

Section 1: 10-Q (10-Q)

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

Form 10-Q

(Mark One)

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

For the quarterly period ended March 31, 2020

OR

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

For the transition period from _____ to _____
Commission File Number: 001-35186

SPIRIT AIRLINES, INC.

(Exact name of registrant as specified in its charter)

Delaware (State or other jurisdiction of incorporation or organization)	38-1747023 (I.R.S. Employer Identification No.)
2800 Executive Way (Address of principal executive offices)	Miramar Florida 33025 (Zip Code)

(954) 447-7920
(Registrant's telephone number, including area code)

Title of each class	Name of exchange on which registered	Trading Symbol
Common Stock, \$0.0001 par value	New York Stock Exchange	SAVE
Series A Preferred Stock Purchase Rights	New York Stock Exchange	SAVE

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

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

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

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
(Do not check if a smaller reporting company)		Emerging growth company	<input type="checkbox"/>

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 7(a)(2)(B) of the Securities Act.

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

Indicate the number of shares outstanding of each of the registrant's classes of common stock as of the close of business on April 29, 2020:

Class	Number of Shares
Common Stock, \$0.0001 par value	68,539,976

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PART I. Financial Information

ITEM 1. UNAUDITED CONDENSED FINANCIAL STATEMENTS

Spirit Airlines, Inc.
Condensed Statements of Operations
(unaudited, in thousands, except per share amounts)

	Three Months Ended March 31,	
	2020	2019
Operating revenues:		
Passenger	\$ 753,550	\$ 838,065
Other	17,531	17,731
Total operating revenues	771,081	855,796
Operating expenses:		
Aircraft fuel	213,208	229,636
Salaries, wages and benefits	240,480	203,901
Landing fees and other rents	67,121	59,649
Depreciation and amortization	65,991	50,726
Aircraft rent	45,146	45,782
Distribution	33,743	35,719
Maintenance, materials and repairs	34,076	31,604
Loss on disposal of assets	—	1,913
Other operating	129,308	109,062
Total operating expenses	829,073	767,992
Operating income (loss)	(57,992)	87,804
Other (income) expense:		
Interest expense	23,878	24,971
Capitalized interest	(3,664)	(2,557)
Interest income	(3,593)	(6,924)
Other (income) expense	(19)	233
Total other (income) expense	16,602	15,723
Income (loss) before income taxes	(74,594)	72,081
Provision (benefit) for income taxes	(46,766)	16,005
Net income (loss)	\$ (27,828)	\$ 56,076
Basic earnings (loss) per share	\$ (0.41)	\$ 0.82
Diluted earnings (loss) per share	\$ (0.41)	\$ 0.82

The accompanying Notes are an integral part of these Condensed Financial Statements.

Spirit Airlines, Inc.
Condensed Statements of Comprehensive Income (Loss)
(unaudited, in thousands)

	Three Months Ended March 31,	
	2020	2019
Net income (loss)	\$ (27,828)	\$ 56,076
Unrealized gain (loss) on short-term investment securities and cash and cash equivalents, net of deferred taxes of \$54 and \$39	185	130
Interest rate derivative loss reclassified into earnings, net of taxes of \$24 and \$27	41	47
Other comprehensive income	\$ 226	\$ 177
Comprehensive income (loss)	\$ (27,602)	\$ 56,253

The accompanying Notes are an integral part of these Condensed Financial Statements.

Spirit Airlines, Inc.
Condensed Balance Sheets
(unaudited, in thousands)

	March 31, 2020	December 31, 2019
Assets		
Current assets:		
Cash and cash equivalents	\$ 788,225	\$ 978,957
Short-term investment securities	106,208	105,321
Accounts receivable, net	33,267	73,807
Aircraft maintenance deposits, net	90,108	102,906
Income tax receivable	104,226	21,013
Prepaid expenses and other current assets	109,131	103,439
Total current assets	1,231,165	1,385,443
Property and equipment:		
Flight equipment	3,965,137	3,730,751
Ground property and equipment	305,876	291,998
Less accumulated depreciation	(537,928)	(492,447)
	3,733,085	3,530,302
Operating lease right-of-use assets	1,425,171	1,369,555
Pre-delivery deposits on flight equipment	372,068	291,930
Long-term aircraft maintenance deposits	61,246	67,682
Deferred heavy maintenance, net	376,765	361,603
Other long-term assets	35,761	36,897
Total assets	\$ 7,235,261	\$ 7,043,412
Liabilities and shareholders' equity		
Current liabilities:		
Accounts payable	\$ 62,949	\$ 43,601
Air traffic liability	411,286	315,408
Current maturities of long-term debt and finance leases	334,931	258,852
Current maturities of operating leases	125,713	120,662
Other current liabilities	296,607	373,521
Total current liabilities	1,231,486	1,112,044
Long-term debt and finance leases, less current maturities	1,965,524	1,960,453
Operating leases, less current maturities	1,268,110	1,218,014
Deferred income taxes	505,263	469,292
Deferred gains and other long-term liabilities	30,487	22,277
Shareholders' equity:		
Common stock	7	7
Additional paid-in-capital	383,186	379,380
Treasury stock, at cost	(73,991)	(72,455)
Retained earnings	1,925,750	1,955,187
Accumulated other comprehensive income (loss)	(561)	(787)
Total shareholders' equity	2,234,391	2,261,332
Total liabilities and shareholders' equity	\$ 7,235,261	\$ 7,043,412

The accompanying Notes are an integral part of these Condensed Financial Statements.

Spirit Airlines, Inc.
Condensed Statements of Cash Flows
(unaudited, in thousands)

	Three Months Ended March 31,	
	2020	2019
Operating activities:		
Net income (loss)	\$ (27,828)	\$ 56,076
Adjustments to reconcile net income (loss) to net cash provided by operations:		
Losses reclassified from other comprehensive income	65	74
Share-based compensation	3,790	3,671
Amortization of deferred gains, losses and debt issuance costs	2,106	2,289
Depreciation and amortization	65,991	50,726
Deferred income tax expense	36,367	11,647
Loss on disposal of assets	—	1,913
Changes in operating assets and liabilities:		
Accounts receivable, net	39,910	(23,285)
Aircraft maintenance deposits, net	(1,330)	(2,559)
Long-term deposits and other assets	(666)	20,735
Deferred heavy maintenance, net	(35,564)	(44,161)
Income tax receivable	(83,213)	—
Accounts payable	14,854	(13,543)
Air traffic liability	95,876	111,020
Other liabilities	(75,541)	30,712
Other	(235)	(164)
Net cash provided by operating activities	34,582	205,151
Investing activities:		
Purchase of available-for-sale investment securities	(24,036)	(26,476)
Proceeds from the maturity and sale of available-for-sale investment securities	23,600	26,085
Pre-delivery deposits on flight equipment, net of refunds	(123,044)	(37,913)
Capitalized interest	(2,860)	(2,276)
Assets under construction for others	(2,057)	(262)
Purchase of property and equipment	(195,371)	(63,109)
Net cash used in investing activities	(323,768)	(103,951)
Financing activities:		
Proceeds from issuance of long-term debt	168,981	59,706
Proceeds from stock options exercised	16	—
Payments on debt obligations	(42,561)	(37,901)
Payments on finance lease obligations	(24,846)	(239)
Reimbursement for assets under construction for others	2,095	262
Repurchase of common stock	(1,536)	(5,223)
Debt issuance costs	(3,695)	(399)
Net cash provided by financing activities	98,454	16,206
Net increase (decrease) in cash and cash equivalents	(190,732)	117,406
Cash and cash equivalents at beginning of period	978,957	1,004,733
Cash and cash equivalents at end of period	\$ 788,225	\$ 1,122,139
Supplemental disclosures		
Cash payments for:		
Interest, net of capitalized interest	\$ 17,702	\$ 19,167
Income taxes paid (received), net	\$ (1,497)	\$ 816
Cash paid for amounts included in the measurement of lease liabilities:		
Operating cash flows for operating leases	\$ 50,805	\$ 47,577
Financing cash flows for finance leases	\$ 113	\$ 29
Non-cash transactions:		
Capital expenditures funded by finance lease borrowings	\$ —	\$ 1,492
Capital expenditures funded by operating lease borrowings	\$ 85,787	\$ 128,191

The accompanying Notes are an integral part of these Condensed Financial Statements.

Spirit Airlines, Inc.
Condensed Statements of Shareholders' Equity
(unaudited, in thousands)

Three Months Ended March 31, 2019

	Common Stock	Additional Paid-In-Capital	Treasury Stock	Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Total
Balance at December 31, 2018	\$ 7	\$ 371,225	\$ (67,016)	\$ 1,625,481	\$ (1,193)	\$ 1,928,504
Effect of ASU No. 2016-02 implementation (refer to Note 3)				(5,549)		(5,549)
Share-based compensation	—	3,671	—	—	—	3,671
Repurchase of common stock	—	—	(5,223)	—	—	(5,223)
Proceeds from options exercised	—	—	—	—	—	—
Changes in comprehensive income	—	—	—	—	177	177
Net income	—	—	—	56,076	—	56,076
Balance at March 31, 2019	\$ 7	\$ 374,896	\$ (72,239)	\$ 1,676,008	\$ (1,016)	\$ 1,977,656

Three Months Ended March 31, 2020

	Common Stock	Additional Paid-In-Capital	Treasury Stock	Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Total
Balance at December 31, 2019	\$ 7	\$ 379,380	\$ (72,455)	\$ 1,955,187	\$ (787)	\$ 2,261,332
Effect of ASU No. 2016-13 implementation (refer to Note 3)	—	—	—	(1,609)	—	(1,609)
Share-based compensation	—	3,790	—	—	—	3,790
Repurchase of common stock	—	—	(1,536)	—	—	(1,536)
Proceeds from options exercised	—	16	—	—	—	16
Changes in comprehensive income	—	—	—	—	226	226
Net loss	—	—	—	(27,828)	—	(27,828)
Balance at March 31, 2020	\$ 7	\$ 383,186	\$ (73,991)	\$ 1,925,750	\$ (561)	\$ 2,234,391

The accompanying Notes are an integral part of these Condensed Financial Statements.

Notes to Condensed Financial Statements
(unaudited)

1. Basis of Presentation

The accompanying unaudited condensed financial statements include the accounts of Spirit Airlines, Inc. (the "Company"). These unaudited condensed financial statements reflect all normal recurring adjustments which management believes are necessary to fairly present the financial position, results of operations and cash flows of the Company for the respective periods presented. Certain information and footnote disclosures normally included in the audited annual financial statements prepared in accordance with U.S. generally accepted accounting principles ("GAAP") have been condensed or omitted pursuant to the rules and regulations of the Securities and Exchange Commission for Form 10-Q. These unaudited interim condensed financial statements should be read in conjunction with the audited financial statements of the Company and notes thereto included in the Company's Annual Report on Form 10-K/A for the year ended December 31, 2019 filed with the Securities and Exchange Commission on April 16, 2020.

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect both the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results may differ from these estimates.

The interim results reflected in the unaudited condensed financial statements are not necessarily indicative of the results that may be expected for other interim periods or for the full year. The air transportation business is subject to significant seasonal fluctuations as demand is generally greater in the second and third quarters of each year. The air transportation business is also volatile and highly affected by economic cycles and trends. In addition, the Company experienced significant impacts from the global coronavirus ("COVID-19") pandemic during the three months ended March 31, 2020.

2. Impact of COVID-19

As the COVID-19 pandemic evolves, the Company's financial and operational outlook remains subject to change. The Company continues to monitor the impacts of the pandemic on its operations and financial condition, and to implement mitigation strategies while working to preserve cash and protect the long-term sustainability of the Company.

The Company has implemented measures for the safety of its Guests and Team Members as well as to mitigate the impact of COVID-19 on its financial position and operations.

Caring for Guests and Team Members

The Company's Operations and Task Force teams remain in constant contact with authorities, continuing to evolve its response to ensure the safety of Guests and Team Members. In addition to existing procedures including utilization of hospital-grade disinfectants and state-of-the-art HEPA filters that capture 99.97% of airborne particles, the Company has launched a new aircraft fogging program to provide additional disinfection of aircraft remaining overnight at Ft. Lauderdale/Hollywood International Airport ("FLL"), Dallas/Fort Worth International Airport ("DFW"), and Orlando International Airport ("MCO"). Additional stations will be added as fogging equipment is received by the Company through the second quarter of 2020.

In addition, the Company has implemented the following steps to protect its Guests and Team Members:

- Secured and distributed additional supplies of gloves and sanitizer across the Company's network and augmented the contents of onboard supply kits to contain additional cleaning and sanitizing materials;
- Expanded cleaning protocols at airports and other facilities, including the use of electrostatic sprayers at select locations;
- Expanded aircraft turn and overnight cleaning protocols focusing on high frequency touch points as well as enhanced cockpit cleaning;
- Split the Company's Operational Control Center ("OCC") into multiple units to enable social distancing and prepared the OCC to work remotely to minimize potential operational disruption;
- Implemented a remote work policy for the Support Center teams to maintain support of the Company's operations;
- Announced a new policy that requires all Guests and Guest-facing Team Members to wear an appropriate mask or face covering when traveling through the airport or onboard aircraft;
- Offered future flight credits with extended expiration dates to Guests with impacted travel plans.

Supporting Communities

During this unprecedented time, many travelers became stranded abroad when bans and other restrictions on travel were implemented globally and domestically with little notice. The Company has worked with governments in Aruba, Colombia, Dominican Republic, Haiti, Panama and the U.S. to operate special flights for stranded travelers in such countries. The Company has provided flights to over three thousand stranded travelers and preparations continue to transport hundreds more.

The Company has also made efforts to address the growing needs of its communities through The Spirit Airlines Charitable Foundation (the "Foundation"). As part of the its focus on supporting families, the Foundation partnered with other non-profit organizations including the YMCA and Jack and Jill Children's Center to provide food to seniors and families struggling during this time and supported organizations creating masks for healthcare workers.

Capacity Reductions

In response to government restrictions on travel and drastically reduced consumer demand, the Company has significantly reduced capacity from its original plan. The Company reduced capacity for April 2020 by approximately 75% and for May and June 2020 by approximately 95%. The Company currently estimates that air travel demand after June will gradually recover through early 2021. However, the situation is fluid and actual capacity adjustments may be different than what the Company currently expects. The Company will continue to evaluate the need for further flight schedule adjustments. Refer to Note 4, Revenue, for discussion of the impact of COVID-19 on the Company's air traffic liability, credit shells and refunds.

CARES Act

On March 27, 2020, President Donald Trump signed the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") into law. The CARES Act is a relief package intended to assist many aspects of the American economy, including providing the airline industry with up to \$25 billion in grants to be used for employee wages, salaries and benefits and up to \$25 billion in secured loans.

On April 20, 2020, the Company entered into a Payroll Support Program Agreement ("PSP") with the United States Department of the Treasury ("Treasury"), pursuant to which the Company expects to receive a total of \$334.7 million under the PSP over the second and third quarters of 2020, which funds will be used exclusively to pay for salaries and benefits for the Company's Team Members through September 30, 2020. Of that amount, \$264.3 million will be a direct grant from Treasury and \$70.4 million will be in the form of a low-interest 10-year loan. In connection with its participation in the PSP, the Company is obligated to issue to Treasury warrants pursuant to a warrant agreement to purchase up to 500,150 shares of the Company's common stock at a strike price of \$14.08 per share (the closing price for the shares of the Company's common stock on April 9, 2020). On April 21, 2020, the Company received total proceeds of \$167.4 million, representing the first installment of funding under the PSP, in exchange for which the Company issued to Treasury a \$20.2 million 10-year note and warrants to purchase 143,541 shares of common stock, representing less than 1% of the outstanding shares of the Company's common stock as of April 29, 2020.

The warrant agreement sets out the Company's obligations to issue warrants in connection with disbursements under the PSP and to file a resale shelf registration statement for the warrants and the underlying shares of common stock. The Company has also granted the Treasury certain demand and piggyback registration rights with respect to the warrants and the underlying common stock. The warrants will include adjustments for below market issuances, payment of dividends and other customary anti-dilution provisions. The warrants will be transferable and have no voting rights. The warrants will expire in five years from the date of issuance and, at the Company's option, may be settled on a "net cash" or "net shares" basis.

In connection with the Company's receipt of funds under the PSP, the Company will be subject to certain restrictions, including, but not limited to:

- Restrictions on payment of dividends and stock buybacks through September 30, 2021;
- A prohibition on involuntary terminations or furloughs of our employees (except for health, disability, cause, or certain disciplinary reasons) through September 30, 2020;
- A prohibition on reducing the salary, wages, or benefits of our employees (other than our executive officers or independent contractors, or as otherwise permitted under the terms of the PSP) through September 30, 2020.
- Limits on certain executive compensation, including limiting pay increases and severance pay or other benefits upon terminations, through March 24, 2022.
- Use of the grant funds exclusively for the continuation of payment of employee wages, salaries and benefits.
- We are subject to additional reporting and recordkeeping requirements relating to the CARES Act funds.

On April 29, 2020, the Company applied for additional funds under the Treasury's loan program under the CARES Act ("Loan Program"). The expected maximum availability to the Company under the Loan Program is approximately \$741 million in the form of a secured loan. However, the loan amount is dependent on the amount and types of collateral accepted, which may result in an actual loan less than \$741 million, if the Company accepts the loan. Any loan received pursuant to the Loan Program would be subject to the restrictions and relevant provisions of the CARES Act, including many of those noted above for the PSP. The Company's participation in the Loan Program could materially increase the funds available to the Company as it works through the operational and business issues related to the COVID-19 pandemic and provide a base of available funding that could encourage private market transactions. The Company will continue to evaluate its cash flow needs over the next several months and will determine whether or not to accept any or all of the funds available from the Loan Program. The deadline to make the election under the Loan Program is September 30, 2020.

The CARES Act also provides for tax loss carrybacks, employee tax credits, and a waiver on federal fuel taxes expected to provide approximately \$180 million in current year refunds and expense savings.

Finally, the CARES Act also provides for deferred payment of the employer portion of social security taxes through the end of 2020, with 50% of the deferred amount due December 31, 2021 and the remaining 50% due December 31, 2022. This is expected to provide the Company with approximately \$24 million of additional liquidity during the current year.

Refer to Note 14, Subsequent Events for additional information on the Company's PSP with the Treasury and application for participation in the Loan Program.

Income Taxes

The Company's effective tax rate for the first quarter of 2020 was 62.7% compared to 22.2% for the first quarter of 2019. The increase in tax rate, as compared to the prior year period, is primarily due to a \$31.1 million discrete federal tax benefit recorded in the first quarter of 2020 related to the passage of the CARES Act. The CARES Act allows for carryback of net operating losses generated at a 21% tax rate to recover taxes paid at a 35% tax rate. Excluding this discrete tax benefit, the Company's effective tax rate for the first quarter of 2020 would have been 21.0%. The decrease in tax rate from the prior year period of 22.2% to the adjusted first quarter 2020 rate of 21.0% is primarily due to a reduction of the current period tax benefit from non-deductible permanent tax items. Our effective tax rate through 2020 may be impacted further by discrete items recorded as additional CARES Act implementation guidance is released.

Balance Sheet, Cash Flow and Liquidity

The Company has taken several actions to increase liquidity and strengthen its financial position. As a result of these actions, as of March 31, 2020, the Company had unrestricted cash and short-term investment securities of \$894.4 million.

In March 2020, the Company entered into a senior secured revolving credit facility (the "2022 revolving credit facility") for an initial commitment amount of \$110.0 million and subsequently in April 2020, the initial commitment amount was increased to \$135.0 million. In April 2020, the Company borrowed the entire available amount of \$135.0 million under the 2022 revolving credit facility. In May 2020, the Company entered into a commitment whereby the 2022 revolving credit facility is expected to be increased to \$165.0 million, effective May 18, 2020, subject to the satisfaction of certain conditions precedent. The 2022 revolving credit facility matures on March 30, 2022. The Company continues to pursue additional financing secured by its unencumbered assets. Refer to Note 14, Subsequent Events for additional information on the Company's 2022 revolving credit facility.

In addition to the revolving credit facility described above, the Company has taken, or intends to take, additional action, including:

- Reduced planned discretionary non-aircraft capital spend in 2020 by approximately \$50 million. The Company is also in discussions with Airbus to defer certain aircraft deliveries initially scheduled in 2020 and 2021, as well as the related pre-delivery deposit payments. The Company expects to reduce aircraft-related capital spend by approximately \$185 million in 2020 if those discussions are successful.
- Deferred \$20 million in heavy maintenance events from 2020 to 2021;
- Reduced planned non-fuel operating costs for 2020 by \$20 million to \$30 million, excluding savings related to reduced capacity;
- Suspended hiring across the Company except to fill essential roles;
- Engaged in discussions with the Company's significant stakeholders and vendors regarding financial support or contract adjustments, including extensions of payment terms, during this transition period;
- Worked with unionized and non-unionized employees to create voluntary leave programs.

Additionally, Ted Christie, the Company's Chief Executive Officer and President, has temporarily reduced his base salary by 30%. All Senior and Executive Vice Presidents and members of the Board of Directors have temporarily reduced their compensation as well.

For purposes of assessing its liquidity needs, the Company estimates that demand will begin to improve in the second half of 2020, but remain well below 2019 levels, and continue to recover into 2021. While the Company believes the actions described above address its future liquidity needs, the Company anticipates it may implement further discretionary changes and other cost reduction and liquidity preservation measures as needed to address the volatility and quickly changing dynamics of passenger demand and the impact of revenue changes, regulatory and public health directives and prevailing government policy and financial market conditions.

3. Recent Accounting Developments

Recently Adopted Accounting Pronouncements

Accounting for Credit Losses

In June 2016, the FASB issued ASU No. 2016-13, "Financial Instruments - Credit Losses." The standard requires the use of an "expected loss" model on certain types of financial instruments. For accounts receivables, aircraft maintenance deposits and security deposits (recorded within other long-term assets on the Company's condensed balance sheets) the Company is required to estimate lifetime expected credit losses. The standard also amends the impairment model for available-for-sale securities and requires estimated credit losses to be recorded as allowances rather than as reductions to the amortized cost of the securities. As such, the Company is required to recognize an allowance for credit losses for its short-term available-for-sale investment securities, with the exception of U.S. Treasury securities which do not require an allowance for credit losses. The Company adopted this standard effective January 1, 2020. In connection with the adoption of this standard, the Company recognized a cumulative effect adjustment, net of tax, of \$1.6 million to retained earnings on the Company's condensed balance sheets with corresponding reserves against certain of our outstanding financial instruments. These amounts were not material to the Company's financial statements individually or in the aggregate.

Cloud Computing Arrangements

In August 2018, the FASB issued ASU No. 2018-15, "Intangibles - Goodwill and Other - Internal-Use Software." This new standard requires a customer in a cloud computing arrangement that is a service contract to follow the internal-use software guidance in Accounting Standards Codification ("ASC") 350-40, "Accounting for Internal-Use Software," to determine which implementation costs to capitalize as assets and amortize over the term of the hosting arrangement or expense as incurred. The Company adopted this standard effective January 1, 2020 and is applying the standard prospectively to all implementation costs incurred after the date of adoption. This adoption has not had a material impact on the Company's financial statement presentation or results.

4. Revenue

Operating revenues is comprised of passenger revenues, which includes fare and non-fare revenues, and other revenues. The following table shows disaggregated operating revenues for the three months ended March 31, 2020 and March 31, 2019.

	Three Months Ended March 31,	
	2020	2019
	(in thousands)	
Operating revenues:		
Fare	\$ 321,447	\$ 416,345
Non-fare	432,103	421,720
Total passenger revenues	753,550	838,065
Other	17,531	17,731
Total operating revenues	\$ 771,081	\$ 855,796

The Company is managed as a single business unit that provides air transportation for passengers. Operating revenues by geographic region as defined by the Department of Transportation ("DOT") are summarized below:

	Three Months Ended March 31,	
	2020	2019
	(in thousands)	
DOT—Domestic	\$ 697,828	\$ 753,100
DOT—Latin America	73,253	102,696
Total	\$ 771,081	\$ 855,796

The Company defers the amount for award travel obligation as part of loyalty deferred revenue within air traffic liability ("ATL") on the Company's condensed balance sheets and recognizes loyalty travel awards in passenger revenues as the mileage credits are used for travel or expire unused.

As a result of the COVID-19 pandemic, the Company experienced significantly increased customer requests for credit shells and refunds beginning in the second half of March 2020 primarily due to flight cancellations. In addition, in response to COVID-19, the Company increased the expiration period on some of its credit shells from 60 days to 12 months. As a result, the amount of credit shells, or customer travel funds held by the Company that can be redeemed for future travel, as of March 31, 2020, significantly exceeds the amount in the prior year period. As of March 31, 2020 and December 31, 2019, the Company had ATL balances of \$411.3 million and \$315.4 million, respectively. The balance of the Company's ATL, including the balance of credit shells, is expected to be recognized within 12 months of the respective balance sheet date. The total value of refunds made during the three months ended March 31, 2020 was \$43.7 million. For further information on COVID-19's impact to the Company, please refer to Note 2, Impact of COVID-19.

For credit shells that the Company estimates are not likely to be used prior to expiration ("breakage"), the Company recognizes the associated value proportionally during the period over which the remaining credit shells may be used. Breakage estimates are based on the Company's historical information about customer behavior as well as assumptions about customers' future travel behavior. Assumptions used to generate breakage estimates can be impacted by several factors including, but not limited to, changes to the Company's ticketing policies, changes to the Company's refund, exchange, and unused funds policies, and economic factors. Given the unprecedented amount of cancellations in the first quarter of 2020 and the amount of credit shells provided, the Company expects additional variability in the amount of breakage revenue recorded in future periods, as the estimates of the portion of those funds that will expire unused may differ from historical experience.

5. Loss on Disposal of Assets

During the three months ended March 31, 2020, the Company had no loss on disposal of assets in the statement of operations.

During the three months ended March 31, 2019, the Company recorded \$1.9 million in loss on disposal of assets in the statement of operations. This amount primarily related to the disposal of excess and obsolete inventory.

6. Earnings (Loss) per Share

The following table sets forth the computation of basic and diluted earnings (loss) per common share:

	Three Months Ended March 31,	
	2020	2019
	(in thousands, except per share amounts)	
Numerator		
Net income (loss)	\$ (27,828)	\$ 56,076
Denominator		
Weighted-average shares outstanding, basic	68,521	68,380
Effect of dilutive stock awards	—	136
Adjusted weighted-average shares outstanding, diluted	68,521	68,516
Earnings (loss) per share		
Basic earnings (loss) per common share (1)	\$ (0.41)	\$ 0.82
Diluted earnings (loss) per common share (1)	\$ (0.41)	\$ 0.82
Anti-dilutive weighted-average shares	482	159

1) During the three months ended March 31, 2020, the Company recorded a non-recurring federal income tax benefit of \$31.1 million (\$0.45 and \$0.45 per basic and diluted share, respectively) due to the passage of the CARES Act in the first quarter of 2020.

7. Short-term Investment Securities

The Company's short-term investment securities are classified as available-for-sale and generally consist of U.S. Treasury and U.S. government agency securities with contractual maturities of 12 months or less. These securities are stated at fair value within current assets on the Company's condensed balance sheets. Realized gains and losses on sales of investments, if any, are reflected in non-operating income (expense) in the condensed statements of operations.

As of March 31, 2020 and December 31, 2019, the Company had \$106.2 million and \$105.3 million in short-term available-for-sale investment securities, respectively. During the three months ended March 31, 2020, these investments earned interest income at a weighted-average fixed rate of approximately 1.9%. For the three months ended March 31, 2020, an unrealized gain of \$321 thousand, net of deferred taxes of \$94 thousand, was recorded within accumulated other comprehensive income ("AOCI") related to these investment securities. For the three months ended March 31, 2019, an unrealized gain of \$130 thousand, net of deferred taxes of \$39 thousand, was recorded within AOCI related to these investment securities. The Company had no realized gains or losses related to these securities for the three months ended March 31, 2020 and March 31, 2019, as the Company did not sell any of these securities during these periods. As of March 31, 2020 and December 31, 2019, \$425 thousand and \$104 thousand, net of tax, respectively, remained in AOCI, related to these instruments.

8. Accrued Liabilities

Other current liabilities as of March 31, 2020 and December 31, 2019 consist of the following:

	March 31, 2020	December 31, 2019
	(in thousands)	
Salaries and wages	\$ 89,611	\$ 89,163
Airport obligations	73,309	80,134
Aircraft maintenance	32,005	38,099
Aircraft and facility lease obligations	20,042	20,656
Interest payable	18,061	16,941
Federal excise and other passenger taxes and fees payable	16,580	65,312
Fuel	10,020	28,510
Other	36,979	34,706
Other current liabilities	<u>\$ 296,607</u>	<u>\$ 373,521</u>

9. Leases

The Company leases aircraft, engines, airport terminals, maintenance and training facilities, aircraft hangars, commercial real estate, and office and computer equipment, among other items. Certain of these leases include provisions for variable lease payments which are based on several factors, including, but not limited to, relative leased square footage, enplaned passengers, and airports' annual operating budgets. Due to the variable nature of the rates, these leases are not recorded on the Company's condensed balance sheets as a right-of-use asset and lease liability. Lease terms are generally 8 years to 18 years for aircraft and up to 99 years for other leased equipment and property.

As of March 31, 2020, the Company had a fleet consisting of 151 A320 family aircraft. As of March 31, 2020, the Company had 54 aircraft financed under operating leases with lease term expirations between 2022 and 2038. In addition, the Company owned 97 aircraft of which 29 were purchased off lease and are currently unencumbered. As of March 31, 2020, the Company also had 8 spare engines financed under operating leases with lease term expiration dates ranging from 2023 to 2027 and owned 16 spare engines, all of which were unencumbered as March 31, 2020 and of which 3 were purchased off lease.

In accordance with Topic 842, the Company has elected not to apply the recognition requirements to short term leases (i.e., leases of 12 months or less). Instead, lease payments are recognized in profit or loss on a straight-line basis over the lease term. In addition, variable lease payments in the period in which the obligation for those payments is incurred are not included in the recognition of a lease liability or right-of-use asset.

Right-of-use assets represent the Company's right to use an underlying asset for the lease term and lease liabilities represent the Company's obligation to make lease payments arising from the lease. Right-of-use assets and liabilities are recognized at the lease commencement date based on the estimated present value of lease payments over the lease term. When available, the Company uses the rate implicit in the lease to discount lease payments to present value. However, the Company's leases generally do not provide a readily determinable implicit rate. Therefore, the Company estimates the incremental borrowing rate to discount lease payments based on information available at lease commencement. The Company uses publicly available data for instruments with similar characteristics when calculating its incremental borrowing rates. The Company has options to extend certain of its operating leases for an additional period of time and options to early terminate several of its operating leases. The lease term consists of the noncancellable period of the lease, periods covered by options to extend the lease if the Company is reasonably certain to exercise the option, periods covered by an option to terminate the lease if the Company is reasonably certain not to exercise the option and periods covered by an option to extend or not terminate the lease in which the exercise of the option is controlled by the lessor. The Company's lease agreements do not contain any residual value guarantees. The Company has elected to not separate non-lease components from the associated lease component for all underlying classes of assets with lease and non-lease components.

Some of the Company's aircraft and engine master lease agreements provide that the Company pays maintenance reserves to aircraft lessors to be held as collateral in advance of the Company's required performance of major maintenance activities. A majority of these maintenance reserve payments are calculated based on a utilization measure, such as flight hours or cycles, while some maintenance reserve payments are fixed, time-based contractual amounts. Maintenance reserve payments that are probable of being recovered when the Company performs qualifying maintenance are recorded in aircraft maintenance deposits on the Company's condensed balance sheets. Fixed maintenance reserve payments that are not probable of being recovered are considered lease payments and are included in the right-of-use asset and lease liability. Maintenance reserve payments that are

based on a utilization measure and are not probable of being recovered are considered variable lease payments that are recognized when they are probable of being incurred and are not included in the right-of-use asset and lease liability.

Some of the master lease agreements do not require that the Company pay maintenance reserves so long as the Company's cash balance does not fall below a certain level. As of March 31, 2020, the Company is in full compliance with those requirements and does not anticipate having to pay reserves related to these master leases in the future.

Aircraft rent expense consists of monthly lease rents for aircraft and spare engines under the terms of the Company's aircraft and spare engine lease agreements recognized on a straight-line basis. Aircraft rent expense also includes maintenance reserves paid to aircraft lessors in advance of the performance of major maintenance activities that are not probable of being reimbursed and probable lease return condition obligations.

Under the terms of the lease agreements, the Company will continue to operate and maintain the aircraft. Payments under the majority of the lease agreements are fixed for the term of the lease. The lease agreements contain standard termination events, including termination upon a breach of the Company's obligations to make rental payments and upon any other material breach of the Company's obligations under the leases, and standard maintenance and return condition provisions. These return provisions are evaluated at inception of the lease and throughout the lease terms and are accounted for as either fixed or variable lease payments (depending on the nature of the lease return condition) when it is probable that such amounts will be incurred. When determining probability and estimated cost of lease return obligations, there are various other factors that need to be considered such as the contractual terms of the lease, the ability to swap engines or other aircraft components, current condition of the aircraft, the age of the aircraft at lease expiration, utilization of engines and other components, the extent of repairs needed at return, return locations, current configuration of the aircraft and cost of repairs and materials at the time of return. As a result of the different factors listed above, management assesses the need to accrue lease return costs throughout the lease as facts and circumstances warrant an assessment. As a result of COVID-19, the Company is currently operating its aircraft at lower utilization levels. If the Company continues flying its aircraft at lower utilization levels beyond its current projections, the timing of future maintenance events may change such that the Company will be required to accrue lease return costs and/or record reserves against its maintenance deposits earlier than it would have expected and such amounts could be significant. The Company expects lease return costs and unrecoverable maintenance deposits will increase as individual aircraft lease agreements approach their respective termination dates and the Company begins to accrue the estimated cost of return conditions for the corresponding aircraft. Upon a termination of the lease due to a breach by the Company, the Company would be liable for standard contractual damages, possibly including damages suffered by the lessor in connection with remarketing the aircraft or while the aircraft is not leased to another party.

