

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

FORM 8-K

CURRENT REPORT

**Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934**

Date of Report (Date of Earliest Event Reported): **August 7, 2023**

National CineMedia, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or Other Jurisdiction of
Incorporation or Organization)

001-33296
(Commission File Number)

20-5665602
(I.R.S. Employer
Identification No.)

6300 S. Syracuse Way
(Address of Principal Executive Offices)

Suite 300 Centennial Colorado

80111
(Zip Code)

(303) 792-3600
(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2 below):

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 210.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Common Stock, par value \$0.01 per share
(Title of each class)

NCFI
(Trading symbol)

The Nasdaq Stock Market LLC
(Name of each exchange on which registered)

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

Emerging growth company ☐

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

Introductory Note

As previously reported, on June 27, 2023, the United States Bankruptcy Court for the Southern District of Texas (the "Bankruptcy Court") entered an order (the "Confirmation Order") confirming National CineMedia, LLC's ("NCM LLC") *Modified First Amended Plan of Reorganization of National CineMedia, LLC Pursuant to Chapter 11 of the Bankruptcy Code* (as amended, modified, or supplemented from time to time, the "Plan") and approving the Disclosure Statement on a final basis. A description of the Plan is included under Item 1.03 of the Current Report on Form 8-K of the Company filed June 27, 2023 and is incorporated by reference. Capitalized terms used but not otherwise defined in this Current Report on Form 8-K have the meanings given to them in the Plan.

Following confirmation of the Plan, on August 7, 2023, all the conditions to effectiveness of the Plan were satisfied or waived, the Restructuring Transactions were substantially consummated, and NCM LLC emerged from bankruptcy (the "Effective Date"). Among other things, on the Effective Date, in accordance with the Plan, National CineMedia, Inc. ("NCM, Inc." or the "Company") transferred approximately \$15.5 million to NCM LLC consistent with the NCMI 9019 Settlement, NCM LLC assumed certain unexpired Executory Contracts and Unexpired Leases, including AMC's and Cinemark's ESAs, all Common Units under the LLC Agreement were canceled and extinguished, NCM LLC commenced distributions to creditors, including the issuance of shares of NCMI Common Stock to Holders of Secured Debt Claims, and NCM LLC entered into an Exit Facility to support operations upon emergence, as described herein.

Item 1.01 Entry into a Material Definitive Agreement

Loan, Security and Guarantee Agreement - On August 7, 2023, NCM LLC entered into a Loan, Security and Guarantee Agreement (the "Credit Agreement") with the lenders party thereto and CIT Northbridge Credit LLC as agent.

Under the Credit Agreement, NCM LLC has access to a revolving credit facility with aggregate commitments totaling \$55,000,000 (the "Credit Facility"). The Credit Facility has the following terms:

- The proceeds of the Credit Facility may be used for, *inter alia*, working capital and capital expenditures.
- The Credit Facility will mature on August 7, 2026.
- The interest rate under the Credit Facility is a base rate or SOFR benchmark plus (i) 3.75% if less than 50% of revolving commitments are utilized or (ii) 4.50% if 50% or more of revolving commitments are utilized (utilizing the average revolver usage for the prior calendar month as a benchmark for this determination).

The Credit Agreement also contains a financial maintenance covenant requiring that the fixed charge coverage ratio ending on the last day of each fiscal month is at least 1.1 to 1.0 during a "Trigger Period." A Trigger Period begins upon (i) an event of default or (ii) if availability is less than the greater of (a) \$5,000,000 and (b) 10% of aggregate revolving commitments. A Trigger Period ends only if (i) no event of default existed for the preceding thirty (30) consecutive days and (ii) availability is greater than both (a) \$5,000,000 and (b) 10% of aggregate revolving commitments.

Upon the effectiveness of the Credit Agreement, NCM LLC immediately drew \$10 million from the facility, which represents the only amounts currently outstanding under the Credit Facility.

The Credit Agreement also contains customary representations, warranties, covenants, events of default, terms and conditions, including limitations on liens, incurrence of debt, mergers and significant asset dispositions.

The above description of the terms of the Credit Agreement is qualified in its entirety by reference to the full text of the Credit Agreement, a copy of which is filed as Exhibit 10.1 to this 8-K and incorporated by reference herein.

Amendment to National CineMedia LLC Operating Agreement - On August 7, 2023 NCM LLC entered into a Fifth Amendment to NCM LLC's Third Amended and Restated Limited Liability Company Operating Agreement (the "LLC Agreement Amendment"). The LLC Agreement Amendment reflects modifications necessary due to the Chapter 11 case, including clarifications regarding a quorum and amendments requiring only a majority of the outstanding units, the Credit Agreement, the issuance of the Series B Preferred Stock (defined below), and other general clarifications. The foregoing descriptions of the LLC Agreement Amendment is qualified in its entirety by reference to the copy of the LLC Agreement Amendment filed as Exhibit 10.2 to this Current Report on Form 8-K and is incorporated by reference.

Director Designation Agreement - On August 7, 2023, the Company entered into a Director Designation Agreement (the "Designation Agreement") among the Company, the Consenting Creditor Designation Committee (the "Designation Committee") and Blantyre Capital Limited ("Blantyre") in accordance with the Plan. The Designation Agreement provides for the designation of up to six directors, three of whom must be independent, by the Designation Committee and Blantyre.

Designation Committee Rights. During the Committee Designation Period (defined below), the Designation Committee shall have the right to designate a specified number of directors based on the percentage of the issued and outstanding equity interests of the Company and NCM LLC on an as converted to Common Stock basis ("NCMI Interests") that is owned by the Consenting Creditors (as defined in the Designation Agreement). The number of directors that may be designated is based on the following: (i) up to six directors, three of whom must be independent, as long as the Consenting Creditors hold at least 56% of the NCMI Interests as of any applicable Attestation Date, as defined in the Designation Agreement; (ii) up to five directors, two of whom must be independent, as long as the Consenting Creditors hold less than 56% but at least 50% of the NCMI Interests as of any applicable Attestation Date; (iii) up to four directors, two of whom must be independent, as long as the Consenting Creditors hold less than 50% but at least 34% of the NCMI Interests as of any applicable Attestation Date; (iv) up to three directors, one of whom must be independent, as long as the Consenting Creditors hold less than 34% but at least 23% of the NCMI Interests as of any applicable Attestation Date; (v) up to two directors, one of whom must be independent, as long as the Consenting Creditors hold less than 23% but at least 12% of the NCMI Interests as of any applicable Attestation Date; and (vi) one director as long as the Consenting Creditors hold less than 12% but at least 5% of the NCMI Interests as of any applicable Attestation Date. In each case, the number of directors that may be designated by the Designation Committee shall be reduced by the number of directors appointed by Blantyre, whose rights are described below.

The "Committee Designation Period" will end on the earliest to occur of (i) the day following the Company's 2025 annual general meeting of its stockholders and (ii) the Attestation Date, if any, on which the Consenting Creditors collectively cease to hold, or manage funds or accounts that hold, at least 5% of the NCMI Interests. Each year prior to the Company's stockholder meeting, the Company will reach out to the Consenting Creditors to determine their individual and collective ownership of the NCMI Interests for purposes of determining the number of directors to be designated by the Designation Committee.

In the event that a member of the Designation Committee ceases to own at least 50% of the NCMI Interests it held as of August 7, 2023, then the member will be replaced by another Consenting Creditor as determined by the Company subject to the conditions in the Designation Agreement.

Blantyre Rights. During the Blantyre Designation Period (defined below), Blantyre shall have the right to designate (i) two directors, one of whom must be independent, as long as Blantyre holds at least 15% of the NCMI Interests and (ii) one director as long as Blantyre holds less than 15% but at least 10% of the NCMI Interests.

The "Blantyre Designation Period" will end on the earlier of (i) the day following the Company's 2026 annual general meeting of its stockholders and (ii) the date, if any, on which Blantyre ceases to hold, or manage funds or accounts that hold, at least 10% of the NCMI Interests.

The foregoing descriptions of the Designation Agreement is qualified in its entirety by reference to the copy of the Designation Agreement filed as Exhibit 10.3 to this Current Report on Form 8-K and is incorporated by reference.

Item 1.03 Bankruptcy or Receivership

The information contained in the Introductory Note of this Current Report on Form 8-K related to the NCM LLC's emergence from Chapter 11 is incorporated by reference.

Following NCM LLC's emergence from Chapter 11 and the issuances of Common Stock and Series B Preferred Stock described in Item 3.02 below, the issued and outstanding equity interests in NCM, Inc. consisted of 96,779,983 shares of Common Stock and 50 shares of Series B Preferred Stock, and the issued and outstanding equity interests in NCM LLC consisted of 96,779,983 common units, all of which were owned by NCM, Inc.

As of June 30, 2023, the total assets and liabilities of NCM LLC were approximately \$736.0 million and \$1,276.9 million, respectively. This financial information has not been audited or reviewed by the Company's independent registered public accounting firm and may be subject to future reconciliation or adjustments. This information should not be viewed as indicative of future results.

Item 2.01 Completion of Acquisition or Disposition of Assets

As previously disclosed, upon filing the Chapter 11 case and in accordance with applicable GAAP, the Company concluded that NCM, Inc. no longer controlled NCM LLC for accounting purposes as of the Petition Date as NCM LLC was under the control of the Bankruptcy Court, and therefore, NCM LLC was deconsolidated from the Company's consolidated financial statements prospectively.

As described in the Introductory Note of this Current Report on Form 8-K, NCM LLC emerged from bankruptcy on the Effective Date and retained ownership and regained control of NCM LLC. NCM LLC will be consolidated into the Company's consolidated financial statements prospectively as of the Effective Date.

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

The information contained in Item 1.01 of this Current Report on Form 8-K regarding the Credit Agreement is incorporated by reference.

Item 3.02 Unregistered Sales of Equity Securities.

Common Stock

The information contained in the Introductory Note of this Current Report on Form 8-K related to the issuance of Common Stock to the secured lenders is incorporated by reference. As provided by the Plan, the Company issued 83,420,199 shares of the Company's Common Stock, with a par value of \$0.01, to the Holders of Secured Debt Claims.

Series B Preferred Stock

Pursuant to the Plan, NCM, Inc. was required to issue a number of shares of NCM, Inc. Series B Preferred Stock (the "Series B Preferred Stock") to Thomas Lesinski, Chief Executive Officer. On August 7, 2023, NCM, Inc. issued 50 shares of Series B Preferred Stock to Thomas Lesinski.

The Confirmation Order and Plan provide that the issuance of the Common Stock and Series B Preferred Stock is exempt from the registration requirements of the Securities Act under Section 1145 of the Bankruptcy Code.

Item 3.03 Material Modification to Rights of Security Holders.

The information contained in Item 3.02 and 5.03 of this Current Report on Form 8-K is incorporated by reference.

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

On August 7, 2023, Lawrence A. Goodman, Kurt Hall, Mark Segall, Donna Reisman and Mark Zoradi notified the Company of their resignations from the Company's Board of Directors (the "Board"), effective immediately in connection with the Effective Date. The resignations did not result from any disagreement with NCM, Inc.

On August 7, 2023, the Board elected Bernadette Aulestia, Nicholas Bell, Tiago Lourenço, Joe Marchese, Jean-Phillipe Maheu and Lauren Zalaznick as members of the Board. These individuals were appointed to fill the vacancies created by the resignations of Renana Teperberg on September 7, 2022 and of Lawrence A. Goodman, Kurt Hall, Mark Segall, Donna Reisman and Mark Zoradi on August 7, 2023, as well as in connection with the emergence from bankruptcy. The Required Consenting Creditors, as defined in the Plan, designated the initial slate as required by the Plan.

The Board also confirmed the appointment of Ms. Zalaznick as Chair of the Board.

In addition, the Board confirmed the appointment of David Glazek and Mr. Maheu to the Audit Committee. Following these appointments, the Audit Committee is composed of Juliana Hill, as chair, Mr. Glazek, and Mr. Maheu.

Further, the Board confirmed the appointment of Ms. Aulestia and Mr. Lourenço to the Nominating and Governance Committee. Following these appointments, the Nominating and Governance Committee is composed of Ms. Aulestia, as chair, Mr. Glazek and Mr. Lourenço.

The Board confirmed the appointment of Mr. Bell, Mr. Lourenço, Mr. Marchese and Ms. Zalaznick to the Compensation Committee. Following these appointments, the Compensation Committee is composed of Ms. Zalaznick, as interim chair, Mr. Bell, Mr. Lourenço and Mr. Marchese.

Ms. Zalaznick is currently a principal at Yorick, LLC through which she serves as an investor and advisor to global companies at every stage of maturity focused on content, marketing, sales and direct-to-consumer strategies (since 2014) and she has served as a Senior Advisor to The Boston Consulting Group in the Global TMT Practice since 2015. From 2004 to 2014, Ms. Zalaznick held progressive positions of leadership within NBCUniversal. Currently, Ms. Zalaznick serves as a director of The RTL Group, a Bertelsmann Company (since 2018) (OTCMKTS: RGLXY) and GoPro Corporation (since 2017) (NASDAQ: GPRO). She previously served as a director of The Nielsen Corporation (from 2016 until its acquisition in 2022) (NYSE: NLSN).

Ms. Aulestia is currently a director at Nexstar Media (NASDAQ: NXST) and Denny's (NASDAQ: DENN) and several other private companies. Ms. Aulestia served as Chief Revenue and Growth Officer and advisor of Callisto Media in 2022. Prior to Callisto Media, Ms. Aulestia was President, Global Distribution (2018-2019) and Executive Vice President, Global Distribution (2015-2018), Executive Vice President, Domestic Network & Digital Distribution (2013-2015), and Senior Vice President, Domestic Network & Digital Distribution at HBO, Inc. Prior to HBO, Ms. Aulestia held positions at Univision Communications, Inc., Turner Broadcasting Systems, Inc., and Kidder Peabody, Inc.

Mr. Bell has been the Chief Executive Officer of Fanatics Live since January 2023. Prior to Fanatics Live, Mr. Bell was the Senior Director & Head of Product, Google Images, at Google from 2020-2023, a Co-Founder & managing Partner at Attention Capital from 2019-2020, the Vice Global Head of Content & Partnership at Snap from 2014 to 2019, and Senior Vice-President, Digital Products, News Corporation from 2013 to 2014.

Mr. Lourenço is a Partner at Blantyre Capital, having joined the firm in 2020. Prior to this, he was a Vice President at Oaktree Capital Management for 7 years in the distressed opportunities group. Prior to Oaktree, Mr. Lourenço worked at Goldman Sachs and Bain & Company. He holds a B.Sc. in Economics and a M.Sc. in Finance from Nova School of Business and Economics.

Mr. Marchese has been the Chief Executive Officer of Attention Capital since 2019, the Co-Founder and Executive Chairman of Human Ventures, since 2015, and a Partner/Co-Founder of Casa Komos Brands Group, since 2019. Previously, Mr. Marchese served as President of Advertising Revenue for Fox Networks Group from 2015 to 2019. Prior to Fox Networks, Mr. Marchese held other various roles as a media executive, management consultant and multiple time entrepreneur. Mr. Marchese has been a member of the board of directors of Clear Channel Outdoor Group (NYSE: CCO) since 2019.

Mr. Maheu served in various leadership roles at Twitter from 2013 to 2022, most recently as Global Vice President, Client Solutions & Advertising Sales (2021-2022). He was also Vice President, US Client Solutions (2015-2021) and Managing Director, Global Brand & Agency Strategy (2013-2015). Prior to Twitter, Mr. Maheu was the CEO of Bluefin Labs, the CEO of Razorfish, Global CEO of Publicis Modem, and Chief Digital Officer,

North America of Ogilvy & Mather. Mr. Maheu also serves as an advisor and director to various growth stage companies.

The Board has determined that Ms. Zalaznick, Ms. Aulestia, Mr. Bell, Mr. Marchese and Mr. Maheu are independent directors as determined by the rules of the Nasdaq Stock Market. There are no family relationships between Ms. Zalaznick, Ms. Aulestia, Mr. Bell, Mr. Marchese, Mr. Lourenço, Mr. Maheu and any director or executive officer of the Company. None of Ms. Zalaznick, Ms. Aulestia, Mr. Bell, Mr. Marchese, Mr. Lourenço or Mr. Maheu has any direct or indirect material interest in any transaction required to be disclosed pursuant to Item 404(a) of Regulation S-K.

Ms. Zalaznick, Ms. Aulestia, Mr. Bell, Mr. Marchese, Mr. Lourenço and Mr. Maheu will be eligible to receive compensation in accordance with the Company's standard arrangements for non-employee directors, as described under "Non-Employee Director Compensation" in the Company's definitive proxy statement filed on March 23, 2022.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year. ***Issuance of Series B Preferred Stock***

On August 7, 2023, the Company filed a Certificate of Designation for the Company's Series B Non-Convertible Preferred Stock with the Secretary of State of the State of Delaware (the "Certificate of Designation"). The following is only a summary of the Certificate of Designation, and is qualified in its entirety by reference to the full text of the Certificate of Designation, a copy of which is filed as Exhibit 3.1 to this Current Report on Form 8-K and is incorporated by reference.

Designation, Amount, and Par Value. The number of shares of Series B Preferred Stock designated is 50. The shares of Series B Preferred Stock have a par value of \$0.01 per share.

Optional Redemption and Liquidation Right. At any time following the third anniversary of the date of issuance, the Company shall have the right to redeem, and the holder of the shares of Series B Preferred Stock shall have the right to cause the Company to redeem, all or any portion of the then-outstanding shares at a price equal to \$1,000 per share (the "Liquidation Preference").

Dividends and Economic Rights. The Series B Preferred Stock shall be entitled to receive cumulative dividends accruing on a daily basis in arrears at the dividend rate of 11.0% on the Liquidation Preference as declared by the Board of Directors.

Conversion. The Series B Preferred Stock will not be convertible or exchangeable for Common Stock.

Voting Rights. The holders of Series B Preferred Stock shall not have the right to vote with the holders of shares of Common Stock.

Item 7.01 Regulation FD Disclosure.

On August 7, 2023, the Company issued a press release announcing NCM LLC's emergence from Chapter 11. A copy of the press release is attached as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated herein by reference.

The information furnished pursuant to this Item 7.01, including Exhibit 99.1, shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liabilities under that Section and shall not be deemed to be incorporated by reference into any filing of the Company under the Securities Act of 1933, as amended or the Exchange Act.

Item 8.01 Other Events.

Cancellation of Common Stock

As previously disclosed in a Current Report on Form 8-K dated June 5, 2023, NCM LLC, Regal Cinemas, Inc. ("Regal") and certain of Regal's affiliates entered into a joint venture termination and settlement agreement, dated June 3, 2023 pursuant to which Regal and its affiliates agreed to surrender all shares in the Company on the Effective Date of the Plan. As such, on August 7, 2023, Regal surrendered all shares of its Common Stock in the Company for cancellation. At the time of cancellation, Regal owned 4,068,380 shares of Common Stock in the

Company, reducing the shares of Common Stock issued and outstanding from 17,428,164 to 13,359,784 prior to giving effect to the issuance of Common Stock to the secured lenders described in the Introductory Note and Item 3.02 above.

Series A Preferred Stock

On June 27, 2023, the Company issued 5,000,000 shares of its Series A Preferred Stock to Omni Agent Solutions, Inc., in its capacity as nominee. The issuance was required by the Plan to allow the holders of the Series A Preferred Stock to vote at the Special Meeting of Stockholders on August 2, 2023 (the “Special Meeting”). Following the Special Meeting, all shares of Series A Preferred Stock were cancelled on August 7, 2023.

Item 9.01 Financial Statements and Exhibits

<u>Exhibit No.</u>	<u>Description</u>
3.1	Certificate of Designation Series B Preferred Stock
10.1	Loan, Security and Guarantee Agreement dated as of August 7, 2023, by and among National CineMedia, LLC, the certain financial institutions party thereto as Lenders, and CIT Northbridge Credit LLC as Agent, Sole Lead Arranger and Sole Bookrunner.
10.2	Fifth Amendment to the Third Amended and Restated Limited Liability Company Operating Agreement of National CineMedia, LLC
10.3	Director Designation Agreement
99.1	Press Release of National CineMedia, Inc. dated August 7, 2023.
99.2	Modified First Amended Plan of Reorganization Under Chapter 11 of the Bankruptcy Code, dated June 25, 2023 (incorporated by reference to Exhibit 99.1 of the Company's Current Report on Form 8-K filed on June 27, 2023)
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

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 hereunto duly authorized.

NATIONAL CINEMEDIA, INC.

Dated: August 7, 2023

By: /s/ Ronnie Y. Ng
Ronnie Y. Ng
Chief Financial Officer

**CERTIFICATE OF DESIGNATION OF
SERIES B NON-CONVERTIBLE PREFERRED STOCK OF
NATIONAL CINEMEDIA, INC.**

Pursuant to Section 151 of the Delaware General Corporation Law (the “**DGCL**”), National Cinemedia, Inc., a corporation organized and existing under the laws of the State of Delaware (the “**Company**”), in accordance with the provisions of Section 103 of the DGCL does hereby submit the following:

WHEREAS, the Restated Certificate of Incorporation of the Company (as the same may be amended and/or restated from time to time, the “**Certificate of Incorporation**”), authorizes the issuance of up to 10,000,000 shares of preferred stock, par value \$0.01 per share, of the Company (“**Preferred Stock**”) in one or more series, and expressly authorizes the Board of Directors of the Company (the “**Board**”), subject to limitations prescribed by law, to provide, out of the unissued and undesignated shares of Preferred Stock, for one or more series of Preferred Stock and, with respect to each such series, to establish and fix the number of shares to be included and the designation, rights, preferences, powers, restrictions, and limitations of the shares of such series; and

WHEREAS, it is the desire of the Board to establish and fix the number of shares to be included in a new series of Preferred Stock and the designation, rights, preferences, powers, restrictions, and limitations of the shares of such new series.

NOW, THEREFORE, BE IT RESOLVED, that the Board does hereby provide for the issuance of a series of Preferred Stock for cash or exchange of other securities, rights or property and does hereby in this certificate of designation (the “**Certificate of Designation**”) establish and fix and herein state and express the designation, rights, preferences, powers, restrictions, and limitations of such series of Preferred Stock as follows:

1. Designation. There shall be a series of Preferred Stock that shall be designated as “Series B Non-Convertible Preferred Stock” (the “**Series B Preferred Stock**”) and the number of shares so designated shall be 50. The rights, preferences, powers, restrictions, and limitations of the Series B Preferred Stock shall be as set forth herein.

2. Defined Terms. For purposes hereof, the following terms shall have the following meanings:

“**Accreted Dividends**” means, as of any date of determination, with respect to each outstanding Share, the aggregate amount of dividends that have accrued pursuant to Section 3(a) and that have not been paid pursuant to Section 3(b) on such Share from the immediately preceding Dividend Payment Date to such date of determination.

“**Board**” has the meaning set forth in the Recitals.

“**Business Day**” means each day that is not a Saturday, Sunday or other day on which banking institutions in New York, New York, United States are authorized or required by law to close. When the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment or performance shall extend to the immediately succeeding Business Day and such extension of time shall be reflected in computing interest, dividends, premium or fees, as the case may be.

“Capital Stock” means all shares, options, warrants, general or limited partnership interests, membership interests or other equivalents (regardless of how designated) of or in a corporation, partnership, limited liability company or equivalent entity whether voting or nonvoting, including common stock, preferred stock or any other “equity security” (as such term is defined in Rule 3a11-1 of the General Rules and Regulations promulgated by the SEC under the Securities Exchange Act of 1934).

“Certificate of Designation” has the meaning set forth in the Recitals.

“Common Stock” means the common stock, par value \$0.01 per share, of the Company.

“Company” has the meaning set forth in the Preamble.

“Date of Issuance” means, for any Share, the date on which the Company initially issues such Share (without regard to any subsequent transfer of such Share or reissuance of the certificate representing such Share).

“Dividend” means the dividends to be made by the Company in respect of the Series B Preferred Stock in accordance with Section 3(a).

“Dividend Payment Date” means March 31, June 30, September 30 and December 31, of each year, commencing on June 30, 2023; provided that if any Dividend Payment Date is not a Business Day, the Dividend Payment Date will be the immediately following Business Day.

“Dividend Rate” means with respect to dividends that accrue for each period ending on a Dividend Payment Date, 11.00% per annum.

“Junior Preferred Stock” means Preferred Stock which, by its terms, ranks junior to the Series B Preferred Stock in respect of payment of dividends or upon liquidation, dissolution, or winding up.

“Liquidation Preference” means, at any date of determination and with respect to each outstanding share of Series B Preferred Stock, the sum of (a) the Liquidation Value thereof, plus (b) all accrued, accumulated and unpaid Dividends thereon (including, for the avoidance of doubt, Dividends compounded in accordance with Section 3(a)).

“Liquidation Value” means \$1,000 per Share.

“Preferred Stock” has the meaning set forth in the Recitals.

“Series B Preferred Stock” has the meaning set forth in Section 1.

“Share” means a share of Series B Preferred Stock.

3. Dividends.

a. From and after the Date of Issuance of each Share, holders of the Series B Preferred Stock shall be entitled to receive in respect of each such Share, as and when declared by the Company’s Board of Directors, from time to time, cumulative dividends accruing on a daily basis in arrears at the Dividend Rate on the Liquidation Preference of such Share from time to time, payable in cash and, to the extent not paid on any Dividend Payment Date, compounded quarterly in arrears on such Dividend Payment Date by increasing the Liquidation Preference by

such Accreted Dividends. Dividends will be calculated on the basis of actual days elapsed over a year of 360 days consisting of 12 30-day months.

b. At any time and from time to time when there are Accreted Dividends, the Company's Board of Directors, or any authorized committee thereof, may declare and cause the Company to pay in cash, to the holders of record of Series B Preferred Stock, a dividend per Share equal to all or a portion of such Accreted Dividends on such Share.

c. Notwithstanding anything to the contrary contained herein, (i) no dividend may be declared unless paid to the holders of the Shares immediately in cash (it being understood that no dividends may be declared and paid in securities or otherwise "in kind") and (ii) no dividend shall be declared or paid in anticipation of a redemption of the Series B Preferred Stock or any liquidation of the Company.

4. Ranking. The Series B Preferred Stock (inclusive of any and all Dividends thereon) shall rank senior and in priority of payment to all Junior Preferred Stock and other Capital Stock in any liquidation or winding up of the Company.

5. Voting.

5.1 Voting Generally. Notwithstanding anything to the contrary in the Certificate of Incorporation, the holder of Series B Preferred Stock shall not be entitled to vote on any matter on which stockholders of the Company are entitled to vote (including for the election of the directors of the Company).

6. Redemption.

6.1 Optional Redemptions. At any time and from time to time on or after the third anniversary of the Date of Issuance, the Company shall have the right to redeem, and the holder of the shares of Series B Preferred stock can, in its discretion, cause the Company to redeem, out of funds legally available therefor, all or any portion of the then-outstanding Shares (a "**Series B Redemption**") for a price per Share equal to the Liquidation Value for each such Share. Any such Series B Redemption shall occur not more than sixty (60) days following the delivery by the Company of a written redemption notice (the "**Series B Redemption Notice**") to the holder of record of each Share stating the aggregate number of Shares to be redeemed. Each Series B Redemption Notice shall state:

a. the number of Shares held by the holder that the Company shall redeem on the Series B Redemption Date specified in the Series B Redemption Notice;

b. the date the Series B Preferred Stock shall be redeemed (the "**Series B Redemption Date**"); and

c. the manner and place designated for surrender by the holder to the Company of his, her, or its certificate(s) representing the Share(s) to be redeemed.

7. Conversion; Exchange. The Series B Preferred Stock is not convertible into or exchangeable for Common Stock or any other securities of the Company.

8. Stock Splits, Ratios, Adjusting Outstanding Shares of Series B Preferred Stock or Series B Preferred Units. Sections 4.4 (Stock Splits, Ratios, Adjusting Outstanding Shares of Common Stock or Membership Units) of Certificate of Incorporation will apply to this this Certificate of Designation, *mutatis mutandis*, Series B Preferred Stock in the case of Common Stock and Series B Preferred Units in the case of Membership Units.

9. Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder shall be provided to the holders of Shares in accordance with the Bylaws and the Certificate of Incorporation.

10. Amendment and Waiver. No provision of this Certificate of Designation may be amended, modified, or waived except by an instrument in writing duly adopted by the Board, and any such written amendment, modification, or waiver will be binding upon the Company and each holder of Series B Preferred Stock; *provided*, that no such action shall change or waive this Section 10, without the prior written consent of each holder of outstanding Shares; *provided, further*, that no amendment, modification, or waiver of the terms or relative priorities of the Series B Preferred Stock may be accomplished by the merger, consolidation, or other transaction of the Company with another corporation or entity unless the Company has obtained the prior written consent of the holders in accordance with this Section 10.

11. Effectiveness. This Certificate of Designation shall become effective on August 7, 2023, at 8:00 a.m., Eastern Standard Time.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Certificate of Designation is executed on behalf of the Company by its Chief Financial Officer this 7th day of August, 2023.

NATIONAL CINEMEDIA INC.

By: /s/ Ronnie Ng
Name: Ronnie Y. Ng
Title: Chief Financial Officer

LOAN, SECURITY AND GUARANTEE AGREEMENT

Dated as of August 7, 2023

NATIONAL CINEMEDIA, LLC, and
CERTAIN OTHER PERSONS FROM TIME TO TIME
DESIGNATED AS A BORROWER HEREUNDER,

as Borrowers,

CERTAIN OTHER PERSONS FROM TIME TO TIME
DESIGNATED AS A GUARANTOR HEREUNDER,

as Guarantors,

CERTAIN FINANCIAL INSTITUTIONS,

as Lenders,

CIT NORTHBRIDGE CREDIT LLC,

as Agent,

and

CIT NORTHBRIDGE CREDIT LLC,
as Sole Lead Arranger and Sole Bookrunner

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LOAN, SECURITY AND GUARANTEE AGREEMENT

THIS LOAN, SECURITY AND GUARANTEE AGREEMENT (this “**Agreement**”) is dated as of August 7, 2023, among **NATIONAL CINEMEDIA, LLC**, a Delaware limited liability company (“**NCM**”, and together with any other Person from time to time designated as a borrower hereunder, collectively, the “**Borrowers**” and each, individually, a “**Borrower**”), the other Obligor from time to time party hereto, the financial institutions party to this Agreement from time to time as Lenders, and **CIT NORTHBRIDGE CREDIT LLC**, a Delaware limited liability company (“**CNC**”), as agent for the Secured Parties (in such capacity, “**Agent**”).

RECITALS:

Borrowers have requested that Lenders provide a credit facility to Borrowers to finance their mutual and collective business enterprise. Lenders are willing to provide the credit facility on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for valuable consideration hereby acknowledged, the parties agree as follows:

SECTION 1. DEFINITIONS; RULES OF CONSTRUCTION

1.1 Definitions. As used herein, the following terms have the meanings set forth below:

“**Accounts Formula Amount**”: (a) up to 90% of the Value of Eligible Accounts (other than Credit Insured Accounts, Extended Eligible Accounts and Eligible Unbilled Accounts) that constitute Investment Grade Accounts, plus (b) up to 90% of the Value of Eligible Accounts (other than Credit Insured Accounts, Extended Eligible Accounts and Eligible Unbilled Accounts) that do not constitute Investment Grade Accounts, plus (c) up to 90% of the Value of Credit Insured Accounts (other than Extended Eligible Accounts and Eligible Unbilled Accounts), plus (d) up to the lesser of (i) \$2,000,000 and (ii) the sum of (A) up to 90% of the Value of Extended Eligible Accounts (other than Credit Insured Accounts and Eligible Unbilled Accounts) that constitute Investment Grade Accounts, (B) up to 90% of the Value of Extended Eligible Accounts (other than Credit Insured Accounts and Eligible Unbilled Accounts) that do not constitute Investment Grade Accounts and (C) up to 90% of the Value of Extended Credit Insured Accounts (other than Eligible Unbilled Accounts), plus (e) up to 80% of the Value of Eligible Unbilled Accounts, plus (f) (i) from the Closing Date through but excluding the first anniversary of the Closing Date, up to the lesser of (A) \$4,000,000 and (B) 10% of the sum of clauses (a), (b), (c), (d) and (e) above, (ii) from and including the first anniversary of the Closing Date through but excluding the second anniversary of the Closing Date, up to the lesser of (A) \$2,666,666.66 and (B) 6.66% of the sum of clauses (a), (b), (c), (d) and (e) above, (iii) from and including second anniversary of the Closing Date through but excluding the third anniversary of the Closing date, up to the lesser of (A) \$1,333,333.33 and (B) 3.33% of the sum of clauses (a), (b), (c), (d) and (e) above and (iv) from and including the third anniversary of the Closing Date, \$0, in each case of clauses (a), (b), (c), (d) and (e), subject to Agent’s Permitted Discretion.

“**Acquisition**”: a transaction or series of transactions (including a merger, consolidation or combination of an Obligor or Subsidiary with another Person) resulting in (a) acquisition of a business, division or substantially all assets of a Person; or (b) record or beneficial ownership of 50% or more of the Equity Interests of a Person.

“**Adjusted Term SOFR**”: for purposes of any calculation, the rate per annum equal to (a) Term SOFR for such calculation plus (b) the Term SOFR Adjustment; provided, that if Adjusted Term SOFR as so determined shall ever be less than the Floor, then Adjusted Term SOFR shall be deemed to be the Floor.

“**Affected Financial Institution**”: (a) any EEA Financial Institution or (b) any UK Financial Institution.

“**Affiliate**”: with respect to any Person, another Person (a) that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified or (b) 10% or more of the voting Equity Interests of which is directly or indirectly beneficially owned or held by such Person. “**Control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “**Controlling**” and “**Controlled**” have correlative meanings.

“**Agent Indemnitees**”: Agent and its officers, directors, employees, Affiliates, agents and attorneys.

“**Agent Professionals**”: attorneys, accountants, appraisers, auditors, business valuation experts, environmental engineers or consultants, turnaround consultants, and other professionals and experts retained by Agent.

“Allocable Amount”: as defined in **Section 5.11.3**.

“AMC/Cinemark Appeal”: the appeal of the Confirmation Order and Regal Approval Order made to the United States District Court for the Southern District of Texas by American Multi-Cinema, Inc., Cinemark USA, Inc., and Cinemark Media, Inc. on June 29, 2023 and July 6, 2023, before United States District Judge Andrew S. Hanen (Nos. 4:23-CV-2414; 4:23-CV-2485).

“Anti-Terrorism Law”: any law relating to terrorism or money laundering, including the Patriot Act.

“Applicable Law”: all laws, rules, regulations and governmental guidelines applicable to the Person conduct, transaction, agreement or matter in question, including statutory law, common law and equitable principles, as well as provisions of constitutions, treaties, statutes, rules, regulations, orders and decrees of Governmental Authorities.

“Applicable Margin”: the rate per annum set forth below, as determined by the average Revolver Usage for the prior calendar month (in each case, as calculated by Agent in its discretion):

Level	Average Revolver Usage for the Prior Calendar Month	<u>Base Rate Loans or SOFR Loans</u>
I	< 50% of the Revolver Commitments	3.75%
II	≥ 50% of the Revolver Commitments	4.50%

From and after the Closing Date, through and including August 31, 2023, margins shall be determined as if Level II were applicable. Thereafter, margins shall be subject to increase or decrease by Agent on the first day of each calendar month.

“Approved Fund”: any Person (other than a natural Person) engaged in making, purchasing, holding or otherwise investing in commercial loans in its ordinary course of activities.

“Asset Disposition”: a sale, lease, license, consignment, transfer or other disposition of Property of an Obligor, including any disposition in connection with a sale-leaseback transaction or synthetic lease.

“Assignment”: an assignment agreement between a Lender and Eligible Assignee, in the form of **Exhibit A-1** or otherwise reasonably satisfactory to Agent.

“Assignment Notice”: a notice of an assignment pursuant to an Assignment Agreement, in the form of **Exhibit A-2** or otherwise reasonably satisfactory to Agent.

“Availability”: the Borrowing Base minus Revolver Usage.

“Availability Reserve”: the sum (without duplication of any reserves or other exclusions excluded by application of the eligibility criteria) of (a) the Rent and Charges Reserve (only with respect to any location with respect to which books and records relating to any Collateral included in the calculation of the Borrowing Base are maintained); (b) the Bank Product Reserve; (c) the aggregate amount of liabilities secured by Liens upon Collateral that are senior to Agent's Liens (but imposition of any such reserve shall not waive an Event of Default arising therefrom); (d) reserves relating to accrued and unpaid Tax liabilities; and (e) such additional reserves, in such amounts and with respect to such matters, as Agent in its Permitted Discretion may elect to impose from time to time.

“Available Tenor”: as of any date of determination and with respect to the then-current Benchmark, as applicable, (a) if such Benchmark is a term rate, any tenor for such Benchmark (or component thereof) that is or may be used for determining the length of an interest period pursuant to this Agreement or (b) otherwise, any payment period for interest calculated with reference to such Benchmark (or component thereof) that is or may be used for determining any frequency of making payments of interest calculated with reference to such Benchmark pursuant to this Agreement, in each case, as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of "Monthly Period" pursuant to **Section 3.6.2(d)**.

“(Average Availability)”: as of any date of determination, the sum of Availability for each of the previous thirty (30) days, divided by thirty (30).

“(Average Projected Availability)”: the projected the sum of Availability for each of the upcoming thirty (30) days, divided by thirty (30) based on projections delivered to Agent by Borrowers at the time of making any applicable payment.

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

“(Bail-In Legislation)”: (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

“(Bank)”: First Citizens Bank.

“(Bank Product)”: any of the following products or services extended to, or arranged for, a Borrower or Affiliate of a Borrower by Agent, a Lender or any of their respective Affiliates: (a) Cash Management Services; (b) products under Hedging Agreements; (c) commercial credit card and merchant card services; and (d) other banking products or services, other than Letters of Credit.

“(Bank Product Reserve)”: the aggregate amount of reserves established by Agent from time to time in its discretion with respect to Secured Bank Product Obligations.

“(Bankruptcy Code)”: Title 11 of the United States Code.

“(Bankruptcy Court)”: the United States Bankruptcy Court for the Southern District of Texas, Houston Division.

“(Base Rate)”: for any day a fluctuating rate per annum equal to the highest of: (a) the Floor, (b) the Federal Funds Rate plus 1/2 of one percent (1%) or (c) the rate of interest in effect for such day as publicly announced from time to time by JPMorgan Chase Bank, N.A. as its "prime rate" in effect for such day. Any change in the "prime rate" announced by JPMorgan Chase Bank, N.A. shall take effect without notice to the Borrowers at the opening of business on the day specified as the effective date of change in the public announcement or publication of such change. The Base Rate is not necessarily the lowest rate of interest charged by Lenders in connection with extensions of credit. If JPMorgan Chase Bank, N.A. ceases to announce its "prime rate", Agent may select a reasonably comparable index or source to use as the basis for the Base Rate. For the avoidance of doubt, the Base Rate will in no event be less than the Floor.

“(Base Rate Loan)”: a Loan that accrues interest by reference to the Base Rate in accordance with the term of this Agreement.

“(Benchmark)”: initially, the Term SOFR Reference Rate; provided, that if a Benchmark Transition Event has occurred with respect to the Term SOFR Reference Rate or the then-current Benchmark, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to **Section 3.6.2(a)**.

“(Benchmark Replacement)”: with respect to any Benchmark Transition Event, the sum of: (a) the alternative benchmark rate that has been selected by Agent and Borrower Agent giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for Dollar-denominated syndicated credit facilities and (b) the related Benchmark Replacement Adjustment; provided, that if such Benchmark Replacement as so determined would be less than the Floor, such Benchmark Replacement shall be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents.

“Benchmark Replacement Adjustment”: with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Monthly Period, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by Agent and Borrower Agent giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for Dollar-denominated syndicated credit facilities at such time.

“Benchmark Replacement Date”: the earliest to occur of the following events with respect to the then-current Benchmark:

(a) in the case of clause (a) or (b) of the definition of "Benchmark Transition Event," the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof); or

(b) in the case of clause (c) of the definition of "Benchmark Transition Event," the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be non-representative; provided that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (c) and even if any Monthly Period of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, the "Benchmark Replacement Date" will be deemed to have occurred in the case of clause (a) or (b) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

“Benchmark Transition Event”: the occurrence of one or more of the following events with respect to the then-current Benchmark:

(a) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

(b) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the FRB, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(c) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are not, or as of a specified future date will not be, representative.

For the avoidance of doubt, if the then-current Benchmark has any Available Tenors, a "Benchmark Transition Event" will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

“Benchmark Transition Start Date”: in the case of a Benchmark Transition Event, the earlier of (a) the applicable Benchmark Replacement Date and (b) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the ninetieth (90th) day prior to the expected date of such event as of

such public statement or publication of information (or if the expected date of such prospective event is fewer than ninety (90) days after such statement or publication, the date of such statement or publication).

“Benchmark Unavailability Period”: the period (if any) (a) beginning at the time that a Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with **Section 3.6.2** and (b) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with **Section 3.6.2**.

“Board of Governors”: the Board of Governors of the Federal Reserve System.

“Borrowed Money”: with respect to any Obligor, without duplication, its (a) Debt that (i) arises from the lending of money by any Person to such Obligor, (ii) is evidenced by notes, drafts, bonds, debentures, credit documents or similar instruments, (iii) accrues interest or is a type upon which interest charges are customarily paid (excluding trade payables owing in the Ordinary Course of Business), or (iv) was issued or assumed as full or partial payment for Property; (b) Capital Leases; (c) letter of credit reimbursement obligations; and (d) guaranties of any of the foregoing owing by another Person.

“Borrower Agent”: as defined in **Section 4.4**.

“Borrower Materials”: Borrowing Base Reports, Compliance Certificates and other written information, reports, financial statements and other materials delivered by Borrowers hereunder.

“Borrowing”: a group of Loans that are made or converted together on the same day and have the same interest option and, if applicable, Interest Period.

“Borrowing Base”: on any date of determination, an amount equal to (a) the lesser of (i) the aggregate Revolver Commitments; and (ii) the Accounts Formula Amount; minus (b) the Availability Reserve.

“Borrowing Base Report”: a report substantially in the form attached hereto as **Exhibit B** by which Borrower Agent certifies pursuant to **Section 8.1(a)** the Borrowing Base.

“Business Day”: any day other than a Saturday, Sunday, any other day on which commercial banks are authorized to close under the laws of, or are in fact closed in, New York, and any other day on which the Federal Reserve Bank of New York is closed.

“Capital Expenditures”: all liabilities incurred or expenditures made by a Borrower or Subsidiary for the acquisition of fixed assets, or any improvements, replacements, substitutions or additions thereto with a useful life of more than one year and that is required to be capitalized for financial reporting purposes in accordance with GAAP.

“Capital Lease”: any lease required to be capitalized for financial reporting purposes in accordance with GAAP (without giving effect to the changes in operating lease accounting contained in Lease Accounting Standard Codification 842).

“Cash Collateral”: cash delivered to Agent to Cash Collateralize any Obligations, and all interest, dividends, earnings and other proceeds relating thereto.

“Cash Collateralize”: the delivery of cash to Agent, as security for the payment of Obligations, in an amount equal to (a) with respect to LC Obligations, 103% of the aggregate LC Obligations, and (b) with respect to any inchoate, contingent or other Obligations (including Secured Bank Product Obligations), Agent's good faith estimate of the amount due or to become due, including fees, expenses and indemnification hereunder. “**Cash Collateralization**” has a correlative meaning.

“Cash Dominion Trigger Period”: the period (a) commencing on any day that (i) any Default or Event of Default has occurred or is continuing, (ii) Availability is less than \$10,000,000 for each day during a period of three (3) consecutive Business Days, (iii) Revolver Usage is greater than 50% of the Revolver Commitments for each day during a period of three (3) consecutive Business Days or (iv) Availability is less than \$7,500,000 at any time; and (b) continuing until, in each case during each of the preceding thirty (30) consecutive days, (i) no Event of Default has existed, (ii) Availability has been more than \$10,000,000 and (iii) Revolver Usage has been less than or equal to 50% of the Revolver Commitments.

“Cash Equivalents”: (a) marketable obligations issued or unconditionally guaranteed by, and backed by the full faith and credit of, the U.S. government, maturing within 12 months of the date of acquisition; (b) certificates of deposit, time deposits, eurodollar time deposits or overnight bank deposits having maturities of six months or less from the date of acquisition issued by any Lender or by any commercial bank organized under the laws of the United States of America or any state thereof having combined capital and surplus of not less than \$500,000,000; (c) commercial paper of an issuer rated at least A-2 by S&P or P-2 by Moody’s, or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of commercial paper issuers generally, and maturing within six months from the date of acquisition; (d) repurchase obligations of any Lender or of any commercial bank satisfying the requirements of clause (b) of this definition, having a term of not more than 30 days with respect to securities issued or fully guaranteed or insured by the United States government; (e) securities with maturities of one year or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory, the securities of which state, commonwealth, territory, political subdivision or taxing authority (as the case may be) are rated at least A by S&P or A by Moody’s; (f) securities with maturities of six months or less from the date of acquisition backed by standby letters of credit issued by any Lender or any commercial bank satisfying the requirements of clause (b) of this definition; and (g) shares of money market mutual or similar funds which invest exclusively in assets satisfying the requirements of clauses (a) through (f) of this definition.

“Cash Management Services”: services relating to operating, collections, payroll, trust, or other depository or disbursement accounts, including automated clearinghouse, e-payable, electronic funds transfer, wire transfer, controlled disbursement, overdraft, depository, information reporting, lockbox and stop payment services.

“CERCLA”: the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. § 9601 et seq.).

“CFC”: a “controlled foreign corporation” within the meaning of Section 957 of the Code in which any Obligor or direct or indirect owner of an Obligor is a “United States shareholder” within the meaning of Section 951(b) of the Code.

“Change in Law”: the occurrence, after the date hereof, of (a) the adoption, taking effect or phasing in of any law, rule, regulation or treaty; (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof; (c) any new, or adjustment to, requirements prescribed by the FRB, requirements imposed by the Federal Deposit Insurance Corporation, or similar requirements imposed by any domestic or foreign governmental authority or resulting from compliance by Agent or any Lender with any request or directive (whether or not having the force of law) from any central bank or other Governmental Authority and related in any manner to SOFR, the Term SOFR Reference Rate, Adjusted Term SOFR or Term SOFR; or (d) the making, issuance or application of any request, guideline, requirement or directive (whether or not having the force of law) by any Governmental Authority; provided, however, that **“Change in Law”** shall include, regardless of the date enacted, adopted or issued, all requests, rules, guidelines, requirements or directives (i) under or relating to the Dodd-Frank Wall Street Reform and Consumer Protection Act, or (ii) promulgated pursuant to Basel III by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any similar authority) or any other Governmental Authority.

“Change of Control”: (a) NCM ceases to own and control, beneficially and of record, directly or indirectly, free and clear of all Liens or other encumbrances (other than those in favor of Agent), 100% of the Equity Interests in all other Borrowers and Subsidiaries (except, with respect to any Subsidiary, in connection with an Asset Disposition of the Equity Interests of a Subsidiary permitted by the Loan Documents) on a fully diluted basis, and all voting rights and equivalent economic interests with respect thereto; (b) after the Closing Date, any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act), other than any Permitted Holder, shall become the “beneficial owner” (as defined in Rules 13(d)-3 and 13(d)-5 under such Act), directly or indirectly, of more than 50% of the then outstanding voting Equity Interests of NCM Inc.; (c) [reserved]; (d) NCM Inc. ceases to own and control, beneficially and of record, directly or indirectly, free and clear of all Liens or other encumbrances, a majority of the voting Equity Interests in NCM, or NCM Inc. ceases to be the manager of NCM; (e) the sale or transfer of all or substantially all assets of a Borrower or a majority of the voting Equity Interests of a Borrower, except to another Borrower; and (f) a “Change of Control” or any term of similar effect as defined in the document governing any Subordinated Debt.

“Claims”: all claims, liabilities, obligations, losses, damages, penalties, judgments, proceedings, interest, and documented costs and expenses of any kind (including remedial response costs, documented attorneys’ fees and Extraordinary Expenses) at any time (including after Full Payment of the Obligations or replacement of Agent or any Lender) incurred by any Indemnitee or asserted against any Indemnitee by any Obligor or other Person, in any way relating to (a) any Loans, Letters of Credit, Loan Documents, Borrower Materials, or the use thereof or transactions

relating thereto, (b) any action taken or omitted in connection with any Loan Documents, (c) the existence or perfection of any Liens, or realization upon any Collateral, (d) exercise of any rights or remedies under any Loan Documents or Applicable Law, or (e) failure by any Obligor to perform or observe any terms of any Loan Document, in each case including all documented costs and expenses relating to any investigation, litigation, arbitration or other proceeding (including an Insolvency Proceeding or appellate proceedings), whether or not the applicable Indemnatee is a party thereto.

“Closing Date”: as defined in **Section 6.1**.

“CNC Indemnitees”: CNC and its officers, directors, employees, Affiliates, agents and attorneys.

“Code”: the Internal Revenue Code of 1986.

“Collateral”: all Property described in **Section 7.1**, all Property described in any Security Documents as security for any Obligations, and all other Property that now or hereafter secures (or is intended to secure) any Obligations. Notwithstanding anything to the contrary set forth herein or any Loan Document, no Excluded Assets shall constitute Collateral.

“Commitment”: for any Lender, the aggregate amount of such Lender’s Revolver Commitment. “**Commitments**” means the aggregate amount of all Revolver Commitments.

“Commitment Termination Date”: the earliest to occur of (a) the Revolver Termination Date; (b) the date on which Borrowers terminate the Revolver Commitments pursuant to **Section 2.1.4**; or (c) the date on which the Revolver Commitments are terminated pursuant to **Section 11.2**.

“Commodity Exchange Act”: the Commodity Exchange Act (7 U.S.C. § 1 *et seq.*).

“Common Unit Adjustment Agreement”: the Common Unit Adjustment Agreement by and among NCM Inc., NCM, the Specified Parties and the other parties thereto, dated as of February 13, 2007, as the same may be amended, restated, amended and restated, supplemented or modified from time to time.

“Compliance Certificate”: a certificate substantially in the form attached hereto as **Exhibit C** signed by the chief financial officer of Borrower Agent, delivered pursuant to **Section 10.1.2(c)**.

“Confirmation Order”: the order confirming the Plan of Reorganization, as entered by the Bankruptcy Court, which order shall be final and non-appealable and not subject to a stay, and shall be in form and substance reasonably satisfactory to Agent.

“Conforming Changes”: with respect to either the use or administration of Term SOFR or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Business Day,” the definition of “U.S. Government Securities Business Day,” the definition of “Monthly Period” or any similar or analogous definition (or the addition of a concept of “interest period”), timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of **Section 3.9** and other technical, administrative or operational matters) that Agent decides may be appropriate to reflect the adoption and implementation of any such rate or to permit the use and administration thereof by Agent in a manner substantially consistent with market practice (or, if Agent decides that adoption of any portion of such market practice is not administratively feasible or if Agent determines that no market practice for the administration of any such rate exists, in such other manner of administration as Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

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

“Contingent Obligation”: any obligation of a Person arising from a guaranty, indemnity or other assurance of payment or performance of any Debt, lease, dividend or other obligation (“**primary obligations**”) of another obligor (“**primary obligor**”) in any manner, whether directly or indirectly, including any obligation of such Person under any (a) guaranty, endorsement, co-making or sale with recourse of an obligation of a primary obligor; (b) obligation to make take-or-pay or similar payments regardless of nonperformance by any other party to an agreement; and (c) arrangement (i) to purchase any primary obligation or security therefor, (ii) to supply funds for the purchase or payment of any primary obligation, (iii) to maintain or assure working capital, equity capital, net worth or solvency of the

primary obligor, (iv) to purchase Property or services for the purpose of assuring the ability of the primary obligor to perform a primary obligation, or (v) otherwise to assure or hold harmless the holder of any primary obligation against loss in respect thereof. The amount of any Contingent Obligation shall be deemed to be the stated or determinable amount of the primary obligation (or, if less, the maximum amount for which such Person may be liable under the instrument evidencing the Contingent Obligation) or, if not stated or determinable, the maximum reasonably anticipated liability with respect thereto.

“Contract Rate”: for any day during a Monthly Period, the sum of (i) the Applicable Margin, plus (ii) the Adjusted Term SOFR in effect for such Monthly Period, in each case expressed as a daily rate.

