matters of fact); and

(D) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been complied with.

SECTION 13.05. Rules by Trustee and Agents. The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar, Paying Agent or Calculation Agent may make reasonable rules and set reasonable requirements for its functions.

SECTION 13.06. No Personal Liability of Directors, Officers, Employees and Stockholders. No director, officer, employee, incorporator or stockholder of the Company, the Issuer or any other Guarantor (other than in the case of stockholders of the Issuer, any Parent Guarantor or any Subsidiary Guarantor, any Parent Guarantor, the Issuer or another Subsidiary Guarantor) or any of their parent companies shall have any liability for any obligations of the Issuer or the Guarantors under the Notes, the Guarantees or this Indenture or for any claim based on, in respect of, or by reason of such obligations or their creation. Each Holder by accepting Notes waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

SECTION 13.07. Governing Law. THIS INDENTURE, THE NOTES, ANY GUARANTEE AND THE COLLATERAL DOCUMENTS RELATING TO THE NOTES WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

SECTION 13.08. Waiver of Jury Trial. EACH OF THE ISSUER, THE GUARANTORS AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED HEREBY.

SECTION 13.09. Force Majeure. In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused by, directly or indirectly, forces beyond its reasonable control, including without limitation strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, interruptions, loss or malfunctions of utilities, communications or computer (software or hardware) services or the availability of the Federal Reserve Bank.

SECTION 13.10. No Adverse Interpretation of Other Agreements. This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Issuer or its Restricted Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

SECTION 13.11. Successors. All agreements of the Issuer in this Indenture and the Notes shall bind its successors. All agreements of the Trustee in this Indenture shall bind its successors. All agreements of each Guarantor in this Indenture shall bind its successors, except as otherwise provided in Section 10.05 hereof.

SECTION 13.12. Severability. In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 13.13. Counterpart Originals. The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

SECTION 13.14. Table of Contents, Headings, etc. The Table of Contents, Cross-Reference Table and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

SECTION 13.15. Currency of Account; Conversion of Currency; Foreign Exchange Restrictions.

(a) U.S. dollars are the sole currency of account and payment for all sums payable by the Issuer and the Guarantors under or in connection with the Notes, the Guarantees of the Notes or this Indenture, including damages related thereto or hereto. Any amount received or recovered in a currency other than U.S. dollars by a Holder of Notes (whether as a result of, or of the enforcement of, a judgment or order of a court of any jurisdiction, in the winding-up or dissolution of the Issuer or otherwise) in respect of any sum expressed to be due to it from the Issuer shall only constitute a discharge to the Issuer to the extent of the U.S. dollar amount, which the recipient is able to purchase with the amount so received or recovered in that other currency on the date of that receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so). If that U.S. dollar amount is less than the U.S. dollar amount expressed to be due to the recipient under the applicable Notes, the Issuer shall indemnify it against any loss sustained by it as a result as set forth in Section 13.15(b). In any event, the Issuer and the Guarantors shall indemnify the recipient against the cost of making any such purchase. For the purposes of this Section 13.15, it will be sufficient for the Holder of a Note to certify in a satisfactory manner (indicating sources of information used) that it would have suffered a loss had an actual purchase of U.S. dollars been made with the amount so received in that other currency on the date of receipt or recovery (or, if a purchase of U.S. dollars on such date had not been practicable, on the first date on which it would have been practicable, it being required that the need for a change of date be certified in the manner mentioned above).

(b) The Issuer and the Guarantors, jointly and severally, covenant and agree that the following provisions shall apply to conversion of currency in the case of the Notes, the Guarantees and this Indenture:

(1) (A) If for the purpose of obtaining judgment in, or enforcing the judgment of, any court in any country, it becomes necessary to convert into a currency (the "Judgment Currency") an amount due in any other currency (the "Base Currency"), then the conversion shall be made at the rate of exchange prevailing on the Business Day before the day on which the judgment is given or the order of enforcement is made, as the case may be (unless a court shall otherwise determine).

(B) If there is a change in the rate of exchange prevailing between the Business Day before the day on which the judgment is given or an order of enforcement is made, as the case may be (or such other date as a court shall determine), and the date of receipt of the amount due, the Issuer and the Guarantors will pay such additional (or, as the case may be, such lesser) amount, if any, as may be necessary so that the amount paid in the Judgment Currency when converted at the rate of exchange prevailing on the date of receipt will produce the amount in the Base Currency originally due.

(2) In the event of the winding-up of the Issuer or any Guarantor at any time while any amount or damages owing under the Notes, the Guarantees and this Indenture, or any judgment or order rendered in respect thereof, shall remain outstanding, the Issuer and the Guarantors shall indemnify and hold the Holders and the Trustee harmless against any deficiency arising or resulting from any variation in rates of exchange between (i) the date as of which the

Applicable Currency Equivalent of the amount due or contingently due under the Notes, the Guarantees and this Indenture (other than under this subsection (b)(2)) is calculated for the purposes of such winding-up and (ii) the final date for the filing of proofs of claim in such winding-up. For the purpose of this subsection (b)(2), the final date for the filing of proofs of claim in the winding-up of the Issuer or any Guarantor shall be the date fixed by the liquidator or otherwise in accordance with the relevant provisions of applicable law as being the latest practicable date as at which liabilities of the Issuer or such Guarantor may be ascertained for such winding-up prior to payment by the liquidator or otherwise in respect thereto.

(c) The obligations contained in this Section 13.15 shall constitute separate and independent obligations from the other obligations of the Issuer and the Guarantors under this Indenture, shall give rise to separate and independent causes of action against the Issuer and the Guarantors, shall apply irrespective of any waiver or extension granted by any Holder or the Trustee or either of them from time to time and shall continue in full force and effect notwithstanding any judgment or order or the filing of any proof of claim in the winding-up of the Issuer or any Guarantor for a liquidated sum in respect of amounts due hereunder (other than under subsection (b)(2) above) or under any such judgment or order. Any such deficiency as aforesaid shall be deemed to constitute a loss suffered by the Holders or the Trustee, as the case may be, and no proof or evidence of any actual loss shall be required by the Issuer or any Guarantor or the liquidator or otherwise or any of them. In the case of subsection (b)(2) above, the amount of such deficiency shall not be deemed to be reduced by any variation in rates of exchange occurring between the said final date and the date of any liquidating distribution.

(d) The term "rate(s) of exchange" shall mean the rate of exchange quoted by Reuters at 10:00 a.m. (New York time) for spot purchases of the Base Currency with the Judgment Currency other than the Base Currency referred to in subsections (b)(1) and (b)(2) above and includes any premiums and costs of exchange payable.

#### SECTION 13.16. Consent to Jurisdiction and Service.

Each of the Company, Holdings I, Holdings II, Holdings III and Holdings IV and any Subsidiary Guarantor that is a Foreign Subsidiary shall appoint Corporation Service Company as its agent for actions relating to the Notes, this Indenture or the Collateral Documents relating to the Notes or brought under U.S. Federal or state securities laws brought in any U.S. Federal or state court located in the Borough of Manhattan in The City of New York.

Each of Issuer, the Company, Holdings I, Holdings II, Holdings III and Holdings IV and any Subsidiary Guarantor that is a Foreign Subsidiary and the Trustee irrevocably submit to the personal jurisdiction of any New York state or United States federal court located in the Borough of Manhattan in the City of New York in any action arising out of or relating to this Indenture, the Notes or any of the other Collateral Documents relating to the Notes to which each is or is to be a party, or for recognition or enforcement of any judgment, and Issuer, the Company, Holdings I, Holdings II, Holdings III and Holdings IV and any Subsidiary Guarantor that is a Foreign Subsidiary and the Trustee hereby irrevocably and unconditionally agree that all claims in respect of such action or proceeding may be heard and determined in any such court of the State of New York or, to the extent permitted by law, in such Federal court. Issuer, the Company, Holdings I, Holdings II, Holdings III and Holdings IV and any Subsidiary Guarantor that is a Foreign Subsidiary and the Trustee irrevocably waive, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Indenture in such courts. Nothing in this Indenture, the Notes or any other Collateral Document shall affect any right that any party may otherwise have to bring any action or proceeding relating to this Indenture, the Notes or any other Collateral Document in the courts of any jurisdiction.

SECTION 13.17. Electronic Transmission. In respect of this Indenture, the Trustee shall not have any duty or obligation to verify or confirm that the Person sending instructions, directions, reports, notices or other communications or information by electronic transmission (including by e-mail, pdf, facsimile transmission or other similar secured or unsecured electronic methods) is, in fact, a Person authorized to give such instructions, directions, reports, notices or other communications or information on behalf of the party purporting to send such electronic transmission; and the Trustee shall not have any liability for any losses, liabilities, costs or expenses incurred or sustained by any party as a result of such reliance upon or compliance with such instructions, directions, reports, notices or other communications or information. Each other party agrees to assume all risks arising out of the use of such electronic methods to submit instructions, directions, reports, notices or other communications or information to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, notices, reports or other communications or information, and the risk of interception and misuse by third parties.

SECTION 13.18. Patriot Act. In order to comply with laws, rules, regulations and executive orders in effect from time to time applicable to banking institutions, including those relating to the funding of terrorist activities and money laundering ("Specified Law"), The Bank of New York Mellon Trust Company, N.A. is required to obtain, verify and record certain information relating to individuals and entities which maintain a business relationship with The Bank of New York Mellon Trust Company, N.A.. Accordingly, the Issuer agrees to provide to The Bank of New York Mellon Trust Company, N.A. upon its request from time to time such identifying information and documentation as may be available to the Issuer in order to enable The Bank of New York Mellon Trust Company, N.A. to comply with Specified Law.

SECTION 13.19. Further Assurances. Subject to the Agreed Security Principles, the Issuer and its Restricted Subsidiaries hereby covenant and agree that as of the Merger Date and thereafter, promptly upon request by the Trustee or the Collateral Agent, as the case may be, it will (a) correct any material defect or error that may be discovered in any First Lien Debt Documents or in the execution, acknowledgment, filing or recordation thereof, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and reregister any and all such further acts, deeds, certificates, assurances and other instruments as the Trustee, may reasonably require from time to time in order to carry out more effectively the purposes of any First Lien Debt Documents.

[Signatures on following page]

by /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

[Signature Page – Amended and Restated Indenture - 5% Senior Secured Notes due 2021]



FREESCALE SEMICONDUCTOR, LTD.

by /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

FREESCALE SEMICONDUCTOR HOLDINGS II, LTD.

by /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

FREESCALE SEMICONDUCTOR HOLDINGS III, LTD.

by /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

FREESCALE SEMICONDUCTOR HOLDINGS IV, LTD.

by /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

FREESCALE SEMICONDUCTOR HOLDINGS V, INC.

by /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

SIGMATEL, LLC

by /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

[Signature Page – Amended and Restated Indenture - 5% Senior Secured Notes due 2021]

NXP B.V.

by /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

NXP FUNDING LLC

by /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

NXP SEMICONDUCTORS NETHERLANDS B.V.

by /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

NXP SEMICONDUCTORS USA INC.

by /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

NXP SEMICONDUCTORS UK LIMITED

by /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

NXP SEMICONDUCTORS GERMANY GMBH

by /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

[Signature Page – Amended and Restated Indenture - 5% Senior Secured Notes due 2021]

NXP SEMICONDUCTORS HONG KONG LIMITED

by /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

NXP SEMICONDUCTORS PHILIPPINES INC.

by /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

NXP SEMICONDUCTORS SINGAPORE PTE. LTD.

by /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

NXP SEMICONDUCTORS TAIWAN LTD.

by /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

NXP MANUFACTURING (THAILAND) LTD.

by /s/ Jean Schreurs  
Name: Jean Schreurs  
Title: Authorized Attorney

[Signature Page – Amended and Restated Indenture - 5% Senior Secured Notes due 2021]

THE BANK OF NEW YORK MELLON TRUST COMPANY,  
N.A., as Trustee,

by /s/ Lawrence M. Kusch

Name: Lawrence M. Kusch

Title: Vice President

[Signature Page – Amended and Restated Indenture - 5% Senior Secured Notes due 2021]

[Face of Note]

[Insert the Global Note Legend, if applicable pursuant to the provisions of the Indenture]

[Insert the Private Placement Legend, if applicable pursuant to the provisions of the Indenture]

[Insert the Regulation S Temporary Global Note Legend, if applicable pursuant to the provisions of the Indenture]

[RULE 144A][REGULATION S] GLOBAL NOTE  
5.000% Senior Secured Note due 2021

No.

[\$     ] ]

FREESCALE SEMICONDUCTOR, INC.

promises to pay to                    or registered assigns, the principal sum [set forth on the Schedule of Exchanges of Interests in the Global Note attached hereto]  
[of                    United States Dollars] on May 15, 2021.

Interest Payment Dates: May 15 and November 15, commencing November 15, 2013

Record Dates: May 1 and November 1

IN WITNESS WHEREOF, the Issuer has caused this instrument to be duly executed.

Dated: [                      ]

FREESCALE SEMICONDUCTOR, INC.

By: \_\_\_\_\_  
Name:  
Title:

This is one of the Notes referred to in the within-mentioned Indenture:

THE BANK OF NEW YORK MELLON TRUST COMPANY,  
N.A.,  
as Trustee

By: \_\_\_\_\_  
Authorized Signatory



5.000% Senior Secured Note due 2021

Capitalized terms used herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. INTEREST. Freescale Semiconductor, Inc., a Delaware corporation (the “Issuer”), promises to pay interest on the principal amount of this Note at a rate per annum of 5.000% from May 21, 2013 until maturity. The Issuer will pay interest on this Note semi-annually in arrears on May 15 and November 15 of each year commencing on November 15, 2013, or if any such day is not a Business Day, on the next succeeding Business Day (each, an “Interest Payment Date”). The Issuer will make each interest payment to the Holder of record of this Note on the immediately preceding May 1 and November 1 (each, a “Record Date”). Interest on this Note will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from and including May 21, 2013. The Issuer will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal and premium, if any, from time to time on demand at the rate borne by this Note; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace periods) from time to time on demand at the rate borne by this Note. Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months.

2. METHOD OF PAYMENT. The Issuer will pay interest on this Note to the Person who is the registered Holder of this Note at the close of business on May 1 or November 1 (whether or not a Business Day), as the case may be, next preceding the Interest Payment Date, even if this Note is canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. Cash payment of interest may be made by check mailed to the Holders at their addresses set forth in the Note Register of Holders, provided that (a) all cash payments of principal, premium, if any, and interest on, Notes represented by Global Notes registered in the name of or held by DTC or its nominee will be made by wire transfer of immediately available funds to the accounts specified by the Holder or Holders thereof and (b) all cash payments of principal, premium, if any, and interest with respect to certificated Notes will be made by wire transfer to a U.S. dollar account maintained by the payee with a bank in the United States if such Holder elects payment by wire transfer by giving written notice to the Trustee or the Paying Agent to such effect designating such account no later than 30 days immediately preceding the relevant due date for payment (or such other date as the Trustee may accept in its discretion). Such payment shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

3. PAYING AGENT AND REGISTRAR. Initially, The Bank of New York Mellon Trust Company, N.A., the Trustee under the Indenture, will act as Paying Agent and Registrar. The Issuer may change any Paying Agent or Registrar without notice to the Holders. The Issuer or any of its Subsidiaries may act in any such capacity.

4. INDENTURE. The Issuer issued the Notes under an Amended and Restated Indenture, dated as of [•], 2015 (the “Indenture”), among Freescale Semiconductor, Inc., the Guarantors named therein and the Trustee. This Note is one of a duly authorized issue of notes of the Issuer designated as its 5.000% Senior Secured Notes due 2021. The Issuer shall be entitled to issue Additional Notes pursuant to Section 2.01 and 4.09 of the Indenture. The terms of the Notes include those stated in the Indenture. The Notes are subject to all such terms, and Holders are referred to the Indenture for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling.

5. OPTIONAL REDEMPTION.

(a) Except as described below under clauses 5(b), 5(c) and 5(d) hereof, the Notes will not be redeemable at the Issuer's option.

(b) At any time prior to May 15, 2016, the Issuer may redeem all or a part of the Notes at a redemption price equal to 100% of the principal amount of the Notes redeemed plus the Applicable Premium as of, and accrued and unpaid interest, if any, to the date of redemption (the "Redemption Date"), subject to the rights of Holders of Notes on the relevant Record Date to receive interest due on the relevant Interest Payment Date.

(c) Until May 15, 2016, the Issuer may, at its option, on one or more occasions redeem up to 35% of the aggregate principal amount of Notes at a redemption price equal to 105.000% of the aggregate principal amount thereof, plus accrued and unpaid interest, if any, to the Redemption Date, subject to the right of Holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date, with the net cash proceeds received of one or more Equity Offerings; provided that at least 50% of the sum of the aggregate principal amount of Notes originally issued under the Indenture and any Additional Notes issued under the Indenture after the Issue Date remains outstanding immediately after the occurrence of each such redemption; provided further that each such redemption occurs within 180 days of the date of closing of each such Equity Offering. Notice of any redemption upon any Equity Offering may be given prior to the redemption thereof, and any such redemption or notice may, at the Issuer's discretion, be subject to one or more conditions precedent, including, but not limited to, completion of the related Equity Offering.

(d) On and after May 15, 2016, the Issuer may redeem the Notes, in whole or in part at the redemption prices (expressed as percentages of principal amount of the Notes to be redeemed) set forth below, plus accrued and unpaid interest, if any, to the Redemption Date, subject to the right of Holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date, if redeemed during the twelve-month period beginning on May 15 of each of the years indicated below:

<u>Year</u>	<u>Percentage</u>
2016	103.750%
2017	102.500%
2018	101.250%
2019 and thereafter	100.000%

(e) Any redemption pursuant to this paragraph 5 shall be made pursuant to the provisions of Sections 3.01 through 3.06 of the Indenture.

6. MANDATORY REDEMPTION. The Issuer shall not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

7. NOTICE OF REDEMPTION. Subject to Section 3.03 of the Indenture, notice of redemption will be mailed by first-class mail at least 30 days but not more than 60 days before the redemption date (except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with Article 8 or Article 12 of the Indenture) to each Holder

whose Notes are to be redeemed at its registered address. Notes in denominations larger than \$2,000 may be redeemed in part but only in whole multiples of \$1,000, unless all of the Notes held by a Holder are to be redeemed. On and after the Redemption Date, interest ceases to accrue on this Note or portions thereof called for redemption.

8. OFFERS TO REPURCHASE. Upon the occurrence of a Change of Control, the Issuer shall make a Change of Control Offer in accordance with Section 4.14 of the Indenture. In connection with certain Asset Sales, the Issuer shall make an Asset Sale Offer as and when provided in accordance with Section 4.10 of the Indenture.

9. DENOMINATIONS, TRANSFER, EXCHANGE. The Notes are in registered form without coupons in denominations of \$2,000 and integral multiples of \$1,000 thereafter. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Issuer may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Issuer need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Issuer need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed.

10. PERSONS DEEMED OWNERS. The registered Holder of a Note may be treated as its owner for all purposes.

11. AMENDMENT, SUPPLEMENT AND WAIVER. The Indenture, the Guarantees or the Notes may be amended or supplemented as provided in the Indenture.

12. DEFAULTS AND REMEDIES. The Events of Default relating to the Notes are defined in Section 6.01 of the Indenture. If any Event of Default occurs and is continuing, the Trustee or the Holders of at least 30% in principal amount of the then outstanding Notes may declare the principal, premium, if any, interest and any other monetary obligations on all the then outstanding Notes to be due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency, all outstanding Notes will become due and payable immediately without further action or notice. Holders may not enforce the Indenture, the Notes or the Guarantees except as provided in the Indenture. Subject to certain limitations, Holders of a majority in aggregate principal amount of the then outstanding Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders notice of any continuing Default (except a Default relating to the payment of principal, premium, if any, or interest) if it determines that withholding notice is in their interest. The Holders of a majority in aggregate principal amount of the Notes then outstanding by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default or and its consequences under the Indenture except a continuing Default in payment of the principal of, premium, if any, or interest on, any of the Notes held by a non-consenting Holder. Holdings III is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and Holdings III is required within five (5) Business Days after becoming aware of any Default, to deliver to the Trustee a statement specifying such Default and what action the Issuer proposes to take with respect thereto.

13. AUTHENTICATION. This Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose until authenticated by the manual signature of the Trustee.

14. GOVERNING LAW. THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THE INDENTURE, THE NOTES, THE GUARANTEES AND THE COLLATERAL DOCUMENTS RELATING TO THE NOTES.

15. CUSIP AND ISIN NUMBERS. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Issuer has caused CUSIP and ISIN numbers to be printed on the Notes and the Trustee may use CUSIP and ISIN numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

The Issuer will furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to the Issuer at the following address:

Freescale Semiconductor, Inc.  
6501 William Cannon Drive West  
Austin, Texas 78735  
Fax: (512) 996-6853  
Attention: General Counsel

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to:

\_\_\_\_\_  
(Insert assignee' legal name)

\_\_\_\_\_  
(Insert assignee's soc. sec. or tax I.D. no.)

\_\_\_\_\_  
(Print or type assignee's name, address and zip code)

and irrevocably appoint \_\_\_\_\_  
to transfer this Note on the books of the Issuer. The agent may substitute another to act for him.

Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_  
(Sign exactly as your name appears on the  
face of this Note)

Signature Guarantee\*: \_\_\_\_\_

\_\_\_\_\_  
\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Issuer pursuant to Section 4.10 or 4.14 of the Indenture, check the appropriate box below:

Section 4.10  Section 4.14

If you want to elect to have only part of this Note purchased by the Issuer pursuant to Section 4.10 or Section 4.14 of the Indenture, state the amount you elect to have purchased:

\$ \_\_\_\_\_

Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_

(Sign exactly as your name appears on the face of this Note)

Tax Identification No.: \_\_\_\_\_

Signature Guarantee\*: \_\_\_\_\_

\_\_\_\_\_  
\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE\*

The initial outstanding principal amount of this Global Note is \$ \_\_\_\_\_ . The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global or Definitive Note for an interest in this Global Note, have been made:

<u>Date of Exchange</u>	<u>Amount of decrease in Principal Amount</u>	<u>Amount of increase in Principal Amount of this Global Note</u>	<u>Principal Amount of this Global Note following such decrease or increase</u>	<u>Signature of authorized officer of Trustee or Custodian</u>
-------------------------	---	---	---	--

\* This schedule should be included only if the Note is issued in global form.

## FORM OF CERTIFICATE OF TRANSFER

Freescale Semiconductor, Inc.  
 6501 William Cannon Drive West  
 Austin, Texas 78735  
 Fax: 512-996-6853  
 Attention: General Counsel

The Bank of New York Mellon Trust Company, N.A.  
 601 Travis Street, 16th Floor  
 Houston, Texas 77002  
 Fax No.: 713-483-6954  
 Attn: Freescale Semiconductor Trustee

Re: 5.000% Senior Secured Notes due 2021

Reference is hereby made to the Amended and Restated Indenture, dated as of [•], 2015 (the "Indenture"), among Freescale Semiconductor, Inc., the Guarantors named therein and the Trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

(the "Transferor") owns and proposes to transfer the Note[s] or interest in such Note[s] specified in Annex A hereto, in the principal amount of \$ \_\_\_\_\_ in such Note[s] or interests (the "Transfer"), to (the "Transferee"), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1.  CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE RELEVANT 144A GLOBAL NOTE OR RELEVANT DEFINITIVE NOTE PURSUANT TO RULE 144A. The Transfer is being effected pursuant to and in accordance with Rule 144A under the United States Securities Act of 1933, as amended (the "Securities Act"), and, accordingly, the Transferor hereby further certifies that the beneficial interest or Definitive Note is being transferred to a Person that the Transferor reasonably believes is purchasing the beneficial interest or Definitive Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States.

2.  CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE RELEVANT REGULATION S GLOBAL NOTE OR RELEVANT DEFINITIVE NOTE PURSUANT TO REGULATION S. The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was



prearranged with a buyer in the United States, (ii) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S under the Securities Act, (iii) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act and (iv) if the proposed transfer is being made prior to the expiration of the Restricted Period, the transfer is not being made to a U.S. Person or for the account or benefit of a U.S. Person (other than the Initial Purchasers). Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on Transfer enumerated in the Indenture and the Securities Act.

3.  CHECK AND COMPLETE IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE RELEVANT DEFINITIVE NOTE PURSUANT TO ANY PROVISION OF THE SECURITIES ACT OTHER THAN RULE 144A OR REGULATION S. The Transfer is being effected in compliance with the transfer restrictions applicable to beneficial interests in Restricted Global Notes and Restricted Definitive Notes and pursuant to and in accordance with the Securities Act and any applicable blue sky securities laws of any state of the United States, and accordingly the Transferor hereby further certifies that (check one):

(a)  such Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act;

or

(b)  such Transfer is being effected to the Issuer or a subsidiary thereof;

or

(c)  such Transfer is being effected pursuant to an effective registration statement under the Securities Act and in compliance with the prospectus delivery requirements of the Securities Act.

4.  CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE OR OF AN UNRESTRICTED DEFINITIVE NOTE.

(a)  CHECK IF TRANSFER IS PURSUANT TO RULE 144. (i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(b)  CHECK IF TRANSFER IS PURSUANT TO REGULATION S. (i) The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(c)  CHECK IF TRANSFER IS PURSUANT TO OTHER EXEMPTION. (i) The Transfer is being effected pursuant to and in compliance with an exemption from the registration requirements of the Securities Act other than Rule 144, Rule 903 or Rule 904 and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any State of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will not be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

This certificate and the statements contained herein are made for your benefit and the benefit of the Issuer.

[Insert Name of Transferor]

By: \_\_\_\_\_

Name:

Title:

Dated: \_\_\_\_\_

1. The Transferor owns and proposes to transfer the following:

[CHECK ONE OF (a) OR (b)]

- (a)  a beneficial interest in the:
  - (i)  144A Global Note (CUSIP: 35687M AY3), or
  - (ii)  Regulation S Global Note (CUSIP: U31395 AM5), or
- (b)  a Restricted Definitive Note.

2. After the Transfer the Transferee will hold:

[CHECK ONE]

- (a)  a beneficial interest in the:
  - (i)  144A Global Note (CUSIP: ), or
  - (ii)  Regulation S Global Note [CUSIP: ], or
  - (iii)  Unrestricted Global Note ( ); or
- (b)  a Restricted Definitive Note; or
- (c)  an Unrestricted Definitive Note,  
in accordance with the terms of the Indenture.

Annex-1

## FORM OF CERTIFICATE OF EXCHANGE

Freescale Semiconductor, Inc.  
 6501 William Cannon Drive West  
 Austin, Texas 78735  
 Fax: 512-996-6853  
 Attention: General Counsel

The Bank of New York Mellon Trust Company, N.A.  
 601 Travis Street, 16th Floor  
 Houston, Texas 77002  
 Fax No.: 713-483-6954  
 Attn: Freescale Semiconductor Trustee

Re: 5.000% Senior Secured Notes due 2021

Reference is hereby made to the Amended and Restated Indenture, dated as of [•], 2015 (the "Indenture"), among Freescale Semiconductor, Inc., the Guarantors named therein and the Trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

(the "Owner") owns and proposes to exchange the Note[s] or interest in such Note[s] specified herein, in the principal amount of \$ in such Note[s] or interests (the "Exchange"). In connection with the Exchange, the Owner hereby certifies that:

1) EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN A RESTRICTED GLOBAL NOTE FOR UNRESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN AN UNRESTRICTED GLOBAL NOTE

a)  CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a beneficial interest in an Unrestricted Global Note in an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Global Notes and pursuant to and in accordance with the United States Securities Act of 1933, as amended (the "Securities Act"), (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest in an Unrestricted Global Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

b)  CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO UNRESTRICTED DEFINITIVE NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, (iii) the

restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

c)  CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Owner's Exchange of a Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

d)  CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO UNRESTRICTED DEFINITIVE NOTE. In connection with the Owner's Exchange of a Restricted Definitive Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

2) EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES FOR RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES

a)  CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO RESTRICTED DEFINITIVE NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a Restricted Definitive Note with an equal principal amount, the Owner hereby certifies that the Restricted Definitive Note is being acquired for the Owner's own account without transfer. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the Restricted Definitive Note issued will continue to be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.

b)  CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner's Restricted Definitive Note for a beneficial interest in the [CHECK ONE]  144A Global Note  Regulation S Global Note, with an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer and (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, and in compliance with

any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the beneficial interest issued will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the relevant Restricted Global Note and in the Indenture and the Securities Act.

This certificate and the statements contained herein are made for your benefit and the benefit of the Issuer and are dated .

[Insert Name of Transferor]

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_

[FORM OF SUPPLEMENTAL INDENTURE  
TO BE DELIVERED BY SUBSEQUENT GUARANTORS]

Supplemental Indenture (this "Supplemental Indenture"), dated as of \_\_\_\_\_, among \_\_\_\_\_ (the "Guaranteeing Subsidiary"), a subsidiary of Freescale Semiconductor Holdings III, Ltd., a Bermuda exempted limited liability company, Freescale Semiconductor, Inc., a Delaware corporation (the "Issuer"), and The Bank of New York, Mellon Trust Company, N.A. as trustee (the "Trustee").

W I T N E S S E T H

WHEREAS, each of Freescale Semiconductor, Inc. and the Guarantors (as defined in the Indenture referred to below) has heretofore executed and delivered to the Trustee an Amended and Restated Indenture (the "Indenture"), dated as of [•], providing for the issuance of an unlimited aggregate principal amount of 5.000% Senior Secured Notes due 2021 (the "Notes");

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary shall unconditionally guarantee all of the Issuer's Obligations under the Notes and the Indenture on the terms and conditions set forth herein and under the Indenture (the "Guarantee"); and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

1. Capitalized Terms. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.
2. Agreement to Guarantee. The Guaranteeing Subsidiary hereby agrees as follows:

(a) Along with all other Guarantors named in the Indenture (including pursuant to any supplemental indentures), to jointly and severally unconditionally guarantee to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of the Indenture, the Notes, the Notes Collateral Documents or the obligations of the Issuer hereunder or thereunder, that:

(i) the principal of and interest and premium, if any, on the Notes shall be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Notes, if any, if lawful, and all other obligations of the Issuer to the Holders or the Trustee thereunder shall be promptly paid in full or performed, all in accordance with the terms thereof; and

(ii) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same shall be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors and the Guaranteeing Subsidiary shall be jointly and severally obligated to pay the same immediately. This is a guarantee of payment and not a guarantee of collection.

(b) The obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or the Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Issuer or any other Guarantor, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor.

(c) The Guaranteeing Subsidiary hereby waives: diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Issuer, any right to require a proceeding first against the Issuer, protest, notice and all demands whatsoever.

(d) This Guarantee shall not be discharged except by complete performance of the obligations contained in the Notes, the Indenture and this Supplemental Indenture. The Guaranteeing Subsidiary accepts all obligations applicable to a Guarantor under the Indenture, including Article X and, if applicable, Article XI of the Indenture (which is deemed incorporated in this Supplemental Indenture and applicable to this Guarantee) and, as applicable, Section 13.16 of the Indenture. The Guaranteeing Subsidiary acknowledges that by executing this Supplemental Indenture, it will become a Subsidiary Guarantor under the Indenture and subject to all the terms and conditions applicable to Subsidiary Guarantors contained therein.

(e) If any Holder or the Trustee is required by any court or otherwise to return to the Issuer, the Guarantors (including the Guaranteeing Subsidiary), or any custodian, trustee, liquidator or other similar official acting in relation to either the Issuer or the Guarantors, any amount paid either to the Trustee or such Holder, this Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect.

(f) The Guaranteeing Subsidiary shall not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby.

(g) As between the Guaranteeing Subsidiary, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 of the Indenture for the purposes of this Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such obligations as provided in Article 6 of the Indenture, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guaranteeing Subsidiary for the purpose of this Guarantee.

(h) The Guaranteeing Subsidiary shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under this Guarantee.



(i) Pursuant to Section 10.02 of the Indenture, after giving effect to all other contingent and fixed liabilities that are relevant under any applicable Bankruptcy or fraudulent conveyance laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under Article 10 of the Indenture, this new Guarantee shall be limited to the maximum amount permissible such that the obligations of such Guaranteeing Subsidiary under this Guarantee will not constitute a fraudulent transfer or conveyance.

(j) This Guarantee shall remain in full force and effect and continue to be effective should any petition be filed by or against the Issuer for liquidation, reorganization, should the Issuer become insolvent or make an assignment for the benefit of creditors or should a receiver or trustee be appointed for all or any significant part of the Issuer's assets, and shall, to the fullest extent permitted by law, continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Notes are, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee on the Notes and Guarantee, whether as a "voidable preference", "fraudulent transfer" or otherwise, all as though such payment or performance had not been made. In the event that any payment or any part thereof, is rescinded, reduced, restored or returned, the Note shall, to the fullest extent permitted by law, be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

(k) In case any provision of this Guarantee shall be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(l) [This Guarantee shall be a secured senior obligation of such Guaranteeing Subsidiary, ranking pari passu in right of payment with any other future First Lien Obligations and Senior Indebtedness of the Guaranteeing Subsidiary, if any.] [This Guarantee shall be an unsecured senior obligation of such Guaranteeing Subsidiary, ranking pari passu in right of payment with any other future Senior Indebtedness of the Guaranteeing Subsidiary, if any.]

(m) Each payment to be made by the Guaranteeing Subsidiary in respect of this Guarantee shall be made without set-off, counterclaim, reduction or diminution of any kind or nature.

3. Execution and Delivery. The Guaranteeing Subsidiary agrees that the Guarantee shall remain in full force and effect notwithstanding the absence of the endorsement of any notation of such Guarantee on the Notes.

4. Merger, Consolidation, Amalgamation or Sale of All or Substantially All Assets.

(a) Except as otherwise provided in Section 5.01(c) of the Indenture, the Guaranteeing Subsidiary may not consolidate, amalgamate or merge with or into or wind up into (whether or not the Issuer or Guaranteeing Subsidiary is the surviving corporation), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets, in one or more related transactions, to any Person unless:

(i) (A) the Guaranteeing Subsidiary is the surviving corporation or the Person formed by or surviving any such consolidation, amalgamation or merger (if other than the Guaranteeing Subsidiary) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made is a corporation organized or existing under the laws of the jurisdiction of organization of the Guaranteeing Subsidiary, as the case may be, or the laws of the United States, any state thereof, the District of Columbia, or any territory thereof (the Guaranteeing Subsidiary or such Person, as the case may be, being herein called the "Successor Person");

(B) the Successor Person, if other than the Guaranteeing Subsidiary, expressly assumes all the obligations of the Guaranteeing Subsidiary under the Indenture and the Guaranteeing Subsidiary's related Guarantee pursuant to supplemental indentures or other documents or instruments in form reasonably satisfactory to the Trustee and, if applicable, the performance of the covenants and obligations of such Guaranteeing Subsidiary under the Collateral Documents relating to the Notes and shall cause such amendments, supplements, or other instruments to be executed, filed and recorded in such jurisdictions as may be required by applicable law to preserve and protect the Lien on the Collateral owned by or transferred to the Successor Person, together with such financing statements or comparable documents as may be required to perfect any security interests in such Collateral which may be perfected by the filing of a financing statement or a similar document under the UCC or other similar statute or regulation of the relevant states or jurisdictions;

(C) immediately after such transaction, no Default exists; and

(D) the Issuer shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, merger or transfer and such supplemental indentures, if any, comply with the Indenture; or

(ii) the transaction is made in compliance with Section 4.10 of the Indenture;

(b) Subject to certain limitations described in the Indenture, the Successor Person will succeed to, and be substituted for, the Guaranteeing Subsidiary under the Indenture and the Guaranteeing Subsidiary's Guarantee. Notwithstanding the foregoing, the Guaranteeing Subsidiary may merge into or transfer all or part of its properties and assets to another Guarantor or the Issuer.

#### 5. Releases.

The Guarantee of the Guaranteeing Subsidiary shall be automatically and unconditionally released and discharged, and no further action by the Guaranteeing Subsidiary, the Issuer or the Trustee is required for the release of the Guaranteeing Subsidiary's Guarantee, upon:

(1) (A) any sale, exchange or transfer (by merger or otherwise) of the Capital Stock of the Guaranteeing Subsidiary (including any sale, exchange or transfer), after which the Guaranteeing Subsidiary is no longer a Restricted Subsidiary or all or substantially all the assets of the Guaranteeing Subsidiary which sale, exchange or transfer is made in compliance with the applicable provisions of the Indenture;

(B) the release or discharge of the guarantee by the Guaranteeing Subsidiary under all other First Lien Obligations (including the Senior Credit Facilities and the Existing Secured Notes) or the guarantee which resulted in the creation of the Guarantee, except a discharge or release by or as a result of payment under such guarantee;

(C) the proper designation of the Guaranteeing Subsidiary as an Unrestricted Subsidiary;

(D) the release of an Unrestricted Parent Guarantor of all Senior Credit Agreement Obligations; or

(E) the Issuer exercising its Legal Defeasance option or Covenant Defeasance option in accordance with Article 8 of the Indenture or the Issuer's obligations under the Indenture being discharged in accordance with the terms of the Indenture; and

(a) (2) the Guaranteeing Subsidiary delivering to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for in the Indenture relating to such transaction have been complied with.

6. No Recourse Against Others. No director, officer, employee, incorporator or stockholder of the Guaranteeing Subsidiary shall have any liability for any obligations of the Issuer or the Guarantors (including the Guaranteeing Subsidiary) under the Notes, any Guarantees, the Indenture or this Supplemental Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting Notes waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

7. Governing Law. THIS SUPPLEMENTAL INDENTURE WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

8. Counterparts. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

9. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

10. The Trustee. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Subsidiary.

11. Subrogation. The Guaranteeing Subsidiary shall be subrogated to all rights of Holders of Notes against the Issuer in respect of any amounts paid by the Guaranteeing Subsidiary pursuant to the provisions of Section 2 hereof and Section 10.01 of the Indenture; provided that, if an Event of Default has occurred and is continuing, the Guaranteeing Subsidiary shall not be entitled to enforce or receive any payments arising out of, or based upon, such right of subrogation until all amounts then due and payable by the Issuer under the Indenture or the Notes shall have been paid in full.

12. Benefits Acknowledged. The Guaranteeing Subsidiary's Guarantee is subject to the terms and conditions set forth in the Indenture. The Guaranteeing Subsidiary acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by the Indenture and this Supplemental Indenture and that the guarantee and waivers made by it pursuant to this Guarantee are knowingly made in contemplation of such benefits.

13. Successors. All agreements of the Guaranteeing Subsidiary in this Supplemental Indenture shall bind its Successors, except as otherwise provided in Section 2(k) hereof or elsewhere in this Supplemental Indenture. All agreements of the Trustee in this Supplemental Indenture shall bind its successors.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed, all as of the date first above written.

[GUARANTEEING SUBSIDIARY]

By: \_\_\_\_\_  
Name:  
Title:

FREESCALE SEMICONDUCTOR, INC.

By: \_\_\_\_\_  
Name:  
Title:

THE BANK OF NEW YORK, MELLON TRUST  
COMPANY, N.A.,  
as Trustee

By: \_\_\_\_\_  
Name:  
Title:

## AGREED SECURITY PRINCIPLES

1. Agreed Security Principles
- 1.1 The Guarantees and Liens to be provided by the Issuers and the Guarantors will be given in accordance with certain agreed security principles (the “Agreed Security Principles”). This Exhibit E identifies the Agreed Security Principles and addresses the manner in which the Agreed Security Principles will impact on or be determinant of the Guarantees and Liens to be taken in relation to this Indenture.
- 1.2 The Agreed Security Principles embody a recognition by all parties that there may be certain legal, commercial and practical difficulties in obtaining effective security from the Company and each of its Restricted Subsidiaries in every jurisdiction in which the Company and its Restricted Subsidiaries are located. In particular:
  - (a) general statutory or other legal limitations or requirements, financial assistance, corporate benefit, fraudulent preference, “thin capitalization” rules, retention of title claims and similar matters may limit the ability of the Company or any of its Restricted Subsidiaries to provide a Guarantee or Liens or may require that it be limited as to amount or otherwise, and if so the same shall be limited accordingly, *provided* that the Company or the relevant Restricted Subsidiary shall use reasonable endeavors to overcome such obstacle. The Company will use reasonable endeavors to assist in demonstrating that adequate corporate benefit accrues to each of the Restricted Subsidiary;
  - (b) the Company and its Restricted Subsidiaries will not be required to give Guarantees or enter into security documents if (or to the extent) it is not within the legal capacity of the Company or its relevant Restricted Subsidiary or if the same would conflict with the fiduciary duties of their directors or contravene any legal prohibition or regulatory condition or result in, or could reasonably be expected to result in, a material risk of personal or criminal liability for any officer or director of the Company or any of the Restricted Subsidiaries, *provided* that the Company and each of its Restricted Subsidiaries shall use reasonable endeavors to overcome any such obstacle;
  - (c) a key factor in determining whether or not security shall be taken is the applicable cost (including adverse effects on interest deductibility, registration taxes and notarial costs) which shall not be disproportionate to the benefit to the Holders of obtaining such security;
  - (d) where there is material incremental cost involved in creating security over all assets owned by any of the Issuers or a Guarantor in a particular category (e.g. real estate), regard shall be had to the principle stated at paragraph 1.2(c) of this Exhibit E which shall apply to the immaterial assets and, subject to the Agreed Security Principles, only the material assets in that category (e.g. real estate of material economic value) shall be subject to security;
  - (e) it is expressly acknowledged that it may be either impossible or impractical to create security over certain categories of assets in which event security will not be taken over such assets;
  - (f) any assets subject to contracts, leases, licenses or other arrangements with a third party that exist concurrently or are not prohibited by this Agreement and which (subject to override by the Uniform Commercial Code and other relevant provisions of applicable law), effectively

prevent those assets from being charged will be excluded from any relevant security document; *provided* that reasonable endeavors to obtain consent to creating Liens in any such assets shall be used by the Company and each of its Restricted Subsidiaries to avoid or overcome such restrictions if either Collateral Agent reasonably determines that the relevant asset is material (which endeavors shall not include the payment of any consent fees), but unless effectively prohibited by contracts, leases, licenses or other arrangements with a third party that exist concurrently or are not prohibited by this Indenture, this shall not prevent security being given over any receipt or recovery under such contract, lease or license;

- (g) the giving of a Guarantee, the granting of security or the perfection of the security granted will not be required if it would have a material adverse effect (as reasonably determined in good faith by management of the relevant obligor) on the ability of the relevant obligor to conduct its operations and business in the ordinary course as otherwise permitted by this Indenture;
- (h) in the case of accounts receivable, a material adverse effect on either Issuer's or a Guarantor's relationship with or sales to the customer generating such receivables or material legal or commercial difficulties (as reasonably determined by management of the relevant obligor in good faith) *provided* that none of the Issuers and the Guarantors may utilize this exception unless, after giving effect thereto no less than a majority of the book value of the accounts receivable of the Company and its Subsidiaries on a consolidated basis (as measured at the end of each fiscal quarter) is subject to perfected liens, and *provided* further that any accounts receivable of the Issuers and the Guarantors excluded from Collateral by virtue of this clause (except where prohibited by law and subject to the remainder of these Agreed Security Principles) shall be subject to perfected Liens promptly if and when the corporate credit of the Company is downgraded to "B" or lower from S&P and "B2" or lower from Moody's;
- (i) security will be limited so that the aggregate of notarial costs and all registration and like taxes relating to the provision of security shall not exceed an amount to be agreed. Any additional costs may be paid by the Holders at their option; and
- (j) all security shall be given in favor of a single security trustee or collateral agent and not the secured parties individually. "Parallel debt" provisions and other similar structural options will be used where necessary and such provisions will be contained in the intercreditor agreement and not the individual security documents unless required under local law. No action will be required to be taken in relation to the guarantees or security when any lender assigns or transfers any of its participation in this Indenture to a new lender.
- (k) no action to grant security shall be required to be taken in jurisdictions other than Bermuda, the Netherlands and the United States of America and no perfection action will be required in any other jurisdiction.

2. Terms of security documents

The following principles will be reflected in the terms of any security document to be executed and delivered:

- (a) subject to Permitted Liens and these Agreed Security Principles the security will be first ranking and the perfection of security (when required) and other legal formalities will be completed as soon as practicable and, in any event, within the time periods specified in the

Note Documents or, if earlier or to the extent no such time period is specified in the Note Documents, within the time periods specified by applicable law in order to ensure due perfection;

- (b) the security will not be enforceable until an Event of Default has occurred and notice of acceleration of the Notes has been given by the Trustee or the Notes have otherwise become due and payable prior to the scheduled maturity thereof (an “Enforcement Event”);
- (c) prior to the maturity date of the Notes, notification of any Liens over bank accounts will be given (subject to legal advice) to the banks with whom the accounts are maintained only if an Enforcement Event has occurred;
- (d) notification of receivables security to debtors who are not members of the Company or its Subsidiaries will only be given if an Enforcement Event has occurred;
- (e) notification of any security interest over insurance policies will be served on any insurer of the Company’s or any Restricted Subsidiaries’ assets;
- (f) the security documents should only operate to create security rather than to impose new commercial obligations. Accordingly, they should not contain material additional representations, undertakings or indemnities (such as in respect of insurance, information or the payment of costs) unless these are the same as or consistent with those contained in this Indenture or are necessary for the creation or perfection of the security;
- (g) in respect of the share pledges and pledges of intra-group receivables, until an Enforcement Event has occurred, the pledgors will be permitted to retain and to exercise voting rights to any shares pledged by them in a manner which does not materially adversely affect the value of the security (taken as a whole) or the validity or enforceability of the security or cause an Event of Default to occur, and the pledgors will be permitted to receive dividends on pledged shares and payment of intra-group receivables and retain the proceeds and/or make the proceeds available to Holdings and its Subsidiaries to the extent not prohibited under this Indenture;
- (h) the Collateral Agents will only be able to exercise a power of attorney in any security document following the occurrence of an Enforcement Event or with respect to perfection or further assurance obligations that following request, the relevant obligor has failed to satisfy;
- (i) no obligor shall be required to provide surveys on real property (unless such surveys already exist in which case there shall be no requirement that such surveys be certified to the Holders) or to remove any encumbrances on title that are reflected in any title insurance or any other existing encumbrances on real property (not including Liens securing Indebtedness of the Company or any of its Restricted Subsidiaries);
- (j) no obligor shall be required to protect any Liens in the United States prior to the occurrence of an Enforcement Event by means other than customary filings (including UCC-1s, mortgage or deed of trust filings and patent and trademark filings) and delivery of share certificates (accompanied by powers of attorney executed in blank) and any intercompany promissory notes; and

(k) information, such as lists of assets, will be provided if, and only to the extent, required by local law to be provided to protect or create, perfect or register the security and, to the extent so required will be provided annually (unless required to be provided by local law more frequently, but not more frequently than quarterly) and following the occurrence and during the continuance of an Event of Default, on the Collateral Agents' reasonable request.