During the three months ended March 31, 2020, the Company took delivery of four aircraft under secured debt arrangements, purchased two previously leased aircraft, and took delivery of two aircraft under operating leases. In addition, the Company also purchased two engines and returned one previously leased engine.

On December 31, 2019, the Company entered into an aircraft sale agreement to acquire two A319 aircraft previously operated by the Company under operating leases. The contract was deemed a lease modification, which resulted in a change of classification from operating leases to finance leases for the two aircraft. In January 2020, the purchase of the two aircraft was completed. These aircraft were recorded within flight equipment on the Company's condensed balance sheets as of March 31, 2020.

As of March 31, 2020, the Company's finance lease obligations primarily relate to the lease of computer equipment used by the Company's flight crew and office equipment. Payments under these finance lease agreements are fixed for terms ranging from 3 to 5 years. Finance lease assets are recorded within property and equipment and the related liabilities are recorded within current maturities of long-term debt and finance leases and long-term debt and finance leases, less current maturities in the Company's condensed balance sheets.

During the fourth quarter of 2019, the Company purchased an 8.5-acre parcel of land for \$41.0 million and entered into a 99-year lease agreement for the lease of a 2.6-acre parcel of land, in Dania Beach, Florida, where the Company intends to build a new headquarters campus. In connection with the lease agreement, the Company is expected to build a 200-unit residential building. The 8.5-acre parcel of land is capitalized within ground property and equipment on the Company's condensed balance sheets. The 99-year lease was determined to be an operating lease and is recorded within operating lease right-of-use asset and operating lease liability on the Company's condensed balance sheets. Construction of the headquarters campus is expected to commence in the second half of 2020 and take approximately two years to complete. As of March 31, 2020, the Company estimates the total construction related outlay for the project will be approximately \$200 million to \$250 million. Operating lease commitments related to this lease are included in the table below within property facility leases.

The following table provides details of the Company's future minimum lease payments under finance lease liabilities and operating lease liabilities recorded on the Company's condensed balance sheets as of March 31, 2020. The table does not include commitments that are contingent on events or other factors that are currently uncertain or unknown.

	Operating Leases				Total Operating and Finance Lease Obligations
	Finance Leases	Aircraft and Spare Engine Leases	Property Facility Leases	Other	
	(in thousands)				
remainder of 2020	\$ 481	\$ 150,511	\$ 3,377	\$ 372	\$ 154,741
2021	606	200,682	4,552	—	205,840
2022	578	201,759	4,262	—	206,599
2023	202	189,115	3,260	—	192,577
2024	—	167,052	2,722	—	169,774
2025 and thereafter	—	1,019,499	144,127	—	1,163,626
Total minimum lease payments	\$ 1,867	\$ 1,928,618	\$ 162,300	\$ 372	\$ 2,093,157
Less amount representing interest	171	561,743	135,717	7	697,638
Present value of minimum lease payments	\$ 1,696	\$ 1,366,875	\$ 26,583	\$ 365	\$ 1,395,519
Less current portion	545	122,332	3,016	365	126,258
Long-term portion	\$ 1,151	\$ 1,244,543	\$ 23,567	\$ —	\$ 1,269,261

Commitments related to the Company's noncancellable short-term operating leases not recorded on the Company's condensed balance sheets are expected to be \$0.5 million for the remainder of 2020 and none for 2021 and beyond.

The table below presents information for lease costs related to the Company's finance and operating leases:

	Three Months Ended March 31, 2020		Three Months Ended March 31, 2019	
	(in thousands)			
Finance lease cost				
Amortization of leased assets	\$	135	\$	210
Interest of lease liabilities		113		29
Operating lease cost				
Operating lease cost (1)		47,217		49,715
Short-term lease cost (1)		3,823		3,449
Variable lease cost (1)		32,706		28,117
Total lease cost	\$	83,994	\$	81,520

(1) Expenses are classified within aircraft rent and landing fees and other rents on the Company's condensed statements of operations.

The table below presents lease terms and discount rates related to the Company's finance and operating leases:

	March 31, 2020	March 31, 2019
Weighted-average remaining lease term		
Operating leases	13.1 years	8.0 years
Finance leases	3.0 years	3.5 years
Weighted-average discount rate		
Operating leases	6.04 %	6.72 %
Finance leases	6.16 %	6.12 %

10. Commitments and Contingencies

Aircraft-Related Commitments and Financing Arrangements

The Company's contractual purchase commitments consist primarily of aircraft and engine acquisitions through manufacturers and aircraft leasing companies. During the fourth quarter of 2019, the Company entered into an A320 NEO Family Purchase Agreement with Airbus for the purchase of 100 new Airbus A320neo family aircraft, with options to purchase up to 50 additional aircraft. As of March 31, 2020, the Company's aircraft orders consisted of 131 A320 family aircraft with Airbus, including A319neos, A320neos and A321neos, with deliveries expected through 2027. In addition, the Company had 11 direct operating leases for A320neos with third-party lessors, with deliveries expected in the remainder of 2020 through 2021. The Company is also in discussions with Airbus to defer certain aircraft deliveries initially scheduled in 2020 and 2021. For more detailed information, please refer to Note 2, "Impact of COVID-19."

The Company also has one spare engine order for a V2500 SelectTwo engine with International Aero Engines ("IAE") and two spare engine orders for PurePower PW1100G-JM engines with Pratt & Whitney. Spare engines are scheduled for delivery from 2020 through 2023. As of March 31, 2020, purchase commitments for these aircraft and engines, including estimated amounts for contractual price escalations and pre-delivery payments, are expected to be \$701.6 million for the remainder of 2020, \$735.9 million in 2021, \$115.3 million in 2022, \$491.6 million in 2023, \$1,002.5 million in 2024, and \$3,605.4 million in 2025 and beyond. During the third quarter of 2019, the United States announced its decision to levy tariffs on certain imports from the European Union, including commercial aircraft and related parts. These tariffs include aircraft and other parts that the Company is already contractually obligated to purchase including those reflected above. In February 2020, the rate of this tariff was increased from 10% to 15%. The imposition of these tariffs may substantially increase the cost of new Airbus aircraft and parts required to service the Company's Airbus fleet.

As of March 31, 2020, the Company has secured debt financing commitments for four aircraft being delivered from Airbus in the remainder of 2020. As of March 31, 2020, the Company does not have financing commitments in place for the remaining 127 Airbus aircraft on firm order, which are scheduled for delivery in the remainder of 2020 through 2027. However, the Company has a financing letter of agreement with Airbus which provides backstop financing for a majority of the aircraft included in the A320 NEO Family Purchase Agreement signed in the fourth quarter of 2019. The agreement provides a standby credit facility in the form of senior secured mortgage debt financing.

As of March 31, 2020, principal and interest commitments related to the Company's future secured debt financing of the four undelivered aircraft are approximately \$7.8 million for the remainder of 2020, \$16.5 million in 2021, \$13.0 million in 2022, \$14.7 million in 2023, \$14.3 million in 2024, and \$124.2 million in 2025 and beyond. Aircraft rent commitments for future aircraft deliveries to be financed under direct leases from third-party lessors are expected to be approximately \$2.6 million for the remainder of 2020, \$21.3 million in 2021, \$36.8 million in 2022, \$36.8 million in 2023, \$36.8 million in 2024, and \$307.0 million in 2025 and beyond.

Interest commitments related to the secured debt financing of 68 delivered aircraft as of March 31, 2020 are \$61.8 million for the remainder of 2020, \$74.7 million in 2021, \$68.1 million in 2022, \$57.6 million in 2023, \$46.7 million in 2024, and \$126.8 million in 2025 and beyond. For principal commitments related to these financed aircraft, refer to Note 12, Debt and Other Obligations.

The Company is contractually obligated to pay the following minimum guaranteed payments for its reservation system and other miscellaneous subscriptions and services as of March 31, 2020: \$15.2 million for the remainder of 2020, \$17.1 million in 2021, \$16.2 million in 2022, \$14.4 million in 2023, \$14.5 million in 2024, and \$50.3 million in 2025 and thereafter. During the first quarter of 2018, the Company entered into a contract renewal with its reservation system provider which expires in 2028.

Litigation

The Company is subject to commercial litigation claims and to administrative and regulatory proceedings and reviews that may be asserted or maintained from time to time. The Company believes the ultimate outcome of such lawsuits, proceedings and reviews will not, individually or in the aggregate, have a material adverse effect on its financial position, liquidity or results of operations.

Credit Card Processing Arrangements

The Company has agreements with organizations that process credit card transactions arising from the purchase of air travel, baggage charges, and other ancillary services by customers. As is standard in the airline industry, the Company's contractual arrangements with credit card processors permit them, under certain circumstances, to retain a holdback or other collateral, which the Company records as restricted cash, when future air travel and other future services are purchased via credit card transactions. The required holdback is the percentage of the Company's overall credit card sales that its credit card processors hold to cover refunds to customers if the Company fails to fulfill its flight obligations.

The Company's credit card processors do not require the Company to maintain cash collateral provided that the Company satisfies certain liquidity and other financial covenants. Failure to meet these covenants would provide the processors the right to place a holdback resulting in a commensurate reduction of unrestricted cash. As of March 31, 2020 and December 31, 2019, the Company was in compliance with such liquidity and other financial covenants in its credit card processing agreements and the processors were holding back no remittances.

The maximum potential exposure to cash holdbacks by the Company's credit card processors, based upon advance ticket sales and \$9 Fare Club memberships as of March 31, 2020 and December 31, 2019, was \$375.3 million and \$342.3 million, respectively.

Employees

The Company has 5 union-represented employee groups that together represented approximately 81% of all employees as of March 31, 2020. The table below sets forth the Company's employee groups and status of the collective bargaining agreements as of March 31, 2020.

Employee Groups	Representative	Amendable Date	Percentage of Workforce
Pilots	Air Line Pilots Association, International ("ALPA")	February 2023	27%
Flight Attendants	Association of Flight Attendants ("AFA-CWA")	May 2021	47%
Dispatchers	Professional Airline Flight Control Association ("PAFCA")	October 2023	1%
Ramp Service Agents	International Association of Machinists and Aerospace Workers ("IAMAW")	June 2020	3%
Passenger Service Agents	Transport Workers Union of America ("TWU")	NA	3%

In February 2020, the IAMAW notified the Company, as required by the Railway Labor Act, that it intends to submit proposed changes to the collective bargaining agreement covering the Company's ramp service agents which becomes amendable in June 2020. The parties expect to schedule meeting dates for negotiations soon.

The Company's passenger service agents are represented by the TWU, but the representation applies only to the Company's Fort Lauderdale station where the Company has direct employees in the passenger service classification. The Company and the TWU began meeting in late October 2018 to negotiate an initial collective bargaining agreement. As of March 31, 2020, the Company continued to negotiate with the TWU.

The Company is self-insured for healthcare claims, up to a stop-loss amount for eligible participating employees and qualified dependent medical claims, subject to deductibles and limitations. The Company's liabilities for claims incurred but not reported are determined based on an estimate of the ultimate aggregate liability for claims incurred. The estimate is calculated from actual claim rates and adjusted periodically as necessary. The Company has accrued \$5.0 million and \$5.2 million in health care claims as of March 31, 2020 and December 31, 2019, respectively.

11. Fair Value Measurements

Under ASC 820, "Fair Value Measurements and Disclosures," disclosures relating to how fair value is determined for assets and liabilities are required, and a hierarchy for which these assets and liabilities must be grouped is established, based on significant levels of inputs, as follows:

Level 1—Quoted prices in active markets for identical assets or liabilities.

Level 2—Observable inputs other than Level 1 prices such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.

Level 3—Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

Fair value is defined as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. The Company utilizes several valuation techniques in order to assess the fair value of the Company's financial assets and liabilities.

The Company records impairment charges on long-lived assets used in operations when events and circumstances indicate that the assets may be impaired, the undiscounted cash flows estimated to be generated by those assets are less than the carrying amount of those assets, and the net book value of the assets exceeds their estimated fair value. The Company has assessed whether any impairment of its long-lived assets existed and has determined that no charges were deemed necessary under applicable accounting standards as of March 31, 2020. The Company's assumptions about future conditions important to its assessment of potential impairment of its long-lived assets, including the impact of the COVID-19 pandemic to its business, are subject to uncertainty, and the Company will continue to monitor these conditions in future periods as new information becomes available, and will update its analyses accordingly.

Long-Term Debt

The estimated fair value of the Company's term loan debt agreements and revolving credit facilities have been determined to be Level 3 as certain inputs used to determine the fair value of these agreements are unobservable. The Company utilizes a discounted cash flow method to estimate the fair value of the Level 3 long-term debt. The estimated fair value of the Company's publicly and non-publicly held EETC debt agreements has been determined to be Level 2 as the Company utilizes quoted market prices in markets with low trading volumes to estimate the fair value of its Level 2 long-term debt.

The carrying amounts and estimated fair values of the Company's long-term debt at March 31, 2020 and December 31, 2019 were as follows:

	March 31, 2020		December 31, 2019		Fair Value Level Hierarchy
	Carrying Value	Estimated Fair Value	Carrying Value	Estimated Fair Value	
	(in millions)				
Fixed-rate senior term loans	\$ 287.8	\$ 269.4	\$ 296.1	\$ 296.4	Level 3
Fixed-rate term loans	927.4	916.9	778.2	823.6	Level 3
2015-1 EETC Class A	348.6	313.8	348.6	372.2	Level 2
2015-1 EETC Class B	72.0	62.6	72.0	74.5	Level 2
2015-1 EETC Class C	98.1	83.6	98.1	100.5	Level 2
2017-1 EETC Class AA	221.4	201.5	228.4	237.0	Level 2
2017-1 EETC Class A	73.8	64.6	76.1	78.8	Level 2
2017-1 EETC Class B	65.6	52.5	70.6	72.0	Level 2
2017-1 EETC Class C	85.3	72.2	85.5	88.0	Level 2
Revolving credit facilities	160.0	160.0	160.0	160.0	Level 3
Total long-term debt	\$ 2,340.0	\$ 2,197.1	\$ 2,213.6	\$ 2,303.0	

Cash and Cash Equivalents

Cash and cash equivalents at March 31, 2020 and December 31, 2019 are comprised of liquid money market funds and cash, and are categorized as Level 1 instruments. The Company maintains cash with various high-quality financial institutions.

Short-term Investment Securities

Short-term investment securities at March 31, 2020 and December 31, 2019 are classified as available-for-sale and generally consist of U.S. Treasury and U.S. government agency securities with contractual maturities of 12 months or less. The Company's short-term investment securities are categorized as Level 1 instruments, as the Company uses quoted market prices in active markets when determining the fair value of these securities. For additional information, refer to Note 7, Short-term Investment Securities.

Assets Held for Sale

The Company's assets held for sale consist of rotatable aircraft parts. When long-lived assets are identified as held for sale and the required criteria are met, the Company reclassifies the assets from property and equipment to prepaid expenses and other current assets on the Company's condensed balance sheets and discontinues depreciation. The assets are measured at the lower of the carrying amount or fair value less cost to sell and a loss is recognized for any initial adjustment of the asset's carrying amount to fair value less cost to sell. Such valuations include estimations of fair values and incremental direct costs to transact a sale. The fair value measurements for our held-for-sale assets were based on Level 3 inputs, which include information obtained from third-party valuation sources. As of March 31, 2020 and December 31, 2019, the Company had \$2.3 million in assets held for sale recorded within prepaid expenses and other current assets in the Company's condensed balance sheets.

Assets and liabilities measured at gross fair value on a recurring basis are summarized below:

	Fair Value Measurements as of March 31, 2020			
	Total	Level 1	Level 2	Level 3
	(in millions)			
Cash and cash equivalents	\$ 788.2	\$ 788.2	\$ —	\$ —
Short-term investment securities	106.2	106.2	—	—
Assets held for sale	2.3	—	—	2.3
Total assets	\$ 896.7	\$ 894.4	\$ —	\$ 2.3
Total liabilities	\$ —	\$ —	\$ —	\$ —

	Fair Value Measurements as of December 31, 2019			
	Total	Level 1	Level 2	Level 3
	(in millions)			
Cash and cash equivalents	\$ 979.0	\$ 979.0	\$ —	\$ —
Short-term investment securities	105.3	105.3	—	—
Assets held for sale	2.3	—	—	2.3
Total assets	\$ 1,086.6	\$ 1,084.3	\$ —	\$ 2.3
Total liabilities	\$ —	\$ —	\$ —	\$ —

The Company had no transfers of assets or liabilities between any of the above levels during the three months ended March 31, 2020 and the year ended December 31, 2019.

Assets Held for Sale Activity for the Three Months Ended March 31, 2020

	(in millions)	
Balance at December 31, 2019	\$	2.3
Purchases		—
Sales		—
Total realized or unrealized gains (losses) included in earnings, net	\$	—
Balance at March 31, 2020	\$	2.3

The Company's Valuation Group, which reports to the Chief Financial Officer, is made up of individuals from the Company's Treasury and Corporate Accounting departments. The Valuation Group is responsible for the execution of the Company's valuation policies and procedures. The Valuation Group compares the results of the Company's internally developed valuation methods with counterparty reports at each balance sheet date, assesses the Company's valuation methods for accurateness and identifies any needs for modification.

12. Debt and Other Obligations

As of March 31, 2020, the Company had outstanding non-public and public debt instruments. During the three months ended March 31, 2020, the Company incurred debt through fixed-rate term loans and secured a new revolving credit facility described below.

Fixed-rate term loans

The Company entered into facility agreements which as of March 31, 2020, provided \$165.0 million for four Airbus A320 aircraft delivered during the three months ended March 31, 2020. The loans extended under these facility agreements are secured by a first-priority security interest on the individual aircraft. These loans have a term life of 11 to 12 years and amortize on a mortgage-style basis, which requires quarterly principal and interest payments.

Revolving credit facility

On March 30, 2020, the Company entered into the 2022 revolving credit facility for \$110.0 million, with an option to increase the overall commitment amount up to \$350 million with the consent of any participating lenders and subject to borrowing base availability. The Company may pledge the following types of assets as collateral to secure its obligations under the revolving credit facility: (i) certain take-off and landing rights of the Company at LaGuardia Airport, (ii) certain eligible aircraft spare parts and ground support equipment, (iii) aircraft, spare engines and flight simulators, (v) real property assets and (vi) cash and cash equivalents. The final maturity of the facility is March 30, 2022. As of March 31, 2020, the Company had not drawn on this facility. Any amounts drawn on this facility will be included in long-term debt and finance leases, less current maturities on the Company's condensed balance sheets. The revolving credit facility bears variable interest based on LIBOR, plus a 2.00% margin per annum, or another rate, at the Company's election, based on certain market interest rates, plus a 1.00% margin per annum, in each case with a floor of 0%. Refer to Note 14, Subsequent Events, for updates related to this revolving credit facility that took place in April and May 2020.

The 2022 revolving credit facility requires the Company to maintain (i) so long as any loans or letters of credit are outstanding under the 2022 revolving credit facility, unrestricted cash and cash equivalents and unused commitments available under all revolving credit facilities (including the 2022 revolving credit facility) aggregating not less than \$400 million, of which no more than \$200 million may be derived from unused commitments under the 2022 revolving credit facility, (ii) a minimum ratio of the borrowing base of the collateral described above (determined as the sum of a specified percentage of the appraised value of each type of such collateral) to outstanding obligations under the 2022 revolving credit facility of not less than 1.0 to 1.0 (if the Company does not meet the minimum collateral coverage ratio, it must either provide additional collateral to secure its obligations under the 2022 revolving credit facility or repay the loans under the 2022 revolving credit facility by an amount necessary to maintain compliance with the collateral coverage ratio), and (iii) at any time following the date that is one month after the effective date of the 2022 revolving credit facility, the pledged take-off and landing rights of the Company at LaGuardia Airport and a specified number of spare engines in the collateral described above so long as any loans or letters of credit are outstanding under the 2022 revolving credit facility.

Long-term debt is comprised of the following:

	As of		As of	
	March 31, 2020	December 31, 2019	March 31, 2020	December 31, 2019
	(in millions)		(weighted-average interest rates)	
Fixed-rate senior term loans due through 2027	\$ 287.8	\$ 296.1	3.55 %	4.02 %
Fixed-rate loans due through 2031	927.4	778.2	3.47 %	3.70 %
Fixed-rate class A 2015-1 EETC due through 2028	348.6	348.6	4.10 %	4.10 %
Fixed-rate class B 2015-1 EETC due through 2024	72.0	72.0	4.45 %	4.45 %
Fixed-rate class C 2015-1 EETC due through 2023	98.1	98.1	4.93 %	4.93 %
Fixed-rate class AA 2017-1 EETC due through 2030	221.4	228.4	3.38 %	3.38 %
Fixed-rate class A 2017-1 EETC due through 2030	73.8	76.1	3.65 %	3.65 %
Fixed-rate class B 2017-1 EETC due through 2026	65.6	70.6	3.80 %	3.80 %
Fixed-rate class C 2017-1 EETC due through 2023	85.3	85.5	5.11 %	5.11 %
Revolving credit facility due in 2020	160.0	160.0	2.26 %	3.12 %
Revolving credit facility due in 2022	—	NA	NA	NA
Long-term debt	2,340.0	2,213.6		
Less current maturities	334.4	214.0		
Less unamortized discounts, net				
	41.3	40.4		
Total	\$ 1,964.4	\$ 1,959.2		

The Company's term debt financings are collateralized by first priority security interest in the individual aircraft being financed. The Company's revolving credit facility that matures in 2020 is secured by the Company's rights under the purchase agreement with Airbus related to certain A320neo aircraft. During the three months ended March 31, 2020 and March 31, 2019, the Company made scheduled principal payments of \$42.6 million and \$37.9 million, respectively, on its outstanding debt obligations.

At March 31, 2020, long-term debt principal payments for the next five years and thereafter are as follows:

	March 31, 2020	
	(in millions)	
remainder of 2020	\$	303.4
2021		176.6
2022		180.6
2023		323.8
2024		209.2
2025 and beyond		1,146.4
Total debt principal payments	\$	2,340.0

Interest Expense

Interest expense related to long-term debt and finance leases consists of the following:

	Three Months Ended March 31,	
	2020	2019
	(in thousands)	
Fixed-rate senior term loans	\$ 2,813	\$ 3,945
Fixed-rate junior term loans	—	523
Fixed-rate term loans	7,613	6,202
Class A 2015-1 EETC	3,549	3,838
Class B 2015-1 EETC	795	880
Class C 2015-1 EETC	1,209	1,335
Class AA 2017-1 EETC	1,887	1,989
Class A 2017-1 EETC	680	717
Class B 2017-1 EETC	644	754
Class C 2017-1 EETC	1,092	1,080
Revolving credit facilities	1,159	1,413
Amortization of deferred financing costs	2,106	2,192
Commitment and other fees	218	74
Finance leases	113	29
Total	\$ 23,878	\$ 24,971

13. Preferred Stock

Preferred Stock and Material Modifications to Rights of Security Holders

On March 29, 2020, the Board of Directors of the Company declared a dividend of one preferred stock purchase right (a "Right") for each outstanding share of common stock of the Company. The dividend was paid on April 9, 2020 (the "Record Date") to holders of record as of the close of business on that date. Pursuant to a Rights Agreement (the "Rights Agreement") between the Company and Equiniti Trust Company, as Rights Agent. The Rights will initially trade with, and will be inseparable from, the Company's common stock, and the registered holders of the Company's common stock will be deemed to be the registered holders of the Rights.

The Board of Directors has adopted the Rights Agreement to reduce the likelihood that a potential acquirer would gain (or seek to influence or change) control of the Company by open market accumulation or other tactics without paying an appropriate premium for the Company's shares. In general terms and subject to certain exceptions, it works by imposing a significant penalty upon any person or group (including a group of persons that are acting in concert with each other) that acquires 10% or more of the outstanding common stock of the Company without the approval of the Board of Directors.

The Rights will not be exercisable until after the Distribution Date (as defined below). After the Distribution Date, each Right will be exercisable to purchase, for \$60.00 (the "Purchase Price"), one one-thousandth of a share of Series A Participating Cumulative Preferred Stock, par value \$0.0001 per share (the "Preferred Stock"). This portion of a share of Preferred Stock will give the stockholder approximately the same dividend, voting or liquidation rights as would one share of the Company's common stock. Prior to exercise, Rights holders in their capacity as such have no rights as a stockholder of the Company, including the right to vote and to receive dividends. The Rights will expire on March 29, 2021, unless earlier exercised, exchanged, amended or redeemed.

The Board of Directors may redeem all of the Rights at a price of \$0.001 per Right at any time before any person has become an Acquiring Person. If the Board of Directors redeems any Rights, it must redeem all of the Rights. Once the Rights are redeemed, the only right of the holders of Rights will be to receive the redemption price per Right. The redemption price will be subject to adjustment.

The "Distribution Date" generally means the earlier of:

- the close of business on the 10th business day after the date of the first public announcement that a person or any of its affiliates and associates has become an “Acquiring Person,” as defined below, and
- the close of business on the 10th business day (or such later day as may be designated by the Board of Directors before any person has become an Acquiring Person) after the date of the commencement of a tender or exchange offer by any person which would, if consummated, result in such person becoming an Acquiring Person.

An “Acquiring Person” generally means any person who or which, together with all affiliates and associates of such person obtains beneficial ownership of 10% or more of shares of the Company’s common stock, with certain exceptions, including that an Acquiring Person does not include the Company, any subsidiary of the Company, any employee benefit plan of the Company or any subsidiary of the Company, any entity or trustee holding the Company’s common stock for or pursuant to the terms of any such plan or for the purpose of funding any such plan or other benefits for employees of the Company or of any subsidiary of the Company or any passive investor. A passive investor generally means any person beneficially owning shares of the Company’s common stock without a plan or an intent to seek control of or influence the Company. The Rights Agreement also provides that any person that would otherwise be deemed an Acquiring Person as of the date of the adoption of the Rights Agreement will be exempted but only for so long as it does not acquire, without the prior approval of the Board, beneficial ownership of any additional common stock of the Company following the adoption of the Rights Agreement.

The value of one one-thousandth interest in a share of Preferred Stock should approximate the value of one share of Common Stock, subject to adjustment. Each one one-thousandth of a share of Preferred Stock, if issued:

- will not be redeemable,
- will entitle holders to quarterly dividend payments of \$0.01 per share, or an amount equal to the dividend paid on one share of Common Stock, whichever is greater,
- will entitle holders upon liquidation either to receive \$1.00 per share or an amount equal to the payment made on one share of Common Stock, whichever is greater,
- will have the same voting power as one share of Common Stock,
- if shares of the Common Stock are exchanged via merger, consolidation, or a similar transaction, will entitle holders to a per share payment equal to the payment made on one share of Common Stock.

Consequences of a Person or Group Becoming an Acquiring Person

Flip in. Subject to the Company’s exchange rights, described below, at any time after any person has become an Acquiring Person, each holder of a Right (other than an Acquiring Person, its affiliates and associates) will be entitled to purchase for each Right held, at the Purchase Price, a number of shares of the Company’s common stock having a market value of twice the Purchase Price.

Exchange. At any time on or after any person has become an Acquiring Person (but before any person becomes the beneficial owner of 50% or more of the outstanding shares of the Company’s common stock or the occurrence of any of the events described in the next paragraph), the Board of Directors may exchange all or part of the Rights (other than Rights beneficially owned by an Acquiring Person, its affiliates and associates) for shares of the Company’s common stock at an exchange ratio of one share of the Company’s common stock per Right.

Flip over. If, after any person has become an Acquiring Person, (1) the Company is involved in a merger or other business combination in which the Company is not the surviving corporation or its common stock is exchanged for other securities or assets or (2) the Company and/or one or more of its subsidiaries sell or otherwise transfer assets or earning power aggregating more than 50% of the assets or earning power of the Company and its subsidiaries, taken as a whole, then each Right (other than Rights beneficially owned by an Acquiring Person, its affiliates and associates) will entitle the holder to purchase for each Right held, for the Purchase Price, a number of shares of common stock of the other party to such business combination or sale (or in certain circumstances, an affiliate) having a market value of twice the Purchase Price.

14. Subsequent Events

Revolving Credit Facility

On March 30, 2020, the Company entered into a senior secured revolving credit facility for an initial commitment amount of \$110.0 million, subject to borrowing base availability. On April 20, 2020, the initial commitment amount was increased to \$135.0 million. In April 2020, the Company borrowed the entire available amount of \$135 million under the 2022 revolving

credit facility. In May 2020, the Company entered into a commitment whereby the 2022 revolving credit facility is expected to be increased to \$165.0 million, effective May 18, 2020, subject to the satisfaction of certain conditions precedent. This facility is secured by certain of the Company's unencumbered assets allowed as collateral under the agreement including but not limited to aircraft, spare engines, spare parts and ground equipment. Collateralized assets securing this facility are subject to change at the Company's discretion within the parameters allowed by the agreement. Borrowings under this revolving credit facility will mature on March 30, 2022. For additional information regarding this revolving credit facility, including more detailed information on the assets allowed to serve as collateral under the facility, please refer to Note 12, Debt and Other Obligations.

Payroll Support Program

On April 20, 2020, the Company entered into a Payroll Support Program Agreement ("PSP") with the United States Department of the Treasury ("Treasury"), pursuant to which the Company may receive a total of \$334.7 million under the PSP over the second and third quarters of 2020, which funds will be used exclusively to pay for salaries and benefits for the Company's employees through September 30, 2020. Of that amount, \$264.3 million is a direct grant from Treasury and \$70.4 million is in the form of a low-interest 10-year loan.

In connection with its participation in the PSP, the Company is also obligated to issue to Treasury warrants to purchase up to 500,150 shares of common stock of the Company, par value \$0.0001 per share ("Common Stock"), at a strike price of \$14.08 per share (the closing price for the shares of the Company's common stock on April 9, 2020). The warrants will expire in five years from the date of issuance and, at the Company's option, may be settled on a "net cash" or "net shares" basis. The warrants will be transferable, have no voting rights, and will contain registration rights as well as customary anti-dilution provisions.

On April 20, 2020, the Company issued a 10-year note, in principal amount of \$20.2 million, payable to the Treasury, pursuant to the PSP. Interest is payable semi-annually at a rate of 1.0% in years 1 through 5 and a rate of the Secured Overnight Financing Rate plus 2.0% in years 6 through 10. The note is prepayable at any time, without penalty, at the Company's option. The principal amount of the note will be increased as the Company receives additional funds under the PSP, up to an expected maximum principal amount of \$70.4 million, assuming total PSP disbursements to the Company of \$334.7 million.

On April 21, 2020, the Company received total proceeds of \$167.4 million, representing the first installment of funding under the PSP, in exchange for the \$20.2 million 10-year note and warrants to purchase 143,541 shares of the Company's common stock, representing less than 1% of the outstanding shares of the Company's common stock as of April 29, 2020.

Loan Program

On April 29, 2020, the Company applied for additional funds from the Treasury's loan program under the CARES Act ("Loan Program"). The expected maximum availability to the Company under the Loan Program is approximately \$741 million in the form of a secured loan. However, the loan amount is dependent on the amount and types of collateral accepted, which may result in an actual loan less than \$741 million, if the Company accepts the loan. Any loan received pursuant to the Loan Program would be subject to the restrictions and relevant provisions of the CARES Act, including many of those noted in Note 2, Impact of COVID-19, above for the PSP. Loans are to be secured by collateral to be agreed. The Company's participation in the Loan Program could materially increase the funds available to the Company as it works through the operational and business issues related to the COVID-19 pandemic or provide a base of available funding that could encourage private market transactions. The Company will continue to evaluate its cash flow needs over the next several months and will determine whether or not to accept any or all of the funds available from the Loan Program. The deadline to make the election under the Loan Program is September 30, 2020. Loans provided under the Loan Program will have a 5-year term with interest payable at an annual rate of LIBOR plus 3.5%. The Company also would be required to issue to Treasury a number of warrants equal to 10% of the final loan principal amount divided by the same strike price as noted above (\$14.08), representing a potential conversion of up to 5.3 million of underlying shares of common stock, representing approximately 7.7% of the Company's common stock outstanding as of April 29, 2020.

Deferral of Aircraft

The Company is in discussions with Airbus to defer certain aircraft deliveries initially scheduled in 2020 and 2021, as well as the related pre-delivery deposit payments. The Company expects to reduce aircraft-related capital spend by approximately \$185 million in 2020 if those discussions are successful.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Forward-Looking Statements

This Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the "Securities Act"), and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), which are subject to the "safe harbor" created by those sections. Forward-looking statements are based on our management's beliefs and assumptions and on information currently available to our management. All statements other than statements of historical factors are "forward-looking statements" for purposes of these provisions. In some cases, you can identify forward-looking statements by terms such as "may," "will," "should," "could," "would," "expect," "plan," "anticipate," "believe," "estimate," "project," "predict," "potential," and similar expressions intended to identify forward-looking statements. Such forward-looking statements are subject to risks, uncertainties and other important factors that could cause actual results and the timing of certain events to differ materially from future results expressed or implied by such forward-looking statements. Factors that could cause or contribute to such differences include, but are not limited to, those identified below, and those discussed in the section titled "Risk Factors" in this report and in Item 1A "Risk Factors" in our Annual Report on Form 10-K/A for the year ended December 31, 2019 and subsequent Quarterly Reports on Form 10-Q or Current Reports on Form 8-K. Furthermore, such forward-looking statements speak only as of the date of this report. Except as required by law, we undertake no obligation to update any forward-looking statements to reflect events or circumstances after the date of such statements.