“Covered Entity”: any of the following: (a) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (b) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (c) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Credit Insured Account”: an Account (a) with respect to which the Account Debtor is organized or has its principal offices or assets in the United States, (b) that is supported by credit insurance (i) with terms, and issued by an insurer, acceptable to Agent in its Permitted Discretion, (ii) which names Agent as an additional insured and the sole lender's loss payee or collateral beneficiary and (iii) pursuant to which Agent shall have the right to make claims under such credit insurance policy directly to the insurer and receive notices of cancellation, amendment and changes in coverage limits and covered Account Debtors and (c) otherwise constitutes an Eligible Account. No Credit Insured Account shall constitute an Investment Grade Account.

“Cure Amount”: has the meaning specified therefore in **Section 10.3.2**.

“Cure Deadline”: has the meaning specified therefore in **Section 10.3.2**.

“Cure Right”: has the meaning specified therefore in **Section 10.3.2**.

“CWA”: the Clean Water Act (33 U.S.C. §§ 1251 et seq.).

“Debt”: as applied to any Person, without duplication, (a) all items that would be included as liabilities on a balance sheet in accordance with GAAP, including Capital Leases, but excluding (i) trade payables incurred and being paid in the Ordinary Course of Business and (ii) deferred revenue in the Ordinary Course of Business; (b) all Contingent Obligations; (c) all reimbursement obligations in connection with letters of credit issued for the account of such Person; and (d) in the case of an Obligor, the Obligations. The Debt of a Person shall include any recourse Debt of any partnership in which such Person is a general partner or joint venturer.

“Default”: an event or condition that, with the lapse of time or giving of notice, would constitute an Event of Default.

“Default Rate”: for any Obligation (including, to the extent permitted by law, interest not paid when due), 3.00% plus the interest rate otherwise applicable thereto.

“Defaulting Lender”: any Lender that, as determined by Agent, (a) has failed to perform any funding obligations hereunder, and such failure is not cured within two Business Days; (b) has notified Agent or any Borrower that such Lender does not intend to comply with its funding obligations hereunder or under any other credit facility, or has made a public statement to that effect; (c) has failed, within three Business Days following request by Agent, to confirm in a manner satisfactory to Agent and Borrowers that such Lender will comply with its funding obligations hereunder; or (d) has, or has a direct or indirect parent company that has, become the subject of an Insolvency Proceeding (including reorganization, liquidation, or appointment of a receiver, custodian, administrator or similar Person by the Federal Deposit Insurance Corporation or any other regulatory authority) or Bail-In Action; or taken any action in furtherance thereof provided, however, that a Lender shall not be a Defaulting Lender solely by virtue of a Governmental Authority's ownership of an equity interest in such Lender or parent company unless the ownership provides immunity for such Lender from jurisdiction of courts within the United States or from enforcement of judgments or writs of attachment on its assets, or permits such Lender or Governmental Authority to repudiate or otherwise to reject such Lender's agreements.

“Deposit Account Control Agreement”: control agreement in form and substance reasonably satisfactory to Agent executed by an institution maintaining a Deposit Account for an Obligor, to perfect Agent's Lien on such account.

“Designated Jurisdiction”: a country or territory that is the subject of a Sanction.

“Dilution Percent”: the percent equal to (a) bad debt write-downs or write-offs, discounts, returns, promotions, credits, credit memos and other dilutive items with respect to Accounts, divided by (b) gross sales, as calculated by Agent in its discretion.

“Dilution Ineligible Amount”: as of any date of determination, with respect to Eligible Accounts, an amount, determined and calculated by Agent in its discretion, sufficient to account for the Dilution Percent for each percentage point (or portion thereof) by which the Dilution Percent is in excess of two and one-half percent (2.5%).

“Disqualified Competitors”: has the meaning set forth in the definition of “Disqualified Institutions.”

“Disqualified Institution”: (a) a list of entities identified in writing by name by the Obligors to the Agent on or prior to the Closing Date, (b) any other Person that is an actual competitor of NCM or any of its Subsidiaries that is separately identified in writing by name by the Borrowers to the Agent on or prior to the Closing Date (together with any Subsidiary or Affiliate thereof of included in clauses (c) and (d), the **“Disqualified Competitors”**), (c) any Subsidiary of any Person identified in clause (b) above clearly identifiable as such on the basis of such Subsidiary’s name, and (d) any Affiliate of, or fund or other entity managed by, any Person identified in clause (a) or (b) above that is (x) identified in writing by the Borrower Agent to the Agent by legal name from time to time after the Closing Date or (y) clearly identifiable as such on the basis of such Affiliate’s, fund’s or entity’s name; provided that (i) list may be supplemented or otherwise modified after the Closing Date solely with the Agent’s prior written approval (such approval not to be unreasonably withheld, delayed or conditioned) and (ii) such supplements and modification shall not have retroactive effect to any prior assignment otherwise permitted under this Agreement at the time of such assignment; provided, that the aggregate number of Persons identified under clauses (a) and (b) above (including any supplements thereto after the Closing Date from time to time with the Agent’s prior written approval (such approval not to be unreasonably withheld, delayed or conditioned) shall not exceed five (5).

“Distribution”: any declaration or payment of a distribution, interest or dividend on any Equity Interest (other than payment-in-kind); distribution, advance or repayment of Debt to a holder of Equity Interests; purchase, redemption, or other acquisition or retirement for value of any Equity Interest; or, in the case of a limited liability company, participation in a statutory division.

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

“Dollars”: lawful money of the United States.

“Domestic Subsidiary”: any Subsidiary of an Obligor formed under the laws of the United States, any State therein, or the District of Columbia.

“Dominion Account”: a special account established by Borrowers at Bank or another bank acceptable to Agent, over which Agent has exclusive control for withdrawal purposes.

“EBITDA”: for any period, without duplication, determined on a consolidated basis for Borrowers and Subsidiaries (other than Subsidiaries that are not Obligors), an amount equal to Net Income for such period plus the following, without duplication, to the extent deducted and not already added back in calculating such Net Income: (a) Interest Expense for such period, (b) the provision for federal, state, local and foreign income taxes payable for such period, (c) the amount of depreciation and amortization expense (including, without limitation, amortization of goodwill and intangible assets) for such period, (d) other non-cash charges, expenses or losses, but excluding, in each case, write-offs or write-downs of Accounts and Inventory (provided, in each case, that if any 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 including amortization of any prepaid cash item that was paid in a prior period) and (e) one-time costs and expenses associated with the Transactions not to exceed \$30,000,000 to the extent such costs and expenses were incurred within ninety (90) days of the Closing Date, and minus the following to the extent included in calculating such Net Income: (w) Interest Income, (x) income tax credits (to the extent not netted from income taxes payable), (y) any extraordinary, unusual or non-recurring income receipts or gains (including gains on the sale of assets outside the Ordinary Course of Business) and related tax effects thereon, and (z) other non-cash income, receipts of gains (excluding any such non-cash item of income to the extent it represents a receipt of cash in any future period), all as determined in accordance with GAAP. Notwithstanding the foregoing, EBITDA of any Subsidiary that is not an Obligor shall be excluded from the foregoing calculation.

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

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

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

“Eligible Account”: an Account owing to a Borrower that arises in the Ordinary Course of Business from the sale of goods or rendition of services, is payable in Dollars and is deemed by Agent, in its Permitted Discretion, to be an Eligible Account. Without limiting the foregoing, other than with respect to Extended Eligible Accounts, no Account shall be an Eligible Account if (a) it is unpaid (i) in the case of any Account that is not an Investment Grade Account and is not a Credit Insured Account, for more than 60 days after the original due date, or more than 90 days after the original invoice date or (ii) in the case of any Investment Grade Account or any Credit Insured Account, for more than 60 days after the original due date, or more than 120 days after the original invoice date or; (b) 50% (or such other percentage as Agent may establish in its sole discretion for any Account Debtor and its Affiliates from time to time) or more of the Accounts owing by the Account Debtor and its Affiliates are not Eligible Accounts under the foregoing clause; (c) (i) when aggregated with other Accounts owing by the Account Debtor and its Affiliates, it exceeds 40% of the aggregate Eligible Accounts (or such other percentage as Agent may establish in its sole discretion for any Account Debtor and its Affiliates from time to time) and (ii) when aggregated with other Accounts owing by the Account Debtor, it exceeds 30% of the aggregate Eligible Accounts (or such other percentage as Agent may establish in its sole discretion for any Account Debtor from time to time), in each case under clauses (c)(i) and (c)(ii), solely to the extent in excess of such percentage; (d) it does not conform with a covenant or representation herein; (e) it is owing by a creditor or supplier, or is otherwise subject to a potential offset, counterclaim, dispute, deduction, discount, recoupment, reserve, defense, chargeback, credit or allowance (but ineligibility shall be limited to the amount thereof); (f) an Insolvency Proceeding has been commenced by or against the Account Debtor; or the Account Debtor has failed, has suspended or ceased doing business, is liquidating, dissolving or winding up its affairs, is not Solvent, or is subject to any Sanction or on any specially designated nationals list maintained by OFAC; or the Borrower is not able to bring suit or enforce remedies against the Account Debtor through judicial process; (g) the Account Debtor is organized or has its principal offices or assets outside the United States (it being acknowledged and agreed that if the Account Debtor stated on the invoice evidencing an Account is a subsidiary organized in the United States, and such invoice is payable in U.S. dollars, such Account shall not be deemed ineligible under this clause (g) if the parent company of such subsidiary is organized outside of the United States); (h) it is owing by a Governmental Authority, unless the Account Debtor is the United States or any department, agency or instrumentality thereof and the Account has been assigned to Agent in compliance with the federal Assignment of Claims Act; (i) it is not subject to a duly perfected, first priority Lien in favor of Agent, or such Account is subject to any other Lien; (j) the goods giving rise to it have not been delivered to the Account Debtor, the services giving rise to it have not been accepted by the Account Debtor, or it otherwise does not represent a final sale; (k) it is evidenced by Chattel Paper or an Instrument of any kind, or has been reduced to judgment; (l) its payment has been extended or the Account Debtor has made a partial payment; (m) it arises from a sale to an Affiliate, from a sale on a cash-on-delivery, bill-and-hold, sale-or-return, sale-on-approval, consignment, or other repurchase or return basis, or from a sale for personal, family or household purposes; (n) it represents a progress billing or retainage, or relates to services for which a performance, surety or completion bond or similar assurance has been issued; (o) it includes a billing for interest, fees or late charges, but ineligibility shall be limited to the extent thereof; or (p) other than with respect to any Eligible Unbilled Account, it is not evidenced by an invoice which has been sent to the Account Debtor. In calculating delinquent portions of Accounts under clauses (a) and (b) above or under the definition of Extended Eligible Account, credit balances more than (i) in the case of Accounts that are not Extended Eligible Accounts, 60 days after the original due date or (ii) in the case of Extended Eligible Accounts, 90 days after the original due date, will be excluded. Notwithstanding anything herein to the contrary, in no event shall any Account or portion thereof included in the Dilution Ineligible Amount constitute an Eligible Account.

“Eligible Assignee”: (a) a Lender, Affiliate of a Lender or Approved Fund; (b) an assignee approved by Borrower Agent (which approval shall not be unreasonably withheld or delayed, and shall be deemed given if no objection is made within five Business Days after notice of the proposed assignment) and Agent; or (c) during an Event of Default, any Person acceptable to Agent in its discretion.

“Eligible Unbilled Account” means an Unbilled Account (i) that constitutes an Eligible Account and (ii) with respect to which the services or goods giving rise to such Unbilled Accounts were rendered or sold, as applicable (and, in each case, accepted by the Account Debtor), in the Fiscal Month immediately preceding the Fiscal Month in which a Borrowing Base Report including such Eligible Unbilled Accounts in the calculation of the Accounts Formula Amount is delivered to Agent (it being understood, for the avoidance of doubt, that an Eligible Unbilled Account may only be included in the calculation of the Accounts Formula Amount for up to a single Fiscal Month after the Fiscal Month in which the services or goods giving rise to such Unbilled Accounts were rendered or sold, as applicable (and, in each case, accepted by the Account Debtor)).

“Employment Agreements” means the collective reference to the employment agreements entered into from time to time among NCM Inc. and each “Service Employee” under (and as defined in) the Management Agreement, in each case as the same may be amended, restated, amended and restated, supplemented or modified from time to time.

“Enforcement Action”: any action to enforce any Obligations (other than Secured Bank Product Obligations) or Loan Documents or to exercise any rights or remedies relating to any Collateral, whether by judicial action, self-help, notification of Account Debtors, setoff or recoupment, credit bid, deed in lieu of foreclosure, action in an Insolvency Proceeding or otherwise.

“Environmental Agreement”: an agreement of an Obligor to indemnify Agent and Lenders from liability under Environmental Laws with respect to Real Estate subject to a Mortgage.

“Environmental Laws”: Applicable Laws relating to the protection of human health as it relates to exposure to Hazardous Materials or the protection or pollution of the environment, including CERCLA, RCRA and CWA.

“Environmental Notice”: a notice (whether written or oral) from any Governmental Authority or other Person of any alleged noncompliance with, investigation of a possible violation of, litigation relating to, or potential fine or liability under any Environmental Law, or with respect to any Environmental Release, environmental pollution or Hazardous Materials, including any complaint, summons, citation, order, claim, demand or request for correction, remediation or otherwise.

“Environmental Release”: a release as defined in CERCLA or under any other Environmental Law which could reasonably be expected to result in a violation of, or liability, under Environmental Law.

“Equity Interest”: the interest of any (a) shareholder in a corporation; (b) partner in a partnership (whether general, limited, limited liability or joint venture); (c) member in a limited liability company; or (d) other Person having any other form of equity security or ownership interest.

“ERISA”: the Employee Retirement Income Security Act of 1974.

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

“ERISA Event”: (a) a Reportable Event with respect to a Pension Plan; (b) withdrawal of an Obligor or ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) complete or partial withdrawal of an Obligor or ERISA Affiliate from a Multiemployer Plan; (d) filing of a notice of intent to terminate, treatment of a Pension Plan amendment as a termination under Section 4041 or 4041A of ERISA, or institution of proceedings by the PBGC to terminate a Pension Plan; (e) determination that a Pension Plan is considered an at-risk plan or a plan in critical or endangered status under the Code or ERISA; (f) an event or condition that constitutes grounds under Section 4042 of ERISA for termination of, or appointment of a trustee to administer, any Pension Plan; (g) imposition of any liability on an Obligor or ERISA Affiliate under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA; or (h) failure by an Obligor or ERISA Affiliate to meet all applicable requirements under the Pension Funding Rules in respect of a Pension Plan, whether or not waived, or to make a required contribution to a Multiemployer Plan.

“ESAs”: the collective reference to (a) the Exhibitor Services Agreement between NCM and American Multi-Cinema, Inc., a Missouri corporation, dated as of February 13, 2007 and (b) the Exhibitor Services Agreement between NCM and Cinemark USA, Inc., a Texas corporation, dated as of February 13, 2007, in each case, as the same may be amended, restated, amended and restated, supplemented or modified from time to time as permitted hereunder.

“EU Bail-In Legislation Schedule”: the EU Bail-In Legislation Schedule published by the Loan Market Association, as in effect from time to time.

“Event of Default”: as defined in **Section 11**.

“Excluded Account” means (a) Deposit Accounts specifically and exclusively used for payroll, payroll taxes and other employee wage and benefit payments to or for the benefit of the employees of the Borrowers or any Subsidiary, (b) tax accounts (including any sales tax accounts), (c) Deposit Accounts holding cash collateral for the benefit of third parties not affiliated with the Administrative Agent or the Lenders for purposes permitted under this Agreement, (d) fiduciary, pension, 401(k) or similar trust accounts holding employee funds, (e) any Deposit Accounts holding an average weekly balance in the aggregate not to exceed \$15,000 individually, or \$50,000 in the aggregate for such Deposit Accounts, (f) escrow accounts established in the Ordinary Course of Business, so long as such accounts (other than the Spotlight escrow account) do not receive proceeds of Accounts and (g) any other Deposit Account Agent has agreed in writing to designate as an Excluded Account in its sole discretion.

“Excluded Assets”: with respect to any Obligor, (i) any intent-to-use United States trademark applications or service mark applications for which an amendment to allege use or statement of use has not been filed under 15 U.S.C. § 1051(c) or 15 U.S.C. § 1051(d), respectively, or if filed, has not been deemed in conformance with 15 U.S.C. § 1051(a) or examined and accepted, respectively, by the United States Patent and Trademark Office, provided that, upon such filing and acceptance, such intent-to-use applications shall be included in the definition of Collateral; (ii) pledges and security interests prohibited by Applicable Law to the extent such Applicable Law is effective under applicable anti-assignment provisions of the UCC (and only so long as Applicable Law prohibits such pledge or grant of security interest); (iii) any lease, license or other agreement entered into in the Ordinary Course of Business or any property subject to a license, purchase money security interest, Capital Lease obligation or similar arrangement entered into in the Ordinary Course of Business, in each case, to the extent that a grant of a security interest therein would violate (or violate subject to obtaining the consent of any party (other than an Obligor) and the applicable Obligor has made commercially reasonable efforts to obtain such consent) or invalidate such lease, license or agreement, purchase money arrangement, capital lease or similar arrangement or create a right of termination (or create a right of termination subject to obtaining the consent of any party (other than an Obligor) and the applicable Obligor has made commercially reasonable efforts to obtain such consent) in favor of any other party thereto (other than an Obligor) after giving effect to the applicable anti-assignment provisions of the UCC, the assignment of which is expressly deemed effective under the UCC or other Applicable Law, notwithstanding such prohibition; provided, however, that such assets or property shall constitute “Excluded Assets” only to the extent and for so long as such prohibition or restriction is in effect; (iv) any fee owned interest in Real Estate other than Material Real Estate and (v) any other asset Agent has agreed in writing to designate as an Excluded Asset in its sole discretion. Proceeds of Excluded Assets shall not constitute Excluded Assets under any clause above (unless such Proceeds are also described in such clauses).

“Excluded Swap Obligation”: with respect to an Obligor, each Swap Obligation as to which, and only to the extent that, such Obligor’s guaranty of or grant of a Lien as security for such Swap Obligation is or becomes illegal under the Commodity Exchange Act because the Obligor does not constitute an “eligible contract participant” as defined in the Commodity Exchange Act (determined after giving effect to any keepwell, support or other agreement for the benefit of such Obligor and all guarantees of Swap Obligations by other Obligors) when such guaranty or grant of Lien becomes effective with respect to the Swap Obligation. If a Hedging Agreement governs more than one Swap Obligation, only the Swap Obligation(s) or portions thereof described in the foregoing sentence shall be Excluded Swap Obligation(s) for the applicable Obligor.

“Excluded Taxes”: (a) Taxes imposed on or measured by a Recipient’s net income (however denominated), franchise Taxes and branch profits Taxes, in each case (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or applicable Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof), or (ii) constituting Other Connection Taxes; (b) U.S. federal withholding Taxes imposed on amounts payable to or for the account of a Lender with respect to its interest in a Loan or Commitment pursuant to a law in effect when the Lender acquires such interest (except pursuant to an assignment request by Borrower Agent under **Section 13.4**) or changes its Lending Office, unless the Taxes were payable to its assignor immediately prior to such assignment or to the Lender immediately prior to its change in Lending Office; (c) Taxes attributable to a Recipient’s failure to comply with **Section 5.10**; and (d) U.S. federal withholding Taxes imposed pursuant to FATCA. For the avoidance of doubt, **“Excluded Taxes”** shall not include any withholding Tax imposed on amounts paid by or on behalf of a foreign Obligor to a Recipient that has complied with **Section 5.10.2**.

“Extended Credit Insured Account”: a Credit Insured Account that constitutes an Extended Eligible Account.

“Extended Eligible Account”: an Account that would constitute an Eligible Account but for the conditions included in clause (a)(i) or clause (a)(ii) of the definition thereof; provided, that no Account shall be an Extended

Eligible Account if it is unpaid (i) in the case of any Account that is not an Investment Grade Account and is not a Credit Insured Account, for more than 90 days after the original due date, or more than 120 days after the original invoice date or (ii) in the case of any Investment Grade Account or any Credit Insured Account, more than 90 days after the original due date, or more than 120 days after the original invoice date. Notwithstanding anything herein to the contrary, in no event shall any Account or portion thereof included in the Dilution Ineligible Amount constitute an Extended Eligible Account.

“Extraordinary Expenses”: all documented costs, expenses or advances that Agent may incur during a Default or Event of Default, or during the pendency of an Insolvency Proceeding of an Obligor, including those relating to (a) any audit, inspection, repossession, storage, repair, appraisal, insurance, manufacture, preparation or advertising for sale, sale, collection, or other preservation of or realization upon any Collateral; (b) any action, arbitration or other proceeding (whether instituted by or against Agent, any Lender, any Obligor, any representative of creditors of an Obligor or any other Person) in any way relating to any Collateral (including the validity, perfection, priority or avoidability of Agent’s Liens with respect to any Collateral), Loan Documents, Letters of Credit or Obligations, including any lender liability or other Claims; (c) the exercise, protection or enforcement of any rights or remedies of Agent in, or the monitoring of, any Insolvency Proceeding; (d) settlement or satisfaction of taxes, charges or Liens with respect to any Collateral; (e) any Enforcement Action; (f) negotiation and documentation of any modification, waiver, workout, restructuring or forbearance with respect to any Loan Documents or Obligations; and (g) Protective Advances. Such costs, expenses and advances include transfer fees, Other Taxes, storage fees, insurance costs, permit fees, utility reservation and standby fees, legal fees, appraisal fees, brokers’ fees and commissions and auctioneers’ fees and commissions, accountants’ fees, environmental study fees, wages and salaries paid to employees of any Obligor or independent contractors in liquidating any Collateral, and travel expenses.

“FATCA”: Sections 1471 through 1474 of the Code (including any amended or successor version if substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code.

“Federal Funds Rate”: for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on such day, as published by the Federal Reserve Bank on the Business Day next succeeding such day, provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, or (b) if no such rate is published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to the Agent or such day on such transactions, as determined by Agent, in its sole discretion; provided, that in no event shall such rate be less than zero.

“Fiscal Month”: each monthly accounting period of Borrowers and their Subsidiaries ending closest to the last day of each calendar month.

“Fiscal Quarter”: each quarterly accounting period of Borrowers and their Subsidiaries ending closest to March 31, June 30, September 30 and December 31 of each calendar year.

“Fiscal Year”: each 52-week or 53-week fiscal year of Borrowers and their Subsidiaries for accounting and tax purposes, ending on the first Thursday after December 25 of each calendar year.

“Fixed Charge Coverage Ratio”: the ratio, determined on a consolidated basis for Borrowers and their Subsidiaries (excluding any Subsidiary that is not an Obligor) for the most recently ended Fixed Charge Coverage Ratio Measurement Period for which financial statements have been (or should have been) delivered to Agent hereunder pursuant to **Section 10.1.2(b)**, of (a) EBITDA minus the sum of (i) Capital Expenditures (except those financed with Borrowed Money other than Revolver Loans), (ii) cash Taxes paid and Permitted Tax Distributions paid in cash and (iii) cash payments made pursuant to the Tax Receivable Agreement (but net of any contributions or payments received by NCM from NCM Inc. or the other parties to the Tax Receivable Agreement in respect of such payments made by NCM pursuant to the Tax Receivable Agreement, solely to the extent that such contributions or payments are received by NCM substantially concurrently with the making by NCM of the corresponding payments under the Tax Receivable Agreement), to (b) Fixed Charges.

“Fixed Charge Coverage Ratio Measurement Period”: (i) for the period from and after the first day of the Fiscal Month commencing closest to August 1, 2023, through and including the last day of the Fiscal Month ending closest to July 31, 2024, the period commencing on the first day of the Fiscal Month commencing closest to August 1,

2023, and ending on the applicable date of determination and (ii) thereafter, the twelve (12) Fiscal Month period ending on the applicable date of determination.

“Fixed Charges”: with respect to Borrowers and their Subsidiaries (excluding any Subsidiary that is not an Obligor) on a consolidated basis in accordance with GAAP, the sum of (without duplication) (a) cash Interest Expense (including, for the avoidance of doubt, any Minimum Balance fees payable pursuant to **Section 3.2.3**), (b) scheduled principal payments made on Borrowed Money, (c) Distributions (other than Permitted Tax Distributions) made in cash, (d) minimum required cash contributions and other cash payments to Pension Plans required to be paid by Applicable Law and which were paid in the Ordinary Course of Business, (e) [reserved] and (f) without duplication of any other Fixed Charges, and in each case, solely to the extent such items do not reduce Net Income (and are not added to Net Income in calculating EBITDA) with respect to any Fixed Charge Coverage Ratio Measurement Period, amounts paid in cash by Borrowers pursuant to the (i) Management Agreement (including the Services Fee and Reimbursable Costs), (ii) [reserved], (iii) Common Unit Adjustment Agreement and (iv) the Equity Incentive Plan (as defined in the NCM Operating Agreement as in effect on the date hereof).

“Flood Laws”: all Applicable Laws relating to policies and procedures that address requirements placed on federally regulated lenders under the National Flood Insurance Reform Act of 1994 and other Applicable Laws related thereto.

“Floor”: a per annum rate of interest equal to 1.75%.

“FLSA”: the Fair Labor Standards Act of 1938.

“Foreign Lender”: any Lender that is not a U.S. Person.

“Foreign Plan”: any employee benefit plan or arrangement (a) maintained or contributed to by any Obligor or Subsidiary that is not subject to the laws of the United States; or (b) mandated by a government other than the United States for employees of any Obligor or Subsidiary.

“Founding Members”: the Founding Members (as defined in the Tax Receivable Agreement as in effect on the date hereof).

“FRB”: the Board of Governors of the Federal Reserve System of the United States.

“Fronting Exposure”: a Defaulting Lender’s interest in LC Obligations, Swingline Loans and Protective Advances, except to the extent Cash Collateralized by the Defaulting Lender or allocated to other Lenders hereunder.

“FSHCO”: any direct or indirect Domestic Subsidiary of the Borrower that has no material assets other than Equity Interests (or Equity Interests and Indebtedness) in one or more direct non-U.S. Subsidiaries that are CFCs and/or one or more FSHCOs.

“Full Payment”: with respect to any Obligations, (a) the full and indefeasible cash payment thereof, including any interest, fees and other charges accruing during an Insolvency Proceeding (whether or not allowed in the proceeding); and (b) if such Obligations are LC Obligations or inchoate or contingent in nature, Cash Collateralization thereof (or delivery of a standby letter of credit acceptable to Agent in its discretion, in the amount of required Cash Collateral). No Loans shall be deemed to have been paid in full unless all Commitments related to such Loans are terminated.

“GAAP”: generally accepted accounting principles in effect in the United States from time to time.

“Governmental Approvals”: all authorizations, consents, approvals, licenses and exemptions of, registrations and filings with, and required reports to, all Governmental Authorities.

“Governmental Authority”: any federal, state, local, foreign or other agency, authority, body, commission, court, instrumentality, political subdivision, central bank, or other entity or officer exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions for any governmental, judicial, investigative, regulatory or self-regulatory authority (including the Financial Conduct Authority, the Prudential Regulation Authority and any supra-national bodies such as the European Union or European Central Bank).

“Guaranteed Obligations”: as defined in **Section 15.1**.

“Guarantor Payment”: as defined in **Section 5.11.3**.

“Guarantors”: each Person that guarantees payment or performance of any portion of or all Obligations.

“Guaranty”: the guaranty provided by each Guarantor hereunder and, if applicable, each other guaranty agreement executed by a Guarantor in favor of Agent.

“Hazardous Material”: any substance characterized or defined as “hazardous,” “toxic,” a “contaminant,” a “pollutant,” or words of similar meaning or import under any applicable Environmental Law.

“Hedging Agreement”: a “swap agreement” as defined in Bankruptcy Code Section 101(53B)(A).

“Indemnified Taxes”: (a) Taxes, other than Excluded Taxes, imposed on or relating to any payment of an Obligation; and (b) to the extent not otherwise described in clause (a), Other Taxes.

“Indemnitees”: Agent Indemnitees, Lender Indemnitees, Issuing Bank Indemnitees and CNC Indemnitees.

“Insolvency Proceeding”: any case or proceeding commenced by or against a Person under any state, federal or foreign law for, or any agreement of such Person to, (a) the entry of an order for relief under the Bankruptcy Code, or any other insolvency, debtor relief or debt adjustment law; (b) the appointment of a receiver, trustee, liquidator, administrator, conservator or other custodian for such Person or any part of its Property; or (c) an assignment or trust mortgage for the benefit of creditors.

“Intellectual Property”: all intellectual and similar Property of a Person, including inventions, designs, patents, copyrights, trademarks, service marks, trade names, trade secrets, confidential or proprietary information, customer lists, know-how, software and databases; all embodiments or fixations thereof and all related documentation, applications, registrations and franchises; all licenses or other rights to use any of the foregoing; and all books and records relating to the foregoing.

“Intellectual Property Claim”: any claim or assertion (whether in writing, by suit or otherwise) that an Obligor’s or Subsidiary’s ownership, use, marketing, sale or distribution of any Inventory, Equipment, Intellectual Property or other Property violates another Person’s Intellectual Property.

“Interest Expense”: with reference to any period, the cash interest expense (net of cash Interest Income) of Borrowers and Subsidiaries (other than Subsidiaries that are not Obligor) calculated on a consolidated basis for such period in accordance with GAAP.

“Interest Income”: for any period, the cash interest income of Borrowers and Subsidiaries (other than Subsidiaries that are not Obligor) for such period determined on a consolidated basis in accordance with GAAP.

“Inventory”: as defined in the UCC, including all goods intended for sale, lease, display or demonstration; all work in process; and all raw materials, and other materials and supplies of any kind that are or could be used in connection with the manufacture, printing, packing, shipping, advertising, sale, lease or furnishing of such goods, or otherwise used or consumed in an Obligor’s business (but excluding Equipment).

“Investment”: an Acquisition, an acquisition of record or beneficial ownership of any Equity Interests of a Person, or an advance or capital contribution to or other investment in a Person.

“Investment Grade Account”: any Account that is owing by an Investment Grade Account Debtor.

“Investment Grade Account Debtor”: an Account Debtor whose unsecured debt instruments carry, as of the date of determination, a rating of “BBB-” or better by S&P or “Baa3” or better by Moody’s.

“IP Assignment”: a collateral assignment or security agreement pursuant to which an Obligor grants a Lien on its Intellectual Property to Agent, as security for the Obligations.

“IRS”: the United States Internal Revenue Service.

“Issuing Bank”: a Person described in **Section 2.3.1** or any replacement-issuer appointed pursuant to **Section 2.3.4**.

“Issuing Bank Indemnites”: Issuing Bank and its officers, directors, employees, Affiliates, agents and attorneys.

“LC Application”: an application by Borrower Agent to Issuing Bank for issuance of a Letter of Credit, in form and substance satisfactory to Issuing Bank and Agent.

“LC Conditions”: immediately upon giving effect to issuance of a Letter of Credit, (a) the conditions in **Section 6** are satisfied; (b) total LC Obligations do not exceed the Letter of Credit Subline and Revolver Usage does not exceed the Borrowing Base; (c) the Letter of Credit and payments thereunder are denominated in Dollars or other currency satisfactory to Agent and Issuing Bank; and (d) the purpose and form of the Letter of Credit are satisfactory to Agent and Issuing Bank in their discretion.

“LC Documents”: all documents, instruments and agreements (including LC Requests and LC Applications) delivered by Borrowers or any other Person to Issuing Bank or Agent in connection with any Letter of Credit.

“LC Obligations”: all outstanding obligations incurred by Agent and Lenders at the request of any Borrower, whether direct or indirect, contingent or otherwise, due or not due, in connection with the issuance of Letters of Credit by any Issuing Bank or the purchase of a participation as set forth in **Section 2.3.2** with respect to any Letter of Credit. The amount of such LC Obligations shall equal the maximum amount that may be payable by Agent or Lenders in respect of all outstanding Letter of Credit and, without duplication, Letter of Credit Guarantees, plus all unreimbursed amounts with respect to drawings thereon.

“LC Request”: a request for issuance of a Letter of Credit, to be provided by Borrower Agent to Issuing Bank, in form satisfactory to Agent and Issuing Bank.

“Lender Indemnites”: Lenders and Secured Bank Product Providers, and their officers, directors, employees, Affiliates, agents and attorneys.

“Lenders”: lenders party to this Agreement (including Agent in its capacity as provider of Swingline Loans) and any Person who hereafter becomes a “Lender” pursuant to an Assignment, including any Lending Office of the foregoing.

“Lending Office”: the office (including any domestic or foreign Affiliate or branch) designated as such by a Lender or Issuing Bank by notice to Agent and Borrower Agent.

“Letter of Credit”: any standby or documentary letter of credit, foreign guaranty, documentary bankers’ acceptance, indemnity, reimbursement agreement or similar instrument issued by Issuing Bank for the account or benefit of a Borrower or Affiliate of a Borrower, for which Agent and Lenders have incurred LC Obligations.

“Letter of Credit Guaranty”: as defined in **Section 2.3.1**.

“Letter of Credit Subline”: \$2,500,000.

“License”: any license or agreement under which an Obligor is authorized to use Intellectual Property in connection with any manufacture, marketing, distribution or disposition of Collateral, any use of Property or any other conduct of its business.

“Licensor”: any Person from whom an Obligor obtains the right to use any Intellectual Property.

“Lien”: a Person’s interest in Property securing an obligation owed to, or a claim by, such Person, including any lien, security interest, pledge, hypothecation, assignment, trust, reservation, encroachment, easement, right-of-way, covenant, condition, restriction, lease, or other title exception or encumbrance.

“Lien Waiver”: an agreement, in form and substance reasonably satisfactory to Agent, by which (a) for any material Collateral located on leased premises, the lessor waives or subordinates any Lien it may have on the Collateral, and agrees to permit Agent to enter upon the premises and remove the Collateral or to use the premises to store or dispose of the Collateral; (b) for any Collateral held by a warehouseman, processor, shipper, customs broker or freight forwarder, such Person waives or subordinates any Lien it may have on the Collateral, agrees to hold any Documents in its possession relating to the Collateral as agent for Agent, and agrees to deliver the Collateral to Agent upon request; (c) for any Collateral held by a repairman, mechanic or bailee, such Person acknowledges Agent’s Lien, waives or

subordinates any Lien it may have on the Collateral, and agrees to deliver the Collateral to Agent upon request; and (d) for any Collateral subject to a Licensor's Intellectual Property rights, the Licensor grants to Agent the right, vis-à-vis such Licensor, to enforce Agent's Liens with respect to the Collateral, including the right to dispose of it with the benefit of the Intellectual Property, whether or not a default exists under any applicable License.

"Loan": a Revolver Loan or other loan made under the terms of this Agreement.

"Loan Documents": this Agreement, Other Agreements and Security Documents.

"Loan Year": each 12 month period commencing on the Closing Date or an anniversary thereof.

"Management Agreement": the Management Services Agreement between NCM Inc. and NCM dated February 13, 2007, as the same may be amended, restated, amended and restated, supplemented or modified from time to time as permitted hereunder.

"Margin Stock": as defined in Regulation U of the Board of Governors.

"Material Adverse Effect": the effect of any event or circumstance that, taken alone or in conjunction with other events or circumstances, (a) has or could be reasonably expected to have a material adverse effect on the business, operations, Properties, or financial condition of the Borrowers and their Subsidiaries, taken as a whole, or on the enforceability or validity of any Loan Documents (including on the validity or priority of Agent's Liens on the Collateral); (b) impairs the ability of the Obligors, taken as a whole, to perform their payment or other material obligations under the Loan Documents; or (c) otherwise impairs the ability of Agent or any Lender to enforce or collect (taken as a whole) any Obligations or to realize upon any Collateral. Notwithstanding anything to the contrary set forth in this Agreement or any Loan Document, it is understood and agreed that any modification to any ESA as a result of any "most favored nation" provision shall not result in a Material Adverse Effect.

"Material Contract": any agreement or arrangement to which an Obligor or Subsidiary is party (other than the Loan Documents) (a) that is deemed to be a material contract under any securities law applicable to such Person, including the Securities Act of 1933; (b) for which breach, termination, nonperformance or failure to renew could reasonably be expected to have a Material Adverse Effect; (c) each ESA, (d) the Management Agreement, (e) the Tax Receivable Agreement, (f) the Software License Agreement or (g) that relates to any Subordinated Debt or to other Debt in an aggregate amount of \$2,000,000 or more.

"Material Real Estate": any Real Estate now or hereafter owned in fee by an Obligor or Subsidiary and having a fair market value (on a per-property basis) of at least \$1,000,000 as of (x) the Closing Date, for Real Estate owned on the Closing Date or (y) the date of acquisition, for Real Estate acquired after the Closing Date, in each case as determined by the most recent appraisal obtained by an Obligor (including any appraisal delivered to Agent upon acquisition of such Real Estate in accordance with this Agreement or any subsequent appraisal obtained by an Obligor).

"Minimum Balance": \$10,000,000.

"Monthly Period": a period that commences on (and includes) the first day of any calendar month (or in the case of the calendar month in which the Closing Date occurs, such period shall commence on the Closing Date) and ends on (and includes) the last day of such calendar month.

"Moody's": Moody's Investors Service, Inc. or any successor acceptable to Agent.

"Mortgage": a mortgage or deed of trust in which an Obligor grants a Lien on its Material Real Estate to Agent, as security for its Obligations, in form and substance reasonably acceptable to Agent, in its discretion.

"Multiemployer Plan": a Plan that is a "multiemployer plan" (as defined in Section 4001(a)(3) of ERISA), to which an Obligor or ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

"Multiple Employer Plan": a Plan that has two or more contributing sponsors, including an Obligor or ERISA Affiliate, at least two of whom are not under common control, as described in Section 4064 of ERISA.

"NCM": as defined in the preamble hereto.

“NCM Inc.”: National CineMedia, Inc., a Delaware corporation.

“NCM Operating Agreement”: the Third Amended and Restated Limited Liability Company Operating Agreement of NCM, as the same has been amended, restated, amended and restated, supplemented or modified from time to time prior to the Closing Date and as amended by that certain Fifth Amendment to the Third Amended and Restated Limited Liability Company Operating Agreement of NATIONAL CINEMEDIA, LLC, dated as of the Closing Date, and as may be further amended, restated, amended and restated, supplemented or modified from time to time as permitted hereunder.

“Net Income”: for any period for Borrowers and Subsidiaries (other than Subsidiaries that are not Obligor) on a consolidated basis, the net income of Borrowers and Subsidiaries for such period as determined in accordance with GAAP, provided that there shall be excluded from Net Income (a) the income (or deficit) of any Person accrued prior to the date it becomes a Subsidiary of the Borrowers or is merged into or consolidated with any Borrower or any Subsidiary (b) the income (or deficit) of any Person (other than any Obligor) in which a Borrower or any of its Subsidiaries has an ownership interest, except to the extent that any such income is actually received by any Borrower or such Subsidiary in the form of cash dividends or similar cash distributions (c) the undistributed earnings of any Subsidiary of the Borrower to the extent that the declaration of payment or dividends or similar distributions by such Subsidiary is not at the time permitted by the terms of any contractual obligation, governing document or Applicable Law applicable to such Subsidiary, (d) the income (or deficit) of any Subsidiary of a Borrower that is not an Obligor and (e) any income resulting from the cancellation or early extinguishment of indebtedness.

“Net Proceeds”: (a) in connection with an Asset Disposition or Recovery Event, the proceeds thereof received by any Obligor or any Subsidiary in the form of cash and Cash Equivalents (including any such proceeds received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise, but only as and when such proceeds are received) of such Asset Disposition or Recovery Event, net of attorneys’ fees, other consultants’ fees, accountants’ fees, investment banking or brokerage fees, amounts required to be applied to the repayment of Debt secured by a Lien expressly permitted hereunder on any asset which is the subject of such Asset Disposition or Recovery Event (other than any Lien pursuant to a Security Document) and other customary fees and expenses actually incurred in connection therewith and net of Taxes or Permitted Tax Distributions paid or reasonably estimated to be payable by the Borrowers or any Subsidiary, any member thereof or otherwise as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements) and net of reserve amounts established by the Borrowers or any Subsidiary for liabilities reasonably anticipated in connection with such Asset Disposition or Recovery Event so long as such reserve amounts are comprised of segregated cash or Cash Equivalents and will constitute Net Proceeds to the extent such reserve amounts are no longer required to be maintained and are not paid and (b) in connection with any issuance or sale of debt securities or instruments, the cash proceeds received by any Loan Party from such issuance, net of attorneys’ fees, other consultants’ fees, investment banking or brokerage fees, accountants’ fees, underwriting discounts and commissions and other customary fees and expenses actually incurred in connection therewith.

“Notice of Borrowing”: a request by Borrower Agent for a Borrowing of Revolver Loans in accordance with **Section 4.1.1**.

“Obligations”: all (a) principal of and premium, if any, on the Loans, (b) LC Obligations and other obligations of Obligor with respect to Letters of Credit, (c) interest, expenses, fees, indemnification obligations, Extraordinary Expenses and other amounts payable by Obligor under Loan Documents, (d) Secured Bank Product Obligations, and (e) other Debts, obligations and liabilities of any kind owing by Obligor pursuant to the Loan Documents, whether now existing or hereafter arising, whether evidenced by a note or other writing, whether allowed in any Insolvency Proceeding, whether arising from an extension of credit, issuance of a letter of credit, acceptance, loan, guaranty, indemnification or otherwise, and whether direct or indirect, absolute or contingent, due or to become due, primary or secondary, or joint or several; provided, that Obligations of an Obligor shall not include its Excluded Swap Obligations.

“Obligor”: each Borrower, Guarantor or other Person that is liable for payment of any Obligations or that has granted a Lien on its assets in favor of Agent to secure any Obligations.

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

“Ordinary Course of Business”: the ordinary course of business of any Borrower or Subsidiary, undertaken in good faith and consistent with Applicable Law and past practices.

“Organic Documents”: with respect to any Person, its charter, certificate or articles of incorporation, bylaws, articles of organization, limited liability agreement, operating agreement, members agreement, shareholders agreement,

partnership agreement, certificate of partnership, certificate of formation, voting trust agreement, or similar agreement or instrument governing the formation or operation of such Person.

“OSHA”: the Occupational Safety and Hazard Act of 1970.

“Other Agreement”: each fee letter, Lien Waiver, Related Real Estate Document, Borrowing Base Report, Compliance Certificate, Borrower Materials or other written note, document, instrument or agreement (other than this Agreement or a Security Document) now or hereafter delivered by an Obligor or other Person to Agent or a Lender in connection with any transactions relating hereto.

“Other Connection Taxes”: Taxes imposed on a Recipient due to a present or former connection between it and the taxing jurisdiction (other than connections arising from the Recipient having executed, delivered, become party to, performed obligations or received payments under, received or perfected a Lien or engaged in any other transaction pursuant to, enforced, or sold or assigned an interest in, any Loan or Loan Document).

“Other Taxes”: all present or future stamp, court, documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a Lien under, or otherwise with respect to, any Loan Document, except Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to **Section 13.4(c)**).

“Participant”: as defined in **Section 13.2**.

“Patriot Act”: the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No. 107-56, 115 Stat. 272 (2001).

“Payment Conditions”: with respect to any proposed Distribution or Investment,

(a) no Default or Event of Default has occurred and is continuing or would immediately result from the making of such proposed Distribution or Investment;

(b) immediately after giving effect to the proposed Distribution or Investment, (A) each of (i) Availability as of such date, calculated on a pro forma basis, (ii) Average Availability (calculated on a pro forma basis as though such Distribution or Investment was made on the first day of such period), and (iii) Average Projected Availability (calculated to give effect to such Distribution or Investment on the date that such Distribution or Investment is to be made), is in excess of the greater of (x) \$8,250,000 and (y) 15.0% of the aggregate Revolver Commitments and (B) all accounts payable of the Borrowers and their Subsidiaries are current to the satisfaction of Agent in its discretion;

(c) the Fixed Charge Coverage for the most recently ended Fixed Charge Coverage Ratio Measurement Period, calculated on a pro forma basis to give effect to such Distribution or Investment as though it were made on the first day of the relevant testing period is not less than 1.25:1.00; and

(d) Borrowers have delivered a certificate to Agent certifying that all of conditions in the foregoing subclauses (a) through (c) have been satisfied and attaching calculations demonstrating the satisfaction of the conditions in clauses (b) and (c) above, which certificate shall be in all respects satisfactory to Agent in its discretion.

“Payment Item”: each check, draft or other item of payment payable to a Borrower (or, with respect to **Section 4.1.1(c)**, by a Borrower), including those constituting proceeds of any Collateral.

“PBGC”: the Pension Benefit Guaranty Corporation.

“Pension Funding Rules”: Code and ERISA rules regarding minimum required contributions (including installment payments thereof) to Pension Plans set forth in, for plan years ending prior to the Pension Protection Act of 2006 effective date, Section 412 of the Code and Section 302 of ERISA, both as in effect prior to such act, and thereafter, Sections 412, 430, 431, 432 and 436 of the Code and Sections 302, 303, 304 and 305 of ERISA.

“Pension Plan”: any employee pension benefit plan (as defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by any Obligor Subsidiary or ERISA Affiliate or to which the Obligor or ERISA Affiliate contributes or has an obligation to contribute, or in the case of a Multiple Employer or other plan described in Section 4064(a) of ERISA, has made contributions at any time during the preceding five plan years.

“Periodic Term SOFR Determination Day”: as defined in the definition of Term SOFR.

“Permitted Asset Disposition”: (a) as long as all Net Proceeds are remitted to the Dominion Account during a Cash Dominion Trigger Period, an Asset Disposition that is a sale of Inventory (excluding, for the avoidance of doubt, any Accounts, but including advertising, lobby promotions, sponsorships and digital programming inventory) in the Ordinary Course of Business; (b) as long as no Default or Event of Default exists and all Net Proceeds are remitted to the Dominion Account during a Cash Dominion Trigger Period, an Asset Disposition that is (i) a disposition of Property (including the abandonment of Intellectual Property) that is obsolete, unmerchantable or otherwise unsalable in the Ordinary Course of Business; (ii) termination of a lease of real or personal Property that is not necessary for the Ordinary Course of Business, could not reasonably be expected to have a Material Adverse Effect and does not result from an Obligor’s default; or (iii) approved in writing by Agent and Required Lenders; (c) Asset Dispositions of Equipment to a network affiliate in the Ordinary Course of Business in connection with the sale or distribution of advertising; (d) Asset Dispositions of Property (excluding Accounts, and not all or substantially all of an Obligor’s Property) among Obligors; (e) Asset Dispositions (other than leases) of equipment to the extent that (A) such property is exchanged for credit against the purchase price of similar replacement property or (B) the proceeds of such Asset Disposition are substantially concurrently applied to the purchase price of such replacement property; (f) Asset Dispositions of cash and Cash Equivalents in the Ordinary Course of Business not otherwise prohibited under this Agreement; (g) Asset Dispositions that constitute, as applicable, Distributions permitted under **Section 10.2.4** and/or Investments permitted under **Section 10.2.5**; (h) Dispositions by NCM of NCM Inc.’s Equity Interests in connection with the redemption of Borrower Membership Units by any member of NCM (other than NCM Inc.) in accordance with Article 9 of the NCM Operating Agreement; (i) licenses (and dispositions or cancellations of such licenses) of Intellectual Property rights by the Borrowers or any Subsidiaries, as licensor, in the Ordinary Course of Business; and (j) other Asset Dispositions having a book value not to exceed \$1,000,000 in the aggregate for any Fiscal Year.

“Permitted Contingent Obligations”: Contingent Obligations (a) arising from endorsements of Payment Items for collection or deposit in the Ordinary Course of Business; (b) arising from Hedging Agreements permitted hereunder; (c) existing on the Closing Date, and any extension or renewal thereof that does not increase the amount of such Contingent Obligation when extended or renewed; (d) incurred in the Ordinary Course of Business with respect to (i) worker’s compensation claims, unemployment insurance and other social security benefits and surety, appeal or performance bonds, completion guarantees and similar obligations provided by the Borrowers or any Subsidiary or obligations in respect of letters of credit, bank guarantees or similar instruments related thereto provided by the Borrowers or any Subsidiary or obligations in respect of letters of credit, bank guarantees or similar instruments related thereto; (e) arising from customary indemnification obligations in favor of purchasers in connection with dispositions of Equipment permitted hereunder; and (f) arising under the Loan Documents.

“Permitted Cure Equity” means common Equity Interests of NCM (or its direct or indirect parent company) that are issued in connection with NCM Inc.’s exercise of a Cure Right pursuant to **Section 10.3.2**.

“Permitted Discretion”: a determination made in the exercise, in good faith, of reasonable business judgment (from the perspective of a secured, asset-based lender).

“Permitted Distributions”: (i) from and after the initial delivery of financial statements to Agent pursuant to **Section 10.1.2(b)**, Distributions made by NCM to the holders of its Equity Interests, so long as, and to the extent that, after giving effect to the making of any such Distribution, the Payment Conditions are satisfied (as determined by Agent in its discretion); (ii) so long as no Default or Event of Default shall have occurred and be continuing or would result therefrom, any amount required to be paid pursuant to the Tax Receivable Agreement; provided, that any such Tax amounts shall be supported by reasonably detailed calculations delivered to the Agent no later than five (5) Business Days prior to any such payment; (iii) any amount required to be paid pursuant to the Tax Receivable Agreement that is (A) supported by reasonably detailed calculations delivered to the Agent no later than five (5) Business Days prior to any such payments and (B) made using cash contributed to NCM by NCM Inc., or paid to NCM by other parties to the Tax Receivables Agreement, in each case substantially concurrently with the making of such payments such that such payments result in no net cash outflow with respect to any Obligor; (iv) Distributions made by NCM to NCM Inc. pursuant to the terms of the Management Agreement to pay the Services Fee and Reimbursable Costs (as defined in the Management Agreement), (v) so long as no Event of Default shall have occurred and be continuing or would result therefrom, Distributions by the Borrowers to allow the payment of cash in lieu of the issuance of fractional Equity Interests upon the exercise of options or warrants, upon the conversion or exchange of Equity Interests of the Borrowers or in connection with the common unit adjustment pursuant to Section 4(b) of the Common Unit Adjustment Agreement, (vi) Permitted Tax Distributions, (vii) repurchases of Equity Interests in connection with the Equity Incentive Plan (as defined in the NCM Operating Agreement as in effect on the date hereof) described in Section 3.5(c) of the NCM Operating Agreement as in effect on the date hereof, (viii) non-cash Distributions in the form of common membership units of NCM or options, warrants, or other rights to repurchase common membership units of NCM, and (ix) non-cash redemptions by the Borrower of NCM Inc.’s common stock, or

cash redemptions if such consideration is funded by NCM Inc. with cash contributions to NCM made substantially concurrently therewith, in each case, in connection with the redemption of Borrower Membership Units by a member of the NCM (other than NCM Inc.) in accordance with Article 9 of the NCM Operating Agreement as in effect on the date hereof.

“Permitted Holder”: the Persons set forth on Schedule 1.1(b).

“Permitted Lien”: as defined in **Section 10.2.2**. The designation of a Lien as a “Permitted Lien” shall not limit or restrict the ability of Agent to establish an Availability Reserve relating thereto.

“Permitted Purchase Money Debt”: Purchase Money Debt of Obligors and Subsidiaries that is unsecured or secured only by a Purchase Money Lien, as long as the aggregate amount does not exceed \$2,000,000 at any time and its incurrence does not violate **Section 10.2.3**.

“Permitted Tax Distributions”: means with respect to any taxable period during which a Borrower is a Flow Through Entity, distributions to its equity holders on or about the due date for any tax return (including quarterly tax estimates) for each Fiscal Year of such Borrower in amounts not to exceed the federal, state and local income tax liability of an equity holder for such Fiscal Year arising as a result of operations of such Borrower and each of its Subsidiaries that is a Flow Through Entity and the interest of such equity holders in such Borrower as calculated by multiplying (x) the Applicable Tax Rate (as defined in the NCM Operating Agreement as in effect on the date hereof) and (y) the estimated or actual taxable income of NCM, as determined for federal tax purposes, for the period to which such tax distribution relates.

“Person”: any individual, corporation, limited liability company, partnership, joint venture, association, trust, unincorporated organization, Governmental Authority or other entity.

“Plan”: an employee benefit plan (as defined in Section 3(3) of ERISA) maintained for employees of an Obligor or ERISA Affiliate, or to which an Obligor or ERISA Affiliate is required to contribute on behalf of its employees.

“Plan of Reorganization”: that certain First Amended Plan of Reorganization of NATIONAL CINEMEDIA, LLC delivered to Agent prior to the Closing Date, which shall be in form and substance satisfactory to Agent and as approved by the Bankruptcy Court.