3. German Guarantor Limitations.

The following limitations apply to the Guarantees of the Guarantors incorporated in Germany:

- 3.1 The right to enforce the guarantee given by a Guarantor incorporated in Germany as a GmbH (a "German Guarantor") shall be excluded if and to the extent that the Guarantee secures the obligations of an affiliated company (*verbundenes Unternehmen*) within the meaning of Section 15 of the German Stock Corporation Act (*Aktiengesetz*) of such German Guarantor (other than any of the German Guarantor's direct or indirect subsidiaries), and if and to the extent that (x) the enforcement of the Guarantee would cause such German Guarantor's assets (the calculation of which shall include all items set forth in section 266(2) A, B and C of the German Commercial Code (*Handelsgesetzbuch*)) less such German Guarantor's liabilities (the calculation of which shall include all items set forth in section 266(3) B, C and D of the German Commercial Code) (the "Net Assets") being less than its registered share capital (*Stammkapital*) (*Begründung einer Unterbilanz*) or (y) (if such German Guarantor's Net Assets are already less than its registered share capital) causing such amount to be further reduced (*Vertiefung einer Unterbilanz*).
- 3.2 For the purposes of such calculation the following balance sheet items shall be adjusted as follows:
- (a) The amount of the increase of the relevant German Guarantor's registered share capital out of retained earnings (*Kapitalerhöhung aus Gesellschaftsmitteln*) after the date of this Agreement that has been effected without the prior written consent of the Trustee (acting on behalf of the Holders) shall be deducted from the registered share capital; and
  - (b) Obligations arising out of loans made to the relevant German Guarantor and other liabilities shall be disregarded if and to the extent such loans and other liabilities are subordinated; and
  - (c) Loans and other contractual liabilities incurred in violation of the provisions of the Indenture or the Guarantee shall be disregarded; and
  - (d) Claims of the relevant German Guarantor against its shareholders arising out of any upstream loans permitted under the Indenture or the Guarantee shall only be taken into account (*aktiviert*) if and to the extent this is permitted pursuant to the jurisprudence of the German Federal High Court (*Bundesgerichtshof*) relating to the permissibility of loans to shareholders under Sections 30 and 31 of the German Limited Liability Companies Act (*Gesetz betreffend die Gesellschaften mit beschränkter Haftung*).
- 3.3 In addition, a German Guarantor shall realize, to the extent legally permitted, in a situation where after enforcement of the Guarantee such German Guarantor would not have Net Assets in excess of its registered share capital, any and all of its assets that are shown in the balance sheet with a book value (*Buchwert*) that is significantly lower than the market value of the asset if such asset is not necessary for the German business (*betriebsnotwendig*).



- 3.4 The limitations set out in sub-clause (a) above shall only apply (A) if and to the extent that within 5 Business Days following the demand against such German Guarantor under the Guarantee by the relevant Holder and/or the Trustee (the “*Guarantee Demand*”) the managing directors of the German Guarantor have confirmed to the relevant Holder and/or the Trustee in writing (x) to what extent the Guarantee is an up-stream or cross-stream security and (y) the amount which cannot be enforced as causing the net assets of such German Guarantor, to fall below its stated share capital and such confirmation is supported by interim financial statements up to the end of the last completed calendar month (taking into account the adjustments set out in paragraph sub-clause (ii) above and such confirmation is supported by evidence reasonably satisfactory to the relevant Holder and/or the Trustee (the “*Management Determination*”) and the relevant Holder and/or the Trustee has (have) not contested this and argued that no or a lesser amount would be necessary to maintain its stated share capital; or (B) within 20 Business Days from the date the relevant Holder and/or the Trustee has (have) contested the Management Determination the relevant Holder and/or the Trustee receive(s) a determination by auditors of international standard and reputation (the “*Auditor’s Determination*”) as appointed by such German Guarantor of the amount that would have been necessary on the date the Guarantee Demand was made to maintain the German Guarantor stated share capital based on an up to date balance sheet which shall be based on the same accounting principles that were applied when establishing the previous year’s balance sheet and calculated and adjusted in accordance with sub-clauses (i) and (ii) above. If a German Guarantor fails to deliver an Auditor’s Determination within 20 Business Days after the date the relevant Holder and/or the Trustee has (have) contested the Management Determination, the relevant Holder and/or the Trustee shall be entitled to enforce the Guarantee without limitation or restriction.
- 3.5 If the relevant Holder and/or the Trustee disagree(s) with the Management Determination and/or the Auditor’s Determination, the Guarantee shall be enforceable up to the amount which is undisputed between itself (them) and the relevant German Guarantor. In relation to the amount which is disputed, the relevant Holder and/or the Trustee shall be entitled to further pursue its (their) claims and enforce the Guarantee always subject to sub-clauses (i) to (iv) (inclusive) above and clause (g) below, if it (they) determine(s) in good faith that the financial condition of such German Guarantor as set forth in the Auditor’s Determination and/or the Management Determination has substantially improved (in particular, if such German Guarantor has performed any actions in accordance with sub-clause (iii) above).
- 3.6 The limitations set out in sub-clause (a) above shall not apply (i) if a domination agreement (*Beherrschungsvertrag*) and/or a profit absorption agreement (*Gewinnabführungsvertrag*) is or becomes effective between the relevant German Guarantor and any of its shareholders and any potential loss compensation claim (*Verlustausgleichanspruch*) of the relevant German Guarantor thereunder or in relation thereto is valuable (*vollwertig*), (ii) if the relevant German Guarantor’s payment is covered by a valuable recourse claim (*vollwertig*) against its shareholder or (iii) if and to the extent for any other reason (including as a result of a change in the relevant rules of law) the deficit (*Unterbilanz*) referred to in sub-clause (a) above does not constitute a breach of the German Guarantor’s obligations to maintain its registered share capital pursuant to sections 30 et seq. of the German Limited Liability Companies Act (*Gesetz betreffend die Gesellschaften mit beschränkter Haftung*), each as amended, supplemented and/or replaced from time to time.
- 3.7 Notwithstanding the above provisions, and subject to the following paragraph below, the Guarantee shall not be enforced against a German Guarantor to the extent that such German Guarantor provides constructive evidence that such enforcement will deprive such German Guarantor of the liquidity necessary to fulfil its liabilities to its creditors or otherwise result in a

breach of the duty of care owed by the relevant managing director to the respective company (*Verbot des existenzvernichtenden Eingriffs, Gebot der Rücksichtnahme auf die Eigenbelange der Gesellschaft*) and could reasonably be expected to result in a material risk of personal civil or criminal liability of the relevant managing directors of such German Guarantor or the relevant managing directors of its shareholders.

- 3.8 For the avoidance of doubt, nothing in this Schedule shall be interpreted as a restriction or limitation of the enforcement of the Guarantee to the extent it guarantees the prompt and complete payment and discharge of any and all obligations of a German Guarantor itself or any of its subsidiaries including in each case their legal successors.

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AMENDED AND RESTATED INDENTURE

Dated as of December 7, 2015

Among

FREESCALE SEMICONDUCTOR, INC.,

the Guarantors listed herein

and

WELLS FARGO BANK, NATIONAL ASSOCIATION,

as Trustee

6.000% SENIOR SECURED NOTES DUE 2022

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Exhibit E	Agreed Security Principles

AMENDED AND RESTATED INDENTURE, dated as of December 7, 2015, among Freescale Semiconductor, Inc., a Delaware corporation, and the Guarantors (as defined herein) listed on the signature pages hereto and Wells Fargo Bank, National Association, as Trustee.

W I T N E S S E T H

WHEREAS, the Issuer (as defined herein) has duly authorized the creation of an issue of \$960,000,000 aggregate principal amount of the Issuer's 6.000% senior secured notes due 2022 (the "Initial Notes");

WHEREAS, the Issuer and each of the Guarantors has duly authorized the execution and delivery of this Indenture; and

WHEREAS, this Indenture has been amended and restated in accordance with its terms following the successful solicitation of consents from the Holders of the Notes pursuant to a consent solicitation that was launched on March 23, 2015 and that expired on April 2, 2015. The Issuer is undertaking the consent solicitation pursuant to the Merger Agreement (as defined herein).

NOW, THEREFORE, the Issuer, the Guarantors and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of the Notes.

ARTICLE I

DEFINITIONS

SECTION 1.01. Definitions.

"144A Global Note" means a Global Note substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depository or its nominee that will be issued in a denomination equal to the outstanding principal amount of the applicable series of Notes sold in reliance on Rule 144A.

"300 Millimeter R&D Expenses" means, with respect to any period, the amount of research and development expenses of Holdings III and its Restricted Subsidiaries for such period, on a consolidated basis, relating to any 300 millimeter or larger wafer fabrication alliance or arrangement of Holdings III or any of its Restricted Subsidiaries other than the strategic alliance relating to the manufacturing of 300 millimeter wafers in Crolles, France in existence on the Transaction Date (any such alliance or arrangement, a "300 Millimeter Arrangement"); provided, that the amount of such research and development expenses with respect to any such 300 Millimeter Arrangement constituting 300 Millimeter R&D Expenses for such period for purposes hereof shall not exceed the greater of (i) the amount of any negative EBITDA with respect to such 300 Millimeter Arrangement for such period and (ii) the amount of any Equalization Payments with respect to such 300 Millimeter Arrangement for such period.

"300 Millimeter Asset Sale" means any sale of any assets of Holdings III or any Restricted Subsidiary relating to the Issuer's alliance with respect to the 300 millimeter wafer fabrication in Crolles, France; provided that no asset sale shall constitute a 300 Millimeter Asset Sale to the extent that, after giving effect to such asset sale, the aggregate amount of 300 Millimeter Asset Sale Proceeds with respect to all 300 Millimeter Asset Sales shall exceed \$500 million.

"300 Millimeter Asset Sale Proceeds" means the aggregate cash proceeds received by Holdings III or any of its Restricted Subsidiaries in respect of any 300 Millimeter Asset Sale, including any cash received upon the sale or other disposition of any Designated Non-cash Consideration received in any 300 Millimeter Asset Sale, net of the direct costs relating to such 300



Millimeter Asset Sale and the sale or disposition of such Designated Non-cash Consideration, including legal, accounting and investment banking fees, and brokerage and sales commissions, any relocation expenses incurred as a result thereof, taxes paid or payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements), amounts required to be applied to the repayment of principal, premium, if any, and interest on Senior Indebtedness required to be paid as a result of such transaction and any deduction of appropriate amounts to be provided by Holdings III or any of its Restricted Subsidiaries as a reserve in accordance with GAAP against any liabilities associated with the asset disposed of in such transaction and retained by Holdings III or any of its Restricted Subsidiaries after such sale or other disposition thereof, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction.

“Acquired Indebtedness” means, with respect to any specified Person,

(1) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Restricted Subsidiary of such specified Person, including Indebtedness incurred in connection with, or in contemplation of, such other Person merging with or into or becoming a Restricted Subsidiary of such specified Person, and

(2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

“Acquisition” means the transactions contemplated by the Transaction Agreement.

“Additional First Lien Debt” means the Notes (including Guarantees of the Notes), the Existing Secured Notes (including Guarantees of the Existing Secured Notes) and any indebtedness of the Issuer and any Guarantor (other than indebtedness constituting Senior Credit Agreement Obligations) secured by the Collateral on a *pari passu* basis (but without regard to control of remedies) with the Senior Credit Agreement Obligations (subject to the priority of payments to the Credit Facility Obligations permitted under the definition of Permitted Liens); provided, however, that (i) such indebtedness is permitted to be incurred, secured and guaranteed on such basis by each First Lien Debt Document and (ii) the representative for the holders of such indebtedness is, in the case of the Collateral Agent, a party to the Intercreditor Agreement, or in the case of any Additional First Lien Debt entered into after the Issue Date, shall have become party to the Intercreditor Agreement.

“Additional First Lien Debt Collateral Documents” means the Collateral Documents relating to the Notes and each other agreement, instrument or other document entered into in favor of the representative for any class of Secured Parties under any class of Additional First Lien Debt for the purposes of securing such Additional First Lien Debt Obligations.

“Additional First Lien Debt Documents” means, with respect to any class of Additional First Lien Debt, the promissory notes, indentures, Additional First Lien Debt Collateral Documents or other operative agreements evidencing or governing such Additional First Lien Debt Obligations, as the same may be amended, restated, supplemented or otherwise modified from time to time.

“Additional First Lien Debt Obligations” means, with respect to any class of Additional First Lien Debt, (a) all principal of and interest (including, without limitation, any interest which accrues after the commencement of any case, proceeding or other action relating to the bankruptcy, insolvency or reorganization of the Issuer, whether or not allowed or allowable as a claim in any such proceeding) payable with respect to such Additional First Lien Debt, (b) all other amounts payable to the related Additional First Lien Debt Parties under the related Additional First Lien Debt Documents and (c) any renewals, extensions or refinancings of the foregoing, provided that in the case of this clause (c), the representative in respect of such class has executed and delivered a joinder agreement in compliance with the Intercreditor Agreement.

“Additional First Lien Debt Parties” means, with respect to any class of Additional First Lien Debt, the holders of such Indebtedness from time to time, any trustee or agent therefor under any related Additional First Lien Debt Documents, and the beneficiaries of each indemnification obligation undertaken by the Issuer or any obligor under any related Additional First Lien Debt Documents.

“Additional Notes” means additional Notes (other than the Initial Notes) issued from time to time under this Indenture in accordance with Sections 2.01 and 4.09 hereof.

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise.

“Agent” means any Registrar or Paying Agent.

“Agreed Security Principles” means the Agreed Security Principles as set out in Exhibit E, as applied reasonably and in good faith by the Company.

“Applicable Authorized Representative” shall have the meaning set forth in the Intercreditor Agreement.

“Applicable Currency Equivalent” means, with respect to any monetary amount in a currency other than U.S. dollars, at any time for the determination thereof, the amount of U.S. dollars obtained by converting such foreign currency involved in such computation into U.S. dollars, at the spot rate for the purchase of U.S. dollars, with the applicable foreign currency as quoted by Reuters at approximately 10:00 A.M. (New York time) on the date that is two Business Days prior to such determination.

“Applicable Premium” means, with respect to any Note on any Redemption Date, the greater of:

(1) 1.0% of the principal amount of such Note; and

(2) the excess, if any, of (a) the present value at such Redemption Date of (i) the redemption price of such Note at November 15, 2016 (such redemption price being set forth in Section 3.07(d) hereof) plus (ii) all required interest payments due on such Note through November 15, 2016 (excluding accrued but unpaid interest to the Redemption Date), computed using a discount rate equal to the Treasury Rate as of such Redemption Date plus 50 basis points; over (b) the principal amount of such Note.

The Applicable Premium shall be calculated, or caused to be calculated, by the Issuer. The Issuer shall deliver such calculation to the Trustee prior to the applicable Redemption Date, and the Trustee shall not be responsible for such calculation.

“Applicable Procedures” means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depository that apply to such transfer or exchange.

“Asset Sale” means:

(1) the sale, conveyance, transfer or other disposition, whether in a single transaction or a series of related transactions, of property or assets (including by way of a Sale and Lease-Back Transaction) of the Company or any of its Restricted Subsidiaries (each referred to in this definition as a “disposition”); or

(2) the issuance or sale of Equity Interests of any Restricted Subsidiary (other than Preferred Stock of Restricted Subsidiaries issued in compliance with Section 4.09 hereof), whether in a single transaction or a series of related transactions;

in each case, other than:

(a) any disposition of Cash Equivalents or Investment Grade Securities or obsolete or worn out equipment in the ordinary course of business or any disposition of inventory or goods (or other assets) no longer used in the ordinary course of business;

(b) the disposition of all or substantially all of the assets of the Company or the Issuer in a manner permitted pursuant to the provisions described under Section 5.01 hereof or any disposition that constitutes a Change of Control pursuant to this Indenture;

(c) the making of any Restricted Payment or Permitted Investment that is permitted to be made, and is made, under Section 4.07 hereof;

(d) any disposition of assets or issuance or sale of Equity Interests of any Restricted Subsidiary in any transaction or series of related transactions with an aggregate fair market value of less than \$50.0 million;

(e) any disposition of property or assets by the Company or a Restricted Subsidiary of the Company, or the issuance of securities by a Restricted Subsidiary of the Company, in either case, to the Company or another Restricted Subsidiary of the Company;

(f) to the extent allowable under Section 1031 of the Internal Revenue Code of 1986, any exchange of like property (excluding any boot thereon) for use in a Similar Business;

(g) the lease, assignment or sub-lease of any real or personal property in the ordinary course of business;

(h) any issuance or sale of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary;

(i) foreclosures, condemnation or any similar action on assets or the granting of Liens not prohibited by this Indenture;

(j) sales of accounts receivable, or participations therein, or Securitization Assets or related assets in connection with any Qualified Securitization Facility;

(k) any financing transaction with respect to property built or acquired by the Company or any Restricted Subsidiary after the Issue Date, including Sale and Lease-Back Transactions and asset securitizations permitted by this Indenture;

(l) the sale or discount of inventory, accounts receivable or notes receivable in the ordinary course of business or the conversion of accounts receivable to notes receivable;

(m) the licensing or sub-licensing of intellectual property or other general intangibles in the ordinary course of business, other than the licensing of intellectual property on a long-term basis;

(n) the licensing or sub-licensing of intellectual property or other general intangibles on a long-term basis in the ordinary course or business and which do not materially interfere with the business of the Company and its Subsidiaries, taken as a whole;

(o) any surrender or waiver of contract rights or the settlement, release or surrender of contract rights or other litigation claims in the ordinary course of business; and

(p) any 300 Millimeter Asset Sale.

“Authorized Person” of the Issuer or any other Person means the person or persons authorized to act on behalf of such entity by its chief executive officer, president, chief operating officer, chief financial officer or any vice president (or the equivalent of any of the foregoing) or its Board of Directors or any other governing body of such entity.

“Bankruptcy Law” means Title 11, U.S. Code or any similar federal or state law for the relief of debtors.

“Business Day” means each day which is not a Legal Holiday.

“Capital Stock” means:

(1) in the case of a corporation, corporate stock;

(2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;

(3) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and

(4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

“Capitalized Lease Obligation” means, at the time any determination thereof is to be made, the amount of the liability in respect of a capital lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with GAAP.

“Capitalized Software Expenditures” shall mean, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities) by a Person and its Restricted Subsidiaries during such period in respect of licensed or purchased software or internally developed software and software enhancements that, in conformity with GAAP, are or are required to be reflected as capitalized costs on the consolidated balance sheet of a Person and its Restricted Subsidiaries.

“Cash Equivalents” means:

(1) United States dollars;

(2) (a) pounds sterling, euros or any national currency of any participating member state of the EMU; or

(b) in the case of any Foreign Subsidiary that is a Restricted Subsidiary, such local currencies held by them from time to time in the ordinary course of business;

(3) securities issued or directly and fully and unconditionally guaranteed or insured by the U.S. government or any agency or instrumentality thereof the securities of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 24 months or less from the date of acquisition;

(4) certificates of deposit, time deposits and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers' acceptances with maturities not exceeding one year and overnight bank deposits, in each case with any domestic or foreign commercial bank having capital and surplus of not less than \$500.0 million in the case of U.S. banks and \$100.0 million (or the U.S. dollar equivalent as of the date of determination) in the case of non-U.S. banks;

(5) repurchase obligations for underlying securities of the types described in clauses (3), (4) and (8) entered into with any financial institution meeting the qualifications specified in clause (4) above;

(6) commercial paper rated at least P-1 by Moody's or at least A-1 by S&P and in each case maturing within 24 months after the date of creation thereof and Indebtedness or Preferred Stock issued by Persons with a rating of "A" or higher from S&P or "A2" or higher from Moody's with maturities of 24 months or less from the date of acquisition;

(7) marketable short-term money market and similar securities having a rating of at least P-2 or A-2 from either Moody's or S&P, respectively (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another Rating Agency) and in each case maturing within 24 months after the date of creation or acquisition thereof;

(8) readily marketable direct obligations issued by any state, commonwealth or territory of the United States or any political subdivision or taxing authority thereof having an Investment Grade Rating from either Moody's or S&P with maturities of 24 months or less from the date of acquisition;

(9) readily marketable direct obligations issued by any foreign government or any political subdivision or public instrumentality thereof, in each case having an Investment Grade Rating from either Moody's or S&P with maturities of 24 months or less from the date of acquisition;

(10) Investments with average maturities of 12 months or less from the date of acquisition in money market funds rated AAA- (or the equivalent thereof) or better by S&P or Aaa3 (or the equivalent thereof) or better by Moody's; and

(11) investment funds investing 90% of their assets in securities of the types described in clauses (1) through (10) above.

Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in currencies other than those set forth in clauses (1) and (2) above, provided that such amounts are converted into any currency listed in clauses (1) and (2) as promptly as practicable and in any event within ten Business Days following the receipt of such amounts.

At any time at which the value, calculated in accordance with GAAP, of all investments of the Company and its Restricted Subsidiaries that were deemed, when made, to be Cash Equivalents in accordance with clauses (1) through (11) above exceeds the Indebtedness of the Company and its Restricted Subsidiaries, “Cash Equivalents” shall also mean any investment (a “Qualifying Investment”) that satisfies the following two conditions: (a) the Qualifying Investment is of a type described in clauses (1) through (11) of this definition, but has an effective maturity (whether by reason of final maturity, a put option or, in the case of an asset-backed security, an average life) of five years and one month or less from the date of such Qualifying Investment (notwithstanding any provision contained in such clauses (1) through (10) requiring a shorter maturity); and (b) the weighted average effective maturity of such Qualifying Investment and all other investments that were made as Qualifying Investments in accordance with this paragraph, does not exceed two years from the date of such Qualifying Investment.

“Change of Control” means the occurrence of any of the following:

(1) the sale, lease or transfer, in one or a series of related transactions, of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person other than a Permitted Holder; or

(2) the Company becomes aware of (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) the acquisition by any Person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision), including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b) (1) under the Exchange Act), other than one or more Permitted Holders, in a single transaction or in a related series of transactions, by way of merger, amalgamation, consolidation or other business combination or purchase of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision) of 50% or more of the total voting power of the Voting Stock of the Company (directly or through the acquisition of voting power of Voting Stock of any of the Company’s direct or indirect parent companies).

“Clearstream” means Clearstream Banking, Société Anonyme.

“Collateral” means all assets and properties subject to Liens created pursuant to any Collateral Document to secure any Obligation under the Notes.

“Collateral Agent” means Citibank, N.A. prior to the Merger Date, or Morgan Stanley Senior Funding, Inc., as of and after the Merger Date, each in their capacity as collateral agent for the Trustee and the Holders under the Security Agreement, and in their capacity as the collateral agent for the Senior Credit Agreement Secured Parties under the Senior Credit Agreement Collateral Documents, and, in each case, any successor thereof.

“Collateral Documents” means collectively, the Senior Credit Agreement Collateral Documents, the Additional First Lien Debt Collateral Documents and the Intercreditor Agreement.

“Company” means NXP B.V. a private company with limited liability incorporated under the laws of The Netherlands and its successors.

“Consolidated Depreciation and Amortization Expense” means with respect to any Person for any period, the total amount of depreciation and amortization expense, including the amortization of deferred financing fees or costs and Capitalized Software Expenditures of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP.

“Consolidated Interest Expense” means, with respect to any Person for any period, without duplication, the sum of:

(1) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, to the extent such expense was deducted (and not added back) in computing Consolidated Net Income (including (a) amortization of original issue discount resulting from the issuance of Indebtedness at less than par, (b) all commissions, discounts and other fees and charges owed with respect to letters of credit or bankers acceptances, (c) non-cash interest payments (but excluding any non-cash interest expense attributable to the movement in the mark to market valuation of Hedging Obligations or other derivative instruments pursuant to GAAP), (d) the interest component of Capitalized Lease Obligations, and (e) net payments, if any made (less net payments, if any, received), pursuant to interest rate Hedging Obligations with respect to Indebtedness, and excluding (t) any expense resulting from the discounting of any Indebtedness in connection with the application of purchase accounting in connection with the Transaction, the Merger or any acquisition, (u) penalties and interest relating to taxes, (v) any “additional interest” with respect to the Existing Secured Notes, the NXP Notes or other securities, (w) amortization of deferred financing fees, debt issuance costs, commissions, fees and expenses, (x) any expensing of bridge, commitment and other financing fees, (y) commissions, discounts, yield and other fees and charges (including any interest expense) related to any Qualified Securitization Facility and (z) any accretion of accrued interest on discounted liabilities); plus

(2) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued; less

(3) interest income for such period.

For purposes of this definition, interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP.

“Consolidated Net Income” means, with respect to any Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period, on a consolidated basis, and otherwise determined in accordance with GAAP; provided, that, without duplication,

(1) any after-tax effect of extraordinary, non-recurring or unusual gains or losses (less all fees and expenses relating thereto) or expenses (including relating to the Transaction, the Merger or any multi-year strategic initiatives), severance, relocation costs and curtailments or modifications to pension and post-retirement employee benefit plans shall be excluded,

(2) the Net Income for such period shall not include the cumulative effect of a change in accounting principles and changes as a result of the adoption or modification of accounting policies during such period,

(3) any net after-tax gains or losses on disposal of disposed, abandoned or discontinued operations shall be excluded,

(4) any after-tax effect of gains or losses (less all fees and expenses relating thereto) attributable to asset dispositions or abandonments or the sale or other disposition of any Capital Stock of any Person other than in the ordinary course of business shall be excluded,

(5) the Net Income for such period of any Person that is not a Subsidiary, or is an Unrestricted Subsidiary, or that is accounted for by the equity method of accounting, shall be excluded; provided that Consolidated Net Income of the Company shall be increased by the amount of dividends or distributions or other payments that are actually paid in cash (or to the extent converted into cash) to the Company or a Restricted Subsidiary thereof in respect of such period,

(6) solely for the purpose of determining the amount available for Restricted Payments under clause (3)(A) of Section 4.07(a) hereof, the Net Income for such period of any Restricted Subsidiary (other than any Guarantor) shall be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of its Net Income is not at the date of determination permitted without any prior governmental approval (which has not been obtained) or, directly or indirectly, by the operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule, or governmental regulation applicable to that Restricted Subsidiary or its stockholders, unless such restriction with respect to the payment of dividends or similar distributions has been legally waived, provided that Consolidated Net Income of the Company will be increased by the amount of dividends or other distributions or other payments actually paid in cash (or to the extent converted into cash) to the Company or a Restricted Subsidiary thereof in respect of such period, to the extent not already included therein, effects of adjustments (including the effects of such adjustments pushed down to the Company and its Restricted Subsidiaries) in the inventory, property and equipment, software, goodwill, other intangible assets, in-process research and development, deferred revenue and debt line items in such Person's consolidated financial statements pursuant to GAAP resulting from the application of purchase accounting in relation to the Transaction, the Merger or any consummated acquisition or the amortization or write-off of any amounts thereof, net of taxes, shall be excluded,

(7) any after-tax effect of income (loss) from the early extinguishment of (i) Indebtedness, (ii) Hedging Obligations or (iii) other derivative instruments shall be excluded,

(8) any impairment charge or asset write-off or write-down, including impairment charges or asset write-offs or write-downs related to intangible assets, long-lived assets, investments in debt and equity securities or as a result of a change in law or regulation, in each case, pursuant to GAAP, and the amortization of intangibles arising pursuant to GAAP shall be excluded,

(9) any non-cash compensation charge or expense including any such charge arising from the grants of stock appreciation or similar rights, stock options, restricted stock or other rights shall be excluded,

(10) any fees and expenses incurred during such period, or any amortization thereof for such period, in connection with any acquisition, Investment, Asset Sale, issuance or repayment of Indebtedness, issuance of Equity Interests, refinancing transaction or amendment or modification of any debt instrument (in each case, including any such transaction consummated prior to the Issue Date and any such transaction undertaken but not completed) and any charges or non-recurring merger costs incurred during such period as a result of any such transaction shall be excluded,

(11) [intentionally omitted]; and

(12) the following items shall be excluded:

(a) any net unrealized gain or loss (after any offset) resulting in such period from Hedging Obligations and the application of Statement of Financial Accounting Standards No. 133; and

(b) any net unrealized gain or loss (after any offset) resulting in such period from currency translation gains or losses including those (i) related to currency remeasurements of Indebtedness and (ii) resulting from hedge agreements for currency exchange risk.



In addition, to the extent not already included in the Consolidated Net Income of such Person and its Restricted Subsidiaries, notwithstanding anything to the contrary in the foregoing, Consolidated Net Income shall include the amount of proceeds received from business interruption insurance and reimbursements of any expenses and charges that are covered by indemnification or other reimbursement provisions in connection with any Permitted Investment or any sale, conveyance, transfer or other disposition of assets permitted under this Indenture.

Notwithstanding the foregoing, for the purpose of Section 4.07 hereof only (other than clause (3)(D) of Section 4.07(a) hereof), there shall be excluded from Consolidated Net Income any income arising from any sale or other disposition of Restricted Investments made by the Company and its Restricted Subsidiaries, any repurchases and redemptions of Restricted Investments from the Company and its Restricted Subsidiaries, any repayments of loans and advances which constitute Restricted Investments by the Company or any of its Restricted Subsidiaries, any sale of the stock of an Unrestricted Subsidiary or any distribution or dividend from an Unrestricted Subsidiary, in each case only to the extent such amounts increase the amount of Restricted Payments permitted under clause (3)(D) of Section 4.07(a) hereof.

“Consolidated Secured Debt Ratio” as of any date of determination means, the ratio of (1) Consolidated Total Indebtedness of the Company and its Restricted Subsidiaries that is secured by Liens as of the end of the most recent fiscal quarter for which internal financial statements are available immediately preceding the date on which such event for which such calculation is being made shall occur to (2) the Company’s EBITDA for the most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such event for which such calculation is being made shall occur, in each case with such pro forma adjustments to Consolidated Total Indebtedness and EBITDA as are appropriate and consistent with the pro forma adjustment provisions set forth in the definition of Fixed Charge Coverage Ratio.

“Consolidated Total Indebtedness” means, as at any date of determination, an amount equal to the sum of (1) the aggregate amount of all outstanding Indebtedness of the Company and its Restricted Subsidiaries on a consolidated basis consisting of Indebtedness for borrowed money, Obligations in respect of Capitalized Lease Obligations and debt obligations evidenced by promissory notes and similar instruments (and excluding, for the avoidance of doubt, all obligations relating to Qualified Securitization Facilities) and (2) the aggregate amount of all outstanding Disqualified Stock of the Company and all Preferred Stock of its Restricted Subsidiaries on a consolidated basis, with the amount of such Disqualified Stock and Preferred Stock equal to the greater of their respective voluntary or involuntary liquidation preferences and maximum fixed repurchase prices, in each case determined on a consolidated basis in accordance with GAAP. For purposes hereof, the “maximum fixed repurchase price” of any Disqualified Stock or Preferred Stock that does not have a fixed repurchase price shall be calculated in accordance with the terms of such Disqualified Stock or Preferred Stock as if such Disqualified Stock or Preferred Stock were purchased on any date on which Consolidated Total Indebtedness shall be required to be determined pursuant to this Indenture, and if such price is based upon, or measured by, the fair market value of such Disqualified Stock or Preferred Stock, such fair market value shall be determined reasonably and in good faith by the Company.

“Contingent Obligations” means, with respect to any Person, any obligation of such Person guaranteeing any leases, dividends or other obligations that do not constitute Indebtedness (“primary obligations”) of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, including, without limitation, any obligation of such Person, whether or not contingent,

(1) to purchase any such primary obligation or any property constituting direct or indirect security therefor,

(2) to advance or supply funds

(a) for the purchase or payment of any such primary obligation, or

(b) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, or

(3) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

“Corporate Trust Office of the Trustee” shall be at the address of the Trustee specified in Section 13.01 hereof or such other address as to which the Trustee may give notice to the Holders and the Issuer.

“Credit Facilities” means, with respect to the Company or any of its Restricted Subsidiaries, one or more debt facilities, including the Senior Credit Facilities, or other financing arrangements (including, without limitation, commercial paper facilities or indentures) providing for revolving credit loans, term loans, letters of credit or other long-term indebtedness, including any notes, mortgages, guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements or refundings thereof and any indentures or credit facilities or commercial paper facilities that replace, refund or refinance any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount permitted to be borrowed thereunder or alters the maturity thereof (provided that such increase in borrowings is permitted under Section 4.09 hereof) or adds Restricted Subsidiaries as additional borrowers or guarantors thereunder and whether by the same or any other agent, lender or group of lenders.

“Credit Facilities Obligations” means, with respect to any Person, the Obligations of such Person under any Credit Facilities.

“Custodian” means the Trustee, as custodian with respect to the Notes, each in global form, or any successor entity thereto.

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

“Definitive Note” means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06(c) hereof, substantially in the form of Exhibit A hereto except that such Note shall not bear the Global Note Legend and shall not have the “Schedule of Exchanges of Interests in the Global Note” attached thereto.

“Depository” means, with respect to the Notes issuable or issued in whole or in part in global form, any Person specified in Section 2.03 hereof as the Depository with respect to the Notes, and any and all successors thereto appointed as Depository hereunder and having become such pursuant to the applicable provision of this Indenture.

“Designated Non-cash Consideration” means the fair market value of non-cash consideration received by the Company or a Restricted Subsidiary in connection with an Asset Sale that is so designated as Designated Non-cash Consideration pursuant to an Officer’s Certificate, setting forth the basis of such valuation, executed by the principal financial officer of the Company, less the amount of cash or Cash Equivalents received in connection with a subsequent sale of or collection on such Designated Non-cash Consideration.

“Designated Preferred Stock” means Preferred Stock of the Company or any parent corporation thereof (in each case other than Disqualified Stock) that is issued for cash (other than to a Restricted Subsidiary or an employee stock ownership plan or trust established by the Company or any of its Subsidiaries) and is so designated as Designated Preferred Stock, pursuant to an Officer’s Certificate executed by the principal financial officer of the Company or the applicable parent corporation thereof, as the case may be, on the issuance date thereof, the cash proceeds of which are excluded from the calculation set forth in clause (3) of Section 4.07(a) hereof.

“Directing Agent” means Citibank, N.A. prior to the Merger Date, or Morgan Stanley Senior Funding, Inc., as of and after the Merger Date, as the agent for the Collateral Agent under the Senior Credit Facilities Documents, the Collateral Agent under the Collateral Documents relating to the Existing Secured Notes, the Collateral Agent and each additional Authorized Representative (as defined in the Intercreditor Agreement) from time to time party to the Intercreditor Agreement, and any successor thereof or replacement agent appointed in accordance with the terms of the Intercreditor Agreement.

“Disqualified Stock” means, with respect to any Person, any Capital Stock of such Person which, by its terms, or by the terms of any security into which it is convertible or for which it is putable or exchangeable, or upon the happening of any event, matures or is mandatorily redeemable (other than solely as a result of a change of control or asset sale) pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof (other than solely as a result of a change of control or asset sale), in whole or in part, in each case prior to the date 91 days after the earlier of the maturity date of the Notes or the date the Notes are no longer outstanding; provided, that if such Capital Stock is issued to any plan for the benefit of employees of the Company or its Subsidiaries or by any such plan to such employees, such Capital Stock shall not constitute Disqualified Stock solely because it may be required to be repurchased by the Company or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations.

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

“EBITDA” means, with respect to any Person for any period, the Consolidated Net Income of such Person for such period

(1) increased (without duplication) by the following, in each case to the extent deducted in determining Consolidated Net Income for such period:

(a) provision for taxes based on income or profits or capital, including, without limitation, state, franchise and similar taxes (such as the Pennsylvania capital tax and Texas margin tax) and foreign withholding taxes of such Person paid or accrued during such period deducted (and not added back) in computing Consolidated Net Income; plus

(b) Fixed Charges of such Person for such period (including (x) net losses or Hedging Obligations or other derivative instruments entered into for the purpose of hedging interest rate risk, (y) bank fees and (z) costs of surety bonds in connection with financing activities, plus amounts excluded from Consolidated Interest Expense as set forth in clauses (1)(t) through (z) in the definition thereof) to the extent the same were deducted (and not added back) in calculating such Consolidated Net Income; plus

(c) Consolidated Depreciation and Amortization Expense of such Person for such period to the extent the same were deducted (and not added back) in computing Consolidated Net Income; plus

(d) any expenses or charges (other than depreciation or amortization expense) related to any Equity Offering, Permitted Investment, acquisition, disposition, recapitalization or the incurrence of Indebtedness permitted to be incurred by this Indenture (including a refinancing thereof) (whether or not successful), including (i) such fees, expenses or charges related to the offering of the Notes, the Existing Secured Notes, the NXP Notes and the Credit Facilities and (ii) any amendment or other modification of the Notes, the Existing Secured Notes, the NXP Notes and the Credit Facilities and, in each case, deducted (and not added back) in computing Consolidated Net Income; plus

(e) the amount of any restructuring charges, integration costs or other business optimization expenses (including cost and expenses relating to inventory optimization programs, wafer fabrication facility closures and new systems design and implementation costs) or reserves deducted (and not added back) in such period in computing Consolidated Net Income, including any one-time costs incurred in connection with acquisitions after the Measurement Date, and costs related to the closure and/or consolidation of facilities; plus

(f) any other non-cash charges, including any write offs or write downs reducing Consolidated Net Income for such period (provided that if any such non-cash charges represent an accrual or reserve for potential cash items in any future period, the cash payment in respect thereof in such future period shall be subtracted from EBITDA to such extent, and excluding amortization of a prepaid cash item that was paid in a prior period); plus

(g) the amount of any minority interest expense consisting of Subsidiary income attributable to minority equity interests of third parties in any non-Wholly Owned Subsidiary deducted (and not added back) in such period in calculating Consolidated Net Income; plus

(h) [intentionally omitted]; plus

(i) the amount of net cost savings projected by the Company in good faith to be realized as a result of specified actions taken or initiated during or prior to such period (calculated on a pro forma basis as though such cost savings had been realized on the first day of such period), net of the amount of actual benefits realized during such period from such actions; provided that (x) such cost savings are reasonably identifiable and factually supportable, (y) such actions are taken no later than 36 months after the Measurement Date and (z) the aggregate amount of cost savings added pursuant to this clause (i) shall not exceed \$200 million for any four consecutive quarter period (which adjustments may be incremental to pro forma cost savings adjustments made pursuant to the definition of “Fixed Charge Coverage Ratio”); plus

(j) the amount of loss on sale of receivables, Securitization Assets and related assets to the Securitization Subsidiary in connection with a Qualified Securitization Facility; plus

(k) any costs or expense incurred by the Company or a Restricted Subsidiary pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, to the extent that such cost or expenses are funded with cash proceeds contributed to the capital of the Company or net cash proceeds of an issuance of Equity Interest of the Company (other than Disqualified Stock) solely to the extent that such net cash proceeds are excluded from the calculation set forth in clause (3) of Section 4.07(a) hereof; plus

(l) cash receipts (or any netting arrangements resulting in reduced cash expenditures) not representing EBITDA or Net Income in any period to the extent non-cash gains relating to such income were deducted in the calculation of EBITDA pursuant to clause (2) below for any previous period and not added back; plus

(m) any net loss from disposed or discontinued operations; plus

(n) interest income or investment earnings on retiree medical and intellectual property, royalty or license receivables; plus

(o) 300 Millimeter R&D Expenses to the extent that the amount of such 300 Millimeter R&D Expenses could have been made as investments under clause (18) of the definition of "Permitted Investments";

(2) decreased by (without duplication) by the following, in each case to the extent included in determining Consolidated Net Income for such period:

(a) non-cash gains increasing Consolidated Net Income of such Person for such period, excluding any non-cash gains to the extent they represent the reversal of an accrual or reserve for a potential cash item that reduced EBITDA in any prior period and any non-cash gains with respect to cash actually received in a prior period so long as such cash did not increase EBITDA in such prior period; plus

(b) any net income from disposed or discontinued operations; and

(3) increased or decreased by (without duplication), as applicable, any adjustments resulting from the application of FASB Interpretation No. 45 (Guarantees).

"EMU" means economic and monetary union as contemplated in the Treaty on European Union.

"Equalization Payment" means, with respect to any period for any 300 Millimeter Arrangement, the payment made by Holdings III or any of its Restricted Subsidiaries in respect of its applicable share, determined pursuant to the terms of such 300 Millimeter Arrangement, of the depreciation and amortization expenses or charges in respect of capital expenditures made with respect to such 300 Millimeter Arrangement for such period that are recorded as research and development expenses of, but do not otherwise constitute Consolidated Depreciation and Amortization Expense of, Holdings III and its Restricted Subsidiaries on a consolidated basis for such period.

"Equity Interests" means Capital Stock and all warrants, options or other rights to acquire Capital Stock, but excluding any debt security that is convertible into, or exchangeable for, Capital Stock.

"Equity Offering" means any public or private sale of common stock or Preferred Stock of the Company or any of its direct or indirect parent companies (excluding Disqualified Stock), other than:

(1) public offerings with respect to the Company's or any direct or indirect parent company's common stock registered on Form S-4 or Form S-8;

(2) issuances to any Subsidiary of the Company; and

(3) any such public or private sale that constitutes an Excluded Contribution.

“euro” means the single currency of participating member states of the EMU.

“Euroclear” means Euroclear S.A./N.V., as operator of the Euroclear system.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

“Excluded Assets” means certain items of property, as provided in the Collateral Documents.

“Excluded Contribution” means net cash proceeds, marketable securities or Qualified Proceeds received by the Company from:

(1) contributions to its common equity capital, and

(2) the sale (other than to a Subsidiary of the Company or to any management equity plan or stock option plan or any other management or employee benefit plan or agreement of the Company) of Capital Stock (other than Disqualified Stock and Designated Preferred Stock) of the Company,

in each case designated as Excluded Contributions pursuant to an officer’s certificate executed by the principal financial officer of the Company on the date such capital contributions are made or the date such Capital Stock is sold, as the case may be, which are excluded from the calculation set forth in clause (3) of Section 4.07(a) hereof.

“Excluded Proceeds” has the meaning specified in the definition of “Net Proceeds.”

“Existing Secured Notes” means the Issuer’s 5.00% Senior Secured Notes due 2021 issued pursuant to the Indenture dated as of May 21, 2013, among the Issuer, the Guarantors listed therein and The Bank of New York Mellon Trust Company, N.A., as Trustee.

“Existing Senior Notes” means (a) the Issuer’s Senior Floating Rate Notes due 2014 issued pursuant to the Indenture dated as of December 1, 2006, among the Issuer, the Guarantors listed therein and The Bank of New York Mellon, as Trustee, (b) the Issuer’s 10 3/4% Senior Notes due 2020 issued pursuant to the Indenture, dated as of September 30, 2010, among the Issuer, the Guarantors listed therein and The Bank of New York Mellon Trust Company, N.A., as Trustee, and (c) the Issuer’s 8.05% Senior Notes due 2020 issued pursuant to the Indenture, dated as of June 10, 2011, among the Issuer, the Guarantors listed therein and The Bank of New York Mellon Trust Company, N.A., as Trustee.

“Existing Senior Subordinated Notes” means the Issuer’s 10 1/8% Senior Subordinated Notes due 2016 issued pursuant to the Indenture dated as of December 1, 2006, among the Issuer, the Guarantors listed therein and The Bank of New York Mellon as Trustee.

“Existing Term Loan Facilities” means the term loan facilities dated as of March 4, 2011, as amended by (i) the joinder and amendment agreement dated as of November 18, 2011, (ii) the new term loan joinder agreement dated as of February 16, 2012, (iii) the new term loan joinder agreement dated as of December 10, 2012, (iv) the 2013 new term loan joinder agreement dated as of November 27, 2013 and (v) the 2014 new term loan joinder agreement dated as of February 18, 2014, by and among, the Company, NXP Funding LLC, the other Restricted Subsidiaries party thereto, the lenders party thereto in their capacities as lenders thereunder and the administrative agent named therein, including any guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals,

restatements, refundings or refinancings thereof and any indentures or credit facilities or commercial paper facilities with banks or other institutional lenders or investors that replace, refund or refinance any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount borrowable thereunder or alters the maturity thereof (provided that such increase in borrowings is permitted under Section 4.09 hereof)

“fair market value” means, with respect to any asset or liability, the fair market value of such asset or liability as determined by the Company in good faith; provided that if the fair market value is equal to or exceeds \$100.0 million, such determination shall be made by the board of directors of the Company in good faith.

“First Lien” means the liens on the Collateral in favor of the Secured Parties under the Collateral Documents relating to the Notes and the other Secured Parties under the other Collateral Documents.

“First Lien Debt Documents” means the Intercreditor Agreement, the Senior Credit Facilities Documents and any Additional First Lien Debt Documents.

“First Lien Obligations” means the Senior Credit Agreement Obligations and any Additional First Lien Debt Obligations.

“Fixed Charge Coverage Ratio” means, with respect to any Person for any period, the ratio of EBITDA of such Person for such period to the Fixed Charges of such Person for such period. In the event that the Company or any Restricted Subsidiary incurs, assumes, guarantees, redeems, retires or extinguishes any Indebtedness (other than Indebtedness incurred under any revolving credit facility unless such Indebtedness has been permanently repaid and has not been replaced) or issues or redeems Disqualified Stock or Preferred Stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated but prior to or simultaneously with the event for which the calculation of the Fixed Charge Coverage Ratio is made (the “Fixed Charge Coverage Ratio Calculation Date”), then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect to such incurrence, assumption, guarantee, redemption, retirement or extinguishment of Indebtedness, or such issuance or redemption of Disqualified Stock or Preferred Stock, as if the same had occurred at the beginning of the applicable four-quarter period.

For purposes of making the computation referred to above, Investments, acquisitions, dispositions, mergers, amalgamations, consolidations and disposed operations (as determined in accordance with GAAP) that have been made by the Company or any of its Restricted Subsidiaries during the four-quarter reference period or subsequent to such reference period and on or prior to or simultaneously with the Fixed Charge Coverage Ratio Calculation Date shall be calculated on a pro forma basis assuming that all such Investments, acquisitions, dispositions, mergers, amalgamations, consolidations and disposed operations (and the change in any associated fixed charge obligations and the change in EBITDA resulting therefrom) had occurred on the first day of the four-quarter reference period. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into the Company or any of its Restricted Subsidiaries since the beginning of such period shall have made any Investment, acquisition, disposition, merger, amalgamation, consolidation or disposed operation that would have required adjustment pursuant to this definition, then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect thereto for such period as if such Investment, acquisition, disposition, merger, consolidation or disposed operation had occurred at the beginning of the applicable four-quarter period.

For purposes of this definition, whenever pro forma effect is to be given to a transaction, Investment, acquisition, disposition, merger, amalgamation or consolidation (including the Transaction and the Merger) and the amount of income or earnings relating thereto, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the

Company (and may include, for the avoidance of doubt, cost savings and operating expense reductions resulting from such Investment, acquisition, merger, amalgamation or consolidation (including the Transaction and the Merger) which is being given pro forma effect that have been or are expected to be realized). If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Fixed Charge Coverage Ratio Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Company to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period except as set forth in the first paragraph of this definition. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Company may designate.

“Fixed Charges” means, with respect to any Person for any period, the sum of, without duplication:

- (1) Consolidated Interest Expense of such Person for such period;
- (2) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Preferred Stock during such period; and
- (3) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Disqualified Stock during such period.