Overview

Spirit Airlines, headquartered in Miramar, Florida, offers affordable travel to value-conscious customers. Our all-Airbus fleet is one of the youngest and most fuel efficient in the United States. We serve destinations throughout the United States, Latin America and the Caribbean, and are dedicated to giving back and improving those communities. Our stock trades under the symbol "SAVE" on the New York Stock Exchange ("NYSE").

We focus on value-conscious travelers who pay for their own travel, and our business model is designed to deliver what our guests want: low fares and a great experience. We compete based on total price. We allow our guests to see all available options and their respective prices prior to purchasing a ticket, and this full transparency illustrates that our total price, including options selected, is lower on average than other airlines. By offering guests unbundled base fares, we give them the power to save by paying only for the *À La Smarte*[™] options they choose, such as checked and carry-on bags and advance seat assignments. We record revenue related to these options as non-fare passenger revenue, which is recorded within passenger revenues in our statement of operations.

We use low fares to address underserved markets, which helps us to increase passenger volume, load factors and non-ticket revenue on the flights we operate. We also have high-density seating configurations on our aircraft and a simplified onboard product designed to lower costs. High passenger volumes and load factors help us sell more ancillary products and services, which in turn allows us to reduce our fares even further.

We are committed to delivering the best value in the sky while providing an exceptional guest experience. Our new mobile-friendly website makes booking easier. Our new mobile application allows check-in while on the go, and our airport kiosks and self-bag tagging help our guests move through the airport more quickly.

Comparative Operating Statistics:

The following tables set forth our operating statistics for the three month periods ended March 31, 2020 and 2019:

	Three Months Ended March 31,		Percent Change
	2020	2019	
Operating Statistics (unaudited) (A):			
Average aircraft	147.5	130.8	12.8 %
Aircraft at end of period	151	133	13.5 %
Average daily aircraft utilization (hours)	11.8	12.2	(3.3)%
Average stage length (miles)	1,021	1,029	(0.8)%
Block hours	157,847	143,429	10.1 %
Departures	58,174	52,175	11.5 %
Passenger flight segments (PFSs) (thousands)	7,653	7,820	(2.1)%
Revenue passenger miles (RPMs) (thousands)	7,948,963	8,133,030	(2.3)%
Available seat miles (ASMs) (thousands)	10,913,934	9,829,044	11.0 %
Load factor (%)	72.8 %	82.7 %	(9.9) pts
Fare revenue per passenger flight segment (\$)	42.00	53.24	(21.1)%
Non-ticket revenue per passenger flight segment (\$)	58.75	56.20	4.5 %
Total revenue per passenger flight segment (\$)	100.75	109.44	(7.9)%
Average yield (cents)	9.70	10.52	(7.8)%
TRASM (cents)	7.07	8.71	(18.8)%
CASM (cents)	7.60	7.81	(2.7)%
Adjusted CASM (cents)	7.60	7.79	(2.4)%
Adjusted CASM ex-fuel (cents)	5.64	5.46	3.3 %
Fuel gallons consumed (thousands)	117,944	109,828	7.4 %
Average economic fuel cost per gallon (\$)	1.81	2.09	(13.4)%

(A) See "Glossary of Airline Terms" elsewhere in this quarterly report for definitions used in this table.

Executive Summary

We experienced healthy passenger booking and revenue trends for the first two months of 2020 and year-over-year increases that were in line with our expectations. However, as a result of the COVID-19 pandemic, we experienced sharp declines in passenger demand and bookings beginning in March 2020 and had an unprecedented level of cancellations. As a result, in the first quarter of 2020, our operations were significantly adversely affected from this reduction in air travel demand.

With the sudden and significant reduction in air travel demand resulting from the COVID-19 pandemic, our load factor significantly decreased beginning in the latter part of March 2020. Load factor for March 2020 was 56.1% as compared to 87.6% for March 2019. Load factor for the second half of March was approximately 30%. We continued to experience weak passenger demand and bookings in April 2020 driving a decrease in operating revenues of 95.7% year over year and a decrease in capacity of 35% year over year. Load factor decreased even further in April to 17.3%. For May 2020, operating revenues are currently estimated to decrease in the range of 94% to 96% year over year, capacity is estimated to decrease 94% year over year and load factor is estimated to be in the range of 50% to 59%. The revenue environment remains uncertain and we are unable to reasonably estimate trends beyond May 2020. As the COVID-19 pandemic evolves, our financial and operational outlook remains subject to change. We continue to monitor the impact of the pandemic on our operations and financial condition, and to implement mitigation strategies while working to preserve our cash and protect our long-term sustainability.

We have implemented measures for the safety of our Guests and Team Members as well as to mitigate the impact of COVID-19 on our financial position and operations.

Caring for Guests and Team Members

Our Operations and Task Force teams remain in constant contact with authorities, continuing to evolve our response to ensure the safety of our Guests and Team Members. In addition to existing procedures including utilization of hospital-grade disinfectants and state-of-the-art HEPA filters that capture 99.97% of airborne particles, we have launched a new aircraft fogging program to provide additional disinfection of aircraft remaining overnight at Ft. Lauderdale/Hollywood International Airport ("FLL"), Dallas/Fort Worth International Airport ("DFW"), and Orlando International Airport ("MCO"). Additional stations will be added as fogging equipment is received by the Company through the second quarter of 2020.

In addition, we have implemented the following steps to protect our Guests and Team Members:

- Secured and distributed additional supplies of gloves and sanitizer across our network and augmented the contents of onboard supply kits to contain additional cleaning and sanitizing materials;
- Expanded cleaning protocols at airports and other facilities, including the use of electrostatic sprayers at select locations;
- Expanded aircraft turn and overnight cleaning protocols focusing on high frequency touch points as well as enhanced cockpit cleaning;
- Split our Operational Control Center ("OCC") into multiple units to enable social distancing and prepared the OCC to work remotely to minimize potential operational disruption;
- Implemented a remote work policy for our Support Center teams to maintain support of our operations;
- Announced a new policy which requires all Guests and Guest-facing Team Members to wear an appropriate mask or face covering when traveling through the airport or onboard aircraft;
- Offered future flight credits with extended expiration dates to Guests with impacted travel plans.

Supporting Communities

During this unprecedented time, many travelers became stranded abroad when bans and other restrictions on travel were implemented globally and domestically with little notice. We have worked with governments in Aruba, Colombia, Dominican Republic, Haiti, Panama and the U.S. to operate special flights for stranded travelers in such countries. We have provided flights to over three thousand stranded travelers and preparations continue to transport hundreds more.

We have also made efforts to address the growing needs of our communities through The Spirit Airlines Charitable Foundation (the "Foundation"). As part of our focus on supporting families, the Foundation partnered with other non-profit organizations including the YMCA and Jack and Jill Children's Center to provide food to seniors and families struggling during this time and supported organizations creating masks for healthcare workers.

Capacity Reductions

In response to government restrictions on travel and drastically reduced consumer demand, we have significantly reduced capacity from our original plan. We reduced capacity for April 2020 by approximately 75% and for May and June 2020 by approximately 95%. We currently estimate that air travel demand after June will gradually recover through early 2021. However, the situation is fluid and actual capacity adjustments may be different than what we currently expect. We will continue to evaluate the need for further flight schedule adjustments. Refer to "Notes to the Financial Statements—4. Revenue," for discussion of the impact of COVID-19 on our air traffic liability, credit shells and refunds.

CARES Act

On March 27, 2020, President Donald Trump signed the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") into law. The CARES Act is a relief package intended to assist many aspects of the American economy, including providing the airline industry with up to \$25 billion in grants to be used for employee wages, salaries and benefits and up to \$25 billion in secured loans.

On April 20, 2020, we entered into a Payroll Support Program Agreement ("PSP") with the United States Department of the Treasury ("Treasury"), pursuant to which we expect to receive a total of \$334.7 million under the PSP over the second and third quarters of 2020, which funds will be used exclusively to pay for salaries and benefits for our Team Members through September 30, 2020. Of that amount, \$264.3 million will be a direct grant from Treasury and \$70.4 million will be in the form of a low-interest 10-year loan. In connection with our participation in the PSP, we are obligated to issue to Treasury warrants to purchase up to 500,150 shares of our common stock at a strike price of \$14.08 per share (the closing price for the shares of our common stock on April 9, 2020). On April 21, 2020, we received total proceeds of \$167.4 million, representing the first installment of funding under the PSP, in exchange for which we issued to Treasury a \$20.2 million 10-year note and warrants to

purchase 143,541 shares of common stock, representing less than 1% of the outstanding shares of our common stock as of April 29, 2020.

In connection with the our receipt of funds under the PSP, we will be subject to certain restrictions, including, but not limited to:

- Restrictions on payment of dividends and stock buybacks through September 30, 2021
- Requirements to maintain certain levels of scheduled service through September 30, 2020
- Maintaining employment levels through September 30, 2020 and
- Limits on certain executive compensation through March 24, 2022

On April 29, 2020, we applied for additional funds under the Treasury's loan program under the CARES Act ("Loan Program"). The expected maximum availability to us under the Loan Program is approximately \$741 million in the form of a secured loan. However, the loan amount is dependent on the amount and types of collateral accepted, which may result in an actual loan less than \$741 million, if we were to accept the loan. Any loan received pursuant to the Loan Program would be subject to the restrictions and relevant provisions of the CARES Act, including many of those noted above for the PSP. Our participation in the Loan Program could materially increase the funds available to us as it works through the operational and business issues related to the COVID-19 pandemic and provide a base of available funding that could encourage private market transactions. We will continue to evaluate our cash flow needs over the next months and will determine whether or not we will accept any or all of the funds available from the Loan Program. The deadline to make the election under the Loan Program is September 30, 2020.

The CARES Act also provides for tax loss carrybacks, employee tax credits, and a waiver on federal fuel taxes expected to provide approximately \$180 million in current year refunds and expense savings.

Finally, the CARES Act also provides for deferred payment of the employer portion of social security taxes through the end of 2020, with 50% of the deferred amount due December 31, 2021 and the remaining 50% due December 31, 2022. This is expected to provide us with approximately \$24 million of additional liquidity during the current year.

Balance Sheet, Cash Flow and Liquidity

We have taken several actions to increase liquidity and strengthen our financial position. As a result of these actions, as of March 31, 2020, we had unrestricted cash and short-term investment securities of \$894.4 million.

In March 2020, we entered into a senior secured revolving credit facility (the "2022 revolving credit facility") for an initial commitment amount of \$110.0 million and subsequently in April 2020, the initial commitment amount was increased to \$135.0 million. In April 2020, we borrowed the entire available amount of \$135.0 million under the 2022 revolving credit facility. In May 2020, we entered into a commitment whereby the 2022 revolving credit facility is expected to be increased to \$165.0 million, effective May 18, 2020, subject to the satisfaction of certain conditions precedent. The 2022 revolving credit facility matures on March 30, 2022. We continue to pursue additional financing secured by our unencumbered assets.

In addition to the revolving credit facility described above, we have taken, or intend to take, additional action, including:

- Reduced planned discretionary non-aircraft capital spend in 2020 by approximately \$50 million. We are also in discussions with Airbus to defer certain aircraft deliveries initially scheduled in 2020 and 2021, as well as the related pre-delivery deposit payments. We expect to reduce aircraft-related capital spend by approximately \$185 million in 2020 if those discussions are successful.
- Deferred \$20 million in heavy maintenance events from 2020 to 2021;
- Reduced planned non-fuel operating costs for 2020 by \$20 million to \$30 million, excluding savings related to reduced capacity;
- Suspended hiring across the Company except to fill essential roles;
- Engaged in discussions with our significant stakeholders and vendors regarding financial support or contract adjustments, including extensions of payment terms, during this transition period;
- Worked with unionized and non-unionized employees to create voluntary leave programs.

Additionally, Ted Christie, the Company's Chief Executive Officer and President, has temporarily reduced his base salary by 30%. All Senior and Executive Vice Presidents and members of the Board of Directors have temporarily reduced their compensation as well.

For purposes of assessing our liquidity needs, we estimate that demand will begin to improve in the second half of 2020, but remain well below 2019 levels, and continue to recover into 2021. While we believe the actions described above address

our future liquidity needs, we may have to implement further discretionary changes and other cost reduction and liquidity preservation measures as needed to address the volatility and quickly changing dynamics of passenger demand and the impact of revenue changes, regulatory and public health directives and prevailing government policy and financial market conditions.

Due to the impact of COVID-19 on our operations, we expect to experience negative cash flows from operations through the second quarter of 2020 and possibly beyond. As the pandemic evolves, our financial and operational outlook remains subject to change.

For the first quarter of 2020, we had a negative operating margin of 7.5%, a decrease of 17.8 percentage points compared to the prior year period. We generated a pre-tax loss of \$74.6 million and a net loss of \$27.8 million on operating revenues of \$771.1 million. For the first quarter of 2019, we generated pre-tax income of \$72.1 million and net income of \$56.1 million on operating revenues of \$855.8 million.

Our Adjusted CASM ex-fuel for the first quarter of 2020 was 5.64 cents, a 3.3% increase year over year. The increase on a per-ASM basis was primarily due to an increase in salaries, wages and benefits expense, depreciation and amortization expense and other operating expense, period over period.

As of March 31, 2020, we had 151 Airbus A320-family aircraft in our fleet comprised of 31 A319s, 64 A320s, 30 A321s, and 26 A320neos. With the scheduled delivery of 10 aircraft during the remainder of 2020, we expect to end 2020 with 161 aircraft in our fleet.

Since the delivery of our initial five A320neo aircraft in the fourth quarter of 2016, we have experienced introductory issues with the new-generation PW1100G-JM engines, which has resulted in diminished service availability of such aircraft. We continuously work with Pratt & Whitney to secure support and relief in connection with possible engine related operation disruptions.

Comparison of three months ended March 31, 2020 to three months ended March 31, 2019

Operating Revenues

Operating revenues decreased \$84.7 million, or 9.9%, to \$771.1 million for the first quarter of 2020, as compared to the first quarter of 2019, primarily due to a decrease in average yield of 7.8% and a decrease in traffic of 2.3%. The decreases in yield and traffic were primarily due to the reduced air travel demand resulting from the COVID-19 pandemic, primarily in the second half of March. In addition, as a result of COVID-19, we experienced significant cancellations beginning mid-March which resulted in a significant amount of refunds made to customers. The total value of refunds made during the three months ended March 31, 2020 was \$43.7 million.

Total revenue per available seat mile ("TRASM") for the first quarter of 2020 was 7.07 cents, a decrease of 18.8%, as compared to the first quarter of 2019. This decrease was due to a lower average yield and a load factor decrease of 990 basis points, as compared to the prior year period, mostly as a result of the impact of COVID-19 on air travel demand.

Total revenue per passenger flight segment decreased 7.9%, year over year. Fare revenue per passenger flight segment decreased 21.1% and non-ticket revenue per passenger flight segment increased 4.5%. The increase in non-ticket revenue per passenger flight segment was primarily attributable to higher fee revenue, seat revenue and bag revenue per passenger flight segment, as compared to the prior year period.

Operating Expenses

Operating expenses increased \$61.1 million, or 8.0%, to \$829.1 million for the first quarter of 2020 compared to \$768.0 million for the first quarter of 2019, primarily due to an increase in operations as reflected by an 11.0% capacity growth. This increase was partially offset by a 2.3% decrease in traffic, as a result of the impact of COVID-19 on air travel demand.

Aircraft fuel expense includes into-plane fuel expense (defined below) and realized and unrealized gains and losses associated with our fuel derivative contracts, if any. Into-plane fuel expense is defined as the price that we generally pay at the airport, including taxes and fees. Into-plane fuel prices are affected by the global oil market, refining costs, taxes and fees, which can vary by region in the United States and other countries where we operate. Into-plane fuel expense approximates cash paid to the supplier and does not reflect the effect of any fuel derivatives. We had no activity related to fuel derivative instruments during the three months ended March 31, 2020 and 2019.

Aircraft fuel expense decreased by \$16.4 million, or 7.2%, from \$229.6 million in the first quarter of 2019 to \$213.2 million in the first quarter of 2020. This lower fuel expense, year over year, was due to a 13.4% decrease in average economic fuel cost per gallon, partially offset by a 7.4% increase in fuel gallons consumed.

The elements of the changes in aircraft fuel expense are illustrated in the following table:

	Three Months Ended March 31,		Percent Change
	2020	2019	
	(in thousands, except per gallon amounts)		
Fuel gallons consumed	117,944	109,828	7.4 %
Into-plane fuel cost per gallon	\$ 1.81	\$ 2.09	(13.4) %
Aircraft fuel expense (per statements of operations)	\$ 213,208	\$ 229,636	(7.2)%

Gulf Coast Jet indexed fuel is the basis for a substantial majority of our fuel consumption and is impacted by both the price of crude oil as well as increases or decreases in refining margins associated with the conversion of crude oil to jet fuel. The into-plane fuel cost per gallon decrease of 13.4% was primarily a result of a decrease in jet fuel prices.

We measure our operating cost performance on a per-ASM basis, since one ASM is the unit of production of an airline's capacity. The following table presents our cost per-ASM, or unit cost, for the three months ended March 31, 2020 and 2019, followed by explanations of the material changes on a dollar basis and/or unit cost basis:

	Three Months Ended March 31,		Dollar Change	Percent Change	Cost per ASM			
	2020	2019			Three Months Ended March 31,		Per-ASM Change	Percent Change
	(in thousands)				2020	2019		
Aircraft fuel	\$ 213,208	\$ 229,636	\$ (16,428)	(7.2) %	1.95	2.34	(0.39)	(16.7) %
Salaries, wages, and benefits	240,480	203,901	36,579	17.9 %	2.20	2.07	0.13	6.3 %
Landing fees and other rents	67,121	59,649	7,472	12.5 %	0.62	0.61	0.01	1.6 %
Depreciation and amortization	65,991	50,726	15,265	30.1 %	0.60	0.52	0.08	15.4 %
Aircraft rent	45,146	45,782	(636)	(1.4) %	0.41	0.47	(0.06)	(12.8) %
Distribution	33,743	35,719	(1,976)	(5.5) %	0.31	0.36	(0.05)	(13.9) %
Maintenance, materials and repairs	34,076	31,604	2,472	7.8 %	0.31	0.32	(0.01)	(3.1) %
Loss on disposal of assets	—	1,913	(1,913)	NM	—	0.02	(0.02)	NM
Other operating	129,308	109,062	20,246	18.6 %	1.18	1.11	0.07	6.3 %
Total operating expenses	\$ 829,073	\$ 767,992	\$ 61,081	8.0 %	7.60	7.81	(0.21)	(2.7)%
Adjusted CASM (1)					7.60	7.79	(0.19)	(2.4) %
Adjusted CASM ex-fuel (2)					5.64	5.46	0.18	3.3 %

(1) Reconciliation of CASM to Adjusted CASM:

	Three Months Ended March 31,			
	2020		2019	
	(in millions)	Per ASM	(in millions)	Per ASM
CASM (cents)		7.60		7.81
Loss on disposal of assets	\$ —	—	\$ 1.9	0.02
Adjusted CASM (cents)		7.60		7.79

(2) Excludes aircraft fuel expense and loss on disposal of assets.

Our Adjusted CASM ex-fuel for the first quarter of 2020 was up 3.3% as compared to the first quarter of 2019. The increase on a per-ASM basis was primarily due to an increase in salaries, wages and benefits expense, depreciation and amortization expense and other operating expense, period over period.

Labor costs for the first quarter of 2020 increased \$36.6 million, or 17.9%, as compared to the first quarter of 2019. The increase was primarily driven by a 19.5% increase in our pilot and flight attendant workforce resulting from an increase to our aircraft fleet of 18 additional aircraft, since the first quarter of 2019. On both a dollar and per-ASM basis, labor costs increased due to increased headcount, period over period, as well as higher pay rates to our pilots in connection with the collective bargaining agreement that became effective on March 1, 2018, which provides for annual increases on each anniversary of the effective date. In addition, during the three months ended March 31, 2020, we paid salaries and wages to our unionized employees at a guaranteed volume greater than what we actually operated due to the reduced demand resulting from COVID-19. For more detailed information on the impact of COVID-19, please refer to "Notes to the Financial Statements—2. Impact of COVID-19."

Landing fees and other rents for the first quarter of 2020 increased \$7.5 million, or 12.5%, as compared to the first quarter of 2019, primarily due to an 11.5% increase in departures. In addition, on both a dollar and per-ASM basis, landing fees and other rents increased due to an increase in facility rent and gate charges resulting from real estate expansion in existing stations and the addition of new stations and other real estate.

Depreciation and amortization for the first quarter of 2020 increased by \$15.3 million, or 30.1%, as compared to the prior year period. The increase in depreciation expense was primarily driven by the purchase of seven new aircraft and the purchase of seven previously leased aircraft made since the first quarter of 2019.

We account for heavy maintenance under the deferral method. Under the deferral method, the cost of heavy maintenance is capitalized and amortized as a component of depreciation and amortization expense in the statement of operations until the earlier of the next heavy maintenance event or end of the lease term. The amortization of heavy maintenance costs was \$20.4 million and \$13.1 million for the first quarters of 2020 and 2019, respectively. The increase in amortization of heavy maintenance was primarily due to the timing and number of maintenance events, as compared to the prior year period. This increase in heavy maintenance amortization was the primary driver of the per-ASM increase in depreciation and amortization expense, period over period. As our fleet continues to grow and age, we expect that the amount of deferred heavy maintenance events will increase and will result in an increase in the amortization of those costs. If heavy maintenance events were amortized within maintenance, materials and repairs expense in the condensed statements of operations, our maintenance, materials and repairs expense would have been \$54.5 million and \$44.7 million for the first quarter of 2020 and 2019, respectively.

Aircraft rent expense for the first quarter of 2020 decreased by \$0.6 million, or 1.4%, as compared to the first quarter of 2019. The decrease on both a dollar and per-ASM basis was primarily related to the purchase of seven aircraft off lease made since the first quarter of 2019. On a per-ASM basis, aircraft rent expense also decreased due to a change in the composition of our aircraft fleet between leased aircraft (for which rent expense is recorded under aircraft rent) and purchased aircraft (for which depreciation expense is recorded under depreciation and amortization). Since the prior year period, we have taken delivery of seven new purchased aircraft, which increased capacity but had no effect on aircraft rent expense, as these assets were purchased and are being depreciated over their useful life.

Distribution costs decreased by \$2.0 million, or 5.5%, in the first quarter of 2020 as compared to the first quarter of 2019. The decrease on a dollar basis was primarily due to decreased sales volume as a result of the impact of COVID-19 on air travel demand. In addition, on a per-ASM basis, distribution costs decreased primarily due to lower average fare resulting in a decrease in credit card fees year over year. We also had lower credit card fee rates as a result of our new credit card processor agreement that became effective at the end of the second quarter of 2019 and we had a slight shift of sales from third-party travel agents to direct channels, which are less expensive.

Maintenance, materials and repairs expense for the first quarter of 2020 increased by \$2.5 million, or 7.8%, as compared to the first quarter of 2019. The increase in maintenance costs was mostly due to an increase in maintenance, materials and repairs expense related to routine and ongoing maintenance on a growing fleet. On a per-ASM basis, maintenance costs slightly decreased period over period primarily due to the utilization of credits during the three months ended March 31, 2020. We expect maintenance expense to increase as our fleet continues to grow and age, resulting in the need for additional or more frequent repairs over time.

We had no loss on disposal of assets for the three months ended March 31, 2020. Loss on disposal of assets for the three months ended March 31, 2019, consisted of \$1.9 million related to the disposal of excess and obsolete inventory.

Other operating expense for the first quarter of 2020 increased by \$20.2 million, or 18.6%, as compared to the first quarter of 2019 primarily due to an increase in overall operations and increases in travel and lodging and ground handling expense. As compared to the prior year period, we increased departures by 11.5% which drove increases in variable operating expenses. On a per-ASM basis, higher travel and lodging expense and ground handling expense, period over period, were the main drivers of the increase in other operating expense, as compared to the prior year period.

Other (Income) Expense

Our interest expense and corresponding capitalized interest for the three months ended March 31, 2020 and 2019 primarily represents interest related to the financing of purchased aircraft. As of March 31, 2020 and 2019, we had 68 and 61 aircraft financed through secured long-term debt arrangements, respectively.

Our interest income for the three months ended March 31, 2020 and 2019 represents interest income earned on cash, cash equivalents and short-term investments.

Income Taxes

Our effective tax rate for the first quarter of 2020 was 62.7% compared to 22.2% for the first quarter of 2019. The increase in tax rate, as compared to the prior year period, is primarily due to a \$31.1 million discrete federal tax benefit recorded in the first quarter of 2020 related to the passage of the CARES Act. The CARES Act allows for carryback of net operating losses generated at a 21% tax rate to recover taxes paid at a 35% tax rate. Excluding this discrete tax benefit, our effective tax rate for the first quarter of 2020 would have been 21.0%. The decrease in tax rate from the prior year period of 22.2% to the adjusted first quarter 2020 rate of 21.0% is primarily due to a reduction of the current period tax benefit from non-deductible permanent tax items. Our effective tax rate through 2020 may be impacted further by discrete items recorded as additional CARES Act implementation guidance is released.

Liquidity and Capital Resources

As a result of the COVID-19 pandemic, we have taken, and are continuing to take, certain actions to increase liquidity and strengthen our financial position. As of March 31, 2020, we had approximately \$900 million of unencumbered assets. As of April 30, 2020, approximately \$250 million of these assets were pledged as collateral under the 2022 revolving credit facility, leaving approximately \$650 million of assets unencumbered, primarily consisting of aircraft. We estimate our average daily cash burn rate is approximately \$4 million. We are evaluating initiatives to further reduce that amount should air travel demand not begin to rebound in the coming months. We calculate estimated average daily cash burn rate as the sum of operating cash outflows, debt service requirements, fleet capex net of financing and pre-delivery deposit payments estimated based on historical data for the months of March, April and May 2020 without giving effect to any additional financings, capital raises or any funds received from the PSP. Please refer to "Notes to the Financial Statements—2. Impact of COVID-19 and 14. Subsequent Events" for additional information on the PSP and the measures we have implemented to focus on the safety of our customers and employees as well as the impact on our liquidity, financial position and operations. As of April 30, 2020, we had approximately \$917 million in liquid assets comprised of cash and cash equivalents and short-term investment securities.

Our primary sources of liquidity are cash on hand, cash provided by operations and capital from debt and equity financing. Primary uses of liquidity are for working capital needs, capital expenditures, aircraft and engine pre-delivery deposit payments ("PDPs"), debt and lease obligations and maintenance reserves. Our total cash at March 31, 2020 was \$788.2 million, a decrease of \$190.7 million from December 31, 2019. In addition to cash and cash equivalents, as of March 31, 2020, we had \$106.2 million in short-term investment securities. We expect to meet our cash needs for the next twelve months with cash and cash equivalents, financing arrangements, government assistance under the CARES Act and cash flows from operations.

Currently, one of our largest capital expenditure needs is funding the acquisition costs of our aircraft. Aircraft may be acquired through debt financing, cash purchases, direct leases or sale-leaseback transactions. During the three months ended March 31, 2020, we purchased 4 aircraft for which we acquired debt of \$165.0 million. During the three months ended March 31, 2020, we made \$62.9 million in debt payments (principal, interest and fees) on our outstanding debt obligations. The debt entered into in the current year matures in 2031 and 2032. In addition, during the three months ended March 31, 2020, we took delivery of two aircraft financed through direct operating leases, and purchased two aircraft off lease. We also purchased two spare engines through cash purchases.

Under our agreement with Airbus for aircraft, and International Aero Engines AG ("IAE") and Pratt & Whitney for engines, we are required to pay PDPs relating to future deliveries at various times prior to each delivery date. During the three months ended March 31, 2020, we paid \$123.0 million in PDPs, and \$2.9 million of capitalized interest for future deliveries of aircraft and spare engines. As of March 31, 2020, we had \$372.1 million of pre-delivery deposits on flight equipment, including capitalized interest, on our condensed balance sheets.

During the fourth quarter of 2018, we entered into a revolving credit facility for up to \$160.0 million secured by the collateral assignment of certain of our rights under our purchase agreement with Airbus. As of March 31, 2020, we had drawn \$160.0 million on the facility. The final maturity of the facility is December 30, 2020.

On March 30, 2020, we entered into a senior secured revolving credit facility for an initial commitment of \$110.0 million, with an option to increase the overall commitment amount up to \$350 million with the consent of any participating lenders and subject to borrowing base availability. The final maturity of the facility is March 30, 2022. As of March 31, 2020, we had not drawn on this facility. Please refer to "Notes to the Financial Statements—14. Subsequent Events" for additional information.

As of March 31, 2020, we have secured debt financing for 4 aircraft being delivered from Airbus in the remainder of 2020. We do not have financing commitments in place for the remaining 127 Airbus firm aircraft orders, scheduled for delivery between the remainder of 2020 through 2027. However, we have a financing letter of agreement with Airbus which provides backstop financing for a majority of the aircraft included in the A320 NEO Family Purchase Agreement signed in the fourth quarter of 2019. The agreement provides a standby credit facility in the form of senior secured mortgage debt financing. In addition, as of March 31, 2020, we have secured 11 direct operating leases for A320neos with third-party lessors, with deliveries expected in the remainder of 2020 through 2021. Future aircraft deliveries may be paid in cash, leased or otherwise financed based on market conditions, our prevailing level of liquidity, and capital market availability.

In addition to funding the acquisition of our future fleet, we are required to make maintenance reserve payments for some of the leased aircraft in our current fleet. Maintenance reserves are paid to aircraft lessors and are held as collateral in advance of our performance of major maintenance activities. During the three months ended March 31, 2020, we recorded a decrease of \$1.3 million in maintenance reserves, including reimbursements. As of March 31, 2020, we had \$151.4 million (\$90.1 million in aircraft maintenance deposits and \$61.2 million in long-term aircraft maintenance deposits) on our condensed balance sheets.

Net Cash Flows Provided By Operating Activities. Operating activities in the three months ended March 31, 2020 provided \$34.6 million in cash compared to \$205.2 million provided in the three months ended March 31, 2019. Cash provided by operating activities decreased, year over year, primarily due to a net loss during the three months ended March 31, 2020. In addition, we had a decrease in cash as a result of a decrease in other liabilities and an increase in income tax receivable, due to the passage of the CARES Act, as compared to the prior year. These decreases were partially offset by higher non-cash expenses of depreciation and amortization and deferred income tax expense, as compared to the prior year, as well as an increase in accounts receivable, net. Due to the impact of COVID-19 on our operations, we may experience negative cash flows from operations through the second quarter of 2020 and possibly beyond.

Net Cash Flows Used In Investing Activities. In the three months ended March 31, 2020, investing activities used \$323.8 million, compared to \$104.0 million used in the prior year period. The increase was mainly driven by an increase in purchases of property and equipment, year over year, as well as an increase in PDPs paid, net of refunds, driven by timing of future aircraft deliveries. We have committed to future aircraft purchases but are currently in discussions with Airbus to defer certain aircraft deliveries initially scheduled in 2020 and 2021, as well as the related pre-delivery payments. In addition, the majority of our non-aircraft capital investment projects originally planned for 2020 have been cancelled or deferred.

During the third quarter of 2019, the United States announced its decision to levy tariffs on certain imports from the European Union, including commercial aircraft and related parts. These tariffs include aircraft and other parts that we are already contractually obligated to purchase. In February 2020, the rate of this tariff was increased from 10% to 15%. The imposition of these tariffs may substantially increase the cost of new Airbus aircraft and parts required to service our Airbus fleet.

Net Cash Flows Provided By Financing Activities. During the three months ended March 31, 2020, financing activities provided \$98.5 million in cash compared to \$16.2 million provided in the three months ended March 31, 2019. We received \$169.0 million in connection with the debt financing related to four aircraft delivered during the three months ended March 31, 2020 and the revolving credit facility maturing in December 2020. We paid \$42.6 million in debt principal obligations and \$24.8 million in finance lease obligations. The payments on finance lease obligations are primarily related to an aircraft purchase agreement for the purchase of two A319 aircraft. Refer to "Notes to Financial Statements - 9. Leases" for more information on these two aircraft.

Our credit rating has been downgraded by S&P Global to BB- in March 2020 and by Fitch to BB in April 2020. In May 2020, the credit rating of our Spirit Airlines Pass Through Trust Certificates Series 2015-1 Class C and our Spirit Airlines Pass Through Trust Certificates Series 2017-1 Class C was downgraded by Fitch from BBB- to BB+. The downgrades of our ratings were based on our increased level of credit risk as a result of the financial impacts of the COVID-19 pandemic.

Commitments and Contractual Obligations

Our contractual purchase commitments consist primarily of aircraft and engine acquisitions through manufacturers and aircraft leasing companies. During the fourth quarter of 2019, we entered into an A320 NEO Family Purchase Agreement with Airbus for the purchase of 100 new Airbus A320neo family aircraft, with options to purchase up to 50 additional aircraft. As of March 31, 2020, our aircraft orders consisted of 131 A320 family aircraft with Airbus, including A319neos, A320neos and A321neos, with deliveries expected through 2027. In addition, we had 11 direct operating leases for A320neos with third-party lessors, with deliveries expected in the remainder of 2020 through 2021. We have committed to future aircraft purchases but are currently in discussions with Airbus to defer certain aircraft deliveries initially scheduled in 2020 and 2021, as well as the related pre-delivery payments. For more detailed information, please refer to "Notes to Financial Statements - 2. Impact of COVID-19" for more information.