“Platform”: as defined in **Section 14.3.3**.

“Prepayment Fee”: a fee payable to Agent, for the benefit of the applicable Lenders, in the following amount:

Period during which early termination or reduction occurs	Revolver Loan Prepayment Fee
On or prior to the first anniversary of the date of this Agreement	3% of the aggregate Revolver Commitments terminated or reduced pursuant to Sections 2.1.4(a) or 2.1.4(b) .
After the first anniversary of the date of this Agreement but on or prior to the second anniversary of the date of this Agreement	1% of the aggregate Revolver Commitments terminated or reduced pursuant to Sections 2.1.4(a) or 2.1.4(b) .
After the second anniversary of the date of this Agreement but on or prior to the third anniversary of the date of this Agreement	0.5% of the aggregate Revolver Commitments terminated or reduced pursuant to Sections 2.1.4(a) or 2.1.4(b) ; <u>provided</u> , that, the Prepayment Fee shall be 0% if the Revolver Commitments are terminated or reduced pursuant to Sections 2.1.4(a) or 2.1.4(b) in connection with a Change of Control that occurs after the second anniversary of the date of this Agreement pursuant to which all or substantially all of the assets or Equity Interests of the Borrowers and their Subsidiaries are sold on an arms-length basis to a third party purchaser.
After the third anniversary of the date of this Agreement	0% of the aggregate Revolver Commitments terminated or reduced pursuant to Sections 2.1.4(a) or 2.1.4(b) .

“Pro Rata”: with respect to any Lender, a percentage (rounded to the ninth decimal place) determined (a) by dividing the amount of such Lender's Revolver Commitment by the aggregate outstanding Revolver Commitments; or (b) following termination of the Revolver Commitments, by dividing the amount of such Lender's Loans and LC Obligations by the aggregate outstanding Loans and LC Obligations or, if all Loans and LC Obligations have been paid in full and/or Cash Collateralized, by dividing such Lender's and its Affiliates' remaining Obligations by the aggregate remaining Obligations.

“Properly Contested”: with respect to any obligation of an Obligor, (a) the obligation is subject to a bona fide dispute regarding amount or the Obligor's liability to pay; (b) the obligation is being properly contested in good faith by appropriate proceedings promptly instituted and diligently pursued; (c) appropriate reserves have been established in accordance with GAAP; (d) non-payment could not have a Material Adverse Effect, nor result in forfeiture or sale of any assets of the Obligor; (e) no Lien is imposed on assets of the Obligor, unless bonded and stayed to the satisfaction of Agent; and (f) if the obligation results from entry of a judgment or other order, such judgment or order is stayed pending appeal or other judicial review.

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

“Protective Advances”: as defined in **Section 2.1.5**.

“Purchase Money Debt”: (a) Debt (other than the Obligations) for payment of any of the purchase price of fixed assets; (b) Debt (other than the Obligations) incurred within 10 days before or after acquisition of any fixed assets, for the purpose of financing any of the purchase price thereof; and (c) any renewals, extensions or refinancings (but not increases) thereof.

“Purchase Money Lien”: a Lien that secures Purchase Money Debt, encumbering only the fixed assets acquired with such Debt and constituting a Capital Lease or a purchase money security interest under the UCC.

“Qualified ECP”: an Obligor with total assets exceeding \$10,000,000, or that constitutes an “eligible contract participant” under the Commodity Exchange Act and can cause another Person to qualify as an “eligible contract participant” under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

“RCRA”: the Resource Conservation and Recovery Act (42 U.S.C. §§ 6991-6991i).

“Real Estate”: all right, title and interest (whether as owner, lessor or lessee) in any real Property or any buildings, structures, parking areas or other improvements thereon.

“Recipient”: Agent, Issuing Bank, any Lender or any other recipient of a payment to be made by an Obligor under a Loan Document or on account of an Obligation.

“Recovery Event” means any settlement of or payment in respect of any property or casualty insurance claim (other than business interruption insurance) or any condemnation proceeding relating to any asset of the Borrowers or any Subsidiary.

“Refinancing Conditions”: (a) the Refinancing Debt is in an aggregate principal amount that does not exceed the principal amount of the Debt being extended, renewed or refinanced, except by (A) an amount equal to unpaid accrued interest, penalties and premiums (including tender premiums) thereon *plus* commitment, underwriting, arrangement and similar fees, other reasonable and customary fees, commissions and expenses (including upfront fees, original issue discount or initial yield payments) incurred in connection with such refinancing, refunding or replacement, and (B) an amount equal to any existing commitments unutilized thereunder; (b) it has a final maturity no sooner than, a weighted average life no less than the Debt being extended, renewed or refinanced; (c) if applicable, it is subordinated to the Obligations at least to the same extent as the Debt being extended, renewed or refinanced; (d) the representations, covenants and defaults applicable to it are no less favorable to Borrowers than those applicable to the Debt being extended, renewed or refinanced; (e) no additional Lien is granted to secure it; (f) no additional Person is obligated on such Debt; and (g) immediately upon giving effect to it, no Default or Event of Default exists.

“Refinancing Debt”: Borrowed Money that is the result of an extension, renewal or refinancing of Debt permitted under **Section 10.2.1(b)** and (c).

“Regal Approval Order”: the order of the bankruptcy court on June 26, 2023 granting the relief requested in the *Debtor's Emergency Motion for Entry of an Order (I) Approving and Authorizing the Debtor to Enter into and Perform Under (A) the Termination and Settlement Agreement and (B) the Network Affiliate Transaction Agreement and (II) Granting Related Relief* [Docket No. 283].

“Related Real Estate Documents”: with respect to any Material Real Estate subject to a Mortgage, the following, in form and substance reasonably satisfactory to Agent, and received by Agent for review at least 10 days (or such shorter time period agreed to by Agent in its reasonable discretion) prior to the effective date of the Mortgage (in each case, unless otherwise agreed to by Agent in its sole discretion): (a) a mortgagee title insurance policy (or binder therefor) covering Agent's interest under the Mortgage, in an amount reasonably acceptable to Agent with respect to such Material Real Estate (not to exceed the fair market value of the applicable Material Real Estate, as determined in good faith by Obligor), by an insurer reasonably acceptable to Agent, which must be fully paid on such effective date; (b) such assignments of leases, estoppel letters, attornment agreements, consents, waivers and releases as Agent may reasonably require with respect to other Persons having an interest in the Real Estate and as Obligor is able to obtain from such other Persons using commercially reasonable efforts; (c) a survey or such survey alternatives (including, without limitation, an express map), of the Material Real Estate, sufficient for such title insurer to remove all standard survey exceptions from the title insurance policy relating to such Material Real Estate and issue the customary survey related endorsements or otherwise reasonably acceptable to Agent; (d) a life-of-loan flood hazard determination and, if any material improvement on the Material Real Estate is located in a special flood hazard area, an acknowledged notice to borrower and real property and contents flood insurance acceptable to Agent; (e) a current appraisal of the Real Estate, prepared by an appraiser acceptable to Agent, and in form and substance reasonably satisfactory to Agent; (f) an environmental assessment, prepared by environmental engineers reasonably acceptable to Agent, and such other reports, certificates, studies or data as Agent may reasonably require, all in form and substance reasonably satisfactory to Agent; and (g) an Environmental Agreement and such other documents, instruments or agreements as Agent may reasonably require with respect to any environmental risks regarding the Real Estate.

“Relevant Governmental Body”: the FRB or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the FRB or the Federal Reserve Bank of New York, or any successor thereto.

“Regal Agreement”: the Network Affiliate Transaction Agreement dated as of the Execution Date (as defined therein), by and between Regal Cinemas, Inc., a Tennessee corporation and NCM, as the same may be amended, restated, amended and restated, supplemented or modified from time to time as permitted hereunder.

“Rent and Charges Reserve”: the aggregate of (a) all past due rent and other amounts owing by an Obligor to any landlord, warehouseman, processor, repairman, mechanic, shipper, freight forwarder, broker or other Person who possesses any Collateral or could assert a Lien on any Collateral; and (b) a reserve not to exceed three months’ rent and other charges that could be payable to any such Person, unless it has executed a Lien Waiver.

“Report”: as defined in **Section 12.2.3**.

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

“Required Lenders”: Secured Parties holding more than 50% of (a) the aggregate outstanding Revolver Commitments; or (b) after termination of the Revolver Commitments, the aggregate outstanding Loans and LC Obligations or, upon Full Payment of all Loans and LC Obligations, the aggregate remaining Obligations; provided, however, (i) that Commitments, Loans and other Obligations held by any Defaulting Lender and its Affiliates shall be disregarded in making such calculation, but any related Fronting Exposure shall be deemed held as a Loan or LC Obligation by the Lender that funded the applicable Loan or issued the applicable Letter of Credit or Letter of Credit Guaranty, and (ii) at any time there are two (2) or more Secured Parties (who are not Affiliates of one another) holding more than 20% of (a) the aggregate outstanding Revolver Commitments; or (b) after termination of the Revolver Commitments, the aggregate outstanding Loans and LC Obligations or, upon Full Payment of all Loans and LC Obligations, the aggregate remaining Obligations, “Required Lenders” must include at least two (2) Secured Parties (who are not Affiliates of one another).

“Resolution Authority”: a UK Resolution Authority or EEA Resolution Authority, as applicable.

“Restricted Investment”: any Investment by an Obligor or Subsidiary, other than (a) Investments in Subsidiaries to the extent existing on the Closing Date; (b) Cash Equivalents that are subject to Agent’s Lien and control to the extent required by the Loan Documents, pursuant to documentation in form and substance satisfactory to Agent; (c) loans and advances permitted under **Section 10.2.7**; (d) from and after the initial delivery of financial statements to Agent pursuant to **Section 10.1.2(b)**, any Investment made, so long as, and to the extent that, after giving effect to the making of any such Investment, the Payment Conditions are satisfied (as determined by Agent in its discretion); (e) extensions of trade credit in the Ordinary Course of Business; (f) Investments arising in connection with the incurrence of Debt among Borrowers to the extent permitted by the Loan Documents; (g) Investments by the Borrowers or any Subsidiary in the Borrowers or any Person that, prior to such Investment, is an Obligor, or by any Subsidiary that is not an Obligor to any other Subsidiary that is not an Obligor; (h) Investments consisting of prepaid expenses made in the Ordinary Course of Business; (i) Investments consisting solely of appreciation in value of Investments permitted under **Section 10.2.5**; (j) Investments consisting of endorsements for collection or deposit in the Ordinary Course of Business; and (k) Investments resulting from the creation of new Obligors as otherwise permitted hereunder; provided that, to the extent applicable, the Borrower shall comply with **Section 10.2.10** in connection therewith.

“Restrictive Agreement”: an agreement (other than a Loan Document) that conditions or restricts the right of any Borrower, Subsidiary or other Obligor to incur or repay Borrowed Money, to grant Liens on any assets, to declare or make Distributions, to modify, extend or renew any agreement evidencing Borrowed Money, or to repay any intercompany Debt.

“Revolver Commitment”: for any Lender, its obligation to make Revolver Loans and to participate in LC Obligations up to the maximum principal amount shown on **Schedule 1.1(a)**, as hereafter modified pursuant to **Section 2.1.4** or Assignment to which it is a party. **“Revolver Commitments”** means the aggregate amount of such commitments of all Lenders.

“Revolver Loan”: any loan made pursuant to **Section 2.1** or as a Swingline Loan.

“Revolver Termination Date”: August 7, 2026.

“Revolver Usage”: (a) the aggregate amount of outstanding Revolver Loans; plus (b) the aggregate Stated Amount of outstanding Letters of Credit, except to the extent Cash Collateralized by Borrowers.

“S&P”: Standard & Poor’s Financial Services LLC, a subsidiary of The McGraw-Hill Companies, Inc., or any successor acceptable to Agent.

“Sanction”: any sanction administered or enforced by the U.S. Government (including OFAC), United Nations Security Council, European Union, His Majesty’s Treasury or other sanctions authority.

“Secured Bank Product Obligations”: Debt, obligations and other liabilities with respect to Bank Products owing by an Obligor or Subsidiary to a Secured Bank Product Provider; provided, that Secured Bank Product Obligations of an Obligor shall not include its Excluded Swap Obligations.

“Secured Bank Product Provider”: (a) the Bank, the Agent and any of their respective Affiliates; and (b) any other Lender or Affiliate of a Lender that is providing a Bank Product, provided such provider delivers written notice to Agent, in form and substance satisfactory to Agent, within 10 days following the later of the Closing Date or creation of the Bank Product, (i) describing the Bank Product and setting forth the maximum amount to be secured by the Collateral and the methodology to be used in calculating such amount, and (ii) agreeing to be bound by **Section 12.13**.

“Secured Parties”: Agent, Issuing Bank, Lenders and Secured Bank Product Providers.

“Security Documents”: the Guaranties, IP Assignments, Deposit Account Control Agreements, and all other documents, instruments and agreements now or hereafter securing (or given with the intent to secure) any Obligations.

“Senior Officer”: the chairman of the board, president, chief executive officer or chief financial officer of a Borrower or, if the context requires, an Obligor.

“Settlement Report”: a report summarizing Revolver Loans and participations in LC Obligations outstanding as of a given settlement date, allocated to Lenders on a Pro Rata basis in accordance with their Revolver Commitments.

“SOFR”: a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

“SOFR Administrator”: the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

“SOFR Loan”: each portion of a Revolving Loan that bears interest at a rate determined by reference to Adjusted Term SOFR.

“Software License Agreement”: that certain Second Amended and Restated Software License Agreement dated as of February 13, 2007, by among NCM, American Multi-Cinema, Inc., a Missouri corporation, Cinemark USA, Inc., a Texas corporation, Regal CineMedia Corporation and Digital Cinema Implementation Partners, LLC, case as the same may be amended, restated, amended and restated, supplemented or modified from time to time.

“Solvent”: as to any Person, as of any date of determination, that on such date, such Person (a) owns Property whose fair salable value (as defined below) is greater than the amount required to pay all of its debts (including contingent, subordinated, unmatured and unliquidated liabilities); (b) owns Property whose present fair salable value is greater than the probable total liabilities (including contingent, subordinated, unmatured and unliquidated liabilities) of such Person as they become absolute and matured; (c) is able to pay all of its debts as they mature; (d) has capital that is not unreasonably small for its business and is sufficient to carry on its business and transactions and all business and transactions in which it is about to engage; (e) is not “insolvent” within the meaning of Section 101(32) of the Bankruptcy Code; and (f) has not incurred (by way of assumption or otherwise) any obligations or liabilities (contingent or otherwise) under any Loan Documents, or made any conveyance in connection therewith, with actual intent to hinder, delay or defraud either present or future creditors of such Person or any of its Affiliates. “Fair salable value” means the amount that could be obtained for assets within a reasonable time, either through collection or through sale under ordinary selling conditions by a capable and diligent seller to an interested buyer who is willing (but under no compulsion) to purchase.

“Specified Agreements”: collectively, each ESA and the Regal Agreement.

“Specified Obligor”: an Obligor that is not then an “eligible contract participant” under the Commodity Exchange Act (determined prior to giving effect to **Section 5.11**).

“Specified Parties”: the collective reference to American Multi-Cinema, Inc., a Missouri corporation, Cinemark USA, Inc., a Texas corporation and Regal Cinemas, Inc., a Tennessee corporation.

“Stated Amount”: the outstanding amount of a Letter of Credit, including any automatic increase or tolerance (whether or not then in effect) provided by the Letter of Credit or related LC Documents.

“Subordinated Debt”: any Debt incurred by an Obligor that is expressly subordinate and junior in right of payment to Full Payment of all Obligations, and is on terms (including maturity, interest, fees, repayment, covenants and subordination) satisfactory to Agent, and, if applicable, the Liens as to any Collateral securing such Debt have been subordinated to the Liens therein of Agent pursuant to documentation in form and substance satisfactory to Agent, in its sole discretion.

“Subsidiary”: any entity at least 50% of whose voting securities or Equity Interests is owned by an Obligor or combination of Obligors (including indirect ownership through other entities in which an Obligor directly or indirectly owns 50% of the voting securities or Equity Interests). Unless otherwise specified, “subsidiary” or “Subsidiary” shall mean any subsidiary of NCM.

“Super-Majority Lenders”: Secured Parties holding more than 66.75% of (a) the aggregate outstanding Revolver Commitments; or (b) after termination of the Revolver Commitments, the aggregate outstanding Loans and LC Obligations or, upon Full Payment of all Loans and LC Obligations, the aggregate remaining Obligations; provided, however, (i) that Commitments, Loans and other Obligations held by a Defaulting Lender and its Affiliates shall be disregarded in making such calculation, but any related Fronting Exposure shall be deemed held as a Loan or LC Obligation by the Lender that funded the applicable Loan or issued the applicable Letter of Credit or Letter of Credit Guaranty or Letter of Credit Guaranty, and (ii) at any time there are two (2) or more Secured Parties (who are not Affiliates of one another) holding more than 20% of (a) the aggregate outstanding Revolver Commitments; or (b) after termination of the Revolver Commitments, the aggregate outstanding Loans and LC Obligations or, upon Full Payment of all Loans and LC Obligations, the aggregate remaining Obligations, “Super-Majority Lenders” must include at least two (2) Secured Parties (who are not Affiliates of one another).

“Swap Obligations”: with respect to an Obligor, its obligations under a Hedging Agreement that constitutes a “swap” within the meaning of Section 1a(47) of the Commodity Exchange Act.

“Swingline Lender”: CIT Northbridge Funding I LLC.

“Swingline Loan”: any Borrowing of Base Rate Revolver Loans funded with Agent’s funds, until such Borrowing is settled among Lenders or repaid by Borrowers.

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

“Tax Receivable Agreement”: the Tax Receivable Agreement (as defined in the NCM Operating Agreement as in effect on the date hereof).

“Term SOFR”: for any calculation with respect to a SOFR Loan, the Term SOFR Reference Rate for a tenor comparable to the applicable Monthly Period on the day (such day, the “**Periodic Term SOFR Determination Day**”) that is two (2) U.S. Government Securities Business Days prior to the first day of such Monthly Period, as such rate is published by the Term SOFR Administrator; provided, however, that if as of 5:00 p.m. (New York City time) on any Periodic Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Periodic Term SOFR Determination Day.

“Term SOFR Adjustment”: 0.115% per annum.

“Term SOFR Administrator”: CME Group Benchmark Administration Limited (CBA) (or a successor administrator of the Term SOFR Reference Rate selected by Agent in its reasonable discretion).

“Term SOFR Reference Rate”: the forward-looking term rate based on SOFR.

“Transactions”: collectively, (a) the execution, delivery and performance by the Obligors of the Loan Documents to which they are a party and the making of the Loans hereunder and issuing of the Letters of Credit hereunder, and the use of proceeds thereof in accordance herewith, and (b) the payment of all related costs, fees and expenses in connection with the negotiation and execution of the Loan Documents.

“Transferee”: any actual or potential Eligible Assignee, Participant or other Person acquiring an interest in any Obligations.

“Trigger Period”: the period (a) commencing on any day that (i) an Event of Default occurs or (ii) Availability is less than the greater of (x) \$5,000,000 and (y) 10.0% of the aggregate Revolver Commitments; and (b) continuing until, during each of the preceding thirty (30) consecutive days, no Event of Default has existed and Availability has been more than each of \$5,000,000 and 10.0% of the aggregate Revolver Commitments.

“UCC”: the Uniform Commercial Code as in effect in the State of New York or, when the laws of any other jurisdiction govern the perfection or enforcement of any Lien, the Uniform Commercial Code of such jurisdiction.

“UK Financial Institution”: any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

“UK Resolution Authority”: the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

“Unadjusted Benchmark Replacement”: the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

“Unbilled Account” means an Account arising from services rendered or goods sold for which an invoice, bill or statement has not yet been sent to an Account Debtor for payment.

“Unused Line Fee Rate”: a per annum rate equal to 0.50%.

“Upstream Payment”: a Distribution by a Subsidiary of a Borrower to such Borrower.

“U.S. Government Securities Business Day”: any day except for (a) a Saturday, (b) a Sunday or (c) a day on which the Securities Industry and Financial Markets Association, or any successor thereto, recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in U.S. government securities; provided, that for purposes of notice requirements in **Section 4.1.1** such day is also a Business Day.

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

“U.S. Tax Compliance Certificate”: as defined in **Section 5.10.2(b)(iii)**.

“Value”: (a) for an Account (other than a Credit Insured Account), its face amount, net of any returns, rebates, discounts (calculated on the shortest terms), credits, allowances or Taxes (including sales, excise or other taxes) that have been or could be claimed by the Account Debtor or any other Person; and (b) for a Credit Insured Account, (i) the lesser of (x) the face amount of such Credit Insured Account, net of any returns, rebates, discounts (calculated on the shortest terms), credits, allowances or Taxes (including sales, excise or other taxes) that have been or could be claimed by the Account Debtor or any other Person and (y) the amount of credit insurance backing such Credit Insured Account (not to exceed the credit limit with respect to such Credit Insured Account), net of (ii) any insurance premiums or deductibles (the excess, if any, of (i) over (ii) shall be included in the Accounts Formula Amount).

“Write-Down and Conversion Powers”: (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the

applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

1.2 Accounting Terms. Under the Loan Documents (except as otherwise expressly specified therein), all accounting terms shall be interpreted, all accounting determinations shall be made, and all financial statements shall be prepared, in accordance with GAAP applied on a basis consistent with the most recent audited financial statements of Borrowers delivered to Agent before the Closing Date and using the same inventory valuation method as used in such financial statements, except for any change required or permitted by GAAP if Borrowers' certified public accountants concur in such change, the change is disclosed to Agent, and all relevant provisions of the Loan Documents are amended in a manner satisfactory to Required Lenders to take into account the effects of the change.

1.3 Uniform Commercial Code. As used herein, the following terms are defined in accordance with the UCC. "Account," "Account Debtor," "Chattel Paper," "Commercial Tort Claim," "Deposit Account," "Document," "Equipment," "General Intangibles," "Goods," "Instrument," "Investment Property," "Letter-of-Credit Right" and "Supporting Obligation."

1.4 Certain Matters of Construction. The terms "herein," "hereof," "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular section, paragraph or subdivision. Any pronoun used shall be deemed to cover all genders. In the computation of periods of time from a specified date to a later specified date, "from" means "from and including," and "to" and "until" each mean "to but excluding." The terms "including" and "include" shall mean "including, without limitation" and, for purposes of each Loan Document, the parties agree that the rule of *ejusdem generis* shall not be applicable to limit any provision. Section titles appear as a matter of convenience only and shall not affect the interpretation of any Loan Document. All references to (a) laws include all related regulations, interpretations, supplements, amendments and successor provisions; (b) any document, instrument or agreement include any amendments, waivers and other modifications, extensions or renewals (to the extent permitted by the Loan Documents); (c) any section mean, unless the context otherwise requires, a section of this Agreement; (d) any exhibits or schedules mean, unless the context otherwise requires, exhibits and schedules attached hereto, which are hereby incorporated by reference; (e) any Person include successors and assigns; (f) time of day means the time of day in New York, New York; or (g) discretion of Agent, Issuing Bank or any Lender mean the sole and absolute discretion of such Person exercised at any time. All references to Value, Borrowing Base components, Loans, Letters of Credit, Obligations and other amounts herein shall be denominated in Dollars, unless expressly provided otherwise, and all determinations (including calculations of Borrowing Base and financial covenants) made from time to time under the Loan Documents shall be made in light of the circumstances existing at such time. Borrowing Base calculations shall be consistent with historical methods of valuation and calculation, and otherwise satisfactory to Agent (and not necessarily calculated in accordance with GAAP). Borrowers shall have the burden of establishing any alleged negligence, misconduct or lack of good faith by Agent, Issuing Bank or any Lender under any Loan Documents. No provision of any Loan Documents shall be construed against any party by reason of such party having, or being deemed to have, drafted the provision. Reference to a Borrower's "knowledge" or similar concept means actual knowledge of a Senior Officer, or knowledge that a Senior Officer would have obtained if he or she had engaged in good faith and diligent performance of his or her duties, including reasonably specific inquiries of employees or agents and a good faith attempt to ascertain the matter.

1.5 Rates. Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, (a) the continuation of, administration of, submission of, calculation of or any other matter related to the Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR or any other Benchmark, any component definition thereof or rates referred to in the definition thereof, or with respect to any alternative, successor or replacement rate thereto (including any then-current Benchmark or any Benchmark Replacement), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any Benchmark Replacement), as it may or may not be adjusted pursuant to Section 3.6.2, will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, the Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR or any other Benchmark, prior to its discontinuance or unavailability, or (b) the effect, implementation or composition of any Conforming Changes. Agent and its affiliates or other related entities may engage in transactions that affect the calculation of the Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto and such transactions may be adverse to a Borrower. Agent may select information sources or services in its reasonable discretion to ascertain the Term SOFR Reference Rate, Adjusted Term SOFR or Term SOFR, or any other Benchmark, any component definition thereof or rates referred to in the definition thereof, in each case pursuant to the terms of this

Agreement, and shall have no liability to any Borrower, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

1.6 Division. Any reference herein to a merger, transfer, consolidation, amalgamation, assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a Division of or by a limited liability company or limited partnership, or an allocation of assets to a series of any such entity (or the unwinding of a Division or allocation) as if it were a merger, transfer, consolidation, amalgamation, assignment, sale, disposition or transfer or similar term, as applicable, to, of or with a separate Person. Any Division of a Person shall constitute a separate Person hereunder.

SECTION 2. CREDIT FACILITIES

2.1 Revolver Commitment.

2.1.1 Revolver Loans. Each Lender agrees, severally on a Pro Rata basis up to its Revolver Commitment, on the terms set forth herein, to make Revolver Loans to Borrowers from time to time through the Commitment Termination Date. The Revolver Loans may be repaid and reborrowed as provided herein. In no event shall Lenders have any obligation to honor a request for a Revolver Loan if Revolver Usage at such time plus the requested Loan would exceed the Borrowing Base. Notes. Loans and interest accruing thereon shall be evidenced by the records of Agent and the applicable Lender. At the written request of a Lender, Borrowers shall deliver promissory note(s) to such Lender, evidencing its Loans.

2.1.3 Use of Proceeds. The proceeds of Revolver Loans shall be used by Borrowers solely (a) to pay fees and transaction expenses associated with the Transactions (but including, for purposes of this Section 2.1.3, in connection with the Plan of Reorganization and the Confirmation Order); (b) to pay Obligations in accordance with this Agreement; and (c) for lawful corporate purposes of Borrowers, including working capital and capital expenditures. Borrowers shall not, directly or indirectly, use any Letter of Credit or Loan proceeds, nor use, lend, contribute or otherwise make available any Letter of Credit or Loan proceeds to any Subsidiary, joint venture partner or other Person, (i) to fund any activities of or business with any Person, or in any Designated Jurisdiction, that, at the time of issuance of the Letter of Credit or funding of the Loan, is the subject of any Sanction; or (ii) in any manner that would result in a violation of a Sanction by any Person (including any Secured Party or other individual or entity participating in any transaction); or (iii) for any purpose that would breach the U.S. Foreign Corrupt Practices Act of 1977, UK Bribery Act 2010 or similar law in any jurisdiction.

2.1.4 Voluntary Reduction or Termination of Revolver Commitments.

a. The Revolver Commitments shall terminate on the Revolver Termination Date, unless sooner terminated in accordance with this Agreement. Upon at least 10 days prior written notice to Agent at any time (but subject to the payment of the Prepayment Fee), Borrowers may, at their option, terminate the Revolver Commitments and this credit facility. Any notice of termination given by Borrowers shall be irrevocable. On the termination date, Borrowers shall make Full Payment of all Obligations, including the applicable Prepayment Fee, if any.

b. Borrowers may permanently reduce the Revolver Commitments on a ratable basis for all Lenders to an aggregate amount of not less than \$25,000,000, upon at least 30 days prior written notice to Agent, which notice shall specify the amount of the reduction and shall be irrevocable once given. Each reduction shall be in a minimum amount of \$5,000,000, or an increment of \$1,000,000 in excess thereof. Any such reduction shall be accompanied by the payment of the applicable Prepayment Fee, if any.

2.1.5 Protective Advances. Agent shall be authorized, in its discretion, at any time, to make Base Rate Revolver Loans (“**Protective Advances**”) (a) if Agent deems such Loans necessary or desirable to preserve or protect Collateral, or to enhance the collectability or repayment of Obligations, as long as such Loans do not cause Revolver Usage to exceed the aggregate Revolver Commitments; or (b) to pay any other amounts chargeable to Obligors under any Loan Documents, including interest, costs, fees and expenses. Lenders shall participate on a Pro Rata basis in Protective Advances outstanding from time to time. Required Lenders may at any time revoke Agent’s authority to make further Protective Advances under clause (a) by written notice to Agent. Absent such revocation, Agent’s determination that funding of a Protective Advance is appropriate shall be conclusive.

2.2 [Reserved].

2.3 Letter of Credit Facility.

2.3.1 Issuance of Letters of Credit. Agent and Lenders agree to incur from time to time until the Commitment Termination Date, upon request of Borrower Agent and for a Borrower's account, LC Obligations by causing Letters of Credit to be issued by (x) Agent (or an Affiliate thereof), (y) a Lender (or an Affiliate thereof) selected by or acceptable to Agent, in its sole discretion, or (z) a bank or other legally authorized Person selected by or acceptable to Agent, in its sole discretion, and guaranteed by Agent (or an Affiliate thereof) (a "**Letter of Credit Guaranty**") (each of (x) through (z), an "**Issuing Bank**"), on the terms set forth herein, including the following:

a. Each Borrower acknowledges that Issuing Bank's issuance of any Letter of Credit is conditioned upon Issuing Bank's receipt of a LC Application with respect to the requested Letter of Credit, as well as such other instruments and agreements as Issuing Bank may customarily require for issuance of a letter of credit of similar type and amount. Issuing Bank shall have no obligation to issue any Letter of Credit unless (i) Issuing Bank receives a LC Request and LC Application at least five (5) Business Days prior to the requested date of issuance; (ii) each LC Condition is satisfied; and (iii) if a Defaulting Lender exists, such Lender or Borrowers have entered into arrangements satisfactory to Agent and Issuing Bank to eliminate any Fronting Exposure associated with such Lender. If, in sufficient time to act, Issuing Bank receives written notice from Agent or Required Lenders that a LC Condition has not been satisfied, Issuing Bank shall not issue the requested Letter of Credit. Prior to receipt of any such notice, Issuing Bank shall not be deemed to have knowledge of any failure of LC Conditions.

b. Letters of Credit may be requested by a Borrower to support obligations incurred in the Ordinary Course of Business, or as otherwise approved by Agent. Increase, renewal or extension of a Letter of Credit shall be treated as issuance of a new Letter of Credit, except that Issuing Bank may require a new LC Application in its discretion.

c. Borrowers assume all risks of the acts, omissions or misuses of any Letter of Credit by the beneficiary. In connection with any Letter of Credit, none of Agent, Issuing Bank or any Lender shall be responsible for the existence, character, quality, quantity, condition, packing, value or delivery of any goods purported to be represented by any Documents; any differences or variation in the character, quality, quantity, condition, packing, value or delivery of any goods from that expressed in any Documents; the form, validity, sufficiency, accuracy, genuineness or legal effect of any Documents or of any endorsements thereon; the time, place, manner or order in which shipment of goods is made; partial or incomplete shipment of, or failure to ship, any goods referred to in a Letter of Credit or Documents; any deviation from instructions, delay, default or fraud by any shipper or other Person in connection with any goods, shipment or delivery; any breach of contract between a shipper or vendor and a Borrower; errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex, telecopy, e-mail, telephone or otherwise; errors in interpretation of technical terms; the misapplication by a beneficiary of any Letter of Credit or the proceeds thereof; or any consequences arising from causes beyond the control of Issuing Bank, Agent or any Lender, including any act or omission of a Governmental Authority. Borrowers shall take all action to avoid and mitigate any damages relating to any Letter of Credit or claimed against Issuing Bank, Agent or any Lender, including through enforcement of any available rights against a beneficiary. Issuing Bank shall be fully subrogated to the rights and remedies of any beneficiary whose claims against Borrowers are discharged with proceeds of a Letter of Credit. The rights and remedies of Issuing Bank under the Loan Documents shall be cumulative.

d. In connection with its administration of and enforcement of rights or remedies under any Letters of Credit or LC Documents, Issuing Bank shall be entitled to act, and shall be fully protected in acting, upon any certification, documentation or communication in whatever form believed by Issuing Bank, in good faith, to be genuine and correct and to have been signed, sent or made by a proper Person. Issuing Bank may use legal counsel, accountants and other experts to advise it concerning its obligations, rights and remedies, and shall be entitled to act upon, and shall be fully protected in any action taken in good faith reliance upon, any advice given by such experts. Issuing Bank may employ agents and attorneys-in-fact in connection with any matter relating to Letters of Credit or LC Documents, and shall not be liable for the negligence or misconduct of agents and attorneys-in-fact selected with reasonable care.

2.3.2 Reimbursement; Participations.

a. In the event that Agent or any Issuing Bank shall make any payment on or pursuant to any LC Obligation, such payment shall then be deemed automatically to constitute a Revolver Loan under **Section 2.1.1** regardless of whether a Default or Event of Default has occurred and is continuing and notwithstanding the Borrowers' failure to satisfy the conditions precedent in **Section 6.2**. The obligation of Borrowers to reimburse Agent and Lenders for payments made with respect to any LC Obligation shall be absolute, unconditional, irrevocable, and joint and

several, and shall be paid without regard to any lack of validity or enforceability of any Letter of Credit or the existence of any claim, setoff, defense or other right that Borrowers may have at any time against the beneficiary. Each Lender shall fund its Pro Rata share of such Borrowing whether or not the Commitments have terminated, Revolver Usage exceeds the Borrowing Base, or the conditions in **Section 6** are satisfied. The failure of any Lender to make available to Agent or Issuing Bank for Agent's or Issuing Bank's own account its Pro Rata portion of any such Revolver Loan or payment by Agent under or in respect of a Letter of Credit shall not relieve any other Lender of its obligation hereunder to make available to Agent or Issuing Bank its Pro Rata portion, but no Lender shall be responsible for the failure of any other Lender to make available such other Lender's Pro Rata portion of any such payment.

b. If it shall be illegal or unlawful for Borrowers to incur Revolver Loans as contemplated by clause (a) above because of an Event of Default described in **Section 11.1(j)** or otherwise or if it shall be illegal or unlawful for any Lender to be deemed to have assumed a ratable share of the reimbursement obligations owed to an Issuing Bank, or if Issuing Bank is a Lender, then (i) immediately and without further action whatsoever, each Lender shall be deemed to have irrevocably and unconditionally purchased from Agent (or such Issuing Bank, as the case may be), without representation or warranty, an undivided interest and participation equal to such Lender's Pro Rata share (based on the Revolver Commitments) of the LC Obligations in respect of all Letters of Credit then outstanding and (ii) thereafter, immediately upon issuance of any Letter of Credit, each Lender shall be deemed to have irrevocably and unconditionally purchased from Agent (or such Issuing Bank, as the case may be), without representation or warranty, an undivided interest and participation in such Lender's Pro Rata share (based on the Revolver Commitments) of the LC Obligations with respect to such Letter of Credit on the date of such issuance. Each Lender shall fund its participation in all payments or disbursements made under the Letters of Credit in the same manner as provided in this Agreement with respect to Revolver Loans.

c. The obligation of each Lender to make the payments described above in this **Section 2.3.2** shall be absolute, unconditional and irrevocable, not subject to any counterclaim, setoff, qualification or exception whatsoever, and shall be made in accordance with this Agreement under all circumstances, irrespective of any lack of validity or unenforceability of any Loan Documents; any draft, certificate or other document presented under a Letter of Credit having been determined to be forged, fraudulent, noncompliant, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; any waiver by Issuing Bank of a requirement that exists for its protection (and not a Borrower's protection) or that does not materially prejudice a Borrower; any honor of an electronic demand for payment even if a draft is required; any payment of an item presented after a Letter of Credit's expiration date if authorized by the UCC or applicable customs or practices; or any setoff or defense that an Obligor may have with respect to any Obligations. Neither Issuing Bank nor Agent assumes any responsibility for any failure or delay in performance or any breach by any Borrower or other Person of any obligations under any LC Documents. Neither Issuing Bank nor Agent makes to Lenders any express or implied warranty, representation or guaranty with respect to any Letter of Credit, Collateral, LC Document or Obligor. Neither Issuing Bank nor Agent shall be responsible to any Lender for any recitals, statements, information, representations or warranties contained in, or for the execution, validity, genuineness, effectiveness or enforceability of any LC Documents; the validity, genuineness, enforceability, collectability, value or sufficiency of any Collateral or the perfection of any Lien therein; or the assets, liabilities, financial condition, results of operations, business, creditworthiness or legal status of any Obligor.

d. No Issuing Bank Indemnitee shall be liable to any Lender or other Person for any action taken or omitted to be taken in connection with any Letter of Credit or LC Document except as a result of its gross negligence or willful misconduct. Issuing Bank may refrain from taking any action with respect to a Letter of Credit until it receives written instructions (and in its discretion, appropriate assurances) from the Lenders.

2.3.3 Cash Collateral. Subject to **Section 2.1.5**, if at any time (a) an Event of Default exists, (b) the Commitment Termination Date occurs, or (c) the Revolver Termination Date is scheduled to occur within twenty (20) Business Days, then Borrowers shall, at Issuing Bank's or Agent's request, Cash Collateralize all outstanding Letters of Credit. Borrowers shall, at Issuing Bank's or Agent's request at any time, Cash Collateralize the Fronting Exposure of any Defaulting Lender. If Borrowers fail to provide any Cash Collateral as required hereunder, Lenders may (and shall upon direction of Agent) advance, as Revolver Loans, the amount of Cash Collateral required (whether or not the Commitments have terminated, the Revolver Usage would exceed the Borrowing Base or the Revolver Commitments or the conditions in **Section 6** are satisfied).

2.3.4 Resignation of Issuing Bank. Issuing Bank may resign at any time upon notice to Agent and Borrowers. From the effective date of such resignation, Issuing Bank shall have no obligation to issue, amend, renew, extend or otherwise modify any Letter of Credit, but shall otherwise continue to have all rights and obligations of an Issuing Bank hereunder relating to any Letter of Credit issued by it prior to such date. Agent shall promptly appoint a replacement Issuing Bank, which, as long as no Default or Event of Default exists, shall be reasonably acceptable to Borrowers.

2.3.5 Subrogation Rights; Letter of Credit Guaranty.

a. Upon any payments made by Agent to an Issuing Bank under a Letter of Credit Guaranty, Agent, for the benefit of the Lenders, shall acquire by subrogation, any rights, remedies, duties or obligations granted to or undertaken by the applicable Borrower to Issuing Bank in any LC Document, any standing agreement relating to Letters of Credit or otherwise, all of which shall be deemed to have been granted to Agent, for the benefit of Lenders, and apply in all respects to Agent and shall be in addition to any rights, remedies, duties or obligations contained herein.

b. Each Borrower hereby authorizes and directs any Issuing Bank which is not a Lender hereunder to deliver to Agent all instruments, documents, and other writings and property received by such Issuing Bank pursuant to such Letter of Credit and to accept and rely upon Agent's instructions with respect to all matters arising in connection with such Letter of Credit and the related LC Documents.

c. Any and all charges, commissions, fees, and costs incurred by Agent relating to Letters of Credit issued by an Issuing Bank which is not a Lender hereunder in reliance on a Letter of Credit Guaranty shall be LC Obligations for purposes of this Agreement and immediately shall be reimbursable by Borrowers to Agent.

SECTION 3. INTEREST, FEES AND CHARGES

3.1 Interest.

3.1.1 Rates and Payment of Interest.

a. The Obligations shall bear interest at the Contract Rate (except as may be provided by the definition of Term SOFR or **Section 2.1.5, Section 3.1.2, Section 3.5, or Section 3.6**). Subject to **Section 2.1.5, Section 3.1.2, Section 3.5 or Section 6**, all Loans shall be SOFR Loans.

b. During an Insolvency Proceeding with respect to any Borrower, or during any other Event of Default if Agent or Required Lenders in their discretion so elect, Obligations shall bear interest at the Default Rate (whether before or after any judgment), payable **on demand**.

c. Interest shall accrue from the date a Loan is advanced or Obligation is incurred or payable, until paid in full by Borrowers, and shall in no event be less than zero at any time. Interest accrued on the Loans shall be due and payable in arrears, (i) on the first calendar day of each calendar month, for the Monthly Period then ended; (ii) on any date of prepayment, with respect to the principal amount being prepaid; and (iii) on the Commitment Termination Date. Interest accrued on any other Obligations shall be due and payable as provided in the Loan Documents or, if no payment date is specified, **on demand**.

3.1.2 Term SOFR Conforming Changes. In connection with the use or administration of Term SOFR, Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document. Agent will promptly notify Borrower Agent and the Lenders of the effectiveness of any Conforming Changes in connection with the use or administration of Term SOFR.

3.2 Fees.

3.2.1 Unused Line Fee. Borrowers shall pay to Agent, for the Pro Rata benefit of Lenders, a fee equal to the Unused Line Fee Rate times the amount by which the Revolver Commitments exceed the average Revolver Usage during the preceding month, calculated for the actual days elapsed; provided, that so long as the Borrowers pay the monthly Minimum Balance fee pursuant to and in accordance with **Section 3.2.3** below, for purposes of calculating the unused line fee payable pursuant to this **Section 3.2.1**, the average daily Revolver Usage during the preceding month shall be deemed to be the greater of (x) the Minimum Balance and (y) the actual average daily Revolver Usage during the preceding month. Such unused line fee shall be payable in arrears, on the first day of each calendar month (commencing on September 1, 2023) and on the Commitment Termination Date.

3.2.2 LC Facility Fees. Borrowers shall pay (a) to Agent, for the Pro Rata benefit of Lenders, a fee equal to the Applicable Margin in effect for SOFR Loans that are Revolver Loans times the average daily Stated Amount of Letters of Credit, which fee shall be payable monthly in arrears, on the first day of each month; (b) to Agent, for its own account, a fronting fee equal to 0.25% per annum on the Stated Amount of each Letter of Credit, which fee shall be payable monthly in arrears, on the first day of each month; (c) all costs and expenses incurred by Agent or any Lender on account of the LC Obligations which costs and charges shall be paid as and when incurred; and (d) to Issuing Bank, for its own account, all customary charges associated with the issuance, amending, negotiating, payment, processing, transfer and administration of Letters of Credit, which charges shall be paid as and when incurred. During an Event of Default, the fee payable under clause (a) shall be increased by 3% per annum.

3.2.3 Minimum Balance Fee. Borrowers shall pay to Agent a monthly fee equal to (a) the Contract Rate (giving effect to the Default Rate, if applicable at such time) multiplied by (b) the amount by which the Minimum Balance exceeds the average daily Revolver Usage for the preceding month, calculated for the actual days elapsed; provided, that if the average daily Revolver Usage for any month exceeds the Minimum Balance, no such fee shall be payable for such month. Such fees shall be due and payable in arrears, on the first calendar day of each calendar month (commencing on September 1, 2023) and on the Commitment Termination Date.

3.2.4 Fee Letters. Borrowers shall pay all fees set forth in any fee letter executed in connection with this Agreement.

3.2.5 Wire Fees. Borrowers shall pay Agent \$35.00 for any wire initiated by Agent.

3.3 Computation of Interest, Fees, Yield Protection. All interest, as well as fees and other charges calculated on a per annum basis, shall be computed for the actual days elapsed based on a year of 360 days, except that interest computed by reference to **clause (b)** of the definition of Base Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year). Each determination by Agent of any interest, fees or interest rate hereunder shall be final, conclusive and binding for all purposes, absent manifest error. All fees shall be fully earned when due and shall not be subject to rebate, refund or proration. All fees payable under **Section 3.2** are compensation for services and are not, and shall not be deemed to be, interest or any other charge for the use, forbearance or detention of money. A certificate as to amounts payable by Borrowers under **Section 3.4, 3.6, 3.7, 3.9 or 5.9**, submitted to Borrower Agent by Agent or the affected Lender shall be final, conclusive and binding for all purposes, absent manifest error, and Borrowers shall pay such amounts to the appropriate party within 10 days following receipt of the certificate.

3.4 Reimbursement Obligations. Borrowers shall pay all Extraordinary Expenses promptly upon request. Borrowers shall also reimburse Agent for all legal, accounting, appraisal, consulting, and other documented fees and expenses incurred by it in connection with (a) negotiation and preparation of any Loan Documents, including any modification thereof; (b) administration of and actions relating to any Collateral, Loan Documents and transactions contemplated thereby, including any actions taken to perfect or maintain priority of Agent's Liens on any Collateral, to maintain any insurance required hereunder or to verify Collateral; and (c) subject to the limits of **Section 10.1.1(b)**, any examination or appraisal with respect to any Obligor or Collateral by Agent's personnel or a third party. All legal, accounting and consulting fees shall be charged to Borrowers by Agent's professionals at their full hourly rates, regardless of any alternative fee arrangements that Agent, any Lender or any of their Affiliates may have with such professionals that otherwise might apply to this or any other transaction. Borrowers acknowledge that counsel may provide Agent with a benefit (such as a discount, credit or accommodation for other matters) based on counsel's overall relationship with Agent, including fees paid hereunder. If, for any reason (including inaccurate reporting in any Borrower Materials), it is determined that a higher Applicable Margin should have applied to a period than was actually applied, then the proper margin shall be applied retroactively and Borrowers shall immediately pay to Agent, for the ratable benefit of Lenders, an amount equal to the difference between the amount of interest and fees that would have accrued using the proper margin and the amount actually paid. All amounts payable by Borrowers under this Section shall be due **on demand**.

3.5 Illegality. If any Lender determines that any Applicable Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender to perform any of its obligations hereunder, to make, maintain, fund or charge applicable interest or fees with respect to any Loan, or to determine or charge interest based on the Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR or SOFR, then, on notice thereof by such Lender to Agent, any obligation of such Lender to perform such obligations, to make, maintain or fund the Loan (or to charge interest or fees with respect thereto), or to continue or convert Loans as SOFR Loans, shall be suspended until such Lender notifies Agent that the circumstances giving rise to such determination no longer exist. Upon delivery of such notice, Borrowers shall prepay the applicable Loan or, if applicable, convert SOFR Loan(s) of such Lender to a Loan that bears reference to the Base Rate plus the Applicable Margin, either on the last day of the Monthly Period therefor, if such Lender may lawfully continue to maintain the SOFR Loan to such day, or immediately, if such Lender

may not lawfully continue to maintain the SOFR Loan. Upon any such prepayment or conversion, Borrowers shall also pay accrued interest on the amount so prepaid or converted.

3.6 SOFR Unavailability.

3.6.1 Inability to Determine Rates Generally. Agent will promptly notify Borrower Agent and Lenders if, in connection with any Loan or request for a Loan, (a) Agent determines that adequate and reasonable means do not exist for determining Term SOFR Reference Rate, Term SOFR or SOFR for the Monthly Period; or (b) Agent or Required Lenders determine for any reason that the Term SOFR Reference Rate, Term SOFR or SOFR for the Monthly Period does not adequately and fairly reflect the cost to Lenders of funding the Loan. Thereafter, Lenders' obligations to make or maintain affected SOFR Loans shall be suspended until Agent (upon instruction by Required Lenders) withdraws the notice and all such Loans shall be converted to loans bearing interest at the Base Rate plus the Applicable Margin. Upon receipt of such notice, Borrower Agent may revoke any pending request for a SOFR Loan or, failing that, will be deemed to have requested a Loan bearing interest at the Base Rate plus the Applicable Margin.

3.6.2 Benchmark Replacement Setting.

a. Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other Loan Document, upon the occurrence of a Benchmark Transition Event, Agent and Borrower Agent may amend this Agreement to replace the then-current Benchmark with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 p.m. on the fifth (5th) Business Day after Agent has posted such proposed amendment to all Lenders and Borrower Agent so long as Agent has not received, by such time, written notice of objection to such amendment from Lenders comprising the Required Lenders. No replacement of a Benchmark with a Benchmark Replacement pursuant to this **Section 3.6.2(a)** will occur prior to the applicable Benchmark Transition Start Date.

b. Benchmark Replacement Conforming Changes. In connection with the use, administration, adoption or implementation of a Benchmark Replacement, Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.

c. Notices; Standards for Decisions and Determinations. Agent will promptly notify Borrower Agent and the Lenders of (1) the implementation of any Benchmark Replacement and (2) the effectiveness of any Conforming Changes in connection with the use, administration, adoption or implementation of a Benchmark Replacement. Agent will notify Borrower Agent of (x) the removal or reinstatement of any tenor of a Benchmark pursuant to **Section 3.6.2(d)** and (y) the commencement of any Benchmark Unavailability Period. Any determination, decision or election that may be made by Agent or, if applicable, any Lender (or group of Lenders) pursuant to this **Section 3.6.2(c)**, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this **Section 3.6.2(c)**.

d. Unavailability of Tenor Benchmark. Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (1) if the then-current Benchmark is a term rate (including the Term SOFR Reference Rate) and either (I) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by Agent in its reasonable discretion or (II) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is not or will not be representative, then Agent may modify the definition of "Monthly Period" (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (2) if a tenor that was removed pursuant to clause (1) above either (I) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (II) is not, or is no longer, subject to an announcement that it is not or will not be representative for a Benchmark (including a Benchmark Replacement), then Agent may modify the definition of "Monthly Period" (or any similar or analogous definition) for all Benchmark settings at or after such time to reinstate such previously removed tenor.

e. Benchmark Unavailability Period. Upon Borrower Agent's receipt of notice of the commencement of a Benchmark Unavailability Period, (1) Borrower Agent may revoke any pending request for a borrowing of, conversion to or continuation of SOFR Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, Borrower Agent will be deemed to have converted any such request into a

request for a borrowing of or conversion to Base Rate Loans and (2) any outstanding affected SOFR Loans will be deemed to have been converted to Base Rate Loans at the end of the applicable Monthly Period.

f. No Requirement of Matched Funding. Anything to the contrary contained herein notwithstanding, neither Agent, nor any Lender, nor any of their Participants, is required to actually match fund any Obligations as to which interest accrues at Adjusted Term SOFR or the Term SOFR Reference Rate.

3.7 Increased Costs; Capital Adequacy.

3.7.1 Increased Costs Generally. If any Change in Law shall:

- a. impose, modify or deem applicable any reserve, liquidity, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender or Issuing Bank;
- b. subject any Recipient to Taxes (other than (i) Indemnified Taxes, (ii) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes, and (iii) Connection Income Taxes) with respect to any Loan, Letter of Credit, Commitment or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or
- c. impose on any Lender, Issuing Bank or interbank market any other condition, cost or expense affecting any Loan, Letter of Credit, participation in LC Obligations, Commitment or Loan Document;

and the result thereof shall be to increase the cost to a Lender of making or maintaining any Loan or Commitment, or converting to or continuing any interest option for a Loan, or to increase the cost to a Lender or Issuing Bank of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by a Lender or Issuing Bank hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or Issuing Bank, Borrowers will pay to it such additional amount(s) as will compensate it for the additional costs incurred or reduction suffered.

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

3.7.3 Compensation. Failure or delay on the part of any Lender or Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of its right to demand such compensation, but Borrowers shall not be required to compensate a Lender or Issuing Bank for any increased costs or reductions suffered more than nine (9) months (plus any period of retroactivity of the Change in Law giving rise to the demand) prior to the date that the Lender or Issuing Bank notifies Borrower Agent of the applicable Change in Law and of such Lender's or Issuing Bank's intention to claim compensation therefor.

3.8 Mitigation. If any Lender gives a notice under **Section 3.5** or requests compensation under **Section 3.7**, or if Borrowers are required to pay any Indemnified Taxes or additional amounts with respect to a Lender under **Section 5.9**, then at the request of Borrower Agent, such Lender shall use reasonable efforts to designate a different Lending Office or to assign its rights and obligations hereunder to another of its offices, branches or Affiliates, if, in the judgment of such Lender, such designation or assignment (a) would eliminate the need for such notice or reduce amounts payable or to be withheld in the future, as applicable; and (b) would not subject the Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to it or unlawful. Borrowers shall pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

3.9 Funding Losses. If for any reason (a) any Borrowing of a SOFR Loan does not occur on the date specified therefor in a Notice of Borrowing (whether or not withdrawn), (b) any repayment of a SOFR Loan occurs on a day other than the end of its Monthly Period, (c) Borrowers fail to repay a SOFR Loan when required hereunder, or (d) a Lender (other than a Defaulting Lender) is required to assign a SOFR Loan prior to the end of its Monthly Period pursuant to **Section 13.4**, then Borrowers shall pay to Agent its customary administrative charge and to each Lender all losses, expenses and fees arising from redeployment of funds or termination of match funding. For purposes of

calculating amounts payable under this Section, a Lender shall be deemed to have funded a SOFR Loan by a matching deposit or other borrowing at the same or a similar rate offered by the Federal Reserve Bank of New York, as determined by Agent in its sole discretion, whether or not the Loan was in fact so funded.