“Foreign Acquisition Co.” means a direct Subsidiary of Holdings III or Holdings IV formed after the Issue Date as a holding company for the Transferred Foreign Subsidiaries and other Foreign Subsidiaries of Holdings III that are not Subsidiaries of Holdings V and (a) that provides a Guarantee and (b) all of whose stock shall be pledged by Holdings III or Holdings IV, as applicable, to secure the Obligations under this Indenture and the Notes, which Foreign Acquisition Co. shall be organized under the laws of Hungary, Luxembourg, The Netherlands, Iceland, Bermuda, Barbados, Mauritius, the British Virgin Islands, Malta, Cyprus or such other jurisdiction requested by Holdings III and reasonably acceptable to each administrative agent under the Senior Credit Facilities.

“Foreign Reorganization” means the transfer of any Foreign Subsidiary of the Issuer or any transfer of any assets or property of any Foreign Subsidiary of the Issuer to Foreign Acquisition Co. or any Subsidiary thereof; provided that such transferred Foreign Subsidiary and any Person who holds such transferred assets or property (in each case, a “Transferred Foreign Subsidiary”) shall become a Guarantor of the Obligations under this Indenture and the Notes and Foreign Acquisition Co., shall pledge or cause to be pledged 100% of the Equity Interests of such Transferred Foreign Subsidiary to secure the Obligations under this Indenture and the Notes.

“Foreign Subsidiary” means, with respect to any Person, any Restricted Subsidiary of such Person that is not organized or existing under the laws of the United States, any state thereof, the District of Columbia, or any territory thereof and any Restricted Subsidiary of such Foreign Subsidiary.

“GAAP” means generally accepted accounting principles in the United States which are in effect on the Transaction Date.



“Global Note Legend” means the legend set forth in Section 2.06(f)(ii) hereof, which is required to be placed on all Global Notes issued under this Indenture.

“Global Notes” means, individually and collectively, each of the Restricted Global Notes and the Unrestricted Global Notes, substantially in the form of Exhibit A hereto, issued in accordance with Section 2.01, 2.06(b) or 2.06(d) hereof.

“Government Securities” means securities that are:

- (1) direct obligations of the United States of America for the timely payment of which its full faith and credit is pledged; or
- (2) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the timely payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America,

which, in either case, are not callable or redeemable at the option of the issuers thereof, and shall also include a depository receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act), as custodian with respect to any such Government Securities or a specific payment of principal or interest on any such Government Securities held by such custodian for the account of the holder of such depository receipt; provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the Government Securities or the specific payment of principal of or interest on the Government Securities evidenced by such depository receipt.

“guarantee” means a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner (including letters of credit and reimbursement agreements in respect thereof), of all or any part of any Indebtedness or other obligations.

“Guarantee” means the guarantee by any Guarantor of the Issuer’s Obligations under this Indenture and the Notes.

“Guarantor” means the Parent Guarantors and each Subsidiary of the Company, if any, that Guarantees the Notes in accordance with the terms of this Indenture.

“Hedging Obligations” means, with respect to any Person, the obligations of such Person under any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, commodity swap agreement, commodity cap agreement, commodity collar agreement, foreign exchange contract, currency swap agreement or similar agreement providing for the transfer or mitigation of interest rate or currency risks either generally or under specific contingencies.

“Holder” means the Person in whose name a Note is registered on the Registrar’s books.

“Holdings I” means Freescale Semiconductor, Ltd., a Bermuda exempted limited liability company, and its successors.

“Holdings II” means Freescale Semiconductor Holdings II, Ltd., a Bermuda exempted company limited by shares, and its successors.

“Holdings III” means Freescale Semiconductor Holdings III, Ltd., a Bermuda exempted company limited by shares, and its successors.

“Holdings IV” means Freescale Semiconductor Holdings IV, Ltd., a Bermuda exempted company limited by shares, and its successors.

“Holdings V” means Freescale Semiconductor Holdings V, Inc., a Delaware corporation.

“Indebtedness” means, with respect to any Person, without duplication:

(1) any indebtedness (including principal and premium) of such Person, whether or not contingent:

(a) in respect of borrowed money;

(b) evidenced by bonds, notes, debentures or similar instruments or letters of credit or bankers’ acceptances (or, without duplication, reimbursement agreements in respect thereof);

(c) representing the balance deferred and unpaid of the purchase price of any property (including Capitalized Lease Obligations), except (i) any such balance that constitutes an obligation in respect of a commercial letter of credit, a trade payable or similar obligation to a trade creditor, in each case accrued in the ordinary course of business and (ii) any earn-out obligations until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP and if not paid after becoming due and payable;

(d) representing any Hedging Obligations; or

(e) during a Suspension Period only, obligations of the lessee for rental payments in respect of Sale and Lease-Back Transactions in an amount equal to the present value of such obligations during the remaining term of the lease using a discount rate equal to the rate of interest implicit in such transaction determined in accordance with GAAP,

if and to the extent that any of the foregoing Indebtedness (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP; provided, that Indebtedness of any direct or indirect parent of the Company appearing upon the balance sheet of the Company solely by reason of push-down accounting under GAAP shall be excluded.

(2) to the extent not otherwise included, any obligation by such Person to be liable for, or to pay, as obligor, guarantor or otherwise, on the obligations of the type referred to in clause (1) of a third Person (whether or not such items would appear upon the balance sheet of such obligor or guarantor), other than by endorsement of negotiable instruments for collection in the ordinary course of business; and

(3) to the extent not otherwise included, the obligations of the type referred to in clause (1) of a third Person secured by a Lien on any asset owned by such first Person, whether or not such Indebtedness is assumed by such first Person;

provided, that notwithstanding the foregoing, Indebtedness shall be deemed not to include (a) Contingent Obligations incurred in the ordinary course of business or (b) obligations under or in respect of Qualified Securitization Facilities.

“Indenture” means this Amended and Restated Indenture, as amended or supplemented from time to time.

“Independent Financial Advisor” means an accounting, appraisal, investment banking firm or consultant to Persons engaged in Similar Businesses of nationally recognized standing that is, in the good faith judgment of the Company, qualified to perform the task for which it has been engaged.

“Indirect Participant” means a Person who holds a beneficial interest in a Global Note through a Participant.

“Intellectual Property Security Agreement” means the intellectual property security agreement dated on or about the Issue Date, among the Issuer, Holdings V, SigmaTel, the subsidiaries of Holdings III from time to time party thereto and the Collateral Agent, as amended, supplemented, modified, extended, renewed or restated from time to time.

“Intercreditor Agreement” means the collateral agency agreement dated September 29, 2006 among, *inter alios*, the Company, the Guarantors listed therein, the secured parties listed therein and Morgan Stanley Senior Funding, Inc., as amended, supplemented, modified, extended, renewed or restated from time to time.

“Initial Notes” as defined in the recitals hereto.

“Initial Purchasers” means J.P. Morgan Securities LLC, Credit Suisse Securities (USA) LLC, Barclays Capital Inc., Citigroup Global Markets Inc., Deutsche Bank Securities Inc., Goldman, Sachs & Co. and Morgan Stanley & Co. LLC.

“Interest Payment Date” means May 15 and November 15 of each year to stated maturity.

“Investment Grade Rating” means a rating equal to or higher than Baa3 (or the equivalent) by Moody’s and BBB-(or the equivalent) by S&P, or an equivalent rating by any other Rating Agency.

“Investment Grade Securities” means:

- (1) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof (other than Cash Equivalents);
- (2) debt securities or debt instruments with an Investment Grade Rating, but excluding any debt securities or instruments constituting loans or advances among the Company and its Subsidiaries;
- (3) investments in any fund that invests exclusively in investments of the type described in clauses (1) and (2) which fund may also hold immaterial amounts of cash pending investment or distribution; and
- (4) corresponding instruments in countries other than the United States customarily utilized for high quality investments.

“Investments” means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of loans (including guarantees), advances or capital contributions (excluding accounts receivable, trade credit, advances to customers, commission, travel and similar advances to officers and employees, in each case made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities

issued by any other Person and investments that are required by GAAP to be classified on the balance sheet (excluding the footnotes) of the Company in the same manner as the other investments included in this definition to the extent such transactions involve the transfer of cash or other property. For purposes of the definition of “Unrestricted Subsidiary” and Section 4.07 hereof:

(1) “Investments” shall include the portion (proportionate to the Company’s equity interest in such Subsidiary) of the fair market value of the net assets of a Subsidiary of the Company at the time that such Subsidiary is designated an Unrestricted Subsidiary; provided, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Company shall be deemed to continue to have a permanent “Investment” in an Unrestricted Subsidiary in an amount (if positive) equal to:

(a) the Company’s “Investment” in such Subsidiary at the time of such redesignation; less

(b) the portion (proportionate to the Company’s Equity Interest in such Subsidiary) of the fair market value of the net assets of such Subsidiary at the time of such redesignation; and

(2) any property transferred to or from an Unrestricted Subsidiary shall be valued at its fair market value at the time of such transfer.

The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced by any dividend, distribution, interest payment, return of capital, repayment or other amount received in cash by the Company or a Restricted Subsidiary in respect of such Investment.

“Investors” means The Blackstone Group, The Carlyle Group, Permira funds advised by Permira Advisers LLC, Texas Pacific Group and, if applicable, each of their respective Affiliates and funds or partnerships managed by any of them or their respective Affiliates but not including, however, any portfolio companies of any of the foregoing.

“Issue Date” means November 1, 2013.

“Issuer” means Freescale Semiconductor, Inc., a Delaware corporation (and not any of its Subsidiaries), and its successors.

“Issuer Order” means a written request or order signed on behalf of the Issuer by an Officer of the Issuer, who must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of the Issuer, and delivered to the Trustee.

“Legal Holiday” means a Saturday, a Sunday or a day on which commercial banking institutions are not required to be open in the State of New York.

“Lien” means, with respect to any asset, any mortgage, lien (statutory or otherwise), pledge, hypothecation, charge, security interest, preference, priority or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction; provided that in no event shall an operating lease be deemed to constitute a Lien.

“Material Domestic Subsidiary” means, at any date of determination, each of the Company’s Domestic Subsidiaries other than Holdings V and the Issuer (a) whose total assets at the last day of the most recent test period were equal to or greater than 5% of at such date or (b) whose

gross revenues for such test period were equal to or greater than 5% of the consolidated gross revenues of the Company and the Restricted Subsidiaries for such period, determined in accordance with GAAP.

“Material Foreign Subsidiary” means, at any date of determination, each of the Company’s Foreign Subsidiaries other than Holdings IV (a) whose total assets at the last day of the most recent test period were equal to or greater than 5% of the Total Assets of the Company and the Restricted Subsidiaries at such date or (b) whose gross revenues for such test period were equal to or greater than 5% of the consolidated gross revenues of the Company and the Restricted Subsidiaries for such period, in each case determined in accordance with GAAP.

“Material Real Property” means any real property owned by the Issuer or any Secured Guarantor with a book value in excess of \$25,000,000.

“Measurement Date” means September 30, 2010.

“Merger” means the merger of Nimble Acquisition Limited, a Bermuda exempted limited liability company, and Holdings I pursuant to the Merger Agreement.

“Merger Agreement” means the merger agreement in relation to the Merger between NXP Holdings, Nimble Acquisition Limited, a Bermuda exempted limited liability company, and Holdings I dated March 1, 2015.

“Merger Date” means the date the Merger closes in accordance with the Merger Agreement.

“Moody’s” means Moody’s Investors Service, Inc. and any successor to its rating agency business.

“Mortgage” means collectively, the deeds of trust, trust deeds, hypothecs and mortgages made by the Secured Guarantors in favor or for the benefit of the Collateral Agent on behalf of the Secured Parties under the Collateral Documents relating to the Notes in form and substance reasonably satisfactory to the Collateral Agent and Trustee, and any other mortgages executed and delivered pursuant to this Indenture, as amended, supplemented, modified, extended, renewed or restated from time to time.

“Net Income” means, with respect to any Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of Preferred Stock dividends.

“Net Proceeds” means the aggregate cash proceeds received by the Company or any of its Restricted Subsidiaries in respect of any Asset Sale, including any cash received upon the sale or other disposition of any Designated Non-cash Consideration received in any Asset Sale, net of the direct costs relating to such Asset Sale and the sale or disposition of such Designated Non-cash Consideration, including legal, accounting and investment banking fees, and brokerage and sales commissions, any relocation expenses incurred as a result thereof, taxes paid or payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements), amounts required to be applied to the repayment of principal, premium, if any, and interest on Senior Indebtedness required (other than required by clause (1) of Section 4.10(b) hereof) to be paid as a result of such transaction and any deduction of appropriate amounts to be provided by the Company or any of its Restricted Subsidiaries as a reserve in accordance with GAAP against any liabilities associated with the asset disposed of in such transaction and retained by the Company or any of its Restricted Subsidiaries after such sale or other disposition thereof, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction; provided that net proceeds in an

aggregate amount of up to \$500,000,000 (the “Excluded Proceeds”) shall not constitute Net Proceeds so long as such net proceeds are, within 60 days following receipt thereof, applied to repay the NXP Notes or other unsecured Indebtedness in respect of borrowed money, or Refinancing Indebtedness of any of the foregoing (and to correspondingly reduce commitments with respect thereto) (provided that to the extent not so applied within such period, such net proceeds shall constitute Net Proceeds for all purposes hereof).

“Non-U.S. Person” means a Person who is not a U.S. Person.

“Notes” means the Initial Notes and more particularly means any Note authenticated and delivered under this Indenture. For all purposes of this Indenture, the term “Notes” shall also include any Additional Notes that may be issued under a supplemental indenture. For purposes of this Indenture, all references to Notes to be issued or authenticated upon transfer, replacement or exchange shall be deemed to refer to Notes.

“NXP February 2013 Indenture” means the indenture dated February 14, 2013, among, inter alios, the Company, the NXP Notes Co-Issuer, the guarantors listed therein and Deutsche Bank Trust Company Americas, as trustee, as amended from time to time.

“NXP February 2013 Notes” means the \$500 million in aggregate principal amount of 5.75% senior unsecured notes due 2021 issued by the Company and the NXP Notes Co-Issuer on February 14, 2013 pursuant to the NXP February 2013 Indenture.

“NXP Holdings” means NXP Semiconductors N.V., a public company with limited liability incorporated under the laws of The Netherlands, and its successors.

“NXP Indentures” means, collectively, the NXP February 2013 Indenture, the NXP March 2013 Indenture, the NXP May 2013 Indenture and the NXP September 2013 Indenture.

“NXP March 2013 Indenture” means the indenture dated March 12, 2013, among, inter alios, the Company, the NXP Notes Co-Issuer, the guarantors listed therein and Deutsche Bank Trust Company Americas, as trustee, as amended from time to time.

“NXP March 2013 Notes” means the \$500 million in aggregate principal amount of 5.75% senior unsecured notes due 2023 issued by the Company and the NXP Notes Co-Issuer on March 12, 2013 pursuant to the NXP March 2013 Indenture.

“NXP May 2013 Indenture” means the indenture dated May 20, 2013, among, inter alios, the Company, the NXP Notes Co-Issuer, the guarantors listed therein and Deutsche Bank Trust Company Americas, as trustee, as amended from time to time.

“NXP May 2013 Notes” means the \$750 million in aggregate principal amount of 3.75% senior unsecured notes due 2018 issued by the Company and the NXP Notes Co-Issuer on May 20, 2013 pursuant to the NXP May 2013 Indenture.

“NXP Measurement Date” means January 1, 2013.

“NXP Notes” means, collectively, the NXP February 2013 Notes, the NXP March 2013 Notes, the NXP May 2013 Notes and the NXP September 2013 Notes.

“NXP Notes Co-Issuer” means NXP Funding LLC, a company with limited liability incorporated under the laws of Delaware, and its successors.

“NXP Original Issue Date” means October 12, 2006.

“NXP September 2013 Indenture” means the indenture dated September 24, 2013, among, inter alios, the Company, the NXP Notes Co-Issuer, the guarantors listed therein and Deutsche Bank Trust Company Americas, as trustee, as amended from time to time.

“NXP September 2013 Notes” means the \$500 million in aggregate principal amount of 3.50% senior unsecured notes due 2016 issued by the Company and the NXP Notes Co-Issuer on September 24, 2013 pursuant to the NXP September 2013 Indenture.

“Obligations” means any principal, interest (including any interest accruing on or subsequent to the filing of a petition in bankruptcy, reorganization or similar proceeding at the rate provided for in the documentation with respect thereto, whether or not such interest is an allowed claim under applicable state, federal or foreign law), penalties, fees, indemnifications, reimbursements (including reimbursement obligations with respect to letters of credit and banker’s acceptances), damages and other liabilities, and guarantees of payment of such principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities, payable under the documentation governing any Indebtedness.

“Offering Memorandum” means the confidential offering memorandum, dated October 28, 2013, relating to the sale of the Initial Notes.

“Officer” means the Chairman of the Board, the Chief Executive Officer, the President, any Executive Vice President, Senior Vice President or Vice President, the Treasurer or the Secretary of any Person. Unless otherwise indicated, Officer shall refer to an Officer of the Company.

“Officer’s Certificate” means a certificate signed on behalf of a Person by an Officer of such Person, who must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of such Person, that meets the requirements set forth in this Indenture.

“Old Notes” means the 6.875% Senior Notes due 2011 issued by the Issuer and the 7.125% Notes due 2014 issued by the Issuer.

“Opinion of Counsel” means a written opinion from legal counsel who is acceptable to the Trustee. The counsel may be an employee of or counsel to the Company, the Issuer or the Trustee.

“Parent Guarantors” means the Company, Holdings I, Holdings II, Holdings III, Holdings IV and Holdings V.

“Participant” means, with respect to the Depository a Person who has an account with the Depository (and, with respect to DTC, shall include Euroclear and Clearstream).

“Permitted Asset Swap” means the substantially concurrent purchase and sale or exchange of Related Business Assets or a combination of Related Business Assets and cash or Cash Equivalents between the Company or any of its Restricted Subsidiaries and another Person; provided, that any cash or Cash Equivalents received must be applied in accordance with Section 4.10 hereof.

“Permitted Holders” means each of the Investors and members of management of the Company or its direct or indirect parent companies on the Merger Date who are holders of Equity Interests of the Company (or any of its direct or indirect parent companies) and any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act or any successor provision) of which any of the foregoing are members; provided, that, in the case of such group and without giving effect to the existence of such group or any other group, such Investors and members of management, collectively, have beneficial ownership of more than 50% of the total voting power of the Voting Stock of the Company or any of its direct or indirect parent companies.

“Permitted Investments” means:

- (1) any Investment in the Company or any of its Restricted Subsidiaries;
- (2) any Investment in cash and Cash Equivalents or Investment Grade Securities;
- (3) any Investment by the Company or any of its Restricted Subsidiaries in a Person that is engaged in a Similar Business if as a result of such Investment:
  - (a) such Person becomes a Restricted Subsidiary; or
  - (b) such Person, in one transaction or a series of related transactions, is merged, amalgamated or consolidated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Company or a Restricted Subsidiary,

and, in each case, any Investment held by such Person; provided, that such Investment was not acquired by such Person in contemplation of such acquisition, merger, consolidation or transfer;

(4) any Investment in securities or other assets not constituting cash, Cash Equivalents or Investment Grade Securities and received in connection with an Asset Sale made pursuant to the provisions described under Section 4.10 hereof or any other disposition of assets not constituting an Asset Sale;

(5) any Investment existing on the NXP Measurement Date;

(6) any Investment acquired by the Company or any of its Restricted Subsidiaries:

(a) in exchange for any other Investment or accounts receivable held by the Company or any such Restricted Subsidiary in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of the issuer of such other Investment or accounts receivable (including any trade creditor or customer); or

(b) as a result of a foreclosure by the Company or any of its Restricted Subsidiaries with respect to any secured Investment or other transfer of title with respect to any secured Investment in default;

(7) Hedging Obligations permitted under clause (10) of Section 4.09(b) hereof;

(8) any Investment in a Similar Business having an aggregate fair market value, taken together with all other Investments made pursuant to this clause (8) after the NXP Measurement Date that are at that time outstanding, not to exceed 3.5% of Total Assets at the time of such Investment (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value);

(9) Investments the payment for which consists of Equity Interests (exclusive of Disqualified Stock) of the Company, or any of its direct or indirect parent companies; provided, that such Equity Interests will not increase the amount available for Restricted Payments under clause (3) of Section 4.07(a) hereof;

(10) guarantees of Indebtedness permitted under Section 4.09 hereof;



(11) any transaction to the extent it constitutes an Investment that is permitted and made in accordance with the provisions of Section 4.11(b) hereof (except transactions described in clauses (2), (5) and (9) of Section 4.11(b) hereof);

(12) Investments consisting of purchases and acquisitions of inventory, supplies, material or equipment;

(13) additional Investments having an aggregate fair market value, taken together with all other Investments made pursuant to this clause (13) after the NXP Measurement Date that are at that time outstanding (without giving effect to the sale of an Unrestricted Subsidiary to the extent the proceeds of such sale do not consist of cash or marketable securities), not to exceed 4.0% of Total Assets at the time of such Investment (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value);

(14) Investments in or relating to a Securitization Subsidiary that, in the good faith determination of the Company are necessary or advisable to effect any Qualified Securitization Facility or any repurchase obligation in connection therewith;

(15) advances to, or guarantees of Indebtedness of, employees not in excess of \$25.0 million outstanding at any one time, in the aggregate;

(16) loans and advances to officers, directors and employees for business-related travel expenses, moving expenses and other similar expenses, in each case incurred in the ordinary course of business or consistent with past practices or to fund such Person's purchase of Equity Interests of the Company or any direct or indirect parent company thereof;

(17) advances, loans or extensions of trade credit in the ordinary course of business by the Company or any of its Restricted Subsidiaries; and

(18) Investments in or with respect to the Issuer's jointly funded alliance with respect to the 300 millimeter wafer fabrication in Crolles, France, as in effect on the Issue Date, and any amendment, modification or restructuring thereof, or any successor or replacement alliance or arrangement with respect thereto, or any additional alliance or arrangement with respect to 300 millimeter or larger wafer fabrication (in each case whether or not located in Crolles, France); provided that the aggregate fair market value of any such Investments in any calendar year shall not exceed an amount equal to:

(a) \$150.0 million, with unused amounts in any calendar year being carried over to succeeding calendar years subject to a maximum carryover of \$250.0 million; plus

(b) the amount of 300 Millimeter Asset Sale Proceeds received during such calendar year, with unused 300 Millimeter Asset Sale Proceeds in any calendar year being carried over to succeeding calendar years without any maximum carryover amount; provided that the aggregate amount of Investments made pursuant to this clause (b) shall not exceed \$500.0 million; minus

(c) the amount of 300 Millimeter R&D Expenses incurred during such calendar year that is added back to Consolidated Net Income of the Company with respect to such calendar year in arriving at EBITDA of the Company with respect to such calendar year (including with respect to such calendar year reducing the amounts available under the immediately preceding clauses (a) and (b), as applicable, for carryovers to succeeding calendar years).

“Permitted Liens” means, with respect to any Person:

(1) pledges or deposits by such Person under workmen’s compensation laws, unemployment insurance laws or similar legislation, or good faith deposits in connection with bids, tenders, contracts (other than for the payment of Indebtedness) or leases to which such Person is a party, or deposits to secure public or statutory obligations of such Person or deposits of cash or U.S. government bonds to secure surety or appeal bonds to which such Person is a party, or deposits as security for contested taxes or import duties or for the payment of rent, in each case incurred in the ordinary course of business;

(2) Liens imposed by law, such as carriers’, warehousemen’s and mechanics’ Liens, in each case for sums not yet overdue for a period of more than 30 days or being contested in good faith by appropriate proceedings or other Liens arising out of judgments or awards against such Person with respect to which such Person shall then be proceeding with an appeal or other proceedings for review if adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP;

(3) Liens for taxes, assessments or other governmental charges not yet overdue for a period of more than 30 days or payable or subject to penalties for nonpayment or which are being contested in good faith by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP;

(4) Liens in favor of issuers of performance and surety bonds or bid bonds or with respect to other regulatory requirements or letters of credit issued pursuant to the request of and for the account of such Person in the ordinary course of its business;

(5) minor survey exceptions, minor encumbrances, easements or reservations of, or rights of others for, licenses, rights-of-way, sewers, electric lines, telegraph and telephone lines and other similar purposes, or zoning or other restrictions as to the use of real properties or Liens incidental, to the conduct of the business of such Person or to the ownership of its properties which were not incurred in connection with Indebtedness and which do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;

(6) Liens securing Credit Facilities Obligations permitted to be incurred pursuant to clause (1) of Section 4.09(b);

(7) Liens securing Credit Facilities Obligations permitted to be incurred pursuant to Section 4.09; provided that at the time of incurrence, and after giving pro forma effect thereto, the Consolidated Secured Debt Ratio would be no greater than 3.25 to 1.00;

(8) Liens securing the Notes, any Guarantee of the Notes and other Obligations under the Notes and this Indenture (other than any Additional Notes, any Guarantees of any Additional Notes or other Obligations under any Additional Notes);

(9) Liens securing the Existing Secured Notes, any Guarantee of the Existing Secured Notes and other obligations under the Existing Secured Notes, and the indenture governing the Existing Secured Notes (other than any Existing Secured Notes issued after the Issue Date, any Guarantees of any Existing Secured Notes issued after the Issue Date or other Obligations under any Existing Secured Notes issued after the Issue Date);

(10) Liens securing Indebtedness permitted to be incurred pursuant to clause (4) or (12)(b) of Section 4.09(b) hereof;

- (11) Liens existing on the Issue Date and the Merger Date (including the Liens granted pursuant to Section 7.06 hereof);
- (12) Liens on property or shares of stock or other assets of a Person at the time such Person becomes a Subsidiary; provided, that such Liens are not created or incurred in connection with, or in contemplation of, such other Person becoming such a Subsidiary; provided, further, that such Liens may not extend to any other property or other assets owned by the Company or any of its Restricted Subsidiaries;
- (13) Liens on property or other assets at the time the Company or a Restricted Subsidiary acquired the property or such other assets, including any acquisition by means of a merger, amalgamation or consolidation with or into the Company or any of its Restricted Subsidiaries; provided, that such Liens are not created or incurred in connection with, or in contemplation of, such acquisition; provided, further, that the Liens may not extend to any other property owned by the Company or any of its Restricted Subsidiaries;
- (14) Liens securing Indebtedness or other obligations of a Restricted Subsidiary owing to the Company or another Restricted Subsidiary permitted to be incurred in accordance with the Section 4.09;
- (15) Liens securing Hedging Obligations so long as related Indebtedness is, and is permitted to be under this Indenture, secured by a Lien on the same property securing such Hedging Obligations;
- (16) Liens on specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;
- (17) leases, subleases, licenses or sublicenses granted to others in the ordinary course of business which do not materially interfere with the ordinary conduct of the business of the Company or any of its Restricted Subsidiaries and do not secure any Indebtedness;
- (18) Liens arising from Uniform Commercial Code financing statement filings regarding operating leases entered into by the Company and its Restricted Subsidiaries in the ordinary course of business;
- (19) Liens in favor of the Company, the Issuer or any Subsidiary Guarantor;
- (20) Liens on equipment of the Company or any of its Restricted Subsidiaries granted in the ordinary course of business to the Company's clients;
- (21) Liens on accounts receivable, Securitization Assets and related assets incurred in connection with a Qualified Securitization Facility;
- (22) Liens to secure any refinancing, refunding, extension, renewal or replacement (or successive refinancing, refunding, extensions, renewals or replacements) as a whole, or in part, of any Indebtedness secured by any Lien referred to in the foregoing clauses (10), (11), (12) and (13); provided, that (a) such new Lien shall be limited to all or part of the same property that secured the original Lien (plus improvements on such property), and (b) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (i) the outstanding principal amount or, if greater, committed amount of the Indebtedness described under clauses (10), (11), (12) and (13) at the time the original Lien became a Permitted Lien under this Indenture, and (ii) an amount necessary to pay any fees and expenses, including premiums, related to such refinancing, refunding, extension, renewal or replacement;

(23) deposits made in the ordinary course of business to secure liability to insurance carriers;

(24) other Liens securing obligations incurred in the ordinary course of business which obligations do not exceed \$65.0 million at any one time outstanding;

(25) Liens securing judgments for the payment of money not constituting an Event of Default under clause (5) under Section 6.01 hereof so long as such Liens are adequately bonded and any appropriate legal proceedings that may have been duly initiated for the review of such judgment have not been finally terminated or the period within which such proceedings may be initiated has not expired;

(26) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business;

(27) Liens (i) of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection, (ii) attaching to commodity trading accounts or other commodity brokerage accounts incurred in the ordinary course of business, and (iii) in favor of banking institutions arising as a matter of law encumbering deposits (including the right of set-off) and which are within the general parameters customary in the banking industry;

(28) Liens deemed to exist in connection with Investments in repurchase agreements permitted under Section 4.09 hereof; provided that such Liens do not extend to any assets other than those that are the subject of such repurchase agreement;

(29) Liens encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business and not for speculative purposes;

(30) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit or sweep accounts of the Company or any of its Restricted Subsidiaries to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Company and its Restricted Subsidiaries or (iii) relating to purchase orders and other agreements entered into with customers of the Company or any of its Restricted Subsidiaries in the ordinary course of business;

(31) Liens securing obligations owed by the Company or any Restricted Subsidiary to any lender under the Senior Credit Facilities or any Affiliate of such a lender in respect of any overdraft and related liabilities arising from treasury, depository and cash management services or any automated clearing house transfers of funds;

(32) Liens securing Indebtedness the proceeds of which are used to develop or construct new facilities (or any improvements to existing facilities) or equipment (or any improvements to existing equipment) designed primarily for the purpose of air or water pollutions control; provided that such Indebtedness is permitted to be incurred by the terms of this Indenture and such Liens do not extend to any assets of the Company or its Restricted Subsidiaries other than the assets acquired or improved with the proceeds of the Indebtedness secured by such Lien; and

(33) any encumbrance or restriction (including put and call arrangements) with respect to capital stock of any joint venture or similar arrangement pursuant to any joint venture or similar agreement.

For purposes of this definition, the term “Indebtedness” shall be deemed to include interest on such Indebtedness. The Permitted Liens listed in (6) and (7) may grant priority in right of payment to the Credit Facilities Obligations secured thereby, and to Hedging Obligations provided by any lender or letter of credit issuer (or any affiliate thereof) under the Revolving Credit Facility, but only for an aggregate principal amount not exceeding €750 million.

“Person” means any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

“Preferred Stock” means any Equity Interest with preferential rights of payment of dividends or upon liquidation, dissolution, or winding up.

“Private Placement Legend” means the legend set forth in Section 2.06(f)(i) hereof to be placed on all Notes issued under this Indenture, except where otherwise permitted by the provisions of this Indenture.

“QIB” means a “qualified institutional buyer” as defined in Rule 144A.

“Qualified Proceeds” means the fair market value of assets that are used or useful in, or Capital Stock of any Person engaged in, a Similar Business.

“Qualified Securitization Facility” means any Securitization Facility (a) constituting a securitization financing facility that meets the following conditions: (1) the board of directors of the Company shall have determined in good faith that such Securitization Facility (including financing terms, covenants, termination events and other provisions) is in the aggregate economically fair and reasonable to the Company and the applicable Securitization Subsidiary, (2) all sales and/or contributions of Securitization Assets and related assets to the applicable Securitization Subsidiary are made at fair market value (as determined in good faith by the Company) and (3) the financing terms, covenants, termination events and other provisions thereof shall be market terms (as determined in good faith by the Company) or (b) constituting a receivables financing facility.

“Rating Agencies” means Moody’s and S&P or if Moody’s or S&P or both shall not make a rating on the Notes publicly available, a nationally recognized statistical rating agency or agencies, as the case may be, selected by the Issuer which shall be substituted for Moody’s or S&P or both, as the case may be.

“Record Date” for the interest payable on any applicable Interest Payment Date means the May 1 or November 1 (whether or not a Business Day) immediately preceding such Interest Payment Date.

“Regulation S” means Regulation S promulgated under the Securities Act.

“Regulation S Global Note” means a Regulation S Temporary Global Note or Regulation S Permanent Global Note, as applicable.

“Regulation S Permanent Global Note” means a permanent Global Note in the form of Exhibit A hereto, bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depositary or its nominee, issued in a denomination equal to the outstanding principal amount of the Regulation S Temporary Global Note of the applicable series upon expiration of the Restricted Period.

“Regulation S Temporary Global Note” means a temporary Global Note in the form of Exhibit A hereto, bearing the Global Note Legend, the Private Placement Legend and the Regulation S Temporary Global Note Legend and deposited with or on behalf of and registered in the name of the Depository or its nominee, issued in a denomination equal to the outstanding principal amount of the Notes of the applicable series initially sold in reliance on Rule 903.

“Regulation S Temporary Global Note Legend” means the legend set forth in Section 2.06(f)(iii) hereof.

“Related Business Assets” means assets (other than cash or Cash Equivalents) used or useful in a Similar Business, provided that any assets received by the Company or a Restricted Subsidiary in exchange for assets transferred by the Company or a Restricted Subsidiary shall not be deemed to be Related Business Assets if they consist of securities of a Person, unless upon receipt of the securities of such Person, such Person would become a Restricted Subsidiary.

“Responsible Officer” means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such Person’s knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

“Restricted Definitive Note” means a Definitive Note bearing, or that is required to bear, the Private Placement Legend.

“Restricted Global Note” means a Global Note bearing, or that is required to bear, the Private Placement Legend.

“Restricted Investment” means an Investment other than a Permitted Investment.

“Restricted Parent Guarantor” means the Company, Holdings I, Holdings II, Holdings III, Holdings IV and Holdings V.

“Restricted Period” means the 40-day distribution compliance period as defined in Regulation S.

“Restricted Subsidiary” means, at any time, Holdings I, Holdings II, Holdings III, Holdings IV, Holdings V, the Issuer and any other direct or indirect Subsidiary of the Company (including any Foreign Subsidiary) that is not then an Unrestricted Subsidiary; provided, that upon an Unrestricted Subsidiary ceasing to be an Unrestricted Subsidiary, such Subsidiary shall be included in the definition of “Restricted Subsidiary” if it is then a Subsidiary of the Company.

“Revolving Credit Facility” means the \$600 million super senior secured revolving credit facility entered into as of the Merger Date by and among NXP Holdings, the Company, NXP Funding LLC, the other Restricted Subsidiaries party thereto, the lenders party thereto in their capacities as lenders thereunder and the administrative agent named therein, including any guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements, refundings or refinancings thereof and any indentures or credit facilities or commercial paper facilities with banks or other institutional lenders or investors that replace, refund or refinance any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount borrowable thereunder or alters the maturity thereof (provided that such increase in borrowings is permitted under Section 4.09 hereof).

“Rule 144” means Rule 144 promulgated under the Securities Act.

“Rule 144A” means Rule 144A promulgated under the Securities Act.

“Rule 903” means Rule 903 promulgated under the Securities Act.

“Rule 904” means Rule 904 promulgated under the Securities Act.

“S&P” means Standard & Poor’s Rating Services, and any successor to its rating agency business.

“Sale and Lease-Back Transaction” means any arrangement providing for the leasing by the Company or any of its Restricted Subsidiaries of any real or tangible personal property, which property has been or is to be sold or transferred by the Company or such Restricted Subsidiary to a third Person in contemplation of such leasing.

“SEC” means the U.S. Securities and Exchange Commission.

“Secured Guarantors” means the Restricted Parent Guarantors, the Domestic Subsidiary Guarantors and the Foreign Subsidiary Guarantors providing secured Guarantees.

“Secured Indebtedness” means any Indebtedness of the Company or any of its Restricted Subsidiaries secured by a Lien.

“Secured Parties” means the Senior Credit Agreement Secured Parties and the Additional First Lien Debt Parties.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

“Securitization Assets” means the accounts receivable, royalty or other revenue streams and other rights to payment related to the Specified Contract Rights subject to a Qualified Securitization Facility that is a securitization financing facility (and not a receivables financing facility) and the proceeds thereof.

“Securitization Facility” means any of one or more receivables or securitization financing facilities as amended, supplemented, modified, extended, renewed, restated or refunded from time to time, the Obligations of which are non-recourse (except for customary representations, warranties, covenants and indemnities made in connection with such facilities) to the Company or any of its Restricted Subsidiaries (other than a Securitization Subsidiary) pursuant to which the Company or any of its Restricted Subsidiaries sells or grants a security interest in its accounts receivable or Securitization Assets or assets related thereto to either (a) a Person that is not a Restricted Subsidiary or (b) a Securitization Subsidiary that in turn sells its accounts receivable to a Person that is not a Restricted Subsidiary.

“Securitization Fees” means distributions or payments made directly or by means of discounts with respect to any participation interest issued or sold in connection with, and other fees paid to a Person that is not a Securitization Subsidiary in connection with, any Qualified Securitization Financing.

“Securitization Subsidiary” means any Subsidiary formed for the purpose of, and that solely engages only in one or more Qualified Securitization Facilities and other activities reasonably related thereto.

“Security Agreement” means the security agreement dated as of November 1, 2013, among the Issuer, Holdings IV, SigmaTel, the subsidiaries of Holdings III from time to time party thereto and the Collateral Agent, as amended, supplemented, modified, extended, renewed or restated from time to time.

“Senior Credit Agreement Collateral Documents” means each security agreement, each intellectual property security agreement, each mortgage, each pledge of shares, each pledge of receivables, each pledge of moveable assets, the security agreement supplements and each other agreement, instrument or other document entered into in favor of the collateral agents under the Senior Credit Facilities Documents, the Collateral Agent or any of the other Senior Credit Agreement Secured Parties for purposes of securing the Senior Credit Agreement Obligations.

“Senior Credit Agreement Obligations” has the meaning assigned to the term “Secured Obligations” in the Revolving Credit Facility and/or the Term Loan Facilities (as the case may be).

“Senior Credit Agreement Secured Parties” has the meaning assigned to the term “Secured Parties” in the Revolving Credit Facility and/or the Term Loan Facilities (as applicable).

“Senior Credit Facilities” means the Revolving Credit Facility and the Term Loan Facilities.

“Senior Credit Facilities Documents” means the Senior Credit Facilities, any promissory notes issued to any lender pursuant to the Revolving Credit Facility and/or the Term Loan Facilities (as applicable), the Senior Credit Agreement Collateral Documents and each other Loan Document (as defined in the Senior Credit Facilities), as the same may be amended, restated, supplemented or otherwise modified from time to time.

“Senior Indebtedness” means:

(1) all Indebtedness of the Issuer or any Guarantor outstanding under the Senior Credit Facilities, the Existing Secured Notes and the related Guarantees, the Notes and related Guarantees and the NXP Notes and related Guarantees (including interest accruing on or after the filing of any petition in bankruptcy or similar proceeding or for reorganization of the Issuer or any Guarantor (at the rate provided for in the documentation with respect thereto, regardless of whether or not a claim for post-filing interest is allowed in such proceedings)), and any and all other fees, expense reimbursement obligations, indemnification amounts, penalties, and other amounts (whether existing on the Issue Date or thereafter created or incurred) and all obligations of the Issuer or any Guarantor to reimburse any bank or other Person in respect of amounts paid under letters of credit, acceptances or other similar instruments;

(2) all Hedging Obligations (and guarantees thereof) owing to a Lender (as defined in the Senior Credit Facilities) or any Affiliate of such Lender (or any Person that was a Lender or an Affiliate of such Lender at the time the applicable agreement giving rise to such Hedging Obligation was entered into), provided that such Hedging Obligations are permitted to be incurred under the terms of this Indenture;

(3) any other Indebtedness of the Issuer or any Guarantor permitted to be incurred under the terms of this Indenture, unless the instrument under which such Indebtedness is incurred expressly provides that it is on a parity with or subordinated in right of payment to the Existing Senior Subordinated Notes or any related Guarantee, if such notes or guarantee were still outstanding; and



(4) all Obligations with respect to the items listed in the preceding clauses (1), (2) and (3);

provided, that Senior Indebtedness shall not include:

- (a) any obligation of such Person to the Company or any of its Subsidiaries;
- (b) any liability for federal, state, local or other taxes owed or owing by such Person;
- (c) any accounts payable or other liability to trade creditors arising in the ordinary course of business;
- (d) any Indebtedness or other Obligation of such Person which is subordinate or junior in right of payment to any other Indebtedness or other Obligation of such Person provided that Indebtedness is not deemed to be subordinated or junior to other Indebtedness or Obligations merely because it is unsecured or because it has a junior priority with respect to the same collateral; or
- (e) that portion of any Indebtedness which at the time of incurrence is incurred in violation of this Indenture.

“SigmaTel” means SigmaTel LLC, a Delaware limited liability company.

“Significant Subsidiary” means any Restricted Subsidiary that would be a “significant subsidiary” as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such regulation is in effect on the Issue Date.

“Similar Business” means any business conducted or proposed to be conducted by the Company and its Restricted Subsidiaries on the Issue Date and any reasonable extension thereof or any business that is similar, reasonably related, incidental or ancillary thereto.

“Specified Contract Rights” means certain intellectual property licenses, agreements or other contracts giving rise to not more than \$100 million of annual accounts receivable, royalty or other intellectual property revenue streams or other rights to payment.

“Specified Foreign Subsidiaries” means each Material Foreign Subsidiary that is not a direct or indirect Subsidiary of Holdings V, each Transferred Foreign Subsidiary and, after its formation, Foreign Acquisition Co.

“Subordinated Indebtedness” means, with respect to the Notes,

- (1) any Indebtedness of the Issuer which is by its terms subordinated in right of payment to the Notes, and
- (2) any Indebtedness of any Guarantor which is by its terms subordinated in right of payment to the Guarantee of such entity of the Notes.

“Subsidiary” means, with respect to any Person:

- (1) any corporation, association, or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof or is consolidated under GAAP with such Person at such time; and

(2) any partnership, joint venture, limited liability company or similar entity of which

(x) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof whether in the form of membership, general, special or limited partnership or otherwise, and

(y) such Person or any Restricted Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

“Subsidiary Guarantor” means each Guarantor other than the Parent Guarantors.

“Term Loan Facilities” means (A) (i) the senior secured B1 term loan facility in an aggregate principal amount of up to \$3.25billion and; (ii) the senior secured B2 term loan facility in an aggregate principal amount of up to \$3.25billion, entered into as of the Merger Date by and among, the Company, NXP Funding LLC, the other Restricted Subsidiaries party thereto, the lenders party thereto in their capacities as lenders thereunder and the administrative agent named therein, including any guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements, refundings or refinancings thereof and any indentures or credit facilities or commercial paper facilities with banks or other institutional lenders or investors that replace, refund or refinance any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount borrowable thereunder or alters the maturity thereof (provided that such increase in borrowings is permitted under Section 4.09 hereof); and (B) the Existing Term Loan Facilities.

“Total Assets” means the total assets of the Company and its Restricted Subsidiaries, determined on a consolidated basis in accordance with GAAP, as shown on the most recent balance sheet of the Company or such other Person as may be expressly stated.

“Transaction” means the transactions contemplated by the Transaction Agreement, the tender offer and consent solicitation relating to the Old Notes, the issuance of Existing Senior Notes and the Existing Senior Subordinated Notes and borrowings under the senior credit facilities agreement as in effect on the Transaction Date.

“Transaction Agreement” means the Agreement and Plan of Merger, dated as of September 15, 2006 by and among the Issuer, Firestone Acquisition Corporation and Firestone Holdings LLC, as in effect on the Transaction Date.

“Transaction Date” means December 1, 2006.

“Transferred Foreign Subsidiary” has the meaning specified in the definition of “Foreign Reorganization.”

“Treasury Rate” means, as of any Redemption Date, the yield to maturity as of such Redemption Date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to the Redemption Date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the

period from the Redemption Date to November 15, 2016; provided, that if the period from the Redemption Date to such date is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used.

“Trustee” means Wells Fargo Bank, National Association, as trustee, until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving hereunder.

“Uniform Commercial Code” means the New York Uniform Commercial Code as in effect from time to time.

“Unrestricted Definitive Note” means one or more Definitive Notes that do not bear and are not required to bear the Private Placement Legend.

“Unrestricted Global Note” means a permanent Global Note, substantially in the form of Exhibit A attached hereto that bears the Global Note Legend and that has the “Schedule of Exchanges of Interests in the Global Note” attached thereto, and that is deposited with or on behalf of and registered in the name of the Depository, representing Notes that do not bear the Private Placement Legend.

“Unrestricted Subsidiary” means:

- (1) any Subsidiary of the Company which at the time of determination is an Unrestricted Subsidiary (as designated by the Company, as provided below); and
- (2) any Subsidiary of an Unrestricted Subsidiary.

The Company may designate any Subsidiary of the Company (including any existing Subsidiary and any newly acquired or newly formed Subsidiary but excluding the Issuer and any Subsidiary of the Company as to which the Issuer is a Subsidiary) to be an Unrestricted Subsidiary unless such Subsidiary or any of its Subsidiaries owns any Equity Interests or Indebtedness of, or owns or holds any Lien on, any property of, the Company or any Subsidiary of the Company (other than solely any Subsidiary of the Subsidiary to be so designated); provided that:

- (1) any Unrestricted Subsidiary must be an entity of which the Equity Interests entitled to cast at least a majority of the votes that may be cast by all Equity Interests having ordinary voting power for the election of directors or Persons performing a similar function are owned, directly or indirectly, by the Company;
- (2) such designation complies with Section 4.07 hereof; and
- (3) each of:
  - (a) the Subsidiary to be so designated; and
  - (b) its Subsidiaries

has not at the time of designation, and does not thereafter, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable with respect to any Indebtedness pursuant to which the lender has recourse to any of the assets of the Company or any Restricted Subsidiary.

The Company may designate any Unrestricted Subsidiary to be a Restricted Subsidiary; provided that, immediately after giving effect to such designation, no Default shall have occurred and be continuing and either:

(1) the Company could incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Test described in Section 4.09(a) hereof; or

(2) the Fixed Charge Coverage Ratio for the Company and its Restricted Subsidiaries would be equal to or greater than such ratio for the Company and its Restricted Subsidiaries immediately prior to such designation, in each case on a pro forma basis taking into account such designation.

Any such designation by the Company shall be notified by the Company to the Trustee by promptly filing with the Trustee a copy of the resolution of the board of directors of the Company or any committee thereof giving effect to such designation and an Officer's Certificate certifying that such designation complied with the foregoing provisions.

"U.S. Dollar Equivalent" means, with respect to any monetary amount in a currency other than U.S. dollars, at any time for the determination thereof, the amount of U.S. dollars obtained by converting such foreign currency involved in such computation into U.S. dollars at the spot rate for the purchase of U.S. dollars with the applicable foreign currency as quoted by Reuters at approximately 10:00 A.M. (New York City time) on such date of determination (or if no such quote is available on such date, on the immediately preceding Business Day for which such a quote is available).

"U.S. Person" means a U.S. person as defined in Rule 902(k) under the Securities Act.

"Voting Stock" of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the board of directors of such Person.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness, Disqualified Stock or Preferred Stock, as the case may be, at any date, the quotient obtained by dividing:

(1) the sum of the products of the number of years from the date of determination to the date of each successive scheduled principal payment of such Indebtedness or redemption or similar payment with respect to such Disqualified Stock or Preferred Stock multiplied by the amount of such payment; by

(2) the sum of all such payments.

"Wholly-Owned Subsidiary." means, with respect to a Subsidiary of any Person, a Subsidiary of such Person, 100% of the outstanding Equity Interests of which (other than directors' qualifying shares) shall at the time be owned by such Person or by one or more Wholly-Owned Subsidiaries of such Person.