We also have a spare engine order for one V2500 SelectTwo engine with IAE and two spare engine orders for PurePower PW 1100G-JM engines with Pratt & Whitney. Spare engines are scheduled for delivery from 2020 through 2023. As of March 31, 2020, committed expenditures for these aircraft and spare engines, including estimated amounts for contractual price escalations and aircraft PDPs, are expected to be \$701.6 million for the remainder of 2020, \$735.9 million in 2021, \$115.3 million in 2022, \$491.6 million in 2023, \$1,002.5 million in 2024 and \$3,605.4 million in 2025 and beyond. During the third quarter of 2019, the United States announced its decision to levy tariffs on certain imports from the European Union, including commercial aircraft and related parts. These tariffs would include aircraft and other parts that we are already contractually obligated to purchase including those reflected above. In February 2020, the rate of this tariff was increased from 10% to 15%. The imposition of these tariffs may substantially increase the cost of new Airbus aircraft and parts required to service our Airbus fleet.

As of March 31, 2020, we have secured debt financing commitments for four aircraft being delivered from Airbus in the remainder of 2020. As of March 31, 2020, we do not have financing commitments in place for the remaining 127 Airbus aircraft on firm order, which are scheduled for delivery in the remainder of 2020 through 2027. However, we have a financing letter of agreement with Airbus which provides backstop financing for a majority of the aircraft included in the A320 NEO Family Purchase Agreement signed in the fourth quarter of 2019. The agreement provides a standby credit facility in the form of senior secured mortgage debt financing.

As of March 31, 2020, principal and interest commitments related to the future secured debt financing of four undelivered aircraft are approximately \$7.8 million for the remainder of 2020, \$16.5 million in 2021, \$13.0 million in 2022, \$14.7 million in 2023, \$14.3 million in 2024, and \$124.2 million in 2025 and beyond. Aircraft rent commitments for future aircraft deliveries to be financed under direct leases from third-party lessors are expected to be approximately \$2.6 million for the remainder of 2020, \$21.3 million in 2021, \$36.8 million in 2022, \$36.8 million in 2023, \$36.8 million in 2024, and \$307.0 million in 2025 and beyond.

We have significant obligations for aircraft and spare engines as 54 of our 151 aircraft and 8 of our 24 spare engines are financed under operating leases. These leases expire between 2022 and 2038. Aircraft rent payments were \$48.5 million and \$47.5 million for the three months ended March 31, 2020 and 2019, respectively.

During the first quarter of 2019, we adopted Topic 842 using the modified retrospective approach with an effective date of January 1, 2019. With the new lease standard, operating leases with terms greater than 12 months are included within operating lease right-of-use assets with the corresponding liabilities included within current maturities of operating leases and operating leases, less current maturities on our condensed balance sheets. Leases with a term of 12 months or less are not recorded on our condensed balance sheets. Accounting for finance leases is substantially unchanged under Topic 842. Please see "Notes to Condensed Financial Statements—9. Leases" for further discussion on the adoption of Topic 842.

We have contractual obligations and commitments primarily with regard to future purchases of aircraft and engines, payments of debt, and lease arrangements. The following table discloses aggregate information about our contractual obligations as of March 31, 2020 and the periods in which payments are due (in millions):

	Remainder of 2020	2021 - 2022	2023 - 2024	2025 and beyond	Total
Long-term debt (1)	\$ 303	\$ 358	\$ 533	\$ 1,146	\$ 2,340
Interest and fee commitments (2)	62	143	104	127	436
Finance and operating lease obligations	155	412	362	1,164	2,093
Flight equipment purchase obligations	702	851	1,494	3,605	6,652
Other (3)	15	36	29	50	130
Total future payments on contractual obligations	\$ 1,237	\$ 1,800	\$ 2,522	\$ 6,092	\$ 11,651

(1) Includes principal only associated with senior and junior term loans, fixed-rate loans, Class A, Class B, and Class C Series 2015-1 EETCs, Class AA, Class A, Class B, and Class C Series 2017-1 EETCs, and our revolving credit facilities. Refer to "Notes to the Financial Statements— 12. Debt and Other Obligations."

(2) Related to senior and junior term loans, fixed-rate loans, and Class A, Class B, and Class C Series 2015-1 EETCs, and Class AA, Class A, Class B, and Class C Series 2017-1 EETCs. Includes interest accrued as of March 31, 2020 related to our variable-rate revolving credit facilities.

(3) Primarily related to our reservation system and other miscellaneous subscriptions and services. Refer to "Notes to the Financial Statements— 10. Commitments and Contingencies."

Some of our master lease agreements required that we pay maintenance reserves to aircraft lessors to be held as collateral in advance of our required performance of major maintenance activities. Some maintenance reserve payments are fixed contractual amounts, while others are based on utilization.

During the fourth quarter of 2019, the Company purchased an 8.5-acre parcel of land for \$41.0 million and entered into a 99-year lease agreement for the lease of a 2.6-acre parcel of land, in Dania Beach, Florida, where the Company intends to build a new headquarters campus. For more detailed information, please refer to "Notes to the Financial Statements— 9. Leases." As of March 31, 2020, we estimate the total construction related outlay for the project will be approximately \$200 million to \$250 million. Operating lease commitments related to this lease are included in the table above under the caption "Finance and operating lease obligations."

Off-Balance Sheet Arrangements

As of March 31, 2020, we had lines of credit related to corporate credit cards of \$30.1 million from which we had drawn \$2.5 million.

As of March 31, 2020, we had lines of credit with counterparties for both physical fuel delivery and derivatives in the amount of \$41.5 million. As of March 31, 2020, we had drawn \$7.1 million on these lines of credit for physical fuel delivery. We are required to post collateral for any excess above the lines of credit if the derivatives are in a net liability position and make periodic payments in order to maintain an adequate undrawn portion for physical fuel delivery. As of March 31, 2020, we did not hold any derivatives.

As of March 31, 2020, we have \$10.6 million in uncollateralized surety bonds and a \$35.0 million unsecured standby letter of credit facility, representing an off balance-sheet commitment, of which \$23.3 million had been drawn upon for issued letters of credit.

GLOSSARY OF AIRLINE TERMS

Set forth below is a glossary of industry terms:

"Adjusted CASM" means operating expenses, excluding unrealized gains or losses related to fuel derivative contracts, out of period fuel federal excise tax, loss on disposal of assets, special charges and supplemental rent adjustments related to lease modifications, divided by ASMs.

"Adjusted CASM ex fuel" means operating expenses excluding aircraft fuel expense, loss on disposal of assets, special charges and supplemental rent adjustments related to lease modifications, divided by ASMs.

"AFA-CWA" means the Association of Flight Attendants-CWA.

"Air traffic liability" or "ATL" means the value of tickets sold in advance of travel.

"ALPA" means the Air Line Pilots Association, International.

"ASIF" means an Aviation Security Infrastructure Fee assessed by the TSA on each airline.

"Available seat miles" or "ASMs" means the number of seats available for passengers multiplied by the number of miles the seats are flown, also referred to as "capacity."

"Average aircraft" means the average number of aircraft in our fleet as calculated on a daily basis.

"Average daily aircraft utilization" means block hours divided by number of days in the period divided by average aircraft.

"Average fuel cost per gallon" means total aircraft fuel expense divided by the total number of fuel gallons consumed.

"Average stage length" represents the average number of miles flown per flight.

"Average yield" means average operating revenue earned per RPM, calculated as total revenue divided by RPMs, also referred to as "passenger yield."

"Block hours" means the number of hours during which the aircraft is in revenue service, measured from the time of gate departure before take-off until the time of gate arrival at the destination.

"CASM" or "unit costs" means operating expenses divided by ASMs.

"CBA" means a collective bargaining agreement.

"CBP" means United States Customs and Border Protection.

"DOT" means the United States Department of Transportation.

"EETC" means enhanced equipment trust certificate.

"EPA" means the United States Environmental Protection Agency.

"FAA" means the United States Federal Aviation Administration.

"Fare revenue per passenger flight segment" means total fare passenger revenue divided by passenger flight segments.

"FCC" means the United States Federal Communications Commission.

"FLL Airport" means the Fort Lauderdale Hollywood International Airport.

"GDS" means Global Distribution System (e.g., Amadeus, Galileo, Sabre and Worldspan).

"IAMAW" means the International Association of Machinists and Aerospace Workers.

"Into-plane fuel cost per gallon" means into-plane fuel expense divided by number of fuel gallons consumed.

"Into-plane fuel expense" represents the cost of jet fuel and certain other charges such as fuel taxes and oil.

"Load factor" means the percentage of aircraft seats actually occupied on a flight (RPMs divided by ASMs).

"NMB" means the National Mediation Board.

"Non-ticket revenue" means total non-fare passenger revenue and other revenue

"Non-ticket revenue per passenger flight segment" means total non-fare passenger revenue and other revenue divided by passenger flight segments.

"OTA" means Online Travel Agent (e.g., Orbitz and Travelocity).

"PAFCA" means the Professional Airline Flight Control Association.

"Passenger flight segments" means the total number of passengers flown on all flight segments.

"PDP" means pre-delivery deposit payment.

"Revenue passenger mile" or "RPM" means one revenue passenger transported one mile. RPMs equals revenue passengers multiplied by miles flown, also referred to as "traffic."

"RLA" means the United States Railway Labor Act.

"Total operating revenue per-ASM," "TRASM" or "unit revenue" means operating revenue divided by ASMs.

"TWU" means the Transport Workers Union of America.

"TSA" means the United States Transportation Security Administration.

"ULCC" means "ultra low-cost carrier."

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Market Risk-Sensitive Instruments and Positions

We are subject to certain market risks, including commodity prices (specifically aircraft fuel) and interest rates. We purchase the majority of our jet fuel at prevailing market prices and seek to manage market risk through execution of our hedging strategy and other means. We have market-sensitive instruments in the form of fixed-rate debt instruments, short-term investment securities and, from time to time, financial derivative instruments used to hedge our exposure to jet fuel price increases and interest rate increases. We do not purchase or hold any derivative financial instruments for trading purposes. The adverse effects of changes in these markets could pose a potential loss as discussed below. The sensitivity analysis provided below does not consider the effects that such adverse changes may have on overall economic activity, nor does it consider additional actions we may take to mitigate our exposure to such changes. Actual results may differ.

Aircraft Fuel. Our results of operations can vary materially due to changes in the price and availability of aircraft fuel. Aircraft fuel expense for the three months ended March 31, 2020 and 2019 represented approximately 25.7% and 29.9% of our operating expenses, respectively. Volatility in aircraft fuel prices or a shortage of supply could have a material adverse effect on our operations and operating results. We source a significant portion of our fuel from refining resources located in the southeast United States, particularly facilities adjacent to the Gulf of Mexico. Gulf Coast fuel is subject to volatility and supply disruptions, particularly during hurricane season when refinery shutdowns have occurred, or when the threat of weather-related disruptions has caused Gulf Coast fuel prices to spike above other regional sources. Both jet fuel swaps and jet fuel options are used at times to protect the refining price risk between the price of crude oil and the price of refined jet fuel, and to manage the risk of increasing fuel prices. Gulf Coast Jet indexed fuel is the basis for a substantial majority of our fuel consumption. Based on our annual fuel consumption over the last 12 months, a hypothetical 10% increase in the average price per gallon of aircraft fuel would have increased into-plane aircraft fuel expense by approximately \$98 million. As of March 31, 2020 and December 31, 2019, we did not have any outstanding jet fuel derivatives and we have not engaged in fuel derivative activity since 2015.

Interest Rates. We have market risk associated with our short-term investment securities, which had a fair market value of \$106.2 million and \$105.3 million, as of March 31, 2020 and December 31, 2019, respectively. We also have market risk associated with changing interest rates due to LIBOR-based lease rates on one of our aircraft. A hypothetical 10% change in interest rates would affect total aircraft rent expense by less than \$0.1 million per annum.

Fixed-Rate Debt. As of March 31, 2020, we had \$2,180.0 million outstanding in fixed-rate debt related to the purchase of 38 Airbus A320 aircraft and 30 Airbus A321 aircraft which had a fair value of \$2,037.1 million. As of December 31, 2019, we had \$2,053.6 million outstanding in fixed-rate debt related to the purchase of 34 Airbus A320 aircraft and 30 Airbus A321 aircraft, which had a fair value of \$2,143.0 million.

Variable-Rate Debt. As of March 31, 2020, we had \$160.0 million outstanding in variable-rate long-term debt, which had a fair value of \$160.0 million. As of December 31, 2019, we had \$160.0 million outstanding in variable-rate debt, which had a fair value of \$160.0 million. During the three months ended March 31, 2020, a hypothetical increase of 100 basis points in average annual interest rates would have increased the annual interest expense on our variable-rate long-term debt by \$0.4 million.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

Management, with the participation of our Chief Executive Officer and our Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures as of March 31, 2020. The term “disclosure controls and procedures,” as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, means controls and other procedures of a company that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC’s rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to our management, including its chief executive and principal financial officers, as appropriate to allow timely decisions regarding required disclosure.

Management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

Based on the evaluation of our disclosure controls and procedures as of March 31, 2020, our Chief Executive Officer and Chief Financial Officer concluded that, solely as a result of the material weakness in internal control over financial reporting described in Item 9A. Controls and Procedures in our Annual Report on Form 10-K/A for the year ended December 31, 2019, which continued to exist as of March 31, 2020, our disclosure controls and procedures were not effective as of March 31, 2020.

Previously Disclosed Material Weakness

We disclosed in Item 9A. Controls and Procedures in our Annual Report on Form 10-K/A for the year ended December 31, 2019 that we had identified a material weakness in internal controls related to the operation of certain review controls over the preparation of the 2019 statement of cash flows. In light of the material weakness identified, management performed additional review and other procedures prior to the filing of (i) the Annual Report on Form 10-K/A, which resulted in a restatement of the of the statements of cash flows for the year ended December 31, 2019, and (ii) this Quarterly Report on Form 10-Q, which did not result in any adjustments to the consolidated financial statements. Other than the restatement described in the Annual Report on Form 10-K/A for the year ended December 31, 2019, the material weakness did not result in any material misstatements to our condensed financial statements in any prior periods or for the three months ended March 31, 2020.

Status of Remediation of Material Weakness in Internal Control over Financial Reporting

In order to remediate the material weakness, Management has taken steps to improve our overall processes and controls. Remediation activities include, but are not limited to the following:

- Enhancing cash flow templates to facilitate the preparation and review of the related cash flows; and
- Enhancing roll forward reconciliation and management review controls of the capital expenditures amounts included in the statements of cash flows.

Management is committed to maintaining a strong internal control environment and believes this remediation effort will represent an improvement in existing controls. Management anticipates that the new controls, as implemented and when tested for a sufficient period of time, will remediate the material weakness. As of March 31, 2020, Management has implemented certain aspects of the contemplated remediation, including a more detailed reconciliation process and management review of each line in the statements of cash flows. As we continue to evaluate and work to improve our internal controls over financial reporting, we may determine to take additional measures to address control deficiencies or modify certain activities of the remediation measures described above.

Notwithstanding the existence of the material weakness as described above, we believe that the financial statements in this Quarterly Report present fairly, in all material respects, our balance sheets, statements of operations, statements of comprehensive income, statements of cash flows and statements of shareholder’s equity as of the dates, and for the periods presented, in conformity with U.S. GAAP.

Changes in Internal Control over Financial Reporting

Except for the material weakness described above, as of March 31, 2020, there have been no other changes in our internal control over financial reporting during our first quarter ended March 31, 2020 that have materially affected or are reasonably likely to materially affect our internal control over financial reporting.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

We are subject to commercial litigation claims and to administrative and regulatory proceedings and reviews that may be asserted or maintained from time to time. We believe the ultimate outcome of such lawsuits, proceedings and reviews will not, individually or in the aggregate, have a material adverse effect on our financial position, liquidity or results of operations.

ITEM 1A. RISK FACTORS

There have been no material changes to the risk factors disclosed in Item 1A "Risk Factors" contained in our amended Annual Report on Form 10-K/A for the year ended December 31, 2019, filed with the Securities and Exchange Commission on April 16, 2020, other than the addition of the following risk factor. Investors are urged to review such risk factors carefully.

The COVID-19 pandemic and measures to reduce its spread have had, and will likely continue to have, a material adverse impact on our business, results of operations and financial condition.

In December 2019, a novel strain of coronavirus ("COVID-19") was reported in Wuhan, China. COVID-19 has since spread to almost every country in the world, including the United States. The World Health Organization has declared COVID-19 a pandemic. The outbreak of COVID-19 and measures to reduce its spread have adversely impacted our business and continue to adversely impact our business in a number of ways. Multiple governments in countries we serve, principally the United States, have responded to the virus with air travel restrictions and closures or recommendations against air travel, and certain countries we serve have required airlines to limit or completely stop operations. In response to COVID-19, we have significantly reduced capacity from our original plan through June 2020 and will continue to evaluate the need for further flight schedule adjustments. As of March 31, 2020, we were experiencing significant deterioration in forward bookings. Negative trends have not yet stabilized and are likely to continue to worsen. Additionally, we also outsource certain critical business activities to third parties, including our dependence on a limited number of suppliers for our aircraft and engines. As a result, we rely upon the successful implementation and execution of the business continuity planning of such entities in the current environment. The successful implementation and execution of these third parties' business continuity strategies are largely outside our control. If one or more of such third parties experience operational failures as a result of the impacts from the spread of COVID-19, or claim that they cannot perform due to a force majeure, it may have a material adverse impact on our business, results of operations and financial condition.

The extent of the impact of COVID-19 on our business, results of operations and financial condition will depend on future developments, including the currently unknowable duration of the COVID-19 pandemic, the impact of existing and future governmental regulations, travel advisories and restrictions that are imposed in response to the pandemic, additional reductions to our flight capacity, or a voluntary temporary cessation of all flights, that we implement in response to the pandemic, and the impact of COVID-19 on consumer behavior, such as a reduction in the demand for air travel, especially in our destination cities. The potential economic impact brought on by the COVID-19 pandemic is difficult to assess or predict, and it has already caused, and is likely to result in further, significant disruptions of global financial markets, which may reduce our ability to access capital either at all or on favorable terms, and the cost of capital, including our ability to raise funds through equity or debt financings. In addition, a recession, depression or other sustained adverse economic event resulting from the spread of the coronavirus would materially adversely impact our business and the value of our common stock. The impact of the COVID-19 pandemic on global financial markets has negatively impacted the value of our common stock to date as well as our debt ratings, and could continue to negatively affect our liquidity. Our credit rating was downgraded by S&P Global to BB- in March 2020, and by Fitch to BB in April 2020, and our ratings have been placed on watch for further downgrade by these ratings agencies. In addition, in May 2020, the credit rating of our Spirit Airlines Pass Through Trust Certificates Series 2015-1 Class C and our Spirit Airlines Pass Through Trust Certificates Series 2017-1 Class C was downgraded by Fitch from BBB- to BB+. If our credit ratings were to be further downgraded, or general market conditions were to ascribe higher risk to our ratings levels, the airline industry, of the Company, our business, financial condition and results of operations would be adversely effected. These developments are highly uncertain and cannot be predicted. There are limitations on our ability to mitigate the adverse financial impact of these items, including as a result of our significant aircraft-related fixed obligations. COVID-19 also makes it more challenging for management to estimate future performance of our business, particularly over the near to medium term. A further, potentially significant, decline in demand for our flights could have a materially adverse impact on our business, results of operations and financial condition.

On March 27, 2020, the CARES Act was signed into law in the United States and on April 20, 2020, we reached an agreement with the Treasury to receive approximately \$334.7 million in funding through the PSP over the second and third quarters of 2020. The Company received the first installment of \$167.4 million under the PSP. The funding we receive will be subject to restrictions and limitations, including (i) restrictions on payments of dividends and stock buybacks through September 30, 2021, (ii) requirements to maintain certain levels of scheduled services (including to destinations where there may currently be significantly reduced or no demand), (iii) a prohibition on involuntary terminations or furloughs of employees (except for health, disability, cause, or certain disciplinary reasons) through September 30, 2020, (iv) restrictions on reducing the salary, wages, or benefits of our employees (other than our executive officers or independent contractors, or as otherwise permitted under the terms of the PSP) through September 30, 2020 (v) limitation on use of the grant funds exclusively for the continuation of payment of employee wages, salaries and benefits, and (vi) limits on executive compensation including limiting pay increases and severance pay or other benefits upon terminations, through March 24, 2022. These restrictions and requirements could materially adversely impact our business, results of operations and financial condition by, among other things, requiring us to maintain or increase cost levels to maintain scheduled service and employment with little or no offsetting

revenue, and limiting our ability to effectively compete with others in our industry who may not be receiving funding and may not be subject to similar limitations. Additionally, in consideration for the receipt of funding from the Treasury, we issued a \$20.2 million 10-year note on April 21, 2020 to the Treasury, and warrants on April 21, 2020 to the Treasury to purchase up to 143,541 shares of our common stock, par value \$0.0001 per share, at a strike price of \$14.08 per share (the closing price for the shares of common stock on April 9, 2020). Upon the receipt of additional funding, we will increase the amount of the note issued to the Treasury, up to \$70.4 million, and will issue additional warrants to the Treasury, to purchase up to an aggregate of 500,150 shares of Common Stock. The warrants will expire in five years from the date of issuance, will be transferable, have no voting rights and will contain customary terms regarding anti-dilution. If the Treasury exercises the warrants, the interest of our holders of common stock would be diluted and we would be partially owned by the U.S. government, which could have a negative impact on our common stock price, and which could require increased resources and attention by our management. We cannot predict whether the assistance from the Treasury through the PSP will be adequate to continue to pay our employees for the duration of the COVID-19 pandemic or whether additional assistance will be required or available in the future. Additionally, we applied to the Treasury for a secured loan through the CARES Act, but we can provide no assurance that we will receive the loan in the amount we requested, or at all, and whether, if received, such amount will be sufficient to fund our continuing operations for the duration of the COVID-19 pandemic.

The COVID-19 pandemic may also exacerbate other risks described in this "Risk Factors" section and disclosed in Item 1A. Risk Factors in our Annual Report on Form 10-K, as amended, for the year ended December 31, 2019, including, but not limited to, our competitiveness, demand for our services, shifting consumer preferences and our substantial amount of outstanding indebtedness.

We have agreed to certain restriction on our business by accepting financing under the CARES Act.

On March 27, 2020, the CARES Act was signed into law. The CARES Act provides liquidity in the form of loans, loan guarantees, and other investments to air carriers, such as us, that incurred, or are expected to incur, covered losses such that the continued operations of the business are jeopardized, as determined by Treasury.

On April 20, 2020, the Company entered into a Payroll Support Program Agreement with Treasury, pursuant to which the Company may receive a total of up to approximately \$334.7 million under the PSP, which funds will be used exclusively to pay for salaries and benefits for our employees through September 30, 2020. Of that amount, up to \$264.3 million will be a direct grant from Treasury and up to \$70.4 million will be in the form of a low-interest 10-year note. In connection with its participation in the PSP, the Company also will be obligated to issue to Treasury warrants to purchase up to 500,150 shares of common stock, at a strike price of \$14.08 per share (the closing price for the shares of common stock on April 9, 2020). On April 21, 2020, the Company received total proceeds of \$167.4 million, representing the first installment of funding under the PSP, in exchange for which the Company issued to Treasury the \$20.2 million 10-year note and warrants purchasing 143,541 shares of common stock.

In connection with the Company's participation in the PSP, we will be subject to certain restrictions, including, but not limited to:

- Restrictions on payment of dividends and stock buybacks through September 30, 2021;
- Requirements to maintain certain levels of scheduled service;
- Maintaining employment levels through September 30, 2020;
- Limits on certain executive compensation; and
- Use of the grant funds exclusively for the continuation of payment of employee wages, salaries and benefits.

These restrictions may affect the profitability of our business activities, require that we change certain of our business practices, affect retention of key personnel, and expose us to additional costs (including increased compliance costs). Additionally, we could be required to issue additional warrants if we participate in additional loan programs under the CARES Act.

We cannot assure you that we will receive additional funds under the PSP, or whether, if received, such amount will be sufficient to fund our continuing operations for the duration of the COVID-19 pandemic.

Airlines are often affected by factors beyond their control, including: air traffic congestion at airports; air traffic control inefficiencies; major construction or improvements at airports; adverse weather conditions, such as hurricanes or blizzards; increased security measures; new travel related taxes or the outbreak of disease, any of which could harm our business, operating results and financial condition.

Like other airlines, our business is affected by factors beyond our control, including air traffic congestion at airports, air traffic control inefficiencies, major construction or improvements at airports at which we operate, adverse weather conditions, increased security measures, new travel related taxes, the outbreak of disease, new regulations or policies from the presidential

administration and Congress. Factors that cause flight delays frustrate passengers and increase costs, which in turn could adversely affect profitability. The federal government currently controls all U.S. airspace, and airlines are completely dependent on the FAA to operate that airspace in a safe, efficient and affordable manner. The air traffic control system, which is operated by the FAA, faces challenges in managing the growing demand for U.S. air travel. U.S. and foreign air-traffic controllers often rely on outdated technologies that routinely overwhelm the system and compel airlines to fly inefficient, indirect routes resulting in delays. A significant portion of our operations is concentrated in markets such as South Florida, the Caribbean, Latin America and the Northeast and northern Midwest regions of the United States, which are particularly vulnerable to weather, airport traffic constraints and other delays. Adverse weather conditions and natural disasters, such as hurricanes affecting southern Florida and the Caribbean (such as Hurricanes Irma and Maria in September 2017 and Hurricane Dorian in August 2019) as well as southern Texas (such as Hurricane Harvey in August 2017), winter snowstorms or earthquakes (such as the September 2017 earthquakes in Mexico City, Mexico and the December 2019 and January 2020 earthquakes in Puerto Rico) can cause flight cancellations, significant delays and facility disruptions. For example, during 2017, the timing and location of Hurricanes Irma and Maria produced a domino effect on our operations resulting in approximately 1,400 flight cancellations and numerous flight delays, which resulted in an adverse effect on our results of operations. Cancellations or delays due to adverse weather conditions or natural disasters, air traffic control problems or inefficiencies, breaches in security or other factors may affect us to a greater degree than other, larger airlines that may be able to recover more quickly from these events, and therefore could harm our business, results of operations and financial condition to a greater degree than other air carriers. Because of our high utilization, point-to-point network, operational disruptions can have a disproportionate impact on our ability to recover. In addition, many airlines reaccommodate their disrupted passengers on other airlines at prearranged rates under flight interruption manifest agreements. We have been unsuccessful in procuring any of these agreements with our peers, which makes our recovery from disruption more challenging than for larger airlines that have these agreements in place. Similarly, outbreaks of pandemic or contagious diseases, such as Ebola, measles, avian flu, severe acute respiratory syndrome (SARS), H1N1 (swine) flu, Zika virus and COVID-19, could result in significant decreases in passenger traffic and the imposition of government restrictions in service and could have a material adverse impact on the airline industry. As a result of the COVID-19 pandemic, the U.S. government and government authorities in other countries around the world have implemented travel bans and other restrictions, which have drastically reduced consumer demand. In response to such reduction, the Company has significantly reduced capacity from its original plan through June 2020 and will continue to evaluate the need for further flight schedule adjustments. Any increases in travel related taxes could also result in decreases in passenger traffic. Any general reduction in airline passenger traffic could have a material adverse effect on our business, results of operations and financial condition. Moreover, U.S. federal government shutdowns may cause delays and cancellations or reductions in discretionary travel due to longer security lines, including as a result of furloughed government employees, or reductions in staffing levels, including air traffic controllers. U.S. government shutdowns may also impact our ability to take delivery of aircraft and commence operations in new domestic stations. Any extended shutdown like the one in January 2019 may have a negative impact on our operations and financial results.

We have a significant amount of aircraft-related fixed obligations and we have incurred, and may incur in the future, significant additional debt, that could impair our liquidity and thereby harm our business, results of operations and financial condition.

The airline business is capital intensive and, as a result, many airline companies are highly leveraged. As of March 31, 2020, our 151 aircraft fleet consisted of 54 aircraft financed under operating leases, 68 aircraft financed under debt arrangements, and 29 aircraft purchased off lease and currently unencumbered. For the three months ended March 31, 2020 and 2019, we paid the lessors rent of \$48.5 million and \$47.5 million, respectively. In connection with our aircraft and engines, in the three months ended March 31, 2020, we paid maintenance deposits, of \$1.3 million and in the three months ended March 31, 2019, we paid maintenance deposits, of \$2.6 million. As of March 31, 2020, we had future aircraft and spare engine operating lease obligations of approximately \$1.9 billion. In the three months ended March 31, 2020 and 2019, we made scheduled principal payments of \$42.6 million and \$37.9 million on our outstanding debt obligations, respectively. As of March 31, 2020, we had future principal debt obligations of \$2.3 billion, of which \$303.4 million is due in the remainder of 2020. In addition, we have significant obligations for aircraft and spare engines that we have ordered from Airbus, International Aero Engines AG, or IAE, and Pratt & Whitney for delivery over the next several years. Further, we have an existing revolving credit facility for up to \$160 million and on March 20, 2020, we entered into a new senior secured revolving credit facility for an initial commitment of \$110 million, which was increased to \$135 million in April 2020. In April 2020, we drew the full amount under the new revolving credit facility. Also in April 2020, we reached an agreement with the Treasury to receive \$334.7 million in funding through the payroll support program, in the form of a grant and a low-interest 10-year note. The funding from Treasury will also subject us to certain restrictions and limitations. Our ability to pay the fixed and other costs associated with our contractual obligations will depend on our operating performance, cash flow and our ability to secure adequate financing, which will in turn depend on, among other things, the success of our current business strategy, fuel price volatility, weakening or improvement in the U.S. economy, as well as general economic and political conditions and other factors that are beyond our control. The amount of our aircraft related fixed obligations, our obligations under our other debt arrangements, and the related need to obtain financing could have a material adverse effect on our business, results of operations and financial condition and could:

- require a substantial portion of cash flow from operations for operating lease and maintenance deposit payments, and principal and interest on our indebtedness, thereby reducing the availability of our cash flow to fund working capital, capital expenditures and other general corporate purposes;
- limit our ability to make required pre-delivery deposit payments, or PDPs, including those payable to our aircraft and engine manufacturers for our aircraft and spare engines on order;
- limit our ability to obtain additional financing to support our expansion plans and for working capital and other purposes on acceptable terms or at all;
- make it more difficult for us to pay our other obligations as they become due during adverse general economic and market industry conditions because any related decrease in revenues could cause us to not have sufficient cash flows from operations to make our scheduled payments;
- reduce our flexibility in planning for, or reacting to, changes in our business and the airline industry and, consequently, place us at a competitive disadvantage to our competitors with fewer fixed payment obligations or which are subject to fewer limitations or restrictions; and
- cause us to lose access to one or more aircraft and forfeit our rent deposits if we are unable to make our required aircraft lease rental and debt payments and our lessors or lenders exercise their remedies under the lease and debt agreements, including cross default provisions in certain of our leases and mortgages.

A failure to pay our operating lease, debt, fixed cost and other obligations or a breach of our contractual obligations could result in a variety of adverse consequences, including the exercise of remedies by our creditors and lessors. In such a situation, it is unlikely that we would be able to cure our breach, fulfill our obligations, make required lease or debt payments or otherwise cover our fixed costs, which would have a material adverse effect on our business, results of operations and financial condition.

We are highly dependent upon our cash balances and operating cash flows.

As of March 31, 2020, we had access to lines of credit from our physical fuel delivery and derivative counterparties and our purchase credit card issuer aggregating \$71.6 million and an unsecured standby letter of credit facility of \$35.0 million. In addition, we have a revolving credit facility, maturing in 2020, for up to \$160 million on which we had drawn \$160.0 million as of March 31, 2020, and a new senior secured revolving credit facility, entered into on March 30, 2020 and maturing in 2022, for up to \$135 million (which commitment amount may be further increased with the consent of any participating lenders and subject to borrowing base availability) on which we had not drawn any amounts as of March 31, 2020. In April 2020, we drew the full amount under the new revolving credit facility. For additional information, refer to "Notes to Condensed Financial Statements—12. Debt and Other Obligations." These credit facilities are not adequate to finance our operations, and we will continue to be dependent on our operating cash flows and cash balances to fund our operations and to make scheduled payments on our aircraft related fixed obligations. In addition, we have sought, and may continue to seek, financing from other available sources to fund our operations in order to mitigate the impact of COVID-19 on our financial position and operations, including through the payroll support program or loan program with Treasury. In addition, our credit card processors are entitled to withhold receipts from customer purchases from us, under certain circumstances. Although our credit card processors currently do not have a right to hold back credit card receipts to cover repayment to customers, if we fail to maintain certain liquidity and other financial covenants, their rights to holdback would be reinstated, which would result in a reduction of unrestricted cash that could be material. In addition, we are required by some of our aircraft lessors to fund reserves in cash in advance for scheduled maintenance, and a portion of our cash is therefore unavailable until after we have completed the scheduled maintenance in accordance with the terms of the operating leases. Based on the age of our fleet and our growth strategy, these maintenance deposits will increase over the next few years before we receive any significant reimbursement for completed maintenance. If we fail to generate sufficient funds from operations to meet our operating cash requirements or do not obtain a line of credit, other borrowing facility or equity financing, we could default on our operating lease and fixed obligations. Our inability to meet our obligations as they become due would have a material adverse effect on our business, results of operations and financial condition.