3.10 Maximum Interest. Regardless of any provision contained in any of the Loan Documents, in no contingency or event whatsoever shall the aggregate of all amounts that are contracted for, charged or received by Agent or any Lender pursuant to the terms of this Agreement or any of the other Loan Documents and that are deemed interest under Applicable Law exceed the highest rate permissible under any Applicable Law (the “**Maximum Rate**”). No agreements, conditions, provisions or stipulations contained in this Agreement or any of the other Loan Documents or the exercise by Agent of the right to accelerate the payment or the maturity of all or any portion of the Obligations, or the exercise of any option whatsoever contained in any of the Loan Documents, or the prepayment by any Obligor of any of the Obligations, or the occurrence of any contingency whatsoever, shall entitle Agent or Lenders to charge or receive in any event, interest or any charges, amounts, premiums or fees deemed interest by Applicable Law (such interest, charges, amounts, premiums and fees referred to herein collectively as “**Interest**”) in excess of the Maximum Rate and in no event shall any Obligor be obligated to pay Interest exceeding such Maximum Rate, and all agreements, conditions or stipulations, if any, which may in any event or contingency whatsoever operate to bind, obligate or compel any Obligor to pay Interest exceeding the Maximum Rate shall be without binding force or effect, at law or in equity, to the extent only of the excess of Interest over such Maximum Rate. If any Interest is charged or received with respect to the Obligations in excess of the Maximum Rate (“**Excess**”), each Obligor stipulates that any such charge or receipt shall be the result of an accident and bona fide error, and such Excess, to the extent received, shall be applied first to reduce the principal Obligations and the balance, if any, returned to the Obligors, it being the intent of the parties hereto not to enter into an usurious or otherwise illegal relationship. The right to accelerate the maturity of any of the Obligations does not include the right to accelerate any Interest that has not otherwise accrued on the date of such acceleration, and neither Agent nor any Lender intends to collect any unearned Interest in the event of any such acceleration. Each Obligor recognizes that, with fluctuations in the rates of interest set forth in this Agreement, and the Maximum Rate, such an unintentional result could inadvertently occur. All monies paid to Agent or any Lender hereunder or under any of the other Loan Documents, whether at maturity or by prepayment, shall be subject to any rebate of unearned Interest as and to the extent required by Applicable Law. By the execution of this Agreement, each Obligor covenants that (i) the credit or return of any Excess shall constitute the acceptance by each Obligor of such Excess, and (ii) each Obligor shall not seek or pursue any other remedy, legal or equitable, against Agent or any Lender, based in whole or in part upon contracting for, charging or receiving any Interest in excess of the Maximum Rate. For the purpose of determining whether or not any Excess has been contracted for, charged or received by Agent or any Lender, all Interest at any time contracted for, charged or received from any Obligor in connection with any of the Loan Documents shall, to the extent permitted by Applicable Law, be amortized, prorated, allocated and spread in equal parts throughout the full term of the Obligations. Obligors, Agent and Lenders shall, to the maximum extent permitted under Applicable Law, (i) characterize any non-principal payment as an expense, fee or premium rather than as Interest and (ii) exclude voluntary prepayments and the effects thereof. The provisions of this **Section 3.10** shall be deemed to be incorporated into every Loan Document (whether or not any provision of this Section is referred to therein). All such Loan Documents and communications relating to any Interest owed by any Obligor and all figures set forth therein shall, for the sole purpose of computing the extent of Obligations, be automatically recomputed by the Obligors, and by any court considering the same, to give effect to the adjustments or credits required by this **Section 3.10**.

SECTION 4. LOAN ADMINISTRATION

4.1 Manner of Borrowing and Funding Revolver Loans.

4.1.1 Notice of Borrowing.

a. To request Revolver Loans, Borrower Agent shall notify Agent of such request by telephone or email (or, if permitted by Agent, by request posted to Agent's StuckyNet System) a Notice of Borrowing by 12:00 Noon Central Time on the requested funding date. Notices received by Agent after such time shall be deemed received on the next Business Day. Each such telephone (or posted) Notice of Borrowing shall be irrevocable and Borrower Agent agrees to promptly confirm any such telephone request by hand delivery or electronic transmission to Agent of a written Notice of Borrowing in a form approved by Agent, and signed by Borrower Agent. Each such Notice of Borrowing shall specify (A) the Borrowing amount, (B) the requested funding date (which must be a Business Day), (C) the Availability after giving effect to the Borrowing, and (D) the Borrower to whom proceeds from such Borrowing are to be disbursed.

b. Unless payment is otherwise made by Borrowers, the becoming due of any Obligation (whether principal, interest, fees or other charges, including Extraordinary Expenses, Cash Collateral and Secured Bank Product Obligations) shall be deemed to be a request for a SOFR Loan on the due date in the amount due and the Loan

proceeds shall be disbursed as direct payment of such Obligation. In addition, Agent may, at its option, charge such amount against any operating, investment or other account of a Borrower maintained with Agent or any of its Affiliates.

c. If a Borrower maintains a disbursement account with Agent or any of its Affiliates, then presentation for payment in the account of a Payment Item when there are insufficient funds to cover it shall be deemed to be a request for a SOFR Loan on the presentation date, in the amount of the Payment Item. Proceeds of the Loan may be disbursed directly to the account.

4.1.2 Fundings by Lenders. Except for Swingline Loans, Agent shall endeavor to notify Lenders of each Notice of Borrowing (or deemed request for a Borrowing) by 1:00 p.m. on the proposed funding date. Each Lender shall fund its Pro Rata share of a Borrowing in immediately available funds not later than 3:00 p.m. on the requested funding date, unless Agent's notice is received after the times provided above, in which case Lender shall fund by 11:00 a.m. on the next Business Day. Subject to its receipt of such amounts from Lenders, Agent shall disburse the Borrowing proceeds in a manner directed by Borrower Agent and acceptable to Agent. Unless Agent receives (in sufficient time to act) written notice from a Lender that it will not fund its share of a Borrowing, Agent may assume that such Lender has deposited or promptly will deposit its share with Agent, and Agent may disburse a corresponding amount to Borrowers. If a Lender's share of a Borrowing or of a settlement under **Section 4.1.3(b)** is not received by Agent, then Borrowers agree to repay to Agent **on demand** the amount of such share, together with interest thereon from the date disbursed until repaid, at the rate applicable to the Borrowing. A Lender or Issuing Bank may fulfill its obligations under Loan Documents through one or more Lending Offices, and this shall not affect any obligation of Obligors under the Loan Documents or with respect to any Obligations.

4.1.3 Swingline Loans; Settlement.

a. To fulfill any request for a Revolver Loan hereunder, Swingline Lender may in its discretion advance Swingline Loans to Borrowers, up to an aggregate outstanding amount of \$5,500,000. Swingline Loans shall constitute Revolver Loans for all purposes, except that payments thereon shall be made to Agent for its own account until Lenders have funded their participations therein as provided below.

b. Settlement of Loans, including Swingline Loans, among Lenders and Agent shall take place on a date determined from time to time by Agent (but at least weekly, unless the settlement amount is *de minimis*), on a Pro Rata basis in accordance with the Settlement Report delivered by Agent to Lenders. Between settlement dates, Agent may in its discretion apply payments on Revolver Loans to Swingline Loans, regardless of any designation by Borrowers or anything herein to the contrary. Each Lender hereby purchases, without recourse or warranty, an undivided Pro Rata participation in all Swingline Loans outstanding from time to time until settled. If a Swingline Loan cannot be settled among Lenders, whether due to an Obligor's Insolvency Proceeding or for any other reason, each Lender shall pay the amount of its participation in the Loan to Agent, in immediately available funds, within one Business Day after Agent's request therefor. Lenders' obligations to make settlements and to fund participations are absolute, irrevocable and unconditional, without offset, counterclaim or other defense, and whether or not the Commitments have terminated, the Revolver Usage exceeds the Borrowing Base or the Revolver Commitments or the conditions in **Section 6** are satisfied.

4.1.4 Notices. If Borrowers request, convert or continue Loans, select interest rates or transfer funds based on telephonic or electronic instructions to Agent, Borrowers shall confirm each such request by prompt delivery to Agent of a Notice of Borrowing or Notice of Conversion/Continuation, as applicable. Neither Agent nor any Lender shall have any liability for any loss suffered by a Borrower as a result of Agent or any Lender acting upon its understanding of telephonic or electronic instructions from a person believed in good faith by Agent or any Lender to be authorized to give such instructions on a Borrower's behalf.

4.2 Defaulting Lender. Notwithstanding anything herein to the contrary:

4.2.1 Reallocation of Pro Rata Share; Amendments. For purposes of determining Lenders' obligations or rights to fund, participate in or receive collections with respect to Loans and Letters of Credit (including existing Swingline Loans, Protective Advances and LC Obligations), Agent may in its discretion reallocate Pro Rata shares by excluding a Defaulting Lender's Commitments and Loans from the calculation of shares. A Defaulting Lender shall have no right to vote on any amendment, waiver or other modification of a Loan Document, except as provided in **Section 14.1.1(b)**.

4.2.2 Payments; Fees. Agent may, in its discretion, receive and retain any amounts payable to a Defaulting Lender under the Loan Documents, and a Defaulting Lender shall be deemed to have assigned

to Agent such amounts until all Obligations owing to Agent, non-Defaulting Lenders and other Secured Parties have been paid in full. Agent may use such amounts to cover the Defaulting Lender's defaulted obligations, to Cash Collateralize such Lender's Fronting Exposure, to readvance the amounts to Borrowers or to repay Obligations. A Lender shall not be entitled to receive any fees accruing hereunder while it is a Defaulting Lender and its unfunded Commitment shall be disregarded for purposes of calculating the unused line fee under **Section 3.2.1**. If any LC Obligations owing to a Defaulting Lender are reallocated to other Lenders, fees attributable to such LC Obligations under **Section 3.2.2** shall be paid to such Lenders. Agent shall be paid all fees attributable to LC Obligations that are not reallocated.

4.2.3 Status; Cure. Agent may determine in its discretion that a Lender constitutes a Defaulting Lender and the effective date of such status shall be conclusive and binding on all parties, absent manifest error. Borrowers, Agent and Issuing Bank may agree in writing that a Lender has ceased to be a Defaulting Lender, whereupon Pro Rata shares shall be reallocated without exclusion of the reinstated Lender's Commitments and Loans, and the Revolver Usage and other exposures under the Revolver Commitments shall be reallocated among Lenders and settled by Agent (with appropriate payments by the reinstated Lender, including its payment of breakage costs for reallocated SOFR Loans) in accordance with the readjusted Pro Rata shares. Unless expressly agreed by Borrowers, Agent and Issuing Bank, or as expressly provided herein with respect to Bail-In Actions and related matters, no reallocation of Commitments and Loans to non-Defaulting Lenders or reinstatement of a Defaulting Lender shall constitute a waiver or release of claims against such Lender. The failure of any Lender to fund a Loan, to make a payment in respect of LC Obligations or otherwise to perform obligations hereunder shall not relieve any other Lender of its obligations under any Loan Document. No Lender shall be responsible for default by another Lender.

4.3 [Reserved].

4.4 Borrower Agent. Each Borrower hereby designates NCM ("**Borrower Agent**") as its representative and agent for all purposes under the Loan Documents, including requests for and receipt of Loans and Letters of Credit, designation of interest rates, delivery or receipt of communications, delivery of Borrower Materials, payment of Obligations, requests for waivers, amendments or other accommodations, actions under the Loan Documents (including in respect of compliance with covenants), and all other dealings with Agent, Issuing Bank or any Lender. Borrower Agent hereby accepts such appointment. Agent and Lenders shall be entitled to rely upon, and shall be fully protected in relying upon, any notice or communication (including any notice of borrowing) delivered by Borrower Agent on behalf of any Borrower. Agent and Lenders may give any notice or communication with a Borrower hereunder to Borrower Agent on behalf of such Borrower. Each of Agent, Issuing Bank and Lenders shall have the right, in its discretion, to deal exclusively with Borrower Agent for all purposes under the Loan Documents. Each Borrower agrees that any notice, election, communication, delivery, representation, agreement, action, omission or undertaking by Borrower Agent shall be binding upon and enforceable against such Borrower.

4.5 One Obligation. The Loans, LC Obligations and other Obligations constitute one general obligation of Borrowers and are secured by Agent's Lien on all Collateral; provided, however, that Agent and each Lender shall be deemed to be a creditor of, and the holder of a separate claim against, each Borrower to the extent of any Obligations jointly or severally owed by such Borrower.

4.6 Effect of Termination. On the effective date of the termination of all Commitments, the Obligations shall be immediately due and payable, and each Secured Bank Product Provider may terminate its Bank Products. Until Full Payment of the Obligations, all undertakings of Borrowers contained in the Loan Documents shall continue, and Agent shall retain its Liens in the Collateral and all of its rights and remedies under the Loan Documents. Agent shall not be required to terminate its Liens unless it receives Cash Collateral or a written agreement, in each case satisfactory to it, protecting Agent and Lenders from dishonor or return of any Payment Item previously applied to the Obligations. **Sections 3.4, 3.6, 3.7, 3.9, 5.5, 5.9, 5.10, 12, 14.2**, this Section, and each indemnity or waiver given by an Obligor or Lender in any Loan Document, shall survive Full Payment of the Obligations.

SECTION 5. PAYMENTS

5.1 General Payment Provisions. All payments of Obligations shall be made in Dollars, without offset, counterclaim or defense of any kind, free and clear of (and without deduction for) any Taxes, and in immediately available funds, not later than 12:00 Noon on the due date. Any payment after such time shall be deemed made on the next Business Day. Any payment of a SOFR Loan prior to the end of its Monthly Period shall be accompanied by all amounts due under **Section 3.9**. Borrowers agree that Agent shall have the continuing, exclusive right to apply and reapply payments and proceeds of Collateral against the Obligations, in such manner as Agent deems advisable.

5.2 Repayment of Revolver Loans. Revolver Loans shall be due and payable in full on the Revolver Termination Date, unless payment is sooner required hereunder. Revolver Loans may be prepaid from time to time,

without penalty or premium, other than (a) any applicable Prepayment Fee arising in connection with a voluntary reduction of Revolver Commitments pursuant to **Section 2.1.4**, (b) any applicable Prepayment Fee if such prepayment occurs in connection with any involuntary termination of all Revolver Commitments, including after acceleration of any of the Obligations, termination of the Revolver Commitments and/or termination of this Agreement and (c) if applicable, amounts due under **Section 3.9**. Notwithstanding anything in this Agreement to the contrary, if Revolver Usage exceeds the Borrowing Base at any time, Borrowers shall immediately repay Revolver Loans in an amount sufficient to reduce Revolver Usage to the Borrowing Base.

5.3 Certain Mandatory Prepayments.

5.3.1 Subject to **Section 5.3.3**, concurrently with any Asset Disposition, Obligors shall prepay Revolver Loans in an amount equal to the Net Proceeds of such Asset Disposition, subject to **Section 8.6.2**.

5.3.2 Subject to **Section 5.3.3**, concurrently with the receipt of any Net Proceeds of any Recovery Event, Obligors shall prepay Revolver Loans in an amount equal to such proceeds, subject to **Section 8.6.2**.

5.3.3 For the avoidance of doubt, no prepayment shall be required pursuant to this **Section 5.3** to the extent (x) the Net Proceeds of an Asset Disposition or Recovery Event subject to a Purchase Money Lien are required to be applied to repay obligations with respect to any Permitted Purchase Money Debt pursuant to the documentation governing such Permitted Purchase Money Debt or (y) no Cash Dominion Trigger Period is in effect at the time of receipt by an Obligor of the applicable Net Proceeds thereof. Notwithstanding anything in this Agreement to the contrary, if any Asset Disposition includes the disposition of Accounts, Borrowers shall remit the Net Proceeds thereof to the Dominion Account, and such Net Proceeds shall be applied to the Obligations to the extent required by **Section 5.7**.

5.4 Payment of Other Obligations. Obligations other than Loans, including LC Obligations and Extraordinary Expenses, shall be paid by Borrowers as provided in the Loan Documents or, if no payment date is specified, **on demand**.

5.5 Marshaling; Payments Set Aside. None of Agent or Lenders shall be under any obligation to marshal any assets in favor of any Obligor or against any Obligations. If any payment by or on behalf of Borrowers is made to Agent, Issuing Bank or any Lender, or if Agent, Issuing Bank or any Lender exercises a right of setoff, and any of such payment or setoff is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by Agent, Issuing Bank or a Lender in its discretion) to be repaid to a trustee, receiver or any other Person, then the Obligation originally intended to be satisfied, and all Liens, rights and remedies relating thereto, shall be revived and continued in full force and effect as if such payment or setoff had not occurred.

5.6 Application and Allocation of Payments.

5.6.1 Application. Payments made by Borrowers hereunder (including, for avoidance of doubts pursuant to **Section 5.7**) shall be applied (a) first, as specifically required hereby; (b) second, to Obligations then due and owing; (b) third, subject to **Section 5.2**, to other Obligations specified by Borrowers; and (c) fourth, as determined by Agent in its discretion.

5.6.2 Post-Default Allocation. Notwithstanding anything in any Loan Document to the contrary, during an Event of Default under **Section 11.1(j)**, or during any other Event of Default at the discretion of (including, for avoidance of doubt, pursuant to **Section 5.7**) Agent or Required Lenders, monies to be applied to the Obligations, whether arising from payments by Obligors, realization on Collateral, setoff or otherwise, shall be allocated as follows:

- a. first, to all fees, indemnification, costs and expenses, including Extraordinary Expenses, owing to Agent;
- b. second, to all other amounts owing to Agent, including Swingline Loans, Protective Advances, and Loans and participations that a Defaulting Lender has failed to settle or fund;
- c. third, to all amounts owing to Issuing Bank;
- d. fourth, to all Obligations (other than Secured Bank Product Obligations) constituting fees, indemnification, costs or expenses owing to Lenders;

- e. fifth, to all Obligations (other than Secured Bank Product Obligations) constituting interest;
- f. sixth, to Cash Collateralize all LC Obligations;
- g. seventh, to all Loans, and to Secured Bank Product Obligations arising under Hedge Agreements (including Cash Collateralization thereof) up to the amount of the Bank Product Reserve existing therefor;
- h. eighth, to all other Secured Bank Product Obligations; and
- i. last, to all remaining Obligations.

Amounts shall be applied to payment of each category of Obligations only after Full Payment of amounts payable from time to time under all preceding categories. If amounts are insufficient to satisfy a category, they shall be paid ratably among outstanding Obligations in the category. Monies and proceeds obtained from an Obligor shall not be applied to its Excluded Swap Obligations, but appropriate adjustments shall be made with respect to amounts obtained from other Obligors to preserve the allocations in each category. Agent shall have no obligation to calculate the amount of any Secured Bank Product Obligation and may request a reasonably detailed calculation thereof from a Secured Bank Product Provider. If the provider fails to deliver the calculation within five days following request, Agent may assume the amount is zero. The allocations set forth in this Section are solely to determine the rights and priorities among Secured Parties, and may be changed by agreement of the affected Secured Parties, without the consent of any Obligor. This Section is not for the benefit of or enforceable by any Obligor, and each Borrower irrevocably waives the right to direct the application of any payments or Collateral proceeds subject to this Section.

5.6.3 Erroneous Application. Agent shall not be liable for any application of amounts made by it in good faith and, if any such application is subsequently determined to have been made in error, the sole recourse of any Lender or other Person to which such amount should have been paid shall be to recover the amount from the Person that actually received it (and, if such amount was received by a Secured Party, the Secured Party agrees to return it).

5.7 Dominion Account. During any Cash Dominion Trigger Period, the ledger balance in each Dominion Account as of the end of a Business Day shall be applied to the Obligations at the beginning of the next Business Day, and for purposes of computing interest on the Obligations, such application shall be deemed to be applied by Agent three (3) Business Days after receipt thereof (but it being understood, for the avoidance of doubt, such application shall be deemed to be applied by Agent immediately after receipt thereof for purposes of calculating the Borrowing Base). After such application to the Obligations during any Cash Dominion Trigger Period, any resulting credit balance shall not accrue interest in favor of Borrowers and shall be made available to Borrowers as long as no Default or Event of Default exists. At any time while no Cash Dominion Trigger Period is in effect, the ledger balance in each Dominion Account as of the end of each Business Day shall be transferred to an operating account of the applicable Obligor.

5.8 Account Stated. Agent shall maintain, in accordance with its customary practices, loan account(s) evidencing the Debt of Borrowers hereunder. Any failure of Agent to record anything in a loan account, or any error in doing so, shall not limit or otherwise affect the obligation of Borrowers to pay any amount owing hereunder. Entries made in a loan account shall constitute presumptive evidence of the information contained therein. If any information contained in a loan account is provided to or inspected by any Person, the information shall be conclusive and binding on such Person for all purposes absent manifest error, except to the extent such Person notifies Agent in writing within 30 days after receipt or inspection that specific information is subject to dispute.

5.9 Taxes.

5.9.1 Payments Free of Taxes; Obligation to Withhold; Tax Payment.

a. All payments of Obligations by Obligors shall be made without deduction or withholding for any Taxes, except as required by Applicable Law. If Applicable Law (as determined by Agent in its discretion) requires the deduction or withholding of any Tax from any such payment by Agent or an Obligor, then Agent or such Obligor shall be entitled to make such deduction or withholding based on information and documentation provided pursuant to **Section 5.10**.

b. If Agent or any Obligor is required by the Code to withhold or deduct Taxes, including backup withholding and withholding taxes, from any payment, then (i) Agent shall pay the full amount that it determines is to be withheld or deducted to the relevant Governmental Authority pursuant to the Code, and (ii) to the extent the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable

Obligor shall be increased as necessary so that the Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

c. If Agent or any Obligor is required by any Applicable Law other than the Code to withhold or deduct Taxes from any payment, then (i) Agent or such Obligor, to the extent required by Applicable Law, shall timely pay the full amount to be withheld or deducted to the relevant Governmental Authority in accordance with such Applicable Law, and (ii) to the extent the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Obligor shall be increased as necessary so that the Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

5.9.2 Payment of Other Taxes. Without limiting the foregoing, Borrowers shall timely pay to the relevant Governmental Authority in accordance with Applicable Law, or at Agent's option, timely reimburse Agent for payment of, any Other Taxes.

5.9.3 Tax Indemnification.

a. The Obligors shall indemnify and hold harmless, on a joint and several basis, each Recipient against any Indemnified Taxes (including those imposed or asserted on or attributable to amounts payable under this Section) payable or paid by a Recipient or required to be withheld or deducted from a payment to a Recipient, and reasonable expenses arising therefrom or with respect thereto (including attorneys' and tax advisors' fees and expenses), whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. Each Borrower shall indemnify and hold harmless Agent against any amount that a Lender or Issuing Bank fails for any reason to pay indefeasibly to Agent as required pursuant to this Section. Borrower shall make payment within ten (10) days after demand for any amount or liability payable under this Section. A certificate as to the amount of such payment or liability delivered to any Borrower by a Lender or Issuing Bank (with a copy to Agent), or by Agent on its own behalf or on behalf of any Recipient, shall be conclusive absent manifest error.

b. Each Lender and Issuing Bank shall indemnify and hold harmless, on a several basis, Agent (i) against any Indemnified Taxes attributable to such Lender or Issuing Bank (but only to the extent Borrowers have not already paid or reimbursed Agent therefor and without limiting Borrowers' obligation to do so), (ii) against any Taxes attributable to such Lender's failure to maintain a Participant Register as required hereunder, and (iii) against any Excluded Taxes attributable to such Lender or Issuing Bank, in each case, that are payable or paid by Agent in connection with any Obligations or any Loan Document, and any reasonable expenses arising therefrom or with respect thereto (including attorneys' and tax advisors' fees and expenses), whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. Each Lender and Issuing Bank shall make payment within ten (10) days after demand for any amount or liability payable under this Section. A certificate as to the amount of such payment or liability delivered to any Lender or Issuing Bank by Agent shall be conclusive absent manifest error. Each Lender and Issuing Bank hereby authorizes the Agent to set off and apply all amounts at any time owing to such Lender or Issuing Bank under any Loan Document or otherwise payable by the Agent to such Lender or Issuing Bank from any other source against any amount due to the Agent under this **Section 5.9.3(b)**.

5.9.4 Treatment of Certain Refunds. Unless required by Applicable Law, at no time shall Agent have any obligation to file for or otherwise pursue on behalf of a Lender or Issuing Bank, nor have any obligation to pay to any Lender or Issuing Bank, any refund of Taxes withheld or deducted from funds paid for the account of a Lender or Issuing Bank. If a Recipient determines in its sole discretion exercised in good faith that it has received a refund of Taxes that were indemnified by the Obligors or with respect to which an Obligor paid additional amounts pursuant to this Section, it shall pay the amount of such refund to Borrower Agent (but only to the extent of indemnity payments or additional amounts actually paid by the Obligors with respect to the Taxes giving rise to the refund), net of all out-of-pocket expenses (including Taxes) incurred by such Recipient and without interest (other than interest paid by the relevant Governmental Authority with respect to such refund). The Obligors shall, upon request by the Recipient, repay to the Recipient such amount paid over to Borrower Agent (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) if the Recipient is required to repay such refund to the Governmental Authority. Notwithstanding anything herein to the contrary, no Recipient shall be required to pay any amount under this **Section 5.9.4**, if such payment would place it in a less favorable net after-Tax position than it would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. In no event shall Agent or any Recipient be required to make its Tax returns (or any other information relating to its Taxes that it deems confidential) available to any Obligor or other Person.

5.9.5 Survival. Each party's obligations under **Sections 5.9** and **5.10** shall survive the resignation or replacement of Agent or any assignment of rights by or replacement of a Lender or Issuing Bank, the termination of the Commitments, and the repayment, satisfaction, discharge or Full Payment of any Obligations.

5.10 Lender Tax Information.

5.10.1 Status of Lenders. Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments of Obligations shall deliver to Borrowers and Agent properly completed and executed documentation reasonably requested by Borrowers or Agent as will permit such payments to be made without or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by Borrowers or Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by Borrowers or Agent to enable them to determine whether such Lender is subject to backup withholding or information reporting requirements. Notwithstanding the foregoing, such documentation (other than documentation described in **Sections 5.10.2(a), (b) and (d)**) shall not be required if a Lender reasonably believes delivery of the documentation would subject it to any material unreimbursed cost or expense or would materially prejudice its legal or commercial position.

5.10.2 Documentation. Without limiting the foregoing,

a. Any Lender that is a U.S. Person shall deliver to Borrowers and Agent on or prior to the date on which such Lender becomes a Lender hereunder (and from time to time thereafter upon reasonable request of Borrowers or Agent), executed copies of IRS Form W-9, certifying that such Lender is exempt from U.S. federal backup withholding Tax;

b. Any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to Borrowers and Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender hereunder (and from time to time thereafter upon reasonable request of Borrowers or Agent), whichever of the following is applicable:

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

ii. executed copies of IRS Form W-8ECI;

iii. in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit D-1 to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of a Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (“**U.S. Tax Compliance Certificate**”), and (y) executed copies of IRS Form W8BEN-E; or

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

c. any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to Borrowers and Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender hereunder (and from time to time thereafter upon reasonable request), executed copies of any other form prescribed by Applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by Applicable Law to permit Borrowers or Agent to determine the withholding or deduction required to be made; and

d. if payment of an Obligation to a Lender would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code), such Lender shall deliver to Borrowers and Agent, at the time(s) prescribed by law and otherwise upon reasonable request, such documentation prescribed by Applicable Law (including Section 1471(b)(3)(C)(i) of the Code) and such additional documentation as may be appropriate for Borrowers or Agent to comply with their obligations under FATCA and to determine that such Lender

has complied with its obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (d), "FATCA" shall include any amendments made to FATCA after the date hereof.

5.10.3 Redelivery of Documentation. If any form or certification previously delivered by a Lender pursuant to this Section expires or becomes obsolete or inaccurate in any respect, such Lender shall promptly update the form or certification or notify Borrowers and Agent in writing of its inability to do so.

5.11 Nature and Extent of Each Borrower's Liability.

5.11.1 Joint and Several Liability. Each Borrower agrees that it is jointly and severally liable for, and absolutely and unconditionally guarantees to Agent and Lenders the prompt payment and performance of, all Obligations and all agreements under the Loan Documents, except its Excluded Swap Obligations. Each Borrower agrees that its guaranty obligations hereunder constitute a continuing guaranty of payment and not of collection, that such obligations shall not be discharged until Full Payment of the Obligations, and that such obligations are absolute and unconditional, irrespective of (a) the genuineness, validity, regularity, enforceability, subordination or any future modification of, or change in, any Obligations or Loan Document, or any other document, instrument or agreement to which any Obligor is or may become a party or be bound; (b) the absence of any action to enforce this Agreement (including this Section) or any other Loan Document, or any waiver, consent or indulgence of any kind by Agent or any Lender with respect thereto; (c) the existence, value or condition of, or failure to perfect a Lien or to preserve rights against, any security or guaranty for any Obligations or any action, or the absence of any action, by Agent or any Lender in respect thereof (including the release of any security or guaranty); (d) the insolvency of any Obligor; (e) any election by Agent or any Lender in an Insolvency Proceeding for the application of Section 1111(b)(2) of the Bankruptcy Code; (f) any borrowing or grant of a Lien by any other Borrower, as debtor-in-possession under Section 364 of the Bankruptcy Code or otherwise; (g) the disallowance of any claims of Agent or any Lender against any Obligor for the repayment of any Obligations under Section 502 of the Bankruptcy Code or otherwise; or (h) any other action or circumstances that might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, except Full Payment of the Obligations.

5.11.2 Waivers.

a. Each Borrower expressly waives all rights that it may have now or in the future under any statute, at common law, in equity or otherwise, to compel Agent or Lenders to marshal assets or to proceed against any Obligor, other Person or security for the payment or performance of any Obligations before, or as a condition to, proceeding against such Borrower. Each Borrower waives all defenses available to a surety, guarantor or accommodation co-obligor other than Full Payment of Obligations and waives, to the maximum extent permitted by law, any right to revoke any guaranty of Obligations as long as it is a Borrower. It is agreed among each Borrower, Agent and Lenders that the provisions of this **Section 5.11** are of the essence of the transaction contemplated by the Loan Documents and that, but for such provisions, Agent and Lenders would decline to make Loans and issue Letters of Credit. Each Borrower acknowledges that its guaranty pursuant to this Section is necessary to the conduct and promotion of its business, and can be expected to benefit such business.

b. Agent may, in its discretion, pursue such rights and remedies as they deem appropriate, including realization upon Collateral by judicial foreclosure or nonjudicial sale or enforcement, without affecting any rights and remedies under this **Section 5.11**. If, in taking any action in connection with the exercise of any rights or remedies, Agent or any Lender shall forfeit any other rights or remedies, including the right to enter a deficiency judgment against any Borrower or other Person, whether because of any Applicable Laws pertaining to "election of remedies" or otherwise, each Borrower consents to such action and waives any claim based upon it, even if the action may result in loss of any rights of subrogation that any Borrower might otherwise have had. Any election of remedies that results in denial or impairment of the right of Agent or any Lender to seek a deficiency judgment against any Borrower shall not impair any other Borrower's obligation to pay the full amount of the Obligations. Each Borrower waives all rights and defenses arising out of an election of remedies, such as nonjudicial foreclosure with respect to any security for Obligations, even though that election of remedies destroys such Borrower's rights of subrogation against any other Person. Agent may bid Obligations, in whole or part, at any foreclosure, trustee or other sale, including any private sale, and the amount of such bid need not be paid by Agent but shall be credited against the Obligations. The amount of the successful bid at any such sale, whether Agent or any other Person is the successful bidder, shall be conclusively deemed to be the fair market value of the Collateral, and the difference between such bid amount and the remaining balance of the Obligations shall be conclusively deemed to be the amount of the Obligations guaranteed under this **Section 5.11**, notwithstanding that any present or future law or court decision may have the effect of reducing the amount of any deficiency claim to which Agent or any Lender might otherwise be entitled but for such bidding at any such sale.

5.11.3 Extent of Liability; Contribution.

a. Notwithstanding anything herein to the contrary, each Borrower's liability under this **Section 5.11** shall not exceed the greater of (i) all amounts for which such Borrower is primarily liable, as described in clause (c) below, and (ii) such Borrower's Allocable Amount.

b. If any Borrower makes a payment under this **Section 5.11** of any Obligations (other than amounts for which such Borrower is primarily liable) (a "**Guarantor Payment**") that, taking into account all other Guarantor Payments previously or concurrently made by any other Borrower, exceeds the amount that such Borrower would otherwise have paid if each Borrower had paid the aggregate Obligations satisfied by such Guarantor Payments in the same proportion that such Borrower's Allocable Amount bore to the total Allocable Amounts of all Borrowers, then such Borrower shall be entitled to receive contribution and indemnification payments from, and to be reimbursed by, each other Borrower for the amount of such excess, ratably based on their respective Allocable Amounts in effect immediately prior to such Guarantor Payment. The "**Allocable Amount**" for any Borrower shall be the maximum amount that could then be recovered from such Borrower under this **Section 5.11** without rendering such payment voidable under Section 548 of the Bankruptcy Code or under any applicable state fraudulent transfer or conveyance act, or similar statute or common law.

c. **Section 5.11.3(a)** shall not limit the liability of any Borrower to pay or guarantee Loans made directly or indirectly to it (including Loans advanced hereunder to any other Person and then re-loaned or otherwise transferred to, or for the benefit of, such Borrower), LC Obligations relating to Letters of Credit issued to support its business, Secured Bank Product Obligations incurred to support its business, and all accrued interest, fees, expenses and other related Obligations with respect thereto, for which such Borrower shall be primarily liable for all purposes hereunder. Agent and Lenders shall have the right, at any time in their discretion, to condition Loans and Letters of Credit upon a separate calculation of borrowing availability for each Borrower and to restrict the disbursement and use of Loans and Letters of Credit to a Borrower based on that calculation.

d. Each Obligor that is a Qualified ECP when its guaranty of or grant of Lien as security for a Swap Obligation becomes effective hereby jointly and severally, absolutely, unconditionally and irrevocably undertakes to provide funds or other support to each Specified Obligor with respect to such Swap Obligation as may be needed by such Specified Obligor from time to time to honor all of its obligations under the Loan Documents in respect of such Swap Obligation (but, in each case, only up to the maximum amount of such liability that can be hereby incurred without rendering such Qualified ECP's obligations and undertakings under this Section 5.11 voidable under any applicable fraudulent transfer or conveyance act). The obligations and undertakings of each Qualified ECP under this Section shall remain in full force and effect until Full Payment of all Obligations. Each Obligor intends this Section to constitute, and this Section shall be deemed to constitute, a guarantee of the obligations of, and a "keepwell, support or other agreement" for the benefit of, each Obligor for all purposes of the Commodity Exchange Act.

5.11.4 Joint Enterprise. Each Borrower has requested that Agent and Lenders make this credit facility available to Borrowers on a combined basis, in order to finance Borrowers' business most efficiently and economically. Borrowers' business is a mutual and collective enterprise, and the successful operation of each Borrower is dependent upon the successful performance of the integrated group. Borrowers believe that consolidation of their credit facility will enhance the borrowing power of each Borrower and ease administration of the facility, all to their mutual advantage. Borrowers acknowledge that Agent's and Lenders' willingness to extend credit and to administer the Collateral on a combined basis hereunder is done solely as an accommodation to Borrowers and at Borrowers' request.

5.11.5 Subordination. Each Borrower hereby subordinates any claims, including any rights at law or in equity to payment, subrogation, reimbursement, exoneration, contribution, indemnification or set off, that it may have at any time against any other Obligor, howsoever arising, to the Full Payment of its Obligations.

SECTION 6. CONDITIONS PRECEDENT

6.1 Conditions Precedent to Initial Loans. In addition to the conditions set forth in **Section 6.2**, Lenders shall not be required to fund any requested Loan, issue any Letter of Credit, or otherwise extend credit to Borrowers hereunder, until the date ("**Closing Date**") that each of the following conditions has been satisfied or waived in accordance with the terms hereof:

a. Each Loan Document shall have been duly executed and delivered to Agent by each of the signatories thereto, and each Obligor shall be in compliance with all terms thereof.

b. Agent shall have received acknowledgments of all filings or recordings necessary to perfect its Liens in the Collateral, as well as UCC and Lien searches and other evidence satisfactory to Agent that such Liens are the only Liens upon the Collateral, except Permitted Liens.

c. Subject to Section 10.1.13, Agent shall have received a duly executed Deposit Account Control Agreement with respect to each Obligor's existing Deposit Accounts (other than Excluded Accounts), as well as duly executed agreements establishing each Dominion Account and related lockbox, all in form and substance, and with financial institutions, satisfactory to Agent.

d. Agent shall have received certificates, in form and substance reasonably satisfactory to it, from a knowledgeable Senior Officer of each Borrower certifying that, after giving effect to the initial Loans and Transactions hereunder, (i) such Borrower is, on a consolidated basis, Solvent; (ii) no Default or Event of Default exists; (iii) the representations and warranties set forth in **Section 9** are true and correct; (iv) such Borrower has complied with all agreements and conditions to be satisfied by it under the Loan Documents; and (v) attached are true, complete and correct copies of such agreements or documents as Agent has requested (including, without limitation, the Management Agreement, the Tax Receivable Agreement, each Specified Agreement, the Common Unit Adjustment Agreement, the Software License Agreement, the Confirmation Order and the Plan of Reorganization).

e. Agent shall have received a certificate of a duly authorized officer of each Obligor, certifying, among other items to the extent requested by Agent, (i) that attached copies of such Obligor's Organic Documents are true and complete, and in full force and effect, without amendment except as shown; (ii) that an attached copy of resolutions authorizing execution and delivery of the Loan Documents is true and complete, and that such resolutions are in full force and effect, were duly adopted, have not been amended, modified or revoked, and constitute all resolutions adopted with respect to this credit facility; and (iii) to the title, name and signature of each Person authorized to sign the Loan Documents. Agent may conclusively rely on this certificate until it is otherwise notified by the applicable Obligor in writing.

f. As of the date hereof, the Confirmation Order has not been stayed and is in full force and effect.

g. The conditions precedent to the confirmation of the Plan of Reorganization set forth in the Plan of Reorganization and the "effective date" set forth in the Plan of Reorganization shall have occurred or shall have been waived in accordance with the terms of the Plan of Reorganization (and the Agent shall have been notified in writing of such waivers at least one (1) Business Day prior to the date hereof), and all other actions, documents and agreements necessary to implement the Plan of Reorganization shall have been effected or executed and delivered, as the case may be, to the required parties and, to the extent required, filed with the applicable governmental units in accordance with applicable law, including a notice of effective date, which shall have been filed with the Bankruptcy Court.

h. As of the date hereof, and concurrently with the entry into this Agreement, the Plan of Reorganization has been substantially consummated pursuant to Section 1101(2) of the Bankruptcy Code.

i. Agent shall have received a written opinion of Paul, Weiss, Rifkind, Wharton & Garrison LLP, as well as any local counsel to the Obligors, in form and substance reasonably satisfactory to Agent.

j. Agent shall have received copies of the charter documents of each Obligor, certified by the Secretary of State or other appropriate official of such Obligor's jurisdiction of organization. Agent shall have received good standing certificates for each Obligor, issued by the Secretary of State or other appropriate official of such Obligor's jurisdiction of organization and each jurisdiction where such Obligor's conduct of business or ownership of Property necessitates qualification and in which such Obligor maintains an office location as of the Closing Date.

k. Subject to Section 10.1.13, Agent shall have received certificates of insurance with respect to each Obligor's property and liability insurance policies, together with a lender's loss payable endorsement naming Agent as a lender's loss payee with respect to each Obligor's property insurance, an additional insured endorsement naming Agent as an additional insured with respect to each Obligor's liability insurance and a notice of cancellation endorsement (or, at Agent's discretion, other equivalent documentation in lieu of such notice of cancellation endorsement) in favor of Agent with respect to each Obligor's liability and property insurance policies, all in compliance with the Loan Documents.

l. Agent shall have completed and be satisfied with its business, financial and legal due diligence of Obligors, including but not limited to, (i) a field examination of the books, records and operations of

Borrowers and a roll-forward of such field examination; (ii) management and ownership background checks; (iii) receipt of consolidated audited financial statements of Borrowers and Subsidiaries (or NCM Inc. and its Subsidiaries, to the extent agreed by Agent) for the last three (3) Fiscal Years; (iv) review of Material Contracts of Borrowers and Subsidiaries; (v) [reserved]; (vi) interim financial statements for Borrowers and Subsidiaries on a consolidated and consolidating basis as of June 29, 2023; and (vii) monthly financial projections (in Microsoft Excel) of Borrowers and Subsidiaries on a consolidated and consolidating basis for twelve (12) Fiscal Months following the Closing Date, and annual projections (in Microsoft Excel) of Borrowers and Subsidiaries on a consolidated and consolidating basis for the next three (3) Fiscal Years (i.e., the Fiscal Years ending closest to December 31, 2024, December 31, 2025 and December 31, 2026), including balance sheets, income statements, cash flow statements, estimated Borrowing Base and Availability and financial covenant calculations (including Fixed Charge Coverage Ratio calculations, whether or not then required to be tested under the Loan Documents) evidencing Borrowers' ability to comply with the financial covenants in the Loan Documents.

m. No Material Adverse Effect shall have occurred since the end of the Fiscal Year ending closest to December 31, 2022.

n. Borrowers shall have paid to Agent and Lenders all fees and expenses that are due and payable as of the Closing Date pursuant to the Loan Documents to the extent invoiced at least one (1) Business Day prior to the Closing Date.

o. Agent shall have received a Borrowing Base Report as of a date acceptable to Agent in its sole discretion. Upon giving effect to the initial funding of Loans, and the payment by Borrowers of all fees and expenses incurred in connection herewith, Availability on the Closing Date shall be at least \$10,000,000.

p. Agent shall have received evidence that the loans and other obligations under any agreements with respect to any Debt not permitted pursuant to **Section 10.2.1** hereof have been repaid or will be repaid with the initial Loans made hereunder on the Closing Date and the commitments thereunder have been terminated (or that such Debt will be disposed of in a manner satisfactory to Agent in accordance with the Plan of Reorganization), and, as applicable, the Agent shall have received a customary payoff letter in form and substance reasonably satisfactory to it relating to the termination (or assignment to the Agent) of all mortgages, financing statements, and liens associated therewith.

q. Agent and Lenders, shall have each received at least 10 Business Days prior to the Closing Date, all documentation and other information about the Obligors required under applicable "know your customer" and anti-money laundering rules and regulations, including the PATRIOT Act, that has been requested by the Agent and the Lenders at least 10 Business Days prior to the Closing Date.

r. No action, suit, investigation, litigation or proceeding shall be pending or threatened in any court or before any arbitrator or Governmental Authority that, if adversely decided, could reasonably be expected to have a Material Adverse Effect or otherwise materially and adversely affect the transactions contemplated by this Agreement and the other Loan Documents.

s. Agent shall be satisfied with the ownership, organizational, legal, tax management, capitalization, and capital structure of Borrowers and Subsidiaries after giving effect to the Transactions.

t. The respective credit committees of each Lender shall have approved the provision of the credit facilities under this Agreement.

u. Agent shall have received evidence that Borrowers have received all governmental and third party consents and approvals as may be appropriate in connection with the transactions contemplated by this Agreement and the Loan Documents.

v. Agent shall have received evidence reasonably acceptable to Agent that Borrowers have provided daily written wire instructions to the relevant depository bank to transfer all funds in its Dominion Accounts to Agent for application to the Obligations in accordance with **Section 5.7** hereof.

w. NCM shall have received a cash equity contribution in an amount not less than \$15,000,000 from NCM Inc.

6.2 Conditions Precedent to All Credit Extensions. Agent, Issuing Bank and Lenders shall in no event be required to make any credit extension hereunder (including funding any Loan, arranging any Letter of Credit, or granting any other accommodation to or for the benefit of any Borrower), if the following conditions are not satisfied on such date and immediately upon giving effect thereto:

- a. No Default or Event of Default exists;
 - b. The representations and warranties of each Obligor in the Loan Documents are true and correct in all material respects (without duplication of any materiality qualifier therein) on and as of the date of such credit extension, except that any such representation and warranty that expressly relates to a given date or period shall be true and correct in all material respects (without duplication of any materiality qualifier therein) as of the respective date or for the respective period, as the case may be;
 - c. All conditions precedent in any Loan Document are satisfied;
 - d. No event has occurred or circumstance exists that has or could reasonably be expected to have a Material Adverse Effect;
- and
- e. With respect to a Letter of Credit issuance, all LC Conditions are satisfied.

Each request (or deemed request) by a Borrower for any credit extension shall constitute a representation by Borrowers that the foregoing conditions are satisfied on the date of such request and on the date of the credit extension.

SECTION 7. COLLATERAL

7.1 Grant of Security Interest. To secure the prompt payment and performance of its Obligations, each Obligor hereby grants to Agent, for the benefit of Secured Parties, a continuing security interest in and Lien upon all Property of such Obligor, including all of the following Property, whether now owned or hereafter acquired, and wherever located:

- a. all Accounts;
- b. all Chattel Paper, including electronic chattel paper;
- c. all Commercial Tort Claims, including those shown on **Schedule 9.1.16**;
- d. all Deposit Accounts, commodity accounts and securities accounts, including all checks, cash and other evidence of payment, and all financial assets and funds or Property held on deposit therein;
- e. all Documents;
- f. all General Intangibles, including Intellectual Property;
- g. all Goods, including Inventory, Equipment and fixtures;
- h. all Fixtures;
- i. all Instruments;
- j. all Investment Property;
- k. all Letter-of-Credit Rights;
- l. all Supporting Obligations;
- m. all monies, whether or not in the possession or under the control of Agent, a Lender, or a bailee or Affiliate of Agent or a Lender, including any Cash Collateral;

n. all accessions to, substitutions for, and all replacements, products, and cash and non-cash proceeds of the foregoing, including proceeds of and unearned premiums with respect to insurance policies, and claims against any Person for loss, damage or destruction of any Collateral; and

o. all books and records (including customer lists, blueprints, technical specifications, manuals, files, correspondence, tapes, computer programs, print-outs, computer records, disks and other electronic storage media and related data processing software and similar items that at any time evidence or contain information relating to the Collateral or are otherwise necessary or helpful in the collection or realization thereupon) pertaining to the foregoing.

Notwithstanding the foregoing, in no event shall the foregoing include, and no Obligor is pledging, nor granting a security interest in any Excluded Assets.

7.2 Lien on Deposit Accounts; Cash Collateral.

7.2.1 Deposit Accounts. To further secure the prompt payment and performance of its Obligations, each Obligor hereby grants to Agent a continuing security interest in and Lien upon all amounts credited to any Deposit Account of such Obligor, including sums in any blocked, lockbox, sweep or collection account. Each Obligor hereby authorizes and directs each bank or other depository to deliver to Agent, upon request pursuant to any deposit account control agreement, all balances in any Deposit Account maintained for such Obligor, without inquiry into the authority or right of Agent to make such request.

7.2.2 Cash Collateral. Cash Collateral may be invested, at Agent's discretion (with the consent of Obligors, provided no Event of Default exists), but Agent shall have no duty to do so, regardless of any agreement or course of dealing with any Obligor, and shall have no responsibility for any investment or loss. As security for its Obligations, each Obligor hereby grants to Agent a security interest in and Lien upon all Cash Collateral delivered hereunder from time to time, whether held in a segregated cash collateral account or otherwise. Agent may apply Cash Collateral to payment of such Obligations as they become due, in such order as Agent may elect. All Cash Collateral and related deposit accounts shall be under the sole dominion and control of Agent, and no Obligor or other Person shall have any right to any Cash Collateral until Full Payment of the Obligations.

7.3 Real Estate Collateral.

7.3.1 Lien on Real Estate. The Obligations shall also be secured by Mortgages upon all Real Estate owned by Obligors. The Mortgages shall be duly recorded, at Obligors' expense, in each office where such recording is required to constitute a fully perfected Lien on the Real Estate covered thereby, and Obligors shall deliver to Agent, at Obligor's expense, each of the Related Real Estate Documents. If any Obligor acquires Material Real Estate hereafter, Obligors shall, unless otherwise agreed by Agent in writing in its sole discretion, within ninety (90) days (or such later date as Agent may agree in its sole discretion), execute, deliver for recording or filing, with all required documentation, a Mortgage sufficient to create a fully perfected first priority Lien in favor of Agent on such Material Real Estate, and shall deliver all Related Real Estate Documents. The Borrowers hereby represent and warrant that, as of the Closing Date, no Borrower owns any Real Estate.

7.3.2 Collateral Assignment of Leases. To further secure the prompt payment and performance of its Obligations, to the extent any such assignment would not constitute a default under any existing lease to which an Obligor is a party or otherwise result in any other material adverse consequence arising under a lease to such Obligor, each Obligor hereby collaterally assigns to Agent all of such Obligor's right, title and interest in, to and under each now or hereafter existing lease of Real Estate to which such Obligor is a party, whether as lessor or lessee, and all extensions, renewals, modifications and proceeds thereof. Notwithstanding anything to the contrary set forth herein, in no event shall any Obligor be required to deliver a collateral assignment of lease with respect to any leased Real Property.

7.4 Other Collateral.

7.4.1 Commercial Tort Claims. Obligors shall promptly notify Agent in writing if any Obligor has a Commercial Tort Claim (other than, as long as no Default or Event of Default exists, a Commercial Tort Claim for less than \$1,000,000), shall promptly amend **Schedule 9.1.16** to include such claim, and shall take such actions as Agent requests in writing to subject such claim to a duly perfected, first priority Lien in favor of Agent.

7.4.2 Certain After-Acquired Collateral. Obligors shall promptly notify Agent in writing if, after the Closing Date, any Obligor obtains any interest in any Collateral consisting of Deposit Accounts, Chattel Paper, Documents, Instruments, Intellectual Property, Investment Property or Letter-of-Credit Rights and, upon

Agent's request, shall promptly take such actions as Agent deems appropriate to effect Agent's duly perfected, first priority Lien upon such Collateral, including obtaining any appropriate possession, control agreement or Lien Waiver. If any Collateral is in the possession of a third party, at Agent's request, Obligors shall obtain an acknowledgment that such third party holds the Collateral for the benefit of Agent.

7.5 Equity Interests. Agent shall receive a first priority pledge of all Equity Interests owned by each Obligor, and of each Domestic Subsidiary (other than a Domestic Subsidiary that is a Subsidiary of a CFC) and each first-tier CFC, together with such additional agreements and documents as are necessary to perfect Agent's Lien on such Equity Interests, except, in the case of a first-tier CFC or FSHCO, to the extent such pledge would result in a material adverse tax consequence to any Obligor, any direct or indirect equityholder of an Obligor or any Subsidiary, in each case, as reasonably determined by the Borrowers in consultation with the Agent (it being understood that if such material adverse tax consequence arises as a result of the application of Section 956 of the Code, such pledge shall be limited to a pledge of 65% of the Equity Interests entitled to vote (within the meaning of Treas. Reg. Section 1.956-2(c)(2)) of the applicable first-tier CFC or FSHCO and 100% of the nonvoting Equity Interests of such first-tier CFC or FSHCO. Each Obligor hereby pledges, collaterally assigns, transfers and conveys, and grants a security interest in and Lien on, in favor of Agent, for the benefit of the Secured Parties, all of such Obligor's right, title and interest in, to (A) the Equity Interests of each Domestic Subsidiary and each first-tier CFC, (B) any additional such Equity Interests acquired after the date hereof (whether by purchase, dividend, distribution, merger, consolidation, sale of assets, split, spin-off, or any other dividend or distribution of any kind or otherwise), (C) all distributions, dividends, cash, certificates, liquidation rights and interests, options, rights, warrants, instruments or other property (whether real, personal or mixed) from time to time received, receivable or otherwise distributed in respect of or in exchange or substitution for any and all of such Equity Interests, and all rights to receive any and all income, gain, profit, loss or other items allocated or distributed to such Obligor by, to or from each Domestic Subsidiary and each first-tier CFC (including, without limitation, under or pursuant to any such Subsidiary's Organic Documents), and (D) all proceeds, products, replacements and substitutions for any of the foregoing, in each case whether now owned or hereafter acquired by the Obligors.