#### SECTION 1.02. Other Definitions.

<u>Term</u>	<u>Defined in Section</u>
"Acceptable Commitment"	4.10
"Affiliate Transaction"	4.11
"Asset Sale Offer"	4.10
"Authentication Order"	2.02
"Change of Control Offer"	4.14
"Change of Control Payment"	4.14
"Change of Control Payment Date"	4.14

<u>Term</u>	<u>Defined in Section</u>
“Covenant Defeasance”	8.03
“Covenant Suspension Event”	4.16
“DTC”	2.03
“Event of Default”	6.01
“Excess Proceeds”	4.10
“Excluded Assets”	11.02
“Fixed Charge Coverage Test”	4.09
“Foreign Payor”	4.05
“incur”	4.09
“Initial Lien”	4.12
“Legal Defeasance”	8.02
“Note Register”	2.03
“Offer Amount”	3.09
“Offer Period”	3.09
“Paying Agent”	2.03
“Purchase Date”	3.09
“Redemption Date”	3.07
“Refinancing Indebtedness”	4.09
“Refunding Capital Stock”	4.07
“Registrar”	2.03
“Relevant Taxing Jurisdiction”	4.05
“Restricted Payments”	4.07
“Reversion Date”	4.16
“Second Commitment”	4.10
“Successor Company”	5.01
“Successor Guarantor”	5.01
“Successor Person”	5.01
“Suspended Covenants”	4.16
“Suspension Date”	4.16
“Suspension Period”	4.16
“Taxes”	4.05
“Treasury Capital Stock”	4.07

SECTION 1.03. Rules of Construction. Unless the context otherwise requires:

- (a) a term has the meaning assigned to it;
- (b) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (c) “or” is not exclusive;
- (d) “including” means including without limitation;
- (e) words in the singular include the plural, and in the plural include the singular;
- (f) “will” shall be interpreted to express a command;
- (g) provisions apply to successive events and transactions;
- (h) references to sections of, or rules under, the Securities Act shall be deemed to include substitute, replacement or successor sections or rules adopted by the SEC from time to time;

(i) unless the context otherwise requires, any reference to an “Article,” “Section” or “clause” refers to an Article, Section or clause, as the case may be, of this Indenture; and

(j) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not any particular Article, Section, clause or other subdivision.

#### SECTION 1.04. Acts of Holders.

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing. Except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments or record or both are delivered to the Trustee and, where it is hereby expressly required, to the Issuer. Proof of execution of any such instrument or of a writing appointing any such agent, or the holding by any Person of a Note, shall be sufficient for any purpose of this Indenture and (subject to Section 7.01) conclusive in favor of the Trustee and the Issuer, if made in the manner provided in this Section 1.04.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by or on behalf of any legal entity other than an individual, such certificate or affidavit shall also constitute proof of the authority of the Person executing the same. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner that the Trustee deems sufficient.

(c) The ownership of Notes shall be proved by the Note Register.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other action by the Holder of any Note shall bind every future Holder of the same Note and the Holder of every Note issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof, in respect of any action taken, suffered or omitted by the Trustee, the Collateral Agent or the Issuer in reliance thereon, whether or not notation of such action is made upon such Note.

(e) The Issuer may set a record date for purposes of determining the identity of Holders entitled to give any request, demand, authorization, direction, notice, consent, waiver or take any other act, or to vote or consent to any action by vote or consent authorized or permitted to be given or taken by Holders.

(f) Without limiting the foregoing, a Holder entitled to take any action hereunder with regard to any particular Note may do so with regard to all or any part of the principal amount of such Note or by one or more duly appointed agents, each of which may do so pursuant to such appointment with regard to all or any part of such principal amount. Any notice given or action taken by a Holder or its agents with regard to different parts of such principal amount pursuant to this paragraph shall have the same effect as if given or taken by separate Holders of each such different part.

(g) Without limiting the generality of the foregoing, a Holder, including DTC, may make, give or take, by a proxy or proxies duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other action provided in this Indenture to be made, given or taken by Holders, and DTC may provide its proxy to the beneficial owners of interests in any such Global Note through such depository’s standing instructions and customary practices.

(h) The Issuer may fix a record date for the purpose of determining the Persons who are beneficial owners of interests in any Global Note held by DTC entitled under the procedures of such depository to make, give or take, by a proxy or proxies duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other action provided in this Indenture to be made, given or taken by Holders. If such a record date is fixed, the Holders on such record date or their duly appointed proxy or proxies, and only such Persons, shall be entitled to make, give or take such request, demand, authorization, direction, notice, consent, waiver or other action, whether or not such Holders remain Holders after such record date. No such request, demand, authorization, direction, notice, consent, waiver or other action shall be valid or effective if made, given or taken more than 90 days after such record date.

## ARTICLE II

### THE NOTES

#### SECTION 2.01. Form and Dating; Terms.

(a) General. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rules or usage. Each Note shall be dated the date of its authentication. The Notes shall be in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof.

(b) Global Notes. Notes issued in global form shall be substantially in the form of Exhibit A hereto (including the Global Note Legend thereon and the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Notes issued in definitive form shall be substantially in the form of Exhibit A hereto (but without the Global Note Legend thereon and without the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Each Global Note shall represent such of the outstanding Notes as shall be specified in the "Schedule of Exchanges of Interests in the Global Note" attached thereto and each shall provide that it shall represent up to the aggregate principal amount of Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as applicable, to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby shall be made by the Trustee or the Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06 hereof.

(c) Temporary Global Notes. Notes offered and sold in reliance on Regulation S shall be issued initially in the form of the Regulation S Temporary Global Note, which shall be deposited on behalf of the purchasers of the Notes represented thereby with the Custodian and registered in the name of the Depository or the nominee of the Depository for the accounts of designated agents holding on behalf of Euroclear or Clearstream, duly executed by the Issuer and authenticated by the Trustee as hereinafter provided. The Restricted Period shall be terminated upon the receipt by the Trustee of:

(i) a written certificate from the Depository, together with copies of certificates from Euroclear and Clearstream certifying that they have received certification of non-United States beneficial ownership of 100% of the aggregate principal amount of each Regulation S Temporary Global Note (except to the extent of any beneficial owners thereof who acquired an interest therein during the Restricted Period pursuant to another exemption from registration under the Securities Act and who shall take delivery of a beneficial ownership interest in a 144A Global Note bearing a Private Placement Legend, all as contemplated by Section 2.06(b) hereof); and

(ii) an Officer's Certificate from the Issuer.

Following the termination of the Restricted Period, beneficial interests in each Regulation S Temporary Global Note shall be exchanged for beneficial interests in a Regulation S Permanent Global Note of the same series pursuant to the Applicable Procedures. Simultaneously with the authentication of the corresponding Regulation S Permanent Global Note, the Trustee shall cancel the corresponding Regulation S Temporary Global Note. The aggregate principal amount of a Regulation S Temporary Global Note and a Regulation S Permanent Global Note may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depository or its nominee, as the case may be, in connection with transfers of interest as hereinafter provided.

(d) Terms. The aggregate principal amount of Notes that may be authenticated and delivered under this Indenture is unlimited.

The terms and provisions contained in the Notes shall constitute, and are hereby expressly made, a part of this Indenture and the Issuer, the Guarantors and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

The Notes shall be subject to repurchase by the Issuer pursuant to an Asset Sale Offer as provided in Section 4.10 hereof or a Change of Control Offer as provided in Section 4.14 hereof. The Notes shall not be redeemable, other than as provided in Article 3 hereof.

Additional Notes ranking pari passu with the Initial Notes may be created and issued from time to time by the Issuer without notice to or consent of the Holders and shall be consolidated with and form a single class with the Initial Notes and shall have the same terms as to status, redemption or otherwise as the Initial Notes; provided that the Issuer's ability to issue Additional Notes shall be subject to the Issuer's compliance with Section 4.09 hereof. Any Additional Notes shall be issued with the benefit of an indenture supplemental to this Indenture.

SECTION 2.02. Execution and Authentication. At least one Officer of the Issuer shall execute the Notes on behalf of the Issuer by manual or facsimile signature.

If an Officer of the Issuer whose signature is on a Note no longer holds that office at the time the Trustee authenticates the Note, the Note shall nevertheless be valid.

A Note shall not be entitled to any benefit under this Indenture or be valid or obligatory for any purpose until authenticated substantially in the form of Exhibit A attached hereto by the manual signature of the Trustee. The signature shall be conclusive evidence that the Note has been duly authenticated and delivered under this Indenture.

On the Issue Date, the Trustee shall, upon receipt of an Issuer Order (an "Authentication Order"), authenticate and deliver the Initial Notes. In addition, at any time, from time to time, the Trustee shall upon an Authentication Order authenticate and deliver any Additional Notes for an aggregate principal amount specified in such Authentication Order for such Additional Notes issued or increased hereunder.

The Trustee may appoint an authenticating agent acceptable to the Issuer to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an Agent to deal with Holders or an Affiliate of the Issuer.

SECTION 2.03. Registrar and Paying Agent. (a) The Issuer shall maintain (i) an office or agency where Notes may be presented for registration of transfer or for exchange ("Registrar") and (ii) an office or agency where Notes may be presented for payment ("Paying")



Agent). The Registrar shall keep a register of the Notes ("Note Register") and of their transfer and exchange. The Issuer may appoint one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrar, and the term "Paying Agent" includes any additional paying agents. The Issuer initially appoints the Trustee as Paying Agent. The Issuer may change any Paying Agent or Registrar without prior notice to any Holder. The Issuer shall notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. If the Issuer fails to appoint or maintain another entity as Registrar or Paying Agent, the Trustee shall, to the extent that it is capable, act as such. The Issuer or any of its domestic Subsidiaries may act as Paying Agent or Registrar.

(b) The Issuer initially appoints The Depository Trust Company ("DTC") to act as Depository with respect to the Global Notes representing the Notes.

(c) The Issuer initially appoints the Trustee to act as the Registrar for the Notes.

SECTION 2.04. Paying Agent to Hold Money in Trust. The Issuer shall require each Paying Agent other than the Trustee to agree in writing that the Paying Agent shall hold in trust for the benefit of Holders or the Trustee all money held by the Paying Agent for the payment of principal and premium, if any, or interest on the Notes, and will notify the Trustee of any default by the Issuer in making any such payment. While any such default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee. The Issuer at any time may require a Paying Agent to pay all money held by it to the Trustee. Upon payment over to the Trustee, the Paying Agent (if other than the Issuer or a Subsidiary) shall have no further liability for the money. If the Issuer or a Subsidiary acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders all money held by it as Paying Agent. Upon any bankruptcy or reorganization proceedings relating to the Issuer, the Trustee shall serve as Paying Agent for the Notes.

SECTION 2.05. Holder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Holders. If the Trustee is not the Registrar, the Issuer shall furnish to the Trustee at least five Business Days before each Interest Payment Date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders of Notes.

SECTION 2.06. Transfer and Exchange.

(a) Transfer and Exchange of Global Notes. Except as otherwise set forth in this Section 2.06, a Global Note may be transferred, in whole and not in part, only to another nominee of the Depository or to a successor thereto or a nominee of such successor thereto. A beneficial interest in a Global Note may not be exchanged for a Definitive Note of the same series unless (A) the Depository (x) notifies the Issuer that it is unwilling or unable to continue as Depository for such Global Note or (y) has ceased to be a clearing agency registered under the Exchange Act, and, in either case, a successor Depository is not appointed by the Issuer within 120 days or (B) there shall have occurred and be continuing a Default with respect to the Notes. Upon the occurrence of any of the preceding events in (A) above, Definitive Notes delivered in exchange for any Global Note of the same series or beneficial interests therein will be registered in the names, and issued in any approved denominations, requested by or on behalf of the Depository (in accordance with its customary procedures). Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10 hereof. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note of the same series or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or 2.10 hereof, shall be authenticated and delivered in the form of, and shall be, a Global Note, except for Definitive Notes issued subsequent to any of the preceding events in (A) or (B) above and pursuant to Section 2.06 (c) hereof. A Global Note may not be exchanged for another Note other than as provided in this Section 2.06(a); provided, however, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b) or (c) hereof.

(b) Transfer and Exchange of Beneficial Interests in the Global Notes. The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depositary in accordance with the provisions of this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Notes shall be subject to restrictions on transfer comparable to those set forth herein to the extent required by the Securities Act. Transfers of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i) or (ii) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(i) Transfer of Beneficial Interests in the Same Global Note. Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Private Placement Legend; provided, that prior to the expiration of the Restricted Period, transfers of beneficial interests in the Regulation S Temporary Global Note may not be made to a U.S. Person or for the account or benefit of a U.S. Person other than pursuant to Rule 144A. Beneficial interests in any Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(i).

(ii) All Other Transfers and Exchanges of Beneficial Interests in Global Notes. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(i) hereof, the transferor of such beneficial interest must deliver to the Registrar either (A) (1) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase or (B) (1) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to cause to be issued a Definitive Note of the same series in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (1) above; provided that in no event shall Definitive Notes be issued upon the transfer or exchange of beneficial interests in a Regulation S Temporary Global Note prior to (A) the expiration of the Restricted Period and (B) the receipt by the Registrar of any certificates required pursuant to Rule 903. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.06(g) hereof.

(iii) Transfer of Beneficial Interests to Another Restricted Global Note. A beneficial interest in any Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Note if the transfer complies with the requirements of Section 2.06(b)(ii) hereof and the Registrar receives the following:

(A) if the transferee will take delivery in the form of a beneficial interest in a 144A Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof; or

(B) if the transferee will take delivery in the form of a beneficial interest in a Regulation S Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof.

(iv) Transfer and Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in an Unrestricted Global Note. A beneficial interest in any Restricted Global Note may be exchanged by any holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note if the exchange or transfer complies with the requirements of Section 2.06(b)(ii) hereof and the Registrar receives the following:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Note of the same series, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (1)(a) thereof; or

(B) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note of the same series, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case, if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer is effected pursuant to this paragraph (iv) at a time when an Unrestricted Global Note has not yet been issued, the Issuer shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred pursuant to this paragraph (iv).

Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Note.

(c) Transfer or Exchange of Beneficial Interests for Definitive Notes.

(i) Beneficial Interests in Restricted Global Notes to Restricted Definitive Notes. If any holder of a beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Restricted Definitive Note, then, upon the occurrence of any of the events in subsection (A) of Section 2.06(a) hereof and receipt by the Registrar of the following documentation:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note, a certificate from such holder substantially in the form of Exhibit C hereto, including the certifications in item (2)(a) thereof;

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such beneficial interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such beneficial interest is being transferred to the Issuer or any of its Restricted Subsidiaries, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(F) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3) (c) thereof,

the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(g) hereof, and the Issuer shall execute and the Trustee shall authenticate and mail to the Person designated in the instructions a Definitive Note in the applicable principal amount. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall mail such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c)(i) shall bear the Private Placement Legend and shall be subject to all restrictions on transfer contained therein.

(ii) Beneficial Interests in Regulation S Temporary Global Note to Definitive Notes. Notwithstanding Sections 2.06(c)(i)(A) and (C) hereof, a beneficial interest in the Regulation S Temporary Global Note may not be exchanged for a Definitive Note or transferred to a Person who takes delivery thereof in the form of a Definitive Note prior to (A) the expiration of the Restricted Period and (B) the receipt by the Registrar of any certificates required pursuant to Rule 903(b)(3)(ii)(B) of the Securities Act, except in the case of a transfer pursuant to an exemption from the registration requirements of the Securities Act other than Rule 903 or Rule 904.

(iii) Beneficial Interests in Restricted Global Notes to Unrestricted Definitive Notes. A holder of a beneficial interest in a Restricted Global Note may exchange such beneficial interest for an Unrestricted Definitive Note or may transfer such beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note only upon the occurrence of any of the events in subsection (A) of Section 2.06(a) hereof and if the Registrar receives the following:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for an Unrestricted Definitive Note, a certificate from such holder substantially in the form of Exhibit C hereto, including the certifications in item (1)(b) thereof; or

(B) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such holder substantially in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case, if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iv) Beneficial Interests in Unrestricted Global Notes to Unrestricted Definitive Notes. If any holder of a beneficial interest in an Unrestricted Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon the occurrence of any of the events in subsection (A) of Section 2.06(a) hereof and satisfaction of the conditions set forth in Section 2.06(b)(ii) hereof, the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(g) hereof, and the Issuer shall execute and the Trustee shall authenticate and mail to the Person designated in the instructions a Definitive Note in the applicable principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(iv) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from or through the Depository and the Participant or Indirect Participant. The Trustee shall mail such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(iv) shall not bear the Private Placement Legend.

(d) Transfer and Exchange of Definitive Notes for Beneficial Interests.

(i) Restricted Definitive Notes to Beneficial Interests in Restricted Global Notes. If any Holder of a Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note or to transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note, then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (2)(b) thereof;

(B) if such Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such Restricted Definitive Note is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such Restricted Definitive Note is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such Restricted Definitive Note is being transferred to the Issuer or any of its Restricted Subsidiaries, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(F) if such Restricted Definitive Note is being transferred pursuant to an effective registration statement under the Securities Act, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cancel the Restricted Definitive Note, increase or cause to be increased the aggregate principal amount of, in the case of clause (A) above, the applicable Restricted Global Note, in the case of clause (B) above, the applicable 144A Global Note, and in the case of clause (C) above, the applicable Regulation S Global Note.

(ii) Restricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of a Restricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note only if the Registrar receives the following:

(A) if the Holder of such Definitive Notes proposes to exchange such Notes for a beneficial interest in the Unrestricted Global Note, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (1)(c) thereof; or

(B) if the Holder of such Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of a beneficial interest in the Unrestricted Global Note, a certificate from such Holder substantially in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case, if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

Upon satisfaction of the conditions of any of the subparagraphs in this Section 2.06(d)(ii), the Trustee shall cancel the Definitive Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note.

(iii) Unrestricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of an Unrestricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee shall cancel the applicable Unrestricted Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes.

If any such exchange or transfer from a Definitive Note to a beneficial interest is effected pursuant to subparagraph (ii) or (iii) above at a time when an Unrestricted Global Note has not yet been issued, the Issuer shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of Definitive Notes so transferred.

(e) Transfer and Exchange of Definitive Notes for Definitive Notes. Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.06(e), the Registrar shall register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder shall present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the requesting Holder shall provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.06(e):

(i) Restricted Definitive Notes to Restricted Definitive Notes. Any Restricted Definitive Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note if the Registrar receives the following:

(A) if the transfer will be made pursuant to a QIB in accordance with Rule 144A, then the transferor must deliver a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transfer will be made pursuant to Rule 903 or Rule 904 then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; or

(C) if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications required by item (3) thereof, if applicable.

(ii) Restricted Definitive Notes to Unrestricted Definitive Notes. Any Restricted Definitive Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note if the Registrar receives the following:

(A) if the Holder of such Restricted Definitive Notes proposes to exchange such Notes for an Unrestricted Definitive Note, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (1)(d) thereof; or

(B) if the Holder of such Restricted Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such Holder substantially in the form of Exhibit B hereto, including the certifications in item (4) thereof;

(C) and, in each such case, if the Registrar so requests, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iii) Unrestricted Definitive Notes to Unrestricted Definitive Notes. A Holder of Unrestricted Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Notes pursuant to the instructions from the Holder thereof.

(f) Legends. The following legends shall appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture:

(i) Private Placement Legend.

(A) Except as permitted by subparagraph (B) below, each Global Note and each Definitive Note (and all Notes issued in exchange therefor or substitution thereof) shall bear the legend in substantially the following form:

“THE NOTE EVIDENCED HEREBY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER SECTION 5 OF THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND THE NOTE EVIDENCED HEREBY MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THE NOTE EVIDENCED HEREBY IS HEREBY NOTIFIED THAT THE SELLER MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER. THE HOLDER OF THE NOTE EVIDENCED HEREBY AGREES FOR THE BENEFIT OF THE COMPANY THAT (A) SUCH NOTE MAY BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED ONLY (1) (a) IN THE UNITED STATES TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (b) OUTSIDE THE UNITED STATES IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH RULE 904 UNDER THE SECURITIES ACT, IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144 UNDER THE SECURITIES ACT, TO AN INSTITUTIONAL “ACCREDITED INVESTOR” (AS DEFINED IN RULE 501 (a) (1), (2), (3) OR (7) UNDER THE SECURITIES ACT) THAT, PRIOR TO SUCH TRANSFER, FURNISHES THE TRUSTEE A SIGNED LETTER CONTAINING CERTAIN REPRESENTATIONS AND AGREEMENTS (THE FORM OF WHICH CAN BE OBTAINED FROM THE TRUSTEE) AND, IF SUCH TRANSFER IS IN RESPECT OF AN AGGREGATE PRINCIPAL AMOUNT OF NOTES LESS THAN \$250,000, AN OPINION OF COUNSEL ACCEPTABLE TO THE COMPANY THAT SUCH TRANSFER IS IN COMPLIANCE WITH THE SECURITIES ACT OR (e) IN ACCORDANCE WITH ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL IF THE COMPANY SO REQUESTS), (2) TO THE COMPANY OR (3) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT AND, IN EACH CASE, IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR ANY OTHER APPLICABLE JURISDICTION AND (B) THE HOLDER WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY ANY PURCHASER FROM IT OF THE NOTE EVIDENCED HEREBY OF THE RESALE RESTRICTIONS SET FORTH IN (A) ABOVE.”

(B) Notwithstanding the foregoing, any Global Note or Definitive Note issued pursuant to subparagraph (b) (iv), (c)(iii), (c)(iv), (d)(ii), (d) (iii), (e)(ii) or (e)(iii) of this Section 2.06 (and all Notes issued in exchange therefor or substitution thereof) shall not bear the Private Placement Legend.

(ii) Global Note Legend. Each Global Note representing the Notes shall bear a legend in substantially the following form (with appropriate changes in the last sentence if DTC is not the Depository):



“THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06(g) OF THE INDENTURE, (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (III) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (IV) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE ISSUER. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) (“DTC”) TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.”

(iii) Regulation S Temporary Global Note Legend. The Regulation S Temporary Global Note shall bear a legend in substantially the following form:

“THIS NOTE (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION ORIGINALLY EXEMPT FROM REGISTRATION UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND MAY NOT BE TRANSFERRED IN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, ANY U.S. PERSON EXCEPT PURSUANT TO AN AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND ALL APPLICABLE STATE SECURITIES LAWS. TERMS USED ABOVE HAVE THE MEANINGS GIVEN TO THEM IN REGULATION S UNDER THE SECURITIES ACT.”

(g) Cancellation and/or Adjustment of Global Notes. At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.11 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery

thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(h) General Provisions Relating to Transfers and Exchanges.

(i) To permit registrations of transfers and exchanges, the Issuer shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon receipt of an Authentication Order in accordance with Section 2.02 hereof or at the Registrar's request.

(ii) No service charge shall be made to a holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Issuer may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.07, 2.10, 3.06, 3.09, 4.10, 4.14 and 9.04 hereof).

(iii) Neither the Registrar nor the Issuer shall be required to register the transfer of or exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(iv) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes shall be the valid obligations of the Issuer, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(v) The Issuer shall not be required (A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of any selection of Notes for redemption under Section 3.02 hereof and ending at the close of business on the day of selection, (B) to register the transfer of or to exchange any Note so selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part or (C) to register the transfer of or to exchange a Note between a Record Date with respect to such Note and the next succeeding Interest Payment Date with respect to such Note.

(vi) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Issuer may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of (and premium, if any) and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Issuer shall be affected by notice to the contrary.

(vii) Upon surrender for registration of transfer of any Note at the office or agency of the Issuer designated pursuant to Section 4.02 hereof, the Issuer shall execute, and the Trustee shall authenticate and mail, in the name of the designated transferee or transferees, one or more replacement Notes of any authorized denomination or denominations of a like aggregate principal amount.

(viii) At the option of the Holder, Notes may be exchanged for other Notes of any authorized denomination or denominations of a like aggregate principal amount upon surrender of the Notes to be exchanged at such office or agency. Whenever any Global Notes or Definitive Notes are so surrendered for exchange, the Issuer shall execute, and the Trustee shall authenticate and mail, the replacement Global Notes and Definitive Notes which the Holder making the exchange is entitled to in accordance with the provisions of Section 2.02 hereof.

(ix) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.06 to effect a registration of transfer or exchange may be submitted by facsimile.

SECTION 2.07. Replacement Notes. If any mutilated Note is surrendered to the Trustee, the Registrar or the Issuer and the Trustee receives evidence to its satisfaction of the ownership and destruction, loss or theft of any Note, the Issuer shall issue and the Trustee, upon receipt of an Authentication Order, shall authenticate a replacement Note if the Trustee's requirements are met. If required by the Trustee or the Issuer, an indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Issuer to protect the Issuer, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a Note is replaced. The Issuer and the Trustee may charge the Holder for their expenses in replacing a Note.

Every replacement Note is a contractual obligation of the Issuer and shall be entitled to all of the benefits of this Indenture equally and proportionately with all other Notes duly issued hereunder.

SECTION 2.08. Outstanding Notes. The Notes outstanding at any time are all the Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with the provisions hereof and those described in this Section 2.08 as not outstanding. Except as set forth in Section 2.09 hereof, a Note does not cease to be outstanding because the Issuer, a Guarantor or an Affiliate of the Issuer or a Guarantor holds the Note.

If a Note is replaced pursuant to Section 2.07 hereof, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a protected purchaser (as defined in Section 8-303 of the Uniform Commercial Code).

If the principal amount of any Note is considered paid under Section 4.01 hereof, it ceases to be outstanding and interest on it ceases to accrue.

If the Paying Agent (other than the Issuer, a Guarantor or an Affiliate of the Issuer or a Guarantor) holds, on a Redemption Date or maturity date, money sufficient to pay Notes (or portions thereof) payable on that date, then on and after that date such Notes (or portions thereof) shall be deemed to be no longer outstanding and shall cease to accrue interest.

SECTION 2.09. Treasury Notes. In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Issuer, a Guarantor or by any Affiliate of the Issuer or a Guarantor, shall be considered as though not outstanding, except that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes that a Responsible Officer of the Trustee knows are so owned shall be so disregarded. Notes so owned which have been pledged in good faith shall not be disregarded if the pledgee establishes to the satisfaction of the Trustee the pledgee's right to deliver any such direction, waiver or consent with respect to the Notes and that the pledgee is not the Issuer, a Guarantor or any obligor upon the Notes or any Affiliate of the Issuer, a Guarantor or of such other obligor.

SECTION 2.10. Temporary Notes. Until certificates representing Notes are ready for delivery, the Issuer may prepare and the Trustee, upon receipt of an Authentication Order, shall authenticate temporary Notes. Temporary Notes shall be substantially in the form of certificated Notes but may have variations that the Issuer considers appropriate for temporary Notes and as shall be reasonably acceptable to the Trustee. Without unreasonable delay, the Issuer shall prepare and the Trustee shall authenticate definitive Notes in exchange for temporary Notes.

Holders and beneficial holders, as the case may be, of temporary Notes shall be entitled to all of the benefits accorded to Holders, or beneficial holders, respectively, of Notes under this Indenture.

SECTION 2.11. Cancellation. The Issuer at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee or, at the direction of the Trustee, the Registrar or the Paying Agent and no one else shall cancel all Notes surrendered for registration of transfer, exchange, payment, replacement or cancellation and shall destroy cancelled Notes (subject to the record retention requirement of the Exchange Act). Certification of the destruction of all cancelled Notes shall be delivered to the Issuer upon written request. The Issuer may not issue new Notes to replace Notes that it has paid or that have been delivered to the Trustee for cancellation.

SECTION 2.12. Defaulted Interest. If the Issuer defaults in a payment of interest on the Notes, it shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, in each case at the rate provided in the Notes and in Section 4.01 hereof. The Issuer may pay the defaulted interest to the Persons who are Holders on a subsequent special record date. The Issuer shall notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Note and the date of the proposed payment, and at the same time the Issuer shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such defaulted interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such defaulted interest as provided in this Section 2.12. The Trustee shall fix or cause to be fixed any such special record date and payment date; provided that no such special record date shall be less than 10 days prior to the related payment date for such defaulted interest. The Trustee shall promptly notify the Issuer of any such special record date. At least 15 days before any such special record date, the Issuer (or, upon the written request of the Issuer, the Trustee in the name and at the expense of the Issuer) shall send to each Holder, with a copy to the Trustee, a notice at his or her address as it appears in the Note Register that states the special record date, the related payment date and the amount of such interest to be paid.

Subject to the foregoing provisions of this Section 2.12 and for greater certainty, each Note delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Note shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Note.

SECTION 2.13. CUSIP/ISIN Numbers. The Issuer in issuing the Notes may use CUSIP and ISIN numbers (in each case, if then generally in use) and, if so, the Trustee shall use CUSIP and ISIN numbers in notices of redemption as a convenience to Holders; provided, that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice of redemption and that reliance may be placed only on the other identification numbers printed on the Notes, and any such redemption shall not be affected by any defect in or omission of such numbers. The Issuer will as promptly as practicable notify the Trustee in writing of any change in the CUSIP and ISIN numbers.

### ARTICLE III

#### REDEMPTION

SECTION 3.01. Notices to Trustee. If the Issuer elects to redeem Notes pursuant to Section 3.07 hereof, it shall furnish to the Trustee, at least 2 Business Days before notice of redemption is required to be mailed or caused to be sent to Holders pursuant to Section 3.03 hereof but not more than 60 days before a Redemption Date, an Officer's Certificate of the Issuer setting forth (i) the paragraph or subparagraph of the Note and/or Section of this Indenture pursuant to which the redemption shall occur, (ii) the Redemption Date, (iii) the principal amount of the Notes to be redeemed and (iv) the redemption price.

SECTION 3.02. Selection of Notes to Be Redeemed. If less than all of the Notes are to be redeemed at any time, the Trustee shall select the Notes to be redeemed (a) if the Notes are listed on any national securities exchange, in compliance with the requirements of the principal national securities exchange on which the Notes are listed or (b) on a pro rata basis to the extent practicable (and if the Notes are represented by one or more Global Notes, in accordance with the Applicable Procedures), or, if the pro rata basis is not practicable for any reason, by lot or by such other method the Trustee shall deem fair and appropriate. In the event of partial redemption by lot, the particular Notes to be redeemed shall be selected, unless otherwise provided herein, not less than 30 nor more than 60 days prior to the Redemption Date by the Trustee from the outstanding Notes not previously called for redemption.

The Trustee shall promptly notify the Issuer in writing of the Notes selected for redemption and, in the case of any Note selected for partial redemption, the principal amount thereof to be redeemed. Notes and portions of Notes selected shall be in amounts of \$2,000 or whole multiples of \$1,000 in excess thereof; no Notes of less than \$2,000 can be redeemed in part, except that if all of the Notes of a Holder are to be redeemed, the entire outstanding amount of Notes held by such Holder, even if not a multiple of \$1,000 shall be redeemed. Except as provided in the preceding sentence, provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption.

SECTION 3.03. Notice of Redemption. Subject to Section 3.09 hereof, the Issuer shall transmit or cause to be transmitted notices of redemption at least 30 days but not more than 60 days before the Redemption Date to each Holder of Notes to be redeemed at such Holder's registered address or otherwise in accordance with Applicable Procedures, except that redemption notices may be transmitted more than 60 days prior to a Redemption Date if the notice is issued in connection with Article 8 or Article 12 hereof. Except pursuant to a notice of redemption delivered in accordance with a redemption pursuant to Sections 3.07(b) hereof, notices of redemption may not be conditional.

The notice shall identify the Notes to be redeemed and shall state:

(a) the Redemption Date;

(b) the redemption price;

(c) if any Note is to be redeemed in part only, the portion of the principal amount of that Note that is to be redeemed and that, after the Redemption Date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion of the original Note representing the same indebtedness to the extent not redeemed will be issued in the name of the Holder of the Notes upon cancellation of the original Note;

(d) the name and address of the Paying Agent;

(e) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;

(f) that, unless the Issuer defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the Redemption Date;

(g) the paragraph or subparagraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed;

(h) the CUSIP and ISIN number, if any, printed on the Notes being redeemed and that no representation is made as to the correctness or accuracy of any such CUSIP and ISIN number that is listed in such notice or printed on the Notes; and

(i) if in connection with a redemption pursuant to Section 3.07(b) hereof, any condition to such redemption.

At the Issuer's request, the Trustee shall give the notice of redemption in the Issuer's name and at its expense; provided that the Issuer shall have delivered to the Trustee, at least 2 Business Days before notice of redemption is required to be transmitted or caused to be transmitted to Holders pursuant to this Section 3.03 (unless a shorter notice shall be agreed to by the Trustee), an Officer's Certificate of the Issuer requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph.

**SECTION 3.04. Effect of Notice of Redemption.** Once notice of redemption is transmitted in accordance with Section 3.03 hereof, Notes called for redemption become irrevocably due and payable on the Redemption Date at the redemption price (except as provided for in Sections 3.07(b) hereof). The notice, if transmitted in a manner herein provided, shall be conclusively presumed to have been given, whether or not the Holder receives such notice. In any case, failure to give such notice or any defect in the notice to the Holder of any Note designated for redemption in whole or in part shall not affect the validity of the proceedings for the redemption of any other Note. Subject to Section 3.05 hereof, on and after the Redemption Date, interest ceases to accrue on Notes or portions of Notes called for redemption.

**SECTION 3.05. Deposit of Redemption Price.**

(a) Prior to 11:00 A.M. (New York City time) on the Redemption Date, the Issuer shall deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption price of and accrued and unpaid interest on all Notes to be redeemed on that Redemption Date. The Trustee or the Paying Agent shall promptly return to the Issuer any money deposited with the Trustee or the Paying Agent by the Issuer in excess of the amounts necessary to pay the redemption price of, and accrued and unpaid interest on, all Notes to be redeemed.

(b) If the Issuer complies with the provisions of the preceding paragraph (a), on and after the Redemption Date, interest shall cease to accrue on the applicable series of Notes or the portions of Notes called for redemption. If a Note is redeemed on or after a Record Date but on or prior to the related Interest Payment Date, then any accrued and unpaid interest to the Redemption Date shall be paid to the Person in whose name such Note was registered at the close of business on such Record Date. If any Note called for redemption shall not be so paid upon surrender for redemption because of the failure of the Issuer to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the Redemption Date until such principal is paid, and to the extent lawful on any interest accrued to the Redemption Date not paid on such unpaid principal, in each case at the rate provided in the Notes and in Section 4.01 hereof.

**SECTION 3.06. Notes Redeemed in Part.** Upon surrender of a Note that is redeemed in part, the Issuer shall issue and the Trustee shall authenticate for the Holder at the expense of the Issuer a new Note equal in principal amount to the unredeemed portion of the Note surrendered representing the same indebtedness to the extent not redeemed; provided that each new Note will be in a principal amount of \$2,000 or an integral multiple of \$1,000 in excess thereof. It is understood that, notwithstanding anything in this Indenture to the contrary, only an Authentication Order and not an Opinion of Counsel or Officer's Certificate of the Issuer is required for the Trustee to authenticate such new Note.

**SECTION 3.07. Optional Redemption.**

(a) At any time prior to November 15, 2016, the Issuer may redeem all or a part of the Notes, upon notice in accordance with Section 3.03, at a redemption price equal to 100% of the principal amount of the Notes redeemed plus the Applicable Premium as of, and accrued and unpaid interest, if any, to, the date of redemption (the "Redemption Date"), subject to the right of Holders of record on the relevant record date to receive interest due on the relevant interest payment date.

(b) Until November 15, 2016, the Issuer may, at its option, redeem up to 35% of the aggregate principal amount of Notes issued by it at a redemption price equal to 106.000% of the aggregate principal amount thereof, plus accrued and unpaid interest, if any, to, the Redemption Date, subject to the right of Holders of Notes of record on the relevant record date to receive interest due on the relevant interest payment date, with the net cash proceeds received by it from one or more Equity Offerings; provided that (i) at least 50% of the sum of the aggregate principal amount of Notes originally issued under this Indenture and any Additional Notes that are Notes issued under this Indenture after the Issue Date remain outstanding immediately after the occurrence of each such redemption; and (ii) each such redemption occurs within 180 days of the date of closing of each such Equity Offering.

(c) Except pursuant to clause (a) or (b) of this Section 3.07, the Notes will not be redeemable at the Issuer's option prior to November 15, 2016.

(d) On and after November 15, 2016, the Issuer may redeem the Notes, in whole or in part, upon notice in accordance with Section 3.03 at the redemption prices (expressed as percentages of principal amount of the Notes to be redeemed) set forth below, plus accrued and unpaid interest, if any, to the Redemption Date, subject to the right of Holders of record on the relevant record date to receive interest due on the relevant interest payment date, if redeemed during the twelve-month period beginning on November 15 of each of the years indicated below:

<u>Year</u>	<u>Percentage</u>
2016	104.500%
2017	103.000%
2018	101.500%
2019 and thereafter	100.000%

(e) Any redemption pursuant to this Section 3.07 shall be made pursuant to the provisions of Sections 3.01 through 3.06 hereof.

**SECTION 3.08. Mandatory Redemption.** The Issuer shall not be required to make any mandatory redemption or sinking fund payments with respect to the Notes.

**SECTION 3.09. Offers to Repurchase by Application of Excess Proceeds.**

(a) In the event that, pursuant to Section 4.10 hereof, the Issuer shall be required to commence an Asset Sale Offer, it shall follow the procedures specified below.

(b) The Asset Sale Offer shall remain open for a period of 20 Business Days following its commencement and no longer, except to the extent that a longer period is required by applicable law (the "Offer Period"). No later than five Business Days after the termination of the Offer Period (the "Purchase Date"), the Issuer shall apply all Excess Proceeds (the "Offer Amount") to the purchase of Notes and, if required, any other Indebtedness constituting First Lien Obligations (on a pro rata basis, if applicable), or, if less than the Offer Amount has been tendered, all Notes and any other Indebtedness constituting First Lien Obligations tendered in response to the Asset Sale Offer. Payment for any Notes so purchased shall be made in the same manner as interest payments are made.

(c) If the Purchase Date is on or after a Record Date and on or before the related Interest Payment Date, any accrued and unpaid interest, up to but excluding the Purchase Date, shall be paid to the Person in whose name a Note is registered at the close of business on such Record Date, and no additional interest shall be payable to Holders who tender Notes pursuant to the Asset Sale Offer.

(d) Upon the commencement of an Asset Sale Offer, the Issuer shall send a notice to each of the Holders, with a copy to the Trustee. The notice shall contain all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Asset Sale Offer. The Asset Sale Offer shall be made to all Holders and holders of any other Indebtedness constituting First Lien Obligations. The notice, which shall govern the terms of the Asset Sale Offer, shall state:

(i) that the Asset Sale Offer is being made pursuant to this Section 3.09 and Section 4.10 hereof and the length of time the Asset Sale Offer shall remain open;

(ii) the Offer Amount, the purchase price and the Purchase Date;

(iii) that any Note not tendered or accepted for payment shall continue to accrue interest;

(iv) that, unless the Issuer defaults in making such payment, any Note accepted for payment pursuant to the Asset Sale Offer shall cease to accrue interest after the Purchase Date;

(v) that any Holder electing to have less than all of the aggregate principal amount of its Notes purchased pursuant to an Asset Sale Offer may elect to have Notes purchased in denominations of \$2,000 or whole multiples of \$1,000 in excess thereof;

(vi) that Holders electing to have a Note purchased pursuant to any Asset Sale Offer shall be required to surrender the Note, with the form entitled "Option of Holder to Elect Purchase" attached to the Note completed, or transfer by book-entry transfer, to the Issuer, the Depositary, if appointed by the Issuer, or a Paying Agent at the address specified in the notice at least two Business Days before the Purchase Date;

(vii) that Holders shall be entitled to withdraw their election if the Issuer, the Depositary or the Paying Agent, as the case may be, receives, not later than the expiration of the Offer Period, a facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Note the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have such Note purchased;

(viii) that, if the aggregate principal amount of Notes and any other Indebtedness constituting First Lien Obligations surrendered by the holders thereof exceeds the Offer Amount, the Trustee shall select the Notes and such other Indebtedness constituting First Lien Obligations to be purchased on a pro rata basis based on the accreted value or principal amount of the Notes or such other Indebtedness constituting First Lien Obligations tendered (with such adjustments as may be deemed appropriate by the Trustee so that only Notes in denominations of \$2,000 or whole multiples of \$1,000 in excess thereof are purchased); and

(ix) that Holders whose Notes were purchased only in part shall be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered (or transferred by book-entry transfer) representing the same indebtedness to the extent not repurchased.



(e) On or before the Purchase Date, the Issuer shall, to the extent lawful, (1) accept for payment, on a pro rata basis as described in clause (d) (viii) of this Section 3.09, the Offer Amount of Notes or portions thereof validly tendered pursuant to the Asset Sale Offer, or if less than the Offer Amount has been tendered, all Notes tendered and (2) deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officer's Certificate stating the aggregate principal amount of Notes or portions thereof so tendered.

(f) The Issuer, the Depository or the Paying Agent, as the case may be, shall promptly mail or deliver to each tendering Holder an amount equal to the purchase price of the Notes properly tendered by such Holder and accepted by the Issuer for purchase, and the Issuer shall promptly issue a new Note, and the Trustee, upon receipt of an Authentication Order, shall authenticate and mail or deliver (or cause to be transferred by book-entry) such new Note to such Holder (it being understood that, notwithstanding anything in this Indenture to the contrary, no Opinion of Counsel or Officer's Certificate of the Issuer is required for the Trustee to authenticate and mail or deliver such new Note) in a principal amount equal to any unpurchased portion of the Note surrendered representing the same indebtedness to the extent not repurchased. Any Note not so accepted shall be promptly mailed or delivered by the Issuer to the Holder thereof. The Issuer shall publicly announce the results of the Asset Sale Offer on or as soon as practicable after the Purchase Date.

(g) Prior to 11:00 A.M. (New York City time) on the Purchase Date, the Issuer shall deposit with the Trustee or with the Paying Agent money sufficient to pay the purchase price of and accrued and unpaid interest on all Notes to be purchased on that purchase date. The Trustee or the Paying Agent shall promptly return to the Issuer any money deposited with the Trustee or the Paying Agent by the Issuer in excess of the amounts necessary to pay the purchase price of, and accrued and unpaid interest on, all Notes to be redeemed.

Other than as specifically provided in this Section 3.09 or Section 4.10 hereof, any purchase pursuant to this Section 3.09 shall be made pursuant to the applicable provisions of Sections 3.01 through 3.06 hereof, and references therein to "redeem," "redemption" and similar words shall be deemed to refer to "purchase," "repurchase" and similar words, as applicable.

#### ARTICLE IV

#### COVENANTS

SECTION 4.01. Payment of Notes. The Issuer shall pay or cause to be paid the principal of, premium, if any, and interest on the Notes on the dates and in the manner provided in the Notes. Principal, premium, if any, and interest shall be considered paid on the date due if the Paying Agent, if other than the Issuer, a Guarantor or an Affiliate of the Issuer or a Guarantor, holds as of 11:00 A.M. Eastern Time on the due date money deposited by the Issuer in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due.

The Issuer shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the rate equal to the then applicable interest rate on the Notes to the extent lawful; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace period) at the same rate to the extent lawful.

SECTION 4.02. Maintenance of Office or Agency. The Issuer shall maintain the offices or agencies (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) required under Section 2.03 where Notes may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Issuer in respect of the Notes and this Indenture may be served. The Issuer shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Issuer shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

The Issuer may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; provided that no such designation or rescission shall in any manner relieve the Issuer of its obligation to maintain such offices or agencies as required by Section 2.03 for such purposes. The Issuer shall give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

The Issuer hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Issuer in accordance with Section 2.03 hereof.

#### SECTION 4.03. Reports and Other Information.

(a) Notwithstanding that Holdings III may not be subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act or that Holdings III does not otherwise report on an annual and quarterly basis on forms provided for such annual and quarterly reporting pursuant to rules and regulations promulgated by the SEC, Holdings III shall file with the SEC (and make available to the Trustee and Holders of the Notes (without exhibits), without cost to any Holder, within 15 days after it files them with the SEC) from and after the Issue Date,

(1) within 90 days (or any other time period then in effect under the rules and regulations of the Exchange Act with respect to the filing of a Form 10-K by a non-accelerated filer) after the end of each fiscal year, annual reports on Form 10-K, or any successor or comparable form, containing the information required to be contained therein, or required in such successor or comparable form;

(2) within 45 days (or any other time period then in effect under the rules and regulations of the Exchange Act with respect to the filing of a Form 10-Q by a non-accelerated filer) after the end of each of the first three fiscal quarters of each fiscal year, reports on Form 10-Q containing all quarterly information that would be required to be contained in Form 10-Q, or any successor or comparable form;

(3) promptly from time to time after the occurrence of an event required to be therein reported, such other reports on Form 8-K, or any successor or comparable form; and

(4) any other information, documents and other reports which Holdings III would be required to file with the SEC if it were subject to Section 13 or 15(d) of the Exchange Act;

in each case, in a manner that complies in all material respects with the requirements specified in such form (assuming Holdings III were a U.S. person with only unsecured debt registered under the Securities Act); provided, that Holdings III shall not be so obligated to file such reports with the SEC if the SEC does not permit such filing, in which event Holdings III will make available such information to prospective purchasers of Notes, in addition to providing such information to the Trustee and the Holders of the Notes, in each case within 15 days after the time Holdings III would be required to file such information with the SEC, if it were subject to Sections 13 or 15(d) of the Exchange Act. Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein, including compliance with any of the covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officer's Certificates).

In addition, to the extent not satisfied by the foregoing, for so long as any Notes are outstanding, Holdings III shall furnish to Holders and to securities analysts and prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

(b) For so long as Parent, Holdings II or any other direct or indirect parent company of Holdings III is a Guarantor, Holdings III shall be permitted to satisfy its obligations under this Section 4.03 with respect to financial information relating to Holdings III by furnishing financial information relating to Parent, Holdings II or such other parent; provided that the same is accompanied by consolidating information that explains in reasonable detail the differences between the information relating to Parent, Holdings II or such other parent, on the one hand, and the information relating to Holdings III and its Restricted Subsidiaries on a standalone basis, on the other hand or, at Holdings III's option, substantially in the form required by Rule 3-10(d) of Regulation S-X or any successor thereto. Notwithstanding anything in Section 4.03(a) to the contrary, Holdings III shall be deemed to have satisfied all its obligations under Section 4.03(a) without any further action so long as (i) the Company is a Guarantor, (ii) the shares of NXP Holdings are listed on a national securities exchange and (iii) NXP Holdings complies with all of its reporting obligations applicable to it under the Exchange Act within the time periods applicable pursuant to the Exchange Act.

(c) Holdings III will be deemed to have furnished reports required to be delivered under this Section 4.03 to the Trustee and the Holders if it has filed such reports with the SEC using the Edgar filing system and such reports are publicly available without charge.

(d) Notwithstanding anything herein to the contrary, Holdings III will not be deemed to have failed to comply with any of its obligations under this Section 4.03 for purposes of clause (3) under Section 6.01 until 120 days after the date any report is due under this Section 4.03.