Any tariffs imposed on commercial aircraft and related parts imported from outside the United States may have a material adverse effect on our fleet, business, financial condition and our results of operations.

Certain of the products and services that we purchase, including our aircraft and related parts, are sourced from suppliers located in foreign countries, and the imposition of new tariffs, or any increase in existing tariffs, by the U.S. government on the importation of such products or services could materially increase the amounts we pay for them. In early October 2019, the World Trade Organization ruled that the United States could impose \$7.5 billion in retaliatory tariffs in response to illegal European Union subsidies to Airbus. On October 18, 2019, the United States imposed these tariffs on certain imports from the European Union, including a 10% tariff on new commercial aircraft. In February 2020, the United States announced an increase to this tariff from 10% to 15%. These tariffs apply to aircraft that we are already contractually obligated to purchase. These tariffs are under continuing review and at any time could be increased, decreased, eliminated or applied to a broader range of products we use. The imposition of these tariffs may substantially increase the cost of, among other things,

imported new Airbus aircraft and parts required to service our Airbus fleet, which in turn could have a material adverse effect on our business, financial condition and/or results of operations. We may also seek to postpone or cancel delivery of certain aircraft currently scheduled for delivery, and we may choose not to purchase as many aircraft as we intended in the future. Any such action could have a material adverse effect on the size of our fleet, business, financial condition and/or results of operations.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS**Repurchases of Equity Securities**

The following table reflects our repurchases of our common stock during the first quarter of 2020. All stock repurchases during this period were made from employees who received restricted stock units. All employee stock repurchases were made at the election of each employee pursuant to an offer to repurchase by us. In each case, the shares repurchased constituted the portion of vested shares necessary to satisfy tax withholding requirements.

ISSUER PURCHASES OF EQUITY SECURITIES

Period	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Approximate Dollar Value of Shares that May Yet be Purchased Under Plans or Programs
January 1-31, 2020	32,908	\$ 41.94	—	\$ —
February 1-29, 2020	3,736	\$ 41.12	—	\$ —
March 1-31, 2020	189	\$ 10.66	—	\$ —
Total	36,833	\$ 41.70	—	\$ —

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable

ITEM 5. OTHER INFORMATION

None

ITEM 6. EXHIBITS

Exhibit Number	Description of Exhibits
3.1	Certificate of Designation of Series A Participating Cumulative Preferred Stock, filed as Exhibit 3.1 to the Company's Form 8-K dated March 30, 2020, is hereby incorporated by reference
4.1	Rights Agreement, dated as of March 30, 2020, between Spirit Airlines, Inc. and Equiniti Trust Company, as Rights Agent, which includes the Form of Certificate of Designation of Series A Participating Cumulative Preferred Stock of Spirit Airlines, Inc. as Exhibit A, the Summary of Terms of the Rights Agreement as Exhibit B and the Form of Right Certificate as Exhibit C, filed as Exhibit 4.1 to the Company's Form 8-K dated March 30, 2020, is hereby incorporated by reference
4.2	Warrant Agreement, dated as of April 20, 2020, between the Company and the United States Department of the Treasury
4.3	Form of Warrant to Purchase Common Stock, hereby incorporated by reference from Exhibit B to Exhibit 4.2
10.1	Credit and Guaranty Agreement, dated as of March 30, 2020, between Citibank, N.A. as Administrative Agent and Wilmington Trust, National Association, as Collateral Agent
10.2	Payroll Support Program Agreement, dated April 20, 2020, between the Company and the United States Department of the Treasury
10.3	Promissory Note, dated April 20, 2020, issued by the Company in the name of the United States Department of the Treasury
10.4	Matt Klein Offer Letter
31.1	Certification of the Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of the Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1*	Certification of the Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2*	Certification of the Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS	XBRL Instance Document - The instance document does not appear in the interactive data file because its XBRL tags are embedded within the inline XBRL document.
101.SCH	XBRL Taxonomy Extension Schema
101.CAL	XBRL Taxonomy Extension Calculation Linkbase
101.LAB	XBRL Taxonomy Extension Label Linkbase
101.PRE	XBRL Taxonomy Extension Presentation Linkbase

* Exhibits 32.1 and 32.2 are being furnished and shall not be deemed to be "filed" for purposes of Section 18 of the Exchange Act, or otherwise subject to the liability of that section, nor shall such exhibits be deemed to be incorporated by reference in any registration statement or other document filed under the Securities Act or the Exchange Act, except as otherwise specifically stated in such filing.

SIGNATURE

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

SPIRIT AIRLINES, INC.

May 6, 2020

By: _____
 / s/ Scott M. Haralson
 Scott M. Haralson
 Senior Vice President and
 Chief Financial Officer

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Section 2: EX-4.2 (WARRANT AGREEMENT)

Exhibit 4.2

EXECUTION VERSION

WARRANT AGREEMENT

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WARRANT AGREEMENT dated as of April 20, 2020 (this "Agreement"), between SPIRIT AIRLINES, INC., a corporation organized under the laws of Delaware (the "Company") and the UNITED STATES DEPARTMENT OF THE TREASURY ("Treasury").

WHEREAS, the Company has requested that Treasury provide financial assistance to the Recipient (as defined in the PSP Agreement) that shall exclusively be used for the continuation of payment of employee wages, salaries, and benefits as is permissible under Section 4112(a) of Title IV of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136 (Mar. 27, 2020), as the same may be amended from time to time (the "CARES Act"), and Treasury is willing to do so on the terms and conditions set forth in the Payroll Support Program Agreement dated as of April 20, 2020, between Spirit Airlines, Inc. and Treasury (the "PSP Agreement"); and

WHEREAS, as appropriate compensation to the Federal Government of the United States of America for the provision of financial assistance under the PSP Agreement, the Company has agreed to issue a note to be repaid to Treasury on the terms and conditions set forth in the promissory note dated as of April 20, 2020, issued by Spirit Airlines, Inc., in the name of Treasury as the holder (the "Promissory Note") and agreed to issue in a private placement warrants to purchase the number of shares of its Common Stock determined in accordance with Schedule 1 to this Agreement (the "Warrants") to Treasury;

NOW, THEREFORE, in consideration of the premises, and of the representations, warranties, covenants and agreements set forth herein, the parties agree as follows:

Article I
Closing

1.1 Issuance.

(a) On the terms and subject to the conditions set forth in this Agreement, the Company agrees to issue to Treasury, on each Warrant Closing Date, Warrants for a number of shares of Common Stock determined by the formula set forth in Schedule 1.

1.2 Initial Closing; Warrant Closing Date.

(a) On the terms and subject to the conditions set forth in this Agreement, the closing of the initial issuance of the Warrants (the "Initial Closing") will take place on the Closing Date (as defined in the Promissory Note) or, if on the Closing Date the principal amount of the Promissory Note is \$0, the first date on which such principal amount is increased. A subsequent closing will take place on the date of each increase, if any, of the principal amount of the Promissory Note (each subsequent closing, together with the Initial Closing, a "Closing" and each such date a "Warrant Closing Date").

(b) On each Warrant Closing Date, the Company will issue to Treasury a duly executed Warrant or Warrants for a number of shares of Common Stock determined by the formula set forth in Schedule 1, as evidenced by one or more certificates dated the Warrant

Closing Date and bearing appropriate legends as hereinafter provided for and in substantially the form attached hereto as Annex B.

(c) On each Warrant Closing Date, the Company shall deliver to Treasury (i) a written opinion from counsel to the Company (which may be internal counsel) addressed to Treasury and dated as of such Warrant Closing Date, in substantially the form attached hereto as Annex A and (ii) a certificate executed by the chief executive officer, president, executive vice president, chief financial officer, principal accounting officer, treasurer or controller confirming that the representations and warranties of the Company in this Agreement are true and correct with the same force and effect as though expressly made at and as of such Warrant Closing Date and the Company has complied with all agreements on its part to be performed or satisfied hereunder at or prior to such Closing.

(d) On the initial Warrant Closing Date, the Company shall deliver to Treasury (i) such customary certificates of resolutions or other action, incumbency certificates and/or other certificates of the chief executive officer, president, executive vice president, chief financial officer, principal accounting officer, treasurer or controller as Treasury may require evidencing the identity, authority and capacity of each such officer thereof authorized to act as such officer in connection with this Agreement and (ii) customary resolutions or evidence of corporate authorization, secretary's certificates and such other documents and certificates (including Organizational Documents and good standing certificates) as Treasury may reasonably request relating to the organization, existence and good standing of the Company and any other legal matters relating to the Company, this Agreement, the Warrants or the transactions contemplated hereby or thereby.

1.3 Interpretation.

(a) When a reference is made in this Agreement to "Recitals," "Articles," "Sections," or "Annexes" such reference shall be to a Recital, Article or Section of, or Annex to, this Warrant Agreement, unless otherwise indicated. The terms defined in the singular have a comparable meaning when used in the plural, and vice versa. References to "herein", "hereof", "hereunder" and the like refer to this Agreement as a whole and not to any particular section or provision, unless the context requires otherwise. The table of contents and headings contained in this Agreement are for reference purposes only and are not part of this Agreement. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed followed by the words "without limitation." No rule of construction against the draftsman shall be applied in connection with the interpretation or enforcement of this Agreement, as this Agreement is the product of negotiation between sophisticated parties advised by counsel. All references to "\$" or "dollars" mean the lawful currency of the United States of America. Except as expressly stated in this Agreement, all references to any statute, rule or regulation are to the statute, rule or regulation as amended, modified, supplemented or replaced from time to time (and, in the case of statutes, include any rules and regulations promulgated under the statute) and to any section of any statute, rule or regulation include any successor to the section.

(b) Capitalized terms not defined herein have the meanings ascribed thereto in Annex

B.

Article II
Representations and Warranties

2.1 Representations and Warranties of the Company. The Company represents and warrants to Treasury that as of the date hereof and each Warrant Closing Date (or such other date specified herein):

(a) Existence, Qualification and Power. The Company is duly organized or formed, validly existing and, if applicable, in good standing under the Laws of the jurisdiction of its incorporation or organization, and the Company and each Subsidiary (a) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) own or lease its assets and carry on its business and (ii) execute, deliver and perform its obligations under the this Agreement and the Warrants, and (b) is duly qualified and is licensed and, as applicable, in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license, except, in each case referred to in clause (a)(i) or (b), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

(b) Capitalization. The authorized capital stock of the Company, and the outstanding capital stock of the Company (including securities convertible into, or exercisable or exchangeable for, capital stock of the Company) as of the most recent fiscal month-end preceding the date hereof (the "Capitalization Date") is set forth in Schedule 2. The outstanding shares of capital stock of the Company have been duly authorized and are validly issued and outstanding, fully paid and nonassessable, and subject to no preemptive rights (and were not issued in violation of any preemptive rights). Except as provided in the Warrants, as of the date hereof, the Company does not have outstanding any securities or other obligations providing the holder the right to acquire Common Stock that is not reserved for issuance as specified on Schedule 2, and the Company has not made any other commitment to authorize, issue or sell any Common Stock. Since the Capitalization Date, the Company has not issued any shares of Common Stock, other than (i) shares issued upon the exercise of stock options or delivered under other equity-based awards or other convertible securities or warrants which were issued and outstanding on the Capitalization Date and disclosed on Schedule 2 and (ii) shares disclosed on Schedule 2 as it may be updated by written notice from the Company to Treasury in connection with each Warrant Closing Date.

(c) Listing. The Common Stock has been registered pursuant to Section 12(b) of the Exchange Act and the shares of the Common Stock outstanding on the date hereof are listed on a national securities exchange. The Company has taken no action designed to, or likely to have the effect of, terminating the registration of the Common Stock under the Exchange Act or the listing of the Common Stock on such national securities exchange, nor has the Company received any notification that the Securities and Exchange Commission (the "SEC") or such exchange is contemplating terminating such registration or listing. The Company is in compliance with applicable continued listing requirements of such exchange in all material respects.

(d) Governmental Authorization; Other Consents. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, the Company of this Agreement, except for such approvals, consents, exemptions, authorizations, actions or notices that have been duly obtained, taken or made and in full force and effect.

(e) Execution and Delivery; Binding Effect. This Agreement has been duly authorized, executed and delivered by the Company. This Agreement constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, receivership, moratorium or other Laws affecting creditors' rights generally and by general principles of equity.

(f) The Warrants and Warrant Shares. Each Warrant has been duly authorized and, when executed and delivered as contemplated hereby, will constitute a valid and legally binding obligation of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, receivership, moratorium or other Laws affecting creditors' rights generally and by general principles of equity. The Warrant Shares have been duly authorized and reserved for issuance upon exercise of the Warrants and when so issued in accordance with the terms of the Warrants will be validly issued, fully paid and non-assessable, subject, if applicable, to the approvals of its stockholders set forth on Schedule 3.

(g) Authorization, Enforceability.

(i) The Company has the corporate power and authority to execute and deliver this Agreement and the Warrants and, subject, if applicable, to the approvals of its stockholders set forth on Schedule 3, to carry out its obligations hereunder and thereunder (which includes the issuance of the Warrants and Warrant Shares). The execution, delivery and performance by the Company of this Agreement and the Warrants and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate or other organizational action on the part of the Company and its stockholders, and no further approval or authorization is required on the part of the Company, subject, in each case, if applicable, to the approvals of its stockholders set forth on Schedule 3.

(ii) The execution, delivery and performance by the Company of this Agreement do not and will not (a) contravene the terms of its Organizational Documents, (b) conflict with or result in any breach or contravention of, or the creation of any Lien (as defined in the Promissory Note) under, or require any payment to be made under (i) any material Contractual Obligation to which the Company is a party or affecting the Company or the properties of the Company or any Subsidiary or (ii) any material order, injunction, writ or decree of any Governmental Authority or any arbitral award to which the Company or any Subsidiary or its property is subject or (c) violate any Law, except to

the extent that such violation could not reasonably be expected to have a Material Adverse Effect.

(iii) Other than any current report on Form 8-K required to be filed with the SEC (which shall be made on or before the date on which it is required to be filed), such filings and approvals as are required to be made or obtained under any state “blue sky” laws, the filing of any proxy statement contemplated by Section 3.1 and such filings and approvals as have been made or obtained, no notice to, filing with, exemption or review by, or authorization, consent or approval of, any Governmental Authority is required to be made or obtained by the Company in connection with the execution, delivery and performance by the Company of this Agreement and the consummation by the Company of the issuance of the Warrants except for any such notices, filings, exemptions, reviews, authorizations, consents and approvals the failure of which to make or obtain would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(h) Anti-takeover Provisions and Rights Plan. The Board of Directors of the Company (the “Board of Directors”) has taken all necessary action, and will in the future take any necessary action, to ensure that the transactions contemplated by this Agreement and the Warrants and the consummation of the transactions contemplated hereby and thereby, including the exercise of the Warrants in accordance with their terms, will be exempt from any anti-takeover or similar provisions of the Company’s Organizational Documents, and any other provisions of any applicable “moratorium”, “control share”, “fair price”, “interested stockholder” or other anti-takeover laws and regulations of any jurisdiction, whether existing on the date hereof or implemented after the date hereof. The Company has taken all actions necessary, and will in the future take any necessary action, to render any stockholders’ rights plan of the Company inapplicable to this Agreement and the Warrants and the consummation of the transactions contemplated hereby and thereby, including the exercise of the Warrants by Treasury in accordance with its terms.

(i) Reports.

(i) Since December 31, 2017, the Company and each Subsidiary has timely filed all reports, registrations, documents, filings, statements and submissions, together with any amendments thereto, that it was required to file with any Governmental Authority (the foregoing, collectively, the “Company Reports”) and has paid all fees and assessments due and payable in connection therewith, except, in each case, as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. As of their respective dates of filing, the Company Reports complied in all material respects with all statutes and applicable rules and regulations of the applicable Governmental Authority. In the case of each such Company Report filed with or furnished to the SEC, such Company Report (A) did not, as of its date or if amended prior to the date hereof, as of the date of such amendment, contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading.

and (B) complied as to form in all material respects with the applicable requirements of the Securities Act and the Exchange Act. With respect to all other Company Reports, the Company Reports were complete and accurate in all material respects as of their respective dates. No executive officer of the Company or any Subsidiary has failed in any respect to make the certifications required of him or her under Section 302 or 906 of the Sarbanes-Oxley Act of 2002.

(ii) The Company (A) has implemented and maintains disclosure controls and procedures (as defined in Rule 13a-15(e) of the Exchange Act) to ensure that material information relating to the Company, including its Subsidiaries, is made known to the chief executive officer and the chief financial officer of the Company by others within those entities, and (B) has disclosed, based on its most recent evaluation prior to the date hereof, to the Company's outside auditors and the audit committee of the Board of Directors (x) any significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting (as defined in Rule 13a-15(f) of the Exchange Act) that are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information and (y) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls over financial reporting.

(j) Offering of Securities. Neither the Company nor any person acting on its behalf has taken any action (including any offering of any securities of the Company under circumstances which would require the integration of such offering with the offering of any of the Warrants under the Securities Act, and the rules and regulations of the Securities and Exchange Commission (the "SEC") promulgated thereunder), which might subject the offering, issuance or sale of any of the Warrants to Treasury pursuant to this Agreement to the registration requirements of the Securities Act.

(k) Brokers and Finders. No broker, finder or investment banker is entitled to any financial advisory, brokerage, finder's or other fee or commission in connection with this Agreement or the Warrants or the transactions contemplated hereby or thereby based upon arrangements made by or on behalf of the Company or any Subsidiary for which Treasury could have any liability.

Article III Covenants

3.1 Commercially Reasonable Efforts.

(a) Subject to the terms and conditions of this Agreement, each of the parties will use its commercially reasonable efforts in good faith to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or desirable, or advisable under applicable laws, to enable consummation of the transactions contemplated hereby and shall use commercially reasonable efforts to cooperate with the other party to that end.

(b) If the Company is required to obtain any stockholder approvals set forth on Schedule 3, then the Company shall comply with this Section 3.1(b) and Section 3.1(c). The Company shall call a special meeting of its stockholders, as promptly as practicable following the Initial Closing, to vote on proposals (collectively, the “Stockholder Proposals”) to (i) approve the exercise of the Warrants for Common Stock for purposes of the rules of the national securities exchange on which the Common Stock is listed and/or (ii) amend the Company’s Organizational Documents to increase the number of authorized shares of Common Stock to at least such number as shall be sufficient to permit the full exercise of the Warrants for Common Stock and comply with the other provisions of this Section 3.1(b) and Section 3.1(c). The Board

of Directors shall recommend to the Company’s stockholders that such stockholders vote in favor of the Stockholder Proposals. In connection with such meeting, the Company shall prepare (and Treasury will reasonably cooperate with the Company to prepare) and file with the SEC as promptly as practicable (but in no event more than ten Business Days after the Initial Closing) a preliminary proxy statement, shall use its reasonable best efforts to respond to any comments of the SEC or its staff thereon and to cause a definitive proxy statement related to such stockholders’ meeting to be mailed to the Company’s stockholders not more than five Business Days after clearance thereof by the SEC, and shall use its reasonable best efforts to solicit proxies for such stockholder approval of the Stockholder Proposals. The Company shall notify Treasury promptly of the receipt of any comments from the SEC or its staff with respect to the proxy statement and of any request by the SEC or its staff for amendments or supplements to such proxy statement or for additional information and will supply Treasury with copies of all correspondence between the Company or any of its representatives, on the one hand, and the SEC or its staff, on the other hand, with respect to such proxy statement. If at any time prior to such stockholders’ meeting there shall occur any event that is required to be set forth in an amendment or supplement to the proxy statement, the Company shall as promptly as practicable prepare and mail to its stockholders such an amendment or supplement. Each of Treasury and the Company agrees promptly to correct any information provided by it or on its behalf for use in the proxy statement if and to the extent that such information shall have become false or misleading in any material respect, and the Company shall as promptly as practicable prepare and mail to its stockholders an amendment or supplement to correct such information to the extent required by applicable laws and regulations. The Company shall consult with Treasury prior to filing any proxy statement, or any amendment or supplement thereto, and provide Treasury with a reasonable opportunity to comment thereon. In the event that the approval of any of the Stockholder Proposals is not obtained at such special stockholders meeting, the Company shall include a proposal to approve (and the Board of Directors shall recommend approval of) each such proposal at a meeting of its stockholders no less than once in each subsequent six-month period beginning on September 30, 2020 until all such approvals are obtained or made.

(c) None of the information supplied by the Company or any of the Company Subsidiaries for inclusion in any proxy statement in connection with any such stockholders meeting of the Company will, at the date it is filed with the SEC, when first mailed to the Company’s stockholders and at the time of any stockholders meeting, and at the time of any amendment or supplement thereof, contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading.

3.2 Expenses. The Company shall pay (i) all reasonable out-of-pocket expenses incurred by Treasury (including the reasonable fees, charges and disbursements of any counsel for Treasury) in connection with the preparation, negotiation, execution, delivery and administration of this Agreement and the Warrants, any other agreements or documents executed in connection herewith or therewith, or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), and (ii) all out-of-pocket expenses incurred by Treasury (including the fees, charges and disbursements of any counsel for Treasury), in connection with the enforcement or protection of its rights in connection with this Agreement and the Warrants, any other agreements or documents executed in connection herewith or therewith, or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), including all such out-of-pocket expenses incurred during any workout, restructuring, negotiations or enforcement in respect of such Warrant Agreement, Warrant and other agreements or documents executed in connection herewith or therewith.

3.3 Sufficiency of Authorized Common Stock; Exchange Listing.

During the period from each Warrant Closing Date (or, if the approval of the Stockholder Proposals is required, the date of such approval) until the date on which no Warrants remain outstanding, the Company shall at all times have reserved for issuance, free of preemptive or similar rights, a sufficient number of authorized and unissued Warrant Shares to effectuate such exercise. Nothing in this Section 3.3 shall preclude the Company from satisfying its obligations in respect of the exercise of the Warrants by delivery of shares of Common Stock which are held in the treasury of the Company. As soon as reasonably practicable following each Warrant Closing Date, the Company shall, at its expense, cause the Warrant Shares to be listed on the same national securities exchange on which the Common Stock is listed, subject to official notice of issuance, and shall maintain such listing for so long as any Common Stock is listed on such exchange. The Company will use commercially reasonable efforts to maintain the listing of Common Stock on such national securities exchange so long as any Warrants or Warrant Shares remain outstanding. Neither the Company nor any of its Subsidiaries shall take any action which would be reasonably expected to result in the delisting or suspension of the Common Stock on such exchange. The foregoing shall not preclude the Company from undertaking any transaction set forth in Section 4.3 subject to compliance with that provision.

Article IV
Additional Agreements

4.1 Investment Purposes. Treasury acknowledges that the Warrants and the Warrant Shares have not been registered under the Securities Act or under any state securities laws. Treasury (a) is acquiring the Warrants pursuant to an exemption from registration under the Securities Act solely for investment without a view to sell and with no present intention to distribute them to any person in violation of the Securities Act or any applicable U.S. state securities laws; (b) will not sell or otherwise dispose of any of the Warrants or the Warrant

Shares, except in compliance with the registration requirements or exemption provisions of the Securities Act and any applicable U.S. state securities laws; and (c) has such knowledge and experience in financial and business matters and in investments of this type that it is capable of evaluating the merits and risks of the Warrants and the Warrant Shares and of making an informed investment decision.

4.2 Legends.

(a) Treasury agrees that all certificates or other instruments representing the Warrants and the Warrant Shares will bear a legend substantially to the following effect:

“THE SECURITIES REPRESENTED BY THIS INSTRUMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE TRANSFERRED, SOLD OR OTHERWISE DISPOSED OF EXCEPT WHILE A REGISTRATION STATEMENT RELATING THERETO IS IN EFFECT UNDER SUCH ACT AND APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT AND SUCH LAWS.”

(b) In the event that any Warrants or Warrant Shares (i) become registered under the Securities Act or (ii) are eligible to be transferred without restriction in accordance with Rule 144 or another exemption from registration under the Securities Act (other than Rule 144A), the Company shall issue new certificates or other instruments representing such Warrants or Warrant Shares, which shall not contain the legend in Section 4.2(a) above; *provided* that Treasury surrenders to the Company the previously issued certificates or other instruments.

4.3 Certain Transactions. The Company will not merge or consolidate with, or sell, transfer or lease all or substantially all of its property or assets to, any other party unless the successor, transferee or lessee party (or its ultimate parent entity), as the case may be (if not the Company), expressly assumes the due and punctual performance and observance of each and every covenant, agreement and condition of this Agreement and the Warrants to be performed and observed by the Company.

4.4 Transfer of Warrants and Warrant Shares. Subject to compliance with applicable securities laws, Treasury shall be permitted to transfer, sell, assign or otherwise dispose of (“Transfer”) all or a portion of the Warrants or Warrant Shares at any time, and the Company shall take all steps as may be reasonably requested by Treasury to facilitate the Transfer of the Warrants and the Warrant Shares.

4.5 Registration Rights.

(a) Registration.

(i) Subject to the terms and conditions of this Agreement, the Company covenants and agrees that on or before the earlier of (A) 30 days after the date on which all Warrants that may be issued pursuant to this Agreement have been issued and (B)

September 30, 2020 (the end of such period, the "Registration Commencement Date"), the Company shall prepare and file with the SEC a Shelf Registration Statement covering the maximum number of Registrable Securities (or otherwise designate an existing Shelf Registration Statement filed with the SEC to cover the Registrable Securities) that may be issued pursuant to this Agreement and any Warrants outstanding at that time, and, to the extent the Shelf Registration Statement has not theretofore been declared effective or is not automatically effective upon such filing, the Company shall use reasonable best efforts to cause such Shelf Registration Statement to be declared or become effective and to keep such Shelf Registration Statement continuously effective and in compliance with the Securities Act and usable for resale of such Registrable Securities for a period from the date of its initial effectiveness until such time as there are no Registrable Securities remaining (including by refiling such Shelf Registration Statement (or a new Shelf Registration Statement) if the initial Shelf Registration Statement expires). So long as the Company is a well-known seasoned issuer (as defined in Rule 405 under the Securities Act) at the time of filing of the Shelf Registration Statement with the SEC, such Shelf Registration Statement shall be designated by the Company as an automatic Shelf Registration Statement. Notwithstanding the foregoing, if on the date hereof the Company is not eligible to file a registration statement on Form S-3, then the Company shall not be obligated to file a Shelf Registration Statement unless and until it is so eligible and is requested to do so in writing by Treasury.

(ii) Any registration pursuant to Section 4.5(a)(i) shall be effected by means of a shelf registration on an appropriate form under Rule 415 under the Securities Act (a "Shelf Registration Statement"). If Treasury or any other Holder intends to distribute any Registrable Securities by means of an underwritten offering it shall promptly so advise the Company and the Company shall take all reasonable steps to facilitate such distribution, including the actions required pursuant to Section 4.5(c); *provided* that the Company shall not be required to facilitate an underwritten offering of Registrable Securities unless the total number of Warrant Shares and Warrants expected to be sold in such offering exceeds, or are exercisable for, at least 20% of the total number of Warrant Shares for which Warrants issued under this Agreement could be exercised (giving effect to the anti-dilution adjustments in Warrants); and *provided, further* that the Company shall not be required to facilitate more than two completed underwritten offerings within any 12-month period. The lead underwriters in any such distribution shall be selected by the Holders of a majority of the Registrable Securities to be distributed.

(iii) The Company shall not be required to effect a registration (including a resale of Registrable Securities from an effective Shelf Registration Statement) or an underwritten offering pursuant to Section 4.5(a): (A) prior to the Registration Commencement Date; (B) with respect to securities that are not Registrable Securities; or (C) if the Company has notified Treasury and all other Holders that in the good faith judgment of the Board of Directors, it would be materially detrimental to the Company or its securityholders for such registration or underwritten offering to be effected at such time, in which event the Company shall have the right to defer such registration or offering for a period of not more than 45 days after receipt of the request of Treasury or

any other Holder; *provided* that such right to delay a registration or underwritten offering shall be exercised by the Company (1) only if the Company has generally exercised (or is concurrently exercising) similar black-out rights against holders of similar securities that have registration rights and (2) not more than three times in any 12-month period and not more than 90 days in the aggregate in any 12-month period. The Company shall notify the Holders of the date of any anticipated termination of any such deferral period prior to such date.

(iv) If during any period when an effective Shelf Registration Statement is not available, the Company proposes to register any of its equity securities, other than a registration pursuant to Section 4.5(a)(i) or a Special Registration, and the registration form to be filed may be used for the registration or qualification for distribution of Registrable Securities, the Company will give prompt written notice to Treasury and all other Holders of its intention to effect such a registration (but in no event less than ten days prior to the anticipated filing date) and will include in such registration all Registrable Securities with respect to which the Company has received written requests for inclusion therein within ten Business Days after the date of the Company's notice (a "Piggyback Registration"). Any such person that has made such a written request may withdraw its Registrable Securities from such Piggyback Registration by giving written notice to the Company and the managing underwriter, if any, on or before the fifth Business Day prior to the planned effective date of such Piggyback Registration. The Company may terminate or withdraw any registration under this Section 4.5(a)(iv) prior to the effectiveness of such registration, whether or not Treasury or any other Holders have elected to include Registrable Securities in such registration.

(v) If the registration referred to in Section 4.5(a)(iv) is proposed to be underwritten, the Company will so advise Treasury and all other Holders as a part of the written notice given pursuant to Section 4.5(a)(iv). In such event, the right of Treasury and all other Holders to registration pursuant to Section 4.5(a) will be conditioned upon such persons' participation in such underwriting and the inclusion of such person's Registrable Securities in the underwriting if such securities are of the same class of securities as the securities to be offered in the underwritten offering, and each such person will (together with the Company and the other persons distributing their securities through such underwriting) enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting by the Company; *provided* that Treasury (as opposed to other Holders) shall not be required to indemnify any person in connection with any registration. If any participating person disapproves of the terms of the underwriting, such person may elect to withdraw therefrom by written notice to the Company, the managing underwriters and Treasury (if Treasury is participating in the underwriting).

(vi) If either (x) the Company grants "piggyback" registration rights to one or more third parties to include their securities in an underwritten offering under the Shelf Registration Statement pursuant to Section 4.5(a)(ii) or (y) a Piggyback Registration under Section 4.5(a)(iv) relates to an underwritten offering on behalf of the Company, and in either case the managing underwriters advise the Company that in their reasonable

opinion the number of securities requested to be included in such offering exceeds the number which can be sold without adversely affecting the marketability of such offering (including an adverse effect on the per share offering price), the Company will include in such offering only such number of securities that in the reasonable opinion of such managing underwriters can be sold without adversely affecting the marketability of the offering (including an adverse effect on the per share offering price), which securities will be so included in the following order of priority: (A) first, in the case of a Piggyback Registration under Section 4.5(a)(iv), the securities the Company proposes to sell,

(B) then the Registrable Securities of Treasury and all other Holders who have requested inclusion of Registrable Securities pursuant to Section 4.5(a)(ii) or Section 4.5(a)(iv), as applicable, *pro rata* on the basis of the aggregate number of such securities or shares owned by each such person and (C) lastly, any other securities of the Company that have been requested to be so included, subject to the terms of this Agreement; *provided, however*, that if the Company has, prior to the date hereof, entered into an agreement with respect to its securities that is inconsistent with the order of priority contemplated hereby then it shall apply the order of priority in such conflicting agreement to the extent that this Agreement would otherwise result in a breach under such agreement.

(b) Expenses of Registration. All Registration Expenses incurred in connection with any registration, qualification or compliance hereunder shall be borne by the Company. All Selling Expenses incurred in connection with any registrations hereunder shall be borne by the holders of the securities so registered *pro rata* on the basis of the aggregate offering or sale price of the securities so registered.

(c) Obligations of the Company. The Company shall use its reasonable best efforts, for so long as there are Registrable Securities outstanding, to take such actions as are under its control to not become an ineligible issuer (as defined in Rule 405 under the Securities Act) and to remain a well-known seasoned issuer (as defined in Rule 405 under the Securities Act) if it has such status on the date hereof or becomes eligible for such status in the future. In addition, whenever required to effect the registration of any Registrable Securities or facilitate the distribution of Registrable Securities pursuant to an effective Shelf Registration Statement, the Company shall, as expeditiously as reasonably practicable:

(i) Prepare and file with the SEC a prospectus supplement with respect to a proposed offering of Registrable Securities pursuant to an effective registration statement, subject to Section 4.5 (d), keep such registration statement effective and keep such prospectus supplement current until the securities described therein are no longer Registrable Securities. The plan of distribution included in such registration statement shall include, among other things, an underwritten offering, ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers, block trades, privately negotiated transactions, the writing or settlement of options or other derivative transactions and any other method permitted pursuant to applicable law, and any combination of any such methods of sale.

(ii) Prepare and file with the SEC such amendments and supplements to the applicable registration statement and the prospectus or prospectus supplement used in connection

with such registration statement as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement.

(iii) Furnish to the Holders and any underwriters such number of copies of the applicable registration statement and each such amendment and supplement thereto (including in each case all exhibits) and of a prospectus, including a preliminary prospectus, in conformity with the requirements of the Securities Act, and such other documents as they may reasonably request in order to facilitate the disposition of Registrable Securities owned or to be distributed by them.

(iv) Use its reasonable best efforts to register and qualify the securities covered by such registration statement under such other securities or Blue Sky laws of such jurisdictions as shall be reasonably requested by the Holders or any managing underwriter(s), to keep such registration or qualification in effect for so long as such registration statement remains in effect, and to take any other action which may be reasonably necessary to enable such seller to consummate the disposition in such jurisdictions of the securities owned by such Holder; *provided* that the Company shall not be required in connection therewith or as a condition thereto to qualify to do business or to file a general consent to service of process in any such states or jurisdictions.