7.6 Limitations. The Lien on Collateral granted hereunder is given as security only and shall not subject Agent or any Lender to, or in any way modify, any obligation or liability of Obligors relating to any Collateral. In no event shall the grant of any Lien under any Loan Document secure an Excluded Swap Obligation of the granting Obligor.

7.7 Further Assurances. All Liens granted to Agent under the Loan Documents are for the benefit of Secured Parties. Promptly upon written request, Obligors shall deliver such instruments and agreements, and shall take such actions, as Agent deems appropriate under Applicable Law to evidence or perfect its Lien on any Collateral, or otherwise to give effect to the intent of this Agreement. Each Obligor authorizes Agent to file any financing statement that describes the Collateral as "all assets" or "all personal property" of such Obligor, or words to similar effect, and ratifies any action taken by Agent before the Closing Date to effect or perfect its Lien on any Collateral.

7.8 Delivery of Pledged Securities; Certificated Securities

(a) If any of the Collateral consists of an Instrument, note or debt security with a principal amount of \$1,000,000 or more, such Instrument, note or debt security shall be delivered to the Agent (i) on the Closing Date (in the case of any such Collateral owned by an Obligor on the Closing Date) or (ii) promptly after such Collateral is acquired (in the case of any other such Collateral) and in any event no later than the later 10 days after such acquisition (or such later date as the Agent may agree in its discretion), in each case accompanied by proper instruments of assignment duly executed by the applicable Obligor in blank in a manner and form reasonably satisfactory to the Agent (in each case to the extent delivery of such instruments of assignment are customary under Applicable Law), to be held as Collateral pursuant to this Agreement.

(b) If any of the Collateral consisting of Equity Interests of a Subsidiary of an Obligor is a "security" within the meaning of Article 8 of the New York UCC and is or shall become evidenced or represented by any certificate, such certificate shall be delivered to the Agent (i) on the Closing Date (in the case of any such Collateral owned by an Obligor that is evidenced or represented by a certificate on the Closing Date) or (ii) in the case of any other such Collateral that is acquired or becomes evidenced or represented by a certificate after the Closing Date, promptly after such Collateral is acquired or becomes so evidenced or represented and in any event no later than 10 days after such acquisition or representation or the date on which such Collateral becomes so evidenced or represented (or such later date as the Agent may agree in its Permitted Discretion), in each case accompanied by undated stock powers or other instruments of transfer duly executed by the applicable Obligor in blank in a manner and form reasonably satisfactory to the Agent, to be held as Collateral pursuant to this Agreement.

(c) Each Obligor acknowledges and agrees that to the extent each interest in any limited liability company or limited partnership that is a Subsidiary of an Obligor and pledged hereunder is a “security” within the meaning of Article 8 of the New York UCC and is governed by Article 8 of the New York UCC or the Uniform Commercial Code of any other applicable jurisdiction, such interest shall be (i) certificated and each such interest shall at all times hereafter continue to be such a security and represented by such certificate or (ii) if not so certificated, subject to a control agreement in favor of the Agent. Each Obligor further acknowledges and agrees that with respect to any interest in any limited liability company or limited partnership that is a Subsidiary of an Obligor and pledged hereunder that is not a “security” within the meaning of Article 8 of the New York UCC or the Uniform Commercial Code of any other applicable jurisdiction, such Obligor shall at no time elect to treat any such interest as a “security” within the meaning of Article 8 of the New York UCC or the Uniform Commercial Code of any other applicable jurisdiction, nor shall such interest be represented by a certificate, unless such Obligor provides prompt written notification to the Agent of such election and such interest is thereafter represented by a certificate that is delivered to the Agent (x) on the Closing Date (in the case of any such certificate owned by an Obligor on the Closing Date), (y) promptly after such Collateral is acquired (in the case of any other such Collateral) and in any event no later than 10 days after such acquisition (or such later date as the Agent may agree in its Permitted Discretion), or (z) promptly after such interest becomes represented by a certificate after the Closing Date (in the case Obligor elects to have such interest certificated after the dates specified in clause (x) or (y), as applicable) and in any event no later than 10 days after such representation (or such later date as the Agent may agree in its Permitted Discretion), in each case pursuant to the terms hereof.

7.9 [Reserved].

7.10 Remedial Provisions

7.10.1 [Reserved].

7.10.2 Pledged Equity Interests.

(a) Unless an Event of Default shall have occurred and be continuing and immediately upon Agent giving written notice to the relevant Obligor of the Agent’s intent to exercise its corresponding rights pursuant to **Section 7.10.2(b)** (which notice shall be deemed to have been given immediately upon the occurrence of an Event of Default under **Section 11.1(j)** of this Agreement other than to the extent such right is waived or revoked in writing by the Required Lenders), each Obligor shall be permitted to (i) receive all dividends, interest, principal or other payments or distributions paid or made in respect of the pledged Equity Interests, to the extent not prohibited by this Agreement and (ii) exercise all voting and corporate or other ownership rights with respect to the pledged Equity Interests; provided, however, that no vote shall be cast or corporate or other ownership right exercised or other action taken which would reasonably be expected to materially and adversely affect the rights inuring to a holder of any pledged Equity Interests or the rights and remedies of the Agent or the other Secured Parties under this Agreement or any other Loan Document or the ability of the Secured Parties to exercise the same or which would violate any provision of this Agreement or any other Loan Document.

(b) If an Event of Default shall occur and be continuing and the Agent shall have given prior written notice to the Borrowers of the Agent’s intent to execute its rights pursuant to this **Section 7.10.2(b)** (which notice shall be deemed to have been given immediately upon the occurrence of an Event of Default under **Section 11.1(j)** of this Agreement other than to the extent such right is waived or revoked in writing by the Required Lenders): (i) the Agent shall have the right to receive any and all dividends, interest, principal or other payments or distributions paid in respect to the pledged Equity Interests included in the Collateral and make application thereof to the Obligations in accordance with the Loan Documents, (ii) all rights of each Obligor to exercise or refrain from exercising the voting and other consensual rights which it would otherwise be entitled to exercise pursuant hereto shall cease and all such rights shall thereupon become vested in the Agent which shall thereupon have the sole right, but shall be under no obligation, to exercise or refrain from exercising such voting and other consensual rights and (iii) the Agent shall have the right to transfer all or any portion of the Investment Property included in the Collateral to its name or the name of its nominee or agent or the name of the applicable Obligor, endorsed or assigned in blank in favor of the Agent, and each Obligor will, upon request, promptly give to the Agent copies of any notices or other communications received by it with respect to pledged Equity Interests included in the Collateral registered in the name of such Obligor. In addition, if an Event of Default has occurred and is continuing, the Agent shall have the right at any time, without notice to any Obligor, to exchange any certificates or instruments representing any Investment Property included in the Collateral for certificates or instruments of smaller or larger denominations. In order to permit the Agent to exercise the voting and other consensual rights which it may be entitled to exercise pursuant hereto and to receive all dividends and other distributions which it may be entitled to receive hereunder if an Event of Default has occurred and is continuing, each Obligor shall promptly execute and deliver (or cause to be executed and delivered) to the Agent all proxies, dividend payment orders and other instruments as the Agent may from time to time reasonably request, and

each Obligor acknowledges that the Agent may utilize the power of attorney for the express purposes set forth herein. All dividends, interest, principal or other payments or distributions received by any Obligor contrary to the provisions of this **Section 7.10.2(b)** shall be held for the benefit of the Agent, shall be promptly delivered to the Agent promptly following written demand in the same form as so received (with any necessary endorsement reasonably requested by the Agent).

(c) Any notice given by the Agent to the Borrowers or any other Obligor under this **Section 7.10.2** (i) may be given with respect to one or more of the Obligors at the same or different times and (ii) may suspend the rights of the Obligors under paragraph (a) or (b) of this **Section 7.10.2** in part without suspending all such rights (as specified by the Agent in its sole and absolute discretion) and without waiving or otherwise affecting the Agent's rights to give additional notices from time to time suspending other rights so long as an Event of Default has occurred and is continuing.

(d) Each Obligor hereby authorizes and instructs each issuer of any pledged Equity Interests pledged by such Obligor hereunder to (i) comply with any instruction received by it from the Agent in writing that (x) states that an Event of Default has occurred and is continuing and (y) is otherwise in accordance with the terms of this Agreement, without any other or further instructions from such Obligor, and each Obligor agrees that each Issuer shall be fully protected in so complying, and (ii) unless otherwise expressly permitted hereby, pay any dividends or other payments with respect to the pledged Equity Interests directly to the Agent.

7.10.3 Proceeds to be Turned Over to Agent. If an Event of Default shall occur and be continuing, at the written request of the Agent, all proceeds of Collateral received by any Obligor consisting of cash, Cash Equivalents and checks shall be held in trust by such Obligor for the Secured Parties, and shall, forthwith upon receipt by such Obligor, be turned over to the Agent in the exact form received by such Obligor (duly endorsed by such Obligor to the Agent, if reasonably required). All such proceeds of Collateral received by the Agent under this **Section 7.10.3** shall be held by the Agent in a Dominion Account maintained under its control (as defined in and subject to Section 9-104 of the New York UCC). All such Proceeds while held by the Agent in a Dominion Account (or by such Obligor for the Secured Parties) shall continue to be held as collateral security for all the Obligations and shall not constitute payment thereof until applied as provided in the Loan Documents.

SECTION 8. COLLATERAL ADMINISTRATION

8.1 Borrowing Base Reports.

(a) Borrowers shall deliver to Agent (and Agent shall promptly deliver same to Lenders) a (x) Borrowing Base Report as of the close of business of the previous Fiscal Month by the fifteenth day of each calendar month (provided, that the Borrowing Base Report as of the close of business of the Fiscal Month ending July 27, 2023 shall be due no later than August 25, 2023) and at such other times as Agent may request (including, without limitation, following the occurrence and during the continuance of any Event of Default) and (y) to the extent Availability is less than the greater of (x) \$5,000,000 and (y) 10.0% of the aggregate Revolver Commitments, roll-forwards of all invoiced Accounts and collections, together with accounts payable aging, in each case, as of the close of business of the previous week by the third (3rd) Business Day of each week. Each Borrowing Base Report shall (a) be accompanied by schedules which provide detail supporting such Borrowing Base Report, including, without limitation, an accounts receivable aging, accounts payable aging, sales/invoice registers and collection journals, and a detailed report of all Accounts that are not Eligible Accounts and (b) include a current **Schedule 8.6.1**, which has been updated as of the end of the immediately preceding Fiscal Month in accordance with **Section 8.6.1**, all in form and substance satisfactory to Agent in its discretion. All information (including a calculation of Availability) in a Borrowing Base Report shall be certified by Borrowers. Agent may from time to time adjust such report (x) to reflect Agent's reasonable estimate of declines in value of Collateral, due to collections received in the Dominion Account or otherwise; (y) to adjust advance rates to reflect changes in dilution, quality, mix and other factors affecting Collateral; and (z) to the extent any information or calculation does not comply with this Agreement.

8.2 Accounts.

8.2.1 Records and Schedules of Accounts. Each Borrower shall keep accurate and complete records of its Accounts, including all payments and collections thereon, and shall submit to Agent sales, collection, reconciliation and other reports in form satisfactory to Agent, on such periodic basis as Agent may request. Each Borrower shall also provide to Agent, on or before the fifteenth day of each calendar month, a detailed aged trial balance of all Accounts as of the end of the preceding Fiscal Month, specifying each Account's Account Debtor name and address, amount, invoice date and due date, showing any discount, allowance, credit, authorized return or dispute,

and including such proof of delivery, copies of invoices and invoice registers, copies of related documents, repayment histories, status reports and other information as Agent may reasonably request. If Accounts in an aggregate face amount of \$250,000 or more cease to be Eligible Accounts (other than as a result of clauses (a) or (b) of the definition of "Eligible Accounts"), Borrowers shall notify Agent of such occurrence promptly (and in any event within one Business Day) after any Borrower has knowledge thereof.

8.2.2 Taxes. If an Account of any Borrower includes a charge for any Taxes, Agent is authorized, in its discretion, to pay the amount thereof to the proper taxing authority for the account of such Borrower and to charge Borrowers therefor; provided, however, that neither Agent nor Lenders shall be liable for any Taxes that may be due from Borrowers or with respect to any Collateral.

8.2.3 Account Verification. (i) During the occurrence and continuance of a Default or Event of Default or (ii) with the prior approval of the Borrowers in connection with a field exam, Agent shall have the right, in the name of Agent, any designee of Agent or any Borrower, to verify the validity, amount or any other matter relating to any Accounts of Borrowers by mail, telephone or otherwise. Borrowers shall cooperate fully with Agent in an effort to facilitate and promptly conclude any such verification process.

8.2.4 Maintenance of Dominion Account. Obligors shall maintain Dominion Accounts pursuant to lockbox or other arrangements acceptable to Agent. Obligors shall obtain an agreement (in form and substance reasonably satisfactory to Agent) from each lockbox servicer and Dominion Account bank, establishing Agent's control over and Lien in the lockbox or Dominion Account, requiring immediate deposit of all remittances received in the lockbox to a Dominion Account, and waiving offset rights of such servicer or bank, except for customary administrative charges. If a Dominion Account is not maintained with Bank, Agent may require immediate transfer of all funds in such account to a Dominion Account maintained with Bank. Agent and Lenders assume no responsibility to Obligors for any lockbox arrangement or Dominion Account, including any claim of accord and satisfaction or release with respect to any Payment Items accepted by any bank. Obligors agree that all Dominion Accounts shall be under the sole dominion and control of Agent and no Obligor may withdraw or transfer any funds on deposit in any Dominion Account, other than in connection with a transfer of such funds to Agent, until Full Payment of the Obligations.

8.2.5 Proceeds of Collateral. Obligors shall request in writing and otherwise take all necessary steps to ensure that all payments on Accounts or otherwise relating to Collateral are made directly to a Dominion Account (or a lockbox relating to a Dominion Account). If any Obligor or Subsidiary receives cash or Payment Items with respect to any Collateral, it shall hold same in trust for Agent and promptly (not later than the next Business Day) deposit same into a Dominion Account.

8.3 Inventory.

8.3.1 Records and Reports of Inventory. Each Borrower shall keep accurate and complete records in all material respects of its Inventory and, upon written request of Agent, shall provide to Agent a report based on each Borrower's Inventory.

8.3.2 [Reserved].

8.3.3 Acquisition, Sale and Maintenance. No Borrower shall acquire or accept any Inventory on consignment or approval, and shall take all reasonable steps to assure that all Inventory is produced in accordance with Applicable Law, including, if applicable, the FLSA. No Borrower shall sell any Inventory on consignment or approval or any other basis under which the customer may return or require a Borrower to repurchase such Inventory. Borrowers shall use, store and maintain all Inventory with reasonable care and caution, in accordance with applicable standards of any insurance and in conformity with all Applicable Law, and shall make current rent payments (within applicable grace periods provided for in leases) at all locations where any Collateral is located.

8.4 Equipment.

8.4.1 Records and Schedules of Equipment. Each Borrower shall keep accurate and complete records in all material respects of its Equipment, including kind, quality, quantity, cost, acquisitions (including copies of purchase orders, invoices, and shipping and delivery documents) and dispositions thereof, and shall submit to Agent, on such periodic basis as Agent may reasonably request in writing, a current schedule thereof, in form reasonably satisfactory to Agent. Promptly upon written request, Borrowers shall deliver to Agent evidence of their ownership or interests in any Equipment.

8.4.2 Dispositions of Equipment. No Borrower shall sell, lease or otherwise dispose of any Equipment, without the prior written consent of Agent, other than a Permitted Asset Disposition.

8.4.3 Condition of Equipment. The Equipment is in good operating condition and repair in all material respects, and all necessary replacements and repairs have been made so that the value and operating efficiency of the Equipment is preserved at all times, reasonable wear and tear excepted. Each Borrower shall ensure that the Equipment is mechanically and structurally sound, and capable of performing the functions for which it was designed, in accordance with manufacturer specifications, in each case, in all material respects.

8.5 Deposit Accounts. Schedule 8.5 shows all Deposit Accounts maintained by Obligors, including Dominion Accounts. Each Obligor shall take all actions necessary to establish Agent's first priority Lien on each Deposit Account (except Excluded Accounts). Obligors shall be the sole account holders of each Deposit Account and shall not allow any Person (other than Agent and the depository bank) to have control over their Deposit Accounts or any Property deposited therein. Obligors shall promptly notify Agent of any opening or closing of a Deposit Account and, with the consent of Agent, will amend **Schedule 8.5** to reflect same.

8.6 General Provisions.

8.6.1 Location of Collateral. All tangible items of Collateral, other than, if applicable, Inventory in transit, shall at all times be kept by Obligors at the business locations set forth in **Schedule 8.6.1**, except that Obligors may (a) make sales or other dispositions of Collateral in accordance with **Section 10.2.6**; and (b) move Collateral (other than Equipment transferred or relocated to theaters in the Ordinary Course of Business) with a fair market value in excess of \$15,000 to any other individual location in the United States, upon 15 Business Days prior written notice to Agent.

8.6.2 Insurance of Collateral; Condemnation Proceeds.

a. Each Obligor shall maintain (i) insurance with respect to the Collateral, covering casualty, hazard, theft, malicious mischief, flood and other risks, in amounts, with endorsements and with insurers (with a Best rating of at least A+, unless otherwise approved by Agent in its discretion) satisfactory to Agent, and (ii) ensure that all Real Estate is insured pursuant to policies which are valid and in full force and effect and which provide adequate coverage from reputable and financially sound insurers in amounts sufficient to insure the assets and risks of each applicable Obligor so as to cause each Lender to be in compliance with Flood Laws. All proceeds under each policy shall be payable to Agent. From time to time upon written request, Obligors shall deliver to Agent the originals or certified copies of its insurance policies and updated flood plain searches. Unless Agent shall agree otherwise, each policy shall include satisfactory endorsements (i) showing Agent as lender's loss payee; (ii) requiring 30 days prior written notice to Agent in the event of cancellation of the policy for any reason whatsoever; and (iii) specifying that the interest of Agent shall not be impaired or invalidated by any act or neglect of any Obligor or the owner of the Property, nor by the occupation of the premises for purposes more hazardous than are permitted by the policy. If any Obligor fails to provide and pay for any insurance, Agent may, at its option, but shall not be required to, procure the insurance and charge Obligors therefor. Each Obligor agrees to deliver to Agent, promptly as rendered, copies of all reports made to insurance companies. While no Event of Default exists, Obligors may settle, adjust or compromise any insurance claim, as long as the proceeds are delivered to Agent. If an Event of Default exists, only Agent shall be authorized to settle, adjust and compromise such claims.

b. Any proceeds of insurance (other than proceeds from workers' compensation insurance or director and officer liability insurance) and any awards arising from a Recovery Event shall be paid to Agent. Any such proceeds or awards that relate to Collateral shall, subject to clause (c) below, be applied to payment of the Revolver Loans, and then to other Obligations.

c. If requested by Borrowers in writing within 180 days after Agent's receipt in accordance with **Section 8.6.2** of any Net Proceeds from a Recovery Event, Borrowers may use such proceeds or awards to repair or replace such Equipment or Real Estate (and until so used, the proceeds shall be held by Agent as Cash Collateral) as long as (i) no Default or Event of Default exists; (ii) such repair or replacement is promptly undertaken and concluded in a reasonable manner; (iii) replacement buildings are constructed on the sites of the original casualties and are of comparable size, quality and utility to the destroyed buildings; (iv) the repaired or replaced Property is free of Liens, other than Permitted Liens that are not Purchase Money Liens; (v) Borrowers comply with disbursement procedures for such repair or replacement as Agent may reasonably require; and (vi) the aggregate amount of such Net Proceeds of any Recovery Event subject to this **Section 8.6.2(c)** does not exceed \$250,000, unless otherwise mutually agreed to in writing by Agent and Obligors (it being understood, for the avoidance of doubt, that any such Net Proceeds in excess of such threshold shall be applied to payment of the Revolver Loans, and then to other Obligations (which amounts may then be re-borrowed, subject to **Section 6.2**)).

8.6.3 **Protection of Collateral.** All documented expenses of protecting, storing, warehousing, insuring, handling, maintaining and shipping any Collateral, all Taxes payable with respect to any Collateral (including any sale thereof), and all other payments required to be made by Agent to any Person to realize upon any Collateral, shall be borne and paid by Borrowers. Agent shall not be liable or responsible in any way for the safekeeping of any Collateral, for any loss or damage thereto (except for reasonable care in its custody while Collateral is in Agent's actual possession), for any diminution in the value thereof, or for any act or default of any warehouseman, carrier, forwarding agency or other Person whatsoever, but the same shall be at Obligors' sole risk.

8.6.4 **Defense of Title.** Each Obligor shall defend its title to Collateral and Agent's Liens therein against all Persons, claims and demands, except Permitted Liens.

8.7 Power of Attorney. Each Obligor hereby irrevocably constitutes and appoints Agent (and all Persons designated by Agent) as such Obligor's true and lawful attorney (and agent-in-fact) for the purposes provided in this Section. Agent, or Agent's designee, may, without notice and in either its or an Obligor's name, but at the cost and expense of Borrowers:

a. Endorse an Obligor's name on any Payment Item or other proceeds of Collateral (including proceeds of insurance) that come into Agent's possession or control; and

b. During an Event of Default, (i) notify any Account Debtors of the assignment of their Accounts, demand and enforce payment of Accounts by legal proceedings or otherwise, and generally exercise any rights and remedies with respect to Accounts; (ii) settle, adjust, modify, compromise, discharge or release any Accounts or other Collateral, or any legal proceedings brought to collect Accounts or Collateral; (iii) sell or assign any Accounts and other Collateral upon such terms, for such amounts and at such times as Agent deems advisable; (iv) collect, liquidate and receive balances in Deposit Accounts or investment accounts, and take control, in any manner, of proceeds of Collateral; (v) prepare, file and sign an Obligor's name to a proof of claim or other document in a bankruptcy of an Account Debtor, or to any notice, assignment or satisfaction of Lien or similar document; (vi) receive, open and dispose of mail addressed to an Obligor, and notify postal authorities to deliver any such mail to an address designated by Agent; (vii) endorse any Chattel Paper, Document, Instrument, bill of lading, or other document or agreement relating to any Accounts, Inventory or other Collateral; (viii) use an Obligor's stationery and sign its name to verifications of Accounts and notices to Account Debtors; (ix) use information contained in any data processing, electronic or information systems relating to Collateral; (x) make and adjust claims under insurance policies; (xi) take any action as may be necessary or appropriate to obtain payment under any letter of credit, banker's acceptance or other instrument for which an Obligor is a beneficiary; and (xii) take all other actions as Agent deems appropriate to fulfill any Obligor's obligations under the Loan Documents.

SECTION 9. REPRESENTATIONS AND WARRANTIES

9.1 General Representations and Warranties. To induce Agent and Lenders to enter into this Agreement and to make available the Commitments, Loans and Letters of Credit, each Obligor represents and warrants that:

9.1.1 **Organization and Qualification.** Each Obligor and Subsidiary is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization. Each Obligor and Subsidiary is duly qualified, authorized to do business and in good standing as a foreign corporation in each jurisdiction where each Obligor or Subsidiary's business necessitates such qualification, except where the failure to be so qualified could not reasonably be expected to have a Material Adverse Effect. No Obligor is an EEA Financial Institution.

9.1.2 **Power and Authority.** Each Obligor is duly authorized to execute, deliver and perform its Loan Documents. The execution, delivery and performance of the Loan Documents have been duly authorized by all necessary action, and do not (a) require any consent or approval of any holders of Equity Interests of any Obligor, except those already obtained; (b) contravene the Organic Documents of any Obligor; (c) violate or cause a default under any Applicable Law or Material Contract; or (d) other than the Agent's Liens, for the benefit of the Secured Parties, result in or require imposition of a Lien on any Obligor's Property.

9.1.3 **Enforceability.** Each Loan Document is a legal, valid and binding obligation of each Obligor party thereto, enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally.

9.1.4 **Capital Structure.** **Schedule 9.1.4** shows, for each Obligor and Subsidiary, its name, jurisdiction of organization, authorized and issued Equity Interests, holders of its Equity Interests, and agreements

binding on such holders with respect to such Equity Interests. Except as disclosed on **Schedule 9.1.4**, in the five years preceding the Closing Date, no Obligor or Subsidiary has acquired any substantial assets from any other Person nor been the surviving entity in a merger or combination. Each Obligor has good title to its Equity Interests in its Subsidiaries, subject only to Agent's Lien, and all such Equity Interests are duly issued, fully paid and non-assessable. Other than as set forth in the Common Unit Adjustment Agreement and the NCM Operating Agreement, there are no outstanding purchase options, warrants, subscription rights, agreements to issue or sell, convertible interests, phantom rights or powers of attorney relating to Equity Interests of any Obligor or Subsidiary.

9.1.5 Title to Properties; Priority of Liens.

a. Each Obligor and Subsidiary has good and marketable title to (or valid leasehold interests in) all of its Real Estate, and good title to all of its personal Property, including all Property reflected in any financial statements delivered to Agent or Lenders, in each case free of Liens except Permitted Liens. Each Obligor and Subsidiary has paid and discharged all lawful claims that, if unpaid, could become a Lien on its Properties, other than Permitted Liens and any claims that are Properly Contested. All Liens of Agent in the Collateral are duly perfected, first priority Liens, subject only to Permitted Liens that are expressly allowed to have priority over Agent's Liens. The Obligors have received all deeds, assignments, waivers, consents, non-disturbance and recognition or similar agreements, bills of sale and other documents in respect of, and have duly effected all recordings, filings and other actions necessary to establish, protect and perfect, the Obligors' right, title and interest in and to all such property that is included in the Borrowing Base.

b. Set forth on **Schedule 9.1.5** is a complete and accurate list of all real or immovable property owned, leased, licensed or otherwise used in the operations of the business of each Obligor and showing the current street address (including, where applicable, county, state and other relevant jurisdictions), record owner (if owned) or leasehold interest holder and, (if leased) lessee or other user thereof. Each of such leases and subleases is valid and enforceable in accordance with its terms (except as such enforceability may be subject to or limited by bankruptcy, insolvency, reorganization or other similar laws) and is in full force and effect, and to each Obligor's knowledge, no default by any party to any material lease or material sublease exists.

9.1.6 Accounts. Agent may rely, in determining which Accounts are Eligible Accounts, on all statements and representations made by Borrowers with respect thereto. Borrowers warrant, with respect to each Account shown as an Eligible Account in a Borrowing Base Report, that:

- a. it is genuine and in all respects what it purports to be;
- b. it arises out of a completed, *bona fide* sale and delivery of goods or rendition of services in the Ordinary Course of Business, and substantially in accordance with any purchase order, contract or other document relating thereto;
- c. it is for a sum certain, maturing as stated in the applicable invoice (to the extent an invoice has been delivered to the Account Debtor), a copy of which has been furnished or is available to Agent on request;
- d. it is not subject to any offset, Lien (other than Agent's Lien), deduction, defense, dispute, counterclaim or other adverse condition except as arising in the Ordinary Course of Business and disclosed to Agent; and it is absolutely owing by the Account Debtor, without contingency of any kind;
- e. no purchase order, agreement, document or Applicable Law restricts assignment of the Account to Agent (regardless of whether, under the UCC, the restriction is ineffective), and the applicable Borrower is the sole payee or remittance party shown on the invoice;
- f. no extension, compromise, settlement, modification, credit, deduction or return has been authorized or is in process with respect to the Account, except discounts or allowances granted in the Ordinary Course of Business for prompt payment that are reflected on the face of the invoice related thereto and in the reports submitted to Agent hereunder; and
- g. to the best of Borrowers' knowledge, (i) there are no facts or circumstances that are reasonably likely to impair the enforceability or collectability of such Account; (ii) the Account Debtor had the capacity to contract when the Account arose, continues to meet the applicable Borrower's customary credit standards, is Solvent, is not contemplating or subject to an Insolvency Proceeding, and has not failed, or suspended or ceased doing business; and (iii) there are no proceedings or actions threatened or pending against any Account Debtor that could reasonably be expected to have a material adverse effect on the Account Debtor's financial condition.

9.1.7 Financial Statements. The consolidated and consolidating balance sheets, and related statements of income, cash flow and shareholders equity, of Borrowers and Subsidiaries that have been and are hereafter delivered to Agent and Lenders, are prepared in accordance with GAAP, and fairly present the financial positions and results of operations of Borrowers and Subsidiaries on a consolidated and consolidating basis, as applicable, at the dates and for the periods indicated. All projections delivered from time to time to Agent and Lenders have been prepared in good faith, based on reasonable assumptions in light of the circumstances at such time. Since the end of the Fiscal Year ending closest to December 31, 2022, there has been no change in the condition, financial or otherwise, of any Borrower or Subsidiary that could reasonably be expected to have a Material Adverse Effect. No financial statement delivered to Agent or Lenders at any time contains any untrue statement of a material fact, nor fails to disclose any material fact necessary to make such statement not materially misleading. Each Borrower and Subsidiary is, on a consolidated basis, Solvent.

9.1.8 Surety Obligations. No Obligor or Subsidiary is obligated as surety or indemnitor under any bond or other contract that assures payment or performance of any obligation of any Person, except as permitted hereunder.

9.1.9 Taxes. Each Obligor and Subsidiary has filed or caused to be filed all material federal, state, foreign and local tax returns and other reports that it is required by law to file, and has paid, or made provision for the payment of, all material Taxes upon it, its income and its Properties that are due and payable, except to the extent being Properly Contested. The provision for Taxes on the books of each Obligor and Subsidiary is adequate for all years not closed by applicable statutes, and for its current Fiscal Year.

9.1.10 Brokers. Except as payable pursuant to the transactions contemplated by the Plan of Reorganization on the Closing Date, there are no brokerage commissions, finder's fees or investment banking fees payable in connection with any transactions contemplated by the Loan Documents.

9.1.11 Intellectual Property. Each Obligor and Subsidiary owns or has the lawful right to use all Intellectual Property necessary for the conduct of its business, without conflict with any rights of others. There is no pending or, to any Obligor's knowledge, threatened Intellectual Property Claim with respect to any Obligor, any Subsidiary or any of their Property (including any Intellectual Property). Except as disclosed on **Schedule 9.1.11** or otherwise in connection with off-the-shelf Licenses or other immaterial Licenses, no Obligor or Subsidiary pays or owes any royalty or other compensation to any Person with respect to any Intellectual Property. All Intellectual Property owned or licensed by (excluding off-the-shelf Licenses or other immaterial Licenses) any Obligor or Subsidiary is shown on **Schedule 9.1.11**.

9.1.12 Governmental Approvals. Each Obligor and Subsidiary has, is in compliance in all material respects with, and is in good standing with respect to, all Governmental Approvals necessary to conduct its business and to own, lease and operate its Properties. All necessary import, export or other licenses, permits or certificates for the import or handling of any goods or other Collateral have been procured and are in effect, and Obligors and Subsidiaries have complied with all foreign and domestic laws with respect to the shipment and importation of any goods or Collateral, except where noncompliance could not reasonably be expected to have a Material Adverse Effect.

9.1.13 Compliance with Laws. Each Obligor and Subsidiary has duly complied, and its Properties and business operations are in compliance, in all material respects with all material Applicable Law. There have been no citations, notices or orders of material noncompliance issued to any Obligor or Subsidiary under any Applicable Law. No Inventory has been produced in violation of the FLSA.

9.1.14 Compliance with Environmental Laws. Except as disclosed on **Schedule 9.1.14**, no Obligor's or Subsidiary's past or present operations, Real Estate or other Properties are subject to any federal, state or local investigation to determine whether any remedial action is needed to address any environmental pollution, Hazardous Material or environmental clean-up. No Obligor or Subsidiary has received any Environmental Notice. No Obligor or Subsidiary has any contingent liability with respect to any Environmental Release, environmental pollution or Hazardous Material on any Real Estate now or previously owned, leased or operated by it.

9.1.15 Burdensome Contracts. No Obligor or Subsidiary is a party or subject to any contract, agreement or charter restriction that could reasonably be expected to have a Material Adverse Effect. No Obligor or Subsidiary is party or subject to any Restrictive Agreement, except as shown on **Schedule 9.1.15**. No such Restrictive Agreement prohibits the execution, delivery or performance of any Loan Document by an Obligor.

9.1.16 Litigation. Except as shown on **Schedule 9.1.16**, there are no proceedings or investigations pending or, to any Obligor's knowledge, threatened in writing against any Obligor or Subsidiary, or any of their businesses, operations, Properties, prospects or conditions, that (a) relate to any Loan Documents or transactions contemplated thereby; or (b) could reasonably be expected to have a Material Adverse Effect if determined adversely to any Obligor or Subsidiary. Except as shown on such Schedule, no Obligor has a Commercial Tort Claim (other than, as long as no Default or Event of Default exists, a Commercial Tort Claim for less than \$1,000,000). No Obligor or Subsidiary is in default with respect to any order, injunction or judgment of any Governmental Authority.

9.1.17 No Defaults. No event or circumstance has occurred or exists that constitutes a Default or Event of Default. No Obligor or Subsidiary is in default, and no event or circumstance has occurred or exists that with the passage of time or giving of notice would constitute a default, under any Material Contract or in the payment of any Borrowed Money. There is no basis upon which any party (other than an Obligor or Subsidiary) could terminate a Material Contract prior to its scheduled termination date.

9.1.18 ERISA. Except as disclosed on **Schedule 9.1.18**:

a. Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code, and other federal and state laws. Each Plan that is intended to qualify under Section 401(a) of the Code has received a favorable determination letter from the IRS or an application for such a letter is currently being processed by the IRS with respect thereto and, to the knowledge of Obligors, nothing has occurred which would prevent, or cause the loss of, such qualification. Each Obligor and ERISA Affiliate has met all applicable requirements under the Code, ERISA and the Pension Protection Act of 2006, and no application for a waiver of the minimum funding standards or an extension of any amortization period has been made with respect to any Plan that has resulted in or could reasonably be expected to have a Material Adverse Effect.

b. There are no pending or, to the knowledge of Obligors, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that could reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules (as defined under ERISA or Section 4975 of the Code) with respect to any Plan that has resulted in or could reasonably be expected to have a Material Adverse Effect.

c. Except as could not reasonably be expected to have a Material Adverse Effect, (i) No ERISA Event has occurred or is reasonably expected to occur; (ii) as of the most recent valuation date for any Pension Plan, the "funding target attainment percentage" (as defined in Section 430(d)(2) of the Code) is at least 60%; and no Obligor or ERISA Affiliate knows of any reason that such percentage could reasonably be expected to drop below 60%; (iii) no Obligor or ERISA Affiliate has incurred any liability to the PBGC except for the payment of premiums, and no premium payments are due and unpaid; (iv) no Obligor or ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or 4212(c) of ERISA; and (v) no Pension Plan has been terminated by its plan administrator or the PBGC, and no fact or circumstance exists that could reasonably be expected to cause the PBGC to institute proceedings to terminate a Pension Plan.

d. With respect to any Foreign Plan, (i) all employer and employee contributions required by law or by the terms of the Foreign Plan have been made, or, if applicable, accrued, in accordance with normal accounting practices; (ii) the fair market value of the assets of each funded Foreign Plan, the liability of each insurer for any Foreign Plan funded through insurance, or the book reserve established for any Foreign Plan, together with any accrued contributions, is sufficient to procure or provide for the accrued benefit obligations with respect to all current and former participants in such Foreign Plan according to the actuarial assumptions and valuations most recently used to account for such obligations in accordance with applicable generally accepted accounting principles; and (iii) it has been registered as required and has been maintained in good standing with applicable regulatory authorities.

9.1.19 Trade Relations. Except as described on Schedule 9.1.19, there exists no actual or threatened termination, limitation or modification of any business relationship between any Obligor or Subsidiary and any customer or supplier, or any group of customers or suppliers, who individually or in the aggregate are material to the business of such Obligor or Subsidiary. Except as described on Schedule 9.1.19, there exists no condition or circumstance that could reasonably be expected to impair the ability of any Obligor or Subsidiary to conduct its business at any time hereafter in substantially the same manner as conducted on the Closing Date.

9.1.20 Labor Relations. Except as described on **Schedule 9.1.20**, no Obligor or Subsidiary is party to or bound by any collective bargaining agreement or management agreement. There are no material grievances, disputes or controversies with any union or other organization of any Obligor's or Subsidiary's employees, or, to any Obligor's knowledge, any asserted or threatened strikes, work stoppages or demands for collective bargaining.

9.1.21 Payable Practices. No Obligor or Subsidiary has made any material change in its historical accounts payable practices from those in effect on the Closing Date.

9.1.22 Not a Regulated Entity. No Obligor is (a) an “investment company” or a “person directly or indirectly controlled by or acting on behalf of an investment company” within the meaning of the Investment Company Act of 1940; or (b) subject to regulation under the Federal Power Act, the Interstate Commerce Act, any public utilities code or any other Applicable Law regarding its authority to incur Debt.

9.1.23 Margin Stock. No Obligor or Subsidiary is engaged, principally or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any Margin Stock. No Loan proceeds or Letters of Credit will be used by Obligors to purchase or carry, or to reduce or refinance any Debt incurred to purchase or carry, any Margin Stock or for any related purpose governed by Regulations T, U or X of the Board of Governors.

9.1.24 OFAC. No Obligor, Subsidiary, or any director, officer, employee, agent, affiliate or representative thereof, is or is owned or controlled by any individual or entity that is currently the subject or target of any Sanction or is located, organized or resident in a Designated Jurisdiction.

9.1.25 Anti-Corruption Laws. Each Obligor and Subsidiary has conducted its business in accordance with applicable anti-corruption laws and has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

9.1.26 Subordinated Debt. Agent has received true and complete copies of the documentation governing any Subordinated Debt incurred from time to time at any time by any Obligor (including all addendums, exhibits, schedules and disclosure letters referred to therein or delivered pursuant thereto, if any) and all amendments thereto, waivers relating thereto and other side letters or agreements affecting the terms thereof. None of such documents and agreements has been amended or supplemented, nor have any of the provisions thereof been waived, except pursuant to a written agreement or instrument which has heretofore been delivered to Agent. The Borrowers hereby represent and warrant that, as of the Closing Date, there is no Subordinated Debt.

9.1.27 Certain Documents. The Borrowers have delivered to Agent a complete and correct copy of the Specified Agreements, the Management Agreement, the Software License Agreement and the Tax Receivable Agreement as in effect on the Closing Date, including any material amendments, supplements or modifications with respect to any of the foregoing through the Closing Date.

9.2 Complete Disclosure. No Loan Document contains any untrue statement of a material fact, nor fails to disclose any material fact necessary to make the statements contained therein not materially misleading. There is no fact or circumstance that any Obligor has failed to disclose to Agent in writing that could reasonably be expected to have a Material Adverse Effect.

SECTION 10. COVENANTS AND CONTINUING AGREEMENTS

10.1 Affirmative Covenants. As long as any Commitments or Obligations are outstanding, each Obligor shall, and shall cause each Subsidiary to:

10.1.1 Inspections; Appraisals.

a. Permit Agent from time to time, subject (unless a Default or Event of Default exists) to reasonable notice and normal business hours, to visit and inspect the Properties of any Obligor or Subsidiary, inspect, audit and make extracts from any Obligor's or Subsidiary's books and records, and discuss with its officers, employees, agents, advisors and independent accountants such Obligor's or Subsidiary's business, financial condition, assets, prospects and results of operations; provided that, notwithstanding anything to the contrary herein, neither the Borrowers nor any Subsidiary shall be required to disclose, permit the inspection, examination or making of copies of or taking abstracts from, or discuss any document, information, or other matter (i) in respect of which disclosure to the Agent or any Lender (or any of their respective representatives or contractors) is prohibited by Applicable Law, provided that, with respect to this clause (i), the Borrowers shall (A) make the Agent aware that information is being withheld (to the extent permitted by Applicable Law) and (B) use commercially reasonable efforts to communicate the relevant information in a way that does not violate such Applicable Law, (ii) that is subject to attorney-client or similar privilege or constitutes attorney work product, provided that, with respect to this clause (ii), the Borrowers shall (A) make the Agent aware that information is being withheld and (B) use commercially reasonable efforts to communicate

the relevant information in a way that does not violate such attorney-client or similar privilege or (iii) in respect of the Borrowers or any Subsidiary owes binding confidentiality obligations (provided, that any such binding confidentiality agreement was not entered into in contemplation of the requirements of this Agreement) to any third party that would be breached by disclosure to Agent or the Lenders, provided that, with respect to this clause (iii), the Borrowers shall (A) make the Agent aware of such confidentiality obligations (to the extent permitted under the applicable confidentiality obligation) and (B) use commercially reasonable efforts to communicate the relevant information in a way that does not violate such confidentiality obligations. Lenders may participate in any such visit or inspection, at their own expense. Secured Parties shall have no duty to any Obligor to make any inspection, nor to share any results of any inspection, appraisal or report with any Obligor. Obligors acknowledge that all inspections, appraisals and reports are prepared by Agent and Lenders for their purposes, and Obligors shall not be entitled to rely upon them.

b. Reimburse Agent for all its documented charges, costs and expenses in connection with examinations of Obligors' books and records or any other financial or Collateral matters as it deems appropriate, up to two (2) times per calendar year; provided, however, that if an examination is initiated during a Default or Event of Default, all charges, costs and expenses relating thereto shall be reimbursed by Borrowers without regard to such limits. Borrowers shall pay Agent's then standard charges for examination activities, including charges for its internal examination groups, as well as the documented charges of any third party used for such purposes.

10.1.2 Financial and Other Information. Keep adequate records and books of account with respect to its business activities, in which proper entries are made in accordance with GAAP reflecting all financial transactions; and furnish to Agent and Lenders:

a. as soon as available, and in any event within one hundred twenty (120) days after the close of each calendar year, balance sheets as of the end of such Fiscal Year and the related statements of income, cash flow and shareholders equity for such Fiscal Year, on a consolidated basis for Borrowers and Subsidiaries, which consolidated statements shall be audited and certified (without qualification) by a firm of independent certified public accountants of recognized standing selected by Borrowers and reasonably acceptable to Agent, and shall set forth in comparative form corresponding figures for the preceding Fiscal Year and other information acceptable to Agent;

b. as soon as available, and in any event within thirty (30) days after the end of each calendar month, unaudited balance sheets as of the end of such Fiscal Month (commencing with the Fiscal Month ending July 27, 2023) ending closest to the end of such calendar month and the related statements of income and cash flow for such month and for the portion of the Fiscal Year then elapsed, on consolidated and consolidating bases for Borrowers and Subsidiaries, setting forth in comparative form corresponding figures for the preceding Fiscal Year and certified by the chief financial officer of Borrower Agent as prepared in accordance with GAAP and fairly presenting the financial position and results of operations for such Fiscal Month and period, subject to normal Fiscal Year-end adjustments and the absence of footnotes; provided, that with respect to any Fiscal Month that is also the end of any Fiscal Quarter, the related statement of cash flows delivered pursuant to this **Section 10.1.2(b)** shall be with respect to such Fiscal Quarter;

c. concurrently with delivery of financial statements under clauses (a) and (b) above, or more frequently if requested by Agent while a Default or Event of Default exists, a Compliance Certificate (including a calculation of the Fixed Charge Coverage Ratio, whether or not then required to be tested) executed by the chief financial officer of Borrower Agent;

d. concurrently with delivery of financial statements under clause (a) above, copies of all management letters and other material reports submitted to Borrowers by their accountants in connection with such financial statements;

e. not later than sixty (60) days after the end of each calendar year, projections (in Microsoft Excel) of Borrowers and their Subsidiaries' consolidated and consolidating balance sheets, results of operations, cash flow, Availability, Borrowing Base and Fixed Charge Coverage Ratio calculations (whether or not then required to be tested under the Loan Documents) for the next Fiscal Year commencing closest to the end of such calendar year, Fiscal Month by Fiscal Month; provided, that drafts of such projections shall be provided not later than thirty (30) days after the end of each calendar year;

f. at Agent's request, a listing of each Borrower's trade payables, specifying the trade creditor and balance due, and a detailed trade payable aging, all in form satisfactory to Agent;

g. promptly after the sending or filing thereof, copies of any proxy statements, financial statements or reports that any Borrower has made generally available to its shareholders; copies of any regular, periodic and special reports or registration statements or prospectuses that any Borrower files with the Securities and Exchange

Commission or any other Governmental Authority, or any securities exchange; and copies of any press releases or other statements made available by a Borrower to the public concerning material changes to or developments in the business of such Borrower;

h. promptly after the sending or filing thereof, copies of any annual report to be filed in connection with each Pension Plan or Foreign Plan; and

i. such other reports and information (financial or otherwise, including with respect to any litigation relating to any Obligor) as Agent may request from time to time in connection with any Collateral or any Borrower's, Subsidiary's or other Obligor's financial condition or business.

Notwithstanding the foregoing, the obligations under **Section 10.1.2(a)** may be satisfied with respect to financial information of the Borrowers and Subsidiaries by furnishing the applicable consolidated financial statements of NCM Inc.; provided that such information is accompanied by a detailed reconciliation (which, solely for the Fiscal Year ending closest to December 31, 2023, shall not be required to be audited) in form and substance satisfactory to Agent reflecting such financial information for NCM Inc., on the one hand, and the Borrowers and Subsidiaries on a standalone basis, on the other hand, and such materials are audited and certified (without qualification) by a firm of independent certified public accountants of recognized standing selected by Borrowers and reasonably acceptable to Agent, and shall set forth in comparative form corresponding figures for the preceding Fiscal Year and other information acceptable to Agent.

10.1.3 **Notices.** Notify Agent and Lenders in writing, promptly (but in any event within five (5) Business Days) after an Obligor's obtaining knowledge thereof, of any of the following that affects an Obligor: (a) the threat or commencement of any proceeding or investigation, whether or not covered by insurance, if an adverse determination could have a Material Adverse Effect; (b) any pending or threatened labor dispute, strike or walkout, or the expiration of any material labor contract; (c) any default under or termination of a Material Contract (including, without limitation, any default or notice of default, nonrenewal or termination with respect to any Specified Agreement or the Software License Agreement); (d) the existence of any Default or Event of Default (or any default or event of default under the documentation governing any Subordinated Debt); (e) any judgment in an amount exceeding \$1,000,000; (f) the assertion of any Intellectual Property Claim, if an adverse resolution could have a Material Adverse Effect; (g) any violation or asserted violation of any Applicable Law (including ERISA, OSHA, FLSA, or any Environmental Laws), if an adverse resolution could have a Material Adverse Effect; (h) any Environmental Release by an Obligor or on any Property owned, leased or occupied by an Obligor; or receipt of any Environmental Notice; (i) the occurrence of any ERISA Event; (j) the discharge of or any withdrawal or resignation by Borrowers' independent accountants; (k) any opening of a new office or place of business, at least 15 Business Days prior to such opening; (l) any and all default notices sent or received under or with respect to (i) any leased location or (ii) public warehouse where Collateral is located (which shall be delivered within five (5) Business Days after receipt thereof).

10.1.4 **Landlord and Storage Agreements.** Upon request, provide Agent with copies of all existing agreements, and promptly after execution thereof provide Agent with copies of all future agreements, between an Obligor and any landlord, warehouseman, processor, shipper, bailee or other Person that owns any premises at which any Collateral may be kept or that otherwise may possess or handle any Collateral, except that no request shall be made with respect to any such agreements that are or will be rejected in accordance with the Plan.

10.1.5 **Compliance with Laws.** Comply with all Applicable Laws, including ERISA, Environmental Laws, FLSA, OSHA, Anti-Terrorism Laws, and laws regarding collection and payment of Taxes, and maintain all Governmental Approvals necessary to the ownership of its Properties or conduct of its business, unless failure to comply (other than failure to comply with Anti-Terrorism Laws) or maintain could not reasonably be expected to have a Material Adverse Effect. Without limiting the generality of the foregoing, if any Environmental Release occurs at or on any Properties of any Borrower or Subsidiary, it shall act promptly and diligently to investigate and report to Agent and all appropriate Governmental Authorities the extent of, and to make appropriate remedial action to eliminate, such Environmental Release, whether or not directed to do so by any Governmental Authority.

10.1.6 **Taxes.** Pay and discharge all material Taxes prior to the date on which they become delinquent or penalties attach, unless such Taxes are being Properly Contested.

10.1.7 **Insurance.** In addition to the insurance required hereunder with respect to Collateral, maintain insurance with insurers (with a Best rating of at least A+, unless otherwise approved by Agent in its discretion) satisfactory to Agent, (a) with respect to the Properties and business of Borrowers and Subsidiaries of such type (including product liability, workers' compensation, larceny, embezzlement, or other criminal misappropriation insurance), in such amounts, and with such coverages and deductibles as are customary for companies similarly situated; and (b) business interruption coverage in such amount as is customary for companies similarly situated and

satisfactory to Agent in its Permitted Discretion, with deductibles and subject to a lender's loss payable endorsement satisfactory to Agent.

10.1.8 Licenses. Keep each License (other than off-the-shelf Licenses) affecting any Collateral (including the manufacture, distribution or disposition of Inventory) or any other material Property of Borrowers and Subsidiaries in full force and effect; promptly notify Agent of any proposed modification to any such License that is adverse to the Agent or Lenders in any respect, or entry into any new License, in each case at least 30 days prior to its effective date; pay all royalties and other amounts when due under any License; and notify Agent of any default or breach asserted by any Person to have occurred under any License (other than off-the-shelf Licenses).

10.1.9 Future Subsidiaries. Promptly notify Agent upon any Person becoming a Subsidiary and, if such Person is a Domestic Subsidiary, cause it to guaranty the Obligations in a manner satisfactory to Agent or otherwise become a Borrower hereunder, and to execute and deliver such documents, instruments and agreements and to take such other actions as Agent shall require to evidence and perfect a Lien in favor of Agent on all assets of such Person, including delivery of such legal opinions, in form and substance reasonably satisfactory to Agent, as it shall deem appropriate, and if such Person is a first tier CFC, comply with the provisions of **Section 7.5** with respect to the pledge of Equity Interests owned by an Obligor in such first tier CFC.

10.1.10 [Reserved].

10.1.11 Anti-Corruption Laws. Conduct its business in compliance with applicable anti-corruption laws and maintain policies and procedures designed to promote and achieve compliance with such laws.

10.1.12 Compliance with Flood Laws. Take all actions required under Flood Laws and/or requested by Agent to assist in ensuring that each Lender is in compliance with Flood Laws, including, but not limited to, providing Agent with the address and/or GPS coordinates of each structure located upon any Real Estate and, to the extent required, obtaining flood insurance as more particularly set forth in **Section 8.6.2** for such property, structures and/or contents prior to such property, structures and/or contents becoming Collateral.

10.1.13 Post-Closing Matters. Complete each of the matters described on Schedule 10.1.13 within the time period specified for such item on Schedule 10.1.13 (or such later time period as Agent may agree in writing in its sole discretion). All representations and warranties contained in this Agreement and the other Loan Documents shall be deemed modified (or waived on a limited basis) to the extent necessary to give effect to the foregoing (and to permit the taking of the actions described on Schedule 10.1.13 within the time periods specified thereon), and, to the extent any provision of this Agreement or any other Loan Document would be violated or breached (or any non-compliance with any such provision would result in a Default or Event of Default hereunder) as a result of any such extended deadline, such provision shall be deemed modified (or waived on a limited basis) to the extent necessary to give effect to this **Section 10.1.13**.

10.2 Negative Covenants. As long as any Commitments or Obligations are outstanding, each Obligor shall not, and shall cause each Subsidiary not to:

10.2.1 Permitted Debt. Create, incur, guarantee or suffer to exist any Debt, except:

- a. the Obligations;
- b. Subordinated Debt;
- c. Permitted Purchase Money Debt;
- d. Debt with respect to Cash Management Services incurred in the Ordinary Course of Business;
- e. Permitted Contingent Obligations;
- f. Refinancing Debt as long as each Refinancing Condition is satisfied;
- g. Debt in the form of guarantees in the Ordinary Course of Business arising out of the Employment Agreements entered into pursuant to the Management Agreement;

- h. Debt in the Ordinary Course of Business that is not past due (after giving effect to any provisions relating to “late payments” under the Tax Receivable Agreement) in respect of the Tax Receivable Agreement;
- i. existing Debt to the extent outstanding as of the Closing Date as shown on **Schedule 10.2.1**; and
- j. to the extent constituting Debt, deferred compensation to employees of the Borrowers and Subsidiaries incurred in the Ordinary Course of Business and consistent with past practice.