#### SECTION 4.04. Compliance Certificate.

(a) The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year ending after the Issue Date, a certificate from the principal executive officer, principal financial officer or principal accounting officer stating that a review of the activities of the Company and its Restricted Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officer with a view to determining whether the Company and its Restricted Subsidiaries have kept, observed, performed and fulfilled their obligations under this Indenture, and further stating, as to such Officer signing such certificate, that to the best of his or her knowledge the Company and its Restricted Subsidiaries have kept, observed, performed and fulfilled each and every condition and covenant contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions, covenants and conditions of this Indenture (or, if a Default shall have occurred, describing all such Defaults of which he or she may have knowledge and what action the Company is taking or proposes to take with respect thereto).

(b) When any Default has occurred and is continuing under this Indenture, or if the Trustee or the holder of any other evidence of Indebtedness of the Company or any Subsidiary gives any notice or takes any other action with respect to a claimed Default, the Company shall within 30 days after the occurrence of such Default or receiving such notice deliver to the Trustee by registered or certified mail or by facsimile transmission an Officer's Certificate specifying any event of which it is aware would constitute a Default and what action the Company proposes to take with respect thereto.

#### SECTION 4.05. Taxes.

(a) The Company shall pay, and shall cause each of its Restricted Subsidiaries to pay, prior to delinquency, all material taxes, assessments, and governmental levies except such as are contested in good faith and by appropriate negotiations or proceedings or where the failure to effect such payment is not adverse in any material respect to the Holders of the Notes.

(b) All payments that any Guarantor that is not organized or existing under the laws of the United States, any state thereof, the District of Columbia, or any territory thereof (each a “Foreign Payor”) makes under or with respect to the Notes or any Guarantee, will be made free and clear of, and without withholding or deduction for or on account of, any present or future tax, duty, levy, impost, assessment or other governmental charges (including penalties, interest and other similar liabilities related thereto) of whatever nature (collectively, “Taxes”) imposed or levied by or on behalf of any jurisdiction in which any Foreign Payor is incorporated, organized or otherwise resident for tax purposes or from or through which any of the foregoing makes any payment on the Notes or by any taxing authority therein or political subdivision thereof (each, as applicable, a “Relevant Taxing Jurisdiction”), unless the applicable Foreign Payor is required to withhold or deduct Taxes by law or by the interpretation or administration of law. If a Foreign Payor is required to withhold or deduct any amount for, or on account of, Taxes of a Relevant Taxing Jurisdiction from any payment made under or with respect to the Notes or any Guarantee, such Foreign Payor will pay such additional amounts (“Additional Amounts”) as may be necessary to ensure that the net amount received by each Holder of the Notes after such withholding or deduction will be not less than the amount such Holder would have received if such Taxes had not been required to be withheld or deducted.

(c) Notwithstanding the foregoing, no Foreign Payor will be required to pay Additional Amounts to a Holder of Notes in respect of or on account of:

(1) any Taxes that are imposed or levied by a Relevant Taxing Jurisdiction by reason of such Holder’s present or former connection with such Relevant Taxing Jurisdiction, including such Holder being or having been a citizen, national, or resident, being or having been engaged in a trade or business, being, or having been, physically present in or having or having had a permanent establishment in a Relevant Taxing Jurisdiction (but not including, in each case, any connection arising from the mere receipt or holding of Notes or the receipt of payments thereunder or under a Guarantee or the exercise or enforcement of rights under any Notes or this Indenture or a Guarantee);

(2) any Taxes that are imposed or levied by reason of the failure of such Holder, following the written request of any Foreign Payor (as the case may be) addressed to such Holder (and made at a time that would enable such Holder acting reasonably to comply with that request) made in accordance with the notice procedures set forth in this Indenture, to comply with any certification, identification, information or other reporting requirements, whether required by statute, treaty, regulation or administrative practice of a Relevant Taxing Jurisdiction, as a precondition to exemption from, or reduction in the rate of withholding or deduction of, Taxes imposed by the Relevant Taxing Jurisdiction (including a certification that such Holder is not resident in the Relevant Taxing Jurisdiction);

(3) any estate, inheritance, gift, sales, transfer, personal property or similar Taxes;

(4) any Tax that is payable otherwise than by withholding or deduction from payments made under or with respect to the Notes;

(5) any Tax that is imposed or levied by reason of the presentation (where presentation is required in order to receive payment) of the Notes for payment on a date more than 30 days after the date on which such payment became due and payable or the date on which payment thereof is duly provided for, whichever is later, except to the extent that the beneficial owner or holder thereof would have been entitled to Additional Amounts had the Notes been presented for payment on any date during such 30 day period;

(6) any Tax except to the extent it exceeds any Tax that would have been required to be withheld from payments to the Holder if such payments were made by the Issuer; or

(7) any combination of items (1) through (6) above.

(d) Additional Amounts will not be paid with respect to the Notes to a Holder who is a fiduciary, a partnership, a limited liability company or other than the sole beneficial owner of the payment under or with respect to the Notes, to the extent that payment would be required by the laws of a Relevant Taxing Jurisdiction to be included in the income, for tax purposes, of a beneficiary or settlor with respect to the fiduciary, a member of that partnership, an interest holder in that limited liability company or a beneficial owner who would not have been entitled to the Additional Amounts had it been the Holder of the Notes.

(e) The relevant Foreign Payor shall (i) make such withholding or deduction as is required by applicable law and (ii) remit the full amount withheld or deducted to the relevant taxing authority in accordance with applicable law.

At least 30 calendar days prior to each date on which any payment under or with respect to the Notes is due and payable, if the relevant Foreign Payor will be obligated to pay Additional Amounts with respect to such payment (unless such obligation to pay Additional Amounts arises after the 30th day prior to the date on which payment under or with respect to the Notes is due and payable, in which case it will be promptly thereafter), the relevant Foreign Payor will deliver to the Trustee an Officer's Certificate of such Foreign Payor stating that such Additional Amounts will be payable and the amounts so payable and will set forth such other information necessary to enable the Trustee to pay such Additional Amounts to the applicable Holders on the payment date.

The relevant Foreign Payor shall promptly publish a notice in accordance with the notice provisions set forth in this Indenture stating that such Additional Amounts will be payable and describing the obligation to pay such amounts.

(f) Upon written request, the relevant Foreign Payor shall furnish to the Trustee or to a Holder of the Notes copies of tax receipts evidencing the payment of any Taxes by such Foreign Payor in such form as provided in the normal course by the taxing authority imposing such Taxes and as is reasonably available to such Foreign Payor. If, notwithstanding the efforts of such Foreign Payor to obtain such receipts, the same are not obtainable, such Foreign Payor shall provide the Trustee or the applicable Holder with other evidence reasonably satisfactory to the Trustee or such Holder.

(g) The Issuer and any Guarantor, as the case may be, will pay any present or future stamp, issue, registration, court, documentation, excise or property taxes or other similar taxes, charges and duties, including interest and penalties with respect thereto, imposed by or in any Relevant Taxing Jurisdiction in respect of the execution, issue, enforcement or delivery of the Notes or any other document or instrument referred to thereunder (other than on or in connection with a transfer of the Notes other than the initial resale by the Initial Purchasers).

(h) Whenever this Indenture or the Notes refers to, in any context, the payment of principal, premium, if any, interest or any other amount payable under or with respect to any Note or with respect to any Guarantee, such reference includes the payment of Additional Amounts, if applicable.

SECTION 4.06. Stay, Extension and Usury Laws. The Issuer and each of the Guarantors covenant (to the extent that they may lawfully do so) that they shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the

covenants or the performance of this Indenture; and the Issuer and each of the Guarantors (to the extent that they may lawfully do so) hereby expressly waive all benefit or advantage of any such law, and covenant that they shall not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law has been enacted.

SECTION 4.07. Limitation on Restricted Payments.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly:

(I) declare or pay any dividend or make any payment or distribution on account of the Company's, or any of its Restricted Subsidiaries' Equity Interests, including any dividend or distribution payable in connection with any merger, amalgamation or consolidation other than:

(A) dividends or distributions by the Company payable solely in Equity Interests (other than Disqualified Stock) of the Company; or

(B) dividends or distributions by a Restricted Subsidiary so long as, in the case of any dividend or distribution payable on or in respect of any class or series of securities issued by a Restricted Subsidiary other than a Wholly-Owned Subsidiary, the Company or a Restricted Subsidiary receives at least its pro rata share of such dividend or distribution in accordance with its Equity Interests in such class or series of securities;

(II) purchase, redeem, defease or otherwise acquire or retire for value any Equity Interests of the Company or any direct or indirect parent of the Company, including in connection with any merger, amalgamation or consolidation;

(III) make any principal payment on, or redeem, repurchase, defease or otherwise acquire or retire for value in each case, prior to any scheduled repayment, sinking fund payment or maturity, any Subordinated Indebtedness, other than:

(A) Indebtedness permitted under clauses (7) and (8) of Section 4.09(b) hereof; or

(B) the purchase, repurchase or other acquisition of Subordinated Indebtedness purchased in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of purchase, repurchase or acquisition; or

(IV) make any Restricted Investment

(all such payments and other actions set forth in clauses (I) through (IV) above being collectively referred to as "Restricted Payments"), unless, at the time of such Restricted Payment:

(1) no Default shall have occurred and be continuing or would occur as a consequence thereof;

(2) immediately after giving effect to such transaction on a pro forma basis, the Company could incur \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Test set forth in Section 4.09(a) hereof; and

(3) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Company and its Restricted Subsidiaries after the NXP Measurement Date (including Restricted Payments permitted by clauses (1), (2) (with respect to the payment of dividends on Refunding Capital Stock pursuant to clause (b) thereof only), (6)(c) and (14) of Section 4.07(b) hereof, but excluding all other Restricted Payments permitted by Section 4.07 (b) hereof), is less than the sum of (without duplication):

(A) 50% of the Consolidated Net Income of the Company for the period (taken as one accounting period and including the predecessor) beginning on the NXP Measurement Date, to the end of the Company's recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment, or, in the case such Consolidated Net Income for such period is a deficit, minus 100% of such deficit; plus

(B) 100% of the aggregate net cash proceeds and the fair market value of marketable securities or other property received by the Company since immediately after the NXP Measurement Date (other than net cash proceeds to the extent such net cash proceeds have been used to incur Indebtedness, Disqualified Stock or Preferred Stock pursuant to clause (12)(a) of Section 4.09(b) hereof) from the issue or sale of:

(i) (A) Equity Interests of the Company, including Treasury Capital Stock, but excluding cash proceeds and the fair market value of marketable securities or other property received from the sale of:

(x) Equity Interests to members of management, directors or consultants of the Company, any direct or indirect parent company of the Company and the Company's Subsidiaries after the NXP Measurement Date to the extent such amounts have been applied to Restricted Payments made in accordance with clause (4) of Section 4.07(b) hereof; and

(y) Designated Preferred Stock;

and (B) to the extent such net cash proceeds are actually contributed to the Company, Equity Interests of the Company's direct or indirect parent companies (excluding contributions of the proceeds from the sale of Designated Preferred Stock of such companies or contributions to the extent such amounts have been applied to Restricted Payments made in accordance with clause (4) of Section 4.07(b) hereof; or

(ii) debt securities of the Company that have been converted into or exchanged for such Equity Interests of the Company;

provided, that this clause (B) shall not include the proceeds from (W) Refunding Capital Stock, (X) Equity Interests or convertible debt securities of the Company sold to a Restricted Subsidiary, (Y) Disqualified Stock or debt securities that have been converted into Disqualified Stock or (Z) Excluded Contributions; plus

(C) 100% of the aggregate amount of cash and the fair market value of marketable securities or other property contributed to the capital of the Company following the NXP Measurement Date (other than net cash proceeds to the extent such net cash proceeds have been used to incur Indebtedness, Disqualified Stock or Preferred Stock pursuant to clause (12)(a) of Section 4.09(b) hereof) (other than by a Restricted Subsidiary and other than by any Excluded Contributions); plus

(D) 100% of the aggregate amount received in cash and the fair market value of marketable securities or other property received by means of:

(i) the sale or other disposition (other than to the Company or a Restricted Subsidiary) of Restricted Investments made by the Company or its Restricted Subsidiaries and repurchases and redemptions of such Restricted Investments from the Company or its Restricted Subsidiaries and repayments of loans or advances, and releases of guarantees, which constitute Restricted Investments by the Company or its Restricted Subsidiaries, in each case after the NXP Measurement Date; or

(ii) the sale (other than to the Company or a Restricted Subsidiary) of the stock of an Unrestricted Subsidiary or a distribution from an Unrestricted Subsidiary (other than in each case to the extent the Investment in such Unrestricted Subsidiary was made by the Company or a Restricted Subsidiary pursuant to clause (7) of Section 4.07(b) hereof or to the extent such Investment constituted a Permitted Investment) or a dividend from an Unrestricted Subsidiary after the NXP Measurement Date; plus

(E) in the case of the redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary after the NXP Measurement Date, the fair market value of the Investment in such Unrestricted Subsidiary (which, if the fair market value of such Investment shall exceed \$100.0 million, shall be set forth in writing by an Independent Financial Advisor), at the time of the redesignation of such Unrestricted Subsidiary as a Restricted Subsidiary other than an Unrestricted Subsidiary to the extent the Investment in such Unrestricted Subsidiary was made by the Company or a Restricted Subsidiary pursuant to clause (7) of Section 4.07(b) hereof or to the extent such Investment constituted a Permitted Investment;

provided, further, that, notwithstanding anything to the contrary provided in this Section 4.07(a)(3), such sum shall equal \$1,780 million as of the Merger Date, with no further adjustments for financial results or actions occurring on or prior to the Merger Date.

(b) The foregoing provisions of Section 4.07(a) hereof will not prohibit:

(1) the payment of any dividend within 60 days after the date of declaration thereof, if at the date of declaration such payment would have complied with the provisions of this Indenture;

(2) (a) the redemption, repurchase, retirement or other acquisition of any Equity Interests ("Treasury Capital Stock") or Subordinated Indebtedness of the Company or any Equity Interests of any direct or indirect parent company of the Company, in exchange for, or out of the proceeds of the substantially concurrent sale (other than to a Restricted Subsidiary) of, Equity Interests of the Company or any direct or indirect parent company of the Company to the extent contributed to the Company (in each case, other than any Disqualified Stock) ("Refunding Capital Stock") and (b) if immediately prior to the retirement of Treasury Capital Stock, the declaration and payment of dividends thereon was permitted under clause (6) of this Section 4.07(b), the declaration and payment of dividends on the Refunding Capital Stock (other than Refunding Capital Stock the proceeds of which were used to redeem, repurchase, retire or otherwise acquire any Equity Interests of any direct or indirect parent company of the Company) in an aggregate amount per year no greater than the aggregate amount of dividends per annum that were declarable and payable on such Treasury Capital Stock immediately prior to such retirement;

(3) the defeasance, redemption, repurchase or other acquisition or retirement of Subordinated Indebtedness of the Company, the Issuer or a Subsidiary Guarantor made (i) with Excluded Proceeds or (ii) by exchange for, or out of the proceeds of the substantially concurrent sale of, new Indebtedness of the Company, the Issuer or a Subsidiary Guarantor, as the case may be, which is incurred in compliance with Section 4.09 hereof so long as, in the case of clause (ii):



(A) the principal amount of such new Indebtedness does not exceed the principal amount of (or accreted value, if applicable), plus any accrued and unpaid interest on, the Subordinated Indebtedness being so redeemed, repurchased, acquired or retired for value, plus the amount of any reasonable premium required to be paid under the terms of the instrument governing the Subordinated Indebtedness being so redeemed, repurchased, acquired or retired and any reasonable fees and expenses incurred in connection with the issuance of such new Indebtedness;

(B) such new Indebtedness is subordinated to the Notes or the applicable Guarantee at least to the same extent as such Subordinated Indebtedness so purchased, exchanged, redeemed, repurchased, acquired or retired for value;

(C) such new Indebtedness has a final scheduled maturity date equal to or later than the final scheduled maturity date of the Subordinated Indebtedness being so redeemed, repurchased, acquired or retired; and

(D) such new Indebtedness has a Weighted Average Life to Maturity equal to or greater than the remaining Weighted Average Life to Maturity of the Subordinated Indebtedness being so redeemed, repurchased, acquired or retired;

(4) a Restricted Payment to pay for the repurchase, retirement or other acquisition or retirement for value of Equity Interests (other than Disqualified Stock) of the Company or any of its direct or indirect parent companies held by any future, present or former employee, director or consultant of the Company, any of its Subsidiaries or any of its direct or indirect parent companies pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement; provided, that the aggregate Restricted Payments made under this clause (4) do not exceed in any calendar year \$75.0 million (with unused amounts in any calendar year being carried over to succeeding calendar years subject to a maximum (without giving effect to the following proviso) of \$100.0 million in any calendar year); provided further that such amount in any calendar year may be increased by an amount not to exceed:

(A) the cash proceeds from the sale of Equity Interests (other than Disqualified Stock) of the Company and, to the extent contributed to the Company, Equity Interests of any of the Company's direct or indirect parent companies, in each case to members of management, directors or consultants of the Company, any of its Subsidiaries or any of its direct or indirect parent companies that occurs after the NXP Original Issue Date, to the extent the cash proceeds from the sale of such Equity Interests have not otherwise been applied to the payment of Restricted Payments by virtue of clause (3) of Section 4.07(a) hereof; plus

(B) the cash proceeds of key man life insurance policies received by the Company or its Restricted Subsidiaries after the NXP Original Issue Date; less

(C) the amount of any Restricted Payments made after the NXP Original Issue Date with the cash proceeds described in clauses (A) and (B) of this clause (4);

and provided further that cancellation of Indebtedness owing to the Company from members of management of the Company, any of the Company's direct or indirect parent companies or any of the Company's Restricted Subsidiaries in connection with a repurchase of Equity Interests of the Company or any of its direct or indirect parent companies will not be deemed to constitute a Restricted Payment for purposes of this Section 4.07 or any other provision of this Indenture;

(5) the declaration and payment of dividends to holders of any class or series of Disqualified Stock of the Company or any of its Restricted Subsidiaries or any class or series of Preferred Stock of any Restricted Subsidiary issued in accordance with Section 4.09 hereof to the extent such dividends are included in the definition of "Fixed Charges";

(6) (A) (the declaration and payment of dividends to holders of any class or series of Designated Preferred Stock (other than Disqualified Stock) issued by the Company after the NXP Measurement Date;

(B) the declaration and payment of dividends to a direct or indirect parent company of the Company, the proceeds of which will be used to fund the payment of dividends to holders of any class or series of Designated Preferred Stock (other than Disqualified Stock) of such parent corporation issued after the NXP Measurement Date, provided that the amount of dividends paid pursuant to this clause (B) shall not exceed the aggregate amount of cash actually contributed to the Company from the sale of such Designated Preferred Stock; or

(C) the declaration and payment of dividends on Refunding Capital Stock that is Preferred Stock in excess of the dividends declarable and payable thereon pursuant to clause (2) of this Section 4.07(b);

provided, in the case of each of (A), (B) and (C) of this clause (6), that for the most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date of issuance of such Designated Preferred Stock or the declaration of such dividends on Refunding Capital Stock that is Preferred Stock, after giving effect to such issuance or declaration on a pro forma basis, the Company and its Restricted Subsidiaries on a consolidated basis would have had a Fixed Charge Coverage Ratio of at least 2.00 to 1.00;

(7) Investments in Unrestricted Subsidiaries having an aggregate fair market value, taken together with all other Investments made after the NXP Measurement Date pursuant to this clause (7) that are at the time outstanding, without giving effect to the sale of an Unrestricted Subsidiary to the extent the proceeds of such sale do not consist of cash or marketable securities, not to exceed 2.0% of Total Assets at the time of such Investment (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value);

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

(9) the declaration and payment of dividends on the Company's common stock (or the payment of dividends to any direct or indirect parent entity to fund a payment of dividends on such entity's common stock) following the first public offering of the Company's common stock or the common stock of any of its direct or indirect parent companies after the NXP Original Issue Date of up to 6.0% per annum of the net cash proceeds received by or contributed to the Company in or from any such public offering, other than public offerings with respect to the Company's common stock registered on Form S-4 or Form S-8 and other than any public sale constituting an Excluded Contribution;

(10) Restricted Payments that are made with Excluded Contributions;

(11) other Restricted Payments in an aggregate amount taken together with all other Restricted Payments made pursuant to this clause (11) not to exceed \$450.0 million;

(12) distributions or payments of Securitization Fees;

(13) any Restricted Payment made in connection with the Transaction and the Merger and the fees and expenses related thereto or owed to Affiliates, in each case to the extent permitted by Section 4.11 hereof;

(14) the repurchase, redemption or other acquisition or retirement for value of any Subordinated Indebtedness pursuant to the provisions similar to those described under Section 4.10 and Section 4.14 hereof; provided that all Notes validly tendered by Holders in connection with a Change of Control Offer or Asset Sale Offer, as applicable, have been repurchased, redeemed or acquired for value;

(15) the declaration and payment of dividends by the Company to, or the making of loans to, any direct or indirect parent in amounts required for any direct or indirect parent companies to pay, in each case without duplication,

(A) franchise and excise taxes and other fees, taxes and expenses required to maintain their corporate existence;

(B) foreign, federal, state and local income taxes, to the extent such income taxes are attributable to the income of the Company and its Restricted Subsidiaries and, to the extent of the amount actually received from its Unrestricted Subsidiaries, in amounts required to pay such taxes to the extent attributable to the income of such Unrestricted Subsidiaries; provided that in each case the amount of such payments in any fiscal year does not exceed the amount that the Company and its Restricted Subsidiaries would be required to pay in respect of foreign, federal, state and local taxes for such fiscal year were the Company, its Restricted Subsidiaries and its Unrestricted Subsidiaries (to the extent described above) to pay such taxes separately from any such parent entity;

(C) customary salary, bonus and other benefits payable to officers and employees of any direct or indirect parent company of the Company to the extent such salaries, bonuses and other benefits are attributable to the ownership or operation of the Company and its Restricted Subsidiaries;

(D) general corporate operating and overhead costs and expenses of any direct or indirect parent company of the Company to the extent such costs and expenses are attributable to the ownership or operation of the Company and its Restricted Subsidiaries; and

(E) fees and expenses other than to Affiliates of the Company related to any unsuccessful equity or debt offering of such parent entity;

(16) the distribution, by dividend or otherwise, of shares of Capital Stock of, or Indebtedness owed to the Company or a Restricted Subsidiary by, Unrestricted Subsidiaries (other than Unrestricted Subsidiaries, the primary assets of which are cash and/or Cash Equivalents); and

provided, that at the time of, and after giving effect to, any Restricted Payment permitted under clauses (11) and (16) of this Section 4.07(b), no Default shall have occurred and be continuing or would occur as a consequence thereof.

(c) As of the Merger Date, all of the Company's Subsidiaries, including Holdings I, Holdings II, Holdings III, Holdings IV, Holdings V and the Issuer, will be Restricted Subsidiaries. The Company shall not permit any Unrestricted Subsidiary to become a Restricted Subsidiary except pursuant to the last sentence of the definition of "Unrestricted Subsidiary." For purposes of designating any Restricted Subsidiary as an Unrestricted Subsidiary, all outstanding

Investments by the Company and its Restricted Subsidiaries (except to the extent repaid) in the Subsidiary so designated will be deemed to be Restricted Payments in an amount determined as set forth in the last sentence of the definition of "Investments." Such designation will be permitted only if a Restricted Payment in such amount would be permitted at such time, whether pursuant to Section 4.07(a) hereof or under clause (7), (10) or (11) of Section 4.07(b) hereof, or pursuant to the definition of "Permitted Investments," and if such Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. Unrestricted Subsidiaries will not be subject to any of the restrictive covenants set forth in this Indenture.

**SECTION 4.08. Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries.**

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries that are not Guarantors to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or consensual restriction on the ability of any such Restricted Subsidiary to:

(1) (A) pay dividends or make any other distributions to the Company or any of its Restricted Subsidiaries on its Capital Stock or with respect to any other interest or participation in, or measured by, its profits, or

(B) pay any Indebtedness owed to the Company or any of its Restricted Subsidiaries;

(2) make loans or advances to the Company or any of its Restricted Subsidiaries; or

(3) sell, lease or transfer any of its properties or assets to the Company or any of its Restricted Subsidiaries.

(b) The restrictions in Section 4.08(a) hereof shall not apply to encumbrances or restrictions existing under or by reason of:

(1) contractual encumbrances or restrictions in effect on the Issue Date or the Merger Date, including, without limitation, pursuant to the Senior Credit Facilities and the related documentation, Hedging Obligations and the indentures governing the Existing Secured Notes and the NXP Notes, and, in each case, the related documentation, including any guarantees, collateral documents, instruments and agreements executed in connection therewith, and any additional Indebtedness of the Company or any Restricted Subsidiary with provisions that are, in the good faith judgment of the Company, no more restrictive with respect to such encumbrances and other restrictions taken as a whole than those in effect on the Issue Date or the Merger Date pursuant to the foregoing;

(2) this Indenture and the Notes;

(3) purchase money obligations for property acquired in the ordinary course of business that impose restrictions of the nature discussed in clause (3) of Section 4.08(a) hereof on the property so acquired;

(4) applicable law or any applicable rule, regulation or order;

(5) any agreement or other instrument of a Person acquired by the Company or any of its Restricted Subsidiaries in existence at the time of such acquisition or at the time it merges or amalgamates with or into the Company or any of its Restricted Subsidiaries or assumed in connection with the acquisition of assets from such Person (but, in any such case,

not created in contemplation thereof), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person and its Subsidiaries, or the property or assets of the Person and its Subsidiaries, so acquired or the property or assets so assumed;

(6) contracts for the sale of assets, including customary restrictions with respect to a Subsidiary of the Company pursuant to an agreement that has been entered into for the sale or disposition of all or substantially all of the Capital Stock or assets of such Subsidiary;

(7) Secured Indebtedness otherwise permitted to be incurred pursuant to Section 4.09 hereof and Section 4.12 hereof that limit the right of the debtor to dispose of the assets securing such Indebtedness;

(8) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;

(9) other Indebtedness, Disqualified Stock or Preferred Stock of Foreign Subsidiaries permitted to be incurred subsequent to the Issue Date pursuant to the provisions of Section 4.09 hereof;

(10) customary provisions in joint venture agreements and other similar agreements relating solely to such joint venture;

(11) customary provisions contained in leases, licenses or similar agreements, including with respect to intellectual property and other agreements, in each case, entered into in the ordinary course of business;

(12) any encumbrances or restrictions of the type referred to in clauses (1), (2) and (3) of Section 4.08(a) hereof imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (1) through (11) of this Section 4.08(b); provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Company, no more restrictive with respect to such encumbrance and other restrictions taken as a whole than those prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing; and

(13) restrictions created in connection with any Qualified Securitization Facility that, in the good faith determination of the Company, are necessary or advisable to effect such Qualified Securitization Facility.

#### SECTION 4.09. Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise (collectively, "incur" and collectively, an "incurrence") with respect to any Indebtedness (including Acquired Indebtedness) and the Company will not issue any shares of Disqualified Stock and will not permit any Restricted Subsidiary to issue any shares of Disqualified Stock or Preferred Stock; provided, that the Company may incur Indebtedness (including Acquired Indebtedness) or issue shares of Disqualified Stock, and, subject to Section 4.09(c) hereof, any Restricted Subsidiary may incur Indebtedness (including Acquired Indebtedness), issue shares of Disqualified Stock and issue shares of Preferred Stock, if the Fixed Charge Coverage Ratio on a consolidated basis for the Company and its Restricted Subsidiaries' most recently ended four fiscal quarters for which internal financial statements are available immediately

preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock or Preferred Stock is issued would have been at least 2.00 to 1.00 (the “Fixed Charge Coverage Test”), determined on a pro forma basis (including a pro forma application of the net proceeds therefrom), as if the additional Indebtedness had been incurred, or the Disqualified Stock or Preferred Stock had been issued, as the case may be, and the application of proceeds therefrom had occurred at the beginning of such four-quarter period.

(b) The provisions of Section 4.09(a) hereof shall not apply to:

(1) the incurrence of Indebtedness under Credit Facilities by the Company, the Issuer or any other Restricted Subsidiary and the issuance and creation of letters of credit and bankers’ acceptances thereunder (with letters of credit and bankers’ acceptances being deemed to have a principal amount equal to the face amount thereof), and any Refinancing Indebtedness in respect thereof and Guarantees in respect of such Indebtedness, up to an aggregate principal amount outstanding at any one time, when taken together with the aggregate principal amount (or, if issued with original issue discount, the accreted value) of Existing Secured Notes, the NXP Notes and Notes then outstanding, of (i) \$5,250.0 million, plus (ii) €750.0 million, plus (iii) in the case of any refinancing of any Indebtedness permitted under this clause (1) or any portion thereof, the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses Incurred in connection with such refinancing;

(2) the incurrence by the Issuer and any Guarantor of Indebtedness represented by the Notes (not including any Additional Notes), including any Guarantee of the Notes;

(3) Indebtedness of the Company, the Issuer and their Subsidiaries in existence on the Issue Date or the Merger Date (other than Indebtedness described in clauses (1) and (2) of this Section 4.09(b));

(4) Indebtedness (including Capitalized Lease Obligations), Disqualified Stock and Preferred Stock incurred by the Company or any of its Restricted Subsidiaries, to finance the purchase, lease or improvement of property (real or personal) or equipment that is used or useful in a Similar Business, whether through the direct purchase of assets or the Capital Stock of any Person owning such assets in an aggregate principal amount, together with any Refinancing Indebtedness in respect thereof and all other Indebtedness, Disqualified Stock and/or Preferred Stock issued and outstanding under this clause (4), not to exceed 4.0% of Total Assets at any time outstanding; so long as such Indebtedness exists at the date of such purchase, lease or improvement or is created within 270 days thereafter;

(5) Indebtedness incurred by the Company or any of its Restricted Subsidiaries constituting reimbursement obligations with respect to letters of credit issued in the ordinary course of business, including letters of credit in respect of workers’ compensation claims, or other Indebtedness with respect to reimbursement type obligations regarding workers’ compensation claims; provided, that upon the drawing of such letters of credit or the incurrence of such Indebtedness, such obligations are reimbursed within 30 days following such drawing or incurrence;

(6) Indebtedness arising from agreements of the Company or its Restricted Subsidiaries providing for indemnification, adjustment of purchase price, earnouts or similar obligations, in each case, incurred or assumed in connection with the disposition of any business, assets or a Subsidiary, other than guarantees of Indebtedness incurred by any Person acquiring all or any portion of such business, assets or a Subsidiary for the purpose of financing such acquisition; provided, that

(A) such Indebtedness is not reflected on the balance sheet of the Company or any of its Restricted Subsidiaries (contingent obligations referred to in a footnote to financial statements and not otherwise reflected on the balance sheet will not be deemed to be reflected on such balance sheet for purposes of this clause (6)(a)); and

(B) the maximum assumable liability in respect of all such Indebtedness shall at no time exceed the gross proceeds including non-cash proceeds (the fair market value of such non-cash proceeds being measured at the time received and without giving effect to any subsequent changes in value) actually received by the Company and its Restricted Subsidiaries in connection with such disposition;

(7) Indebtedness of the Company to a Restricted Subsidiary; provided that any such Indebtedness owing to a Restricted Subsidiary that is not a Guarantor (other than the Issuer) is expressly subordinated in right of payment to the Notes; provided further that any subsequent issuance or transfer of any Capital Stock or any other event which results in any Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness (except to the Company or another Restricted Subsidiary) shall be deemed, in each case, to be an incurrence of such Indebtedness;

(8) Indebtedness of a Restricted Subsidiary to the Company or another Restricted Subsidiary; provided that if a Guarantor incurs such Indebtedness to a Restricted Subsidiary that is not a Guarantor (other than the Issuer), such Indebtedness is expressly subordinated in right of payment to the Guarantee of the Notes of such Guarantor; provided further that any subsequent transfer of any such Indebtedness (except to the Company or another Restricted Subsidiary) shall be deemed, in each case, to be an incurrence of such Indebtedness;

(9) shares of Preferred Stock of a Restricted Subsidiary issued to the Company or another Restricted Subsidiary; provided that any subsequent issuance or transfer of any Capital Stock or any other event which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such shares of Preferred Stock (except to the Company or another of its Restricted Subsidiaries) shall be deemed in each case to be an issuance of such shares of Preferred Stock;

(10) Hedging Obligations (excluding Hedging Obligations entered into for speculative purposes) for the purpose of limiting interest rate risk with respect to any Indebtedness permitted to be incurred pursuant to this Section 4.09, exchange rate risk or commodity pricing risk;

(11) obligations in respect of performance, bid, appeal and surety bonds and completion guarantees provided by the Company or any of its Restricted Subsidiaries in the ordinary course of business;

(12) (a) Indebtedness or Disqualified Stock of the Company and Indebtedness, Disqualified Stock or Preferred Stock of the Company or any Restricted Subsidiary equal to 200.0% of the net cash proceeds received by the Company since immediately after the Transaction Date from the issue or sale of Equity Interests of the Company or any of its direct or indirect parent companies or cash contributed to the capital of the Company (in each case, other than proceeds of Disqualified Stock or sales of Equity Interests to the Company or any of its Subsidiaries) as determined in accordance with clauses (3)(B) and (3)(C) of Section 4.07(a) hereof to the extent such net cash proceeds or cash have not been applied pursuant to such clauses to make Restricted Payments or to make other Investments, payments or exchanges pursuant to Section 4.07(b) hereof or to make Permitted Investments (other than Permitted Investments specified in clauses (1) and (3) of the definition thereof) and (b) Indebtedness or Disqualified Stock of the Company and Indebtedness, Disqualified Stock or

Preferred Stock of the Company or, subject to Section 4.09(c) hereof, any Restricted Subsidiary not otherwise permitted hereunder in an aggregate principal amount or liquidation preference, which when aggregated with the principal amount and liquidation preference of all other Indebtedness, Disqualified Stock and Preferred Stock then outstanding and incurred pursuant to this clause (12)(b), does not at any one time outstanding exceed \$900.0 million (it being understood that any Indebtedness, Disqualified Stock or Preferred Stock incurred pursuant to this clause (12)(b) shall cease to be deemed incurred or outstanding for purposes of this clause (12)(b) but shall be deemed incurred for the purposes of Section 4.09 (a) hereof from and after the first date on which the Company or such Restricted Subsidiary could have incurred such Indebtedness, Disqualified Stock or Preferred Stock under Section 4.09(a) hereof without reliance on this clause (12) (b));

(13) the incurrence by the Company or any Restricted Subsidiary, of Indebtedness, Disqualified Stock or Preferred Stock which serves to refund or refinance any Indebtedness, Disqualified Stock or Preferred Stock incurred as permitted under Section 4.09(a) hereof and clauses (2), (3), (4) and (12)(a) of this Section 4.09(b), this clause (13) and clause (14) of this Section 4.09(b) or any Indebtedness, Disqualified Stock or Preferred Stock issued to so refund or refinance such Indebtedness, Disqualified Stock or Preferred Stock including additional Indebtedness, Disqualified Stock or Preferred Stock incurred to pay premiums (including reasonable tender premiums), defeasance costs and fees in connection therewith (the "Refinancing Indebtedness") prior to its respective maturity; provided, that such Refinancing Indebtedness:

(A) has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is incurred which is not less than the remaining Weighted Average Life to Maturity of, the Indebtedness, Disqualified Stock or Preferred Stock being refunded or refinanced,

(B) to the extent such Refinancing Indebtedness refinances (i) Indebtedness subordinated or pari passu to the Notes or any Guarantee thereof, such Refinancing Indebtedness is subordinated or pari passu to the Notes or the Guarantee at least to the same extent as the Indebtedness being refinanced or refunded or (ii) Disqualified Stock or Preferred Stock, such Refinancing Indebtedness must be Disqualified Stock or Preferred Stock, respectively,

(C) in the case of any Refinancing Indebtedness in respect of Indebtedness under the Senior Credit Facilities, the Notes, the NXP Notes or the Existing Secured Notes, or Refinancing Indebtedness of any of the foregoing, such Refinancing Indebtedness shall not be required to be incurred substantially contemporaneously with the related refinancing of the Senior Credit Facilities, such Notes, NXP Notes or Existing Secured Note, or Refinancing Indebtedness of any of the foregoing, as applicable; provided that any portion of the net proceeds of such Refinancing Indebtedness that is not applied to the repayment or prepayment of the Senior Credit Facilities, such Notes, NXP Notes or Existing Secured Note, or Refinancing Indebtedness of any of the foregoing, as applicable, within 45 days following the incurrence of such Refinancing Indebtedness shall not constitute Refinancing Indebtedness in respect of the Senior Credit Facilities, such Notes, NXP Notes or Existing Secured Note, or Refinancing Indebtedness of any of the foregoing, as applicable, and

(D) shall not include:

(i) Indebtedness, Disqualified Stock or Preferred Stock of a Subsidiary of the Company that is not a Guarantor (other than the Issuer) that refinances Indebtedness, Disqualified Stock or Preferred Stock of the Company or the Issuer;



(ii) Indebtedness, Disqualified Stock or Preferred Stock of a Subsidiary of the Company that is not a Guarantor (other than the Issuer) that refinances Indebtedness, Disqualified Stock or Preferred Stock of a Guarantor or the Issuer; or

(iii) Indebtedness, Disqualified Stock or Preferred Stock of the Company or a Restricted Subsidiary that refinances Indebtedness, Disqualified Stock or Preferred Stock of an Unrestricted Subsidiary;

(14) Indebtedness, Disqualified Stock or Preferred Stock of (x) the Company or, subject to Section 4.09(c) hereof, a Restricted Subsidiary incurred to finance an acquisition or (y) Persons that are acquired by the Company or any Restricted Subsidiary or merged or amalgamated into the Company or a Restricted Subsidiary in accordance with the terms of this Indenture; provided that after giving effect to such acquisition, merger or amalgamation either

(A) the Company would be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Test set forth in Section 4.09(a) hereof, or

(B) the Fixed Charge Coverage Ratio of the Company and the Restricted Subsidiaries is equal to or greater than immediately prior to such acquisition, merger or amalgamation;

(15) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business, provided that such Indebtedness is extinguished within five Business Days of its incurrence;

(16) Indebtedness of the Company or any of its Restricted Subsidiaries supported by a letter of credit issued pursuant to the Credit Facilities, in a principal amount not in excess of the stated amount of such letter of credit;

(17) (A) any guarantee by the Company or a Restricted Subsidiary of Indebtedness or other obligations of any Restricted Subsidiary so long as the incurrence of such Indebtedness incurred by such Restricted Subsidiary is permitted under the terms of this Indenture, or

(B) any guarantee by a Restricted Subsidiary of Indebtedness of the Issuer; provided that such guarantee is incurred in accordance with Section 4.15 hereof;

(18) Indebtedness consisting of Indebtedness issued by the Company or any of its Restricted Subsidiaries to current or former officers, directors and employees thereof, their respective estates, spouses or former spouses, in each case to finance the purchase or redemption of Equity Interests of the Company or any direct or indirect parent company of the Company to the extent described in clause (4) of Section 4.07(b) hereof.

(19) customer deposits and advance payments received in the ordinary course of business from customers for goods purchased in the ordinary course of business;

(20) Indebtedness owed on a short-term basis of no longer than 30 days to banks and other financial institutions incurred in the ordinary course of business of the Company and its Restricted Subsidiaries with such banks or financial institutions that arises in connection with ordinary banking arrangements to manage cash balances of the Company and its Restricted Subsidiaries;

(21) Indebtedness incurred by a Restricted Subsidiary in connection with bankers' acceptances, discounted bills of exchange or the discounting or factoring of receivables for credit management purposes, in each case incurred or undertaken in the ordinary course of business on arm's length commercial terms on a recourse basis; and

(22) Indebtedness of the Company or any of its Restricted Subsidiaries consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply arrangements in each case, incurred in the ordinary course of business.

(c) Restricted Subsidiaries of the Company that are not Guarantors (other than the Issuer) may not incur Indebtedness or Disqualified Stock or Preferred Stock under Section 4.09(a) hereof or clause 12(b) or 14(x) of Section 4.09(b) hereof if, after giving pro forma effect to such incurrence or issuance (including a pro forma application of the net proceeds therefrom), the aggregate amount of Indebtedness and Disqualified Stock and Preferred Stock of Restricted Subsidiaries that are not Guarantors (other than the Issuer) incurred or issued pursuant to Section 4.09(a) hereof and clauses 12(b) and 14(x) of Section 4.09(b) hereof, collectively, would exceed \$1,250.0 million.

(d) For purposes of determining compliance with this Section 4.09:

(1) in the event that an item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) meets the criteria of more than one of the categories of Permitted Indebtedness, Disqualified Stock or Preferred Stock described in clauses (1) through (22) of Section 4.09(b) hereof or is entitled to be incurred pursuant to Section 4.09(a) hereof, the Company, in its sole discretion, will classify or reclassify such item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) and will only be required to include the amount and type of such Indebtedness, Disqualified Stock or Preferred Stock in one of the above clauses or under Section 4.09(a) hereof; provided that all Indebtedness outstanding under the Senior Credit Facilities on the Merger Date will be treated as incurred on the Merger Date under clause (1) of Section 4.09(b) hereof; and

(2) at the time of incurrence, the Company will be entitled to divide and classify an item of Indebtedness in more than one of the types of Indebtedness described in Section 4.09(a) and Section 4.09(b) hereof.

Accrual of interest or dividends, the accretion of accreted value, the accretion or amortization of original issue discount and the payment of interest or dividends in the form of additional Indebtedness, Disqualified Stock or Preferred Stock, as the case may be, of the same class will not be deemed to be an incurrence of Indebtedness, Disqualified Stock or Preferred Stock for purposes of this Section 4.09.

For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed, in the case of revolving credit debt; provided that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced.

The principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such refinancing.

Notwithstanding anything to the contrary, the Company shall not, and shall not permit any Guarantor or the Issuer to, directly or indirectly, incur any Indebtedness (including Acquired Indebtedness) that is subordinated or junior in right of payment to any Indebtedness of the Company, such Guarantor or the Issuer, as the case may be, unless such Indebtedness is expressly subordinated in right of payment to the Notes or the Company's or such Guarantor's Guarantee to the extent and in the same manner as such Indebtedness is subordinated to other Indebtedness of the Company, such Guarantor or the Issuer, as the case may be. For the purposes of this Indenture, Indebtedness that is unsecured is not deemed to be subordinated or junior to Secured Indebtedness merely because it is unsecured, and Senior Indebtedness is not deemed to be subordinated or junior to any other Senior Indebtedness merely because it has a junior priority with respect to the same collateral.

SECTION 4.10. Asset Sales.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, cause, make or suffer to exist an Asset Sale, unless:

(1) the Company or such Restricted Subsidiary, as the case may be, receives consideration at the time of such Asset Sale at least equal to the fair market value of the assets sold or otherwise disposed of; and

(2) except in the case of a Permitted Asset Swap, at least 75% of the consideration therefor received by the Company or such Restricted Subsidiary, as the case may be, is in the form of cash or Cash Equivalents; provided that the amount of:

(A) any liabilities (as shown on the Company's or such Restricted Subsidiary's most recent balance sheet or in the footnotes thereto) of the Company or such Restricted Subsidiary, other than liabilities that are by their terms subordinated to the Notes, that are assumed by the transferee of any such assets and for which the Company and all of its Restricted Subsidiaries have been validly released by all creditors in writing,

(B) any securities received by the Company or such Restricted Subsidiary from such transferee that are converted by the Company or such Restricted Subsidiary into cash (to the extent of the cash received) within 180 days following the closing of such Asset Sale, and

(C) any Designated Non-cash Consideration received by the Company or such Restricted Subsidiary in such Asset Sale having an aggregate fair market value, taken together with all other Designated Non-cash Consideration received pursuant to this clause (c) that is at that time outstanding, not to exceed 2.5% of Total Assets at the time of the receipt of such Designated Non-cash Consideration, with the fair market value of each item of Designated Non-cash Consideration being measured at the time received and without giving effect to subsequent changes in value,

shall be deemed to be cash for purposes of this provision and for no other purpose.

(b) Within 450 days after the receipt of any Net Proceeds of any Asset Sale, the Company or such Restricted Subsidiary, at its option, may apply the Net Proceeds from such Asset Sale,

(1) to permanently reduce:

(A) First Lien Obligations (including Obligations under the Senior Credit Facilities and the Existing Secured Notes), and to correspondingly reduce commitments with respect thereto;

(B) Obligations under Senior Indebtedness that is secured by a Lien, which Lien is permitted by this Indenture, and to correspondingly reduce commitments with respect thereto; or

(C) Indebtedness of a Restricted Subsidiary that is not a Guarantor, other than Indebtedness owed to the Company or another Restricted Subsidiary;

(2) to make (a) an Investment in any one or more businesses, provided that such Investment in any business is in the form of the acquisition of Capital Stock and results in the Company or another of its Restricted Subsidiaries, as the case may be, owning an amount of the Capital Stock of such business such that it constitutes a Restricted Subsidiary, (b) capital expenditures or (c) acquisitions of other assets, in each of (a), (b) and (c), used or useful in a Similar Business, or

(3) to make an investment in (a) any one or more businesses, provided that such investment in any business is in the form of the acquisition of Capital Stock and results in the Company or another of its Restricted Subsidiaries, as the case may be, owning an amount of the Capital Stock of such business such that it constitutes a Restricted Subsidiary, (b) properties or (c) acquisitions of other assets that, in each of (a), (b) and (c), replace the businesses, properties and/or assets that are the subject of such Asset Sale;

provided that, in the case of clauses (2) and (3) above, a binding commitment shall be treated as a permitted application of the Net Proceeds from the date of such commitment so long as the Company or such other Restricted Subsidiary enters into such commitment with the good faith expectation that such Net Proceeds will be applied to satisfy such commitment within 180 days of such commitment (an "Acceptable Commitment") and, in the event any Acceptable Commitment is later cancelled or terminated for any reason before the Net Proceeds are applied in connection therewith, the Company or such Restricted Subsidiary enters into another Acceptable Commitment (a "Second Commitment") within 180 days of such cancellation or termination; provided further that if any Second Commitment is later cancelled or terminated for any reason before such Net Proceeds are applied, then such Net Proceeds shall constitute Excess Proceeds.

(c) Any Net Proceeds from the Asset Sale that are not invested or applied as provided and within the time period set forth in Section 4.10(b) hereof will be deemed to constitute "Excess Proceeds." When the aggregate amount of Excess Proceeds exceeds \$100.0 million, the Issuer shall make an offer to all Holders of the Notes and, if required by the terms of any other Indebtedness constituting First Lien Obligations, to the holders of such other First Lien Obligations (an "Asset Sale Offer"), to purchase the maximum aggregate principal amount of the Notes and such other First Lien Obligations that is at least \$2,000 or an integral multiple of \$1,000 thereafter that may be purchased out of the Excess Proceeds at an offer price in cash in an amount equal to 100% of the principal amount thereof (or accreted value, if less), plus accrued and unpaid interest, if any, to the date fixed for the closing of such offer, in accordance with the procedures set forth in this Indenture. The Issuer will commence an Asset Sale Offer with respect to Excess Proceeds within ten Business Days after the date that Excess Proceeds exceed \$100.0 million by sending the notice required pursuant to the terms of this Indenture, with a copy to the Trustee. The Issuer may satisfy the foregoing obligations with respect to any Net Proceeds from an Asset Sale by making an Asset Sale Offer with respect to such Net Proceeds prior to the expiration of the relevant 450 days or with respect to Excess Proceeds of \$100.0 million or less.