(v) Notify each Holder of Registrable Securities at any time when a prospectus relating thereto is required to be delivered under the Securities Act of the happening of any event as a result of which the applicable prospectus, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading in light of the circumstances then existing.

(vi) Give written notice to the Holders:

(A) when any registration statement filed pursuant to Section 4.5(a) or any amendment thereto has been filed with the SEC (except for any amendment effected by the filing of a document with the SEC pursuant to the Exchange Act) and when such registration statement or any post-effective amendment thereto has become effective;

(B) of any request by the SEC for amendments or supplements to any registration statement or the prospectus included therein or for additional information;

(C) of the issuance by the SEC of any stop order suspending the effectiveness of any registration statement or the initiation of any proceedings for that purpose;

(D) of the receipt by the Company or its legal counsel of any notification with respect to the suspension of the qualification of the Common Stock for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose;

(E) of the happening of any event that requires the Company to make changes in any effective registration statement or the prospectus related to the registration statement in order to make the statements therein not misleading (which notice shall be accompanied by an instruction to suspend the use of the prospectus until the requisite changes have been made); and

(F) if at any time the representations and warranties of the Company contained in any underwriting agreement contemplated by Section 4.5(c)(x) cease to be true and correct.

(vii) Use its reasonable best efforts to prevent the issuance or obtain the withdrawal of any order suspending the effectiveness of any registration statement referred to in Section 4.5(c)(vi)(C) at the earliest practicable time.

(viii) Upon the occurrence of any event contemplated by Section 4.5(c)(v), 4.5(c)(vi)(E) or 4.5(d), promptly prepare a post-effective amendment to such registration statement or a supplement to the related prospectus or file any other required document

so that, as thereafter delivered to the Holders and any underwriters, the prospectus will not contain an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. If the Company notifies the Holders in accordance with Section 4.5(c)(vi)(E) to suspend the use of the prospectus until the requisite changes to the prospectus have been made, then the Holders and any underwriters shall suspend use of such prospectus and use their reasonable best efforts to return to the Company all copies of such prospectus (at the Company's expense) other than permanent file copies then in such Holders' or underwriters' possession. The total number of days that any such suspension may be in effect in any 12-month period shall not exceed 90 days. The Company shall notify the Holders of the date of any anticipated termination of any such suspension period prior to such date.

(ix) Use reasonable best efforts to procure the cooperation of the Company's transfer agent in settling any offering or sale of Registrable Securities, including with respect to the transfer of physical stock certificates into book-entry form in accordance with any procedures reasonably requested by the Holders or any managing underwriter(s).

(x) If an underwritten offering is requested pursuant to Section 4.5(a)(ii), enter into an underwriting agreement in customary form, scope and substance and take all such other actions reasonably requested by the Holders of a majority of the Registrable Securities being sold in connection therewith or by the managing underwriter(s), if any, to expedite or facilitate the underwritten disposition of such Registrable Securities, and in connection therewith in any underwritten offering (including making members of management and executives of the Company available to participate in "road shows", similar sales events and other marketing activities), (A) make such representations and warranties to the Holders that are selling stockholders and the managing underwriter(s), if any, with respect to the business of the Company and its subsidiaries, and the Shelf Registration Statement, prospectus and documents, if any, incorporated or deemed to be incorporated by reference therein, in each case, in customary form, substance and scope, and, if true, confirm the same if and when requested, (B) use its reasonable best efforts to furnish the underwriters with opinions and "10b-5" letters of counsel to the Company, addressed to the managing underwriter(s), if any, covering the matters customarily covered in such opinions and letters requested in underwritten offerings, (C) use its reasonable best efforts to obtain "cold comfort" letters from the independent certified public accountants of the Company (and, if necessary, any other independent certified public accountants of any business acquired by the Company for which financial statements and financial data are included in the Shelf Registration Statement) who have certified the financial statements included in such Shelf Registration Statement, addressed to each of the managing underwriter(s), if any, such letters to be in customary form and covering matters of the type customarily covered in "cold comfort" letters, (D) if an underwriting agreement is entered into, the same shall contain indemnification provisions and procedures customary in underwritten offerings (provided that Treasury shall not be obligated to provide any indemnity), and (E) deliver such documents and certificates as may be reasonably requested by the Holders of a majority of the Registrable Securities being sold

in connection therewith, their counsel and the managing underwriter(s), if any, to evidence the continued validity of the representations and warranties made pursuant to clause (i) above and to evidence compliance with any customary conditions contained in the underwriting agreement or other agreement entered into by the Company.

(xi) Make available for inspection by a representative of Holders that are selling stockholders, the managing underwriter(s), if any, and any attorneys or accountants retained by such Holders or managing underwriter(s), at the offices where normally kept, during reasonable business hours, financial and other records, pertinent corporate documents and properties of the Company, and cause the officers, directors and employees of the Company to supply all information in each case reasonably requested (and of the type customarily provided in connection with due diligence conducted in connection with a registered public offering of securities) by any such representative, managing underwriter(s), attorney or accountant in connection with such Shelf Registration Statement.

(xii) Use reasonable best efforts to cause all such Registrable Securities to be listed on each national securities exchange on which similar securities issued by the Company are then listed or, if no similar securities issued by the Company are then listed on any national securities exchange, use its reasonable best efforts to cause all such Registrable Securities to be listed on such securities exchange as Treasury may designate.

(xiii) If requested by Holders of a majority of the Registrable Securities being registered and/or sold in connection therewith, or the managing underwriter(s), if any, promptly include in a prospectus supplement or amendment such information as the Holders of a majority of the Registrable Securities being registered and/or sold in connection therewith or managing underwriter(s), if any, may reasonably request in order to permit the intended method of distribution of such securities and make all required filings of such prospectus supplement or such amendment as soon as practicable after the Company has received such request.

(xiv) Timely provide to its security holders earning statements satisfying the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder.

(d) Suspension of Sales. Upon receipt of written notice from the Company that a registration statement, prospectus or prospectus supplement contains or may contain an untrue statement of a material fact or omits or may omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading or that circumstances exist that make inadvisable use of such registration statement, prospectus or prospectus supplement, Treasury and each Holder of Registrable Securities shall forthwith discontinue disposition of Registrable Securities until Treasury and/or Holder has received copies of a supplemented or amended prospectus or prospectus supplement, or until Treasury and/or such Holder is advised in writing by the Company that the use of the prospectus and, if applicable, prospectus supplement may be resumed, and, if so directed by the Company, Treasury and/or such Holder shall deliver to the Company (at the Company's expense) all copies, other than permanent file copies then in Treasury and/or such Holder's possession, of the prospectus and, if applicable, prospectus supplement covering such Registrable Securities current at the time of receipt of such notice. The

total number of days that any such suspension may be in effect in any 12-month period shall not exceed 90 days. The Company shall notify Treasury prior to the anticipated termination of any such suspension period of the date of such anticipated termination

(e) Termination of Registration Rights. A Holder's registration rights as to any securities held by such Holder shall not be available unless such securities are Registrable Securities.

(f) Furnishing Information.

(i) Neither Treasury nor any Holder shall use any free writing prospectus (as defined in Rule 405) in connection with the sale of Registrable Securities without the prior written consent of the Company.

(ii) It shall be a condition precedent to the obligations of the Company to take any action pursuant to Section 4.5(c) that Treasury and/or the selling Holders and the underwriters, if any, shall furnish to the Company such information regarding themselves, the Registrable Securities held by them and the intended method of disposition of such securities as shall be required to effect the registered offering of their Registrable Securities.

(g) Indemnification.

(i) The Company agrees to indemnify each Holder and, if a Holder is a person other than an individual, such Holder's officers, directors, employees, agents, representatives and Affiliates, and each Person, if any, that controls a Holder within the meaning of the Securities Act (each, an "Indemnitee"), against any and all losses, claims, damages, actions, liabilities, costs and expenses (including reasonable fees, expenses and disbursements of attorneys and other professionals incurred in connection with investigating, defending, settling, compromising or paying any such losses, claims, damages, actions, liabilities, costs and expenses), joint or several, arising out of or based upon any untrue statement or alleged untrue statement of material fact contained in any registration statement, including any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto or any documents incorporated therein by reference or contained in any free writing prospectus (as such term is defined in Rule 405) prepared by the Company or authorized by it in writing for use by such Holder (or any amendment or supplement thereto); or any omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; *provided*, that the Company shall not be liable to such Indemnitee in any such case to the extent that any such loss, claim, damage, liability (or action or proceeding in respect thereof) or expense arises out of or is based upon (A) an untrue statement or omission made in such registration statement, including any such preliminary prospectus or final prospectus contained therein or any such amendments or supplements thereto or contained in any free writing prospectus (as such term is defined in Rule 405) prepared by the Company or authorized

by it in writing for use by such Holder (or any amendment or supplement thereto), in reliance upon and in conformity with information regarding such Indemnitee or its plan

of distribution or ownership interests which was furnished in writing to the Company by such Indemnitee for use in connection with such registration statement, including any such preliminary prospectus or final prospectus contained therein or any such amendments or supplements thereto, or (B) offers or sales effected by or on behalf of such Indemnitee "by means of" (as defined in Rule 159A) a "free writing prospectus" (as defined in Rule 405) that was not authorized in writing by the Company.

(ii) If the indemnification provided for in Section 4.5(g)(i) is unavailable to an Indemnitee with respect to any losses, claims, damages, actions, liabilities, costs or expenses referred to therein or is insufficient to hold the Indemnitee harmless as contemplated therein, then the Company, in lieu of indemnifying such Indemnitee, shall contribute to the amount paid or payable by such Indemnitee as a result of such losses, claims, damages, actions, liabilities, costs or expenses in such proportion as is appropriate to reflect the relative fault of the Indemnitee, on the one hand, and the Company, on the other hand, in connection with the statements or omissions which resulted in such losses, claims, damages, actions, liabilities, costs or expenses as well as any other relevant equitable considerations. The relative fault of the Company, on the one hand, and of the Indemnitee, on the other hand, shall be determined by reference to, among other factors, whether the untrue statement of a material fact or omission to state a material fact relates to information supplied by the Company or by the Indemnitee and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission; the Company and each Holder agree that it would not be just and equitable if contribution pursuant to this Section 4.5 (g)(ii) were determined by *pro rata* allocation or by any other method of allocation that does not take account of the equitable considerations referred to in Section 4.5(g)(i). No Indemnitee guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from the Company if the Company was not guilty of such fraudulent misrepresentation.

(h) Assignment of Registration Rights. The rights of Treasury to registration of Registrable Securities pursuant to Section 4.5(a) may be assigned by Treasury to a transferee or assignee of Registrable Securities in connection with a transfer of a total number of Warrant Shares and/or Warrants exercisable for at least 20% of the total number of Warrant Shares for which Warrants issued and to be issued under this Agreement could be exercised (giving effect to the anti-dilution adjustments in Warrants); *provided, however*, the transferor shall, within ten days after such transfer, furnish to the Company written notice of the name and address of such transferee or assignee and the number and type of Registrable Securities that are being assigned.

(i) Clear Market. With respect to any underwritten offering of Registrable Securities by Treasury or other Holders pursuant to this Section 4.5, the Company agrees not to effect (other than pursuant to such registration or pursuant to a Special Registration) any public sale or distribution, or to file any Shelf Registration Statement (other than such registration or a Special

Registration) covering, in the case of an underwritten offering of Common Stock or Warrants, any of its equity securities, or, in each case, any securities convertible into or exchangeable or exercisable for such securities, during the period not to exceed 30 days following the effective date of such offering. The Company also agrees to cause such of its directors and senior executive officers to execute and deliver customary lock-up agreements in such form and for

such time period up to 30 days as may be requested by the managing underwriter. "Special Registration" means the registration of (A) equity securities and/or options or other rights in respect thereof solely registered on Form S-4 or Form S-8 (or successor form) or (B) shares of equity securities and/or options or other rights in respect thereof to be offered to directors, members of management, employees, consultants, customers, lenders or vendors of the Company or Company Subsidiaries or in connection with dividend reinvestment plans.

(j) Rule 144; Rule 144A. With a view to making available to Treasury and Holders the benefits of certain rules and regulations of the SEC which may permit the sale of the Registrable Securities to the public without registration, the Company agrees to use its reasonable best efforts to:

(i) make and keep adequate public information available, as those terms are understood and defined in Rule 144(c)(1) or any similar or analogous rule promulgated under the Securities Act, at all times after the date hereof;

(ii) (A) file with the SEC, in a timely manner, all reports and other documents required of the Company under the Exchange Act, and (B) if at any time the Company is not required to file such reports, make available, upon the request of any Holder, such information necessary to permit sales pursuant to Rule 144A (including the information required by Rule 144A(d)(4) under the Securities Act);

(iii) so long as Treasury or a Holder owns any Registrable Securities, furnish to Treasury or such Holder forthwith upon request: a written statement by the Company as to its compliance with the reporting requirements of Rule 144 under the Securities Act, and of the Exchange Act; a copy of the most recent annual or quarterly report of the Company; and such other reports and documents as Treasury or Holder may reasonably request in availing itself of any rule or regulation of the SEC allowing it to sell any such securities to the public without registration; *provided, however*, that the availability of the foregoing reports on the EDGAR filing system of the SEC will be deemed to satisfy the foregoing delivery requirements; and

(iv) take such further action as any Holder may reasonably request, all to the extent required from time to time to enable such Holder to sell Registrable Securities without registration under the Securities Act.

(k) As used in this Section 4.5, the following terms shall have the following respective meanings:

(i) "Holder" means Treasury and any other holder of Registrable Securities to whom the registration rights conferred by this Agreement have been transferred in compliance with Section 4.5(h) hereof.

(ii) "Register," "registered," and "registration" shall refer to a registration effected by preparing and (A) filing a registration statement in compliance with the Securities Act and applicable rules and regulations thereunder, and the declaration or ordering of effectiveness of such registration statement or (B) filing a prospectus and/or prospectus supplement in respect of an appropriate effective registration statement on Form S-3.

(iii) "Registrable Securities" means (A) the Warrants (subject to Section 4.5(p)) and (B) any equity securities issued or issuable directly or indirectly with respect to the securities referred to in the foregoing clause (A) by way of conversion, exercise or exchange thereof, including the Warrant Shares, or share dividend or share split or in connection with a combination of shares, recapitalization, reclassification, merger, amalgamation, arrangement, consolidation or other reorganization, *provided* that, once issued, such securities will not be Registrable Securities when (1) they are sold pursuant to an effective registration statement under the Securities Act, (2) except as provided below in Section 4.5(o), they may be sold pursuant to Rule 144 without limitation thereunder on volume or manner of sale, (3) they shall have ceased to be outstanding or (4) they have been sold in a private transaction in which the transferor's rights under this Agreement are not assigned to the transferee of the securities. No Registrable Securities may be registered under more than one registration statement at any one time.

(iv) "Registration Expenses" mean all expenses incurred by the Company in effecting any registration pursuant to this Agreement (whether or not any registration or prospectus becomes effective or final) or otherwise complying with its obligations under this Section 4.5, including all registration, filing and listing fees, printing expenses, fees and disbursements of counsel for the Company, blue sky fees and expenses, expenses incurred in connection with any "road show", the reasonable fees and disbursements of Treasury's counsel (if Treasury is participating in the registered offering), and expenses of the Company's independent accountants in connection with any regular or special reviews or audits incident to or required by any such registration, but shall not include Selling Expenses.

(v) "Rule 144," "Rule 144A," "Rule 159A," "Rule 405" and "Rule 415" mean, in each case, such rule promulgated under the Securities Act (or any successor provision), as the same shall be amended from time to time.

(vi) "Selling Expenses" mean all discounts, selling commissions and stock transfer taxes applicable to the sale of Registrable Securities and fees and disbursements of counsel for any Holder (other than the fees and disbursements of Treasury's counsel included in Registration Expenses).

(l) At any time, any holder of Securities (including any Holder) may elect to forfeit its rights set forth in this Section 4.5 from that date forward; *provided*, that a Holder forfeiting such rights shall nonetheless be entitled to participate under Section 4.5(a)(iv) – (vi) in any Pending Underwritten Offering to the same extent that such Holder would have been entitled to if the holder had not withdrawn; and *provided, further*, that no such forfeiture shall terminate a Holder’s rights or obligations under Section 4.5(f) with respect to any prior registration or Pending Underwritten Offering. “*Pending Underwritten Offering*” means, with respect to any Holder forfeiting its rights pursuant to this Section 4.5(l), any underwritten offering of Registrable Securities in which such Holder has advised the Company of its intent to register its

Registrable Securities either pursuant to Section 4.5(a)(ii) or 4.5(a)(iv) prior to the date of such Holder’s forfeiture.

(m) Specific Performance. The parties hereto acknowledge that there would be no adequate remedy at law if the Company fails to perform any of its obligations under this Section 4.5 and that Treasury and the Holders from time to time may be irreparably harmed by any such failure, and accordingly agree that Treasury and such Holders, in addition to any other remedy to which they may be entitled at law or in equity, to the fullest extent permitted and enforceable under applicable law shall be entitled to compel specific performance of the obligations of the Company under this Section 4.5 in accordance with the terms and conditions of this Section 4.5.

(n) No Inconsistent Agreements. The Company shall not, on or after the date hereof, enter into any agreement with respect to its securities that may impair the rights granted to Treasury and the Holders under this Section 4.5 or that otherwise conflicts with the provisions hereof in any manner that may impair the rights granted to Treasury and the Holders under this Section 4.5. In the event the Company has, prior to the date hereof, entered into any agreement with respect to its securities that is inconsistent with the rights granted to Treasury and the Holders under this Section 4.5 (including agreements that are inconsistent with the order of priority contemplated by Section 4.5(a)(vi)) or that may otherwise conflict with the provisions hereof, the Company shall use its reasonable best efforts to amend such agreements to ensure they are consistent with the provisions of this Section 4.5. Any transaction entered into by the Company that would reasonably be expected to require the inclusion in a Shelf Registration Statement or any Company Report filed with the SEC of any separate financial statements pursuant to Rule 3-05 of Regulation S-X or pro forma financial statements pursuant to Article 11 of Regulation S-X shall include provisions requiring the Company’s counterparty to provide any information necessary to allow the Company to comply with its obligation hereunder.

(o) Certain Offerings by Treasury. In the case of any securities held by Treasury that cease to be Registrable Securities solely by reason of clause (2) in the definition of “Registrable Securities,” the provisions of Sections 4.5(a)(ii), clauses (iv), (ix) and (x)-(xii) of Section 4.5(c), Section 4.5(g) and Section 4.5(i) shall continue to apply until such securities otherwise cease to be Registrable Securities. In any such case, an “underwritten” offering or other disposition shall include any distribution of such securities on behalf of Treasury by one or more broker-dealers, an “underwriting agreement” shall include any purchase agreement entered into by such broker-

dealers, and any “registration statement” or “prospectus” shall include any offering document approved by the Company and used in connection with such distribution.

(p) Registered Sales of the Warrants. The Holders agree to sell the Warrants or any portion thereof under the Shelf Registration Statement only beginning 30 days after notifying the Company of any such sale, during which 30-day period Treasury and all Holders of the Warrants shall take reasonable steps to agree to revisions to the Warrants, at the expense of the Company, to permit a public distribution of the Warrants, including entering into a revised warrant agreement, appointing a warrant agent, and making the securities eligible for book entry clearing and settlement at the Depository Trust Company.

4.6 Voting of Warrant Shares. Notwithstanding anything in this Agreement to the contrary, Treasury shall not exercise any voting rights with respect to the Warrant Shares.

Article V Miscellaneous

5.1 Survival of Representations and Warranties. The representations and warranties of the Company made herein or in any certificates delivered in connection with the Initial Closing or any subsequent Closing shall survive such Closing without limitation.

5.2 Amendment. No amendment of any provision of this Agreement will be effective unless made in writing and signed by an officer or a duly authorized representative of each party; *provided* that Treasury may unilaterally amend any provision of this Agreement to the extent required to comply with any changes after the date hereof in applicable federal statutes. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative of any rights or remedies provided by law.

5.3 Waiver of Conditions. No waiver will be effective unless it is in a writing signed by a duly authorized officer of the waiving party that makes express reference to the provision or provisions subject to such waiver.

5.4 Governing Law: Submission to Jurisdiction, Etc. This Agreement will be governed by and construed in accordance with the federal law of the United States if and to the extent such law is applicable, and otherwise in accordance with the laws of the State of New York applicable to contracts made and to be performed entirely within such State. Each of the parties hereto agrees (a) to submit to the exclusive jurisdiction and venue of the United States District Court for the District of Columbia and the United States Court of Federal Claims for any and all civil actions, suits or proceedings arising out of or relating to this Agreement or the Warrants or the transactions contemplated hereby or thereby, and (b) that notice may be served upon (i) the Company at the address and in the manner set forth for notices to the Company in Section 5.5 and (ii) Treasury in accordance with federal law. To the extent permitted by applicable law, each of the parties hereto hereby

unconditionally waives trial by jury in any civil legal action or proceeding relating to this Agreement or the Warrants or the transactions contemplated hereby or thereby.

5.5 Notices. Any notice, request, instruction or other document to be given hereunder by any party to the other will be in writing and will be deemed to have been duly given (a) on the date of delivery if delivered personally, or by facsimile, upon confirmation of receipt, or (b) on the second Business Day following the date of dispatch if delivered by a recognized next day courier service. All notices to the Company shall be delivered as set forth below, or pursuant to such other instruction as may be designated in writing by the Company to Treasury. All notices to Treasury shall be delivered as set forth below, or pursuant to such other instructions as may be designated in writing by Treasury to the Company.

If to the Company:

Legal Department Spirit Airlines, Inc.

2800 Executive Way
Miramar, FL 33025

Facsimile: 954 447 7854
E-mail: legaldepartment@spirit.com

If to Treasury:

United States Department of the Treasury 1500 Pennsylvania Avenue, NW, Room 2312
Washington, D.C. 20220
Attention: Assistant General Counsel (Banking and Finance)

5.6 Definitions.

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

(b) The term “Laws” has the meaning ascribed thereto in the Promissory Note.

(c) The term “Lien” has the meaning ascribed thereto in the Promissory Note.

(d) The term “Material Adverse Effect” means (a) a material adverse change in, or a material adverse effect on, the operations, business, properties, liabilities (actual or contingent), condition (financial or otherwise) or prospects of the Company and its Subsidiaries taken as a whole; or (b) a material adverse effect on (i) the ability of the Company to perform its obligations under this Agreement or any Warrant or (ii) the legality, validity, binding effect or enforceability against the Company of this Agreement or any Warrant to which it is a party.

(e) The term “Organizational Documents” has the meaning ascribed thereto in the Promissory Note.

(f) The term “Subsidiary” has the meaning ascribed thereto in the Promissory Note.

5.7 Assignment. Neither this Agreement nor any right, remedy, obligation nor liability arising hereunder or by reason hereof shall be assignable by any party hereto without the prior written consent of the other party, and any attempt to assign any right, remedy, obligation or liability hereunder without such consent shall be void, except (a) an assignment, in the case of

a Business Combination where such party is not the surviving entity, or a sale of substantially all of its assets, to the entity which is the survivor of such Business Combination or the purchaser in such sale and (b) as provided in Section 4.5.

5.8 Severability. If any provision of this Agreement or the Warrants, or the application thereof to any person or circumstance, is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to persons or circumstances other than those as to which it has been held invalid or unenforceable, will remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination, the parties shall negotiate in good faith in an effort to agree upon a suitable and equitable substitute provision to effect the original intent of the parties.

5.9 No Third Party Beneficiaries. Nothing contained in this Agreement, expressed or implied, is intended to confer upon any person or entity other than the Company and Treasury any benefit, right or remedies, except that the provisions of Section 4.5 shall inure to the benefit of the persons referred to in that Section.

* * *

[Signature page follows]

[N WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

THE UNITED STATES DEPARTMENT OF THE TREASURY

By: /s/ Steven Mnuchin

Name: Steven Mnuchin

Title: Secretary

SPIRIT AIRLINES, INC

By:

Name:

Title

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

THE UNITED STATES DEPARTMENT OF THE TREASURY

By:
Name:
Title:

SPIRIT AIRLINES, INC

By: /s/ Scott Haralson

Name: Scott Haralson

Title Senior Vice President and Chief Financial Officer

FORM OF OPINION

[SEE ATTACHED]

April 20, 2020

To the Addressee Listed on Schedule 1 Attached Hereto

Re: Spirit Airlines, Inc.

Payroll Support Program Ladies and Gentlemen:

I am the General Counsel of Spirit Airlines, Inc., a corporation organized and existing under the laws of the State of Delaware (the "**Company**"), and I am furnishing this opinion to you in connection with the transactions contemplated by (1) that certain Promissory Note dated as of the date hereof (the "**Note**") made by the Company in favor of the United States Department of the Treasury (the "**Treasury**") and (2) that certain Warrant Agreement dated as of the date hereof (the "**Warrant Agreement**") between the Company and the Treasury. Unless otherwise defined herein, capitalized terms used herein shall have the respective meanings ascribed to them in the Note or the Warrant Agreement, as the case may be.

For purposes of rendering this opinion, I have examined counterparts or copies of the Note and the Warrant Agreement, including associated exhibits, schedules and appendices thereto, and have examined and relied upon the representations and warranties as to factual matters contained therein or made pursuant thereto. I have also examined the Amended and Restated Certificate of Incorporation of the Company (the "**Certificate of Incorporation**"), the Amended and Restated By-Laws of the Company (the "**By-Laws**"), the resolutions approved by the Board of Directors of the Company at a meeting duly commenced and held on April 20, 2020, and such other documents, agreements, records and instruments, and such treaties, laws, rules, regulations, decrees and the like, as I have deemed necessary as a basis for the opinions hereinafter expressed.

In arriving at the opinions expressed below, I have assumed (A) the genuineness of all signatures; (B) the due authorization, execution and delivery by the parties thereto of the Note and the Warrant Agreement (other than the Company); (C) the authenticity of all such documents submitted to me as originals; and (D) the conformity to the originals of all such documents submitted to me as copies.

Based upon the foregoing, and subject to the assumptions and qualifications set forth below, I am of the opinion that:

1. Neither the execution and delivery of the Note, the Warrant Agreement and the Warrants, nor the performance by the Company of its obligations under the Note, the Warrant Agreement and the Warrants, will (A) conflict with or violate (i) any judgment, injunction, decree or order known to me to be binding on the Company, (ii) any Generally Applicable Law (as

defined below), or (iii) the Certificate of Incorporation or By-Laws; or (B) not result in a breach of any of the terms and provisions of, or result in a default under any indenture, mortgage, chattel mortgage, deed of trust, conditional sales contract, lease, credit agreement or other agreement, in each case, governing Material Indebtedness to which the Company is a party.

2. The Company's execution, delivery and performance of the Note, the Warrant Agreement and the Warrants and the consummation of the transactions contemplated thereby do not require the consent or approval of, giving of notice to, registration with, or taking of any other action in respect of any United States Federal, State of New York or State of Delaware governmental authority.

The foregoing opinions are subject to the qualification that I have assumed, without investigation or inquiry, the accuracy of the opinion, dated today and addressed to you of Davis Polk & Wardwell LLP, New York counsel. Subject to the following sentence, as used herein the term "**Generally Applicable Law**" means any government rule, law, statute or regulation of Delaware or the United States that a Delaware lawyer exercising customary professional diligence would recognize as being applicable to the Company or the transactions contemplated by the Note, the Warrant Agreement and the Warrants. I express no opinion as to the laws of any jurisdiction other than the General Corporation Law of the State of Delaware, the State of New York and the Federal laws of the United States of America (each as currently in effect on the date hereof), except that I express no opinion with respect to antitrust, bankruptcy, environmental, intellectual property, securities, tax or usury laws or laws governing pensions or employee benefits, including the Employee Retirement Income Security Act of 1974, as amended, in each case of any jurisdiction. The opinions set forth in paragraphs 1 and 2 as to the performance by the Company of its obligations in accordance with the terms of the Note are based solely upon the facts and circumstances as they exist on the date hereof and are rendered as if such obligations are performed as they exist under such facts and circumstances on the date hereof.

This opinion letter is limited to the matters stated, and no opinion is implied or may be inferred beyond those opinions expressly stated herein. The opinions expressed herein are rendered only as of the date hereof, and I assume no responsibility to advise you of changes in law, facts, circumstances, events or developments which hereafter may be brought to my attention and which may alter, affect or modify such opinions. The opinions expressed herein are solely for the benefit of the addressees of this opinion letter, and without my prior written consent may not be relied on in any other context, quoted in whole or in part or otherwise referred to in any legal opinion, document or other report, or furnished to any other person or entity, without my prior written consent.

Very truly yours,

Thomas Canfield General Counsel Spirit Airlines, Inc.

[SIGNATURE PAGE TO IN-HOUSE LEGAL OPINION (SPIRIT AIRLINES, INC.)]

Schedule 1

The United States Department of the Treasury, as the Holder

#951209/966

New York
Northern California
Washington DC
Sao Paulo
London

Paris
Madrid
Tokyo
Beijing
Hong Kong

Davis Polk

Davis Polk & Wardwell LLP 212 450 4000 tel
450 Lexington Avenue 212 701 5800 fax
New York, NY 10017

April 20, 2020

To The United States Department of the Treasury, as Holder Ladies and Gentlemen:

We have acted as special counsel for Spirit Airlines, Inc., a Delaware corporation (the "**Company**") in connection with (1) that certain Promissory Note dated as of the date hereof (the "**Note**") made by the Company in favor of the United States Department of the Treasury (the "**Treasury**") and (2) that certain Warrant Agreement dated as of the date hereof (the "**Warrant Agreement**") between the Company and the Treasury. Terms used (but not defined) herein have the meanings assigned to them in the Note or the Warrant Agreement, as the case may be.

We have reviewed executed copies of:

- (a) the Payroll Support Program Agreement dated as of the date hereof (the "**PSP Agreement**") between the Company and the Treasury relating to financial assistance being provided by the Treasury to the Company under Division A, Title IV, Subtitle B of the Coronavirus Aid, Relief and Economic Security Act, Pub. L. 116-136 (Mar. 27, 2020);
- (b) the Note; and
- (c) the Warrant Agreement and the form of warrant attached thereto (each, when executed and delivered, a "**Warrant**" and collectively the "**Warrants**").

The PSP Agreement, the Note, the Warrant Agreement and the Warrants are sometimes hereinafter referred to, collectively, as the "**Documents**" and each a "**Document**".

We have also examined originals or copies, certified or otherwise identified to our satisfaction, of such documents, corporate records and certificates of public officials and officers or representatives of the Company and have conducted such other investigations of fact and law as we have deemed necessary or advisable for purposes of this opinion. In rendering the opinions expressed herein, we have, without independent inquiry or investigation, assumed that (i) all documents submitted to us as originals are authentic and complete, (ii) all documents submitted to us as copies conform to authentic, complete originals, (iii) all signatures on all documents that we reviewed are genuine, (iv) all natural persons executing documents had and have the legal capacity to do so, (v) all statements

in certificates of public officials and officers or representatives of the Company that we reviewed were and are accurate and (vi) all representations made by the Company as to matters of fact in the documents that we reviewed were and are accurate. Without limitation of the foregoing, we have relied as to certain matters of fact upon the officer's certificate delivered to us and dated as of April 20, 2020.

Based on the foregoing, and subject to the additional assumptions and qualifications set forth below, we are of the opinion that:

1. The Company is validly existing as a corporation in good standing under the laws of the State of Delaware, and the Company has corporate power and authority to execute the Note, the Warrant Agreement and the Warrants and to perform its obligations thereunder, including the issuance of the Warrants and the Warrant Shares.
2. The execution, delivery and performance by the Company of the Note, the Warrant Agreement and the Warrants and the consummation of the transactions contemplated thereby have been duly authorized by all necessary corporate action on the part of the Company and its stockholders, and no further corporate approval or authorization is required on the part of the Company.
3. The Note and the Warrant Agreement have been duly executed and delivered by the Company.
4. The execution and delivery by the Company of the Note, and the performance by the Company of the Note, (a) require no consent, approval, authorization, registration or qualification of or with any governmental body, agency or official under applicable United States federal or New York State law or the Delaware General Corporation Law and (b) do not on the date hereof contravene any provision of applicable United States federal or New York State statutory law, rule or regulation nor the Delaware General Corporation Law, in each case that in our experience is normally applicable to general business corporations in relation to transactions of the type contemplated by the Note.
5. Each of the Warrants has been duly authorized.
6. The shares of Common Stock issuable upon exercise of the Warrants have been duly authorized and reserved for issuance upon exercise of the Warrants and when so issued in accordance with the terms of the Warrants will be validly issued, fully paid and non-assessable.
7. The Note constitutes a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms.
8. The Warrant Agreement is a valid and binding obligation of the Company, enforceable against the Company in accordance with its terms. Each of the Warrants, when executed and delivered as contemplated by the Warrant Agreement, will constitute a valid and binding obligation of the Company, enforceable against the Company in accordance with its terms.

9. The Company is not required to register as an "investment company" under the Investment Company Act of 1940, as amended or the rules and regulations thereunder, and will not be required to register as such after application of the proceeds of the initial disbursement under the Note in accordance with the Note.
10. It is not necessary in connection with the offer, sale and delivery of the Note to the Treasury in the manner contemplated by the Note to register the Note under the Securities Act of 1933, as amended, or to qualify an indenture under the Trust Indenture Act of 1939, as amended, it being understood that no opinion is expressed as to any subsequent offer or resale of the Note.
11. No registration of the Warrant and the Common Stock issuable upon exercise of the Warrant under the U.S. Securities Act of 1933, as amended, is required for the offer and sale of the Warrant or the Common Stock issuable upon exercise of the Warrant by the Company to the Holder pursuant to and in the manner contemplated by the Warrant Agreement, it being understood that no opinion is expressed as to any subsequent offer or resale of the Warrants or such Common Stock.