10.2.2 Permitted Liens. Create or suffer to exist any Lien upon any of its Property, except the following (collectively, “**Permitted Liens**”):

- a. Liens in favor of Agent;
- b. Purchase Money Liens securing Permitted Purchase Money Debt;
- c. Liens for Taxes not yet due or being Properly Contested;
- d. statutory Liens (other than Liens for Taxes or imposed under ERISA) arising in the Ordinary Course of Business, but only if (i) payment of the obligations secured thereby is not yet due or is being Properly Contested, and (ii) such Liens do not materially impair the value or use of the Property or materially impair operation of the business of any Borrower or Subsidiary;
- e. Liens incurred or deposits made in the Ordinary Course of Business to secure the performance of government tenders, bids, contracts, statutory obligations and other similar obligations, as long as (i) such Liens are at all times junior to Agent’s Liens and are required or provided by law, (ii) the payment or performance of the obligations secured thereby is not delinquent, and (iii) such Liens or deposits do not materially impair the value or use of the Property or materially impair operation of the business of any Obligor or Subsidiary;
- f. Liens arising in the Ordinary Course of Business that are subject to Lien Waivers;
- g. Liens arising by virtue of a judgment or judicial order against any Borrower or Subsidiary, or any Property of a Borrower or Subsidiary, as long as such Liens are (i) in existence for less than 20 consecutive days or being Properly Contested, and (ii) at all times junior to Agent’s Liens;
- h. easements, rights-of-way, restrictions, covenants or other agreements of record, and other similar charges or encumbrances on Real Estate, that do not secure any monetary obligation and do not interfere with the Ordinary Course of Business;
- i. normal and customary rights of setoff upon deposits in favor of depository institutions, and Liens of a collecting bank on Payment Items in the course of collection;
- j. existing Liens outstanding as of the Closing Date as shown on **Schedule 10.2.2**;
- k. pledges or deposits in connection with workers’ compensation, unemployment insurance and other social security legislation in the Ordinary Course of Business, but only if (i) payment of the obligations secured thereby is not yet due or is being Properly Contested, and (ii) such Liens do not materially impair the value or use of the Property or materially impair operation of the business of any Obligor or Subsidiary;
- l. any interest or title of a lessor under any lease entered into by the Borrowers or any other Subsidiary in the Ordinary Course of Business and covering only the assets so leased; and
- m. Liens arising from precautionary Uniform Commercial Code financing statement filings regarding operating leases entered into by the Borrowers or any Subsidiary in the Ordinary Course of Business.

Notwithstanding the foregoing, none of the Liens permitted pursuant to this **Section 10.2.2** may at any time attach to any Accounts unless such Liens shall be junior in priority to the Liens securing the Obligations and shall be subject to an intercreditor agreement in form and substance reasonably satisfactory to Agent.

10.2.3 [Reserved].

10.2.4 Distributions; Upstream Payments. Declare or make any Distributions, except Upstream Payments and Permitted Distributions; or create or suffer to exist any encumbrance or restriction on the ability of a Subsidiary to make any Upstream Payment, except for restrictions under the Loan Documents, under Applicable Law or in effect on the Closing Date as shown on **Schedule 9.1.15**.

10.2.5 Restricted Investments. Make any Restricted Investment.

10.2.6 Disposition of Assets. Make any Asset Disposition, except a Permitted Asset Disposition, a disposition of Equipment under **Section 8.4.2**, or a transfer of Property by a Subsidiary or Obligor to a Borrower.

10.2.7 Loans. Make any loans or other advances of money to any Person, except (a) advances to an officer or employee for salary, travel expenses, commissions and similar items in the Ordinary Course of Business and, with respect to any such loan or advance in excess of \$250,000, previously disclosed in writing to Agent; (b) prepaid expenses and extensions of trade credit made to non-Affiliate in the Ordinary Course of Business; and (c) deposits with financial institutions in the Ordinary Course of Business permitted hereunder.

10.2.8 Restrictions on Payment of Certain Debt.

a. Make any payments in respect of principal, interest, fees, charges or other amounts (whether voluntary or mandatory, or a prepayment, redemption, retirement, defeasance or acquisition) with respect to any (a) Subordinated Debt, except regularly scheduled payments of interest and fees, but only to the extent permitted under any subordination agreement relating to such Debt (and a Senior Officer of Borrower Agent shall certify to Agent, not less than five Business Days prior to the date of payment, that all conditions under such agreement have been satisfied); or (b) Borrowed Money (other than the Obligations) prior to its due date under the agreements evidencing such Debt as in effect on the Closing Date (or as amended thereafter with the consent of Agent), except to the extent the Net Proceeds of a Permitted Asset Disposition (or Recovery Event) of Equipment or Real Estate subject to a Purchase Money Lien are required to be applied to repay obligations with respect to any Permitted Purchase Money Debt pursuant to the documentation governing such Permitted Purchase Money Debt.

b. prepay (whether voluntary or mandatory), redeem, defease, retire, purchase or otherwise acquire any Borrowed Money or other Debt of any Obligor or its Subsidiaries permitted under **Section 10.2.1**, except prepayments of the Obligations in accordance with the terms of this Agreement.

10.2.9 Fundamental Changes. Change its name or conduct business under any fictitious name; change its tax, charter or other organizational identification number; change its form or state of organization; liquidate, wind up its affairs or dissolve itself; consummate (or unwind) a Division or merge, combine or consolidate with any Person, whether in a single transaction or in a series of related transactions, except for mergers or consolidations of a wholly-owned Subsidiary with another wholly-owned Subsidiary or into a Borrower; or, in the case of a limited liability company, participate in any statutory division.

10.2.10 Subsidiaries. Form or acquire (including by virtue of any Division of any Obligor) any Subsidiary after the Closing Date, except the formation or acquisition of wholly owned Domestic Subsidiaries in accordance with **Sections 10.1.9, 10.2.5 and 10.2.9**; or permit any existing Subsidiary to issue any additional Equity Interests except directors' qualifying shares as required by Applicable Law.

10.2.11 Organic Documents. Amend, modify or otherwise change any of its Organic Documents, except to the extent (i) previously approved by Agent in writing in connection with a transaction permitted under **Section 10.2.9** or (ii) such amendment, modification or other change is not adverse in any respect to the interests of Agent and the Lenders.

10.2.12 Tax Consolidation. File or consent to the filing of any consolidated income tax return with any Person (except NCM Inc., so long as NCM is a Subsidiary of NCM Inc.) other than Borrowers and Subsidiaries.

10.2.13 Accounting Changes. Make any material change in accounting treatment or reporting practices, except as required by GAAP and in accordance with **Section 1.2**; or change its Fiscal Year.

10.2.14 Restrictive Agreements. Become a party to any Restrictive Agreement, except a Restrictive Agreement (a) in effect on the Closing Date; (b) relating to secured Debt permitted hereunder, as long as the restrictions apply only to collateral for such Debt; or (c) constituting customary restrictions on assignment in leases and other contracts.

10.2.15 Hedging Agreements. Enter into any Hedging Agreement, except to hedge risks arising in the Ordinary Course of Business and not for speculative purposes, subject to **Section 10.2.1(d)**.

10.2.16 Conduct of Business. Engage in any business, other than its business as conducted on the Closing Date and any activities incidental thereto or reasonable extensions thereof. Affiliate Transactions. Enter into or be party to any transaction with an Affiliate, except (a) transactions expressly permitted by the Loan Documents; (b) payment of reasonable and customary compensation to officers and employees for services actually rendered, and payment of reasonable and customary directors' indemnities; (c) transactions solely among Obligor; (d) transactions with Affiliates consummated prior to the Closing Date, as shown on **Schedule 10.2.17**; (e) transactions with Affiliates in the Ordinary Course of Business (other than the payment of management, consulting, advisory or similar fees), upon fair and reasonable terms fully disclosed to Agent in writing and no less favorable than would be obtained in a comparable arm's-length transaction with a non-Affiliate and (f) the transactions contemplated by the Specified Agreements, the Software License Agreement, the Tax Receivable Agreement, the NCM Operating Agreement, the Common Unit Adjustment Agreement and the Management Agreement.

10.2.18 Plans. Become party to any Multiemployer Plan or Foreign Plan, other than any in existence on the Closing Date.

10.2.19 Amendments to Subordinated Debt, Material Contracts and Other Documents.

a. Amend, supplement or otherwise modify (pursuant to a waiver or otherwise) any document, instrument or agreement relating to any Subordinated Debt, (a) if such modification (i) increases the principal balance of such Debt, or increases any required payment of principal or interest; (ii) accelerates the date on which any installment of principal or any interest is due, or adds any additional redemption, put or prepayment provisions; (iii) shortens the final maturity date or otherwise accelerates amortization; (iv) increases the interest rate; (v) increases or adds any fees or charges; (vi) modifies any covenant in a manner or adds any representation, covenant or default that is more onerous or restrictive in any material respect for any Borrower or Subsidiary, or that is otherwise materially adverse to any Borrower, any Subsidiary or Lenders; (vii) results in the Obligations not being fully benefited by the subordination provisions thereof, or (viii) is otherwise prohibited by the terms of the subordination agreement with respect thereto or (b) without providing a copy of any such amendment, supplement or other modification to Agent promptly upon its execution.

b. Amend, supplement or otherwise modify (pursuant to a waiver or otherwise, but excluding any modifications (other than modifications under clause (i) below) to the ESAs as a result of any changes resulting from a "most favored nation" provision) any document, instrument or agreement relating to any Material Contract, (i) if such modification would be adverse to the Agent or Lenders in any respect; or (ii) without providing a copy of any such amendment, supplement or other modification to Agent promptly upon its execution.

10.3 Financial Covenants. As long as any Commitments or Obligations are outstanding, Borrowers shall:

10.3.1 Fixed Charge Coverage Ratio. Maintain a Fixed Charge Coverage Ratio for the Fixed Charge Coverage Ratio Measurement Period ending on the last day of each Fiscal Month of at least 1.1 to 1.0 while a Trigger Period is in effect, measured for the most recent such period for which financial statements were delivered hereunder prior to the Trigger Period and each such period ending thereafter until the Trigger Period is no longer in effect.

10.3.2 Cure Right. In the event that the Borrowers fail to comply with the requirements of the financial covenants set forth in **Section 10.3.1**, until the expiration of the fifth (5th) Business Day after the date on which financial statements are required to be delivered with respect to the applicable Fiscal Month hereunder, NCM (or its direct or indirect parent company) shall have the right to cure such default by delivering to the Agent irrevocable notice of its intent to cure no later than the date on which the financial statements and Compliance Certificate for such Fiscal Month are required to be delivered hereunder (the "Cure Notice") and thereafter to issue Permitted Cure Equity for cash to Persons other than the Obligor or otherwise receive cash contributions to the capital of NCM Inc. (or its direct or indirect parent company) from its Persons other than the Obligor, and, in each case, to contribute any such cash to the capital of a Borrower, and apply the amount of the proceeds thereof to increase EBITDA with respect to such applicable Fiscal Month (the "Cure Right") and for each subsequent period that contains such Fiscal Month;

provided that (a) such proceeds are actually received by a Borrower no later than five (5) Business Days after the date on which financial statements are required to be delivered with respect to such Fiscal Month hereunder (the “Cure Deadline”), (b) such proceeds do not exceed the aggregate amount necessary to cure (by addition to EBITDA) such Event of Default under **Section 10.3.1** for such period (the “Cure Amount”), (c) the Cure Right shall not be exercised more than four (4) times during the term of this Agreement, the Cure Right shall not be exercised in any two (2) consecutive Fiscal Months during any twelve (12) consecutive Fiscal Months and (d) the Cure Amount will be applied to repay the Obligations substantially concurrently upon receipt by a Borrower thereof. If, after giving effect to the foregoing, the Borrowers are in compliance with the financial covenants set forth in **Section 10.3.1**, the Borrowers shall be deemed to have satisfied the requirements of such **Section 10.3.1** as of the relevant date of determination with the same effect as though there had been no failure to comply on such date, and the applicable breach or default of such **Section 10.3.1** that had occurred shall be deemed cured for purposes of this Agreement in each case without further action required. The parties hereby acknowledge that this Section may not be relied on for purposes of calculating any financial ratios other than as applicable to **Section 10.3.1** and shall not result in any adjustment to any amounts other than the amount of the EBITDA referred to in the immediately preceding sentence. If Borrower has delivered a Cure Notice, then until the earlier of the expiration of the Cure Deadline and the date on which Agent learns that NCM Inc. does not intend to issue the Permitted Cure Equity, unless necessary to prevent fraud, material impairment of the rights of Administrative Agent or Lenders or the tolling of an applicable statute of limitations the Lenders and Agent shall refrain from exercising any rights or remedies solely with respect to such Event of Default that may be cured; provided that so long as such Event of Default shall continue to exist, no credit extensions (including the borrowing of any Revolving Loan or issuance of any Letter of Credit) to the Borrowers under this Agreement shall be permitted until the Cure Right has been exercised or such Default or Event of Default has otherwise been waived. The Cure Amount shall be disregarded for all purposes of the Loan Documents (including, without limitation, in determining whether the Payment Conditions are satisfied) other than the testing of the financial covenant in **Section 10.3.1**.

SECTION 11. EVENTS OF DEFAULT; REMEDIES ON DEFAULT

11.1 Events of Default. Each of the following shall be an “**Event of Default**” if it occurs for any reason whatsoever, whether voluntary or involuntary, by operation of law or otherwise:

- a. Any Obligor fails to pay its Obligations when due (whether at stated maturity, on demand, upon acceleration or otherwise);
- b. Any representation, warranty or other written statement of an Obligor made in connection with any Loan Document or transaction contemplated thereby is incorrect or misleading in any material respect when given;
- c. An Obligor breaches or fails to perform any covenant contained in **Section 7.2, 7.3, 7.5, 7.7, 7.8, 8.1, 8.2, 8.5, 8.6.1, 8.6.2, 10.1.1, 10.1.2, 10.1.3, 10.1.13, 10.2 or 10.3** (subject to the Cure Right in **Section 10.3.2**);
- d. An Obligor breaches or fails to perform (i) any covenant contained in **Section 10.1.7 or 10.1.12** and such breach or failure is not cured within 15 days after a Senior Officer of such Obligor has knowledge thereof or receives notice thereof from Agent, whichever is sooner, or (ii) any other covenant contained in any Loan Document, and such breach or failure is not cured within 20 days after a Senior Officer of such Obligor has knowledge thereof or receives notice thereof from Agent, whichever is sooner; provided, however, that such notice and opportunity to cure shall not apply if the breach or failure to perform is not capable of being cured within such period or is a willful breach by an Obligor;
- e. A Guarantor repudiates, revokes or attempts to revoke its Guaranty; an Obligor or third party denies or contests the validity or enforceability of any Loan Document or Obligation, or the perfection or priority of any Lien granted to Agent; or any Loan Document ceases to be in full force or effect for any reason (other than a waiver or release by Agent and Lenders);
- f. Any breach or default of an Obligor occurs under (i) any Hedging Agreement; (ii) any agreement or document governing or giving rise to Subordinated Debt, or any Person party thereto (other than Agent) shall materially breach the terms of any subordination agreement or repudiate, revoke or attempt to revoke such subordination agreement, or any subordination agreement ceases to be in full force or effect for any reason (other than a waiver or release by Agent), or (iii) any instrument or agreement to which it is a party or by which it or any of its Properties is bound, relating to any Debt (other than the Obligations) in excess of \$2,500,000, if the maturity of or any payment with respect to such Debt may be accelerated or demanded due to such breach;

g. Any judgment or order for the payment of money is entered against an Obligor in an amount that exceeds, individually or cumulatively with all unsatisfied judgments or orders against all Obligors, \$2,500,000 (net of insurance coverage therefor that has not been denied by the insurer), unless a stay of enforcement of such judgment or order is in effect;

h. A loss, theft, damage or destruction occurs with respect to any Collateral if the amount not covered by insurance exceeds \$2,500,000;

i. An Obligor is enjoined, restrained or in any way prevented by any Governmental Authority from conducting any material part of its business; an Obligor suffers the loss, revocation or termination of any material license, permit, lease or agreement necessary to its business; there is a cessation of any material part of an Obligor's business for a material period of time; any material Collateral or Property of an Obligor is taken or impaired through condemnation; an Obligor agrees to or commences any liquidation, dissolution or winding up of its affairs; or an Obligor is not Solvent;

j. An Insolvency Proceeding is commenced by an Obligor; an Obligor makes an offer of settlement, extension or composition to its unsecured creditors generally; a trustee is appointed to take possession of any substantial Property of or to operate any of the business of an Obligor; or an Insolvency Proceeding is commenced against an Obligor and the Obligor consents to institution of the proceeding, the petition commencing the proceeding is not timely contested by the Obligor, the petition is not dismissed within 30 days after filing, or an order for relief is entered in the proceeding;

k. Except, in each case, as could not reasonably be expected to result in liability in excess of \$2,500,000, an ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan that has resulted or could reasonably be expected to result in liability of an Obligor to a Pension Plan, Multiemployer Plan or PBGC, or that constitutes grounds for appointment of a trustee for or termination by the PBGC of any Pension Plan or Multiemployer Plan; an Obligor or ERISA Affiliate fails to pay when due any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan; or any event similar to the foregoing occurs or exists with respect to a Foreign Plan;

l. An Obligor or any of its Senior Officers is criminally indicted or convicted for (i) a felony committed in the conduct of the Obligor's business, or (ii) violating any state or federal law (including the Controlled Substances Act, Money Laundering Control Act of 1986 and Illegal Exportation of War Materials Act) that could lead to forfeiture of any material Property or any Collateral;

m. A Change of Control occurs; or any event occurs or condition exists that has a Material Adverse Effect;

n. (i) any material default by an Obligor shall occur under any Specified Agreement, or (ii) any Specified Agreement expires and is not renewed within 90 days of such expiration, or is terminated for any reason and not replaced with a substantially similar agreement or arrangement within 90 days of such termination; or

o. The AMC/Cinemark Appeal is decided (whether or not subject to further appeal) and, as a result of such decision, (i) the Confirmation Order is vacated or (ii) NCM's rights and obligations under the ESAs have been modified pursuant to Section 12.06 of the ESAs to conform to the Regal Agreement.

11.2 Remedies upon Default. If an Event of Default described in **Section 11.1(j)** occurs with respect to any Obligor, then to the extent permitted by Applicable Law, all Obligations (other than Secured Bank Product Obligations) shall become automatically due and payable and all Commitments shall terminate, without any action by Agent or notice of any kind. In addition, or if any other Event of Default exists, Agent may in its discretion (and shall upon written direction of Required Lenders) do any one or more of the following from time to time:

a. declare any Obligations (other than Secured Bank Product Obligations) immediately due and payable, whereupon they shall be due and payable without diligence, presentment, demand, protest or notice of any kind, all of which are hereby waived by Borrowers to the fullest extent permitted by law;

b. terminate, reduce or condition any Commitment or adjust the Borrowing Base;

c. require Obligors to Cash Collateralize their LC Obligations, Secured Bank Product Obligations and other Obligations that are contingent or not yet due and payable, and if Obligors fail promptly to deposit such Cash Collateral, Agent may (and shall upon the direction of Required Lenders) advance the required Cash

Collateral as Revolver Loans (whether or not at such time Revolver Usage exceeds the Borrowing Base or will exceed the Borrowing Base with the making of such Revolver Loans, or the conditions in **Section 6** are satisfied); and

d. exercise any other rights or remedies afforded under any agreement, by law, at equity or otherwise, including the rights and remedies of a secured party under the UCC. Such rights and remedies include the rights to (i) take possession of any Collateral; (ii) require Obligors to assemble Collateral, at Borrowers' expense, and make it available to Agent at a place designated by Agent; (iii) enter any premises where Collateral is located and store Collateral on such premises until sold (and if the premises are owned or leased by an Obligor, Obligors agree not to charge for such storage); (iv) sell, assign, lease, license (on an exclusive or nonexclusive basis) as Agent in its discretion deems advisable or otherwise dispose of any Collateral in its then condition, or after any further manufacturing or processing thereof, at public or private sale, with such notice as may be required by Applicable Law, in lots or in bulk, at such locations, as Agent in its discretion deems advisable and (v) bring suit or otherwise commence any action or proceeding to enforce any Account, contractual right or Intellectual Property, all as Agent, in its discretion, deems advisable. Each Obligor agrees that 10 days' notice of any proposed sale or other disposition of Collateral by Agent shall be reasonable, and that any sale conducted on the internet or to a licensor of Intellectual Property shall be commercially reasonable. Agent may conduct sales on any Obligor's premises, without charge, and any sale may be adjourned from time to time in accordance with Applicable Law. Agent shall have the right to sell, lease or otherwise dispose of any Collateral for cash, credit or any combination thereof, and Agent may purchase any Collateral at public or, if permitted by law, private sale and, in lieu of actual payment of the purchase price, may credit bid and set off the amount of such price against the Obligations. Each purchaser at any such sale shall hold the property sold absolutely free from any claim or right on the part of any Obligor, and each Obligor hereby waives (to the extent permitted by Applicable Law) all rights of redemption, stay and/or appraisal which it now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted. Each Obligor agrees that, to the extent notice of sale shall be required by law, at least ten (10) days' notice to such Obligor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. Agent shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. Each Obligor agrees that it would not be commercially unreasonable for Agent to dispose of the Collateral or any portion thereof by using Internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capability of doing so, or that match buyers and sellers of assets. Each Obligor hereby waives any claims against Agent arising by reason of the fact that the price at which any Collateral may have been sold at such a private sale was less than the price which might have been obtained at a public sale, even if Agent accepts the first offer received and does not offer such Collateral to more than one offeree. If the proceeds of any sale or other disposition of the Collateral are insufficient to pay all the Obligations, Obligors shall be liable for the deficiency and the fees of any attorneys employed by Agent to collect such deficiency. Each Obligor further agrees that a breach of any of the covenants contained in this **Section 11.2** will cause irreparable injury to Agent, that Agent has no adequate remedy at law in respect of such breach and, as a consequence, that each and every covenant contained in this **Section 11.2** shall be specifically enforceable against such Obligor, and such Obligor hereby waives and agrees not to assert any defenses against an action for specific performance of such covenants, except for a defense that no Default has occurred giving rise to the Obligations becoming due and payable prior to their stated maturities. Nothing in this **Section 11.2** shall in any way alter the rights of Agent hereunder. Agent may sell the Collateral without giving any warranties as to the Collateral. Agent may specifically disclaim or modify any warranties of title or the like. This procedure will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral. If Agent shall have no obligation to marshal any of the Collateral. If Agent sells any of the Collateral upon credit, Obligor will be credited only with payments actually made by purchaser and received by Agent and applied to indebtedness of the purchaser. In the event the purchaser fails to pay for the Collateral, Agent may resell the Collateral and Obligor shall be credited with proceeds of the sale.

11.3 License. For the purpose of enabling Agent to exercise rights and remedies under this **Section 11.3** at such time as Agent is lawfully entitled to exercise such rights and remedies, Agent is hereby granted an irrevocable, non-exclusive license or other right to use, license or sub-license (without payment of royalty or other compensation to any Person) any or all Intellectual Property of Obligors, computer hardware and software, trade secrets, brochures, customer lists, promotional and advertising materials, labels, packaging materials and other Property, in advertising for sale, marketing, selling, collecting, completing manufacture of, or otherwise exercising any rights or remedies with respect to, any Collateral; provided, that such licenses to be granted hereunder shall be subject to the maintenance of quality standards with respect to the goods and services on which trademarks are used sufficient to preserve the validity of such trademarks. Each Obligor's rights and interests under Intellectual Property shall inure to Agent's benefit. Such license to Agent may be exercised, at the option of Agent, only upon the occurrence and during the continuance of an Event of Default; provided, that any license, sub-license or other transaction entered into by Agent in accordance herewith will be binding upon Obligors notwithstanding any subsequent cure or waiver of an Event of Default.

11.4 Setoff. At any time during an Event of Default, Agent, Issuing Bank, Lenders, and any of their Affiliates are authorized, to the fullest extent permitted by Applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations

(in whatever currency) at any time owing by Agent, Issuing Bank, such Lender or such Affiliate to or for the credit or the account of an Obligor against its Obligations, whether or not Agent, Issuing Bank, such Lender or such Affiliate shall have made any demand under this Agreement or any other Loan Document and although such Obligations may be contingent or unmatured or are owed to a branch or office of Agent, Issuing Bank, such Lender or such Affiliate different from the branch or office holding such deposit or obligated on such indebtedness. The rights of Agent, Issuing Bank, each Lender and each such Affiliate under this Section are in addition to other rights and remedies (including other rights of setoff) that such Person may have.

11.5 Remedies Cumulative; No Waiver.

11.5.1 Cumulative Rights. All agreements, warranties, guaranties, indemnities and other undertakings of Obligors under the Loan Documents are cumulative and not in derogation of each other. The rights and remedies of Agent and Lenders are cumulative, may be exercised at any time and from time to time, concurrently or in any order, and are not exclusive of any other rights or remedies available by agreement, by law, at equity or otherwise. All such rights and remedies shall continue in full force and effect until Full Payment of all Obligations.

11.5.2 Waivers. No waiver or course of dealing shall be established by (a) the failure or delay of Agent or any Lender to require strict performance by any Obligor under any Loan Document, or to exercise any rights or remedies with respect to Collateral or otherwise; (b) the making of any Loan or issuance of any Letter of Credit during a Default, Event of Default or other failure to satisfy any conditions precedent; or (c) acceptance by Agent or any Lender of any payment or performance by an Obligor under any Loan Documents in a manner other than that specified therein. Any failure to satisfy a financial covenant on a measurement date shall not be cured or remedied by satisfaction of such covenant on a subsequent date.

SECTION 12. AGENT

12.1 Appointment, Authority and Duties of Agent.

12.1.1 Appointment and Authority. Each Secured Party irrevocably appoints and designates CNC as Agent under all Loan Documents. Agent may, and each Secured Party irrevocably authorizes Agent to, enter into all Loan Documents to which Agent is intended to be a party and accept all Security Documents. Any action taken by Agent in accordance with the provisions of the Loan Documents, and the exercise by Agent of any rights or remedies set forth therein, together with all other powers reasonably incidental thereto, shall be authorized by and binding upon all Secured Parties. Without limiting the generality of the foregoing, Agent shall have the sole and exclusive authority to (a) act as the disbursing and collecting agent for Lenders with respect to all payments and collections arising in connection with the Loan Documents; (b) execute and deliver as Agent each Loan Document (including any intercreditor and/or subordination agreement), and accept delivery of each Loan Document; (c) act as collateral agent for Secured Parties for purposes of perfecting and administering Liens under the Loan Documents, and for all other purposes stated therein; (d) manage, supervise or otherwise deal with Collateral; and (e) take any Enforcement Action or otherwise exercise any rights or remedies with respect to any Collateral or under any Loan Documents, Applicable Law or otherwise. Agent alone shall be authorized to determine eligibility and applicable advance rates under the Borrowing Base, whether to impose or release any reserve, or whether any conditions to funding or issuance of a Letter of Credit have been satisfied, which determinations and judgments, if exercised in good faith, shall exonerate Agent from liability to any Secured Party or other Person for any error in judgment.

12.1.2 Duties. The title of "Agent" is used solely as a matter of market custom and the duties of Agent are administrative in nature only. Agent has no duties except those expressly set forth in the Loan Documents, and in no event does Agent have any agency, fiduciary or implied duty to or relationship with any Secured Party or other Person by reason of any Loan Document or related transaction. The conferral upon Agent of any right shall not imply a duty to exercise such right, unless instructed to do so by Lenders in accordance with this Agreement.

12.1.3 Agent Professionals. Agent may perform its duties through agents and employees. Agent may consult with and employ Agent Professionals, and shall be entitled to act upon, and shall be fully protected in any action taken in good faith reliance upon, any advice given by an Agent Professional. Agent shall not be responsible for the negligence or misconduct of any agents, employees or Agent Professionals that it selects in the absence of the Agent's gross negligence or willful misconduct (as finally determined in a non-appealable decision of a court of competent jurisdiction).

12.1.4 Instructions of Required Lenders. The rights and remedies conferred upon Agent under the Loan Documents may be exercised without the necessity of joining any other party, unless required by Applicable Law. In determining compliance with a condition for any action hereunder, including satisfaction of any

condition in **Section 6**, Agent may presume that the condition is satisfactory to a Secured Party unless Agent has received notice to the contrary from such Secured Party before Agent takes the action. Agent may request instructions from Required Lenders or other Secured Parties with respect to any act (including the failure to act) in connection with any Loan Documents or Collateral, and may seek assurances to its satisfaction from Secured Parties of their indemnification obligations against Claims that could be incurred by Agent. Agent may refrain from any act until it has received such instructions or assurances, and shall not incur liability to any Person by reason of so refraining. Instructions of Required Lenders shall be binding upon all Secured Parties, and no Secured Party shall have any right of action whatsoever against Agent as a result of Agent acting or refraining from acting pursuant to instructions of Required Lenders. Notwithstanding the foregoing, instructions by and consent of specific parties shall be required to the extent provided in **Section 14.1.1**. In no event shall Agent be required to take any action that it determines in its discretion is contrary to Applicable Law or any Loan Documents or could subject any Agent Indemnitee to liability.

12.1.5 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 Obligor, the Agent (irrespective of whether the principal of any Loan, LC Obligations or Swingline Loans shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Agent shall have made any demand on the Obligors) 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, LC Obligations, Swingline Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of Secured Parties and Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of Secured Parties and the Agent and their respective agents and counsel and all other amounts due Secured Parties and the Agent under **Sections 3.2, 3.4** and **10.1.1(b)**) 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 Secured Party to make such payments to Agent and, in the event that Agent shall consent to the making of such payments directly to Secured Parties, to pay to Agent any amount due for the reasonable compensation, expenses, disbursements and advances of Agent and its agents and counsel, and any other amounts due Agent under **Sections 3.2, 3.4** and **10.1.1(b)**.

12.2 Agreements Regarding Collateral; Borrower Materials; Credit Bidding.

12.2.1 Lien Releases; Care of Collateral. Secured Parties authorize Agent to release any Lien on any Collateral (a) upon Full Payment of the Obligations; (b) that is the subject of a disposition or Lien that Borrowers certify in writing is a Permitted Asset Disposition or a Permitted Lien entitled to priority over Agent's Liens (and Agent may rely conclusively on such certificate without further inquiry); (c) that does not constitute a material part of the Collateral; or (d) subject to **Section 14.1**, with the consent of Required Lenders, and to execute in connection with such events such payoff letters and related documentation in form and substance satisfactory to Agent in its sole discretion, as shall in Agent's sole discretion be deemed advisable. Secured Parties authorize Agent to subordinate its Liens to any Purchase Money Lien or other Lien entitled to priority hereunder. Agent has no obligation to assure that any Collateral exists or is owned by an Obligor, or is cared for, protected or insured, nor to assure that Agent's Liens have been properly created, perfected or enforced, or are entitled to any particular priority, nor to exercise any duty of care with respect to any Collateral.

12.2.2 Possession of Collateral. Agent and Secured Parties appoint each Secured Party as agent (for the benefit of Secured Parties) for the purpose of perfecting Liens in Collateral held or controlled by it, to the extent such Liens are perfected by possession or control. If a Secured Party obtains possession or control of any Collateral, it shall notify Agent thereof and, promptly upon Agent's request, deliver such Collateral to Agent or otherwise deal with it in accordance with Agent's instructions.

12.2.3 Reports. Agent shall promptly provide to Lenders, when complete, any field examination, audit or appraisal report prepared for Agent with respect to any Obligor or Collateral ("Report"). Reports and other Borrower Materials may be made available to Lenders by providing access to them on the Platform, but Agent shall not be responsible for system failures or access issues that may occur from time to time. Each Lender agrees (a) that Reports are not intended to be comprehensive audits or examinations, and that Agent or any other Person performing an audit or examination will inspect only limited information and will rely significantly upon Borrowers' books, records and representations; (b) that Agent makes no representation or warranty as to the accuracy or

completeness of any Borrower Materials and shall not be liable for any information contained in or omitted from any Borrower Materials, including any Report; and (c) to keep all Borrower Materials confidential and strictly for such Lender's internal use, not to distribute any Report or other Borrower Materials (or the contents thereof) to any Person (except to such Lender's Participants, attorneys and accountants), and to use all Borrower Materials solely for administration of the Obligations. Each Lender shall indemnify and hold harmless Agent and any other Person preparing a Report from any action such Lender may take as a result of or any conclusion it may draw from any Borrower Materials, as well as from any Claims arising as a direct or indirect result of Agent furnishing same to such Lender, via the Platform or otherwise.

12.2.4 Credit Bidding. Secured Parties hereby irrevocably authorize Agent (absent, with respect to any particular transaction, Agent receiving contrary written bidding instructions from the Required Lenders before such transaction), to credit bid all or any portion of the Obligations (including accepting some or all of the Collateral in satisfaction of some or all of the Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code, including under Section 363, 1123 or 1129 of the Bankruptcy Code, or any similar Laws in any other jurisdictions to which an Obligor is subject, (b) at any other sale or foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) Agent (whether by judicial action or otherwise) in accordance with any Applicable Law. In connection with any such credit bid and purchase, the Obligations owed to Secured Parties shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that would vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) in the asset or assets so purchased (or in the Equity Interest or debt instruments of the acquisition vehicle or vehicles that are used to consummate such purchase). In connection with any such bid Agent shall be authorized (i) to form one or more acquisition vehicles to make a bid, (ii) to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or Equity Interest thereof shall be governed, directly or indirectly, by the vote of Required Lenders, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by Required Lenders contained in clauses (a) through (g) of Section 14.1.1 of this Agreement (provided that, in any event, the consent of each Lender shall be required for any amendment that would treat or attempts to treat a Lender or a class of Lenders in a manner different than all other Lenders), and (iii) to the extent that Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of debt credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Lenders pro rata and the Equity Interest and/or debt instruments issued by any acquisition vehicle on account of the Obligations that had been assigned to the acquisition vehicle shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action.

12.3 Reliance By Agent.

a. Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, communication, signature, resolution, representation, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or telephone message, electronic mail message, statement 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 Obligor), independent accountants and other experts selected by Agent. Agent shall have a reasonable and practicable amount of time to act upon any instruction, notice or other communication under any Loan Document and shall not be liable for any delay in acting. Agent shall be fully justified in failing or refusing to take any action under any Loan Document unless it shall first receive such advice or concurrence of Required Lenders as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by Secured Parties against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of Required Lenders (or such greater number of Lenders as may be expressly required hereby in any instance) and such request and any action taken or failure to act pursuant thereto shall be binding upon all Secured Parties. Notwithstanding the foregoing, Agent shall not be required to take, or to omit to take, any action that is, in the opinion of Agent or its counsel, contrary to any Loan Document or Applicable Law.

b. For purposes of determining compliance with the conditions specified in Article 6, each Lender that has signed this Agreement (or an addendum or joinder to this Agreement) shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required hereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

12.4 Action Upon Default. Agent shall not be deemed to have knowledge of any Default or Event of Default, or of any failure to satisfy any conditions in **Section 6**, unless it has received written notice from a Borrower or Required Lenders specifying the occurrence and nature thereof. If a Lender acquires knowledge of a Default, Event of Default or failure of such conditions, it shall promptly notify Agent and the other Lenders thereof in writing. Each Secured Party agrees that, except as otherwise provided in any Loan Documents or with the written consent of Agent and Required Lenders, it will not take any Enforcement Action, accelerate Obligations (other than Secured Bank Product Obligations) or assert any rights relating to any Collateral.

12.5 Ratable Sharing. If any Lender obtains any payment or reduction of any Obligation, whether through set-off or otherwise, in excess of its ratable share of such Obligation, such Lender shall forthwith purchase from Secured Parties participations in the affected Obligation as are necessary to share the excess payment or reduction on a Pro Rata basis or in accordance with **Section 5.6.2**, as applicable. If any of such payment or reduction is thereafter recovered from the purchasing Lender, the purchase shall be rescinded and the purchase price restored to the extent of such recovery, but without interest. Notwithstanding the foregoing, if a Defaulting Lender obtains a payment or reduction of any Obligation, it shall immediately turn over the full amount thereof to Agent for application under **Section 4.2.2** and it shall provide a written statement to Agent describing the Obligation affected by such payment or reduction. No Lender shall set off against a Dominion Account without Agent's prior consent.

12.6 Indemnification. EACH SECURED PARTY SHALL INDEMNIFY AND HOLD HARMLESS AGENT INDEMNITEES AND ISSUING BANK INDEMNITEES, TO THE EXTENT NOT REIMBURSED BY OBLIGORS, ON A PRO RATA BASIS, AGAINST ALL CLAIMS THAT MAY BE INCURRED BY OR ASSERTED AGAINST ANY SUCH INDEMNITEE, PROVIDED THAT ANY CLAIM AGAINST AN AGENT INDEMNITEE RELATES TO OR ARISES FROM ITS ACTING AS OR FOR AGENT (IN THE CAPACITY OF AGENT). In Agent's discretion, it may reserve for any Claims made against an Agent Indemnitee or Issuing Bank Indemnitee, and may satisfy any judgment, order or settlement relating thereto, from proceeds of Collateral prior to making any distribution of Collateral proceeds to Secured Parties. If Agent is sued by any receiver, trustee or other Person for any alleged preference or fraudulent transfer, then any monies paid by Agent in settlement or satisfaction of such proceeding, together with all interest, costs and expenses (including attorneys' fees) incurred in the defense of same, shall be promptly reimbursed to Agent by each Secured Party to the extent of its Pro Rata share. No Lender shall be liable for the payment to any Indemnitee of any portion of such claims to the extent determined in a final, non-appealable judgment by a court of competent jurisdiction to have resulted primarily from such Indemnitee's own gross negligence or willful misconduct; provided, however, that no action taken in furtherance of the directions of Required Lenders shall be deemed to constitute gross negligence or willful misconduct for purposes of this **Section 12.6**. Without limitation of the foregoing, each Lender shall reimburse each Indemnitee upon demand for its ratable share of any costs or out-of-pocket expenses (including attorney costs) incurred by any Indemnitee in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document, or any document contemplated by or referred to herein. The obligations of Lenders hereunder shall not diminish the obligations of Obligors to indemnify and reimburse the Indemnitees for such amounts. Agent may in its discretion first seek payment from Lenders hereunder before seeking payment from the Obligors for such amounts or may seek payments first from Obligors. In any event, any amounts received from Obligors as reimbursement for amounts already reimbursed by Lenders shall be paid to Lenders in accordance with the terms hereof. The undertaking in this **Section 12.6** shall survive the termination of this Agreement and the resignation of the Agent.

12.7 Limitation on Responsibilities of Agent. Agent shall not be liable to any Secured Party for any action taken or omitted to be taken under the Loan Documents, except for losses directly and solely caused by Agent's gross negligence or willful misconduct. Agent does not assume any responsibility for any failure or delay in performance or any breach by any Obligor, Lender or other Secured Party of any obligations under the Loan Documents. Agent does not make any express or implied representation, warranty or guarantee to Secured Parties with respect to any Obligations, Collateral, Liens, Loan Documents or Obligor. Without limitation of the foregoing, no Agent Indemnitee shall be responsible to Secured Parties for any recitals, statements, information, representations or warranties contained in any Loan Documents or Borrower Materials; the execution, validity, genuineness, effectiveness or enforceability of any Loan Documents; the genuineness, enforceability, collectability, value, sufficiency, ownership, state or condition, insurance regarding, location or existence of any Collateral, or the validity, creation, extent, perfection, continuation, or priority of any Lien therein; any assignment or participation of the Obligations, or disclosure of any information to any Secured Party or such Secured Party's representatives or Affiliates; the validity, enforceability or collectability of any Obligations; or the assets, liabilities, financial condition, results of operations, business, creditworthiness or legal status of any Obligor or Account Debtor. No Agent Indemnitee shall have any obligation to any Secured Party to ascertain or inquire into the existence of any Default or Event of Default, the observance by any Obligor of any terms of the Loan Documents, or the satisfaction or waiver of any conditions precedent contained in any Loan Documents. In addition and not in limitation of the foregoing, it is understood and

agreed that in respect of the Collateral, or any act, omission or event related thereto, Agent may act in any manner it may deem appropriate, in its sole discretion, given Agent's own interest in the Collateral in its capacity as one of the Secured Parties, and that Agent shall have no other duty or liability whatsoever to any Secured Party as to any of the foregoing, including, without limitation, the preparation, form or filing of any Uniform Commercial Code financing statement, amendment or continuation or of any other type of document related to the creation, perfection, continuation or priority of any Lien as to property of Obligor.

12.8 Successor Agent and Co-Agents.

12.8.1 Resignation; Successor Agent. Agent may resign at any time by giving at least 10 days written notice thereof to Lenders and Borrowers. Required Lenders may appoint a successor that is (a) a Lender or Affiliate of a Lender; or (b) a financial institution reasonably acceptable to Required Lenders and (provided no Default or Event of Default exists) Borrowers. If no successor is appointed by the effective date of Agent's resignation, then on such date, Agent may appoint a successor acceptable to it in its discretion (which shall be a Lender unless no Lender accepts the role) or, in the absence of such appointment, Required Lenders shall automatically assume all rights and duties of Agent. The successor Agent shall thereupon succeed to and become vested with all the powers and duties of the retiring Agent without further act. The retiring Agent shall be discharged from its duties hereunder on the effective date of its resignation, but shall continue to have all rights and protections available to Agent under the Loan Documents with respect to actions, omissions, circumstances or Claims relating to or arising while it was acting or transferring responsibilities as Agent or holding any Collateral on behalf of Secured Parties, including the indemnification set forth in **Sections 12.6 and 14.2**, and all rights and protections under this **Section 12**. Any successor to CNC by merger or acquisition of stock or this loan shall continue to be Agent hereunder without further act on the part of any Secured Party or Obligor.

12.8.2 Co-Collateral Agent. If appropriate under Applicable Law, Agent may appoint a Person to serve as a co-collateral agent or separate collateral agent under any Loan Document. Each right, remedy and protection intended to be available to Agent under the Loan Documents shall also be vested in such agent. Secured Parties shall execute and deliver any instrument or agreement that Agent may request to effect such appointment. If any such agent shall die, dissolve, become incapable of acting, resign or be removed, then all the rights and remedies of the agent, to the extent permitted by Applicable Law, shall vest in and be exercised by Agent until appointment of a new agent.

12.9 Due Diligence and Non-Reliance. Each Lender acknowledges and agrees that it has, independently and without reliance upon Agent or any other Lenders, and based upon such documents, information and analyses as it has deemed appropriate, made its own credit analysis of each Obligor and its own decision to enter into this Agreement and to fund Loans and participate in LC Obligations hereunder. Each Secured Party has made such inquiries as it feels necessary concerning the Loan Documents, Collateral and Obligors. Each Secured Party acknowledges and agrees that the other Secured Parties have made no representations or warranties concerning any Obligor, any Collateral or the legality, validity, sufficiency or enforceability of any Loan Documents or Obligations. Each Secured Party will, independently and without reliance upon any other Secured Party, and based upon such financial statements, documents and information as it deems appropriate at the time, continue to make and rely upon its own credit decisions in making Loans and participating in LC Obligations, and in taking or refraining from any action under any Loan Documents. Except for notices, reports and other information expressly required to be furnished to the Lenders by Agent by this Agreement, no Agent Indemnitee shall have any duty or responsibility to provide any Secured Party with any notices, reports or certificates furnished to any Agent Indemnitee by any Obligor or any credit or other information concerning the affairs, financial condition, credit worthiness, business or Properties of any Obligor (or any of its Affiliates) which may come into possession of any Agent Indemnitee or its Affiliates.

12.10 Remittance of Payments and Collections.

12.10.1 Remittances Generally. Payments by any Secured Party to Agent shall be made by the time and date provided herein, in immediately available funds. If no time for payment is specified or if payment is due on demand and request for payment is made by Agent by 1:00 p.m. on a Business Day, then payment shall be made by the Secured Party by 3:00 p.m. on such day, and if request is made after 1:00 p.m., then payment shall be made by 11:00 a.m. on the next Business Day. Payment by Agent to any Secured Party shall be made by wire transfer, in the type of funds received by Agent. Any such payment shall be subject to Agent's right of offset for any amounts due from such payee under the Loan Documents.

12.10.2 Failure to Pay. If any Secured Party fails to deliver when due any amount payable by it to Agent hereunder, such amount shall bear interest, from the due date until paid in full, at the greater of the Federal Funds Rate or the rate determined by Agent as customary for interbank compensation for two Business Days and thereafter at the Default Rate for Base Rate Revolver Loans. In no event shall Borrowers be entitled to credit for any

interest paid by a Secured Party to Agent, nor shall a Defaulting Lender be entitled to interest on amounts held by Agent pursuant to **Section 4.2**.

12.10.3 Recovery of Payments. If Agent pays an amount to a Secured Party in the expectation that a related payment will be received by Agent from an Obligor and such related payment is not received, then Agent may recover such amount from the Secured Party. If Agent determines that an amount received by it must be returned or paid to an Obligor or other Person pursuant to Applicable Law or otherwise, then Agent shall not be required to distribute such amount to any Secured Party. If Agent is required to return any amounts applied by it to Obligations held by a Secured Party, such Secured Party shall pay to Agent, **on demand**, its share of the amounts required to be returned.

12.11 Individual Capacities. As a Lender, CNC shall have the same rights and remedies under the Loan Documents as any other Lender, and the terms “Lenders,” “Required Lenders” or any similar term shall include CNC in its capacity as a Lender. Agent, Lenders and their Affiliates may accept deposits from, lend money to, provide Bank Products to, act as financial or other advisor to, and generally engage in any kind of business with, Obligors and their Affiliates, as if they were not Agent or Lenders hereunder, without any duty to account therefor to any Secured Party. In their individual capacities, Agent, Lenders and their Affiliates may receive information regarding Obligors, their Affiliates and their Account Debtors (including information subject to confidentiality obligations), and shall have no obligation to provide such information to any Secured Party.

12.12 Titles. Each Lender, other than CNC, that is designated in connection with this credit facility as an “Arranger,” “Bookrunner” or “Agent” of any kind shall have no right or duty under any Loan Documents other than those applicable to all Lenders, and shall in no event have any fiduciary duty to any Secured Party.

12.13 Bank Product Providers. Each Secured Bank Product Provider, by delivery of a notice to Agent of a Bank Product, agrees to be bound by the Loan Documents, including **Sections 5.6, 14.3.3 and 12**. Each Secured Bank Product Provider shall indemnify and hold harmless Agent Indemnitees, to the extent not reimbursed by Obligors, against all Claims that may be incurred by or asserted against any Agent Indemnitee in connection with such provider’s Secured Bank Product Obligations.

12.14 Flood Laws. Agent has adopted internal policies and procedures that address requirements under Flood Laws. Agent may post on the Platform (or otherwise distribute to each Lender in the syndicate) documents that it receives in connection with the Flood Laws. However, Agent reminds each Lender and Participant in the facility that, pursuant to the Flood Laws, each federally regulated Lender (whether acting as a Lender or Participant in the credit facility) is responsible for assuring its own compliance with Flood Laws, and Agent disclaims any liability in connection with the failure of any such Lender or Participant to comply with Flood Laws and flood insurance requirements.

12.15 No Third Party Beneficiaries. This **Section 12** is an agreement solely among Secured Parties and Agent, and shall survive Full Payment of the Obligations. This **Section 12** does not confer any rights or benefits upon Borrowers or any other Person. As between Borrowers and Agent, any action that Agent may take under any Loan Documents or with respect to any Obligations shall be conclusively presumed to have been authorized and directed by Secured Parties.

12.16 Certain ERISA Matters.

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

a. such Lender is not using “plan assets” (within the meaning of Section 3(42) of ERISA or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) of one or more benefit plans with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Commitments or this Agreement;

b. the prohibited transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for

certain transactions determined by in-house asset managers), is applicable so as to exempt from the prohibitions of Section 406 of ERISA and Section 4975 of the Code such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement;

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

d. such other representation, warranty and covenant as may be agreed in writing between Agent, in its sole discretion, and such Lender.

12.16.2 In addition, unless either (1) sub-clause (i) in the immediately preceding clause (c) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (c), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, Agent and not, for the avoidance of doubt, to or for the benefit of the Borrowers, that Agent is not a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

12.17 Recovery of Payments; Presumption by Agent.

12.17.1 If Agent determines that an amount received by it must be returned or paid to an Obligor or other Person pursuant to Applicable Law or otherwise, then, notwithstanding any other term of any Loan Document, Agent shall not be required to distribute such amount to any Secured Party. If any amounts received and applied by Agent to any Obligations are later required to be returned by Agent pursuant to Applicable Law, each Lender shall pay to Agent, on demand, such Lender's Pro Rata share of the amounts required to be returned.

12.17.2 Unless Agent shall have received notice from Borrower Agent prior to the date on which any payment is due to Agent for the account of the Lenders or hereunder that the Borrowers will not make such payment, Agent may assume that the Borrowers have made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders the amount due.

12.17.3 With respect to any payment that Agent makes for the account of the Lenders hereunder as to which Agent determines (which determination shall be conclusive absent manifest error) that any of the following applies (such payment referred to as the "**Rescindable Amount**"): (1) the Borrowers have not in fact made such payment; (2) Agent has made a payment in excess of the amount so paid by Borrowers (whether or not then owed); or (3) Agent has for any reason otherwise erroneously made such payment; then each of the Lenders severally agrees to repay to Agent forthwith on demand the Rescindable Amount so distributed to such Lender or, in immediately available funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to Agent, at the greater of the Federal Funds Rate and a rate determined by Agent in accordance with banking industry rules on interbank compensation. A notice of Agent to any Lender or the Borrower Agent with respect to any amount owing under this **Section 12.17** shall be conclusive, absent manifest error.

12.17.4 Without limitation of any other provision in this Agreement, if at any time Agent makes a payment hereunder in error to any Lender (the "**Credit Party**"), whether or not in respect of an Obligation due and owing by Borrowers at such time, where such payment is a Rescindable Amount, then in any such event, each Credit Party receiving a Rescindable Amount severally agrees to repay to Agent forthwith on demand the Rescindable Amount received by such Credit Party in immediately available funds in the currency so received, with interest thereon, for each day from and including the date such Rescindable Amount is received by it to but excluding the date of payment to Agent, at the greater of the Federal Funds Rate and a rate determined by Agent in accordance with banking industry rules on interbank compensation. Each Credit Party irrevocably waives any and all defenses, including any "discharge for value" (under which a creditor might otherwise claim a right to retain funds mistakenly paid by a third party in respect of a debt owed by another) or similar defense to its obligation to return any Rescindable Amount. Agent shall inform each Credit Party promptly upon determining that any payment made to such Credit Party comprised, in whole or in part, a Rescindable Amount.

SECTION 13. BENEFIT OF AGREEMENT; ASSIGNMENTS

13.1 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Obligors, Agent, Lenders, Secured Parties, and their respective successors and assigns, except that (a) no Obligor shall have the right to assign its rights or delegate its obligations under any Loan Documents; and (b) any assignment by a Lender must be made in compliance with **Section 13.3**. Agent may treat the Person which made any Loan as the owner thereof for all purposes until such Person makes an assignment in accordance with **Section 13.3**. Any authorization or consent of a Lender shall be conclusive and binding on any subsequent transferee or assignee of such Lender.

13.2 Participations.

13.2.1 Permitted Participants; Effect. Subject to **Section 13.3.3**, any Lender may sell to a financial institution ("**Participant**") a participating interest in the rights and obligations of such Lender under any Loan Documents. Despite any sale by a Lender of participating interests to a Participant, such Lender's obligations under the Loan Documents shall remain unchanged, it shall remain solely responsible to the other parties hereto for performance of such obligations, it shall remain the holder of its Loans and Commitments for all purposes, all amounts payable by Borrowers shall be determined as if it had not sold such participating interests, and Borrowers and Agent shall continue to deal solely and directly with such Lender in connection with the Loan Documents. Each Lender shall be solely responsible for notifying its Participants of any matters under the Loan Documents, and Agent and the other Lenders shall not have any obligation or liability to any such Participant. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of **Section 5.9** unless Borrowers agree otherwise in writing.

13.2.2 Voting Rights. Each Lender shall retain the sole right to approve, without the consent of any Participant, any amendment, waiver or other modification of a Loan Document other than that which forgives principal, interest or fees, reduces the stated interest rate or fees payable with respect to any Loan or Commitment in which such Participant has an interest, postpones the Commitment Termination Date or any date fixed for any regularly scheduled payment of principal, interest or fees on such Loan or Commitment, or releases any Borrower, Guarantor or substantially all Collateral.