To the extent that the aggregate amount of Notes and such other First Lien Obligations tendered pursuant to an Asset Sale Offer is less than the Excess Proceeds, the Issuer may use any remaining Excess Proceeds for general corporate purposes, subject to other covenants contained in this Indenture. If the aggregate principal amount of Notes or the other First Lien Obligations surrendered by such holders thereof exceeds the amount of Excess Proceeds, the Trustee shall select the Notes and such other First Lien Obligations to be purchased on a pro rata basis based on the accreted value or principal amount of the Notes or such other First Lien Obligations tendered. Upon completion of any such Asset Sale Offer, the amount of Excess Proceeds that resulted in the Asset Sale Offer shall be reset to zero.

(d) Pending the final application of any Net Proceeds pursuant to this Section 4.10, the holder of such Net Proceeds may apply such Net Proceeds temporarily to reduce Indebtedness outstanding under a revolving credit facility or otherwise invest such Net Proceeds in any manner not prohibited by this Indenture.

(e) The Issuer will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws or regulations are applicable in connection with the repurchase of the Notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Indenture, the Issuer will comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations described in this Indenture by virtue thereof.

SECTION 4.11. Transactions with Affiliates. (a) The Company will not, and will not permit any of its Restricted Subsidiaries to, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Company (each of the foregoing, an "Affiliate Transaction") involving aggregate payments or consideration in excess of \$25.0 million, unless:

(1) such Affiliate Transaction is on terms that are not materially less favorable to the Company or its relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person on an arm's-length basis; and

(2) the Issuer delivers to the Trustee with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate payments or consideration in excess of \$60.0 million, a resolution adopted by the majority of the board of directors of the Issuer approving such Affiliate Transaction and set forth in an Officer's Certificate certifying that such Affiliate Transaction complies with clause (1) of this Section 4.11(a).

(b) The provisions of Section 4.11(a) will not apply to the following:

(1) transactions between or among the Company or any of its Restricted Subsidiaries;

(2) Restricted Payments permitted by Section 4.07 hereof and the definition of "Permitted Investments";

(3) [intentionally omitted];

(4) the payment of reasonable and customary fees paid to, and indemnities provided for the benefit of, current or former officers, directors, employees or consultants of the Company, any of its direct or indirect parent companies or any of its Restricted Subsidiaries;

(5) transactions in which the Company or any of its Restricted Subsidiaries, as the case may be, delivers to the Trustee a letter from an Independent Financial Advisor stating that such transaction is fair to the Company or such Restricted Subsidiary from a financial point of view or stating that the terms are not materially less favorable to the Company or its relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person on an arm's-length basis;

(6) any agreement as in effect as of the Merger Date, or any amendment thereto (so long as any such amendment is not disadvantageous to the Holders when taken as a whole as compared to the applicable agreement as in effect on the Merger Date);

(7) the existence of, or the performance by the Company or any of its Restricted Subsidiaries of its obligations under the terms of, any stockholders agreement (including any registration rights agreement or purchase agreement related thereto) to which it is a party as of the Issue Date and any similar agreements which it may enter into thereafter; provided, that the existence of, or the performance by the Company or any of its Restricted Subsidiaries of obligations under any future amendment to any such existing agreement or under any similar agreement entered into after the Issue Date shall only be permitted by this clause (7) to the extent that the terms of any such amendment or new agreement are not otherwise disadvantageous to the Holders when taken as a whole;

(8) the Transaction, the Merger and the payment of all fees and expenses related to the Transaction or the Merger;

(9) transactions with customers, clients, suppliers, or purchasers or sellers of goods or services that are Affiliates, in each case in the ordinary course of business and otherwise in compliance with the terms of this Indenture which are fair to the Company and its Restricted Subsidiaries, in the reasonable determination of the board of directors of the Company or the senior management thereof, or are on terms at least as favorable as might reasonably have been obtained at such time from an unaffiliated party;

(10) the issuance of Equity Interests (other than Disqualified Stock) of the Company to any Permitted Holder or to any director, officer, employee or consultant of the Company, any of its direct or indirect parent companies or any of its Restricted Subsidiaries;

(11) sales of accounts receivable, or participations therein, or Securitization Assets or related assets in connection with any Qualified Securitization Facility;

(12) payments by the Company or any of its Restricted Subsidiaries to any of the Investors made for any financial advisory, financing, underwriting or placement services or in respect of other investment banking activities, including, without limitation, in connection with acquisitions or divestitures which payments are approved by a majority of the board of directors of the Company in good faith;

(13) payments or loans (or cancellation of loans) to employees or consultants of the Company, any of its direct or indirect parent companies or any of its Restricted Subsidiaries and employment agreements, stock option plans and other similar arrangements with such employees or consultants which, in each case, are approved by a majority of the board of directors of the Company in good faith;

(14) investments by any of the Investors in securities of the Company or any of its Restricted Subsidiaries (and payment of reasonable out-of-pocket expenses incurred by such investors in connection therewith) so long as (i) the investment is being offered generally to other investors on the same or more favorable terms and (ii) the investment constitutes less than 5% of the proposed or outstanding issue amount of such class of securities; and

(15) any transactions with respect to the Issuer's jointly funded alliance with respect to the 300 millimeter wafer fabrication in Crolles, France, as in effect on the Merger Date, and any amendment, modification or restructuring thereof, or any successor or replacement alliance or arrangement with respect thereto, or any additional alliance or arrangement with respect to 300 millimeter or larger wafer fabrication (in each case whether or not located in Crolles, France) which successor or replacement alliance or arrangement is otherwise permitted under this Indenture.

SECTION 4.12. Liens. The Company shall not, and shall not permit the Issuer, Holdings IV, Holdings V or any Subsidiary Guarantor to, directly or indirectly, create, incur, assume or suffer to exist any Lien that secures obligations under any Indebtedness or any related guarantee (the "Initial Lien"), on any asset or property of the Company, the Issuer, Holdings I, Holdings II, Holdings III, Holdings IV, Holdings V or any Subsidiary Guarantor, or any income or profits therefrom, or assign or convey any right to receive income therefrom, except:

(1) in the case of any Initial Lien on any Collateral, such Initial Lien if such Initial Lien is a Permitted Lien; and

(2) in the case of any Initial Lien on any asset or property not constituting or required to become Collateral, such Initial Lien if (a) the Notes and Guarantees are equally and ratably secured with (or on a senior basis to, in the case such Initial Lien secures any Subordinated Indebtedness) the Obligations secured by such Initial Lien, or (b) such Initial Lien is a Permitted Lien.

Any Lien created for the benefit of the Holders pursuant to clause (2) of this Section 4.12 shall provide by its terms that such Lien shall be automatically and unconditionally released and discharged upon the release and discharge of the Initial Lien which release and discharge in the case of any sale of any such asset or property shall not affect any Lien that the Trustee, the Collateral Agent or any other Authorized Representative may have on the proceeds from such sale.

If the Issuer or any Guarantor creates any additional Lien upon any property or assets to secure any First Lien Obligations, it must concurrently grant a First Lien upon such property or assets as security for the Notes or the applicable Guarantee of the Notes such that the property or assets subject to such Lien becomes Collateral subject to the First Lien, except to the extent such property constitutes cash or cash equivalents required to secure only letter of credit obligations under the Senior Credit Facilities.

SECTION 4.13. Company Existence. Subject to Article 5 hereof, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect (i) its company existence, and the corporate, partnership or other existence of each of its Restricted Subsidiaries, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Company or any such Restricted Subsidiary and (ii) the rights (charter and statutory), licenses and franchises of the Company and its Restricted Subsidiaries; provided that the Company shall not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence of any of its Restricted Subsidiaries (other than the Issuer), if the Company in good faith shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Restricted Subsidiaries, taken as a whole.

SECTION 4.14. Offer to Repurchase Upon Change of Control. If a Change of Control occurs, unless the Issuer has previously or concurrently transmitted a redemption notice with respect to all the outstanding Notes as described under Section 3.07 hereof, the Issuer shall make an offer to purchase all of the Notes pursuant to the offer described below (the "Change of Control

Offer”) at a price in cash (the “Change of Control Payment”) equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest, if any, to the date of purchase, subject to the right of Holders of the Notes of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date. Within 30 days following any Change of Control, the Issuer shall send notice of such Change of Control Offer by first-class mail, with a copy to the Trustee, or otherwise transmit to each Holder of Notes to the address of such Holder appearing in the Note Register or otherwise in accordance with Applicable Procedures, with a copy to the Trustee, with the following information:

(1) that a Change of Control Offer is being made pursuant to this Section 4.14 and that all Notes properly tendered pursuant to such Change of Control Offer will be accepted for payment by the Issuer;

(2) the purchase price and the purchase date, which will be no earlier than 30 days nor later than 60 days from the date such notice is sent (the “Change of Control Payment Date”);

(3) that any Note not properly tendered will remain outstanding and continue to accrue interest;

(4) that unless the Issuer defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer will cease to accrue interest on the Change of Control Payment Date;

(5) that Holders electing to have any Notes purchased pursuant to a Change of Control Offer will be required to surrender such Notes, with the form entitled “Option of Holder to Elect Purchase” on the reverse of such Notes completed, to the paying agent specified in the notice at the address specified in the notice prior to the close of business on the third Business Day preceding the Change of Control Payment Date;

(6) that Holders will be entitled to withdraw their tendered Notes and their election to require the Issuer to purchase such Notes, provided that the paying agent receives, not later than the close of business on the expiration date of the Change of Control Offer, a telegram, facsimile transmission or letter setting forth the name of the Holder of the Notes, the principal amount of Notes tendered for purchase, and a statement that such Holder is withdrawing its tendered Notes and its election to have such Notes purchased;

(7) that if the Issuer is redeeming less than all of the Notes, the Holders of the remaining Notes will be issued new Notes and such new Notes will be equal in principal amount to the unpurchased portion of the Notes surrendered. The unpurchased portion of the Notes must be equal to at least \$2,000 or an integral multiple of \$1,000 thereafter;

(8) if such notice is sent prior to the occurrence of a Change of Control, stating that the Change of Control Offer is conditional on the occurrence of such Change of Control; and

(9) the other instructions, as determined by the Issuer, consistent with this Section 4.14 described hereunder, that a Holder must follow.

The notice, if transmitted in a manner herein provided, shall be conclusively presumed to have been given, whether or not the Holder receives such notice. If (a) the notice is transmitted in a manner herein provided and (b) any Holder fails to receive such notice or a Holder receives such notice but it is defective, such Holder’s failure to receive such notice or such defect shall not affect the validity of the proceedings for the purchase of the Notes as to all other Holders that properly received such notice without defect. The Issuer shall comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent



such laws or regulations are applicable in connection with the repurchase of Notes pursuant to a Change of Control Offer. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Indenture, the Issuer shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under this Indenture by virtue thereof.

(b) On the Change of Control Payment Date, the Issuer shall, to the extent permitted by law,

(1) accept for payment all Notes issued by it or portions thereof properly tendered pursuant to the Change of Control Offer,

(2) deposit with the Paying Agent an amount equal to the aggregate Change of Control Payment in respect of all Notes or portions thereof so tendered, and

(3) deliver, or cause to be delivered, to the Trustee for cancellation the Notes so accepted together with an Officer's Certificate to the Trustee stating that such Notes or portions thereof have been tendered to and purchased by the Issuer.

(c) The Issuer shall not be required to make a Change of Control Offer following a Change of Control if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Indenture applicable to a Change of Control Offer made by the Issuer and purchases all Notes validly tendered and not withdrawn under such Change of Control Offer. Notwithstanding anything to the contrary herein, a Change of Control Offer may be made in advance of a Change of Control, conditional upon such Change of Control, if a definitive agreement is in place for the Change of Control at the time of making of the Change of Control Offer.

(d) Other than as specifically provided in this Section 4.14, any purchase pursuant to this Section 4.14 shall be made pursuant to the provisions of Sections 3.02, 3.05 and 3.06 hereof, and references therein to "redeem," "redemption" and similar words shall be deemed to refer to "purchase," "repurchase" and similar words, as applicable.

SECTION 4.15. Limitation on Guarantees of Indebtedness by Restricted Subsidiaries. The Company shall not permit any of its Restricted Subsidiaries, other than a Guarantor or the Issuer, to guarantee the payment of any First Lien Obligations, including any Indebtedness (or any interest on such Indebtedness) under the Senior Credit Facilities, the NXP Notes and the Existing Secured Notes unless:

(1) such Restricted Subsidiary within 30 days executes and delivers a supplemental indenture to this Indenture, the form of which is attached as Exhibit D hereto, providing for a Guarantee by such Restricted Subsidiary, except that with respect to a guarantee of Indebtedness of the Issuer or any Guarantor, if such Indebtedness is by its express terms subordinated in right of payment to the Notes or such Guarantor's Guarantee, any such guarantee by such Restricted Subsidiary with respect to such Indebtedness shall be subordinated in right of payment to such Guarantee substantially to the same extent as such Indebtedness is subordinated to the Notes;

(2) such Restricted Subsidiary waives and shall not in any manner whatsoever claim or take the benefit or advantage of, any rights of reimbursement, indemnity or subrogation or any other rights against any Guarantor or any other Restricted Subsidiary as a result of any payment by such Person under its Guarantee or otherwise; and

(3) such Restricted Subsidiary shall deliver to the Trustee an Opinion of Counsel to the effect that:

(A) such Guarantee has been duly executed and authorized; and

(B) such Guarantee constitutes a valid, binding and enforceable obligation of such Restricted Subsidiary, except insofar as enforcement thereof may be limited by bankruptcy, insolvency or similar laws (including, without limitation, all laws relating to fraudulent transfers) and except insofar as enforcement thereof is subject to general principles of equity.

SECTION 4.16. Suspension of Covenants.

(a) During any period of time that (i) the Notes have Investment Grade Ratings from both Rating Agencies and (ii) no Default has occurred and is continuing under this Indenture (the occurrence of the events described in the foregoing clauses (i) and (ii) being collectively referred to as a "Covenant Suspension Event" and the date thereof being referred to as the "Suspension Date") then, Section 4.07 hereof, Section 4.08 hereof, Section 4.09 hereof, Section 4.10 hereof, Section 4.11 hereof, clause (4) of Section 5.01(a) hereof and clause (4) of Section 5.01(c) hereof shall not be applicable to the Notes (collectively, the "Suspended Covenants").

(b) During any period that the foregoing covenants have been suspended, the Company may not designate any of its Subsidiaries as Unrestricted Subsidiaries pursuant to the second sentence of the definition of "Unrestricted Subsidiary."

(c) In the event that the Company and its Restricted Subsidiaries are not subject to the Suspended Covenants under this Indenture for any period of time as a result of the foregoing, and on any subsequent date (the "Reversion Date") one or both of the Rating Agencies withdraw their Investment Grade Rating or downgrade the rating assigned to the Notes below an Investment Grade Rating, then the Company and its Restricted Subsidiaries will thereafter again be subject to the Suspended Covenants under this Indenture with respect to future events. The period of time between the Suspension Date and the Reversion Date is referred to in this Section 4.16 as the "Suspension Period." Additionally, upon the occurrence of a Covenant Suspension Event, the amount of Excess Proceeds from Net Proceeds shall be reset to zero.

(d) During any Suspension Period, the Company will not, and will not permit any Restricted Subsidiary to, enter into any Sale and Lease-Back Transaction; provided, that the Company or any Restricted Subsidiary may enter into a Sale and Lease-Back Transaction if (i) the Company or such Restricted Subsidiary could have incurred a Lien to secure the Indebtedness attributable to such Sale and Lease-Back Transaction pursuant to Section 4.12 hereof without equally and ratably securing the Notes pursuant to the covenant described under such section; and (ii) the consideration received by the Company or such Restricted Subsidiary in that Sale and Lease-Back Transaction is at least equal to the fair market value of the property sold and otherwise complies with Section 4.10 hereof; provided, further, that the foregoing provisions shall cease to apply on and subsequent to the Reversion Date following such Suspension Period.

(e) Notwithstanding the foregoing, in the event of any such reinstatement, no action taken or omitted to be taken by the Company or any of its Restricted Subsidiaries prior to such reinstatement will give rise to a Default or Event of Default under this Indenture; provided that (1) with respect to Restricted Payments made after such reinstatement, the amount of Restricted Payments made will be calculated as though Section 4.07 had been in effect prior to, but not during, the Suspension Period; and (2) all Indebtedness incurred, or Disqualified Stock issued, during the Suspension Period will be classified to have been incurred or issued pursuant to Section 4.09(b)(3). In addition, for purposes of clause (3) of Section 4.07(a) hereof, all events set forth in such clause (3) occurring during a Suspension Period shall be disregarded for purposes of determining the amount of Restricted Payments the Company or any Restricted Subsidiary is permitted to make pursuant to such clause (3).

(f) The Issuer shall deliver promptly to the Trustee an Officer's Certificate of the Issuer notifying it of any event set forth under this Section 4.16.

## ARTICLE V

### SUCCESSORS

#### SECTION 5.01. Merger, Consolidation or Sale of All or Substantially All Assets.

(a) The Issuer may not consolidate or merge with or into or wind up into (whether or not the Issuer is the surviving corporation), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets, in one or more related transactions, to any Person unless:

(1) the Issuer is the surviving corporation or the Person formed by or surviving any such consolidation or merger (if other than the Issuer) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made, is a Person organized or existing under the laws of the jurisdiction of organization of the Issuer or the laws of the United States, any state thereof, the District of Columbia, any member state of the European Union on January 1, 2014, Canada or any province of Canada, Norway, Switzerland, Bermuda or any territory thereof (such Person, as the case may be, being herein called the "Successor Company"); provided that in the case where the surviving Person is not a corporation, a co-obligor of the Notes is a corporation;

(2) the Successor Company, if other than the Issuer, expressly assumes all the obligations of the Issuer under this Indenture and the Notes pursuant to supplemental indentures or other documents or instruments and the performance of the covenants and obligations of the Issuer under the Collateral Documents relating to the Notes and shall cause such amendments, supplements, or other instruments to be executed, filed and recorded in such jurisdictions as may be required by applicable law to preserve and protect the Lien on the Collateral owned by or transferred to the Successor Company, together with such financing statements or comparable documents as may be required to perfect any security interests in such Collateral which may be perfected by the filing of a financing statement or a similar document under the UCC or other similar statute or regulation of the relevant states or jurisdictions;

(3) immediately after such transaction, no Default exists;

(4) immediately after giving pro forma effect to such transaction and any related financing transactions, as if such transactions had occurred at the beginning of the applicable four-quarter period,

(A) the Successor Company or the Issuer would be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Test set forth in Section 4.09(a) hereof, or

(B) the Fixed Charge Coverage Ratio for the Company and the Restricted Subsidiaries would be equal to or greater than the Fixed Charge Coverage Ratio for the Company and its Restricted Subsidiaries immediately prior to such transaction;

(5) each Guarantor, unless it is the other party to the transactions described above, in which case Section 5.01(e)(1) (B) hereof shall apply, shall have by supplemental indenture confirmed that its Guarantee shall apply to such Person's obligations under this Indenture and the Notes; and

(6) the Issuer shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, merger or transfer and such supplemental indentures, if any, comply with this Indenture.

(b) The Successor Company will succeed to, and be substituted for the Issuer under this Indenture, the Guarantees and the Notes, as applicable. Notwithstanding clauses (3) and (4) of Section 5.01(a) hereof,

(1) any Restricted Subsidiary may consolidate with or merge into or transfer all or part of its properties and assets to the Issuer, and

(2) the Issuer may merge with an Affiliate of the Issuer solely for the purpose of reincorporating the Issuer in a State of the United States, the District of Columbia, any member state of the European Union on January 1, 2014, Canada or any province of Canada, Norway or Switzerland, Bermuda or any territory thereof so long as the amount of Indebtedness of the Company and its Restricted Subsidiaries is not increased thereby.

(c) The Company may not consolidate, amalgamate or merge with or into or wind up into (whether or not the Company is the surviving corporation), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets, in one or more related transactions, to any Person unless:

(1) the Company is the surviving corporation or the Person formed by or surviving any such consolidation, amalgamation or merger (if other than the Company) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made, is a Person organized or existing under the laws of the jurisdiction of organization of the Company or the laws of the United States, any state thereof, the District of Columbia, any member state of the European Union on January 1, 2014, Canada or any province of Canada, Norway, Switzerland, Bermuda or any territory thereof (such Person, as the case may be, being herein called the "Successor Guarantor");

(2) the Successor Guarantor, if other than the Company, expressly assumes all the obligations of the Company under this Indenture and the Notes pursuant to supplemental indentures or other documents or instruments and the performance of the covenants and obligations of the Company under the Collateral Documents relating to the Notes and shall cause such amendments, supplements, or other instruments to be executed, filed and recorded in such jurisdictions as may be required by applicable law to preserve and protect the Lien on the Collateral owned by or transferred to the Successor Guarantor, together with such financing statements or comparable documents as may be required to perfect any security interests in such Collateral which may be perfected by the filing of a financing statement or a similar document under the UCC or other similar statute or regulation of the relevant states or jurisdictions;

(3) immediately after such transaction, no Default exists;

(4) immediately after giving pro forma effect to such transaction and any related financing transactions, as if such transactions had occurred at the beginning of the applicable four-quarter period,

(A) the Successor Guarantor or the Company would be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Test set forth in Section 4.09(a) hereof, or

(B) the Fixed Charge Coverage Ratio for the Successor Guarantor or the Company, as applicable, and the Restricted Subsidiaries would be equal to or greater than the Fixed Charge Coverage Ratio for the Company and its Restricted Subsidiaries immediately prior to such transaction; and

(5) the Company shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, amalgamation, merger or transfer and such supplemental indentures, if any, comply with this Indenture.

(d) The Successor Guarantor, if other than the Company, will succeed to, and be substituted for the Company under this Indenture, the Guarantees and the Notes, as applicable. Notwithstanding the clauses (3) and (4) of Section 5.01(c) hereof,

(1) any Restricted Subsidiary may consolidate or amalgamate with or merge into or transfer all or part of its properties and assets to the Company, and

(2) the Company may amalgamate or merge with its Affiliate solely for the purpose of reincorporating the Company in another jurisdiction (regardless of clause (1) of paragraph (c) above) so long as the amount of Indebtedness of the Company and its Restricted Subsidiaries is not increased thereby and so long as the surviving entity (if not the Company) assumes all of the Company's obligations under this Indenture, the Notes and its Guarantee in connection with such reincorporation.

(e) Subject to Section 10.06 hereof, no Guarantor (other than the Company, subject to Section 5.01(c) above) will, and the Company will not permit any such Guarantor to, consolidate, amalgamate or merge with or into or wind up into (whether or not the Issuer or such Guarantor is the surviving corporation), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets, in one or more related transactions, to any Person unless:

(1) (A) such Guarantor is the surviving corporation or the Person formed by or surviving any such consolidation, amalgamation or merger (if other than such Guarantor) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made is a Person organized or existing under the laws of the jurisdiction of organization of such Guarantor, as the case may be, or the laws of the United States, any state thereof, the District of Columbia, any member state of the European Union on January 1, 2014, Canada or any province of Canada, Norway, Switzerland, Bermuda or any territory thereof (such Person being herein called the "Successor Person");

(B) the Successor Person, if other than such Guarantor, expressly assumes all the obligations of such Guarantor under this Indenture and such Guarantor's related Guarantee pursuant to supplemental indentures or other documents or instruments and the performance of the covenants and obligations of such Guarantor under the Collateral Documents relating to the Notes and shall cause such amendments, supplements, or other instruments to be executed, filed and recorded in such jurisdictions as may be required by applicable law to preserve and protect the Lien on the Collateral owned by or transferred to the Successor Person, together with such financing statements or comparable documents as may be required to perfect any security interests in such Collateral which may be perfected by the filing of a financing statement or a similar document under the UCC or other similar statute or regulation of the relevant states or jurisdictions;

(C) immediately after such transaction, no Default exists; and

(D) the Issuer shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, amalgamation, merger or transfer and such supplemental indentures, if any, comply with this Indenture; or

(2) the transaction is made in compliance with Section 4.10 hereof.

(f) Subject to Section 10.06 hereof, the Successor Person will succeed to, and be substituted for, such Guarantor under this Indenture and such Guarantor's Guarantee. Notwithstanding the foregoing, (x) any Guarantor (other than the Company, subject to Section 5.01(d) above) may merge or amalgamate into or transfer all or part of its properties and assets to the Company, the Issuer or any Guarantor and (y) any such Guarantor may merge or amalgamate with a Subsidiary of the Company solely for the purpose of reincorporating such Guarantor in another jurisdiction (regardless of clause (1) of paragraph (e) above) so long as the amount of Indebtedness of the Company and its Restricted Subsidiaries is not increased thereby and so long as the surviving entity (if not the Guarantor) assumes all of the Guarantor's obligations under its Guarantee in connection with such reincorporation.

(g) The Company shall, directly or indirectly, at all times own 100% of the Equity Interests of the Issuer (other than Equity Interests held by employees of the Issuer or any Restricted Subsidiary as of the Issue Date and Equity Interests issued in exchange therefor).

SECTION 5.02. Successor Corporation Substituted. Upon any consolidation, amalgamation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the assets of the Issuer or a Guarantor in accordance with Section 5.01 hereof, the successor corporation formed by such consolidation or into or with which the Issuer or such Guarantor, as applicable, is merged, amalgamated or to which such sale, assignment, transfer, lease, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, amalgamation, merger, sale, lease, conveyance or other disposition, the provisions of this Indenture referring to the Issuer or such Guarantor, as applicable, shall refer instead to the successor corporation and not to the Issuer or such Guarantor, as applicable), and may exercise every right and power of the Issuer or such Guarantor, as applicable, under this Indenture with the same effect as if such successor Person had been named as the Issuer or a Guarantor, as applicable, herein; provided that the predecessor Issuer shall not be relieved from the obligation to pay the principal of and interest on the Notes except in the case of a sale, assignment, transfer, conveyance or other disposition of all of the Issuer's assets that meets the requirements of Section 5.01 hereof.

## ARTICLE VI

### DEFAULTS AND REMEDIES

#### SECTION 6.01. Events of Default.

An "Event of Default" wherever used herein, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(1) default in payment when due and payable, upon redemption, acceleration or otherwise, of principal of, or premium, if any, on the Notes;

(2) default for 30 days or more in the payment when due of interest on or with respect to the Notes;

(3) failure by the Company, the Issuer or any other Guarantor for 60 days after receipt of written notice given by the Trustee or the Holders of not less than 30% in principal amount of the Notes to comply with any of its obligations, covenants or agreements (other than a default referred to in clauses (1) and (2) above) contained in this Indenture or the Notes;

(4) default under any mortgage, indenture or instrument under which there is issued or by which there is secured or evidenced any Indebtedness for money borrowed by the Company or any of its Restricted Subsidiaries or the payment of which is guaranteed by the Company or any of its Restricted Subsidiaries, other than Indebtedness owed to the Company or a Restricted Subsidiary, whether such Indebtedness or guarantee now exists or is created after the issuance of the Notes, if both:

(A) such default either results from the failure to pay any principal of such Indebtedness at its stated final maturity (after giving effect to any applicable grace periods) or relates to an obligation other than the obligation to pay principal of any such Indebtedness at its stated final maturity and results in the holder or holders of such Indebtedness causing such Indebtedness to become due prior to its stated maturity; and

(B) the principal amount of such Indebtedness, together with the principal amount of any other such Indebtedness in default for failure to pay principal at stated final maturity (after giving effect to any applicable grace periods), or the maturity of which has been so accelerated, aggregate \$50.0 million or more at any one time outstanding;

(5) failure by the Company or any Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) to pay final judgments aggregating in excess of \$50.0 million, which final judgments remain unpaid, undischarged and unstayed for a period of more than 60 days after such judgment becomes final, and in the event such judgment is covered by insurance, an enforcement proceeding has been commenced by any creditor upon such judgment or decree which is not promptly stayed;

(6) the Company, the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary (or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary), pursuant to or within the meaning of any Bankruptcy Law:

(i) commences proceedings to be adjudicated bankrupt or insolvent;

(ii) consents to the institution of bankruptcy or insolvency proceedings against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under applicable Bankruptcy law;

(iii) consents to the appointment of a receiver, liquidator, assignee, trustee, sequestrator or other similar official of it or for all or substantially all of its property;

(iv) makes a general assignment for the benefit of its creditors; or

(v) generally is not paying its debts as they become due;

(7) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(i) is for relief against the Company, the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary (or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary), in a proceeding in which the Company, the Issuer or any such Restricted Subsidiaries, that is a Significant Subsidiary (or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary), is to be adjudicated bankrupt or insolvent;

(ii) appoints a receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company, the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary (or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary), or for all or substantially all of the property of the Company, the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary (or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary); or

(iii) orders the liquidation of the Company, the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary (or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary);

and the order or decree remains unstayed and in effect for 60 consecutive days;

(8) the Guarantee of any Restricted Parent Guarantor or Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) shall for any reason cease to be in full force and effect or be declared null and void or any responsible officer of any Restricted Parent Guarantor or any Guarantor that is a Significant Subsidiary (or the responsible officers of any group of Subsidiaries that together would constitute a Significant Subsidiary), as the case may be, denies that it has any further liability under its Guarantee or gives notice to such effect, other than by reason of the termination of this Indenture or the release of any such Guarantee in accordance with this Indenture; or

(9) the Liens created by the Collateral Documents relating to the Notes shall not constitute a valid and perfected Lien on any portion of the Collateral with a fair market value or book value equal to or more than \$25.0 million intended to be covered thereby (to the extent perfection is required by the First Lien Debt Documents) except as otherwise permitted by the terms of this Indenture or the relevant First Lien Debt Documents and other than the satisfaction in full of all obligations of the Issuer and the Guarantors under this Indenture or the release or amendment of any such Lien in accordance with the terms of the First Lien Debt Documents, or, except for expiration in accordance with its terms or amendment, modification, waiver, termination or release in accordance with the terms of the First Lien Debt Documents, any of the Collateral Documents relating to the Notes shall for whatever reason be terminated or cease to be in full force and effect, if, in either case, such default continues for 60 days after notice, or the enforceability thereof shall be contested by the Issuer or any Guarantor, except to the extent that any such loss of perfection or priority results from the failure of the Collateral Agent to make filings, renewals and continuations (or other equivalent filings) or take other appropriate action or the failure of the Collateral Agent to maintain possession of certificates, instruments or other documents actually delivered to it representing securities pledged or other possessory collateral pledged under the applicable Collateral Documents relating to the Notes.

SECTION 6.02. Acceleration. If any Event of Default (other than an Event of Default specified in clause (6) or (7) of Section 6.01 hereof) occurs and is continuing under this Indenture, the Trustee, upon receipt of actual written notice of a default, or the Holders of at least 30% in principal amount of the then total outstanding Notes may declare the principal, premium, if any, interest and any other monetary obligations on all the then outstanding Notes to be due and payable immediately. Upon the effectiveness of such declaration, such principal and interest shall be due and payable immediately. The Trustee shall have no obligation to accelerate the Notes if it believes in good faith that acceleration is not in the best interests of the Holders of the Notes.



Notwithstanding the foregoing, in the case of an Event of Default arising under clause (6) or (7) of Section 6.01 hereof, all outstanding Notes shall be due and payable immediately without further action or notice.

The Holders of a majority in aggregate principal amount of the then outstanding Notes by written notice to the Trustee may on behalf of all of the Holders of all of the Notes rescind any acceleration with respect to the Notes and its consequences if such rescission would not conflict with any judgment or decree of a court of competent jurisdiction and if all existing Events of Default (except nonpayment of principal, interest or premium that has become due solely because of the acceleration) have been cured or waived.

In the event of any Event of Default specified in clause (4) of Section 6.01 hereof, such Event of Default and all consequences thereof (excluding any resulting payment default, other than as a result of acceleration of the Notes) shall be annulled, waived and rescinded, automatically and without any action by the Trustee or the Holders, if within 20 days after such Event of Default arose:

- (1) the Indebtedness or guarantee that is the basis for such Event of Default has been discharged; or
- (2) holders thereof have rescinded or waived the acceleration, notice or action (as the case may be) giving rise to such Event of Default; or
- (3) the default that is the basis for such Event of Default has been cured.

SECTION 6.03. Other Remedies. If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal, premium, if any, and interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Note in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

SECTION 6.04. Waiver of Past Defaults. Subject to Section 6.02 hereof, Holders of not less than a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default and its consequences hereunder (except a continuing Default in the payment of the principal of, premium, if any, or interest on, any Note held by a non-consenting Holder) (including in connection with an Asset Sale Offer or a Change of Control Offer). Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

SECTION 6.05. Control by Majority. Holders of a majority in principal amount of the then total outstanding Notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee without any liability to the Trustee. The Trustee, however, may refuse to follow any direction that conflicts with law or this Indenture or that the Trustee determines is unduly prejudicial to the rights of any other Holder of a Note or that would involve the Trustee in personal liability.

SECTION 6.06. Limitation on Suits. Subject to Section 6.07 hereof, no Holder of a Note may pursue any remedy with respect to this Indenture or the Notes unless:

- (1) such Holder has previously given the Trustee notice that an Event of Default is continuing;
- (2) Holders of at least 30% in principal amount of the total outstanding Notes have requested the Trustee to pursue the remedy;
- (3) Holders of the Notes have offered the Trustee security or indemnity satisfactory to it against any loss, liability or expense;
- (4) the Trustee has not complied with such request within 60 days after the receipt thereof and the offer of security or indemnity; and
- (5) Holders of a majority in principal amount of the total outstanding Notes have not given the Trustee a direction inconsistent with such request within such 60-day period.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note.

SECTION 6.07. Rights of Holders of Notes to Receive Payment. Notwithstanding any other provision of this Indenture, the right of any Holder of a Note to receive payment of principal of, premium, if any, and interest on the Note, on or after the respective due dates expressed in the Note (including in connection with an Asset Sale Offer or a Change of Control Offer), or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

SECTION 6.08. Collection Suit by Trustee. If an Event of Default specified in Section 6.01(1) or (2) hereof occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Issuer for the whole amount of principal of, premium, if any, and interest remaining unpaid on the Notes and interest on overdue principal and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

SECTION 6.09. Restoration of Rights and Remedies. If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceedings, the Issuer, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding has been instituted.

SECTION 6.10. Rights and Remedies Cumulative. Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes in Section 2.07 hereof, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

SECTION 6.11. Delay or Omission Not Waiver. No delay or omission of the Trustee or of any Holder of any Note to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

SECTION 6.12. Trustee May File Proofs of Claim. The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Issuer (or any other obligor upon the Notes including the Guarantors), its creditors or its property and shall be entitled and empowered to participate as a member in any official committee of creditors appointed in such matter and to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.06 hereof. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.06 hereof out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

SECTION 6.13. Priorities. If the Trustee or any Agent collects any money pursuant to this Article 6, it shall pay out the money in the following order:

- (i) to the Trustee, such Agent, their agents and attorneys for amounts due under Section 7.06 hereof, including payment of all compensation, expenses and liabilities incurred, and all advances made, by the Trustee or such Agent and the costs and expenses of collection;
- (ii) to Holders of Notes for amounts due and unpaid on the Notes for principal, premium, if any, and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal, premium, if any, and interest, respectively; and
- (iii) to the Issuer or to such party as a court of competent jurisdiction shall direct including a Guarantor, if applicable.

The Trustee may fix a record date and payment date for any payment to Holders of Notes pursuant to this Section 6.13.

SECTION 6.14. Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.14 does not apply to a suit by the Trustee, a suit by a Holder of a Note pursuant to Section 6.07 hereof, or a suit by Holders of more than 10% in principal amount of the then outstanding Notes.

ARTICLE VII

TRUSTEE

SECTION 7.01. Duties of Trustee.

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) Except during the continuance of an Event of Default:

(i) the duties of the Trustee shall be determined solely by the express provisions of this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

(c) The Trustee may not be relieved from liabilities for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) this paragraph does not limit the effect of paragraph (b) of this Section 7.01;

(ii) the Trustee shall not be liable for any error of judgment made in good faith, unless it is proved in a court of competent jurisdiction that the Trustee was negligent in ascertaining the pertinent facts; and

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.02, 6.04 or 6.05 hereof.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b) and (c) of this Section 7.01.

(e) The Trustee shall be under no obligation to exercise any of its rights or powers under this Indenture at the request or direction of any of the Holders of the Notes unless the Holders have offered to the Trustee indemnity or security reasonably satisfactory to it against any loss, liability or expense.

(f) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Issuer. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

SECTION 7.02. Rights of Trustee.

(a) The Trustee may conclusively rely upon any document believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company and its Restricted Subsidiaries, personally or by agent or attorney at the sole cost of the Issuer and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation.

(b) Before the Trustee acts or refrains from acting, it may require an Officer's Certificate of the Issuer or the Company or an Opinion of Counsel or both. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Officer's Certificate or Opinion of Counsel. The Trustee may consult with counsel of its selection and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any agent or attorney appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Issuer shall be sufficient if signed by an Officer of the Issuer.

(f) None of the provisions of this Indenture shall require the Trustee to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not assured to it.

(g) The Trustee shall not be deemed to have notice of any Default or Event of Default unless written notice of any event which is in fact such a Default is received by a Responsible Officer of the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture.

(h) In no event shall the Trustee be responsible or liable for any punitive, special, indirect, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(i) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder.

SECTION 7.03. Individual Rights of Trustee. The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Issuer or any Affiliate of the Issuer with the same rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days, apply to the SEC for permission to continue as trustee or resign. Any Agent may do the same with like rights and duties. The Trustee is also subject to Section 7.09 hereof.

SECTION 7.04. Trustee's Disclaimer. The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes, it shall not be accountable for the Issuer's use of the proceeds from the Notes or any money paid to the Issuer or upon the Issuer's direction under any provision of this Indenture, it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it shall not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication.

The Trustee shall not be responsible or liable for noncompliance by the Issuer or the Depository. The Trustee also shall not be responsible or liable for any failure of the Issuer or any other party to comply with any securities laws, including, without limitation, the Securities Act, that may be caused by or result from the failure of the Issuer to comply with the requirements of the Indenture or the failure of the Depository to comply with any request related to this Indenture.

The Trustee shall not have any obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among the depository participants, members or beneficial owners in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

SECTION 7.05. Notice of Defaults. If a Default occurs and is continuing and if it is known to the Trustee, the Trustee shall send to Holders of Notes a notice of the Default within 90 days after it occurs. Except in the case of a Default relating to the payment of principal, premium, if any, or interest on any Note, the Trustee may withhold from the Holders notice of any continuing Default if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders of the Notes.

SECTION 7.06. Compensation and Indemnity. The Issuer shall pay to the Trustee from time to time such compensation for its acceptance of this Indenture and services hereunder as the parties shall agree in writing from time to time. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Issuer shall reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

The Issuer and the Guarantors, jointly and severally, shall indemnify the Trustee and its officers, directors, employees, agents and any predecessor trustee and its officers, directors, employees and agents for, and hold the Trustee harmless against, any and all loss, damage, claims, liability or expense (including attorneys' fees) incurred by it in connection with the acceptance or administration of this trust and the performance of its duties hereunder (including the costs and expenses of enforcing this Indenture against the Issuer or any of the Guarantors (including this Section 7.06) or defending itself against any claim whether asserted by any Holder, the Issuer or any Guarantor, or liability in connective with the acceptance, exercise or performance of any of its powers or duties hereunder). The Trustee shall notify the Issuer promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Issuer shall not relieve the Issuer of its obligations hereunder. The Issuer shall defend the claim and the Trustee may have separate counsel and the Issuer shall pay the fees and expenses of such counsel. The Issuer need not reimburse any expense or indemnify against any loss, liability or expense incurred by the Trustee through the Trustee's own willful misconduct, negligence or bad faith.

The obligations of the Issuer under this Section 7.06 shall survive the satisfaction and discharge of this Indenture or the earlier resignation or removal of the Trustee.

Notwithstanding anything contrary in Section 4.12 hereof, to secure the payment obligations of the Issuer and the Guarantors in this Section 7.06, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal and interest on particular Notes. Such Lien shall survive the satisfaction and discharge of this Indenture.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(6) or (7) hereof occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

**SECTION 7.07. Replacement of Trustee.** A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.07. The Trustee may resign in writing at any time and be discharged from the trust hereby created by so notifying the Issuer. The Holders of a majority in principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Issuer in writing. The Issuer may remove the Trustee if:

- (A) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
- (B) a custodian or public officer takes charge of the Trustee or its property; or
- (C) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Issuer shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Issuer.

If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee (at the Issuer's expense), the Issuer or the Holders of at least 10% in principal amount of the then outstanding Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee, after written request by any Holder who has been a Holder for at least six months, fails to comply with Section 7.09 hereof, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Issuer. Thereupon, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall send a notice of its succession to Holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee; provided all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.06 hereof. Notwithstanding replacement of the Trustee pursuant to this Section 7.07, the Issuer's obligations under Section 7.06 hereof shall continue for the benefit of the retiring Trustee.

**SECTION 7.08. Successor Trustee by Merger, etc.** If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act shall be the successor Trustee.

**SECTION 7.09. Eligibility; Disqualification.** There shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has, together with its parent, a combined capital and surplus of at least \$50,000,000 as set forth in its most recent published annual report of condition.

SECTION 7.10. Incumbency Certificate; Specimen Signatures. The Issuer shall furnish, within five (5) Business Days following the Issue Date, to the Trustee, and from time to time thereafter may furnish, an Officer's Certificate identifying and certifying the incumbency and specimen signatures of the Authorized Persons of the Issuer. Until the Trustee receives a subsequent Officer's Certificate, the Trustee shall be entitled to conclusively rely on the last such Officer's Certificate delivered to it for purposes of determining the Authorized Persons of the Issuer.

## ARTICLE VIII

### LEGAL DEFEASANCE AND COVENANT DEFEASANCE

SECTION 8.01. Option to Effect Legal Defeasance or Covenant Defeasance. The Issuer may, at its option and at any time, elect to have either Section 8.02 or 8.03 hereof applied to all outstanding Notes upon compliance with the conditions set forth below in this Article 8.

SECTION 8.02. Legal Defeasance and Discharge. Upon the Issuer's exercise under Section 8.01 hereof of the option applicable to this Section 8.02, the Issuer and the Guarantors shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be deemed to have been discharged from their obligations with respect to all outstanding Notes and Guarantees on the date the conditions set forth below are satisfied ("Legal Defeasance"). For this purpose, Legal Defeasance means that the Issuer shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes, which shall thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 hereof and the other Sections of this Indenture referred to in (a) and (b) below, and to have satisfied all its other obligations under such Notes and this Indenture including that of the Guarantors (and the Trustee, on demand of and at the expense of the Issuer, shall execute proper instruments acknowledging the same), except for the following provisions which shall survive until otherwise terminated or discharged hereunder:

(A) the rights of Holders of Notes to receive payments in respect of the principal of, premium, if any, and interest on the Notes when such payments are due solely out of the trust created pursuant to this Indenture referred to in Section 8.04 hereof;

(B) the Issuer's obligations with respect to Notes concerning issuing temporary Notes, registration of such Notes, mutilated, destroyed, lost or stolen Notes and the maintenance of an office or agency for payment and money for security payments held in trust;

(C) the rights, powers, trusts, duties and immunities of the Trustee, and the Issuer's obligations in connection therewith; and

(D) this Section 8.02.

Subject to compliance with this Article 8, the Issuer may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 hereof.

If the Issuer exercises its legal defeasance option, the First Liens, as they pertain to the Notes and the Guarantees, will be released and each Guarantor will be released from all its obligations under its Guarantee of the Notes.



**SECTION 8.03. Covenant Defeasance.** Upon the Issuer's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, the Issuer and the Guarantors shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be released from their obligations under the covenants contained in Sections 4.03, 4.04, 4.05, 4.07, 4.08, 4.09, 4.10, 4.11, 4.12, 4.13, 4.14 and 4.15 hereof and clauses (4) and (5) of Section 5.01(a), clause (4) of Section 5.01(c), Sections 5.01(e) and 5.01(f) hereof with respect to the outstanding Notes on and after the date the conditions set forth in Section 8.04 hereof are satisfied ("Covenant Defeasance"), and the Notes shall thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes shall not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Notes, the Issuer may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 6.01 hereof, but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby. In addition, upon the Issuer's exercise under Section 8.01 hereof of the option applicable to this Section 8.03 hereof, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, Sections 6.01(3) (solely with respect to the covenants that are released upon a Covenant Defeasance), 6.01(4), 6.01(5), 6.01(6) (solely with respect to the Company and its Restricted Subsidiaries other than the Issuer), 6.01(7) (solely with respect to the Company and its Restricted Subsidiaries other than the Issuer) and 6.01(8) hereof shall not constitute Events of Default.

If the Issuer exercises its covenant defeasance option, the First Liens, as they pertain to the Notes and the Guarantees, will be released and each Guarantor will be released from all its obligations under its Guarantee of the Notes.

**SECTION 8.04. Conditions to Legal or Covenant Defeasance.** The following shall be the conditions to the application of either Section 8.02 or 8.03 hereof to the outstanding Notes:

In order to exercise either Legal Defeasance or Covenant Defeasance with respect to the Notes:

(1) the Issuer must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders of the Notes, cash in U.S. dollars, U.S. dollar-denominated Government Securities, or a combination thereof, in such amounts as will be sufficient, in the opinion of a nationally recognized firm of independent public accountants, to pay the principal of, premium, if any, and interest due on the Notes on the stated maturity date or on the Redemption Date, as the case may be, of such principal, premium, if any, or interest on such Notes and the Issuer must specify whether such Notes are being defeased to maturity or to a particular Redemption Date.

(2) in the case of Legal Defeasance, the Issuer shall have delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that, subject to customary assumptions and exclusions,

(A) the Issuer has received from, or there has been published by, the United States Internal Revenue Service a ruling, or

(B) since the issuance of the Notes, there has been a change in the applicable U.S. federal income tax law,

in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, subject to customary assumptions and exclusions, the Holders of the Notes will not recognize income, gain or loss for U.S. federal income tax purposes, as applicable, as a result of such Legal Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(3) in the case of Covenant Defeasance, the Issuer shall have delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that, subject to customary assumptions and exclusions, the Holders of the Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and will be subject to such tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(4) no Default (other than that resulting from borrowing funds to be applied to make such deposit and any similar and simultaneous deposit relating to other Indebtedness and, in each case, the granting of Liens in connection therewith) shall have occurred and be continuing on the date of such deposit;

(5) such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under the Senior Credit Facilities, the Existing Secured Notes, the NXP Notes, the indentures pursuant to which the Existing Secured Notes were issued, the indentures pursuant to which the NXP Notes were issued or any other material agreement or instrument (other than this Indenture) to which, the Issuer or any Guarantor is a party or by which the Issuer or any Guarantor is bound (other than that resulting from any borrowing of funds to be applied to make the deposit required to effect such Legal Defeasance or Covenant Defeasance and any similar and simultaneous deposit relating to other Indebtedness, and the granting of Liens in connection therewith);

(6) the Issuer shall have delivered to the Trustee an Opinion of Counsel to the effect that, as of the date of such opinion and subject to customary assumptions and exclusions following the deposit, the trust funds will not be subject to the effect of any applicable bankruptcy, insolvency, reorganization, or similar laws affecting creditors' rights generally (including Section 547 of Title 11 of the United States Code) under any applicable U.S. Federal or state law, and that the Trustee has a perfected security interest in such trust funds for the ratable benefit of the Holders;

(7) the Issuer shall have delivered to the Trustee an Officer's Certificate stating that the deposit was not made by the Issuer with the intent of defeating, hindering, delaying or defrauding any creditors of the Issuer or any Guarantor or others; and

(8) the Issuer shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel (which Opinion of Counsel may be subject to customary assumptions and exclusions) each stating that all conditions precedent provided for or relating to the Legal Defeasance or the Covenant Defeasance, as the case may be, have been complied with.