The foregoing opinions are subject to the following assumptions and qualifications:

- (a) Our opinion in paragraphs 7 and 8 above (i) are subject to (x) applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally (and the validity and the enforceability of indemnification provisions may be limited by federal or state laws or policies underlying such laws), and (y) equitable principles of general applicability and (ii) may be subject to possible judicial or regulatory actions giving effect to governmental actions or foreign laws affecting creditors' rights. In addition, to the extent that any provision of the Note, Warrant or Warrant Agreement is governed by and to be construed in accordance with the federal law of the United States, we have assumed that such law is the same in all relevant respects as the law of the State of New York applicable to similar contracts made and to be performed entirely within the State of New York.
- (b) We express no opinion with respect to Section 4.5(g) of the Warrant Agreement or the severability provisions of the Warrant Agreement insofar as Section 4.5(g) is concerned.
- (c) We express no opinion as to (i) the effect of fraudulent conveyance, fraudulent transfer or similar provisions of applicable law on the opinions expressed above or (ii) any provision of any Document that purports to avoid the effect of fraudulent conveyance, fraudulent transfer or similar provisions of applicable law by limiting the amount of the Company's obligations.
- (d) We express no opinion as to any provision in any Document that purports to (i) indemnify (including through providing reimbursement to) any Person for its own gross negligence or willful misconduct or (ii) grant any Person a right to specific performance or to receive liquidated damages.

- (e) We express no opinion as to any provision in any Document that purports to create rights of set-off in favor of participants or that provides for set-off to be made otherwise than in accordance with applicable laws.
- (f) We express no opinion as to any provision in any Document that purports to waive objections to venue, claims that a particular jurisdiction is an inconvenient forum or the like.
- (g) We express no opinion as to whether a United States federal court would have subject matter jurisdiction over a controversy arising under the Documents or as to whether a New York State or United States federal court would enforce the exclusivity of the jurisdiction of any New York State or United States federal court provided for in any Document.
- (h) We express no opinion on the effectiveness of any service of process made other than in accordance with applicable law.
- (i) We express no opinion as to any matters covering federal aviation law or any similar state or federal laws, rules or regulations.
- (j) We express no opinion as to the effect (if any) of any law of any jurisdiction (except the State of New York) in which a Holder is located which may limit the rate of interest that such Holder may charge or collect.
- (k) Except as expressly set forth in paragraphs 9, 10 and 11, we express no opinion as to the United States federal securities laws or any state securities laws.
- (l) We have assumed, without independent verification, that the execution, delivery and performance by the Company of each Document do not contravene, or constitute a default under, any law, rule or regulation (other than United States federal and New York State statutory laws, in each case that in our experience are normally applicable to general business corporations in relation to transactions of the type contemplated by the Documents) or any order, injunction, decree, agreement, contract or instrument to which it is a party or by which it is bound.
- (m) In rendering the opinions set forth in paragraphs 10 and 11 above, we have assumed the accuracy of, and compliance with, the representations, warranties and covenants of the Company and the Treasury relating to the offer and sale of the Note and the Warrants, and the offer of the Common Stock issuable upon exercise of such Warrants.
- (n) In rendering the opinion in paragraph 8 above, we have assumed that the execution, delivery and performance by the Company of the Warrants and the Warrant Agreement require no action by or in respect of, or filing with, any governmental body, agency or official not already specified in the Warrants and Warrant Agreement.

We have assumed, without any independent verification, that (i) the execution, delivery and performance by the Company of each Document do not require any consent, approval, authorization, registration or qualification of or with any governmental body, agency or official (with

respect to the Note only, other than under New York State law) and (ii) the execution, delivery and performance by the Company of each Document do not contravene any law (with respect to the Note only, other than United States federal and New York State statutory law, in each case that in our experience are normally applicable to general business corporations in relation to transactions of the type contemplated by the Note) or any order, injunction, decree, agreement, contract or instrument to which it is a party or by which it or its property is bound.

The foregoing opinion is limited to the laws of the State of New York and the federal laws of the United States of America and, with respect to paragraphs 1, 2 and 4 above only, the Delaware General Corporation Law, except that we express no opinion as to any law, rule or regulation that is applicable to the Company, the Documents or the transactions contemplated thereby solely because such law, rule or regulation is part of a regulatory regime applicable to any party to any of the Documents or any of its affiliates due to the specific assets or business of such party or such affiliate.

This opinion is delivered to you in connection with the Note and the Warrant Agreement, including the Warrants contemplated by such agreement. This opinion may not be relied upon by you for any other purpose or relied upon by or delivered to any other person without our prior written consent except that this opinion may be furnished without our prior consent (1) to accountants and counsel for the Treasury and (2) pursuant to judicial or government order or legal requirements.

Very truly yours,

FORM OF WARRANT

[SEE ATTACHED]

FORM OF WARRANT TO PURCHASE COMMON STOCK

THE SECURITIES REPRESENTED BY THIS INSTRUMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE TRANSFERRED, SOLD OR OTHERWISE DISPOSED OF EXCEPT WHILE A REGISTRATION STATEMENT RELATING THERETO IS IN EFFECT UNDER SUCH ACT AND APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT AND SUCH LAWS.

WARRANT

to purchase

143,541

Shares of Common Stock

of Spirit Airlines, Inc.

Issue Date: April 20, 2020

1. Definitions. Unless the context otherwise requires, when used herein the following terms shall have the meanings indicated.

“*Affiliate*” means, with respect to any person, any person directly or indirectly controlling, controlled by or under common control with, such other person. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlled by” and “under common control with”) when used with respect to any person, means the possession, directly or indirectly, of the power to cause the direction of management and/or policies of such person, whether through the ownership of voting securities by contract or otherwise.

“*Aggregate Net Cash Settlement Amount*” has the meaning ascribed thereto in Section 2(i).

“*Aggregate Net Share Settlement Amount*” has the meaning ascribed thereto in Section

2(ii).

“*Appraisal Procedure*” means a procedure whereby two independent appraisers, one chosen by the Company and one by the Original Warrantholder, shall mutually agree upon the determinations then the subject of appraisal. Each party shall deliver a notice to the other appointing its appraiser within 10 days after the Appraisal Procedure is invoked. If within 30 days after appointment of the two appraisers they are unable to agree upon the amount in question, a third independent appraiser shall be chosen within 10 days thereafter by the mutual consent of such first two appraisers. The decision of the third appraiser so appointed and chosen shall be given within 30 days after the selection of such third appraiser. If three appraisers shall be appointed and the determination of one appraiser is disparate from the middle determination by more than twice the amount by which the other determination is disparate from the middle

determination, then the determination of such appraiser shall be excluded, the remaining two determinations shall be averaged and such average shall be binding and conclusive upon the Company and the Original Warrantholder; otherwise, the average of all three determinations shall be binding upon the Company and the Original Warrantholder. The costs of conducting any Appraisal Procedure shall be borne by the Company.

“*Average Market Price*” means, with respect to any security, the arithmetic average of the Market Price of such security for the 15 consecutive trading day period ending on and including the trading day immediately preceding the determination date.

“*Board of Directors*” means the board of directors of the Company, including any duly authorized committee thereof.

“*Business Combination*” means a merger, consolidation, statutory share exchange or similar transaction that requires the approval of the Company’s stockholders.

“*Business Day*” means any day except Saturday, Sunday and any day on which banking institutions in the State of New York generally are authorized or required by law or other governmental actions to close; *provided* that banks shall be deemed to be generally open for business in the event of a “shelter in place” or similar closure of physical branch locations at the direction of any governmental entity if such banks’ electronic funds transfer system (including wire transfers) are open for use by customers on such day.

“*Capital Stock*” means (A) with respect to any Person that is a corporation or company, any and all shares, interests, participations or other equivalents (however designated) of capital or capital stock of such Person and (B) with respect to any Person that is not a corporation or company, any and all partnership or other equity interests of such Person.

“*Charter*” means, with respect to any Person, its certificate or articles of incorporation, articles of association, or similar organizational document.

“*Common Stock*” means common stock of the Company, par value \$0.0001 subject to adjustment as provided in Section 13(E).

“*Company*” means the Person whose name, corporate or other organizational form and jurisdiction of organization is set forth in Item 1 of Schedule A hereto.

“*conversion*” has the meaning set forth in Section 13(B). “*convertible securities*” has the meaning set forth in Section 13(B).

“*Depository*” means The Depository Trust Company, its nominees and their respective successors.

“*Exchange Act*” means the Securities Exchange Act of 1934, as amended, or any successor statute, and the rules and regulations promulgated thereunder.

“Exercise Date” means each date a Notice of Exercise substantially in the form annexed hereto is delivered to the Company in accordance with Section 2 hereof.

“Exercise Price” means the amount set forth in Item 2 of Schedule A hereto, subject to adjustment as contemplated herein.

“Expiration Time” has the meaning set forth in Section 3.

“Fair Market Value” means, with respect to any security or other property, the fair market value of such security or other property as determined by the Board of Directors, acting in good faith in reliance on an opinion of a nationally recognized independent investment banking firm retained by the Company for this purpose. For so long as the Original Warrantholder holds this Warrant or any portion thereof, it may object in writing to the Board of Director’s calculation of fair market value within 10 days of receipt of written notice thereof. If the Original Warrantholder and the Company are unable to agree on fair market value during the 10-day period following the delivery of the Original Warrantholder’s objection, the Appraisal Procedure may be invoked by either party to determine Fair Market Value by delivering written notification thereof not later than the 30th day after delivery of the Original Warrantholder’s objection.

“Initial Number” has the meaning set forth in Section 13(B).

“Issue Date” means the date set forth in Item 3 of Schedule A hereto.

“Market Price” means, with respect to a particular security, on any given day, the last reported sale price regular way or, in case no such reported sale takes place on such day, the average of the last closing bid and ask prices regular way, in either case on the principal national securities exchange on which the applicable securities are listed or admitted to trading, or if not listed or admitted to trading on any national securities exchange, the average of the closing bid and ask prices as furnished by two members of the Financial Industry Regulatory Authority, Inc. selected from time to time by the Company for that purpose. “Market Price” shall be determined without reference to after hours or extended hours trading. If such security is not listed and traded in a manner that the quotations referred to above are available for the period required hereunder, the Market Price of such security shall be deemed to be (i) in the event that any portion of the Warrant is held by the Original Warrantholder, the fair market value per share of such security as determined in good faith by the Original Warrantholder or (ii) in all other circumstances, the fair market value per share of such security as determined in good faith by the Board of Directors in reliance on an opinion of a nationally recognized independent investment banking corporation retained by the Company for this purpose and certified in a resolution to the Warrantholder.

“Original Warrantholder” means the United States Department of the Treasury. Any actions specified to be taken by the Original Warrantholder hereunder may only be taken by such Person and not by any other Warrantholder.

“Permitted Transactions” has the meaning set forth in Section 13(B).

“*Per Share Net Cash Settlement Amount*” means the Average Market Price of a share of Common Stock determined as of the relevant Exercise Date less the then applicable Exercise Price.

“*Per Share Net Share Settlement Amount*” means the quotient of (i) the Average Market Price of a share of Common Stock determined as of the relevant Exercise Date less the then applicable Exercise Price *divided by* (ii) the Average Market Price of a share of Common Stock determined as of the relevant Exercise Date.

“*Person*” has the meaning given to it in Section 3(a)(9) of the Exchange Act and as used in Sections 13(d)(3) and 14(d)(2) of the Exchange Act.

“*Per Share Fair Market Value*” has the meaning set forth in Section 13(C).

“*Pro Rata Repurchases*” means any purchase of shares of Common Stock by the Company or any Affiliate thereof pursuant to (A) any tender offer or exchange offer subject to Section 13(e) or 14(e) of the Exchange Act or Regulation 14E promulgated thereunder or (B) any other offer available to substantially all holders of Common Stock, in the case of both (A) or (B), whether for cash, shares of Capital Stock of the Company, other securities of the Company, evidences of indebtedness of the Company or any other Person or any other property (including, without limitation, shares of Capital Stock, other securities or evidences of indebtedness of a subsidiary), or any combination thereof, effected while this Warrant is outstanding. The “*Effective Date*” of a Pro Rata Repurchase shall mean the date of acceptance of shares for purchase or exchange by the Company under any tender or exchange offer which is a Pro Rata Repurchase or the date of purchase with respect to any Pro Rata Repurchase that is not a tender or exchange offer.

“*Regulatory Approvals*” with respect to the Warrantholder, means, to the extent applicable and required to permit the Warrantholder to exercise this Warrant for shares of Common Stock and to own such Common Stock without the Warrantholder being in violation of applicable law, rule or regulation, the receipt of any necessary approvals and authorizations of, filings and registrations with, notifications to, or expiration or termination of any applicable waiting period under, the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations thereunder.

“*SEC*” means the U.S. Securities and Exchange Commission.

“*Securities Act*” means the Securities Act of 1933, as amended, or any successor statute, and the rules and regulations promulgated thereunder.

“*trading day*” means (A) if the shares of Common Stock are not traded on any national or regional securities exchange or association or over-the-counter market, a Business Day or (B) if the shares of Common Stock are traded on any national or regional securities exchange or association or over-the-counter market, a Business Day on which such relevant exchange or quotation system is scheduled to be open for business and on which the shares of Common Stock

(i) are not suspended from trading on any national or regional securities exchange or association or over-the-counter market for any period or periods aggregating one half hour or longer; and (ii)

have traded at least once on the national or regional securities exchange or association or over-the-counter market that is the primary market for the trading of the shares of Common Stock.

“U.S. GAAP” means United States generally accepted accounting principles. “Warrant” means this Warrant, issued pursuant to the Warrant Agreement.

“Warrant Agreement” means the Warrant Agreement, dated as of the date set forth in Item 4 of Schedule A hereto, as amended from time to time, between the Company and the United States Department of the Treasury.

“Warrantholder” has the meaning set forth in Section 2. “Warrant Shares” has the meaning set forth in Section 2.

2. Number of Warrant Shares: Net Exercise. This certifies that, for value received, the United States Department of the Treasury or its permitted assigns (the “Warrantholder”) is entitled, upon the terms and subject to the conditions hereinafter set forth, to acquire from the Company, in whole or in part, after the receipt of all applicable Regulatory Approvals, if any, up to an aggregate of the number of fully paid and nonassessable shares of Common Stock set forth in Item 5 of Schedule A hereto. The number of shares of Common Stock (the “Warrant Shares”) issuable upon exercise of this Warrant and the Exercise Price are subject to adjustment as provided herein, and all references to “Common Stock,” “Warrant Shares” and “Exercise Price” herein shall be deemed to include any such adjustment or series of adjustments.

Upon exercise of the Warrant in accordance with Section 3 hereof, the Company shall elect to pay or deliver, as the case may be, to the exercising Warrantholder (a) cash (“Net Cash Settlement”) or (b) Warrant Shares together with cash, if applicable, in lieu of delivering any fractional shares in accordance with Section 5 of this Warrant (“Net Share Settlement”). The Company will notify the exercising Warrantholder of its election of a settlement method within one Business Day after the relevant Exercise Date and if it fails to deliver a timely notice shall be deemed to have elected Net Share Settlement.

(i) *Net Cash Settlement.* If the Company elects Net Cash Settlement, it shall pay to the Warrantholder cash equal to the Per Share Net Cash Settlement Amount multiplied by the number of Warrant Shares as to which the Warrant has been exercised as indicated in the Notice of Exercise (the “Aggregate Net Cash Settlement Amount”).

(ii) *Net Share Settlement.* If the Company elects Net Share Settlement, it shall deliver to the Warrantholder a number of shares of Common Stock equal to the Per Share Net Share Settlement Amount multiplied by the number of Warrant Shares as to which the Warrant has been exercised as indicated in the Notice of Exercise (the “Aggregate Net Share Settlement Amount”).

3. Term; Method of Exercise. Subject to Section 2, to the extent permitted by applicable laws and regulations, this Warrant is exercisable, in whole or in part by the Warrantholder, at any time or from time to time after the execution and delivery of this Warrant by the Company on the date hereof, but in no event later than 5:00 p.m., New York City time on

the fifth anniversary of the Issue Date (the "*Expiration Time*"), by the surrender of this Warrant and delivery of the Notice of Exercise annexed hereto, duly completed and executed on behalf of the Warrantholder, at the principal executive office of the Company located at the address set forth in Item 6 of Schedule A hereto (or such other office or agency of the Company in the United States as it may designate by notice in writing to the Warrantholder at the address of the Warrantholder appearing on the books of the Company).

If the Warrantholder does not exercise this Warrant in its entirety, the Warrantholder will be entitled to receive from the Company within a reasonable time after the date on which this Warrant has been duly exercised in accordance with the terms of this Warrant, and in any event not exceeding three Business Days after the date thereof, a new warrant in substantially identical form for the purchase of that number of Warrant Shares equal to the difference between the number of Warrant Shares subject to this Warrant and the number of Warrant Shares as to which this Warrant is so exercised. Notwithstanding anything in this Warrant to the contrary, the Warrantholder hereby acknowledges and agrees that its exercise of this Warrant for Warrant Shares is subject to the condition that the Warrantholder will have first received any applicable Regulatory Approvals.

4. Method of Settlement.

(i) *Net Cash Settlement.* If the Company elects Net Cash Settlement, the Company shall, within a reasonable time, not to exceed five Business Days after the date on which this Warrant has been duly exercised in accordance with the terms of this Warrant, pay to the exercising Warrantholder the Aggregate Net Cash Settlement Amount.

(ii) *Net Share Settlement.* If the Company elects Net Share Settlement, shares of Common Stock equal to the Aggregate Net Share Settlement Amount shall be (x) issued in such name or names as the exercising Warrantholder may designate and (y) delivered by the Company or the Company's transfer agent to such Warrantholder or its nominee or nominees (i) if the shares are then able to be so delivered, via book-entry transfer crediting the account of such Warrantholder (or the relevant agent member for the benefit of such Warrantholder) through the Depository's DWAC system (if the Company's transfer agent participates in such system), or (ii) otherwise in certificated form by physical delivery to the address specified by the Warrantholder in the Notice of Exercise, within a reasonable time, not to exceed three Business Days after the date on which this Warrant has been duly exercised in accordance with the terms of this Warrant. The Company hereby represents and warrants that any Warrant Shares issued upon the exercise of this Warrant in accordance with the provisions of Section 3 will be duly and validly authorized and issued, fully paid and nonassessable and free from all taxes, liens and charges (other than liens or charges created by the Warrantholder, income and franchise taxes incurred in connection with the exercise of the Warrant or taxes in respect of any transfer occurring

contemporaneously therewith). The Company agrees that the Warrant Shares so issued will be deemed to have been issued to the Warrantholder as of the close of business on the date on which this Warrant and payment of the Exercise Price are delivered to the Company in accordance with the terms of this Warrant, notwithstanding that the stock transfer books of the Company may then be closed or certificates representing such Warrant Shares may not be actually delivered on such date. The Company will at all times reserve and keep available, out of its authorized but unissued Common Stock, solely for the purpose of providing for the exercise of this Warrant, the

aggregate number of shares of Common Stock then issuable upon exercise of this Warrant at any time. The Company will (A) procure, at its sole expense, the listing of the Warrant Shares issuable upon exercise of this Warrant at any time, subject to issuance or notice of issuance, on all principal stock exchanges on which the Common Stock is then listed or traded and (B) maintain such listings of such Warrant Shares at all times after issuance. The Company will use reasonable best efforts to ensure that the Warrant Shares may be issued without violation of any applicable law or regulation or of any requirement of any securities exchange on which the Warrant Shares are listed or traded.

5. No Fractional Warrant Shares or Scrip. No fractional Warrant Shares or scrip representing fractional Warrant Shares shall be issued upon any exercise of this Warrant. In lieu of any fractional Share to which the Warrantholder would otherwise be entitled, the Warrantholder shall be entitled to receive a cash payment equal to the Average Market Price of the Common Stock determined as of the Exercise Date multiplied by such fraction of a share, less the pro-rated Exercise Price for such fractional share.

6. No Rights as Stockholders; Transfer Books. This Warrant does not entitle the Warrantholder to any voting rights or other rights as a stockholder of the Company prior to the date of exercise hereof. The Company will at no time close its transfer books against transfer of this Warrant in any manner which interferes with the timely exercise of this Warrant.

7. Charges, Taxes and Expenses. Issuance of certificates for Warrant Shares to the Warrantholder upon the exercise of this Warrant shall be made without charge to the Warrantholder for any issue or transfer tax or other incidental expense in respect of the issuance of such certificates, all of which taxes and expenses shall be paid by the Company; *provided, however*, that the Company shall not be required to pay any tax that may be payable in respect of any transfer involved in the issuance and delivery of any such certificate, or any certificates or other securities in a name other than that of the registered holder of the Warrant surrendered upon exercise of the Warrant.

8. Transfer/Assignment.

(A) Subject to compliance with clause (B) of this Section 8, this Warrant and all rights hereunder are transferable, in whole or in part, upon the books of the Company by the registered holder hereof in person or by duly authorized attorney, and a new warrant shall be made and delivered by the Company, of the same tenor and date as this Warrant but registered in the name of one or more transferees, upon surrender of this Warrant, duly endorsed, to the office or agency

of the Company described in Section 3. All expenses (other than stock transfer taxes) and other charges payable in connection with the preparation, execution and delivery of the new warrants pursuant to this Section 8 shall be paid by the Company.

(B) If and for so long as required by the Warrant Agreement, this Warrant shall contain the legend as set forth in Sections 4.2(a) of the Warrant Agreement.

9. Exchange and Registry of Warrant. This Warrant is exchangeable, upon the surrender hereof by the Warrantholder to the Company, for a new warrant or warrants of like tenor and representing the right to purchase the same aggregate number of Warrant Shares. The

Company shall maintain a registry showing the name and address of the Warrantholder as the registered holder of this Warrant. This Warrant may be surrendered for exchange or exercise in accordance with its terms, at the office of the Company, and the Company shall be entitled to rely in all respects, prior to written notice to the contrary, upon such registry.

10. Loss, Theft, Destruction or Mutilation of Warrant. Upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant, and in the case of any such loss, theft or destruction, upon receipt of a bond, indemnity or security reasonably satisfactory to the Company, or, in the case of any such mutilation, upon surrender and cancellation of this Warrant, the Company shall make and deliver, in lieu of such lost, stolen, destroyed or mutilated Warrant, a new Warrant of like tenor and representing the right to purchase the same aggregate number of Warrant Shares as provided for in such lost, stolen, destroyed or mutilated Warrant.

11. Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Business Day, then such action may be taken or such right may be exercised on the next succeeding day that is a Business Day.

12. Information. With a view to making available to Warrantholders the benefits of certain rules and regulations of the SEC which may permit the sale of the Warrants and Warrant Shares to the public without registration, the Company agrees to use its reasonable best efforts to:

(A) make and keep adequate public information available, as those terms are understood and defined in Rule 144(c) or any similar or analogous rule promulgated under the Securities Act, at all times after the date hereof;

(B) (x) file with the SEC, in a timely manner, all reports and other documents required of the Company under the Securities Act and the Exchange Act, and (y) if at any time the Company is not required to file such reports, make available, upon the request of any Warrantholder, such information necessary to permit sales pursuant to Rule 144A (including the information required by Rule 144A(d)(4) under the Securities Act);

(C) furnish to any holder of Warrants or Warrant Shares forthwith upon request: a written statement by the Company as to its compliance with the reporting requirements of the Exchange Act and Rule 144(c)(1); a copy of the most recent annual or quarterly report of the Company; and such other reports and documents as the Warrantholder may reasonably request in availing itself of any rule or regulation of the SEC allowing it to sell any such securities to the public without registration; and

(D) take such further action as any Warrantholder may reasonably request, all to the extent required from time to time to enable such Warrantholder to sell Warrants or Warrant Shares without registration under the Securities Act.

13. Adjustments and Other Rights. The Exercise Price and the number of Warrant Shares issuable upon exercise of the Warrant shall be subject to adjustment from time to time as follows; *provided*, that if more than one subsection of this Section 13 is applicable to a single

event, the subsection shall be applied that produces the largest adjustment and no single event shall cause an adjustment under more than one subsection of this Section 13 so as to result in duplication:

(A) Stock Splits, Subdivisions, Reclassifications or Combinations. If the Company shall (i) declare and pay a dividend or make a distribution on its Common Stock in shares of Common Stock, (ii) subdivide or reclassify the outstanding shares of Common Stock into a greater number of shares, or (iii) combine or reclassify the outstanding shares of Common Stock into a smaller number of shares, the number of Warrant Shares issuable upon exercise of this Warrant at the time of the record date for such dividend or distribution or the effective date of such subdivision, combination or reclassification shall be proportionately adjusted so that the Warrantholder after such date shall be entitled to acquire the number of shares of Common Stock which such holder would have owned or been entitled to receive in respect of the shares of Common Stock subject to this Warrant after such date had this Warrant been exercised immediately prior to such date. In such event, the Exercise Price in effect at the time of the record date for such dividend or distribution or the effective date of such subdivision, combination or reclassification shall be adjusted to the number obtained by dividing (x) the product of (1) the number of Warrant Shares issuable upon the exercise of this Warrant before such adjustment and (2) the Exercise Price in effect immediately prior to the record or effective date, as the case may be, for the dividend, distribution, subdivision, combination or reclassification giving rise to this adjustment by (y) the new number of Warrant Shares issuable upon exercise of the Warrant determined pursuant to the immediately preceding sentence.

(B) Certain Issuances of Common Stock or Convertible Securities. If the Company shall issue shares of Common Stock (or rights or warrants or other securities exercisable or convertible into or exchangeable (collectively, a "*conversion*") for shares of Common Stock) (collectively, "*convertible securities*") (other than in Permitted Transactions (as defined below) or a transaction to which subsection (A) of this Section 13 is applicable) without consideration or at a consideration per share (or having a conversion price per share) that is less than 90% of the

Average Market Price determined as of the date of the agreement on pricing such shares (or such convertible securities) then, in such event:

(A) the number of Warrant Shares issuable upon the exercise of this Warrant immediately prior to the date of the agreement on pricing of such shares (or of such convertible securities) (the "*Initial Number*") shall be increased to the number obtained by multiplying the Initial Number by a fraction (A) the numerator of which shall be the sum of (x) the number of shares of Common Stock of the Company outstanding on such date and (y) the number of additional shares of Common Stock issued (or into which convertible securities may be exercised or convert) and (B) the denominator of which shall be the sum of (I) the number of shares of Common Stock outstanding on such date and (II) the number of shares of Common Stock which the aggregate consideration receivable by the Company for the total number of shares of Common Stock so issued (or into which convertible securities may be exercised or convert) would purchase at the Average Market Price determined as of the date of the agreement on pricing such shares (or such convertible securities); and

(B) the Exercise Price payable upon exercise of the Warrant shall be adjusted by multiplying such Exercise Price in effect immediately prior to the date of the agreement on pricing of such shares (or of such convertible securities) by a fraction, the numerator of which shall be the number of shares of Common Stock issuable upon exercise of this Warrant prior to such date and the denominator of which shall be the number of shares of Common Stock issuable upon exercise of this Warrant immediately after the adjustment described in clause (A) above.

For purposes of the foregoing, the aggregate consideration receivable by the Company in connection with the issuance of such shares of Common Stock or convertible securities shall be deemed to be equal to the sum of the net offering price (including the Fair Market Value of any non-cash consideration and after deduction of any related expenses payable to third parties) of all such securities plus the minimum aggregate amount, if any, payable upon exercise or conversion of any such convertible securities into shares of Common Stock; and "*Permitted Transactions*" shall mean issuances (i) as consideration for or to fund the acquisition of businesses and/or related assets, (ii) in connection with employee benefit plans and compensation related arrangements in the ordinary course and consistent with past practice approved by the Board of Directors, (iii) in connection with a public or broadly marketed offering and sale of Common Stock or convertible securities for cash conducted by the Company or its affiliates pursuant to registration under the Securities Act or Rule 144A thereunder on a basis consistent with capital raising transactions by comparable institutions and (iv) in connection with the exercise of preemptive rights on terms existing as of the Issue Date. Any adjustment made pursuant to this Section 13(B) shall become effective immediately upon the date of such issuance.

(C) Other Distributions. In case the Company shall fix a record date for the making of a distribution to all holders of shares of its Common Stock of securities, evidences of indebtedness, assets, cash, rights or warrants (excluding dividends of its Common Stock and

other dividends or distributions referred to in Section 13(A)), in each such case, the Exercise Price in effect prior to such record date shall be reduced immediately thereafter to the price determined by multiplying the Exercise Price in effect immediately prior to the reduction by the quotient of (x) the Average Market Price of the Common Stock determined as of the first date on which the Common Stock trades regular way on the principal national securities exchange on which the Common Stock is listed or admitted to trading without the right to receive such distribution, minus the amount of cash and/or the Fair Market Value of the securities, evidences of indebtedness, assets, rights or warrants to be so distributed in respect of one share of Common Stock (such amount and/or Fair Market Value, the "*Per Share Fair Market Value*") divided by

(y) the Average Market Price specified in clause (x); such adjustment shall be made successively whenever such a record date is fixed. In such event, the number of Warrant Shares issuable upon the exercise of this Warrant shall be increased to the number obtained by dividing (x) the product of (1) the number of Warrant Shares issuable upon the exercise of this Warrant before such adjustment, and (2) the Exercise Price in effect immediately prior to the distribution giving rise to this adjustment by (y) the new Exercise Price determined in accordance with the immediately preceding sentence. In the event that such distribution is not so made, the Exercise Price and the number of Warrant Shares issuable upon exercise of this Warrant then in effect shall be readjusted, effective as of the date when the Board of Directors determines not to distribute such shares, evidences of indebtedness, assets, rights, cash or warrants, as the case may be, to the

Exercise Price that would then be in effect and the number of Warrant Shares that would then be issuable upon exercise of this Warrant if such record date had not been fixed.

(D) Certain Repurchases of Common Stock. In case the Company effects a Pro Rata Repurchase of Common Stock, then the Exercise Price shall be reduced to the price determined by multiplying the Exercise Price in effect immediately prior to the Effective Date of such Pro Rata Repurchase by a fraction of which the numerator shall be (i) the product of (x) the number of shares of Common Stock outstanding immediately before such Pro Rata Repurchase and (y) the Average Market Price of a share of Common Stock determined as of the date of the first public announcement by the Company or any of its Affiliates of the intent to effect such Pro Rata Repurchase, minus (ii) the aggregate purchase price of the Pro Rata Repurchase, and of which the denominator shall be the product of (i) the number of shares of Common Stock outstanding immediately prior to such Pro Rata Repurchase minus the number of shares of Common Stock so repurchased and (ii) the Average Market Price per share of Common Stock determined as of the date of the first public announcement by the Company or any of its Affiliates of the intent to effect such Pro Rata Repurchase. In such event, the number of shares of Common Stock issuable upon the exercise of this Warrant shall be increased to the number obtained by dividing (x) the product of (1) the number of Warrant Shares issuable upon the exercise of this Warrant before such adjustment, and (2) the Exercise Price in effect immediately prior to the Pro Rata Repurchase giving rise to this adjustment by (y) the new Exercise Price determined in accordance with the immediately preceding sentence. For the avoidance of doubt, no increase to the Exercise Price or decrease in the number of Warrant Shares issuable upon exercise of this Warrant shall be made pursuant to this Section 13(D).

(E) Business Combinations. In case of any Business Combination or reclassification of Common Stock (other than a reclassification of Common Stock referred to in Section 13 (A)), the Warranholder's right to receive Warrant Shares upon exercise of this Warrant shall be converted into the right to exercise this Warrant to acquire the number of shares of stock or other securities or property (including cash) which the Common Stock issuable (at the time of such Business Combination or reclassification) upon exercise of this Warrant immediately prior to such Business Combination or reclassification would have been entitled to receive upon consummation of such Business Combination or reclassification; and in any such case, if necessary, the provisions set forth herein with respect to the rights and interests thereafter of the Warranholder shall be appropriately adjusted so as to be applicable, as nearly as may reasonably be, to the Warranholder's right to exercise this Warrant in exchange for any shares of stock or other securities or property pursuant to this paragraph. In determining the kind and amount of stock, securities or the property receivable upon exercise of this Warrant following the consummation of such Business Combination, if the holders of Common Stock have the right to elect the kind or amount of consideration receivable upon consummation of such Business Combination, then the consideration that the Warranholder shall be entitled to receive upon exercise shall be deemed to be the types and amounts of consideration received by the majority of all holders of the shares of common stock that affirmatively make an election (or of all such holders if none make an election).

(F) Rounding of Calculations; Minimum Adjustments. All calculations under this Section 13 shall be made to the nearest one-tenth (1/10th) of a cent or to the nearest one-hundredth (1/100th) of a share, as the case may be. Any provision of this Section 13 to the

contrary notwithstanding, no adjustment in the Exercise Price or the number of Warrant Shares shall be made if the amount of such adjustment would be less than \$0.01 or one-tenth (1/10th) of a share of Common Stock, but any such amount shall be carried forward and an adjustment with respect thereto shall be made at the time of and together with any subsequent adjustment which, together with such amount and any other amount or amounts so carried forward, shall aggregate \$0.01 or 1/10th of a share of Common Stock, or more.