13.2.3 Participant Register. Each Lender that sells a participation shall, acting as a non-fiduciary agent of Borrowers (solely for tax purposes), maintain a register ("**Participant Register**") in which it enters the Participant's name, address and interest in Commitments and Loans (and stated interest) and LC Obligations. Entries in the Participant Register shall be conclusive, absent manifest error, and such Lender shall treat each Person recorded in the Participant Register as the owner of the participation for all purposes, notwithstanding any notice or knowledge to the contrary. No Lender shall have an obligation to disclose any information in such Participant Register except to the extent necessary to establish that a Participant's interest is in registered form under the Code. For avoidance of doubt, Agent (in its capacity as Agent) shall have no responsibility for maintaining a Participant Register.

13.2.4 Benefit of Setoff. Each Participant shall have a right of set-off in respect of its participating interest to the same extent as if such interest were owing directly to a Lender, and each Lender shall also retain the right of set-off with respect to any participating interests sold by it. By exercising any right of set-off, a Participant agrees to share with Lenders all amounts received through its set-off, in accordance with **Section 12.5** as if such Participant were a Lender.

13.3 Assignments.

13.3.1 Permitted Assignments. A Lender may assign to an Eligible Assignee any of its rights and obligations under the Loan Documents, as long as (a) each assignment is of a constant, and not a varying, percentage of the transferor Lender's rights and obligations under the Loan Documents and, in the case of a partial assignment, is in a minimum principal amount of \$10,000,000 (unless otherwise agreed by Agent in its discretion or in the case of an assignment in whole of a Lender's rights and obligations) and integral multiples of \$1,000,000 in excess of that amount; (b) except in the case of an assignment in whole of a Lender's rights and obligations, the aggregate amount of the Commitments retained by the transferor Lender is at least \$10,000,000 (unless otherwise agreed by Agent in its discretion); and (c) the parties to each such assignment shall execute and deliver an Assignment to Agent for acceptance and recording. Nothing herein shall limit the right of a Lender to pledge or assign any rights under the Loan Documents to secure obligations of such Lender, including a pledge or assignment to a Federal Reserve Bank; provided, however, that no such pledge or assignment shall release the Lender from its obligations hereunder nor substitute the pledge or assignee for such Lender as a party hereto.

13.3.2 Effect; Effective Date. Upon delivery to Agent of an Assignment Notice and a processing fee of \$3,500 (unless otherwise agreed by Agent in its discretion), the assignment shall become effective as specified in the notice, if it complies with this **Section 13.3**. From such effective date, the Eligible Assignee shall for all purposes be a Lender under the Loan Documents, and shall have all rights and obligations of a Lender thereunder. Upon consummation of an assignment, the transferor Lender, Agent and Borrowers shall make appropriate arrangements for issuance of replacement and/or new notes, if applicable. The transferee Lender shall comply with **Section 5.10** and deliver, upon request, an administrative questionnaire satisfactory to Agent.

13.3.3 Certain Assignees. No assignment or participation may be made to an Obligor, Affiliate of an Obligor, Defaulting Lender, natural person or, except during the occurrence and continuance of an Event of Default under **Section 11.1(a)** or **Section 11.1(j)**, any Disqualified Institution. Agent shall have no obligation to determine whether any assignment is permitted under the Loan Documents or whether any assignment has been properly effectuated pursuant to this Agreement. Any assignment by a Defaulting Lender must be accompanied by satisfaction of its outstanding obligations under the Loan Documents in a manner satisfactory to Agent, including payment by the Defaulting Lender or Eligible Assignee of an amount sufficient upon distribution (through direct payment, purchases of participations or other methods acceptable to Agent in its discretion) to satisfy all funding and payment liabilities of the Defaulting Lender. If any assignment by a Defaulting Lender (by operation of law or otherwise) does not comply with the foregoing, the assignee shall be deemed a Defaulting Lender for all purposes until compliance occurs.

13.3.4 Register. Agent, acting as a non-fiduciary agent of Borrowers (solely for tax purposes), shall maintain (a) a copy (or electronic equivalent) of each Assignment and Acceptance delivered to it, and (b) a register for recordation of the names, addresses and Commitments of, and the Loans (including principal and stated interest) and LC Obligations owing to, each Lender. Entries in the register shall be conclusive, absent manifest error, and Borrowers, Agent and Lenders shall treat each Person recorded in such register as a Lender for all purposes under the Loan Documents, notwithstanding any notice or knowledge to the contrary; provided that failure to make any such recordation, or any error in such recordation, shall not affect any Lender's commitments or any Borrower's or other Obligor's Obligations in respect of any Loan or Letter of Credit. Agent may choose to show only one Borrower as the borrower in the register, without any effect on the liability of any Obligor with respect to the Obligations. The register shall be available for inspection by Borrowers or any Lender, from time to time upon reasonable notice. The Obligors hereby agree that Agent and the other Agent Indemnitees constitute Indemnities pursuant to **Section 14.2** in connection with this register and all of their respective actions and activities and failures to act in connection therewith.

13.4 Replacement of Certain Lenders. If a Lender (a) within the last 120 days failed to give its consent to any amendment, waiver or action for which consent of all Lenders was required and Required Lenders consented, (b) is a Defaulting Lender, or (c) within the last 120 days gave a notice under **Section 3.5** or requested payment or compensation under **Section 3.7** or **5.9** (and has not designated a different Lending Office pursuant to **Section 3.8**), then Agent or Borrower Agent may, upon 10 days notice to such Lender, require it to assign its rights and obligations under the Loan Documents to Eligible Assignee(s), pursuant to appropriate Assignment(s), within 20 days after the notice. Agent is irrevocably appointed as attorney-in-fact to execute any such Assignment if the Lender fails to execute it. Such Lender shall be entitled to receive, in cash, concurrently with such assignment, all amounts owed to it under the Loan Documents through the date of assignment.

SECTION 14. MISCELLANEOUS

14.1 Consents, Amendments and Waivers.

14.1.1 Amendment. No modification of any Loan Document, including any extension or amendment of a Loan Document or any waiver of a Default or Event of Default, shall be effective without the prior written agreement of Agent (with the consent of Required Lenders) and each Obligor party to such Loan Document; provided, however, that:

a. (i) without the prior written consent of Agent, no modification shall alter any provision in a Loan Document that relates to any rights, duties or discretion of Agent and (ii) without the prior written consent of Swingline Lender, no modification shall alter any provision in the Loan Documents that relates to any rights, duties or discretion of Swingline Lender;

b. without the prior written consent of each affected Lender, including a Defaulting Lender, no modification shall (i) increase the Commitment of such Lender; (ii) reduce the amount of, or waive or delay payment of, any principal, interest or fees payable to such Lender (except as provided in **Section 4.2**); (iii) extend the Revolver Termination Date or Term Loan Maturity Date applicable to such Lender's Obligations; or (iv) amend this clause(c);

provided, however, that only the consent of Required Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrowers to pay interest at the Default Rate;

c. without the prior written consent of Issuing Bank, no modification shall alter **Section 2.3** or any other provision in a Loan Document that relates to Letters of Credit or any rights, duties or discretion of Issuing Bank;

d. without the prior written consent of Super-Majority Lenders (except any Defaulting Lender), no modification shall (i) alter **Section 5.6.2, 7.1** (except to add Collateral) or **14.1.1**; (ii) amend the definition of Borrowing Base or Accounts Formula Amount (or any defined term used in such definitions) if the effect of such amendment is to increase borrowing availability, Pro Rata or Required Lenders or Super-Majority Lenders; (iii) release all or substantially all Collateral; or (iv) except in connection with a merger, disposition or similar transaction expressly permitted hereby, release any Obligor from liability for any Obligations;

e. without the prior written consent of all Lenders (except any Defaulting Lenders) no modification shall consensually subordinate the Liens of Agent on the Collateral or consensually subordinate the Obligations to other Debt (except (x) in accordance with (i) this Agreement as in effect on the date hereof or (ii) financing to one or more Obligors pursuant to Section 364 of the Bankruptcy Code or any similar Insolvency Proceeding or (y) with the consent of Super-Majority Lenders, permit the incurrence of a first in tranche of revolving loans);

f. without the prior written consent of all Lenders, no modification shall alter the first sentence of **Section 13.3.1** hereof; and

g. without the prior written consent of a Secured Bank Product Provider, no modification shall affect its relative payment priority under **Section 5.6.2**.

provided, further, that Borrower Agent and Agent may amend this Agreement or any other Loan Document without the consent of Lenders (unless the Required Lenders object in writing within five (5) Business Days of notice by Agent of such amendment) in order to (A) correct, amend or cure any ambiguity, inconsistency or defect or correct any typographical error or other manifest error in any Loan Document, (B) comply with local applicable law or advice of local counsel in any jurisdiction the applicable laws of which govern any Security Document or that are relevant to the creation, perfection, protection and/or priority of any Lien in favor of Agent, (C) effect the granting, perfection, protection, expansion or enhancement of any security interest or Lien in any Collateral or additional Property to become Collateral for the benefit of the Secured Parties, (D) make administrative or operational changes not adverse to any Lender, (E) add a Guarantor or Collateral or otherwise enhance the rights and benefits of the Lenders or (E) effect amendments to this Agreement and the other Loan Documents as may be necessary in the opinion of Agent to effect any increase of any Commitments hereunder.

14.1.2 Limitations. The agreement of Obligors shall not be required for any modification of a Loan Document that deals solely with the rights and duties of Lenders, Agent and/or Issuing Bank as among themselves. Only the consent of the parties to any agreement relating to fees or a Bank Product shall be required for modification of such agreement, and no Bank Product provider (in such capacity) shall have any right to consent to modification of any Loan Document other than its Bank Product agreement. Any waiver or consent granted by Agent or Lenders hereunder shall be effective only if in writing and only for the matter specified.

14.1.3 Payment for Consents. No Obligor will, directly or indirectly, pay any remuneration or other thing of value, whether by way of additional interest, fee or otherwise, to any Lender (in its capacity as a Lender hereunder) as consideration for agreement by such Lender with any modification of any Loan Documents, unless such remuneration or value is concurrently paid, on the same terms, on a Pro Rata basis to all Lenders providing their consent.

14.2 Indemnity. EACH OBLIGOR SHALL INDEMNIFY AND HOLD HARMLESS THE INDEMNITEES AGAINST ANY CLAIMS THAT MAY BE INCURRED BY OR ASSERTED AGAINST ANY INDEMNITEE, INCLUDING CLAIMS ASSERTED BY ANY OBLIGOR OR OTHER PERSON OR ARISING FROM THE NEGLIGENCE OF AN INDEMNITEE. Notwithstanding anything to the contrary set forth herein, in no event shall any Obligor have any obligation to indemnify or hold harmless an Indemnatee with respect to a Claim that (i) results from the gross negligence or willful misconduct by such Indemnatee, in each case, as determined by a final non-appealable judgment of a court of competent jurisdiction or (ii) arises out of any claim, litigation, investigation or proceeding brought by such Indemnatee against another Indemnatee (other than any claim, litigation, investigation or proceeding (x) that is brought by or against the Agent, acting in its capacity or fulfilling its role as the Agent or similar role and (y) that does not involve any act or omission of the Borrowers or any Subsidiary). Without limiting the

generality of any provision of this **Section 14.2**, to the fullest extent permitted by law, each Obligor hereby waives all rights for contribution or any other rights of recovery with respect to liabilities, losses, damages, costs and expenses arising under or relating to Environmental Laws or any other Applicable Law that it might have by statute or otherwise against any Indemnitee, except to the extent that such items are determined by a final and non-appealable decision of a court of competent jurisdiction to have resulted primarily from the gross negligence or willful misconduct of such Indemnitee. No Obligor shall, without the prior written consent of each applicable Indemnitee, effect any settlement of any pending or threatened proceedings in respect of which indemnity could have been sought hereunder by such Indemnitee unless such settlement (a) includes an unconditional release of such Indemnitee in form and substance satisfactory to such Indemnitee from all liability or claims that are the subject matter of such proceedings and (b) does not include any statement as to or any admission of fault, culpability, wrong doing or a failure to act by or on behalf of any Indemnitee. This **Section 14.2** shall not apply with respect to Taxes other than any Taxes that represent losses, claims or damages arising from any non-Tax claim.

14.3 Notices and Communications.

14.3.1 **Notice Address.** Subject to **Section 14.3.2**, all notices and other communications by or to a party hereto shall be in writing and shall be given to any Obligor, at Borrower Agent's address shown on the signature pages hereof, and to any other Person at its address shown on the signature pages hereof (or, in the case of a Person who becomes a Lender after the Closing Date, at the address shown on its Assignment), or at such other address as a party may hereafter specify by notice in accordance with this **Section 14.3**. Each communication shall be effective only (a) if given by facsimile transmission, when transmitted to the applicable facsimile number, if confirmation of receipt is received; (b) if given by mail, three Business Days after deposit in the U.S. mail, with first-class postage pre-paid, addressed to the applicable address; (c) if given by personal delivery, when duly delivered to the notice address with receipt acknowledged; or (d) if given by e-mail, when sent (except that, if not given during normal business hours for the recipient, such notices or other communications shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notwithstanding the foregoing, no notice to Agent pursuant to **Section 2.1.4, 3.1.2, 4.1.1** or **5.3.3** shall be effective until actually received by the individual to whose attention at Agent such notice is required to be sent. Any written communication that is not sent in conformity with the foregoing provisions shall nevertheless be effective on the date actually received by the noticed party. Any notice received by Borrower Agent shall be deemed received by all Borrowers.

14.3.2 **Communications.** Electronic and telephonic communications (including e-mail, messaging, voice mail and websites) may be used. Secured Parties make no assurance as to the privacy or security of electronic or telephonic communications. Except where expressly provided in this Agreement or any other Loan Document, e-mail and voice mail shall not be effective notices under the Loan Documents unless the sender shall have received an acknowledgement of such e-mail or voice mail by return e-mail, telephone call or voice mail.

14.3.3 **Platform.** Borrower Materials shall be delivered pursuant to procedures approved by Agent, including electronic delivery (if possible) upon request by Agent to an electronic system maintained by Agent ("**Platform**"). Borrowers shall notify Agent of each posting of Borrower Materials on the Platform and the materials shall be deemed received by Agent only upon its receipt of such notice. Borrower Materials and other information relating to this credit facility may be made available to Secured Parties on the Platform. The Platform is provided "as is" and "as available." Agent does not warrant the accuracy or completeness of any information on the Platform nor the adequacy or functioning of the Platform, and expressly disclaims liability for any errors or omissions in the Borrower Materials or any issues involving the Platform. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY AGENT WITH RESPECT TO BORROWER MATERIALS OR THE PLATFORM. No Agent Indemnitee shall have any liability to Borrowers, Secured Parties or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) relating to use by any Person of the Platform, including any unintended recipient, nor for delivery of Borrower Materials and other information via the Platform, internet, e-mail, or any other electronic platform or messaging system.

14.3.4 **Public Information.** Obligors and Secured Parties acknowledge that "public" information may not be segregated from material non-public information on the Platform. Secured Parties acknowledge that Borrower Materials may include Obligors' material non-public information, and should not be made available to personnel who do not wish to receive such information or may be engaged in investment or other market-related activities with respect to an Obligor's securities.

14.3.5 **Non-Conforming Communications.** Agent and Lenders may rely upon any communications purportedly given by or on behalf of any Obligor even if they were not made in a manner specified herein, were incomplete or were not confirmed, or if the terms thereof, as understood by the recipient, varied from a

later confirmation. Subject to the limitations set forth in **Section 14.2**, each Obligor shall indemnify and hold harmless each Indemnatee from any liabilities, losses and documented costs and expenses arising from any electronic or telephonic communication purportedly given by or on behalf of an Obligor.

14.4 Performance of Obligors' Obligations. Agent may, in its discretion at any time and from time to time, at Borrowers' expense, pay any amount or do any act required of an Obligor under any Loan Documents or otherwise lawfully requested by Agent to (a) enforce any Loan Documents or collect any Obligations; (b) protect, insure, maintain or realize upon any Collateral; or (c) defend or maintain the validity or priority of Agent's Liens in any Collateral, including any payment of a judgment, insurance premium, warehouse charge, finishing or processing charge, or landlord claim, or any discharge of a Lien. All payments, costs and expenses (including Extraordinary Expenses) of Agent under this Section shall be reimbursed to Agent by Borrowers, **on demand**, with interest from the date incurred until paid in full, at the Default Rate applicable to Base Rate Revolver Loans. Any payment made or action taken by Agent under this Section shall be without prejudice to any right to assert an Event of Default or to exercise any other rights or remedies under the Loan Documents.

14.5 Credit Inquiries. Agent and Lenders may (but shall have no obligation) to respond to usual and customary credit inquiries from third parties concerning any Obligor or Subsidiary.

14.6 Severability. Wherever possible, each provision of the Loan Documents shall be interpreted in such manner as to be valid under Applicable Law. If any provision is found to be invalid under Applicable Law, it shall be ineffective only to the extent of such invalidity and the remaining provisions of the Loan Documents shall remain in full force and effect.

14.7 Cumulative Effect; Conflict of Terms. The provisions of the Loan Documents are cumulative. The parties acknowledge that the Loan Documents may use several limitations or measurements to regulate similar matters, and they agree that these are cumulative and that each must be performed as provided. Except as otherwise provided in another Loan Document (by specific reference to the applicable provision of this Agreement), if any provision contained herein is in direct conflict with any provision in another Loan Document, the provision herein shall govern and control.

14.8 Counterparts; Execution. Any Loan Document may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement shall become effective when Agent has received counterparts bearing the signatures of all parties hereto. Agent may (but shall have no obligation to) accept any signature, contract formation or record-keeping through electronic means, which shall have the same legal validity and enforceability as manual or paper-based methods, to the fullest extent permitted by Applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any similar state law based on the Uniform Electronic Transactions Act. Upon request by Agent, any electronic signature or delivery shall be promptly followed by a manually executed or paper document.

14.9 Entire Agreement. Time is of the essence with respect to all Loan Documents and Obligations. The Loan Documents constitute the entire agreement, and supersede all prior understandings and agreements, among the parties relating to the subject matter thereof.

14.10 Relationship with Lenders. The obligations of each Lender hereunder are several, and no Lender shall be responsible for the obligations or Commitments of any other Lender. Amounts payable hereunder to each Lender shall be a separate and independent debt. It shall not be necessary for Agent or any other Lender to be joined as an additional party in any proceeding for such purposes. Nothing in this Agreement and no action of Agent, Lenders or any other Secured Party pursuant to the Loan Documents or otherwise shall be deemed to constitute Agent and any Secured Party to be a partnership, joint venture or similar arrangement, nor to constitute control of any Obligor.

14.11 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated by any Loan Document, Obligors acknowledge and agree that (a)(i) this credit facility and any arranging or other services by Agent, any Lender, any of their Affiliates or any arranger are arm's-length commercial transactions between Obligors and their Affiliates, on one hand, and Agent, any Lender, any of their Affiliates or any arranger, on the other hand; (ii) Obligors have consulted their own legal, accounting, regulatory and tax advisors to the extent they have deemed appropriate; and (iii) Obligors are capable of evaluating, and understand and accept, the terms, risks and conditions of the transactions contemplated by the Loan Documents; (b) each of Agent, Lenders, their Affiliates and any arranger is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for Obligors, their Affiliates or any other Person, and has no obligation with respect to the transactions contemplated by the Loan Documents except as expressly set forth therein; and (c) Agent, Lenders, their Affiliates and any arranger may be engaged in a broad range of

transactions that involve interests that differ from those of Obligor and their Affiliates, and have no obligation to disclose any of such interests to Obligor or their Affiliates. To the fullest extent permitted by Applicable Law, each Obligor hereby waives and releases any claims that it may have against Agent, Lenders, their Affiliates and any arranger with respect to any breach of agency or fiduciary duty in connection with any transaction contemplated by a Loan Document.

14.12 Confidentiality. Each of Agent, Lenders and Issuing Bank shall maintain the confidentiality of all Information (as defined below), except that Information may be disclosed (a) to its Affiliates and Approved Funds, and to its and their partners, directors, officers, employees, agents, advisors and representatives (provided they are informed of the confidential nature of the Information and instructed to keep it confidential); (b) to the extent requested by any governmental, regulatory or self-regulatory authority purporting to have jurisdiction over it or its Affiliates and Approved Funds; (c) to the extent required by Applicable Law or by any subpoena or other legal process; (d) to any other party hereto; (e) in connection with the exercise of remedies hereunder or under any other Loan Document or any action or proceeding relating to any Loan Documents or Obligations; (f) subject to an agreement containing provisions substantially the same as this Section, to any Transferee or any actual or prospective party (or its advisors) to any Bank Product or to any swap, derivative or other transaction under which payments are to be made by reference to an Obligor or Obligor's obligations; (g) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) is available to Agent, Issuing Bank, any Lender or any of their Affiliates on a nonconfidential basis from a source other than Obligor; (h) on a confidential basis to a provider of a Platform; or (i) with the consent of Borrower Agent. Notwithstanding the foregoing, Agent and Lenders may publish or disseminate general information concerning this credit facility for league table, tombstone and advertising purposes, and may use Borrowers' logos, trademarks or product photographs in advertising materials. As used herein, "**Information**" means information received from an Obligor or Subsidiary relating to it or its business that is identified as confidential when delivered. A Person required to maintain the confidentiality of Information pursuant to this Section shall be deemed to have complied if it exercises a degree of care similar to that accorded its own confidential information. Each of Agent, Issuing Bank and Lenders acknowledges that (i) Information may include material non-public information; (ii) it has developed compliance procedures regarding the use of such information; and (iii) it will handle the material non-public information in accordance with Applicable Law.

14.13 GOVERNING LAW. UNLESS EXPRESSLY PROVIDED IN ANY LOAN DOCUMENT, THIS AGREEMENT, THE OTHER LOAN DOCUMENTS AND ALL CLAIMS SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO ANY CONFLICT OF LAW PRINCIPLES EXCEPT FEDERAL LAWS RELATING TO NATIONAL BANKS.

14.14 Consent To Forum.

14.14.1 Forum. EACH OBLIGOR HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION OF ANY STATE COURT SITTING IN NEW YORK COUNTY, NEW YORK, OR THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, IN ANY DISPUTE, ACTION, LITIGATION OR OTHER PROCEEDING RELATING IN ANY WAY TO ANY LOAN DOCUMENTS, AND AGREES THAT ANY DISPUTE, ACTION, LITIGATION OR OTHER PROCEEDING SHALL BE BROUGHT BY IT SOLELY IN ANY SUCH COURT. EACH OBLIGOR IRREVOCABLY AND UNCONDITIONALLY WAIVES ALL CLAIMS, OBJECTIONS AND DEFENSES THAT IT MAY HAVE REGARDING ANY SUCH COURT'S PERSONAL OR SUBJECT MATTER JURISDICTION, VENUE OR INCONVENIENT FORUM. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 14.3.1. A final judgment in any proceeding of any such court shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or any other manner provided by Applicable Law.

14.14.2 Other Jurisdictions. Nothing herein shall limit the right of Agent or any Lender to bring proceedings against any Obligor in any other court, nor limit the right of any party to serve process in any other manner permitted by Applicable Law. Nothing in this Agreement shall be deemed to preclude enforcement by Agent of any judgment or order obtained in any forum or jurisdiction.

14.14.3 IN THE EVENT THAT ANY ACTION OR PROCEEDING IS COMMENCED OR MAINTAINED IN ANY COURT IN THE STATE OF CALIFORNIA WITH RESPECT TO ANY CONTROVERSY, DISPUTE OR CLAIM (EACH, A "CONTROVERSY") BETWEEN ANY OF THE PARTIES TO THIS AGREEMENT IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith, OR THE TRANSACTIONS RELATED HERETO OR THERETO, AND THE

WAIVER OF JURY TRIAL SET FORTH IN SECTION 14.15 IS NOT ENFORCEABLE, AND EACH PARTY TO SUCH ACTION DOES NOT SUBSEQUENTLY WAIVE, IN AN EFFECTIVE MANNER UNDER CALIFORNIA LAW, ITS RIGHT TO A TRIAL BY JURY, THE PARTIES HERETO HEREBY ELECT TO PROCEED AS FOLLOWS:

i. WITH THE EXCEPTION OF THE ITEMS SPECIFIED IN CLAUSE (ii) BELOW, ALL CONTROVERSIES WILL BE RESOLVED BY A REFERENCE PROCEEDING IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS 638, ET SEQ. OF THE CALIFORNIA CODE OF CIVIL PROCEDURE (“CCP”), OR THEIR SUCCESSOR SECTIONS, WHICH SHALL CONSTITUTE THE EXCLUSIVE REMEDY FOR THE RESOLUTION OF ANY CONTROVERSY, INCLUDING WHETHER THE CONTROVERSY IS SUBJECT TO THE REFERENCE PROCEEDING. EXCEPT AS OTHERWISE PROVIDED ABOVE, VENUE FOR THE REFERENCE PROCEEDING WILL BE IN ANY COURT IN WHICH VENUE IS APPROPRIATE UNDER APPLICABLE LAW (THE “COURT”).

ii. THE MATTERS THAT SHALL NOT BE SUBJECT TO A REFERENCE ARE THE FOLLOWING: (A) NON-JUDICIAL FORECLOSURE OF ANY SECURITY INTERESTS IN REAL OR PERSONAL PROPERTY; (B) EXERCISE OF SELF HELP REMEDIES (INCLUDING SET-OFF); (C) APPOINTMENT OF A RECEIVER; AND (D) TEMPORARY, PROVISIONAL OR ANCILLARY REMEDIES (INCLUDING WRITS OF ATTACHMENT, WRITS OF POSSESSION, TEMPORARY RESTRAINING ORDERS OR PRELIMINARY INJUNCTIONS). THIS AGREEMENT DOES NOT LIMIT THE RIGHT OF ANY PARTY TO EXERCISE OR OPPOSE ANY OF THE RIGHTS AND REMEDIES DESCRIBED IN CLAUSES (A) AND (B) OR TO SEEK OR OPPOSE FROM A COURT OF COMPETENT JURISDICTION ANY OF THE ITEMS DESCRIBED IN CLAUSES (C) AND (D). THE EXERCISE OF, OR OPPOSITION TO, ANY OF THOSE ITEMS DOES NOT WAIVE THE RIGHT OF ANY PARTY TO A REFERENCE PURSUANT TO THIS AGREEMENT.

iii. THE REFEREE SHALL BE A RETIRED JUDGE OR JUSTICE SELECTED BY MUTUAL WRITTEN AGREEMENT OF THE PARTIES. IF THE PARTIES DO NOT AGREE WITHIN TEN (10) DAYS OF A WRITTEN REQUEST TO DO SO BY ANY PARTY, THEN, UPON REQUEST OF ANY PARTY, THE REFEREE SHALL BE SELECTED BY THE PRESIDING JUDGE OF THE COURT (OR HIS OR HER REPRESENTATIVE). A REQUEST FOR APPOINTMENT OF A REFEREE MAY BE HEARD ON AN EX PARTE OR EXPEDITED BASIS, AND THE PARTIES AGREE THAT IRREPARABLE HARM WOULD RESULT IF EX PARTE RELIEF IS NOT GRANTED.

iv. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE REFEREE SHALL DETERMINE THE MANNER IN WHICH THE REFERENCE PROCEEDING IS CONDUCTED INCLUDING THE TIME AND PLACE OF HEARINGS, THE ORDER OF PRESENTATION OF EVIDENCE, AND ALL OTHER QUESTIONS THAT ARISE WITH RESPECT TO THE COURSE OF THE REFERENCE PROCEEDING. ALL PROCEEDINGS AND HEARINGS CONDUCTED BEFORE THE REFEREE, EXCEPT FOR TRIAL, SHALL BE CONDUCTED WITHOUT A COURT REPORTER, EXCEPT THAT WHEN ANY PARTY SO REQUESTS, A COURT REPORTER WILL BE USED AT ANY HEARING CONDUCTED BEFORE THE REFEREE, AND THE REFEREE WILL BE PROVIDED A COURTESY COPY OF THE TRANSCRIPT. THE PARTY MAKING SUCH A REQUEST SHALL HAVE THE OBLIGATION TO ARRANGE FOR THE COURT REPORTER. SUBJECT TO THE REFEREE’S POWER TO AWARD COSTS TO THE PREVAILING PARTY, BORROWERS WILL PAY THE COST OF THE REFEREE AND ALL COURT REPORTERS.

THE REFEREE SHALL BE REQUIRED TO DETERMINE ALL ISSUES IN ACCORDANCE WITH EXISTING APPLICABLE CASE LAW AND STATUTORY LAW. THE RULES OF EVIDENCE APPLICABLE TO PROCEEDINGS AT LAW IN THE COURT WILL BE APPLICABLE TO THE REFERENCE PROCEEDING. THE REFEREE SHALL BE EMPOWERED TO ENTER EQUITABLE AS WELL AS LEGAL RELIEF, ENTER EQUITABLE ORDERS THAT WILL BE BINDING ON THE PARTIES AND RULE ON ANY MOTION THAT WOULD BE AUTHORIZED IN A COURT PROCEEDING. THE REFEREE SHALL ISSUE A DECISION AT THE CLOSE OF THE REFERENCE PROCEEDING WHICH DISPOSES OF ALL CLAIMS OF THE PARTIES THAT ARE THE SUBJECT OF THE REFERENCE. PURSUANT TO CCP SECTION 644, SUCH DECISION SHALL BE ENTERED BY THE COURT AS A JUDGMENT OR AN ORDER IN THE SAME MANNER AS IF THE ACTION HAD BEEN TRIED BY THE COURT AND ANY SUCH DECISION WILL BE FINAL, BINDING AND CONCLUSIVE. THE PARTIES RESERVE THE RIGHT TO APPEAL FROM THE FINAL JUDGMENT OR ORDER OR FROM ANY APPEALABLE DECISION OR ORDER ENTERED BY THE REFEREE. THE PARTIES RESERVE THE RIGHT TO FINDINGS OF FACT, CONCLUSIONS OF LAWS, A WRITTEN STATEMENT OF DECISION, AND THE RIGHT TO MOVE FOR A NEW TRIAL OR A DIFFERENT JUDGMENT, WHICH NEW TRIAL, IF GRANTED, IS ALSO TO BE A REFERENCE PROCEEDING UNDER THIS PROVISION.

14.15 Waivers by Obligors. To the fullest extent permitted by Applicable Law, each Obligor waives (a) the right to trial by jury (which Agent, Issuing Bank and each Lender hereby also waive) in any proceeding or dispute of any kind relating in any way to any Loan Documents, Obligations or Collateral; (b) presentment, demand, protest, notice of presentment, notice of intent to accelerate, notice of acceleration, default, non-payment, maturity, release, compromise, settlement, extension or renewal of any commercial paper, accounts, documents, instruments, chattel paper and guaranties at any time held by Agent on which an Obligor may in any way be liable, and hereby ratifies anything Agent may do in this regard; (c) notice prior to taking possession or control of any Collateral; (d) any bond or security that might be required by a court prior to allowing Agent to exercise any rights or remedies; (e) the benefit of all valuation, appraisal and exemption laws; (f) any claim against Agent, Issuing Bank or any Lender, on any theory of liability, for special, indirect, consequential, exemplary or punitive damages (as opposed to direct or actual damages) in any way relating to any Enforcement Action, Obligations, Loan Documents or transactions relating thereto; and (g) notice of acceptance hereof. Each Obligor acknowledges that the foregoing waivers are a material inducement to Agent, Issuing Bank and Lenders entering into this Agreement and that they are relying upon the foregoing in their dealings with Obligors. Each Obligor has reviewed the foregoing waivers with its legal counsel and has knowingly and voluntarily waived its jury trial and other rights following consultation with legal counsel. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

14.16 Patriot Act Notice. Agent and Lenders hereby notify Obligors that pursuant to the Patriot Act, Agent and Lenders are required to obtain, verify and record information that identifies each Obligor, including its legal name, address, tax ID number and other information that will allow Agent and Lenders to identify it in accordance with the Patriot Act. Agent and Lenders will also require information regarding any personal guarantor and may require information regarding Obligors' management and owners, such as legal name, address, social security number and date of birth. Obligors shall, promptly upon request, provide all documentation and other information as Agent, Issuing Bank or any Lender may request from time to time in order to comply with any obligations under any "know your customer," anti-money laundering or other requirements of Applicable Law.

14.17 NO ORAL AGREEMENT. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS BETWEEN THE PARTIES. THERE ARE NO UNWRITTEN AGREEMENTS BETWEEN THE PARTIES.

SECTION 15. GUARANTY

15.1 Guaranty of the Obligations. Subject to the provisions of **Section 15.2**, Guarantors jointly and severally hereby irrevocably and unconditionally guaranty to Agent and Lenders the due and punctual payment in full of all Obligations (other than Excluded Swap Obligations) when the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code) (collectively, the "**Guaranteed Obligations**").

15.2 Contribution by Guarantors. All Guarantors desire to allocate among themselves (collectively, the "**Contributing Guarantors**"), in a fair and equitable manner, their obligations arising under this Guaranty. Accordingly, in the event any payment or distribution is made on any date by a Guarantor (a "**Funding Guarantor**") under this Guaranty such that its Aggregate Payments exceeds its Fair Share as of such date, such Funding Guarantor shall be entitled to a contribution from each of the other Contributing Guarantors in an amount sufficient to cause each Contributing Guarantor's Aggregate Payments to equal its Fair Share as of such date. "**Fair Share**" means, with respect to a Contributing Guarantor as of any date of determination, an amount equal to (a) the ratio of (i) the Fair Share Contribution Amount with respect to such Contributing Guarantor, to (ii) the aggregate of the Fair Share Contribution Amounts with respect to all Contributing Guarantors multiplied by, (b) the aggregate amount paid or distributed on or before such date by all Funding Guarantors under this Guaranty in respect of the obligations Guaranteed. "**Fair Share Contribution Amount**" means, with respect to a Contributing Guarantor as of any date of determination, the maximum aggregate amount of the obligations of such Contributing Guarantor under this Guaranty that would not render its obligations hereunder subject to avoidance as a fraudulent transfer or conveyance under Section 548 of Title 11 of the United States Code or any comparable applicable provisions of state law; provided, solely for purposes of calculating the "Fair Share Contribution Amount" with respect to any Contributing Guarantor for purposes of this **Section 15.2**, any assets or liabilities of such Contributing Guarantor arising by virtue of any rights to subrogation, reimbursement or indemnification or any rights to or obligations of contribution hereunder shall not be considered as assets or liabilities of such Contributing Guarantor. "**Aggregate Payments**" means, with respect to a Contributing Guarantor as of any date of determination, an amount equal to (1) the aggregate amount of all payments and distributions made on or before such date by such Contributing Guarantor in respect of this Guaranty (including, without limitation, in respect of this **Section 15.2**), minus (2) the aggregate amount of all payments received on or

before such date by such Contributing Guarantor from the other Contributing Guarantors as contributions under this **Section 15.2**. The amounts payable as contributions hereunder shall be determined as of the date on which the related payment or distribution is made by the applicable Funding Guarantor. The allocation among Contributing Guarantors of their obligations as set forth in this **Section 15.2** shall not be construed in any way to limit the liability of any Contributing Guarantor hereunder. Each Guarantor is a third-party beneficiary to the contribution agreement set forth in this **Section 15.2**.

15.3 Payment by Guarantors. Subject to **Section 15.2**, Guarantors hereby jointly and severally agree, in furtherance of the foregoing and not in limitation of any other right which Agent or any Lender may have at law or in equity against any Guarantor by virtue hereof, that upon the failure of any Borrower to pay any of the Guaranteed Obligations when and as the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code), Guarantors will upon demand pay, or cause to be paid, in cash, to Agent, for the benefit of itself and the Lenders, an amount equal to the sum of the unpaid principal amount of all Guaranteed Obligations then due as aforesaid, accrued and unpaid interest on such Guaranteed Obligations (including interest which, but for any Borrower's becoming the subject of a case under the Bankruptcy Code, would have accrued on such Guaranteed Obligations, whether or not a claim is allowed against such Borrower for such interest in the related bankruptcy case) and all other Guaranteed Obligations then owed to Agent and Lenders as aforesaid.

15.4 Liability of Guarantors Absolute. Each Guarantor agrees that its obligations hereunder are irrevocable, absolute, independent and unconditional and shall not be affected by any circumstance which constitutes a legal or equitable discharge of a guarantor or surety other than payment in full of the Guaranteed Obligations. In furtherance of the foregoing and without limiting the generality thereof, each Guarantor agrees as follows:

- a. this Guaranty is a guaranty of payment when due and not of collectability. This Guaranty is a primary obligation of each Guarantor and not merely a contract of surety;
- b. Agent may enforce this Guaranty upon the occurrence of an Event of Default notwithstanding the existence of any dispute between any Borrower and Agent or any Lender with respect to the existence of such Event of Default;
- c. the obligations of each Guarantor hereunder are independent of the obligations of Borrowers and the obligations of any other guarantor (including any other Guarantor) of the obligations of Borrowers, and a separate action or actions may be brought and prosecuted against such Guarantor whether or not any action is brought against any Borrower or any of such other guarantors and whether or not any Borrower is joined in any such action or actions;
- d. payment by any Guarantor of a portion, but not all, of the Guaranteed Obligations shall in no way limit, affect, modify or abridge any Guarantor's liability for any portion of the Guaranteed Obligations which has not been paid. Without limiting the generality of the foregoing, if Agent or any Lender is awarded a judgment in any suit brought to enforce any Guarantor's covenant to pay a portion of the Guaranteed Obligations, such judgment shall not be deemed to release such Guarantor from its covenant to pay the portion of the Guaranteed Obligations that is not the subject of such suit, and such judgment shall not, except to the extent satisfied by such Guarantor, limit, affect, modify or abridge any other Guarantor's liability hereunder in respect of the Guaranteed Obligations;
- e. Agent and/or Lenders, upon such terms as they deem appropriate, without notice or demand and without affecting the validity or enforceability hereof or giving rise to any reduction, limitation, impairment, discharge or termination of any Guarantor's liability hereunder, from time to time may (i) renew, extend, accelerate, increase the rate of interest on, or otherwise change the time, place, manner or terms of payment of the Guaranteed Obligations; (ii) settle, compromise, release or discharge, or accept or refuse any offer of performance with respect to, or substitutions for, the Guaranteed Obligations or any agreement relating thereto and/or subordinate the payment of the same to the payment of any other obligations; (iii) request and accept other guaranties of the Guaranteed Obligations and take and hold security for the payment hereof or the Guaranteed Obligations; (iv) release, surrender, exchange, substitute, compromise, settle, rescind, waive, alter, subordinate or modify, with or without consideration, any security for payment of the Guaranteed Obligations, any other guaranties of the Guaranteed Obligations, or any other obligation of any Person (including any other Guarantor) with respect to the Guaranteed Obligations; (v) enforce and apply any security now or hereafter held by or for the benefit of Agent for the benefit of itself and the Lenders in respect hereof or the Guaranteed Obligations and direct the order or manner of sale thereof, or exercise any other right or remedy that Agent may have against any such security, in each case as Agent in its discretion may determine consistent herewith or any applicable security agreement, including foreclosure on any such security pursuant to one or more judicial or nonjudicial sales, whether or not every aspect of any such sale is commercially reasonable, and even though such action operates to impair or extinguish any right of reimbursement or subrogation or other right or remedy of any Guarantor

against any Borrower or any security for the Guaranteed Obligations; and (vi) exercise any other rights available to it under the Loan Documents; and

f. this Guaranty and the obligations of Guarantors hereunder shall be valid and enforceable and shall not be subject to any reduction, limitation, impairment, discharge or termination for any reason (other than payment in full of the Guaranteed Obligations), including the occurrence of any of the following, whether or not any Guarantor shall have had notice or knowledge of any of them: (i) any failure or omission to assert or enforce or agreement or election not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy (whether arising under the Loan Documents, at law, in equity or otherwise) with respect to the Guaranteed Obligations or any agreement relating thereto, or with respect to any other guaranty of or security for the payment of the Guaranteed Obligations; (ii) any rescission, waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions (including provisions relating to events of default) hereof, any of the other Loan Documents or any agreement or instrument executed pursuant thereto, or of any other guaranty or security for the Guaranteed Obligations, in each case whether or not in accordance with the terms hereof or such Loan Document, or any agreement relating to such other guaranty or security; (iii) the Guaranteed Obligations, or any agreement relating thereto, at any time being found to be illegal, invalid or unenforceable in any respect; (iv) the application of payments received from any source (other than payments received pursuant to the other Loan Documents or from the proceeds of any security for the Guaranteed Obligations, except to the extent such security also serves as collateral for indebtedness other than the Guaranteed Obligations) to the payment of indebtedness other than the Guaranteed Obligations, even though Agent or Lenders might have elected to apply such payment to any part or all of the Guaranteed Obligations; (v) Agent's or Lenders' consent to the change, reorganization or termination of the corporate structure or existence of any Borrower or any of its Subsidiaries and to any corresponding restructuring of the Guaranteed Obligations; (vi) any failure to perfect or continue perfection of a security interest in any collateral which secures any of the Guaranteed Obligations; (vii) any defenses, set-offs or counterclaims which any Borrower may allege or assert against Agent or any Lender in respect of the Guaranteed Obligations, including failure of consideration, breach of warranty, payment, statute of frauds, statute of limitations, accord and satisfaction and usury; and (viii) any other act or thing or omission, or delay to do any other act or thing, which may or might in any manner or to any extent vary the risk of any Guarantor as an Obligor in respect of the Guaranteed Obligations.

15.5 Waivers by Guarantors. Each Guarantor hereby waives, for the benefit of Agent and each Lender: (a) any right to require Agent or any Lender, as a condition of payment or performance by such Guarantor, to (i) proceed against any Borrower, any other guarantor (including any other Guarantor) of the Guaranteed Obligations or any other Person, (ii) proceed against or exhaust any security held from any Borrower, any such other guarantor or any other Person, (iii) proceed against or have resort to any balance of any Deposit Account, securities account or commodities account or credit on the books of Agent or any Lender in favor of any Borrower or any other Person, or (iv) pursue any other remedy in the power of Agent or any Lender whatsoever; (b) any defense arising by reason of the incapacity, lack of authority or any disability or other defense of any Borrower or any other Guarantor including any defense based on or arising out of the lack of validity or the unenforceability of the Guaranteed Obligations or any agreement or instrument relating thereto or by reason of the cessation of the liability of any Borrower or any other Guarantor from any cause other than payment in full of the Guaranteed Obligations; (c) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal; (d) any defense based upon Agent's or any Lender's errors or omissions in the administration of the Guaranteed Obligations; (e) (i) any principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms hereof and any legal or equitable discharge of such Guarantor's obligations hereunder, (ii) the benefit of any statute of limitations affecting such Guarantor's liability hereunder or the enforcement hereof, (iii) any rights to set-offs, recoupments and counterclaims, and (iv) promptness, diligence and any requirement that Agent or any Lender protect, secure, perfect or insure any security interest or lien or any property subject thereto; (f) notices, demands, presentments, protests, notices of protest, notices of dishonor and notices of any action or inaction, including acceptance hereof, notices of default hereunder or any agreement or instrument related thereto, notices of any renewal, extension or modification of the Guaranteed Obligations or any agreement related thereto, notices of any extension of credit to Borrowers and notices of any of the matters referred to in **Section 15.4** and any right to consent to any thereof; and (g) any defenses or benefits that may be derived from or afforded by law which limit the liability of or exonerate guarantors or sureties, or which may conflict with the terms hereof.

15.6 Guarantors' Rights of Subrogation, Contribution, etc. Until the Guaranteed Obligations shall have been indefeasibly paid in full and the Revolver Commitment shall have terminated and all Letters of Credit shall have expired or been cancelled, each Guarantor hereby waives any claim, right or remedy, direct or indirect, that such Guarantor now has or may hereafter have against any Borrower or any other Guarantor or any of its assets in connection with this Guaranty or the performance by such Guarantor of its obligations hereunder, in each case whether such claim, right or remedy arises in equity, under contract, by statute, under common law or otherwise and including

without limitation (a) any right of subrogation, reimbursement or indemnification that such Guarantor now has or may hereafter have against any Borrower with respect to the Guaranteed Obligations, (b) any right to enforce, or to participate in, any claim, right or remedy that Agent or any Lender now has or may hereafter have against any Borrower, and (c) any benefit of, and any right to participate in, any collateral or security now or hereafter held by Agent or any Lender. In addition, until the Guaranteed Obligations shall have been indefeasibly paid in full and the Revolver Commitment shall have terminated and all Letters of Credit shall have expired or been cancelled, each Guarantor shall withhold exercise of any right of contribution such Guarantor may have against any other guarantor (including any other Guarantor) of the Guaranteed Obligations, including, without limitation, any such right of contribution as contemplated by **Section 15.2**. Each Guarantor further agrees that, to the extent the waiver or agreement to withhold the exercise of its rights of subrogation, reimbursement, indemnification and contribution as set forth herein is found by a court of competent jurisdiction to be void or voidable for any reason, any rights of subrogation, reimbursement or indemnification such Guarantor may have against any Borrower or against any collateral or security, and any rights of contribution such Guarantor may have against any such other guarantor, shall be junior and subordinate to any rights Agent or any Lender may have against any Borrower, to all right, title and interest Agent or Lender may have in any such collateral or security, and to any right Agent or any Lender may have against such other guarantor. If any amount shall be paid to any Guarantor on account of any such subrogation, reimbursement, indemnification or contribution rights at any time when all Guaranteed Obligations shall not have been finally and indefeasibly paid in full, such amount shall be held in trust for Agent and Lenders and shall forthwith be paid over to Agent to be credited and applied against the Guaranteed Obligations, whether matured or unmatured, in accordance with the terms hereof.

15.7 Subordination of Other Obligations. Any indebtedness of any Borrower or any Guarantor now or hereafter held by any Guarantor (the “**Obligee Guarantor**”) is hereby subordinated in right of payment to the Guaranteed Obligations, and any such indebtedness collected or received by the Obligee Guarantor after an Event of Default has occurred and is continuing shall be held in trust for Agent and Lenders and shall forthwith be paid over to Agent to be credited and applied against the Guaranteed Obligations but without affecting, impairing or limiting in any manner the liability of the Obligee Guarantor under any other provision hereof.

15.8 Continuing Guaranty. This Guaranty is a continuing guaranty and shall remain in effect until all of the Guaranteed Obligations shall have been indefeasibly paid in full and the Revolver Commitment shall have terminated and all Letters of Credit shall have expired or been cancelled. Each Guarantor hereby irrevocably waives any right to revoke this Guaranty as to future transactions giving rise to any Guaranteed Obligations.

15.9 Authority of Guarantors or Borrowers. It is not necessary for Agent or any Lender to inquire into the capacity or powers of any Guarantor or any Borrower or the officers, directors or any agents acting or purporting to act on behalf of any of them.

15.10 Financial Condition of Borrowers. Any Loan may be made to Borrowers or continued from time to time, without notice to or authorization from any Guarantor regardless of the financial or other condition of Borrowers at the time of any such grant or continuation. Neither Agent nor any Lender shall have any obligation to disclose or discuss with any Guarantor its assessment, or any Guarantor’s assessment, of the financial condition of any Borrower. Each Guarantor has adequate means to obtain information from each Borrower on a continuing basis concerning the financial condition of such Borrower and its ability to perform its obligations under the Loan Documents, and each Guarantor assumes the responsibility for being and keeping informed of the financial condition of Borrowers and of all circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations. Each Guarantor hereby waives and relinquishes any duty on the part of Agent or any Lender to disclose any matter, fact or thing relating to the business, operations or conditions of any Borrower now known or hereafter known by Agent or any Lender.

15.11 Bankruptcy, etc. So long as any Guaranteed Obligations remain outstanding, no Guarantor shall, without the prior written consent of Agent, commence or join with any other Person in commencing any bankruptcy, reorganization or insolvency case or proceeding of or against any Borrower or any other Guarantor.

a. The obligations of Guarantors hereunder shall not be reduced, limited, impaired, discharged, deferred, suspended or terminated by any case or proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of any Borrower or any other Guarantor or by any defense which any Borrower or any other Guarantor may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding.

b. Each Guarantor acknowledges and agrees that any interest on any portion of the Guaranteed Obligations which accrues after the commencement of any case or proceeding referred to in **Section 15.11(a)** above (or, if interest on any portion of the Guaranteed Obligations ceases to accrue by operation of law by reason of the commencement of such case or proceeding, such interest as would have accrued on such portion of the Guaranteed

Obligations if such case or proceeding had not been commenced) shall be included in the Guaranteed Obligations because it is the intention of Guarantors and Agent and Lenders that the Guaranteed Obligations which are guaranteed by Guarantors pursuant hereto should be determined without regard to any rule of law or order which may relieve any Borrower of any portion of such Guaranteed Obligations. Guarantors will permit any trustee in bankruptcy, receiver, debtor in possession, assignee for the benefit of creditors or similar person to pay Agent and Lenders, or allow the claim of Agent and Lenders in respect of, any such interest accruing after the date on which such case or proceeding is commenced.

c. In the event that all or any portion of the Guaranteed Obligations are paid by any Borrower, the obligations of Guarantors hereunder shall continue and remain in full force and effect or be reinstated, as the case may be, in the event that all or any part of such payment(s) are rescinded or recovered directly or indirectly from Agent or any Lender as a preference, fraudulent transfer or otherwise, and any such payments which are so rescinded or recovered shall constitute Guaranteed Obligations for all purposes hereunder.

SECTION 16. ACKNOWLEDGEMENTS.

16.1 Acknowledgment and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

- a. the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and
- b. the effects of any Bail-in Action on any such liability, including, if applicable:
 - i. a reduction in full or in part or cancellation of any such liability;
 - ii. a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or
 - iii. the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of the applicable Resolution Authority.

16.2 Acknowledgement Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for any agreement governing Swap Obligations or any other agreement or instrument that is a QFC (such support, "**QFC Credit Support**" and each such QFC, a "**Supported QFC**"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "**U.S. Special Resolution Regimes**") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the U.S. or any other state of the U.S.).

In the event a Covered Entity that is party to a Supported QFC (each, a "**Covered Party**") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the U.S. or a state of the U.S. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the U.S. or a state of the U.S. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the

parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

[Remainder of page intentionally left blank; signatures begin on following page]

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the date set forth above.

BORROWERS:

NATIONAL CINEMEDIA, LLC, a Delaware limited liability company

By: National CineMedia, Inc., a Delaware corporation, its Manager

By: /s/ Ronnie Ng

Name: Ronnie Ng

Title: Chief Financial Officer

Address:

6300 S. Syracuse Way, Suite 300

Centennial, CO 80111

Attn: [***]

Email: [***]

[Signature Page to Loan, Security and Guarantee Agreement]

AGENT AND LENDERS:

CIT NORTHBRIDGE CREDIT LLC,
as Agent

By: /s/ David Chang
Name: David Chang
Title: Authorized Signatory
Address:
CIT Northbridge Credit LLC
11 West 42nd Street, 13th Floor
New York, New York 10036
Attn: [***]
Email: [***]

CIT NORTHBRIDGE FUNDING I LLC,
as a Lender

By: /s/ David Chang
Name: David Chang
Title: Authorized Signatory
Address:
CIT Northbridge Credit LLC
11 West 42nd Street, 13th Floor
New York, New York 10036
Attn: [***]
Email: [***]

[Signature Page to Loan, Security and Guarantee Agreement]

**FIFTH AMENDMENT TO THE THIRD AMENDED AND RESTATED
LIMITED LIABILITY COMPANY OPERATING AGREEMENT OF
NATIONAL CINEMEDIA, LLC**

This Fifth Amendment to the Third Amended and Restated Limited Liability Company Operating Agreement (this “**Amendment**”) of National CineMedia, LLC, a Delaware limited liability company (the “**Company**”), is made and entered into as of August 7, 2023, by and among each of the parties hereto and amends the Third Amended and Restated Limited Liability Company Operating Agreement of National CineMedia, LLC, dated as of February 13, 2007 (the “**Third Amended Agreement**”), as amended by the First Amendment to the Third Amended Agreement, dated as of March 16, 2009 (the “**First Amendment**”), the Second Amendment to the Third Amended Agreement, dated as of August 6, 2010 (the “**Second Amendment**”), the Third Amendment to the Third Amended Agreement, dated as of September 3, 2013 (the “**Third Amendment**”) and the Fourth Amendment to the Third Amended Agreement, dated as of January 23, 2019 (together with the Third Amended Agreement, the First Amendment, the Second Amendment, and the Third Amendment, the “**LLC Agreement**”).