**SECTION 8.05. Deposited Money and Government Securities to Be Held in Trust; Other Miscellaneous Provisions.** Subject to Section 8.06 hereof, all money and Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the "Trustee") pursuant to Section 8.04 hereof in respect of the outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Issuer or a Guarantor acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium and interest, but such money need not be segregated from other funds except to the extent required by law.

The Issuer shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or Government Securities deposited pursuant to Section 8.04 hereof or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Notes.

Anything in this Article 8 to the contrary notwithstanding, the Trustee shall deliver or pay to the Issuer from time to time upon the request of the Issuer any money or Government Securities held by it as provided in Section 8.04 hereof which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04(a) hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

SECTION 8.06. Repayment to Issuer. Subject to any applicable abandoned property law, any money deposited with the Trustee or any Paying Agent, or then held by the Issuer, in trust for the payment of the principal of, premium, if any, or interest on any Note and remaining unclaimed for two years after such principal, and premium, if any, or interest has become due and payable shall be paid to the Issuer on its request or (if then held by the Issuer) shall be discharged from such trust; and the Holder of such Note shall thereafter look only to the Issuer for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Issuer as trustee thereof, shall thereupon cease.

SECTION 8.07. Reinstatement. If the Trustee or Paying Agent is unable to apply any United States dollars or Government Securities in accordance with Section 8.02 or 8.03 hereof, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Issuer's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 hereof until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02 or 8.03 hereof, as the case may be; provided that, if the Issuer makes any payment of principal of, premium, if any, or interest on any Note following the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

## ARTICLE IX

### AMENDMENT, SUPPLEMENT AND WAIVER

SECTION 9.01. Without Consent of Holders of Notes. Notwithstanding Section 9.02 hereof, the Issuer, the Guarantors and the Trustee may amend or supplement this Indenture and any Guarantee or Notes without the consent of any Holder:

- (1) to cure any ambiguity, omission, mistake, defect or inconsistency;
- (2) to provide for uncertificated Notes of such series in addition to or in place of certificated Notes;
- (3) to comply with Section 5.01 hereof;
- (4) to provide the assumption of the Issuer's or any Guarantor's obligations to the Holders;
- (5) to make any change that would provide any additional rights or benefits to the Holders or that does not adversely affect the legal rights under this Indenture of any such Holder;

- (6) to add covenants for the benefit of the Holders or to surrender any right or power conferred upon the Issuer or any Guarantor;
- (7) to evidence and provide for the acceptance and appointment under this Indenture of a successor Trustee hereunder pursuant to the requirements hereof;
- (8) to add a Guarantor under this Indenture or to remove any Parent Guarantor that is not a Restricted Parent Guarantor;
- (9) to conform the text of this Indenture, Guarantees or the Notes to any provision of the "Description of the Notes" section of the Offering Memorandum to the extent that such provision in such "Description of the notes" section was intended to be a verbatim recitation of a provision of this Indenture, Guarantee or Notes; or
- (10) to make any amendment to the provisions of this Indenture relating to the transfer and legending of Notes as permitted by this Indenture, including, without limitation to facilitate the issuance and administration of the Notes; provided, that (i) compliance with this Indenture as so amended would not result in Notes being transferred in violation of the Securities Act or any applicable securities law and (ii) such amendment does not materially and adversely affect the rights of Holders to transfer Notes.
- (11) to add additional assets as Collateral or to release any Collateral from the liens securing the Notes, in each case pursuant to the terms of this Indenture, the Collateral Documents relating to the Notes and the Intercreditor Agreement, as and when permitted or required by this Indenture, the Collateral Documents relating to the Notes or the Intercreditor Agreement.

In addition, the Collateral Agent and the Trustee are authorized to amend the Collateral Documents relating to the Notes to comply with the provisions hereof and thereof.

Upon the request of the Issuer accompanied by a resolution of its board of directors authorizing the execution of any such amended or supplemental indenture, and upon receipt by the Trustee of the documents described in Section 7.02 hereof, the Trustee shall join with the Issuer and the Guarantors in the execution of any amended or supplemental indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall have the right, but not be obligated to, enter into such amended or supplemental indenture that affects its own rights, duties or immunities under this Indenture or otherwise. Notwithstanding the foregoing, neither an Opinion of Counsel nor an Officer's Certificate shall be required in connection with the addition of a Guarantor under this Indenture (other than as required by Section 4.15 hereof) upon execution and delivery by such Guarantor and the Trustee of a supplemental indenture to this Indenture, the form of which is attached as Exhibit D hereto.

**SECTION 9.02. With Consent of Holders of Notes.** Except as provided below in this Section 9.02, the Issuer, the Guarantors and the Trustee may amend or supplement this Indenture, the Notes, any Guarantee, the Collateral Documents relating to the Notes with the consent of the Holders of at least a majority in principal amount of the Notes (including Additional Notes, if any) then outstanding voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes), and, subject to Sections 6.04 and 6.07 hereof, any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium, if any, or interest on the Notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of this Indenture, any Guarantee, the Collateral Documents relating to the Notes or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes (including Additional Notes, if any) voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes).

Upon the request of the Issuer accompanied by a resolution of its board of directors authorizing the execution of any such amended or supplemental indenture, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of Notes as aforesaid, and upon receipt by the Trustee of the documents described in Section 7.02 hereof, the Trustee shall join with the Issuer in the execution of such amended or supplemental indenture unless such amended or supplemental indenture directly affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such amended or supplemental indenture.

It shall not be necessary for the consent of the Holders of Notes under this Section 9.02 to approve the particular form of any proposed amendment or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Issuer shall send to the Holders of Notes affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Issuer to send such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amended or supplemental indenture or waiver.

Without the consent of each affected Holder of Notes, an amendment or waiver under this Section 9.02 may not (with respect to any Notes held by a non-consenting Holder):

- (1) reduce the principal amount of such Notes whose Holders must consent to an amendment, supplement or waiver;
- (2) reduce the principal of or change the fixed final maturity of any such Note or alter or waive the provisions with respect to the redemption of such Note (other than provisions relating to Section 3.09, Section 4.10 and Section 4.14 hereof to the extent that any such amendment or waiver does not have the effect of reducing the principal of or changing the fixed final maturity of any such Note or altering or waiving the provisions with respect to the redemption of such Notes);
- (3) reduce the rate of or change the time for payment of interest on any Note;
- (4) waive a Default in the payment of principal of or premium, if any, or interest on the Notes, except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the Notes and a waiver of the payment default that resulted from such acceleration, or in respect of a covenant or provision contained in this Indenture or any Guarantee which cannot be amended or modified without the consent of all Holders;
- (5) make any Note payable in money other than that stated therein;
- (6) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders to receive payments of principal of or premium, if any, or interest on the Notes;
- (7) make any change in these amendment and waiver provisions;
- (8) impair the right of any Holder to receive payment of principal of, or interest on such Holder's Notes on or after the due dates therefor or to institute suit for the enforcement of any payment on or with respect to such Holder's Notes;

(9) make any change to or modify the ranking of the Notes that would adversely affect the Holders;

(10) except as expressly permitted by this Indenture, modify the Guarantees of any Restricted Parent Guarantor or Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) in any manner adverse to the Holders of the Notes; or

(11) make any change in the provisions described under Section 4.05(b)-(h) hereof that adversely affects the rights of any Holder of Notes or amend the terms of any Notes or this Indenture in a way that would result in the loss of an exemption from any of the Taxes described in such Section.

Without the consent of at least two-thirds in aggregate principal amount of Notes then outstanding, an amendment or waiver may not:

(1) modify any Collateral Document relating to the Notes or the provisions of this Indenture dealing with the Collateral Documents or the application of trust moneys, or otherwise release all or substantially all of the Collateral, except as otherwise permitted by this Indenture or the Collateral Documents; or

(2) modify the Intercreditor Agreement in any manner materially adverse to the Holders except as otherwise permitted by this Indenture or the Collateral Documents.

SECTION 9.03. Revocation and Effect of Consents. Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder of a Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the waiver, supplement or amendment becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

The Issuer may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to consent to any amendment, supplement, or waiver. If a record date is fixed, then, notwithstanding the preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only such Persons, shall be entitled to consent to such amendment, supplement, or waiver or to revoke any consent previously given, whether or not such Persons continue to be Holders after such record date. No such consent shall be valid or effective for more than 120 days after such record date unless the consent of the requisite number of Holders has been obtained.

SECTION 9.04. Notation on or Exchange of Notes. The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Issuer in exchange for all Notes may issue and the Trustee shall, upon receipt of an Authentication Order, authenticate new Notes that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

SECTION 9.05. Trustee to Sign Amendments, etc. The Trustee shall sign, and shall direct the Collateral Agent to sign (as applicable), any amendment, supplement or waiver authorized pursuant to this Article 9 if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee and the Collateral Agent, as applicable. The Issuer may not sign an amendment, supplement or waiver until the board of directors of the Issuer

approves it. In executing any amendment, supplement or waiver, the Trustee and the Collateral Agent shall be entitled to receive, upon request, and (subject to Section 7.01 hereof) shall be fully protected in relying upon, in addition to the documents required by Section 13.03 hereof, an Officer's Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by this Indenture and that such amendment, supplement or waiver is the legal, valid and binding obligation of the Issuer and any Guarantors party thereto, enforceable against them in accordance with its terms, subject to customary exceptions, and complies with the provisions hereof. Notwithstanding the foregoing, except as required by Section 4.15 hereof, neither an Opinion of Counsel nor an Officer's Certificate will be required for the Trustee to execute any amendment or supplement adding a new Guarantor under this Indenture.

SECTION 9.06. Payment for Consent. Neither the Issuer, the Company nor any Affiliate of the Issuer shall, directly or indirectly, pay or cause to be paid any consideration, whether by way of interest, fee or otherwise, to any Holder for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of this Indenture or the Notes unless such consideration is offered to all Holders and is paid to all Holders that so consent, waive or agree to amend in the time frame set forth in solicitation documents relating to such consent, waiver or agreement.

SECTION 9.07. Additional Voting Terms; Calculation of Principal Amount. Except as provided in the proviso to the first sentence of Section 9.02, all Notes issued under this Indenture shall vote and consent together on all matters (as to which any of such Notes may vote) as one class and no series of Notes will have the right to vote or consent as a separate series on any matter. Determinations as to whether Holders of the requisite aggregate principal amount of Notes have concurred in any direction, waiver or consent shall be made in accordance with this Article Nine.

## ARTICLE X

### GUARANTEES

SECTION 10.01. Guarantee. Subject to this Article 10, each of the Guarantors hereby, jointly and severally, unconditionally guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the obligations of the Issuer hereunder or thereunder, that: (a) the principal of and interest and premium, if any, on the Notes shall be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Notes, if any, if lawful, and all other obligations of the Issuer to the Holders or the Trustee hereunder or thereunder shall be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and (b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same shall be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors shall be jointly and severally obligated to pay the same immediately. Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

The Guarantors hereby agree that their obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Issuer, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor. Each Guarantor hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Issuer, any right to require a proceeding first against the Issuer, protest, notice and all demands whatsoever and covenants that this Guarantee shall not be discharged except by complete performance of the obligations contained in the Notes and this Indenture.

Each Guarantor also agrees to pay any and all costs and expenses (including reasonable attorneys' fees) incurred by the Trustee or any Holder in enforcing any rights under this Section 10.01.

If any Holder or the Trustee is required by any court or otherwise to return to the Issuer, the Guarantors or any custodian, trustee, liquidator or other similar official acting in relation to either the Issuer or the Guarantors, any amount paid either to the Trustee or such Holder, this Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect.

Each Guarantor agrees that it shall not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 hereof for the purposes of this Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such obligations as provided in Article 6 hereof, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantors for the purpose of this Guarantee. The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Guarantees.

Each Guarantee shall remain in full force and effect and continue to be effective should any petition be filed by or against the Issuer for liquidation, reorganization, should the Issuer become insolvent or make an assignment for the benefit of creditors or should a receiver or trustee be appointed for all or any significant part of the Issuer's assets, and shall, to the fullest extent permitted by law, continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Notes are, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee on the Notes or Guarantees, whether as a "voidable preference," "fraudulent transfer" or otherwise, all as though such payment or performance had not been made. In the event that any payment or any part thereof, is rescinded, reduced, restored or returned, the Notes shall, to the fullest extent permitted by law, be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

In case any provision of any Guarantee shall be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

The Guarantees issued by each Unrestricted Parent Guarantor shall be a general unsecured senior obligation of such Guarantor and shall be pari passu in right of payment with all existing and future Senior Indebtedness of such Guarantor, and the Guarantees issued by each Secured Guarantor will be senior secured obligations of such Guarantor and shall be pari passu in right of payment with all existing and future First Lien Obligations and Senior Indebtedness of such Guarantor, provided that, in each case and for the avoidance of doubt, nothing herein prevents the Credit Facilities Obligations, and Hedging Obligations provided by any lender or letter of credit issuer (or any affiliate thereof) under the Revolving Credit Facility, having priority in right of payment in relation to the Collateral specified by the Intercreditor Agreement for an aggregate principal amount not exceeding €750 million.

Each payment to be made by a Guarantor in respect of its Guarantee shall be made without set-off, counterclaim, reduction or diminution of any kind or nature.

SECTION 10.02. Limitation on Guarantor Liability. Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or



any similar federal or state law to the extent applicable to any Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the obligations of each Guarantor shall be limited to the maximum amount as will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Guarantor that are relevant under such laws and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under this Article 10, result in the obligations of such Guarantor under its Guarantee not constituting a fraudulent conveyance or fraudulent transfer under applicable law. Each Subsidiary Guarantor that makes a payment under its Guarantee shall be entitled upon payment in full of all guaranteed obligations under this Indenture to a contribution from each other Subsidiary Guarantor in an amount equal to such other Subsidiary Guarantor's pro rata portion of such payment based on the respective net assets of all the Subsidiary Guarantors at the time of such payment determined in accordance with GAAP.

SECTION 10.03. Execution and Delivery. To evidence its Guarantee set forth in Section 10.01 hereof, each Guarantor hereby agrees that this Indenture shall be executed on behalf of such Guarantor by its President, one of its Vice Presidents or one of its Assistant Vice Presidents.

Each Guarantor hereby agrees that its Guarantee set forth in Section 10.01 hereof shall remain in full force and effect notwithstanding the absence of the endorsement of any notation of such Guarantee on the Notes.

If an Officer whose signature is on this Indenture no longer holds that office at the time the Trustee authenticates the Note, the Guarantee shall be valid nevertheless.

The delivery of any Note by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Guarantee set forth in this Indenture on behalf of the Guarantors.

If required by Section 4.15 hereof, the Issuer shall cause any newly created or acquired Restricted Subsidiary to comply with the provisions of Section 4.15 hereof and this Article 10, to the extent applicable.

SECTION 10.04. Subrogation. Each Guarantor shall be subrogated to all rights of Holders of Notes against the Issuer in respect of any amounts paid by any Guarantor pursuant to the provisions of Section 10.01 hereof; provided that, if an Event of Default has occurred and is continuing, no Guarantor shall be entitled to enforce or receive any payments arising out of, or based upon, such right of subrogation until all amounts then due and payable by the Issuer under this Indenture or the Notes shall have been paid in full.

SECTION 10.05. Benefits Acknowledged. Each Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by this Indenture and that the guarantee and waivers made by it pursuant to its Guarantee are knowingly made in contemplation of such benefits.

SECTION 10.06. Release of Guarantees. A Guarantee by a Guarantor shall be automatically and unconditionally released and discharged, and no further action by such Guarantor, the Issuer or the Trustee is required for the release of such Guarantor's Guarantee, upon:

(1) (A) any sale, exchange or transfer (by merger or otherwise) of (i) the Capital Stock of such Guarantor (including any sale, exchange or transfer), after which the applicable Guarantor is no longer a Restricted Subsidiary or (ii) all or substantially all the assets of such Guarantor, in each case made in compliance with the applicable provisions of this Indenture;

(B) the release or discharge of the guarantee by such Guarantor of Indebtedness under all other First Lien Obligations (including the Senior Credit Facilities, the NXP Notes and the Existing Secured Notes) or such other guarantee that resulted in the creation of such Guarantee, except a discharge or release by or as a result of payment under such guarantee;

(C) the designation of any Restricted Subsidiary that is a Guarantor as an Unrestricted Subsidiary in compliance with the applicable provisions of this Indenture;

(D) the release of an Unrestricted Parent Guarantor of all Senior Credit Agreement Obligations; or

(E) the exercise by the Issuer of its Legal Defeasance option or Covenant Defeasance option in accordance with Article 8 hereof or the discharge of the Issuer's obligations under this Indenture in accordance with the terms of this Indenture; and

(2) such Guarantor delivering to the Trustee an Officer's Certificate of such Guarantor and an Opinion of Counsel, each stating that all conditions precedent provided for in this Indenture relating to such transaction have been complied with.

SECTION 10.07. Agreed Security Principles. Notwithstanding anything to the contrary provided elsewhere in this Article 10, the obligations of the Company and each Guarantor pursuant to this Article 10 shall be subject to the Agreed Security Principles.

## ARTICLE XI

### COLLATERAL AND SECURITY

#### SECTION 11.01. The Collateral Agent.

(a) Each of the Trustee and, by accepting the Notes, the Holders hereby appoints and authorizes the Collateral Agent to act as collateral agent and in such capacity to act as the agent of (and to hold any security interest created by the Collateral Documents relating to the Notes for and on behalf of or on trust for) the Trustee and each Holders for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by the Issuer or any Secured Guarantor to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. The use of the term "agent" herein with reference to the Collateral Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law other than as a "representative" as such term is used in Section 9-102(a) (72)(E) of the Uniform Commercial Code. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties.

(b) The Collateral Agent shall be subject to such directions as may be given it by the Trustee from time to time as required or permitted by this Indenture and the Intercreditor Agreement. Except as directed by the Trustee and as required or permitted by this Indenture, the Intercreditor Agreement or the other Collateral Documents relating to the Notes, the Collateral Agent shall not be obligated:

(i) to act upon directions purported to be delivered to it by any other Person;

(ii) to foreclose upon or otherwise enforce any Lien securing the Notes and the Guarantees of the Notes; or

(iii) to take any other action whatsoever with regard to any or all of the Liens securing the Notes and the Guarantees of the Notes, the Collateral Documents relating to the Notes or the Collateral.

(c) The Collateral Agent is authorized and empowered to appoint one or more co-agents or sub-agents or attorneys-in-fact as it deems necessary or appropriate in connection herewith and shall not be liable for the negligence or misconduct of any such agents or attorneys-in-fact selected by it in good faith.

(d) The Collateral Agent shall be accountable only for amounts that it actually receives as a result of the enforcement of this Indenture, the Collateral Documents relating to the Notes or the Liens created by the Collateral Documents relating to the Notes.

(e) The Trustee may, from time to time, appoint another financial institution to act as Collateral Agent so long as such institution meets the requirements applicable to the Trustee as set forth in Section 7.09. Subject to the appointment and acceptance of a successor Collateral Agent as provided in this subsection, the Collateral Agent (if other than the Trustee) may resign at any time by notifying the Trustee and the Issuer. Upon any such resignation, the Trustee shall have the right to appoint a successor Collateral Agent. If no successor shall have been so appointed by the Trustee and shall have accepted such appointment within 30 days after the retiring Collateral Agent gives notice of its resignation, then the retiring Collateral Agent may, on behalf of the Holders and the Trustee, appoint a successor Collateral Agent which shall meet the eligibility requirements applicable to the Trustee as set forth in Section 7.09 and shall accept and comply in all material respects with the Collateral Documents. Upon a successor's acceptance of its appointment as Collateral Agent hereunder, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Collateral Agent hereunder and under the Collateral Documents, and the retiring Collateral Agent shall be discharged from its duties and obligations hereunder and under the Collateral Documents. If the Trustee shall be acting at any time as the Collateral Agent, then it will be deemed to have resigned as Collateral Agent upon its replacement as Trustee pursuant to Section 7.07, and the successor Trustee shall select (or may act as) the replacement Collateral Agent.

(f) The Collateral Agent shall have all of the rights of the Trustee under Article VII of this Indenture, including, without limitation, the rights to compensation, indemnification and resignation.

(g) At all times when the Trustee is not itself the Collateral Agent, the Issuer will deliver to the Trustee copies of all Collateral Documents relating to the Notes delivered to the Collateral Agent and copies of all documents delivered to the Collateral Agent pursuant to the Collateral Documents relating to the Notes.

#### SECTION 11.02. The Collateral.

(a) The payment of the principal of and interest, and premium, if any, on the Notes when and as the same shall be due and payable, whether on an interest payment date, at maturity, by acceleration, repurchase, redemption or otherwise and whether by the Issuer pursuant to the Notes or by any Secured Guarantor pursuant to its Guarantee and the payment of all other First Lien Obligations of the Issuer and the Guarantors under this Indenture, the Notes, the Guarantees and the Collateral Documents relating to the Notes are secured by First Liens on the Collateral, subject to Permitted Liens, as provided in the Collateral Documents relating to the Notes which the Issuer and the Guarantors have entered into simultaneously with the execution of this Indenture, or in certain circumstances, subsequent to the Issue Date or the Merger Date, and will be secured as provided in the Collateral Document relating to the Notes hereafter delivered as required or permitted by this Indenture.

(b) Each Holder of Notes, by its acceptance of the Notes and the Guarantees of the Notes, will be deemed to have consented and agreed to the terms of each Collateral Document relating to the Notes, as originally in effect and as amended, supplemented or replaced from time to time in accordance with its terms or the terms of this Indenture, to have authorized and directed the Trustee and the Collateral Agent, as applicable, to enter into the Collateral Documents relating to the

Notes to which it is a party, and to have authorized and empowered the Trustee and the Collateral Agent, as applicable, and (through the Intercreditor Agreement) the Directing Agent to bind the Holders of Notes and other holders of First Lien Obligations as set forth in the Collateral Documents to which they are a party and to perform its respective obligations and exercise its respective rights and powers thereunder. Notwithstanding the foregoing, no such consent or deemed consent shall be deemed or construed to represent an amendment or waiver, in whole or in part, of any provision of this Indenture or the Notes. The foregoing will not limit the right of the Issuer to amend, waive or otherwise modify the Collateral Documents relating to the Notes in accordance with their terms.

(c) The Trustee and each Holder, by accepting the Notes and the Guarantees of the Notes, acknowledges that, as more fully set forth in the Collateral Documents relating to the Notes, the Collateral as now or hereafter constituted shall be held by the Collateral Agent for the benefit of all the Holders, the Collateral Agent and the Trustee, and that the Lien granted by the Collateral Documents relating to the Notes in respect of the Trustee and the Holders is subject to and qualified and limited in all respects by the Collateral Documents relating to the Notes and actions that may be taken thereunder. In the event of conflict between the Intercreditor Agreement, any of the other Collateral Documents and this Indenture, the Intercreditor Agreement shall control.

SECTION 11.03. Impairment of Security Interest.

Neither the Issuer nor any Secured Guarantor will take or omit to take any action which would materially adversely affect or impair the Liens in favor of the Collateral Agent and the Holders with respect to the Collateral; provided, however, that the foregoing shall not be deemed to prohibit any action or inaction that is otherwise permitted by this Indenture or required by law.

SECTION 11.04. After-Acquired Collateral. If:

(a) property (other than Excluded Assets) is acquired by the Issuer or a Secured Guarantor that is intended to be subject to the Lien created by the Collateral Documents relating to the Notes but is not so subject;

(b) an Excluded Asset ceases to be an Excluded Asset;

(c) a Subsidiary of the Company becomes a Secured Guarantor; or

(d) any property of the Issuer or any Secured Guarantor becomes subject to a Lien with respect to any First Lien Obligations (or the Guarantees thereof) and is not already subject to the Lien created by the Collateral Documents relating to the Notes, then the Issuer or such Secured Guarantor will, as soon as practical after such property's acquisition or such property no longer being an Excluded Asset or such Subsidiary becoming a Secured Guarantor or such property becoming subject to a Lien securing any First Lien Obligation (or the Guarantees thereof), as applicable, provide security over such property (or, in the case of a new Secured Guarantor, all of its assets that are not Excluded Assets) in favor of the Collateral Agent on a basis that would create a Lien on such terms, in each case, consistent with the Collateral Documents in effect at such time, and take such additional actions as are reasonable and appropriate or advisable to create and fully perfect in favor of the Secured Parties under the Collateral Documents relating to the Notes a valid and enforceable security interest in such Collateral (to the extent such perfection is required under the Collateral Documents), which shall be free of all other Liens except for Permitted Liens; provided that, with regard to Material Real Property, the Issuer and any Guarantor shall have 90 days (or such longer period as the Trustee may agree in its sole discretion) from the date of acquisition to execute and deliver the items described under Section 11.05 with respect to such real property and with respect to the pledge of equity interests in a Foreign Subsidiary, the Issuer and any Guarantor shall have 90 days or such longer period as the Trustee may agree in its sole discretion from the date of acquisition to provide, execute and deliver the items described in Section 11.05(b). Any security interest provided pursuant to this Section 11.04 (other than with respect to assets specified in (a) and (b) above that are

automatically subject to a perfected security interest under the Collateral Documents relating to the Notes) shall be accompanied by such Opinions of Counsel to the Issuer or the Subsidiary Guarantors addressed to the Trustee and the Collateral Agent as are reasonably requested by the Trustee or the Collateral Agent and customarily given by such counsel in the relevant jurisdiction, in form and substance customary for such jurisdiction. In addition, if perfection is required by the Collateral Documents relating to the Notes (other than with respect to assets specified in (a) and (b) above that are automatically subject to a perfected security interest under the Collateral Documents related to the Notes), the Issuer shall deliver an Officer's Certificate to the Trustee and the Collateral Agent upon reasonable request by the Trustee or the Collateral Agent, certifying that the necessary measures have been taken to perfect the security interest in such property.

SECTION 11.05. Real Estate Mortgages and Filing; Pledge of Foreign Collateral.

(a) With respect to Material Real Property that secures (or will secure) the Notes or the Guarantees, the Issuer or the Secured Guarantor must provide the Trustee with filed Mortgages with respect to such owned real property within 90 days (or such longer period as the Trustee may agree in its sole discretion) of the Issue Date or 90 days (or such longer period as the Trustee may agree in its sole discretion) of the acquisition of, or, if requested by the Trustee, entry into, or renewal of, a ground lease in respect of, such real property, as the case may be, in each case together with:

(i) evidence that counterparts of the Mortgages have been duly executed, acknowledged and delivered and are in form suitable for filing or recording in all filing or recording offices that the Trustee may deem reasonably necessary or desirable in order to create a valid and subsisting perfected Lien on the property and/or rights described therein in favor of the Trustee for the benefit of the Holders, pari passu with the Liens securing the Senior Credit Agreement Obligations, the Existing Secured Notes and the other First Lien Obligations as among the holders thereof in accordance with the Intercreditor Agreement, and that all filing and recording taxes and fees have been paid or otherwise provided for in a manner reasonably satisfactory to the Trustee;

(ii) fully paid American Land Title Association Lender's Extended Coverage title insurance policies or the equivalent or other form available in each applicable jurisdiction in form and substance, with endorsements and in amount, reasonably acceptable to the Trustee (not to exceed the value of the real properties covered thereby), issued, coinsured and reinsured by title insurers reasonably acceptable to the Trustee, insuring the Mortgages to be valid subsisting Liens on the property described therein, free and clear of all defects and encumbrances, subject to Permitted Liens, and providing for such other affirmative insurance and such coinsurance and direct access reinsurance as the Trustee may reasonably request;

(iii) surveys with respect to such owned real property;

(iv) opinions of local counsel for the Issuer and the Secured Guarantors in states in which the real properties are located, with respect to the enforceability and perfection of the Mortgages and any related fixture filings in form and substance reasonably satisfactory to the Trustee; and

(v) such other evidence that all other actions that the Trustee may reasonably deem necessary or desirable in order to create valid and subsisting Liens on the property described in the Mortgages has been taken.

(b) With respect to the equity interests of wholly owned Material Foreign Subsidiaries of the Company and Specified Foreign Subsidiaries that secure (or will secure) the Notes or the Guarantees, the Issuer or the Secured Guarantor must provide the Trustee within 90 days (or such longer period as the Trustee may agree in its sole discretion) of the Issue Date or 90 days (or such longer period as the Trustee may agree in its sole discretion) upon the formation or acquisition of

a wholly owned Material Foreign Subsidiary of the Company or Specified Foreign Subsidiaries: (a) counterparts of each pledge agreement to be entered into in connection with the pledge of the equity interests of each such wholly owned Material Foreign Subsidiary of the Company or such Specified Foreign Subsidiary, and all other documents and instruments required by law or reasonably requested by the Trustee to be filed, registered or recorded to create the Liens in such equity interests and to perfect such Liens to the extent required by, this Indenture and the Collateral Documents relating to the Notes; and (b) a signed copy of an opinion, addressed to the Trustee, of counsel for the Issuer and the Secured Guarantors as reasonably acceptable to the Trustee as to such matters set forth in clause (a), as the Trustee may reasonably request

SECTION 11.06. Release of Collateral.

(a) Liens on the Collateral will be automatically released without requirement for consent or approval from the Holders, the Trustee or the Collateral Agent:

(i) with respect to any Collateral securing the Guarantee of the Notes of any Secured Guarantor, when such Secured Guarantor's Guarantee is released in accordance with the terms of this Indenture;

(ii) upon payment in full of principal, interest and all other obligations on the Notes issued under this Indenture;

(iii) as provided in Section 9.02;

(iv) in connection with any disposition of Collateral (but excluding any transaction subject to Section 5.01 where the recipient is required to become the obligor on the Notes or a Secured Guarantor) that is permitted by this Indenture;

(v) with respect to any particular item of Collateral, if there are outstanding Obligations under the Revolving Credit Facility and/or the Term Loan Facilities (as applicable), upon release by Collateral Agent of the Liens on such item of Collateral securing the Senior Credit Agreement Obligations and the concurrent release of the Liens on such item of Collateral securing any other First Lien Obligations; provided, however, that there is then outstanding under the Revolving Credit Facility and/or the Term Loan Facilities (as applicable) aggregate debt and debt commitments in an amount that exceeds the aggregate principal amount of the then outstanding Notes; and provided further, however, that the Collateral Agent may not release all or substantially all of the Collateral without the consent of the Trustee on behalf of the Holders of the Notes;

(vi) with respect to any particular item of Collateral, if there are no outstanding Obligations under the Senior Credit Facilities, upon release by the collateral agent for the largest class of outstanding First Lien Obligations at such time of the Liens on such item of Collateral securing such First Lien Obligations and the concurrent release of the Liens on such item of Collateral securing any other First Lien Obligations; provided, however, that the Applicable Authorized Representative may not release all or substantially all of the Collateral without the consent of the Trustee on behalf of the Holders of the Notes;

(vii) if such property or other assets is or becomes Excluded Assets; or

(viii) upon the exercise by the Issuer of its legal defeasance or covenant defeasance options under Sections 8.02 and 8.03, respectively, or the satisfaction and discharge of the Issuer's obligations under Section 12.01.

In addition, subject to certain limitations set forth in the Collateral Documents, all Collateral used, sold, transferred or otherwise disposed of in accordance with the terms of the applicable First Lien Debt Documents, including any waiver or amendment of these documents, will automatically be released from the Lien securing the Notes or the Guarantees of the Notes so that the use, sale, transfer or other disposition may be made free of such Lien.

(b) At the request of the Issuer, the Trustee shall execute and deliver any documents, instructions or instruments evidencing the consent of the Holders of the Notes to any permitted release. The Trustee and the Collateral Agent shall take such action under this Indenture and the Collateral Documents relating to the Notes or otherwise as may be reasonably requested by the Issuer to give effect to or evidence any such release.

SECTION 11.07. Authorization of Actions to be Taken by the Trustee or the Collateral Agent under the Collateral Documents relating to the Notes.

(a) Subject to the provisions of the Collateral Documents relating to the Notes and unless otherwise expressly provided herein or therein, the Trustee may, at the written direction of a majority of the Holders, direct the Collateral Agent to take all actions necessary or appropriate in order to (i) enforce any of the terms of the Collateral Documents relating to the Notes and (ii) collect and receive any and all amounts payable in respect of the Collateral in respect of the obligations of the Issuer and the Secured Guarantors hereunder and thereunder. Subject to the provisions of the Collateral Documents relating to the Notes, the Collateral Agent shall have the power to institute and to maintain such suits and proceedings in order to prevent any impairment of the Collateral by any acts that may be unlawful or in violation of the Collateral Documents relating to the Notes or this Indenture, and such suits and proceedings as are necessary to preserve or protect its interest and the interests of the Holders in the Collateral (including power to institute and maintain suits or proceedings to restrain the enforcement of or compliance with any legislative or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid if the enforcement of, or compliance with, such enactment, rule or order would impair the security interest granted pursuant to any Collateral Document relating to the Notes or be prejudicial to the interests of the Holders or the Trustee).

(b) The Trustee or the Collateral Agent shall not be responsible for the existence, genuineness or value of any of the Collateral or for the validity, perfection, priority or enforceability of the Liens in any of the Collateral, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder, except to the extent such action or omission constitutes negligence (or gross negligence in the case of the Collateral Agent) or willful misconduct on the part of the Trustee or the Collateral Agent, for the validity or sufficiency of the Collateral or any agreement or assignment contained therein, for the validity of the title of the Issuer to the Collateral, for insuring the Collateral or for the payment of taxes, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of the Collateral. Notwithstanding the foregoing, neither the Trustee nor the Collateral Agent shall have responsibility for recording, filing, re-recording or refiling any financing statement, continuation statement, document, instrument or other notice in any public office at any time or times or to otherwise take any action to perfect or maintain the perfection of any security interest granted to it under the Collateral Documents relating to the Notes or otherwise.

(c) Where any provision of the Collateral Documents relating to the Notes requires that additional property or assets be provided as Collateral, the Issuer shall, or shall cause the applicable Secured Guarantors to, take any and all actions reasonably required to cause such additional property or assets to be provided as Collateral and to create and perfect a valid and enforceable first-priority security interest in such property or assets (subject to Permitted Liens and other exceptions in the Collateral Documents relating to the Notes) in favor of the Collateral Agent for the benefit of the Holders in accordance with and to the extent required under the Collateral Documents relating to the Notes.

(d) The Trustee, in giving any consent or approval under this Indenture or the Collateral Documents relating to the Notes, shall be entitled to receive, as a condition to such consent or approval, an Officer's Certificate to the effect that the action or omission for which consent or approval is to be given does not violate this Indenture or the Collateral Documents relating to the Notes, and the Trustee shall be fully protected in giving such consent or approval on the basis of such Officer's Certificate.

SECTION 11.08. Agreed Security Principles. Notwithstanding anything to the contrary provided elsewhere in this Article 11, the obligations of the Company and each Guarantor pursuant to this Article 11 shall be subject to the Agreed Security Principles.

## ARTICLE XII

### SATISFACTION AND DISCHARGE

SECTION 12.01. Satisfaction and Discharge. This Indenture shall be discharged and shall cease to be of further effect as to all Notes, when either:

(1) all Notes heretofore authenticated and delivered, except lost, stolen or destroyed Notes which have been replaced or paid and Notes for whose payment money has heretofore been deposited in trust, have been delivered to the Trustee for cancellation; or

(2) (A) all Notes not heretofore delivered to the Trustee for cancellation have become due and payable by reason of the making of a notice of redemption or otherwise, will become due and payable within one year or are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Issuer, and the Issuer or any Guarantor has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders of the Notes, cash in U.S. dollars, U.S. dollar-denominated Government Securities, or a combination thereof, in such amounts as will be sufficient without consideration of any reinvestment of interest to pay and discharge the entire indebtedness on the Notes not heretofore delivered to the Trustee for cancellation for principal, premium, if any, and accrued interest to the date of maturity or redemption;

(B) no Default (other than that resulting from borrowing funds to be applied to make such deposit or any similar and simultaneous deposit relating to other Indebtedness and the granting of Liens in connection therewith) with respect to this Indenture or the Notes shall have occurred and be continuing on the date of such deposit or shall occur as a result of such deposit and such deposit will not result in a breach or violation of, or constitute a default under the Senior Credit Facilities, the Existing Secured Notes, the NXP Notes, the indentures pursuant to which the Existing Secured Notes were issued, the indentures pursuant to which the NXP Notes were issued or any other material agreement or instrument (other than this Indenture) to which the Issuer or any Guarantor is a party or by which the Issuer or any Guarantor is bound (other than resulting from any borrowing of funds to be applied to make such deposit and any similar and simultaneous deposit relating to other Indebtedness and the granting of Liens in connection therewith);

(C) the Issuer has paid or caused to be paid all sums payable by it under this Indenture; and

(D) the Issuer has delivered irrevocable instructions to the Trustee to apply the deposited money toward the payment of the Notes at maturity or the Redemption Date, as the case may be.



In addition, the Issuer must deliver an Officer's Certificate and an Opinion of Counsel to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

Notwithstanding the satisfaction and discharge of this Indenture, if money shall have been deposited with the Trustee pursuant to subclause (A) of clause (2) of this Section 12.01, the provisions of Section 12.02 and Section 8.06 hereof shall survive.

SECTION 12.02. Application of Trust Money. Subject to the provisions of Section 8.06 hereof, all money deposited with the Trustee pursuant to Section 12.01 hereof shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Issuer acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal (and premium, if any) and interest for whose payment such money has been deposited with the Trustee; but such money need not be segregated from other funds except to the extent required by law.

If the Trustee or Paying Agent is unable to apply any money or Government Securities in accordance with Section 12.01 hereof by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Issuer's and any Guarantor's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 12.01 hereof; provided that if the Issuer has made any payment of principal of, premium, if any, or interest on any Notes because of the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or Government Securities held by the Trustee or Paying Agent.

### ARTICLE XIII

#### MISCELLANEOUS

SECTION 13.01. Notices. Any notice or communication by the Issuer, any Guarantor or the Trustee to the others is duly given if in writing and delivered in person or mailed by first-class mail (registered or certified, return receipt requested), fax or overnight air courier guaranteeing next day delivery, to the others' address:

If to the Issuer and/or any Guarantor:

Freescale Semiconductor, Inc.  
6501 William Cannon Drive West  
Austin, Texas 78735 Fax: (512) 996-6853  
Attention: General Counsel

With a copy to:

NXP Semiconductors N.V.  
High Tech Campus 60  
5656 AG Eindhoven  
The Netherlands  
Attention: Erik Thyssen  
Fax: +(31) 20 5407500

If to the Trustee:

Wells Fargo Bank, National Association  
750 N. Saint Paul Place, Suite 1750  
Dallas, Texas 75201  
Fax No.: (214) 756-7401  
Attn: Corporate Trust, Municipal and Escrow Services

The Issuer, any Guarantor or the Trustee, by notice to the others, may designate additional or different addresses for subsequent notices or communications.

All notices and communications (other than those sent to Holders) shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five calendar days after being deposited in the mail, postage prepaid, if mailed by first-class mail; when receipt acknowledged, if faxed; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery; provided that any notice or communication delivered to the Trustee shall be deemed effective upon actual receipt thereof.

Any notice or communication to a Holder of Definitive Notes shall be mailed by first-class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the Note Register kept by the Registrar. Any notice or communication to a Holder of Global Notes shall be sent by the Applicable Procedures. Failure to send a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

If a notice or communication is sent in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Issuer sends a notice or communication to Holders, it shall mail a copy to the Trustee and each Agent at the same time.

SECTION 13.02. Communication by Holders of Notes with Other Holders of Notes. Holders may communicate with other Holders with respect to their rights under this Indenture or the Notes.

SECTION 13.03. Certificate and Opinion as to Conditions Precedent. Upon any request or application by the Issuer or any of the Guarantors to the Trustee to take any action under this Indenture, the Issuer or such Guarantor, as the case may be, shall furnish to the Trustee:

(A) An Officer's Certificate of the Issuer in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 13.04 hereof) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied; and

(B) An Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 13.04 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

SECTION 13.04. Statements Required in Certificate or Opinion. Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

(A) a statement that the Person making such certificate or opinion has read such covenant or condition;

(B) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(C) a statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with (and, in the case of an Opinion of Counsel, may be limited to reliance on an Officer's Certificate as to matters of fact); and

(D) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been complied with.

SECTION 13.05. Rules by Trustee and Agents. The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar, Paying Agent or Calculation Agent may make reasonable rules and set reasonable requirements for its functions.

SECTION 13.06. No Personal Liability of Directors, Officers, Employees and Stockholders. No director, officer, employee, incorporator or stockholder of the Company, the Issuer or any other Guarantor (other than in the case of stockholders of the Issuer, any Parent Guarantor or any Subsidiary Guarantor, any Parent Guarantor, the Issuer or another Subsidiary Guarantor) or any of their parent companies shall have any liability for any obligations of the Issuer or the Guarantors under the Notes, the Guarantees or this Indenture or for any claim based on, in respect of, or by reason of such obligations or their creation. Each Holder by accepting Notes waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

SECTION 13.07. Governing Law. THIS INDENTURE, THE NOTES, ANY GUARANTEE AND THE COLLATERAL DOCUMENTS RELATING TO THE NOTES WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

SECTION 13.08. Waiver of Jury Trial. EACH OF THE ISSUER, THE GUARANTORS AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED HEREBY.

SECTION 13.09. Force Majeure. In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused by, directly or indirectly, forces beyond its reasonable control, including without limitation strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, interruptions, loss or malfunctions of utilities, communications or computer (software or hardware) services or the availability of the Federal Reserve Bank.

SECTION 13.10. No Adverse Interpretation of Other Agreements. This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Issuer or its Restricted Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

SECTION 13.11. Successors. All agreements of the Issuer in this Indenture and the Notes shall bind its successors. All agreements of the Trustee in this Indenture shall bind its successors. All agreements of each Guarantor in this Indenture shall bind its successors, except as otherwise provided in Section 10.05 hereof.

SECTION 13.12. Severability. In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 13.13. Counterpart Originals. The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

SECTION 13.14. Table of Contents, Headings, etc. The Table of Contents, Cross-Reference Table and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

SECTION 13.15. Currency of Account; Conversion of Currency; Foreign Exchange Restrictions.

(a) U.S. dollars are the sole currency of account and payment for all sums payable by the Issuer and the Guarantors under or in connection with the Notes, the Guarantees of the Notes or this Indenture, including damages related thereto or hereto. Any amount received or recovered in a currency other than U.S. dollars by a Holder of Notes (whether as a result of, or of the enforcement of, a judgment or order of a court of any jurisdiction, in the winding-up or dissolution of the Issuer or otherwise) in respect of any sum expressed to be due to it from the Issuer shall only constitute a discharge to the Issuer to the extent of the U.S. dollar amount, which the recipient is able to purchase with the amount so received or recovered in that other currency on the date of that receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so). If that U.S. dollar amount is less than the U.S. dollar amount expressed to be due to the recipient under the applicable Notes, the Issuer shall indemnify it against any loss sustained by it as a result as set forth in Section 13.15(b). In any event, the Issuer and the Guarantors shall indemnify the recipient against the cost of making any such purchase. For the purposes of this Section 13.15, it will be sufficient for the Holder of a Note to certify in a satisfactory manner (indicating sources of information used) that it would have suffered a loss had an actual purchase of U.S. dollars been made with the amount so received in that other currency on the date of receipt or recovery (or, if a purchase of U.S. dollars on such date had not been practicable, on the first date on which it would have been practicable, it being required that the need for a change of date be certified in the manner mentioned above).

(b) The Issuer and the Guarantors, jointly and severally, covenant and agree that the following provisions shall apply to conversion of currency in the case of the Notes, the Guarantees and this Indenture:

(1) (A) If for the purpose of obtaining judgment in, or enforcing the judgment of, any court in any country, it becomes necessary to convert into a currency (the "Judgment Currency") an amount due in any other currency (the "Base Currency"), then the conversion shall be made at the rate of exchange prevailing on the Business Day before the day on which the judgment is given or the order of enforcement is made, as the case may be (unless a court shall otherwise determine).

(B) If there is a change in the rate of exchange prevailing between the Business Day before the day on which the judgment is given or an order of enforcement is made, as the case may be (or such other date as a court shall determine), and the date of receipt of the amount due, the Issuer and the Guarantors will pay such additional (or, as the case may be, such lesser) amount, if any, as may be necessary so that the amount paid in the Judgment Currency when converted at the rate of exchange prevailing on the date of receipt will produce the amount in the Base Currency originally due.

(2) In the event of the winding-up of the Issuer or any Guarantor at any time while any amount or damages owing under the Notes, the Guarantees and this Indenture, or any judgment or order rendered in respect thereof, shall remain outstanding, the Issuer and the Guarantors shall indemnify and hold the Holders and the Trustee harmless against any deficiency arising or resulting from any variation in rates of exchange between (i) the date as of which the Applicable Currency Equivalent of the amount due or contingently due under the Notes, the Guarantees and this Indenture (other than under this subsection (b)(2)) is calculated for the purposes of such winding-up and (ii) the final date for the filing of proofs of claim in such winding-up. For the purpose of this subsection (b)(2), the final date for the filing of proofs of claim in the winding-up of the Issuer or any Guarantor shall be the date fixed by the liquidator or otherwise in accordance with the relevant provisions of applicable law as being the latest practicable date as at which liabilities of the Issuer or such Guarantor may be ascertained for such winding-up prior to payment by the liquidator or otherwise in respect thereto.

(c) The obligations contained in this Section 13.15 shall constitute separate and independent obligations from the other obligations of the Issuer and the Guarantors under this Indenture, shall give rise to separate and independent causes of action against the Issuer and the Guarantors, shall apply irrespective of any waiver or extension granted by any Holder or the Trustee or either of them from time to time and shall continue in full force and effect notwithstanding any judgment or order or the filing of any proof of claim in the winding-up of the Issuer or any Guarantor for a liquidated sum in respect of amounts due hereunder (other than under subsection (b)(2) above) or under any such judgment or order. Any such deficiency as aforesaid shall be deemed to constitute a loss suffered by the Holders or the Trustee, as the case may be, and no proof or evidence of any actual loss shall be required by the Issuer or any Guarantor or the liquidator or otherwise or any of them. In the case of subsection (b)(2) above, the amount of such deficiency shall not be deemed to be reduced by any variation in rates of exchange occurring between the said final date and the date of any liquidating distribution.

(d) The term “rate(s) of exchange” shall mean the rate of exchange quoted by Reuters at 10:00 A.M. (New York time) for spot purchases of the Base Currency with the Judgment Currency other than the Base Currency referred to in subsections (b)(1) and (b)(2) above and includes any premiums and costs of exchange payable.

#### SECTION 13.16. Consent to Jurisdiction and Service.

Each of the Company, Holdings I, Holdings II, Holdings III and Holdings IV and any Subsidiary Guarantor that is a Foreign Subsidiary shall appoint Corporation Service Company as its agent for actions relating to the Notes, this Indenture or the Collateral Documents relating to the Notes or brought under U.S. Federal or state securities laws brought in any U.S. Federal or state court located in the Borough of Manhattan in The City of New York.

Each of Issuer, the Company, Holdings I, Holdings II, Holdings III and Holdings IV and any Subsidiary Guarantor that is a Foreign Subsidiary and the Trustee irrevocably submit to the personal jurisdiction of any New York state or United States federal court located in the Borough of Manhattan in the City of New York in any action arising out of or relating to this Indenture, the Notes or any of the other Collateral Documents relating to the Notes to which each is or is to be a party, or for recognition or enforcement of any judgment, and Issuer, the Company, Holdings I, Holdings II, Holdings III and Holdings IV and any Subsidiary Guarantor that is a Foreign Subsidiary and the Trustee hereby irrevocably and unconditionally agree that all claims in respect of such action or proceeding may be heard and determined in any such court of the State of New York or, to the extent permitted by law, in such Federal court. Issuer, the Company, Holdings I, Holdings II, Holdings III

and Holdings IV and any Subsidiary Guarantor that is a Foreign Subsidiary and the Trustee irrevocably waive, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Indenture in such courts. Nothing in this Indenture, the Notes or any other Collateral Document shall affect any right that any party may otherwise have to bring any action or proceeding relating to this Indenture, the Notes or any other Collateral Document in the courts of any jurisdiction.

SECTION 13.17. Electronic Transmission. In respect of this Indenture, the Trustee shall not have any duty or obligation to verify or confirm that the Person sending instructions, directions, reports, notices or other communications or information by electronic transmission (including by e-mail, pdf, facsimile transmission or other similar secured or unsecured electronic methods) is, in fact, a Person authorized to give such instructions, directions, reports, notices or other communications or information on behalf of the party purporting to send such electronic transmission; and the Trustee shall not have any liability for any losses, liabilities, costs or expenses incurred or sustained by any party as a result of such reliance upon or compliance with such instructions, directions, reports, notices or other communications or information. Each other party agrees to assume all risks arising out of the use of such electronic methods to submit instructions, directions, reports, notices or other communications or information to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, notices, reports or other communications or information, and the risk of interception and misuse by third parties.

SECTION 13.18. Patriot Act. In order to comply with laws, rules, regulations and executive orders in effect from time to time applicable to banking institutions, including those relating to the funding of terrorist activities and money laundering (“Specified Law”), Wells Fargo Bank, National Association is required to obtain, verify and record certain information relating to individuals and entities which maintain a business relationship with Wells Fargo Bank, National Association. Accordingly, the Issuer agrees to provide to Wells Fargo Bank, National Association upon its request from time to time such identifying information and documentation as may be available to the Issuer in order to enable Wells Fargo Bank, National Association to comply with Specified Law.

SECTION 13.19. Further Assurances. Subject to the Agreed Security Principles, the Issuer and its Restricted Subsidiaries hereby covenant and agree that as of the Merger Date and thereafter, promptly upon request by the Trustee or the Collateral Agent, as the case may be, it will (a) correct any material defect or error that may be discovered in any First Lien Debt Documents or in the execution, acknowledgment, filing or recordation thereof, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and reregister any and all such further acts, deeds, certificates, assurances and other instruments as the Trustee, may reasonably require from time to time in order to carry out more effectively the purposes of any First Lien Debt Documents.

*[Signatures on following page]*

by /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

[Signature Page – Amended and Restated Indenture - 6% Senior Secured Notes due 2022]

FREESCALE SEMICONDUCTOR, LTD.

by /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

FREESCALE SEMICONDUCTOR HOLDINGS II, LTD.

by /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

FREESCALE SEMICONDUCTOR HOLDINGS III, LTD.

by /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

FREESCALE SEMICONDUCTOR HOLDINGS IV, LTD.

by /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

FREESCALE SEMICONDUCTOR HOLDINGS V, INC.

by /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

SIGMATEL, LLC

by /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

[Signature Page – Amended and Restated Indenture - 6% Senior Secured Notes due 2022]



NXP B.V.

by /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

NXP FUNDING LLC

by /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

NXP SEMICONDUCTORS NETHERLANDS B.V.

by /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

NXP SEMICONDUCTORS USA INC.

by /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

NXP SEMICONDUCTORS UK LIMITED

by /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

NXP SEMICONDUCTORS GERMANY GMBH

by /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

NXP SEMICONDUCTORS HONG KONG LIMITED

by /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

[Signature Page – Amended and Restated Indenture - 6% Senior Secured Notes due 2022]

NXP SEMICONDUCTORS PHILIPPINES INC.

by /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

NXP SEMICONDUCTORS SINGAPORE PTE. LTD.

by /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

NXP SEMICONDUCTORS TAIWAN LTD.

by /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

NXP MANUFACTURING (THAILAND) LTD

by /s/ Jean Schreurs

Name: Jean Schreurs

Title: Authorized Attorney

[Signature Page – Amended and Restated Indenture - 6% Senior Secured Notes due 2022]

WELLS FARGO BANK, NATIONAL ASSOCIATION, As  
Trustee

by /s/ John C. Stohlman  
Name: John C. Stohlman  
Title: Vice President

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[Signature Page – Amended and Restated Indenture - 6% Senior Secured Notes due 2022]

[Face of Note]

[Insert the Global Note Legend, if applicable pursuant to the provisions of the Indenture]

[Insert the Private Placement Legend, if applicable pursuant to the provisions of the Indenture]

[Insert the Regulation S Temporary Global Note Legend, if applicable pursuant to the provisions of the Indenture]

[RULE 144A][REGULATION S] GLOBAL NOTE  
6.000% Senior Secured Note due 2022

No.

[\$     ] ]

FREESCALE SEMICONDUCTOR, INC.

promises to pay to            or registered assigns, the principal sum [set forth on the Schedule of Exchanges of Interests in the Global Note attached hereto]  
[of            United States Dollars] on January 15, 2022.

Interest Payment Dates: May 15 and November 15, commencing May 15, 2014

Record Dates: May 1 and November 1

---

<sup>1</sup> 144A CUSIP: 35687M AZ0  
144A ISIN: US35687MAZ05  
Regulation S CUSIP: U31395 AN3  
Regulation S ISIN: USU31395AN38

IN WITNESS WHEREOF, the Issuer has caused this instrument to be duly executed.

Dated: [ ]

FREESCALE SEMICONDUCTOR, INC.

By: \_\_\_\_\_  
Name:  
Title:

A-3

This is one of the Notes referred to in the within-mentioned Indenture:

WELLS FARGO BANK, NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_  
Authorized Signatory

6.000% Senior Secured Note due 2022

Capitalized terms used herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. INTEREST. Freescale Semiconductor, Inc., a Delaware corporation (the “Issuer”), promises to pay interest on the principal amount of this Note at a rate per annum of 6.000% from November 1, 2013 until maturity. The Issuer will pay interest on this Note semi-annually in arrears on May 15 and November 15 of each year commencing on May 15, 2014, or if any such day is not a Business Day, on the next succeeding Business Day (each, an “Interest Payment Date”). The Issuer will make each interest payment to the Holder of record of this Note on the immediately preceding May 1 and November 1 (each, a “Record Date”). Interest on this Note will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from and including November 1, 2013. The Issuer will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal and premium, if any, from time to time on demand at the rate borne by this Note; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace periods) from time to time on demand at the rate borne by this Note. Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months.

2. METHOD OF PAYMENT. The Issuer will pay interest on this Note to the Person who is the registered Holder of this Note at the close of business on May 1 or November 1 (whether or not a Business Day), as the case may be, next preceding the Interest Payment Date, even if this Note is canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. Cash payment of interest may be made by check mailed to the Holders at their addresses set forth in the Note Register of Holders, provided that (a) all cash payments of principal, premium, if any, and interest on, Notes represented by Global Notes registered in the name of or held by DTC or its nominee will be made by wire transfer of immediately available funds to the accounts specified by the Holder or Holders thereof and (b) all cash payments of principal, premium, if any, and interest with respect to certificated Notes will be made by wire transfer to a U.S. dollar account maintained by the payee with a bank in the United States if such Holder elects payment by wire transfer by giving written notice to the Trustee or the Paying Agent to such effect designating such account no later than 30 days immediately preceding the relevant due date for payment (or such other date as the Trustee may accept in its discretion). Such payment shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

3. PAYING AGENT AND REGISTRAR. Initially, Wells Fargo Bank, National Association, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Issuer may change any Paying Agent or Registrar without notice to the Holders. The Issuer or any of its Subsidiaries may act in any such capacity.

4. INDENTURE. The Issuer issued the Notes under an Amended and Restated Indenture, dated as of [•], 2015 (the “Indenture”), among Freescale Semiconductor, Inc., the Guarantors named therein and the Trustee. This Note is one of a duly authorized issue of notes of the Issuer designated as its 6.000% Senior Secured Notes due 2022. The Issuer shall be entitled to issue Additional Notes pursuant to Section 2.01 and 4.09 of the Indenture. The terms of the Notes include those stated in the Indenture. The Notes are subject to all such terms, and Holders are referred to the Indenture for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling.

5. OPTIONAL REDEMPTION. Except as described below under clauses 5(b), 5(c) and 5(d) hereof, the Notes will not be redeemable at the Issuer’s option.



(a) At any time prior to November 15, 2016, the Issuer may redeem all or a part of the Notes at a redemption price equal to 100% of the principal amount of the Notes redeemed plus the Applicable Premium as of, and accrued and unpaid interest, if any, to the date of redemption (the "Redemption Date"), subject to the rights of Holders of Notes on the relevant Record Date to receive interest due on the relevant Interest Payment Date.

(b) Until November 15, 2016, the Issuer may, at its option, on one or more occasions redeem up to 35% of the aggregate principal amount of Notes at a redemption price equal to 106.000% of the aggregate principal amount thereof, plus accrued and unpaid interest, if any, to the Redemption Date, subject to the right of Holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date, with the net cash proceeds received of one or more Equity Offerings; provided that at least 50% of the sum of the aggregate principal amount of Notes originally issued under the Indenture and any Additional Notes issued under the Indenture after the Issue Date remains outstanding immediately after the occurrence of each such redemption; provided further that each such redemption occurs within 180 days of the date of closing of each such Equity Offering. Notice of any redemption upon any Equity Offering may be given prior to the redemption thereof, and any such redemption or notice may, at the Issuer's discretion, be subject to one or more conditions precedent, including, but not limited to, completion of the related Equity Offering.

(c) On and after November 15, 2016, the Issuer may redeem the Notes, in whole or in part at the redemption prices (expressed as percentages of principal amount of the Notes to be redeemed) set forth below, plus accrued and unpaid interest, if any, to the Redemption Date, subject to the right of Holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date, if redeemed during the twelve-month period beginning on November 15 of each of the years indicated below:

<u>Year</u>	<u>Percentage</u>
2016	104.500%
2017	103.000%
2018	101.500%
2019 and thereafter	100.000%

(d) Any redemption pursuant to this paragraph 5 shall be made pursuant to the provisions of Sections 3.01 through 3.06 of the Indenture.

6. MANDATORY REDEMPTION. The Issuer shall not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

7. NOTICE OF REDEMPTION. Subject to Section 3.03 of the Indenture, notice of redemption will be sent at least 30 days but not more than 60 days before the redemption date (except that redemption notices may be sent more than 60 days prior to a redemption date if the notice is issued in connection with Article 8 or Article 12 of the Indenture) to each Holder whose Notes are to be redeemed at its registered address. Notes in denominations larger than \$2,000 may be redeemed in part but only in whole multiples of \$1,000, unless all of the Notes held by a Holder are to be redeemed. On and after the Redemption Date, interest ceases to accrue on this Note or portions thereof called for redemption.

8. OFFERS TO REPURCHASE. Upon the occurrence of a Change of Control, the Issuer shall make a Change of Control Offer in accordance with Section 4.14 of the Indenture. In connection with certain Asset Sales, the Issuer shall make an Asset Sale Offer as and when provided in accordance with Section 4.10 of the Indenture.

9. DENOMINATIONS, TRANSFER, EXCHANGE. The Notes are in registered form without coupons in denominations of \$2,000 and integral multiples of \$1,000 thereafter. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Issuer may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Issuer need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Issuer need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed.

10. PERSONS DEEMED OWNERS. The registered Holder of a Note may be treated as its owner for all purposes.

11. AMENDMENT, SUPPLEMENT AND WAIVER. The Indenture, the Guarantees or the Notes may be amended or supplemented as provided in the Indenture.

12. DEFAULTS AND REMEDIES. The Events of Default relating to the Notes are defined in Section 6.01 of the Indenture. If any Event of Default occurs and is continuing, the Trustee or the Holders of at least 30% in principal amount of the then outstanding Notes may declare the principal, premium, if any, interest and any other monetary obligations on all the then outstanding Notes to be due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency, all outstanding Notes will become due and payable immediately without further action or notice. Holders may not enforce the Indenture, the Notes or the Guarantees except as provided in the Indenture. Subject to certain limitations, Holders of a majority in aggregate principal amount of the then outstanding Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders notice of any continuing Default (except a Default relating to the payment of principal, premium, if any, or interest) if it determines that withholding notice is in their interest. The Holders of a majority in aggregate principal amount of the Notes then outstanding by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default or and its consequences under the Indenture except a continuing Default in payment of the principal of, premium, if any, or interest on, any of the Notes held by a non-consenting Holder. Holdings III is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and Holdings III is required within five (5) Business Days after becoming aware of any Default, to deliver to the Trustee a statement specifying such Default and what action the Issuer proposes to take with respect thereto.

13. AUTHENTICATION. This Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose until authenticated by the manual signature of the Trustee.

14. GOVERNING LAW. THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THE INDENTURE, THE NOTES, THE GUARANTEES AND THE COLLATERAL DOCUMENTS RELATING TO THE NOTES.

15. CUSIP AND ISIN NUMBERS. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Issuer has caused CUSIP and ISIN numbers to be printed on the Notes and the Trustee may use CUSIP and ISIN numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

The Issuer will furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to the Issuer at the following address:

Freescale Semiconductor, Inc.  
6501 William Cannon Drive West  
Austin, Texas 78735 Fax: (512) 996-6853  
Attention: General Counsel  
ASSIGNMENT FORM

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to: \_\_\_\_\_

\_\_\_\_\_  
(Insert assignee' legal name)

\_\_\_\_\_  
(Insert assignee's soc. sec. or tax I.D. no.)

\_\_\_\_\_  
(Print or type assignee's name, address and zip code)

and irrevocably appoint \_\_\_\_\_

to transfer this Note on the books of the Issuer. The agent may substitute another to act for him.

Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_  
(Sign exactly as your name  
appears on the face of this Note)

Signature Guarantee\*: \_\_\_\_\_

\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Issuer pursuant to Section 4.10 or 4.14 of the Indenture, check the appropriate box below:

[      ] Section 4.10 [      ] Section 4.14

If you want to elect to have only part of this Note purchased by the Issuer pursuant to Section 4.10 or Section 4.14 of the Indenture, state the amount you elect to have purchased:

\$ \_\_\_\_\_

Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_

(Sign exactly as your name  
appears on the face of this Note)

Tax Identification No.: \_\_\_\_\_

Signature Guarantee\*: \_\_\_\_\_

\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE\*

The initial outstanding principal amount of this Global Note is \$ . The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global or Definitive Note for an interest in this Global Note, have been made:

<u>Date of Exchange</u>	<u>Amount of decrease in Principal Amount</u>	<u>Amount of increase in Principal Amount of this Global Note</u>	<u>Principal Amount of this Global Note following such decrease or increase</u>	<u>Signature of authorized officer of Trustee or Custodian</u>
-------------------------	---	---	---	--

\* This schedule should be included only if the Note is issued in global form.

## FORM OF CERTIFICATE OF TRANSFER

Freescall Semiconductor, Inc.  
 6501 William Cannon Drive  
 West Austin, Texas 78735  
 Fax: 512-996-6853  
 Attention: General Counsel

Wells Fargo Bank, National Association  
 750 N. Saint Paul Place, Suite 1750  
 Dallas, Texas 75201  
 Fax No.: (214) 756-7401  
 Attn: Corporate Trust, Municipal and Escrow Services

Re: 6.000% Senior Secured Notes due 2022

Reference is hereby made to the Amended and Restated Indenture, dated as of [•], 2015 (the "Indenture"), among Freescall Semiconductor, Inc., the Guarantors named therein and the Trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

(the "Transferor") owns and proposes to transfer the Note[s] or interest in such Note[s] specified in Annex A hereto, in the principal amount of \$ \_\_\_\_\_ in such Note[s] or interests (the "Transfer"), to \_\_\_\_\_ (the "Transferee"), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1.  CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE RELEVANT 144A GLOBAL NOTE OR RELEVANT DEFINITIVE NOTE PURSUANT TO RULE 144A. The Transfer is being effected pursuant to and in accordance with Rule 144A under the United States Securities Act of 1933, as amended (the "Securities Act"), and, accordingly, the Transferor hereby further certifies that the beneficial interest or Definitive Note is being transferred to a Person that the Transferor reasonably believes is purchasing the beneficial interest or Definitive Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States.

2.  CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE RELEVANT REGULATION S GLOBAL NOTE OR RELEVANT DEFINITIVE NOTE PURSUANT TO REGULATION S. The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was prearranged with a buyer in the United States, (ii) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S under the Securities Act, (iii) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act and (iv) if the proposed transfer is being made prior to the expiration of the Restricted Period, the transfer is not being made to a U.S. Person

or for the account or benefit of a U.S. Person (other than the Initial Purchasers). Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on Transfer enumerated in the Indenture and the Securities Act.

3.  CHECK AND COMPLETE IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE RELEVANT DEFINITIVE NOTE PURSUANT TO ANY PROVISION OF THE SECURITIES ACT OTHER THAN RULE 144A OR REGULATION S. The Transfer is being effected in compliance with the transfer restrictions applicable to beneficial interests in Restricted Global Notes and Restricted Definitive Notes and pursuant to and in accordance with the Securities Act and any applicable blue sky securities laws of any state of the United States, and accordingly the Transferor hereby further certifies that (check one):

(a)  such Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act;

or

(b)  such Transfer is being effected to the Issuer or a subsidiary thereof;

or

(c)  such Transfer is being effected pursuant to an effective registration statement under the Securities Act and in compliance with the prospectus delivery requirements of the Securities Act.

4.  CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE OR OF AN UNRESTRICTED DEFINITIVE NOTE.

(a)  CHECK IF TRANSFER IS PURSUANT TO RULE 144. (i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(b)  CHECK IF TRANSFER IS PURSUANT TO REGULATION S. (i) The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(c)  CHECK IF TRANSFER IS PURSUANT TO OTHER EXEMPTION. (i) The Transfer is being effected pursuant to and in compliance with an exemption from the registration requirements of the Securities Act other than Rule 144, Rule 903 or Rule 904 and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any State of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private



Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will not be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

This certificate and the statements contained herein are made for your benefit and the benefit of the Issuer.

[Insert Name of Transferor]

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_

1. The Transferor owns and proposes to transfer the following:

[CHECK ONE OF (a) OR (b)]

(a)  a beneficial interest in the:

(i)  144A Global Note (CUSIP: [•]), or

(ii)  Regulation S Global Note (CUSIP: [•]), or

(b)  a Restricted Definitive Note.

2. After the Transfer the Transferee will hold:

[CHECK ONE]

(a)  a beneficial interest in the:

(i)  144A Global Note (CUSIP:           ), or

(ii)  Regulation S Global Note [CUSIP: ], or

(iii)  Unrestricted Global Note ( ); or

(b)  a Restricted Definitive Note; or

(c)  an Unrestricted Definitive Note,  
in accordance with the terms of the Indenture.

ANNEX-1

## FORM OF CERTIFICATE OF EXCHANGE

Freescall Semiconductor, Inc.  
 6501 William Cannon Drive West  
 Austin, Texas 78735 Fax: 512-996-6853  
 Attention: General Counsel

Wells Fargo Bank, National Association  
 750 N. Saint Paul Place, Suite 1750  
 Dallas, Texas 75201  
 Fax No.: (214) 756-7401  
 Attn: Corporate Trust, Municipal and Escrow Services

Re: 6.000% Senior Secured Notes due 2022

Reference is hereby made to the Amended and Restated Indenture, dated as of [•], 2015 (the "Indenture"), among Freescall Semiconductor, Inc., the Guarantors named therein and the Trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

(the "Owner") owns and proposes to exchange the Note[s] or interest in such Note[s] specified herein, in

the principal amount of \$ \_\_\_\_\_ in such Note[s] or interests (the "Exchange"). In connection with the Exchange, the Owner \_\_\_\_\_ hereby certifies that:

1) EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN A RESTRICTED GLOBAL NOTE FOR UNRESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN AN UNRESTRICTED GLOBAL NOTE

a)  CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a beneficial interest in an Unrestricted Global Note in an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Global Notes and pursuant to and in accordance with the United States Securities Act of 1933, as amended (the "Securities Act"), (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest in an Unrestricted Global Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

b)  CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO UNRESTRICTED DEFINITIVE NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

c)  CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Owner's Exchange of a Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

d)  CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO UNRESTRICTED DEFINITIVE NOTE. In connection with the Owner's Exchange of a Restricted Definitive Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

2) EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES FOR RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES

a)  CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO RESTRICTED DEFINITIVE NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a Restricted Definitive Note with an equal principal amount, the Owner hereby certifies that the Restricted Definitive Note is being acquired for the Owner's own account without transfer. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the Restricted Definitive Note issued will continue to be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.

b)  CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner's Restricted Definitive Note for a beneficial interest in the [CHECK ONE]  144A Global Note  Regulation S Global Note, with an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer and (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, and in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the beneficial interest issued will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the relevant Restricted Global Note and in the Indenture and the Securities Act.

This certificate and the statements contained herein are made for your benefit and the benefit of the Issuer and are dated .

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_

[FORM OF SUPPLEMENTAL INDENTURE  
TO BE DELIVERED BY SUBSEQUENT GUARANTORS]

Supplemental Indenture (this "Supplemental Indenture"), dated as of \_\_\_\_\_, among \_\_\_\_\_ (the "Guaranteeing Subsidiary"), a subsidiary of Freescale Semiconductor Holdings III, Ltd., a Bermuda exempted limited liability company, Freescale Semiconductor, Inc., a Delaware corporation (the "Issuer"), and Wells Fargo Bank, National Association, as trustee (the "Trustee").

W I T N E S S E T H

WHEREAS, each of Freescale Semiconductor, Inc. and the Guarantors (as defined in the Indenture referred to below) has heretofore executed and delivered to the Trustee an Amended and Restated Indenture (the "Indenture"), dated as of [•], 2015, providing for the issuance of an unlimited aggregate principal amount of 6.000% Senior Secured Notes due 2022 (the "Notes");

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary shall unconditionally guarantee all of the Issuer's Obligations under the Notes and the Indenture on the terms and conditions set forth herein and under the Indenture (the "Guarantee"); and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

1. Capitalized Terms. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.
2. Agreement to Guarantee. The Guaranteeing Subsidiary hereby agrees as follows:

2.1 Along with all other Guarantors named in the Indenture (including pursuant to any supplemental indentures), to jointly and severally unconditionally guarantee to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of the Indenture, the Notes, the Notes Collateral Documents or the obligations of the Issuer hereunder or thereunder, that:

(a) the principal of and interest and premium, if any, on the Notes shall be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Notes, if any, if lawful, and all other obligations of the Issuer to the Holders or the Trustee thereunder shall be promptly paid in full or performed, all in accordance with the terms thereof; and

(b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same shall be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors and the Guaranteeing Subsidiary shall be jointly and severally obligated to pay the same immediately. This is a guarantee of payment and not a guarantee of collection.

2.2 The obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or the Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Issuer or any other Guarantor, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor.

2.3 The Guaranteeing Subsidiary hereby waives: diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Issuer, any right to require a proceeding first against the Issuer, protest, notice and all demands whatsoever.

2.4 This Guarantee shall not be discharged except by complete performance of the obligations contained in the Notes, the Indenture and this Supplemental Indenture. The Guaranteeing Subsidiary accepts all obligations applicable to a Guarantor under the Indenture, including Article X and, if applicable, Article XI of the Indenture (which is deemed incorporated in this Supplemental Indenture and applicable to this Guarantee) and, as applicable, Section 13.16 of the Indenture. The Guaranteeing Subsidiary acknowledges that by executing this Supplemental Indenture, it will become a Subsidiary Guarantor under the Indenture and subject to all the terms and conditions applicable to Subsidiary Guarantors contained therein.

2.5 If any Holder or the Trustee is required by any court or otherwise to return to the Issuer, the Guarantors (including the Guaranteeing Subsidiary), or any custodian, trustee, liquidator or other similar official acting in relation to either the Issuer or the Guarantors, any amount paid either to the Trustee or such Holder, this Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect.

2.6 The Guaranteeing Subsidiary shall not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby.

2.7 As between the Guaranteeing Subsidiary, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 of the Indenture for the purposes of this Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such obligations as provided in Article 6 of the Indenture, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guaranteeing Subsidiary for the purpose of this Guarantee.

2.8 The Guaranteeing Subsidiary shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under this Guarantee.

2.9 Pursuant to Section 10.02 of the Indenture, after giving effect to all other contingent and fixed liabilities that are relevant under any applicable Bankruptcy or fraudulent conveyance laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under Article 10 of the Indenture, this new Guarantee shall be limited to the maximum amount permissible such that the obligations of such Guaranteeing Subsidiary under this Guarantee will not constitute a fraudulent transfer or conveyance.

2.10 This Guarantee shall remain in full force and effect and continue to be effective should any petition be filed by or against the Issuer for liquidation, reorganization, should the Issuer become insolvent or make an assignment for the benefit of creditors or should a receiver or trustee be appointed for all or any significant part of the Issuer's assets, and shall, to the fullest extent



permitted by law, continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Notes are, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee on the Notes and Guarantee, whether as a “voidable preference”, “fraudulent transfer” or otherwise, all as though such payment or performance had not been made. In the event that any payment or any part thereof, is rescinded, reduced, restored or returned, the Note shall, to the fullest extent permitted by law, be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

2.11 In case any provision of this Guarantee shall be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

2.12 [This Guarantee shall be a secured senior obligation of such Guaranteeing Subsidiary, ranking pari passu in right of payment with any other future First Lien Obligations and Senior Indebtedness of the Guaranteeing Subsidiary, if any.] [This Guarantee shall be an unsecured senior obligation of such Guaranteeing Subsidiary, ranking pari passu in right of payment with any other future Senior Indebtedness of the Guaranteeing Subsidiary, if any.]

2.13 Each payment to be made by the Guaranteeing Subsidiary in respect of this Guarantee shall be made without set-off, counterclaim, reduction or diminution of any kind or nature.

3. Execution and Delivery. The Guaranteeing Subsidiary agrees that the Guarantee shall remain in full force and effect notwithstanding the absence of the endorsement of any notation of such Guarantee on the Notes.

4. Merger, Consolidation, Amalgamation or Sale of All or Substantially All Assets.

4.1 Except as otherwise provided in Section 5.01(c) of the Indenture, the Guaranteeing Subsidiary may not consolidate, amalgamate or merge with or into or wind up into (whether or not the Issuer or Guaranteeing Subsidiary is the surviving corporation), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets, in one or more related transactions, to any Person unless:

(a) (A) the Guaranteeing Subsidiary is the surviving corporation or the Person formed by or surviving any such consolidation, amalgamation or merger (if other than the Guaranteeing Subsidiary) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made is a corporation organized or existing under the laws of the jurisdiction of organization of the Guaranteeing Subsidiary, as the case may be, or the laws of the United States, any state thereof, the District of Columbia, or any territory thereof (the Guaranteeing Subsidiary or such Person, as the case may be, being herein called the “Successor Person”);

(B) the Successor Person, if other than the Guaranteeing Subsidiary, expressly assumes all the obligations of the Guaranteeing Subsidiary under the Indenture and the Guaranteeing Subsidiary’s related Guarantee pursuant to supplemental indentures or other documents or instruments in form reasonably satisfactory to the Trustee and, if applicable, the performance of the covenants and obligations of such Guaranteeing Subsidiary under the Collateral Documents relating to the Notes and shall cause such amendments, supplements, or other instruments to be executed, filed and recorded in such jurisdictions as may be required by applicable law to preserve and protect the Lien on the Collateral owned by or transferred to the Successor Person, together with such financing statements or comparable documents as may be required to perfect any security interests in such Collateral which may be perfected by the filing of a financing statement or a similar document under the UCC or other similar statute or regulation of the relevant states or jurisdictions;

(C) immediately after such transaction, no Default exists; and

(D) the Issuer shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, merger or transfer and such supplemental indentures, if any, comply with the Indenture; or

(b) the transaction is made in compliance with Section 4.10 of the Indenture;

4.2 Subject to certain limitations described in the Indenture, the Successor Person will succeed to, and be substituted for, the Guaranteeing Subsidiary under the Indenture and the Guaranteeing Subsidiary's Guarantee. Notwithstanding the foregoing, the Guaranteeing Subsidiary may merge into or transfer all or part of its properties and assets to another Guarantor or the Issuer.

#### 5. Releases.

The Guarantee of the Guaranteeing Subsidiary shall be automatically and unconditionally released and discharged, and no further action by the Guaranteeing Subsidiary, the Issuer or the Trustee is required for the release of the Guaranteeing Subsidiary's Guarantee, upon:

(a) (A) any sale, exchange or transfer (by merger or otherwise) of the Capital Stock of the Guaranteeing Subsidiary (including any sale, exchange or transfer), after which the Guaranteeing Subsidiary is no longer a Restricted Subsidiary or all or substantially all the assets of the Guaranteeing Subsidiary which sale, exchange or transfer is made in compliance with the applicable provisions of the Indenture;

(B) the release or discharge of the guarantee by the Guaranteeing Subsidiary under all other First Lien Obligations (including the Senior Credit Facilities and the Existing Secured Notes) or the guarantee which resulted in the creation of the Guarantee, except a discharge or release by or as a result of payment under such guarantee;

(C) the proper designation of the Guaranteeing Subsidiary as an Unrestricted Subsidiary;

(D) the release of an Unrestricted Parent Guarantor of all Senior Credit Agreement Obligations; or

(E) the Issuer exercising its Legal Defeasance option or Covenant Defeasance option in accordance with Article 8 of the Indenture or the Issuer's obligations under the Indenture being discharged in accordance with the terms of the Indenture; and

(a) (2) the Guaranteeing Subsidiary delivering to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for in the Indenture relating to such transaction have been complied with.

6. No Recourse Against Others. No director, officer, employee, incorporator or stockholder of the Guaranteeing Subsidiary shall have any liability for any obligations of the Issuer or the Guarantors (including the Guaranteeing Subsidiary) under the Notes, any Guarantees, the Indenture or this Supplemental Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting Notes waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

7. Governing Law. THIS SUPPLEMENTAL INDENTURE WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

8. Counterparts. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

9. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

10. The Trustee. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Subsidiary.

11. Subrogation. The Guaranteeing Subsidiary shall be subrogated to all rights of Holders of Notes against the Issuer in respect of any amounts paid by the Guaranteeing Subsidiary pursuant to the provisions of Section 2 hereof and Section 10.01 of the Indenture; provided that, if an Event of Default has occurred and is continuing, the Guaranteeing Subsidiary shall not be entitled to enforce or receive any payments arising out of, or based upon, such right of subrogation until all amounts then due and payable by the Issuer under the Indenture or the Notes shall have been paid in full.

12. Benefits Acknowledged. The Guaranteeing Subsidiary's Guarantee is subject to the terms and conditions set forth in the Indenture. The Guaranteeing Subsidiary acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by the Indenture and this Supplemental Indenture and that the guarantee and waivers made by it pursuant to this Guarantee are knowingly made in contemplation of such benefits.

13. Successors. All agreements of the Guaranteeing Subsidiary in this Supplemental Indenture shall bind its Successors, except as otherwise provided in Section 2(k) hereof or elsewhere in this Supplemental Indenture. All agreements of the Trustee in this Supplemental Indenture shall bind its successors.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed, all as of the date first above written.

[GUARANTEEING SUBSIDIARY]

By: \_\_\_\_\_  
Name:  
Title:

FREESCALE SEMICONDUCTOR, INC.

By: \_\_\_\_\_  
Name:  
Title:

WELLS FARGO BANK, NATIONAL ASSOCIATION, as  
Trustee

By: \_\_\_\_\_  
Name:  
Title:

## AGREED SECURITY PRINCIPLES

14. Agreed Security Principles

- 14.1 The Guarantees and Liens to be provided by the Issuers and the Guarantors will be given in accordance with certain agreed security principles (the “Agreed Security Principles”). This Exhibit E identifies the Agreed Security Principles and addresses the manner in which the Agreed Security Principles will impact on or be determinant of the Guarantees and Liens to be taken in relation to this Indenture.
- 14.2 The Agreed Security Principles embody a recognition by all parties that there may be certain legal, commercial and practical difficulties in obtaining effective security from the Company and each of its Restricted Subsidiaries in every jurisdiction in which the Company and its Restricted Subsidiaries are located. In particular:
- (a) general statutory or other legal limitations or requirements, financial assistance, corporate benefit, fraudulent preference, “thin capitalization” rules, retention of title claims and similar matters may limit the ability of the Company or any of its Restricted Subsidiaries to provide a Guarantee or Liens or may require that it be limited as to amount or otherwise, and if so the same shall be limited accordingly, *provided* that the Company or the relevant Restricted Subsidiary shall use reasonable endeavors to overcome such obstacle. The Company will use reasonable endeavors to assist in demonstrating that adequate corporate benefit accrues to each of the Restricted Subsidiary;
  - (b) the Company and its Restricted Subsidiaries will not be required to give Guarantees or enter into security documents if (or to the extent) it is not within the legal capacity of the Company or its relevant Restricted Subsidiary or if the same would conflict with the fiduciary duties of their directors or contravene any legal prohibition or regulatory condition or result in, or could reasonably be expected to result in, a material risk of personal or criminal liability for any officer or director of the Company or any of the Restricted Subsidiaries, provided that the Company and each of its Restricted Subsidiaries shall use reasonable endeavors to overcome any such obstacle;
  - (c) a key factor in determining whether or not security shall be taken is the applicable cost (including adverse effects on interest deductibility, registration taxes and notarial costs) which shall not be disproportionate to the benefit to the Holders of obtaining such security;
  - (d) where there is material incremental cost involved in creating security over all assets owned by any of the Issuers or a Guarantor in a particular category (e.g. real estate), regard shall be had to the principle stated at paragraph 1.2(c) of this Exhibit E which shall apply to the immaterial assets and, subject to the Agreed Security Principles, only the material assets in that category (e.g. real estate of material economic value) shall be subject to security;
  - (e) it is expressly acknowledged that it may be either impossible or impractical to create security over certain categories of assets in which event security will not be taken over such assets;

- (f) any assets subject to contracts, leases, licenses or other arrangements with a third party that exist concurrently or are not prohibited by this Agreement and which (subject to override by the Uniform Commercial Code and other relevant provisions of applicable law), effectively prevent those assets from being charged will be excluded from any relevant security document; *provided* that reasonable endeavors to obtain consent to creating Liens in any such assets shall be used by the Company and each of its Restricted Subsidiaries to avoid or overcome such restrictions if either Collateral Agent reasonably determines that the relevant asset is material (which endeavors shall not include the payment of any consent fees), but unless effectively prohibited by contracts, leases, licenses or other arrangements with a third party that exist concurrently or are not prohibited by this Indenture, this shall not prevent security being given over any receipt or recovery under such contract, lease or license;
- (g) the giving of a Guarantee, the granting of security or the perfection of the security granted will not be required if it would have a material adverse effect (as reasonably determined in good faith by management of the relevant obligor) on the ability of the relevant obligor to conduct its operations and business in the ordinary course as otherwise permitted by this Indenture;
- (h) in the case of accounts receivable, a material adverse effect on either Issuer's or a Guarantor's relationship with or sales to the customer generating such receivables or material legal or commercial difficulties (as reasonably determined by management of the relevant obligor in good faith) provided that none of the Issuers and the Guarantors may utilize this exception unless, after giving effect thereto no less than a majority of the book value of the accounts receivable of the Company and its Subsidiaries on a consolidated basis (as measured at the end of each fiscal quarter) is subject to perfected liens, and provided further that any accounts receivable of the Issuers and the Guarantors excluded from Collateral by virtue of this clause (except where prohibited by law and subject to the remainder of these Agreed Security Principles) shall be subject to perfected Liens promptly if and when the corporate credit of the Company is downgraded to "B" or lower from S&P and "B2" or lower from Moody's;
- (i) security will be limited so that the aggregate of notarial costs and all registration and like taxes relating to the provision of security shall not exceed an amount to be agreed. Any additional costs may be paid by the Holders at their option; and
- (j) all security shall be given in favor of a single security trustee or collateral agent and not the secured parties individually. "Parallel debt" provisions and other similar structural options will be used where necessary and such provisions will be contained in the intercreditor agreement and not the individual security documents unless required under local law. No action will be required to be taken in relation to the guarantees or security when any lender assigns or transfers any of its participation in this Indenture to a new lender.
- (k) no action to grant security shall be required to be taken in jurisdictions other than Bermuda, the Netherlands and the United States of America and no perfection action will be required in any other jurisdiction.

15. Terms of security documents

The following principles will be reflected in the terms of any security document to be executed and delivered:

- (a) subject to Permitted Liens and these Agreed Security Principles the security will be first ranking and the perfection of security (when required) and other legal formalities will be completed as soon as practicable and, in any event, within the time periods specified in the Note Documents or, if earlier or to the extent no such time period is specified in the Note Documents, within the time periods specified by applicable law in order to ensure due perfection;
- (b) the security will not be enforceable until an Event of Default has occurred and notice of acceleration of the Notes has been given by the Trustee or the Notes have otherwise become due and payable prior to the scheduled maturity thereof (an “Enforcement Event”);
- (c) prior to the maturity date of the Notes, notification of any Liens over bank accounts will be given (subject to legal advice) to the banks with whom the accounts are maintained only if an Enforcement Event has occurred;
- (d) notification of receivables security to debtors who are not members of the Company or its Subsidiaries will only be given if an Enforcement Event has occurred;
- (e) notification of any security interest over insurance policies will be served on any insurer of the Company’s or any Restricted Subsidiaries’ assets;
- (f) the security documents should only operate to create security rather than to impose new commercial obligations. Accordingly, they should not contain material additional representations, undertakings or indemnities (such as in respect of insurance, information or the payment of costs) unless these are the same as or consistent with those contained in this Indenture or are necessary for the creation or perfection of the security;
- (g) in respect of the share pledges and pledges of intra-group receivables, until an Enforcement Event has occurred, the pledgors will be permitted to retain and to exercise voting rights to any shares pledged by them in a manner which does not materially adversely affect the value of the security (taken as a whole) or the validity or enforceability of the security or cause an Event of Default to occur, and the pledgors will be permitted to receive dividends on pledged shares and payment of intra-group receivables and retain the proceeds and/or make the proceeds available to Holdings and its Subsidiaries to the extent not prohibited under this Indenture;
- (h) the Collateral Agents will only be able to exercise a power of attorney in any security document following the occurrence of an Enforcement Event or with respect to perfection or further assurance obligations that following request, the relevant obligor has failed to satisfy;
- (i) no obligor shall be required to provide surveys on real property (unless such surveys already exist in which case there shall be no requirement that such surveys be certified to the Holders) or to remove any encumbrances on title that are reflected in any title insurance or any other existing encumbrances on real property (not including Liens securing Indebtedness of the Company or any of its Restricted Subsidiaries);
- (j) no obligor shall be required to protect any Liens in the United States prior to the occurrence of an Enforcement Event by means other than customary filings (including UCC-1s, mortgage or deed of trust filings and patent and trademark filings) and delivery of share certificates (accompanied by powers of attorney executed in blank) and any intercompany promissory notes; and

- (k) information, such as lists of assets, will be provided if, and only to the extent, required by local law to be provided to protect or create, perfect or register the security and, to the extent so required will be provided annually (unless required to be provided by local law more frequently, but not more frequently than quarterly) and following the occurrence and during the continuance of an Event of Default, on the Collateral Agents' reasonable request.

3. German Guarantor Limitations.

The following limitations apply to the Guarantees of the Guarantors incorporated in Germany:

- 3.1 The right to enforce the guarantee given by a Guarantor incorporated in Germany as a GmbH (a "German Guarantor") shall be excluded if and to the extent that the Guarantee secures the obligations of an affiliated company (*verbundenes Unternehmen*) within the meaning of Section 15 of the German Stock Corporation Act (*Aktiengesetz*) of such German Guarantor (other than any of the German Guarantor's direct or indirect subsidiaries), and if and to the extent that (x) the enforcement of the Guarantee would cause such German Guarantor's assets (the calculation of which shall include all items set forth in section 266(2) A, B and C of the German Commercial Code (*Handelsgesetzbuch*)) less such German Guarantor's liabilities (the calculation of which shall include all items set forth in section 266(3) B, C and D of the German Commercial Code) (the "Net Assets") being less than its registered share capital (*Stammkapital*) (*Begründung einer Unterbilanz*) or (y) (if such German Guarantor's Net Assets are already less than its registered share capital) causing such amount to be further reduced (*Vertiefung einer Unterbilanz*).
- 3.2 For the purposes of such calculation the following balance sheet items shall be adjusted as follows:
  - (a) The amount of the increase of the relevant German Guarantor's registered share capital out of retained earnings (*Kapitalerhöhung aus Gesellschaftsmitteln*) after the date of this Agreement that has been effected without the prior written consent of the Trustee (acting on behalf of the Holders) shall be deducted from the registered share capital; and
  - (b) Obligations arising out of loans made to the relevant German Guarantor and other liabilities shall be disregarded if and to the extent such loans and other liabilities are subordinated; and
  - (c) Loans and other contractual liabilities incurred in violation of the provisions of the Indenture or the Guarantee shall be disregarded; and
  - (d) Claims of the relevant German Guarantor against its shareholders arising out of any upstream loans permitted under the Indenture or the Guarantee shall only be taken into account (*aktiviert*) if and to the extent this is permitted pursuant to the jurisprudence of the German Federal High Court (*Bundesgerichtshof*) relating to the permissibility of loans to shareholders under Sections 30 and 31 of the German Limited Liability Companies Act (*Gesetz betreffend die Gesellschaften mit beschränkter Haftung*).
- 3.3 In addition, a German Guarantor shall realize, to the extent legally permitted, in a situation where after enforcement of the Guarantee such German Guarantor would not have Net Assets in excess of its registered share capital, any and all of its assets that are shown in the balance sheet with a book value (*Buchwert*) that is significantly lower than the market value of the asset if such asset is not necessary for the German business (*betriebsnotwendig*).



- 3.4 The limitations set out in sub-clause (a) above shall only apply (A) if and to the extent that within 5 Business Days following the demand against such German Guarantor under the Guarantee by the relevant Holder and/or the Trustee (the “*Guarantee Demand*”) the managing directors of the German Guarantor have confirmed to the relevant Holder and/or the Trustee in writing (x) to what extent the Guarantee is an up-stream or cross-stream security and (y) the amount which cannot be enforced as causing the net assets of such German Guarantor, to fall below its stated share capital and such confirmation is supported by interim financial statements up to the end of the last completed calendar month (taking into account the adjustments set out in paragraph sub-clause (ii) above and such confirmation is supported by evidence reasonably satisfactory to the relevant Holder and/or the Trustee (the “*Management Determination*”) and the relevant Holder and/or the Trustee has (have) not contested this and argued that no or a lesser amount would be necessary to maintain its stated share capital; or (B) within 20 Business Days from the date the relevant Holder and/or the Trustee has (have) contested the Management Determination the relevant Holder and/or the Trustee receive(s) a determination by auditors of international standard and reputation (the “*Auditor’s Determination*”) as appointed by such German Guarantor of the amount that would have been necessary on the date the Guarantee Demand was made to maintain the German Guarantor stated share capital based on an up to date balance sheet which shall be based on the same accounting principles that were applied when establishing the previous year’s balance sheet and calculated and adjusted in accordance with sub-clauses (i) and (ii) above. If a German Guarantor fails to deliver an Auditor’s Determination within 20 Business Days after the date the relevant Holder and/or the Trustee has (have) contested the Management Determination, the relevant Holder and/or the Trustee shall be entitled to enforce the Guarantee without limitation or restriction.
- 3.5 If the relevant Holder and/or the Trustee disagree(s) with the Management Determination and/or the Auditor’s Determination, the Guarantee shall be enforceable up to the amount which is undisputed between itself (them) and the relevant German Guarantor. In relation to the amount which is disputed, the relevant Holder and/or the Trustee shall be entitled to further pursue its (their) claims and enforce the Guarantee always subject to sub-clauses (i) to (iv) (inclusive) above and clause (g) below, if it (they) determine(s) in good faith that the financial condition of such German Guarantor as set forth in the Auditor’s Determination and/or the Management Determination has substantially improved (in particular, if such German Guarantor has performed any actions in accordance with sub-clause (iii) above).
- 3.6 The limitations set out in sub-clause (a) above shall not apply (i) if a domination agreement (*Beherrschungsvertrag*) and/or a profit absorption agreement (*Gewinnabführungsvertrag*) is or becomes effective between the relevant German Guarantor and any of its shareholders and any potential loss compensation claim (*Verlustausgleichanspruch*) of the relevant German Guarantor thereunder or in relation thereto is valuable (*vollwertig*), (ii) if the relevant German Guarantor’s payment is covered by a valuable recourse claim (*vollwertig*) against its shareholder or (iii) if and to the extent for any other reason (including as a result of a change in the relevant rules of law) the deficit (*Unterbilanz*) referred to in sub-clause (a) above does not constitute a breach of the German Guarantor’s obligations to maintain its registered share capital pursuant to sections 30 et seq. of the German Limited Liability Companies Act (*Gesetz betreffend die Gesellschaften mit beschränkter Haftung*), each as amended, supplemented and/or replaced from time to time.
- 3.7 Notwithstanding the above provisions, and subject to the following paragraph below, the Guarantee shall not be enforced against a German Guarantor to the extent that such German Guarantor provides constructive evidence that such enforcement will deprive such German Guarantor of the liquidity necessary to fulfil its liabilities to its creditors or otherwise result in a breach of the duty of care owed by the relevant managing director to the respective company (*Verbot des existenzvernichtenden Eingriffs, Gebot der Rücksichtnahme auf die Eigenbelange der Gesellschaft*) and could reasonably be expected to result in a material risk of personal civil or criminal liability of the relevant managing directors of such German Guarantor or the relevant managing directors of its shareholders.

3.8 For the avoidance of doubt, nothing in this Schedule shall be interpreted as a restriction or limitation of the enforcement of the Guarantee to the extent it guarantees the prompt and complete payment and discharge of any and all obligations of a German Guarantor itself or any of its subsidiaries including in each case their legal successors.