RECITALS

WHEREAS, AMC ShowPlace Theatres, Inc., a Delaware corporation (“**AMC Showplace**”), American Multi-Cinema, Inc., a Missouri Corporation (together with AMC Showplace, “**AMC**”) Cinemark Media, Inc., a Delaware corporation (“**Cinemark Media**”), Cinemark USA, Inc., a Texas corporation (“**Cinemark USA**” and together with Cinemark Media, “**Cinemark**”), Regal Cinemedia Holdings, LLC, a Delaware limited liability company (“**Regal**”), Regal Cinemas, Inc., a Tennessee corporation (together with Regal, “**RCI**”), National CineMedia, Inc., a Delaware corporation (“**NCM Inc.**”), and NCMI II, LLC, a Delaware limited liability company (“**NCMI II**”) were parties to the LLC Agreement;

WHEREAS, as of the consummation of the Plan (as defined below) on the date hereof (the “**Plan Effective Date**”), AMC, Cinemark, and Regal are no longer Founding Members or Members under the LLC Agreement, and NCM Inc., NCMI II, and the Company desire to amend the LLC Agreement pursuant to the terms and conditions hereof;

WHEREAS, (i) on June 27, 2023, the U.S. Bankruptcy Court for the Southern District of Texas entered an order confirming the *Modified First Amended Plan of Reorganization of National CineMedia, LLC Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 428] (as it may be amended, modified, or supplemented, the “**Plan**”), (ii) pursuant to the Plan and prior to the Plan Effective Date, Blocked Holders, as defined in the Restructuring Transactions Memorandum, exchanged their Allowed Secured Debt Claims (as defined in the Plan) for shares of Blocker Parent (as defined in the Restructuring Transactions Memorandum), with Blocker Sub 2 (as defined in the Restructuring Transactions Memorandum), receiving such Allowed Secured Debt Claims and (iii) on the Plan Effective Date, the Company consummated the Plan pursuant to which (A) Allowed Secured Debt Claims then held by Blocker Sub 2 were exchanged for Common Units and, in connection with the receipt of such Common Units, the Company agreed to admit Blocker Sub 2 as a Member, and Blocker Sub 2 agreed be bound by all the terms and

conditions of this Agreement (as amended, supplemented or otherwise modified from time to time) in accordance with Section 3.1(c), (B) Blocker Parent merged with and into Merger Sub (as defined in the Restructuring Transactions Memorandum), with Blocked Holders receiving shares of the common stock of NCM Inc. in exchange for their shares of Blocker Parent, such shares of common stock of NCM Inc. to be delivered to Blocked Holders on, or as soon as reasonably practicable after, the Plan Effective Date, (C) all other Holders of Allowed Secured Debt Claims received Common Units in exchange for their Allowed Secured Debt Claims and immediately contributed such Common Units to NCM Inc. in exchange for shares of the common stock of NCM Inc., such shares of common stock of NCM Inc. to be delivered to such Holders on, or as soon as reasonably practicable after, the Plan Effective Date, (D) NCM Inc. made a contribution to the Company of its cash on hand as of the time of such contribution, in exchange for certain Common Units and made a contribution to NCMI II of certain Common Units, and (E) NCM Inc. issued 50 shares of non-voting Series B Preferred Stock (each with liquidation value of \$1,000) subject to and pursuant to the terms of that certain Certificate of Designation of Series B Non-Convertible Preferred Stock of NCM, Inc., dated as of the date hereof, and, correspondingly, in accordance with the Plan, the Company issued non-voting preferred equity interests in the Company to NCM Inc. with terms that are substantially the same as (as determined in good faith by NCM Inc., in its capacity as the sole manager of the Company, but including term, entitlement to distributions and absence of voting rights) the terms of the 50 shares of Series B Preferred Stock.

WHEREAS, the Holders of Allowed Secured Debt Claims (including Blocked Holders) will, in the aggregate, receive on, or as soon as reasonably practicable after, the Plan Effective Date 85,868,974 shares of NCM Inc. common stock pursuant to the transactions described in clauses (A)-(D) above;

WHEREAS, immediately prior to the completion of the transactions contemplated by the Plan and set forth in the Restructuring Transactions Memorandum, the total shares of NC Inc. common stock outstanding will be 103; and

WHEREAS, upon the completion of the transactions contemplated by the Plan and set forth in the Restructuring Transaction Memo, the total shares of NCM Inc. common stock outstanding will be 96,779,983.

NOW, THEREFORE, the parties hereto agree as follows:

1. The following definitions set forth in Section 1.1 of the LLC Agreement shall be amended and restated in their entirety as follows:
 - (a) “**Applicable Tax Rate**” means (i) 40% or (ii) if, at the time of the relevant Permitted Tax Distribution (as defined in the 2023 Credit Facility), the highest combined federal, state and local marginal rate applicable to corporate taxpayers residing in New York City, New York, taking into account the deductibility of state and local income taxes for federal income tax purposes shall exceed 40%, such higher rate.
 - (b) “**Founding Member Approval**” means the approval of each Founding Member (in each Founding Member’s sole discretion); provided that a Founding Member shall not be entitled to participate in giving Founding Member Approval as provided in Section

4.3(c) and if all Founding Members are no longer entitled to participate in giving Founding Member Approval then Founding Member Approval shall not be required for any action that would otherwise require such Founding Member Approval.

- (c) “**Funded Indebtedness**” means the sum of (i) Indebtedness of the Company under the 2023 Credit Facility, or any refinancing thereof, plus (ii) additional Indebtedness, or any refinancing thereof, of the Company as permitted under the terms of the 2023 Credit Facility.
 - (d) “**Majority Member Vote**” means the affirmative vote by both: (a) holders of Common Units representing a majority of all the Common Units then issued and outstanding and (b) if there are any remaining Founding Members, each Founding Member.
2. The following definitions shall be added to Section 1.1 of the LLC Agreement:
- (a) “**2023 Credit Facility**” means the Loan, Security and Guarantee Agreement, dated as of August 7, 2023, by and among the Company, as a borrower, the other Obligors (as defined therein) party thereto from time to time, the financial institutions from time to time that are parties thereto as lenders and CIT Northbridge Credit LLC, a Delaware limited liability company, as agent for the Secured Parties (as defined therein), as amended, modified or supplemented from time to time and any extension, refunding, refinancing or replacement (in whole or in part) thereof.
 - (b) “**Series B Preferred Unit**” means a Unit having the rights described in Section 3.4(i).
 - (c) “**Significant Member**” means a Member (if any) whose Percentage Interest is 10% or more.
3. The reference to “Section 7.6 of the Senior Credit Facility” in the definition of “**Distribution Amount**” shall be amended so as to refer to “Section 10.2.4 of the 2023 Credit Facility” in place of “Section 7.6 of the Senior Credit Facility”.
4. The reference to “**Senior Credit Facility**” in the first sentence of Section 3.4(e) of the LLC Agreement shall be amended to refer to the “**Senior Credit Facility (as defined in this Agreement as in effect on February 13, 2007)**”.
5. The reference to “**Revolving Credit Facility**” in the definition of “**Available Cash**” shall be amended to refer to the “**2023 Credit Facility**”. The definition of “**Revolving Credit Facility**” is hereby deleted in its entirety.
6. All references to “Section 7.6(h) of the Senior Credit Facility” in the LLC Agreement shall be amended to refer to “Section 10.2.4 of the 2023 Credit Facility” in place of “Section 7.6(h) of the Senior Credit Facility” unless otherwise expressly amended by this Amendment.
7. The first sentence of Section 3.2(e) of the LLC Agreement shall be amended and restated in its entirety as follows:
- (e) Quorum. The presence of the holders of a majority of all the Common Units then issued and outstanding and entitled to vote thereat, whether in person or represented by a valid written proxy, shall constitute a quorum at all meetings of the Members for the transaction of business. If, however, such quorum shall not be present or represented at any meeting of the Members, the Members entitled to vote thereat, present in person or

represented by proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented.

8. Section 3.4(d) of the LLC Agreement shall be amended and restated in its entirety as follows:

(d) Common Units. The Common Units shall consist of equal whole, fractional units into which Interests in the Company shall be divided. The Common Units shall be entitled to share in distributions and allocations as provided in Sections 5.4, 6.4 and 7.3, and as otherwise provided in this Agreement.
9. Section 4.11 of the LLC Agreement shall be amended to replace the reference to “**Senior Credit Facility**” therein with “**2023 Credit Facility**”.
10. A new Section 3.4(i) is added immediately following Section 3.4(h):

(i) Series B Preferred Units. The Series B Preferred Units shall consist of 50 Units in the Company with terms that are substantially the same as (as determined in good faith by the Manager, but including term, entitlement to distributions and absence of voting rights) the terms of the 50 shares of Series B Preferred Stock as set forth in that certain Certificate of Designation of Series B Non-Convertible Preferred Stock of NCM, Inc. issued as of the date hereof. For the avoidance of doubt, the Series B Preferred Units shall not constitute “Preferred Units” as otherwise used pursuant to this Agreement. Appropriate adjustments shall be made (in the Manager’s good faith discretion) to the terms of this Agreement (including distributions and allocations to be made pursuant to Articles 5 and 6 of this Agreement) to give due effect to the terms of such Series B Preferred Units.
11. A new Section 3.5(d) is added immediately following Section 3.5(c)(ii) as follows:

(d) Other Issuances. In the event that NCM Inc. issues, transfers or delivers from treasury stock or available shares or repurchases shares of NCM Inc. common stock in any transaction not contemplated in this Agreement (including but not limited to an at-the-market offering, registered offering, or private placement), the Manager and the Company shall take all actions such that, after giving effect to all such issuances, transfers, deliveries or repurchases, the number of outstanding Common Units owned, directly or indirectly, by NCM Inc. will equal on a one-for-one basis the number of outstanding shares of NCM Inc.’s common stock. Analogous principles shall apply *mutatis mutandis* to Series B Preferred Units.
12. Section 4.1 of the LLC Agreement shall be amended and restated in its entirety as follows:

4.1 Manager. The Company shall be managed by one manager (the “Manager”) that shall be NCM Inc. NCM Inc. may not be removed as a Manager except as provided in Section 4.7. Any Manager that is properly removed pursuant to Section 4.7 shall be replaced in the manner provided in Section 4.8. Except to the extent deemed appropriate by NCM Inc. in connection with its status under the Investment Company Act of 1940, so long as NCM Inc. is the Manager, NCM Inc. shall not, directly or indirectly enter into or conduct any business other than (i) in connection with the ownership, acquisition or disposition of Units as a Member, (ii) the management of the business of the Company as provided herein, (iii) NCM Inc.’s operation as a public reporting company with a

class of securities registered under the Exchange Act, and (iv) such other activities that are incidental to the foregoing.

13. The third sentence of Section 6.2(a) of the LLC Agreement shall be amended and restated in its entirety as follows:

The Tax Matters Member shall inform each other Significant Member of all significant matters that may come to its attention in its capacity as such by giving notice thereof within ten (10) days after becoming aware thereof and, within such time, shall forward to each other Significant Member copies of all significant written communications it may receive in such capacity.

14. The second sentence of Clause (i) of Section 6.2(b) of the LLC Agreement shall be amended and restated in its entirety as follows:

NCM Inc. shall remain the Partnership Representative until it is replaced by a successor Partnership Representative designated by a unanimous vote of the Significant Members in accordance with the procedures set forth in the Code and the regulations promulgated thereunder; provided, however, that NCM Inc. (or any successor Partnership Representative) may resign, in its sole discretion, as the Partnership Representative in accordance with the procedures set forth in the Code and the regulations promulgated thereunder. Subject to the provisions of this Section 6.2(b), the Partnership Representative shall be authorized to undertake all actions on behalf of the Company specified under Code Sections 6221 through 6231 and the Treasury Regulations promulgated thereunder.

15. Clause (iii) of Section 6.2(b) of the LLC Agreement shall be deleted in its entirety and replaced with “Reserved.”

16. Clauses (vii) and (viii) of Section 6.4(b) of the LLC Agreement shall be amended and restated in their entirety as follows:

(vii) Nonrecourse Deductions. Nonrecourse deductions (as described in Section 1.704-2(b) of the Treasury Regulations) for any Fiscal Year or other period shall be allocated to the Members in accordance with their relative Percentage Interests.

(viii) Excess Nonrecourse Liabilities. If the built-in gain in Company assets subject to Nonrecourse Debts exceeds the gain described in Section 1.752-3(a)(2) of the Treasury Regulations, the Excess Nonrecourse Liabilities shall be allocated among the Members in accordance with their relative Percentage Interests.

17. The penultimate sentence of Section 6.4(c) shall be amended and restated in its entirety as follows:

In addition, if in any Fiscal Year or other period there is a decrease in Partnership Minimum Gain, or in Partner Nonrecourse Debt Minimum Gain, and application of the minimum gain chargeback requirements set forth in this Section 6.4 would cause a distortion in the economic arrangement among the Members, the Manager may, if it does not expect that the Company will have sufficient other income to correct such distortion, request the Internal Revenue Service to waive either or both of such minimum gain chargeback requirements.

18. The first sentence of Section 8.1(a) of the LLC Agreement shall be amended and restated in its entirety as follows:

(a) Notwithstanding anything contained herein to the contrary, each Member may, subject to Section 8.1(b), Section 8.1(c) and Article 9 (in the case of a Transfer pursuant to a Member's exercise of its Redemption Right), Transfer any or all of its Units.

19. Clause (v) of Section 8.1(b) shall be amended and restated in its entirety as follows:

(v) if such Transfer is effectuated through an "established securities market" or a "secondary market (or the substantial equivalent thereof)" within the meaning of Section 7704 of the Code or if the Manager determines in its sole discretion that such Transfer would, alone or together with other past or proposed Transfers, result in an increased risk that the Company would be treated as a "publicly traded partnership," as such term is defined in Sections 469(k)(2) or 7704(b) of the Code.

20. The following shall be added as clause (c) of Section 8.1(b) of the LLC Agreement:

(c) A Transferring Member shall, unless otherwise determined by the Company, (i) deliver to the Company, between ten (10) days and thirty (30) days before the Transfer, a validly executed, complete and accurate IRS Form W-9 or (ii) ensure that, contemporaneously with the Transfer, the transferee of such interest properly withholds and remits to the IRS the amount of tax required to be withheld upon the Transfer by Section 1446(f) of the Code (and promptly provide evidence to the Company of such withholding and remittance). A Transferring Member and the transferee of such Units shall jointly and severally indemnify and hold harmless the Company against any loss (including taxes, interest, penalties, and any related expenses) arising out of such Transfer.

21. The following shall be added as clause (f) of Section 9.1 of the LLC Agreement:

Notwithstanding the foregoing, in the event that the Manager determines in its sole discretion that the exercise of a Redemption Right by a Redeeming Member would, alone or together with other past or proposed Transfers, result in an increased risk that the Company would be treated as a "publicly traded partnership," as such term is defined in Sections 469(k)(2) or 7704(b) of the Code, the Manager shall be permitted to impose additional requirements as to the timing and procedures of the exercise of a Redemption Right as the Manager determines in good faith may be reasonably required to prevent the Company from being treated as a "publicly traded partnership". In such case, the Manager will inform the Members of such additional requirements in writing.

22. The second sentence of Section 10.3(d) of the LLC Agreement shall be amended and restated in its entirety as follows:

Notwithstanding the foregoing, Member Information may be disclosed to authorized third-party contractors of the Company if the Company determines that such disclosure is reasonably necessary to further the business of the Company, and if such contractor executes a non-disclosure agreement preventing such contractor from disclosing such Member Information for the benefit of each provider of Member Information in a form reasonably acceptable to the Manager.

23. No Other Changes. Except as expressly modified hereby, all terms, conditions and provisions of the LLC Agreement shall continue in full force and effect. This Amendment shall be deemed to be and construed as part of the LLC Agreement, and the LLC Agreement shall be deemed to be and be construed as part of this

Amendment; provided, however, that in the event of any inconsistency or conflict between the LLC Agreement and this Amendment, the terms, conditions and provisions of this Amendment shall govern and control.

24. Counterparts. This Amendment may be executed in one or more counterparts and by different parties on separate counterparts, each of which will be deemed an original, but all of which will constitute one and the same instrument. The parties agree that this Amendment shall be legally binding upon the electronic transmission, including by facsimile or email, by each party of a signed signature page hereof to the other party.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each of the undersigned has executed this Amendment or caused this Amendment to be executed on its behalf as of the date first written above.

NATIONAL CINEMEDIA, INC.

By: /s/ Ronnie Ng____
Name: Ronnie Ng
Title: Chief Financial Officer

NCMI II, LLC

By its sole member, National CineMedia, Inc.

By: /s/ Ronnie Ng____
Name: Ronnie Ng
Title: Chief Financial Officer

NATIONAL CINEMEDIA, LLC

By: /s/ Tom Lesinski____
Name: Tom Lesinski
Title: Chief Executive Officer

NCM BLOCKER SUB 2, LLC

By its sole member, NCM Blocker Sub 1, LLC
By its sole member, NCM Blocker Parent, LLC
By its sole member, NCMI II, LLC:
By its sole member, National CineMedia, Inc.

By: /s/ Ronnie Ng____
Name: Ronnie Ng
Title: Chief Financial Officer

DIRECTOR DESIGNATION AGREEMENT

THIS DIRECTOR DESIGNATION AGREEMENT dated as of August 7, 2023 (this “Agreement”), is among National CineMedia, Inc., a Delaware corporation (“NCM Inc.”), and the members of the designating committee (the “Consenting Creditor Designation Committee”) set forth on Exhibit A, as such exhibit shall be amended from time to time (each, in such capacity, a “Committee Designator”), and Blantyre Capital Limited (“Blantyre”), as a party with individual rights hereunder (in such capacity, the “Blantyre Designator”, and collectively with the Committee Designators, the “Designators”). Certain terms used in this Agreement are defined in Section 1.1.

RECITALS

A. **WHEREAS**, pursuant to the terms of that certain *First Amended Plan of Reorganization of National CineMedia, LLC Pursuant to Chapter 11 of the Bankruptcy Code* (as may be amended, supplemented, or otherwise modified from time to time, the “Plan”), the Consenting Creditors (as defined below) will be issued shares of Common Stock of NCM Inc. and, thereafter, will collectively hold a supermajority of the outstanding equity of NCM Inc. upon the emergence of National CineMedia LLC (“NCM LLC”).

B. **WHEREAS**, under the Plan and that certain Restructuring Support Agreement dated as of April 11, 2023 (the “RSA”), entered into by and among NCM LLC, NCM Inc. and each Consenting Creditor (as identified on Exhibit B hereto), the Required Consenting Creditors (as defined in the RSA), are collectively entitled to designate a total of up to six (6) persons for nomination for election and/or appointment, as the case may be (each, a “Designee”), to the board of directors of NCM Inc. (the “Board”) on the terms and conditions set forth herein.

C. **WHEREAS**, to implement the rights of the Consenting Creditors, the Required Consenting Creditors have agreed to this Director Designation Agreement, and determined that the largest holders of the equity of NCM Inc. post-emergence will form the Consenting Creditor Designation Committee, and together with the Blantyre Designator, effect such rights and act on behalf of the Consenting Creditors so long as the holdings of equity of NCM Inc. of each such Designator meet certain equity ownership thresholds as set forth herein.

D. **WHEREAS**, the Consenting Creditors have determined that the largest Consenting Creditor, Blantyre, shall have certain rights within the Consenting Creditor Designation Committee, so long as its separate holdings of equity of NCM Inc. meet certain equity ownership thresholds as set forth herein.

E. **WHEREAS**, each Designator is either a Consenting Term Lender, Consenting Revolving Lender, or Consenting Secured Noteholder, as such terms are defined in the Plan.

AGREEMENT

NOW THEREFORE, in consideration of the covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, NCM Inc. and the Designators agree as follows:

1. Definitions

1.1 **Certain Definitions.** For purposes of this Agreement, the following terms shall have the meanings specified in this Section 1.1:

“Beneficial Owner” has the meaning set forth under the applicable rules promulgated by the U.S. Securities and Exchange Commission.

“Blantyre Initial Threshold” means the Blantyre Designator holding, or managing funds or accounts that hold, directly or indirectly, in the aggregate of at least 15% of the NCMI Interests.

“Blantyre Secondary Threshold” means the Blantyre Designator holding, or managing funds or accounts that hold, directly or indirectly, in the aggregate of at least 10% of the NCMI Interests.

“Change of Control” with respect to any Person that is not an individual, means (i) any merger or consolidation with or into any other entity or any other similar transaction, whether in a single transaction or series of related transactions, where (A) the members or stockholders of such Person immediately prior to such transaction in the aggregate cease to own at least 50 percent of the general voting power of the entity surviving or resulting from such transaction (or its stockholders or the ultimate parent thereof) or (B) any Person or Group becomes the Beneficial Owner of more than 50 percent of the general voting power of the entity surviving or resulting from such transaction (or its stockholders or the ultimate parent thereof), (ii) any transaction or series of related transactions in which in excess of 50 percent of such Person’s general voting power is Transferred to any other Person or Group or (iii) the sale or Transfer by such Person of all or substantially all of its assets.

“Committee Designator” means a member of the Consenting Creditor Designation Committee in such capacity.

“Common Stock” means the common stock, par value \$0.01 per share, of NCM Inc.

“Competitor Affiliate” means any (i) business that operates or does business competitive with that of the Company in any State, territory, or protectorate of the United States in which NCM Inc. or its affiliate does business and/or in any foreign country in which NCM Inc. or its affiliate has or maintains any place of business, venue, facility, or otherwise conducts business, (ii) of Cinemark Media, Inc., American Multi-Cinema, Inc., Regal Cinemas, Inc., or any of their affiliates or (iii) any person that holds at least 5% of the outstanding equity securities of any Person set forth in clauses (i) or (ii) as of the applicable Attestation Date.

“Director” means a member of the Board.

“Effective Date” means the effective date of the Plan.

“Group” has the meaning set forth in Section 13(d)(3) and Rule 13d-5 of the Securities Exchange Act of 1934, as amended.

“holds” means the subject party is the Beneficial Owner.

“Independent Director” means any Director that, if the Common Stock is traded on the NASDAQ Stock Market, satisfies the definition of an “independent director” set forth in the applicable rules in the Marketplace Rules of the NASDAQ Stock Market, Inc., as such rules may be amended from time to time, or, if the Common Stock is then traded on a different exchange, any Director of NCM Inc. that satisfies the definition of independent director according to the rules of such exchange.

“Indicative Ownership Thresholds” means any of the Blantyre Initial Threshold, Blantyre Secondary Threshold or the Committee Minimum Threshold, as the case may be.

“NCMI Interests” means fully-diluted outstanding shares of NCM Inc. Common Stock (including common membership units of NCM LLC).

“Nominating Committee” means the nominating/governance committee of the Board or any committee of the Board authorized to perform the function of nominating Directors for the Board.

“Person” means any individual, corporation, limited liability company, partnership, trust, joint stock company, business trust, unincorporated association, joint venture, governmental authority or other entity or organization of any nature whatsoever, or any Group of two or more of the foregoing.

“Retiring Director” means any Director whose term expires at the next annual meeting of stockholders of NCM Inc. pursuant to the terms of the Charter.

“Securities Laws” means the Securities Act of 1933, as amended, and the Securities Exchange Act of 1934, as amended, and the rules promulgated thereunder.

“Transfer” or “Transferred” means, directly or indirectly, to sell, transfer, give, exchange, bequest, assign, pledge, encumber, hypothecate or otherwise dispose of, either voluntarily or involuntarily, any of the rights granted under Section 2 (including through a Change of Control of a Person holding units directly or indirectly).

Unless the context of this Agreement otherwise requires: (i) words of any gender include each other gender and neutral forms of such words, (ii) words using the singular or plural number also include the plural or singular number, respectively, (iii) the terms “hereof,” “herein,” “hereto,” “hereunder” and derivative or similar words refer to this entire Agreement, and (iv) references to clauses without a cross-reference to a Section or subsection are references to clauses within the same Section or, if more specific, subsection.

2. Nominee Designation

2.1 Consenting Creditor Designation Committee Designation Rights.

- a. Subject to the conditions set forth in this Section 2.1, during the Committee Designation Period (as defined below), the Consenting Creditor Designation Committee shall have the right to designate up to (i) for so long as the Consenting Creditors collectively hold, or manage funds or accounts that hold, at least 56% of the NCMI Interests as of any applicable Attestation Date (as defined below), six (6) Designees, three (3) of whom must be Independent Directors, (ii) for so long as the Consenting Creditors collectively hold, or manage funds or accounts that hold, less than 56% but at least 50% of the NCMI Interests as of as of any applicable Attestation Date, five (5) Designees, two (2) of whom must be Independent Directors, (iii) for so long as the Consenting Creditors collectively hold, or manage funds or accounts that hold, less than 50% but at least 34% of the NCMI Interests as of as of any applicable Attestation Date, four (4) Designees, two (2) of whom must be Independent Directors, (iv) for so long as the Consenting Creditors collectively hold, or manage funds or accounts that hold, less than 34% but at least 23% of the NCMI Interests as of as of any applicable Attestation Date, three (3) Designees, one (1) of whom must be an Independent Director, (v) for so long as the Consenting Creditors collectively hold, or manage funds or accounts that hold, less than 23% but at least 12% of the NCMI Interests as of as of any applicable Attestation Date, two (2) Designees, one (1) of whom must be an Independent Director, and (vi) for so long as the Consenting Creditors collectively hold, or manage funds or accounts that hold, less than 12% but at least 5% of the NCMI Interests as of as of any applicable Attestation Date, one (1) Designee, in each case *less the number of Designees the Blantyre Designator is entitled to appoint pursuant to Section 2.2(b)(i) or 2.2(b)(ii), as applicable; provided*, that any Independent Directors appointed by the Blantyre Designator pursuant to Section 2.2 shall count towards the Independent Directors required to be appointed by the Consenting Creditor Designation Committee pursuant to this Section 2.1.
- b. The Consenting Creditor Designation Committee shall initially include the Committee Designators set forth on Exhibit A hereto from and after the Effective Date. Thirty (30) days prior to the date (the “Nomination Date”) that nominations for election to the Board at an annual meeting of stockholders must be made during the Committee Designation Period and/or the Blantyre Designation Period, NCM Inc. shall deliver written notice (a “Designation Notice”) to each of the then-current Committee Designators and the Blantyre Designator to the addresses set forth on Exhibit A.
- c. Upon receipt of a Designation Notice, each of the then-current Designators shall promptly notify NCM Inc. and the other Designators of the Designators’ ownership of NCMI Interests.
- d. Promptly (a) following receipt of a Designation Notice (and in any event within fifteen (15) days of receipt of a Designation Notice), or (b) in the event there are fewer than six (6) Effective Date Designees, then during the period between the Effective Date and the date that is fifteen (15) days following receipt of the first Designation Notice, following written notice by a Committee Designator to each other Committee Designator (and in any event within fifteen (15) days of such notice), the Consenting Creditor Designation Committee shall hold a vote to appoint the Designees of the Consenting Creditor Designation Committee for nomination for election to the Board. Each of the then-current Committee Designators shall be required for a quorum. In the event a quorum shall not have been met due to the absence of a Committee Designator, a new vote shall be held within three (3) days, at which vote a quorum shall be deemed met if any such absent Committee

Designator shall not be present at such second vote. Each member of the Consenting Creditor Designation Committee (including Blantyre) shall have an equal vote in appointing such Designees. If a quorum is present, the affirmative vote of a majority of the then-current Committee Designators shall be required to appoint the Consenting Creditor Designation Committee's nominees to the Board, and, in each case, such nominations are delivered on the Attestation Date.

- e. The Consenting Creditor Designation Committee shall be disbanded and its rights shall expire without further action on the earliest to occur of (i) the day following the Company's 2025 annual general meeting of its stockholders and (ii) any Attestation Date, if any, as of which the Consenting Creditors collectively cease to hold, or manage funds or accounts that hold, at least 5% of the NCMI Interests (from the Effective Date to such date, the "Committee Designation Period"). For the avoidance of doubt, the rights set forth in Section 2.2 shall survive the disbandment of the Consenting Creditor Designation Committee.
- f. If, as of any Attestation Date, any Committee Designator (such Committee Designator, a "Departing Designator") holds, or manages funds or accounts that hold, less than 50% of the NCMI Interests it held as of the Effective Date (the "Committee Minimum Threshold"), then such Departing Designator shall (i) be replaced by the Consenting Creditor, with such Consenting Creditor's consent, that at such time is not a Committee Designator and holds the largest number of NCMI Interests of any Consenting Creditor that is not a Committee Designator or a Competitor Affiliate (a "Replacing Designator"), as reasonably determined by the Company as of the date that the Designation Committee takes any action, and (ii) permanently cease to have any rights under this Agreement with no further action; provided, that such Departing Designator shall remain a Committee Designator if, at such time, it holds a larger number of NCMI Interests than the Consenting Creditor that otherwise would have been the Replacing Designator, and shall only be replaced at such time, and by, any Consenting Creditor that is not a Committee Designator or Competitor Affiliate holds more NCMI Interests than a Departing Designator, as reasonably determined by the Company as of the date that the Designation Committee takes any action. Notwithstanding the following, the Blantyre Designator may only be removed as a Departing Designator if the Blantyre Designator has ceased to hold, or to manage funds or accounts that hold, NCMI Interests above the Blantyre Secondary Threshold. Any Committee Designator may elect to resign from the Consenting Creditor Designation Committee at any time by delivering written notice thereof to NCMI Inc. and each other Committee Designator.

2.2 Blantyre Designation Rights. In addition to the nomination rights held by Blantyre as a member of the Designation Committee, during the Blantyre Designation Period, the Blantyre Designator shall have the right to designate up to two (2) additional Designees to be appointed or nominated, as the case may be, for election to the Board, as follows:

- a. Thirty (30) days prior to the Nomination Date during the Blantyre Designation Period, NCM Inc. shall deliver a Designation Notice to the Blantyre Designator.
- b. If, on the close of business of the date of the Designation Notice, the Blantyre Designator:
 - i. holds, or manages funds or accounts that hold, NCMI Interests above the Blantyre Initial Threshold, the Blantyre Designator shall have the right to designate two Designees to the Board, one of whom must be an Independent Director (and also not an employee of Blantyre); and
 - ii. holds, or manages funds or accounts that hold, NCMI Interests above the Blantyre Secondary Threshold, the Blantyre Designator shall have the right to designate one Designee to the Board, who need not be independent and may be an employee of Blantyre.
- c. The Blantyre Designator shall present its nominee(s) to the Board on the Nomination Date.
- d. The Blantyre Designator's rights under this Section 2.2 shall expire and be of no further effect upon the earlier of (i) the day following the Company's 2026 annual general meeting of its stockholders and (ii) any Attestation Date, if any, as of which the Blantyre Designator has ceased to hold, or to manage funds or accounts that hold, NCMI Interests above the Blantyre Secondary Threshold (the "Blantyre Designation Period").

2.3 Designees. During the Committee Designation Period and Blantyre Designation Period, respectively:

- a. at every meeting of the Board, or a committee thereof, for which Directors are appointed or are nominated to stand for election by stockholders of NCM Inc., the Consenting Creditor Designation Committee or the Blantyre Designator, as applicable, will have the right to designate those persons to be appointed or nominated for election to the Board for each Retiring Director that was a prior Designee of the Consenting Creditor Designation Committee or the Blantyre Designator in accordance with this Section 2.3;
- b. if a vacancy occurs because of the death, disability, disqualification, resignation or removal of a Designee, the Consenting Creditor Designation Committee or the Blantyre Designator, as applicable, shall be entitled to designate such person's successors in accordance with this Agreement, and the Board, in each case subject to a determination of the Board in good faith, after consultation with outside legal counsel, that such action would not constitute a breach of its fiduciary duties or applicable law, shall fill the vacancy with such successor Designee;
- c. if a Designee is not nominated or elected to the Board because of the Designee's death, disability, disqualification, withdrawal as a nominee or for other reason is unavailable or unable to serve on the Board, the Consenting Creditor Designation Committee or the Blantyre Designator, as applicable, shall be entitled to designate promptly another Designee, and the Director position for which such Designee was nominated shall not be filled pending such designation; and
- d. such nomination rights are subject to the Indicative Ownership Threshold being maintained and met, as the case may be (provided, that the rights set forth in clause (c) shall survive the termination of the Committee Designation Period or the Blantyre Designation Period, as applicable, until a replacement Designee has been appointed).

2.4 No Fiduciary Duties; No Joint Action. This Designation Agreement shall not be deemed to create any relationship among the Designators, NCM Inc., NCM LLC, the Consenting Creditors, or any other Person creating fiduciary or quasi-fiduciary duties or similar duties and obligations or subject the Designators to joint and several liability or vicarious liability or to impose any duty, obligation or liability that would arise therefrom with respect to any or all of the Designators or their affiliates. Each Designator and Consenting Creditor retains sole authority to vote, sell or otherwise dispose of its Common Stock independent of any other Designator or Consenting Creditor, and no action taken by any Designator or Consenting Creditor pursuant hereto shall be deemed to constitute an agreement on the part of such Person with any other Designator or Consenting Creditor in respect of such Person's right to vote for individuals for election to the Board. The obligations of each Designator and Consenting Creditor under this Agreement are several and not joint with the obligations of any other Designator or Consenting Creditor, and no Designator or Consenting Creditor shall be responsible in any way for the performance of the obligations of any other Designator or Consenting Creditor hereunder.

2.5 Company Obligations; Attestation

- a. NCM Inc. agrees to use its best efforts to assure that (i) on the Effective Date, each Designee that the Designators have nominated for election and/or appointment, as the case may be, to the Board as of the date hereof (the "Effective Date Designees") shall be appointed to the Board on the Effective Date, (ii) if the number of Effective Date Designees is fewer than six (6), each Designee that the Designators nominate for election and/or appointment, as the case may be, to the Board following the Effective Date shall be promptly appointed to the Board following such nomination, (iii) each Designee is included in the Board's slate of nominees to the stockholders for each election of Directors, and (iv) each Designee is included in the proxy statement prepared by management of NCM Inc. in connection with soliciting proxies for every meeting of the stockholders of NCM Inc. called with respect to the election of members of the Board, and at every adjournment or postponement thereof, and on every action or approval by written consent of the stockholders of NCM Inc. or the Board with respect to the election of members of the Board.
- b. Notwithstanding anything herein to the contrary, NCM Inc. shall not be obligated to cause to be nominated for election to the Board or recommend to the stockholders the election of any Designee (i) who fails to submit to NCM Inc. on a timely basis such questionnaires as NCM Inc. may reasonably require of its

Directors generally and such other information as NCM Inc. may reasonably request in connection with the preparation of its filings under the Securities Laws, or (ii) for whom the Board or the Nominating Committee determines in good faith, after consultation with outside legal counsel, that such action would constitute a breach of its fiduciary duties or applicable law; *provided, however*, that upon the occurrence of either (i) or (ii) above, NCM Inc. shall promptly notify the Consenting Creditor Designation Committee or the Blantyre Designator, as applicable, of the occurrence of such event and permit the Consenting Creditor Designation Committee or the Blantyre Designator, as applicable, to provide an alternate Designee sufficiently in advance of any Board action, the meetings of the stockholders called or written action of stockholders with respect to such election of nominees, and NCM Inc. shall be subject to its obligations under Section 2.5 with respect to such alternate Designee.

- c. At any time a vacancy occurs because of the death, disability, resignation or removal of a Designee during the Committee Designation Period or the Blantyre Designation Period, as applicable, then the Board, or any committee thereof, shall not fill such vacancy or vote or take any action enumerated in Section 5.2 of the Charter until such time that (i) the Consenting Creditor Designation Committee or the Blantyre Designator, as applicable, has designated a successor Designee and the Board has filled the vacancy and appointed such successor Designee, (ii) the Consenting Creditor Designation Committee or the Blantyre Designator, as applicable, fails to designate a successor Designee within ten (10) business days of such vacancy, or (iii) the Consenting Creditor Designation Committee or the Blantyre Designator, as applicable, has specifically waived its right under this Section 2.5(c) and has consented to the Board, or any committee thereof, taking a vote on an action enumerated in Section 5.2 of the Charter prior to the Board filling the vacancy with a successor Designee.
- d. At any time that the Consenting Creditor Designation Committee or the Blantyre Designator shall have any rights of designation under this Section 2, NCM Inc. shall not take any action to change the size of the Board without the approval of the Consenting Creditor Designation Committee and the Blantyre Designator.
- e. No later than February 15, 2024 nor earlier than January 15, 2024, with respect to the first such distribution, and no later than ninety (90) days nor earlier than one hundred twenty (120) days prior to the anniversary of the preceding year's annual meeting of shareholders for all such distributions thereafter, NCM Inc. shall distribute by email to each Consenting Creditor at its respective email address as set forth on Exhibit B, and as indicated in Section 5.2, with a copy to each Committee Designator, an attestation form (an "Attestation Form") whereby each such Consenting Creditor shall attest to its holdings of NCMI Interests as of the date indicated therein (each, an "Attestation Date"). As promptly as possible, but in any event within twenty (20) days of the date of such distribution (the "Attestation Period"), each Consenting Creditor shall return such Attestation Form attesting to the number of shares of NCM Inc. held by such Consenting Creditor. During the Attestation Period, the Committee Designators shall be entitled to solicit responses from each Consenting Creditor with respect to the return of their Attestation Form. On the date that is five (5) days prior to the end of the Attestation Period, and promptly upon written request thereof by the Committee Designators at any other time during the Attestation Period, NCM Inc. shall deliver written notice to the Committee Designators setting forth (i) the cumulative holdings of the Consenting Creditors as of the Attestation Date based on the Attestation Forms received to date and (ii) a list of the Consenting Creditors that have failed to return the Attestation Form as of such date. If any Consenting Creditor fails to timely return such Attestation Form prior to the expiration of the Attestation Period, such Consenting Creditor shall be deemed not to hold any NCMI Interests.

3. **Specific Performance.** Each of the parties to this Agreement acknowledges that each party hereto will be irreparably damaged if any of the provisions of this Agreement are not performed in accordance with their specific terms or are otherwise breached. Accordingly, it is agreed that each of NCM Inc., the Consenting Creditor Designation Committee, the Blantyre Designator and each Committee Designator shall be entitled to an injunction to prevent breaches of this Agreement and to specific enforcement of this Agreement and its terms and provisions in any action instituted in any court of the United States or any state having subject matter jurisdiction, in addition to any other remedy to which the parties hereto may be entitled at law or in equity. Each of the parties hereto hereby consents to personal jurisdiction in

any such action brought in the United States District Court for the District of Delaware or in any court of the State of Delaware having subject matter jurisdiction. No bond or other similar undertaking shall be required of any party seeking relief under this Section.

4. **Covenant of NCM Inc.** NCM Inc. agrees that neither it nor any of its subsidiaries shall enter into any agreement or understanding or make any commitment to any Person, or otherwise take any action, that would violate or be inconsistent with any provision or agreement contained in this Agreement.

5. Miscellaneous

5.1 **Governing Law.** This Agreement shall be governed by and construed in all respects in accordance with the laws of the State of Delaware without giving effect to principles of conflicts of law.

5.2 **Notices.** All notices, demands or other communications to be given under or by reason of this Agreement shall be in writing and shall be delivered by hand, transmitted by electronic mail, or sent by facsimile or sent by overnight courier service and shall be deemed given when received, as follows:

If to NCM Inc.: If to the members of the Consenting Creditor Designation Committee:

National CineMedia, Inc. To the attention of the addresses set forth in Exhibit A
6300 S. Syracuse Way #300
Centennial, CO 80112-3405
Attn: [***]
Email: [***]

with a copy to: *with a copy to:*
Latham & Watkins, LLP Gibson, Dunn & Crutcher LLP
1271 Avenue of the Americas 200 Park Avenue
New York, NY 10020 New York, NY 10166
Attn: [***] Attn: [***]
Email: [***] Email: [***]

If to the Blantyre Designator:

Blantyre Capital Limited
52 Jermyn Street
London SW1Y 6LX
United Kingdom
Attn: [***]
Email: [***]
with a copy to:
[***]

Any party to this Agreement may change its address for notices, demands and other communications under this Agreement by giving notice of such change to the other party hereto in accordance with this Section 5.2.

5.3 **Benefit of Parties; Transfer.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors, legal representatives and permitted transferees. This Agreement may not be Transferred by NCM Inc. except with the prior written consent of the other parties.

5.4 **Amendment.** This Agreement may not be amended, modified, altered or supplemented except by means of a written instrument executed on behalf of each of NCM Inc. and each of the members of the Consenting Creditor Designation Committee and Blantyre; *provided*, that each is a party to the Agreement at the time of the Amendment.

5.5 **Waiver.** No failure on the part of either party hereto to exercise any power, right, privilege or remedy under this Agreement, and no delay on the part of either party hereto in exercising any power, right, privilege or remedy under this Agreement, shall operate as a waiver thereof; and no single or partial exercise of any such power, right, privilege or remedy shall preclude any other or further exercise thereof or of any other power, right, privilege or remedy.

5.6 **Severability.** If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

5.7 **Entire Agreement.** This Agreement sets forth the entire understanding of parties hereto and supersedes all other agreements and understandings between the parties hereto relating to the subject matter hereof.

5.8 **Counterparts and Facsimiles.** This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other. The parties hereto may execute the signature pages hereof and exchange such signature pages by facsimile transmission.

5.9 **Interpretation of Agreement.**

- a. As used in this Agreement, the words “include” and “including,” and variations thereof, shall not be deemed to be terms of limitation, and shall be deemed to be followed by the words “without limitation.”
- b. Unless otherwise specified, references in this Agreement to “Sections” and “Exhibits” are intended to refer to Sections of, and Exhibits to, this Agreement.
- c. The Section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the parties and shall not in any way affect the meaning or interpretation of this Agreement.
- d. Each party hereto and its counsel cooperated in drafting and preparation of this Agreement. Any rule of law or any legal decision that would require interpretation of any ambiguities in this Agreement against the party that drafted it is of no application and is hereby expressly waived.

[Signature page to follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

NCM INC.:

NATIONAL CINEMEDIA, INC.

By: /s/ Ronnie Ng
Name: Ronnie Ng
Title: Chief Financial Officer

BLANTYRE:

BLANTYRE CAPITAL LIMITED

By: /s/ Rob Patterson
Name: Rob Patterson
Title: Authorised Signatory
Blantyre Capital Limited, acting in its capacity
as Investment Adviser to Blantyre Mulanje II
DAC; and BSSF II Ireland DAC

DESIGNATOR:

Wazee Street Capital Management LLC

By: /s/ Michael Collins
Name: Michael Collins
Title: President

[Signature page of Director Designation Agreement]



**National CineMedia Successfully Completes Financial Restructuring and
Announces New Board of Directors**

Company Substantially Strengthens Capital Structure, Poised to Seize Opportunities with Financial Flexibility

New Directors Bring Experience and Expertise in Advertising, Finance, Digital, Media, and Technology

Leading Cinema Advertising Platform Positioned for Growth and Success

CENTENNIAL, Colo.- National CineMedia, LLC (NCM, NCM LLC or the Company), the largest cinema advertising platform in the U.S., today announced the successful completion of its financial restructuring process and emergence from Chapter 11 on August 7, 2023. This follows confirmation of NCM's Plan of Reorganization (the Plan) by the United States Bankruptcy Court for the Southern District of Texas (the Court) on June 27, 2023, which received the overwhelming support of its creditor constituencies.

"This important milestone marks the beginning of a new era of growth," said Tom Lesinski, Chief Executive Officer of NCM. "With a restructured balance sheet, the most advanced data and advertising solutions in the industry, and access to the biggest moviegoing audiences, we are now positioned to capitalize on new and exciting opportunities. We continue to experience record-breaking box office performance with *Barbie* and *Oppenheimer* seen by almost 60 million consumers to date, driving maximum awareness of the power of movies and the cultural conversation that they ignite. With these tailwinds propelling us forward, NCM will continue to unite brands with young, diverse audiences at movie theaters nationwide during the biggest cultural moments of the year."

The Company emerges under the ownership of its prepetition secured lenders. NCM LLC will maintain its existing corporate structure with National CineMedia, Inc. (Nasdaq: NCMI), continuing to serve as the manager of NCM LLC, and retaining a 13.8% stake in the reorganized Company. Through its financial restructuring, NCM eliminated approximately \$1.2 billion of debt, substantially strengthening its capital structure. The Company has also entered into an approximately \$55 million exit financing facility, which will be used to, among other things, fund future growth initiatives.

Additionally, NCM emerges from its restructuring with new members appointed to its Board of Directors, bringing extensive advertising, financial, media, technology, and digital experience. NCM's existing executive team will continue to lead the business and will partner closely with the new Board to drive growth and engage audiences across the country. Ms. Lauren Zalaznick has been named Chair of the Board, which is now comprised of nine members. Joining CEO Tom Lesinski on the Board are:

- **Ms. Lauren Zalaznick, Chair of the Board:** Ms. Zalaznick is a widely recognized business leader with more than 30 years' experience creating and implementing growth strategies for leading media companies and digital startups. As an independent advisor, Ms. Zalaznick works with companies at every stage of maturity focused on content, marketing, sales, and direct-to-consumer strategies. In addition, Ms. Zalaznick is a Senior Advisor to The Boston Consulting Group in the Global TMT Practice. Ms. Zalaznick's most recent corporate role is as former EVP & Chair, Entertainment & Digital Networks, Comcast NBCUniversal. Ms. Zalaznick currently sits on the boards of The RTL Group and The GoPro Corporation, where she chairs Nomination & Governance. Previously, she served as a director and chair of Nomination & Governance for The Nielsen Corporation as well as several high growth digital companies.
- **Ms. Bernadette Aulestia:** Ms. Aulestia has extensive experience as an executive in content and digital businesses. She is the former President, Global Distribution HBO. Ms. Aulestia serves on

the Boards of Denny's Corporation, Nexstar Media Group, and Latino Corporate Directors Association. Named one of Fortune 50 Most Powerful Latinas in Business, Fast Company's 100 Most Creative People in Business, Ms. Aulestia is currently chair of the Corporate Governance & Nominating Committee of Denny's Corporation (NASDAQ: DENN), and sits on the Compensation Committee of Nexstar Media Group (NASDAQ: NXST).

- **Mr. Nicholas Bell:** Mr. Nicholas (Nick) Bell is a recognized technology leader with more than two decades of experience as a technology and media executive and active angel investor who advises numerous founders and executives. He is the Chief Executive Officer of Fanatics Live, former Head of Product for Google's Search Experience, former Vice Global Head of Content & Partnerships at Snap, and former Senior Vice-President, Digital Products, News Corporation.
- **Mr. David E. Glazek:** Mr. Glazek has over 15 years of experience investing in distressed, special situations and private credit strategies, including as a Partner and Portfolio Manager of Standard General L.P. from 2008. He also serves as Executive Chairman of Turning Point Brands, Inc., a Director of Workers Benefit Consortium, Inc., and an Adjunct Professor at Columbia Business School. He previously worked at Lazard Frères & Co., where he focused on mergers and acquisitions and corporate debt restructuring. He has also worked at the Blackstone Group. Throughout his career he has served on numerous public and private company boards of directors.
- **Ms. Juliana Hill:** Ms. Hill brings her extensive financial, media industry, and outdoor advertising expertise to NCM, following a long career in finance with iHeartMedia, Inc. (formerly Clear Channel Communications, Inc.), the #1 audio company in the United States. From 2013 to 2019, Ms. Hill served as iHeartMedia's Senior Vice President of Liquidity and Asset Management, and also led a steering committee for the separation of iHeart's subsidiary, Clear Channel Outdoor Holdings. Ms. Hill is currently the owner of JFH Consulting, which provides financial and strategic advisory services.
- **Mr. Tiago Lourenço:** Mr. Lourenço is a Partner at Blantyre Capital, a special situations investment firm with \$2.6 billion of committed capital. Prior to this, he was a Vice President at Oaktree Capital Management where he worked for seven years in the distressed opportunities group. Prior to Oaktree, Mr. Lourenço worked at Goldman Sachs and Bain & Company.
- **Mr. Jean-Philippe Maheu:** Mr. Maheu has extensive digital, media, and technology experience. He is the former Global Vice-President, Client Solutions & Advertising Sales, Twitter, former CEO of Razorfish, former Global CEO of Publicis Modem, and former Chief Digital Officer, North America of Ogilvy & Mather. Mr. Maheu is an Advisor and Board member for various growth stage companies.
- **Mr. Joe Marchese:** Mr. Marchese is the Chief Executive Officer of Attention Capital, a media and technology holding company. He is also the Co-Founder and Executive Chairman of Human Ventures, a leading start-up studio and venture fund, and a Partner/Co-Founder of Casa Komos Brands Group, a portfolio of elevated hospitality brands. Previously, Mr. Marchese served as President of Advertising Revenue for Fox Networks Group, a television broadcasting company, a role in which he oversaw multi-billion-dollar advertising sales, research and innovation for FOX Broadcast, FOX Sports, FS1, FX, FXX and National Geographic.

"On behalf of the new members of the Board, we commend the NCM team for navigating through this important process without disruption to its operations or customer relationships," said Lauren Zalaznick, Chair of the Board. "With the successful completion of the restructuring, NCM is laser-focused on its best-in-class, full-funnel advertising solutions and innovative data technology, empowering advertisers to reach moviegoing audiences with scale and measurability."

As previously announced, NCM, Inc. held a Special Meeting of Stockholders on August 2, 2023, at which stockholders voted to approve a Reverse Stock Split of its common stock at a stock split ratio of 1-for-10. The Reverse Stock Split was an obligation under NCM LLC's 9019 Settlement with NCM Inc. and was necessary for the Plan to become effective and was completed on August 4, 2023.

Additional Information

Court filings and additional information related to the Company's Chapter 11 cases are available on a separate website administrated by the company's claims, noticing, and solicitation agent, Omni, at <https://omniagentsolutions.com/NCM>. Stakeholders with questions may call the Company's restructuring hotline at (866) 956-2144 or (747) 293-0095 if calling from outside the U.S. or Canada or email NCMInquiries@OmniAgnt.com.

Paul, Weiss, Rifkind, Wharton & Garrison LLP is serving as legal counsel, Lazard Frères & Co. LLC, is serving as investment banker, and FTI Consulting is serving as financial advisor to the Company. C Street Advisory Group serves as strategy and communications advisor to the Company. Latham & Watkins served as special litigation, tax and corporate counsel to National CineMedia, LLC.

About the Company

National CineMedia (NCM) is America's Movie Network. As the largest cinema advertising platform in the U.S., we unite brands with young, diverse audiences through the power of movies and popular culture. NCM's Noovie® show is presented exclusively in 47 leading national and regional theater circuits including AMC Entertainment Inc. (NYSE:AMC), Cinemark Holdings, Inc. (NYSE:CNK) and Regal Entertainment Group (a subsidiary of Cineworld Group PLC, LON: CINE). NCM's cinema advertising platform offers broad reach and unparalleled audience engagement with more than 19,400 screens in over 1,550 theaters in 195 Designated Market Areas® (all of the top 50). NCM Digital and Digital-Out-Of-Home (DOOH) go beyond the big screen, extending in-theater campaigns into online, mobile, and place-based marketing programs to reach entertainment audiences. National CineMedia, Inc. (NASDAQ:NCMI) owns and is the managing member of, National CineMedia, LLC. For more information, visit www.ncm.com and www.noovie.com.

FORWARD LOOKING STATEMENTS

This press release contains various forward-looking statements that reflect management's current expectations or beliefs regarding future events and results of operations, including the Company's emergence from Chapter 11, statements concerning the ultimate impact of the restructuring on the Company and NCM Inc.'s business, the Company's listing with Nasdaq, and ongoing business prospects, among others. Investors are cautioned that reliance on these forward-looking statements involves risks and uncertainties. Although the Company believes that the assumptions used in the forward-looking statements are reasonable, any of these assumptions could prove to be inaccurate and, as a result, actual results could differ materially from those expressed or implied in the forward-looking statements. These factors and risks include, but are not limited to, unanticipated developments that prevent, delay or negatively impact a resolution of discussions with lenders and other financial, operational and legal risks and uncertainties detailed from time to time in cautionary statements contained in the filings of the Company with the Securities and Exchange Commission. Please refer to the Company's Securities and Exchange Commission filings, including the "Risk Factor" section of the Company's Annual Report on Form 10-K for the year ended December 29, 2022, and subsequent Quarterly Reports on Form 10-Q, for further information about these and other risks. Investors are cautioned not to place undue reliance on any such forward-looking statements, which are presented only as of the date they are made. The Company undertakes no obligation to update any forward-looking statement, whether as a result, of new information, future events or otherwise, except as required by law.

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