(G) Timing of Issuance of Additional Common Stock Upon Certain Adjustments. In any case in which the provisions of this Section 13 shall require that an adjustment shall become effective immediately after a record date for an event, the Company may defer until the occurrence of such event (i) issuing to the Warranholder of this Warrant exercised after such record date and before the occurrence of such event the additional shares of Common Stock issuable upon such exercise by reason of the adjustment required by such event over and above the shares of Common Stock issuable upon such exercise before giving effect to such adjustment and (ii) paying to such Warranholder any amount of cash in lieu of a fractional share of Common Stock; *provided, however*, that the Company upon request shall deliver to such Warranholder a due bill or other appropriate instrument evidencing such Warranholder's right to receive such additional shares, and such cash, upon the occurrence of the event requiring such adjustment.

(H) Other Events. For so long as the Original Warranholder holds this Warrant or any portion thereof, if any event occurs as to which the provisions of this Section 13 are not strictly applicable or, if strictly applicable, would not, in the good faith judgment of the Board of Directors of the Company, fairly and adequately protect the purchase rights of the Warrants in accordance with the essential intent and principles of such provisions, then the Board of Directors shall make such adjustments in the application of such provisions, in accordance with such essential intent and principles, as shall be reasonably necessary, in the good faith opinion of the Board of Directors, to protect such purchase rights as aforesaid. The Exercise Price or the number of Warrant Shares shall not be adjusted in the event of a change in the par value of the Common Stock or a change in the jurisdiction of incorporation of the Company.

(I) Statement Regarding Adjustments. Whenever the Exercise Price or the number of Warrant Shares shall be adjusted as provided in Section 13, the Company shall forthwith file at the principal office of the Company a statement showing in reasonable detail the facts requiring such adjustment and the Exercise Price that shall be in effect and the number of Warrant Shares after such adjustment, and the Company shall also cause a copy of such statement to be sent by mail, first class postage prepaid, to each Warranholder at the address appearing in the Company's records.

(J) Notice of Adjustment Event. In the event that the Company shall propose to take any action of the type described in this Section 13 (but only if the action of the type described in this Section 13 would result in an adjustment in the Exercise Price or the number of Warrant Shares or a change in the type of securities or property to be delivered upon exercise of this Warrant), the Company shall give notice to the Warranholder, in the manner set forth in Section 13(J), which notice shall specify the record date, if any, with respect to any such action and the approximate date on which such action is to take place. Such notice shall also set forth the facts with respect thereto as shall be reasonably necessary to indicate the effect on the Exercise Price

and the number, kind or class of shares or other securities or property which shall be deliverable upon exercise of this Warrant. In the case of any action which would require the fixing of a record date, such notice shall be given at least 10 days prior to the date so fixed, and in case of all other action, such notice shall be given at least 15 days prior to the taking of such proposed action. Failure to give such notice, or any defect therein, shall not affect the legality or validity of any such action.

(K) Proceedings Prior to Any Action Requiring Adjustment. As a condition precedent to the taking of any action which would require an adjustment pursuant to this Section 13, the Company shall take any action which may be necessary, including obtaining regulatory, New York Stock Exchange, NASDAQ Stock Market or other applicable national securities exchange or stockholder approvals or exemptions, as applicable, in order that the Company may thereafter validly and legally issue as fully paid and nonassessable all shares of Common Stock that the Warranholder is entitled to receive upon exercise of this Warrant pursuant to this Section 13.

(L) Adjustment Rules. Any adjustments pursuant to this Section 13 shall be made successively whenever an event referred to herein shall occur. If an adjustment in Exercise Price

made hereunder would reduce the Exercise Price to an amount below par value of the Common Stock, then such adjustment in Exercise Price made hereunder shall reduce the Exercise Price to the par value of the Common Stock.

14. No Impairment. The Company will not, by amendment of its Charter or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Company, but will at all times in good faith assist in the carrying out of all the provisions of this Warrant and in taking of all such action as may be necessary or appropriate in order to protect the rights of the Warrantholder.

15. Governing Law. **This Warrant will be governed by and construed in accordance with the federal law of the United States if and to the extent such law is applicable, and otherwise in accordance with the laws of the State of New York applicable to contracts made and to be performed entirely within such State. Each of the Company and the Warrantholder agrees (a) to submit to the exclusive jurisdiction and venue of the United States District Court for the District of Columbia for any civil action, suit or proceeding arising out of or relating to this Warrant or the transactions contemplated hereby, and (b) that notice may be served upon the Company at the address in Section 19 below and upon the Warrantholder at the address for the Warrantholder set forth in the registry maintained by the Company pursuant to Section 9 hereof. To the extent permitted by applicable law, each of the Company and the Warrantholder hereby unconditionally waives trial by jury in any civil legal action or proceeding relating to the Warrant or the transactions contemplated hereby or thereby.**

16. Binding Effect. This Warrant shall be binding upon any successors or assigns of the Company.

17. Amendments. This Warrant may be amended and the observance of any term of this Warrant may be waived only with the written consent of the Company and the Warrantholder.

18. Prohibited Actions. The Company agrees that it will not take any action which would entitle the Warrantholder to an adjustment of the Exercise Price if the total number of shares of Common Stock issuable after such action upon exercise of this Warrant, together with all shares of Common Stock then outstanding and all shares of Common Stock then issuable upon the exercise of all outstanding options, warrants, conversion and other rights, would exceed the total number of shares of Common Stock then authorized by its Charter.

19. Notices. Any notice, request, instruction or other document to be given hereunder by any party to the other will be in writing and will be deemed to have been duly given (a) on the date of delivery if delivered personally, or by facsimile, upon confirmation of receipt, or (b) on the second Business Day following the date of dispatch if delivered by a recognized next day courier service. All notices hereunder shall be delivered as set forth in Item 7 of Schedule A

hereto, or pursuant to such other instructions as may be designated in writing by the party to receive such notice.

20. Entire Agreement. This Warrant, the forms attached hereto and Schedule A hereto (the terms of which are incorporated by reference herein), and the Warrant Agreement (including all documents incorporated therein), contain the entire agreement between the parties with respect to the subject matter hereof and supersede all prior and contemporaneous arrangements or undertakings with respect thereto.

[Remainder of page intentionally left blank]

[Form of Notice of Exercise]

Date: _

TO: [Company]

RE: Exercise of Warrant

The undersigned, pursuant to the provisions set forth in the attached Warrant, hereby notifies the Company of its intention to exercise its option with respect to the number of shares of the Common Stock set forth below covered by such Warrant. Pursuant to Section 4 of the Warrant, the undersigned acknowledges that the Company may settle this exercise in net cash or shares. Cash to be paid pursuant to a Net Cash Settlement or payment of fractional shares in connection with a Net Share Settlement should be deposited to the account of the Warrantheader set forth below. Common Stock to be delivered pursuant to a Net Share Settlement shall be delivered to the Warrantheader as indicated below. A new warrant evidencing the remaining shares of Common Stock covered by such Warrant, but not yet subscribed for and purchased, if any, should be issued in the name set forth below.

Number of Warrant Shares: _____

Aggregate Exercise Price: _____

Address for Delivery of Warrant Shares: _____

Wire Instructions: _____

Proceeds to be delivered:

Name of Bank:

City/ State of Bank:

ABA Number of Bank

SWIFT #

Name of Account:

Account Number at Bank:

Securities to be issued to:

If in book-entry form through the Depository:

Depository Account Number: _____

Name of Agent Member: _____

If in certificated form:

Social Security Number or Other Identifying Number: _____

Name: _____
Street Address: _____
City, State and Zip Code: _____
Any unexercised Warrants evidenced by the exercising Warrantholder's interest in the Warrant:
Social Security Number or Other Identifying Number: _____
Name: _____
Street Address: _____
City, State and Zip Code: _____

Holder: _____
By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the Company has caused this Warrant to be duly executed by a duly authorized officer.

Dated: _____

Company: _____

By: _____

Name:

Title:

Attest:

By: _____

Name:

Title:

[Signature Page to Warrant]

Item 1

Name: Spirit Airlines, Inc.
Corporate or other organizational form: corporation Jurisdiction of organization: Delaware

Item 2

Exercise Price: \$14.08

Item 3

Issue Date: April 20, 2020

Item 4

Date of Warrant Agreement between the Company and the United States Department of the Treasury: April 20, 2020

Item 5

Number of shares of Common Stock: 143,541

Item 6

Company's address: 2800 Executive Way, Miramar, FL 33025

Item 7

Notice information: Legal Department, Spirit Airlines, Inc., 2800 Executive Way, Miramar, FL 33025 (Telephone No. (954) 447-7920; Email: legaldepartment@spirit.com)

WARRANT SHARES FORMULA

The number of Warrant Shares for which Warrants issued on each Warrant Closing Date shall be exercisable shall equal:

- (i) On the Closing Date, the quotient of (x) the product of the principal amount of the Promissory Note multiplied *by* 0.1 *divided by* (y) the Exercise Price (as defined in Annex B); and
- (ii) On each subsequent Warrant Closing Date, the quotient of (x) the product of the amount by which the principal amount of the Promissory Note is increased on such Warrant Closing Date multiplied *by* 0.1 *divided by* (y) the Exercise Price.

Spirit Airlines, Inc.
Schedule 2 – Capitalization

As of March 31, 2020

Security	Authorized (shares)	Issued and Outstanding (Shares)	Reserved for Issuance (Shares)	Notes
Common Stock, \$0.0001 par value	240,000,000	Issued: 70,270,010 Less, Held in Treasury: (1,730,208) Outstanding: 68,539,802	1,537,470	Shares reserved for issuance underlie equity incentive awards, including restricted stock units and performance share units (PSUs). PSUs assumed at maximum 200% of target payout upon settlement.
Non-Voting Common Stock, \$0.0001 par value	50,000,000	0		
Preferred Stock	10,000,000	0	240,000	Series A Participating Cumulative Preferred Stock reserved for issuance upon exercise of Preferred Stock Purchase Rights
Preferred Stock Purchase Rights				Expire on March 30, 2021, if not exercised or earlier terminated

REQUIRED STOCKHOLDER APPROVALS

None.

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Section 3: EX-10.1 (CREDIT AND GUARANTY AGREEMENT)

Exhibit 10.1

EXECUTION VERSION

CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT THAT IS MARKED BY [***] HAS BEEN OMITTED BECAUSE IT(I) IS NOT MATERIAL AND (II) WOULD LIKELY CAUSE COMPETITIVE HARM TO THE COMPANY IF PUBLICLY DISCLOSED.

CREDIT AND GUARANTY AGREEMENT

dated as of March 30, 2020

among

SPIRIT AIRLINES, INC.,

as Borrower,

THE SUBSIDIARIES OF THE BORROWER PARTY HERETO,

as Guarantors,

THE LENDERS PARTY HERETO,

CITIBANK, N.A.,

as Administrative Agent

and

WILMINGTON TRUST, NATIONAL ASSOCIATION

as Collateral Agent

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SCHEDULE 3.06 – Subsidiaries

CREDIT AND GUARANTY AGREEMENT, dated as of March 30, 2020 among SPIRIT AIRLINES, INC., a Delaware corporation (“the Borrower”), the direct and indirect Domestic Subsidiaries of the Borrower from time to time party hereto, each of the several banks and other financial institutions or entities from time to time party hereto (the Lenders), CITIBANK, N.A. (“Citibank”), as administrative agent for the Lenders (together with its permitted successors in such capacity, the Administrative Agent), and WILMINGTON TRUST, NATIONAL ASSOCIATION, as collateral agent for the Secured Parties (in such capacity, the Collateral Agent).

INTRODUCTORY STATEMENT

The Borrower has applied to the Lenders for a revolving credit and revolving letter of credit facility in an aggregate principal amount not to exceed \$110,000,000 as set forth herein.

The proceeds of the Loans will be used for working capital and other general corporate purposes of the Borrower and its Subsidiaries.

To provide guarantees and security for the repayment of the Loans, the reimbursement of any draft drawn under a Letter of Credit and the payment of the other obligations of the Borrower and the Guarantors hereunder and under the other Loan Documents, the Borrower and the Guarantors will, among other things, provide to the Collateral Agent, the Administrative Agent and the Lenders the following (each as more fully described herein):

- (a) a guaranty from each Guarantor of the due and punctual payment and performance of the Obligations of the Borrower pursuant to Section 9 hereof; and
- (b) a security interest in or mortgages (or comparable Liens) with respect to the Collateral from the Borrower and each other Guarantor (if any) pursuant to the Collateral Documents.

Accordingly, the parties hereto hereby agree as follows:

SECTION 1.

DEFINITIONS

Section 1.01 Defined Terms

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

“Account” shall mean all “accounts” as defined in the UCC, and all rights to payment for interest (other than with respect to debt and credit card receivables).

“Account Control Agreements” shall mean each three-party security and control agreement entered into by any Grantor, the Collateral Agent and a financial institution which maintains one or more deposit accounts or securities accounts that have been pledged to the Collateral Agent as Collateral hereunder or under any other Loan Document, in each case giving the Collateral Agent exclusive control over the applicable account and in form and substance reasonably satisfactory to the Administrative Agent and the Collateral Agent and as the same may be amended, restated, modified, supplemented, extended or amended and restated from time to time.

“Account Debtor” shall mean the Person obligated on an Account.

“Additional Collateral” shall mean (a) cash that is denominated in Dollars and Cash Equivalents pledged to the Collateral Agent (and subject to an Account Control Agreement), (b) any Eligible Aircraft, Eligible Engines and Eligible Spare Parts of the Borrower or any Grantor, (c) Slots of the Borrower at any Eligible Airport (which shall include any Gate Leaseholds necessary for servicing the scheduled air carrier service utilizing such Slots); (d) Flight Simulators and Ground Support Equipment; and (e) Real Property Assets, and all of which assets shall (i) (other than Additional Collateral of the type described in clause (a) above and new spare Engines subject to proviso (iii) in the first sentence of Section 5.07) be valued by a new Appraisal at the time the Borrower designates such assets as Additional Collateral and (ii) as of any date of addition of such assets as Collateral, be subject, to the extent purported to be created by the applicable Collateral Document, to a perfected first priority Lien and/or mortgage (or comparable Lien), in favor of the Collateral Agent and otherwise subject only to Permitted Liens (excluding those referred to in clauses (5) and (11) of the definition of “Permitted Lien” and, until the time such assets actually become subject to such Lien on such date, clause (2) of the definition of “Permitted Liens”).

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

“Administrator” shall have the meaning given it in the Regulations and Procedures for the International Registry.

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

“Affiliate” shall mean, as to any Person, any other Person which, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, a Person (a “Controlled Person”) shall be deemed to be “controlled by” another Person (a “Controlling Person”) if the Controlling Person possesses, directly or indirectly, power to direct or cause the direction of the management and policies of the Controlled Person whether by contract or otherwise.

“Agreement” shall mean this Credit and Guaranty Agreement, as the same may be amended, restated, modified, supplemented, extended or amended and restated from time to time.

“Agent” shall mean the Administrative Agent and the Collateral Agent, as applicable.

“Aggregate Exposure” shall mean, with respect to any Lender at any time, an amount equal to the amount of such Lender’s Revolving Commitment then in effect or, if the Revolving Commitments have been terminated, the amount of such Lender’s Revolving Extensions of Credit then outstanding.

“Aggregate Exposure Percentage” shall mean, with respect to any Lender at any time, the ratio (expressed as a percentage) of such Lender’s Aggregate Exposure at such time to the Aggregate Exposure of all Lenders at such time.

“Aircraft” means any contrivance invented, used, or designed to navigate, or fly in, the air.

“Aircraft and Spare Engine Mortgage” means the Mortgage and Security Agreement, in substantially the form of Exhibit E, entered into by the Borrower and the Collateral Agent, as the same may be amended, restated, modified, supplemented, extended or amended and restated from time to time.

“Aircraft Appraiser” shall mean (i) MBA, (ii) ASG, (iii) for any Appraisal of the Aircraft and Engines other than the applicable Initial Appraisal, any other appraisal firm listed on Annex B hereto or (iv) any other independent appraisal firm appointed by the Borrower and reasonably satisfactory to the Administrative Agent.

“Aircraft Protocol” means the official English language text of the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment adopted on November 16, 2001, at a diplomatic conference in Cape Town, South Africa, and all amendments, supplements and revisions thereto, as in effect in the United States.

“Airport Authority” shall mean any city or any public or private board or other body or organization chartered or otherwise established for the purpose of administering, operating or managing airports or related facilities, which in each case is an owner, administrator, operator or manager of one or more airports or related facilities.

“Alternate Base Rate” shall mean, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the sum of the Federal Funds Effective Rate in effect on such day plus ½ of 1% and (c) the sum of the One-Month LIBOR in effect on such day plus 1%. Any change in the Alternate Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or the One-Month LIBOR shall be effective from and including the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or the One-Month LIBOR, respectively.

“Anti-Corruption Laws” means all laws, rules and regulations of the United States applicable to the Borrower or its Subsidiaries from time to time intended to prevent or restrict bribery or corruption.

“Appliance” shall mean any instrument, equipment, apparatus, part, appurtenance, or accessory used, capable of being used, or intended to be used, in operating or controlling Aircraft in flight, including a parachute, communication equipment, and another mechanism installed in or attached to Aircraft during flight, and not a part of an Aircraft, Engine, or Propeller.

“Applicable Margin” shall mean (a) for ABR Loans, 1.00% and (b) for Eurodollar Loans, 2.00%.

“Appraisal” means (i) each Initial Appraisal and (ii) any other appraisal, dated the date of delivery thereof, prepared by (A) in the case of Aircraft or Engines, any Aircraft Appraiser, (B) in the case of Slots, MBA or another independent appraisal firm appointed by the Borrower and reasonably satisfactory to the Administrative Agent, (C) in the case of Spare Parts or Flight Simulators, MBA or another independent appraisal firm appointed by the Borrower and reasonably satisfactory to the Administrative Agent or, (D) in the case of any other type of Collateral, an independent appraisal firm appointed by the Borrower and reasonably satisfactory to the Administrative Agent, in each case which certifies, at the time of determination, in reasonable detail the Appraised Value of Collateral and (x) in the case of Aircraft or Engines, is a “desk-top” appraisal of the fair market value assuming half-life condition, except that any such equipment that is Stored shall have an assumed value of zero, (y) in the case of FAA Slots or Gate Leaseholds, whose methodology and form of presentation are consistent in all material respects with the methodology and form of presentation of the Initial Appraisal applicable to such type of Collateral (or with such other methodology and form of presentation that is reasonably acceptable to the Administrative Agent) and (z) in the case of any Collateral, which is addressed to the Administrative Agent and otherwise in form and substance reasonably satisfactory to the Administrative Agent.

“Appraised Value” shall mean, as of any date of determination, with respect to any Collateral (other than cash and Cash Equivalents pledged as Collateral), the aggregate fair market value of such Collateral as reflected in the most recent Appraisal delivered to the Administrative Agent in respect of such Collateral in accordance with this Agreement as of that date (for the avoidance of doubt, except in the case of Pledged Spare Parts, calculated after giving effect to any additions to or eliminations from the Collateral since the date of delivery of such Appraisal), provided that:

(i) in the case of any Appraisal of Aircraft or Engines, (x) such Appraisal shall, at the Borrower’s expense, be prepared by two Aircraft Appraisers and (y) the Appraised Value of the applicable Aircraft or Engines shall be the average of the two Appraisals;

(ii) if any Pledged Slots at an airport have been added to or eliminated from the Collateral since the most recent Appraisal of the Pledged Slots at such airport and such Appraisal assigned differing Appraised Values to Pledged Slots at such airport based on criteria set forth therein, such added or eliminated Pledged Slots at such airport shall be assigned an Appraised Value in accordance with such criteria set forth in such Appraisal for purposes of determining the Appraised Value of all remaining Pledged Slots; and

(iii) if any new spare Engine added to the Collateral within 90 days after delivery from the manufacturer to Borrower is an Existing Engine Type, the initial Appraised Value for such new spare Engine shall be the higher of (x) the highest Appraised Value for any pledged spare Engines then included in the Collateral of such Existing Engine Type, determined using the most recent Appraisals delivered to the Administrative Agent in respect of the applicable pledged spare Engine, or (y) if the Borrower elects to provide new Appraisals with respect to any new spare Engine being added to the Collateral, the Appraised Value given to such new spare Engine in such initial Appraisal, in each case at the Borrower's election.

"Approved Fund" shall have the meaning given such term in Section 10.02(b).

"ARB Indebtedness" shall mean, with respect to the Borrower or any of its Subsidiaries, without duplication, all Indebtedness or obligations of the Borrower or such Subsidiary created or arising with respect to any limited recourse revenue bonds issued for the purpose of financing or refinancing improvements to, or the construction or acquisition of, airport and other related facilities and equipment, the use or construction of which qualifies and renders interest on such bonds exempt from certain federal or state taxes.

"Article 55 BRRD" shall mean Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms.

"ASG" shall mean Aviation Specialists Group Inc..

"Ascend" shall mean Ascend FG Advisory.

"Assignment and Acceptance" shall mean an assignment and acceptance entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 10.02), and accepted by the Administrative Agent, substantially in the form of Exhibit C.

"Bail-In Action" means 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" means, (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).

"Banking Product Obligations" means, as applied to any Person, any direct or indirect liability, contingent or otherwise, of such Person in respect of any treasury, depository

and cash management services, netting services and automated clearing house transfers of funds services, including obligations for the payment of fees, interest, charges, expenses, attorneys' fees and disbursements in connection therewith.

"Bankruptcy Code" shall mean The Bankruptcy Reform Act of 1978, as heretofore and hereafter amended, and codified as 11 U.S.C. Section 101 et seq.

"Bankruptcy Event" shall mean, with respect to any Person, such Person becomes the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it, or, in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment, provided that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person by a Governmental Authority or instrumentality thereof, provided, further, that such ownership interest does not result in or provide such Person with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Person (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

"Bankruptcy Law" means the Bankruptcy Code or any similar federal or state law for the relief of debtors.

"Beneficial Owner" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular "person" (as that term is used in Section 13(d)(3) of the Exchange Act), such "person" will be deemed to have beneficial ownership of all securities that such "person" has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only after the passage of time. The terms "Beneficially Owns" and "Beneficially Owned" have a corresponding meaning.

"Benefit Plan" means any of (a) an "employee benefit plan" (as defined in ERISA) that is subject to Title I of ERISA, (b) a "plan" as defined in and subject to Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such "employee benefit plan" or "plan".

"BHC Act Affiliate" of a party means an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

"Board" shall mean the Board of Governors of the Federal Reserve System of the United States.

"Board of Directors" means:

- (1) with respect to a corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board;
- (2) with respect to a partnership, the Board of Directors of the general partner of the partnership;
- (3) with respect to a limited liability company, the managing member or members, manager or managers or any controlling committee of managing members or managers thereof; and
- (4) with respect to any other Person, the board or committee of such Person serving a similar function.

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

“Borrowing” shall mean the incurrence, conversion or continuation of Loans of a single Type made from all the Revolving Lenders on a single date and having, in the case of Eurodollar Loans, a single Interest Period.

“Borrowing Base” shall mean, as of any date of determination, the sum of:

- (a) 62.5% of the aggregate Appraised Value of the Pledged Slots and Pledged Gate Leaseholds, plus
- (b) 60.0% of the aggregate Appraised Value of the Flight Simulators included in the Collateral at such time, plus
- (c) 75.0% of the aggregate Appraised Value of the Pledged Engines, plus
- (d) during the Initial Period, 65.0% of the aggregate Appraised Value of the Pledged Aircraft that are Type I Aircraft, and thereafter, 60.0% of the aggregate Appraised Value of the Pledged Aircraft that are Type I Aircraft, plus
- (e) during the Initial Period, 65.0% of the aggregate Appraised Value of the Pledged Aircraft that are Type II Aircraft, and thereafter, 60.0% of the aggregate Appraised Value of the Pledged Aircraft that are Type II Aircraft, plus
- (f) during the Initial Period, 72.5% of the aggregate Appraised Value of the Pledged Aircraft that are Type III Aircraft, and thereafter, 67.5% of the aggregate Appraised Value of the Pledged Aircraft that are Type III Aircraft, plus
- (g) 75.0% of the aggregate Appraised Value of the Pledged Aircraft that are Type IV Aircraft, plus
- (h) 72.5% of the aggregate Appraised Value of the Pledged Spare Parts, plus

(i) 60.0% of the aggregate Appraised Value of the Pledged Real Property Assets, plus

(j) 25.0% of the aggregate Appraised Value of the Pledged Ground Support Equipment, plus

(k) the sum of (i) 100% of the amount of cash and Cash Equivalents of the type described in clause (1) of the definition thereof pledged at such time as Collateral and (ii) 62.5% of the amount of Cash Equivalents of the type described in clauses (2) through (11) of the definition thereof pledged at such time as Collateral (excluding any cash used to Cash Collateralize LC Exposure pursuant to Section 2.02(j));

determined (i) in the case of clauses (a)-(j) above, using the most recent Appraisal delivered to the Administrative Agent in respect of the applicable Collateral and (ii) in each case, excluding the Appraised Value of any Collateral that is not Eligible Collateral; provided that, for purposes of calculating the Borrowing Base as of any date of determination, (1) the aggregate Appraised Value of the Pledged Slots included in the Borrowing Base on such date shall be capped at 50.0% of the total Borrowing Base on such date, (2) the aggregate Appraised Value of the Pledged Flight Simulators included in the Borrowing Base on such date shall be capped at 15.0% of the total Borrowing Base on such date, (3) the aggregate Appraised Value of the Pledged Real Property Assets included in the Borrowing Base on such date shall be capped at 15.0% of the total Borrowing Base on such date, (4) during the Initial Period, the aggregate Appraised Value of the Pledged Aircraft that are Type I Aircraft included in the Borrowing Base on such date shall be capped at 75.0% of the total Borrowing Base on such date, and thereafter shall be capped at 50.0% of the total Borrowing Base on such date, (5) the aggregate Appraised Value of the Pledged Spare Parts included in the Borrowing Base on such date shall be capped at 50.0% of the total Borrowing Base on such date, and (6) the aggregate Appraised Value of the Pledged Ground Support Equipment included in the Borrowing Base on such date shall be capped at 10.0% of the total Borrowing Base on such date.

“Business Day” shall mean any day other than a Saturday, Sunday or other day on which commercial banks in New York City, or Wilmington, Delaware are required or authorized to remain closed (and, for a Letter of Credit, other than a day on which the Issuing Lender issuing such Letter of Credit is closed); provided, however, that when used in connection with the borrowing or repayment of a Eurodollar Loan, the term “Business Day” shall also exclude any day on which banks are not open for dealings in Dollar deposits on the London interbank market.

“Cape Town Convention” shall mean the official English language text of the Convention on International Interests in Mobile Equipment, adopted on November 16, 2001 at a diplomatic conference in Cape Town, South Africa, and all amendments, supplements and revisions thereto, as in effect in the United States.

“Cape Town Treaty” shall mean, collectively, (a) the Cape Town Convention, (b) the Aircraft Protocol, and (c) all rules and regulations (including but not limited to the

Regulations and Procedures for the International Registry) adopted pursuant thereto and all amendments, supplements and revisions thereto.

“Capital Lease Obligation” means, at the time any determination is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized and reflected as a liability on a balance sheet prepared in accordance with GAAP, and the Stated Maturity thereof shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be prepaid by the lessee without payment of a penalty.

“Capital Markets Offering” means any offering of “securities” (as defined under the Securities Act) in (a) a public offering registered under the Securities Act, or (b) an offering not required to be registered under the Securities Act (including, without limitation, a private placement under Section 4(2) of the Securities Act, an exempt offering pursuant to Rule 144A and/or Regulation S of the Securities Act and an offering of exempt securities).

“Capital Stock” means:

- (1) in the case of a corporation, corporate stock;
 - (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
 - (3) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and
 - (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person,
- but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

“Cash Collateralization” or “Cash Collateralized” shall have the meaning given such term in Section 2.02(j).

“Cash Equivalents” means:

- (1) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the United States), in each case maturing within one year from the date of acquisition thereof;

(2) direct obligations of state and local government entities, in each case maturing within one year from the date of acquisition thereof, which have a rating of at least A- (or the equivalent thereof) from S&P or A3 (or the equivalent thereof) from Moody's;

(3) obligations of domestic or foreign companies and their subsidiaries (including, without limitation, agencies, sponsored enterprises or instrumentalities chartered by an Act of Congress, which are not backed by the full faith and credit of the United States), including, without limitation, bills, notes, bonds, debentures, and mortgage-backed securities, in each case maturing within one year from the date of acquisition thereof;

(4) Investments in commercial paper maturing within 365 days from the date of acquisition thereof and having, at such date of acquisition, a rating of at least A-2 (or the equivalent thereof) from S&P or P-2 (or the equivalent thereof) from Moody's;

(5) Investments in certificates of deposit (including Investments made through an intermediary, such as the certificated deposit account registry service), banker's acceptances, time deposits, eurodollar time deposits and overnight bank deposits maturing within one year from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any other commercial bank of recognized standing organized under the laws of the United States or any State thereof that has a combined capital and surplus and undivided profits of not less than \$250.0 million;

(6) fully collateralized repurchase agreements with a term of not more than six months for underlying securities that would otherwise be eligible for investment;

(7) Investments in money in an investment company registered under the Investment Company Act of 1940, as amended, or in pooled accounts or funds offered through mutual funds, investment advisors, banks and brokerage houses which invest its assets in obligations of the type described in clauses (1) through (6) above. This could include, but not be limited to, money market funds or short-term and intermediate bonds funds;

(8) money market funds that (A) comply with the criteria set forth in SEC Rule 2a-7 under the Investment Company Act of 1940, as amended, (B) are rated AAA (or the equivalent thereof) by S&P and Aaa (or the equivalent thereof) by Moody's and (C) have portfolio assets of at least \$5.0 billion;

(9) deposits available for withdrawal on demand with commercial banks organized in the United States having capital and surplus in excess of \$100.0 million;

(10) 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 or by any foreign government, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least A- by S&P or A3 by Moody's; and

(11) any other securities or pools of securities that are classified under GAAP as cash equivalents or short-term investments on a balance sheet.

"Change in Law" shall mean, after the Closing Date, (a) the adoption of any law, rule or regulation after the Closing Date (including any request, rule, regulation, guideline, requirement or directive promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III) or (b) compliance by any Lender or Issuing Lender (or, for purposes of Section 2.14(b), by any lending office of such Lender or Issuing Lender through which Loans and/or Letters of Credit are issued or maintained or by such Lender's or Issuing Lender's holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the Closing Date.

"Change of Control" means the occurrence of any of the following:

(1) the sale, lease, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Borrower and its Subsidiaries taken as a whole to any Person (including any "person" (as that term is used in Section 13(d)(3) of the Exchange Act)); or

(2) the consummation of any transaction (including, without limitation, any merger or consolidation), the result of which is that any Person (including any "person" (as defined above)) becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of the Borrower (measured by voting power rather than number of shares), other than (A) any such transaction where the Voting Stock of the Borrower (measured by voting power rather than number of shares) outstanding immediately prior to such transaction constitutes or is converted into or exchanged for a majority of the outstanding shares of the Voting Stock of such Beneficial Owner (measured by voting power rather than number of shares), or (B) any merger or consolidation of the Borrower with or into any Person (including any "person" (as defined above)) which owns or operates (directly or indirectly through a contractual arrangement) a Permitted Business (a "Permitted Person") or a Subsidiary of a Permitted Person, in each case, if immediately after such transaction no Person (including any "person" (as defined above)) is the Beneficial Owner, directly or indirectly, of more than 50% of the total Voting Stock of such Permitted Person (measured by voting power

rather than number of shares); provided that the occurrence of any Permitted Parent Reorganization shall be deemed not to constitute a Change of Control.

“Change of Control Offer” shall have the meaning given such term in Section 2.12(g).

“Citibank” has the meaning set forth in the first paragraph of this Agreement.

“Closing Date” shall mean March 30, 2020.

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

“Collateral” means (i) the assets and properties of the Grantors upon which Liens have been granted to the Collateral Agent to secure the Obligations, including without limitation any Additional Collateral and all of the “Collateral” as defined in the Collateral Documents, but excluding all such assets and properties released from such Liens pursuant to the applicable Collateral Document, and (ii) each of the Letter of Credit Account and the Collateral Proceeds Account, together with all amounts on deposit therein and all proceeds thereof.

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

“Collateral Coverage Ratio” shall mean, as of any date, the ratio of (i) the Borrowing Base of the Eligible Collateral as of such date to (ii) the sum, without duplication, of (x) the Total Revolving Extensions of Credit then outstanding (other than LC Exposure that has been Cash Collateralized in accordance with Section 2.02(j)), plus (y) the aggregate amount of all Designated Hedging Obligations that constitute “Obligations” then outstanding (such sum, the “Total Obligations”).

“Collateral Coverage Ratio Failure” shall have the meaning set forth in Section 6.09(a).

“Collateral Documents” shall mean, collectively, the Slot and Gate Security Agreement, the Aircraft and Spare Engine Mortgage, the Spare Parts Security Agreement (if executed and delivered by the Borrower hereunder), the Real Property Mortgage (if executed and delivered by the Borrower hereunder), the Account Control Agreements (if executed and delivered by the Borrower hereunder) and other agreements, instruments or documents that create or purport to create a Lien in favor of the Collateral Agent for the benefit of the Secured Parties, in each case so long as such agreement, instrument or document shall not have been terminated in accordance with its terms.

“Collateral Material Adverse Effect” shall mean a material adverse effect on the value of the Collateral, taken as a whole.

“Collateral Proceeds Account” shall mean a segregated account or accounts held by or under the control of the Collateral Agent into which the Net Proceeds of any Collateral Sale or Recovery Event may be deposited in accordance with the provisions of this Agreement.

“Collateral Sale” shall mean any sale of Collateral or series of related sales of Collateral having an Appraised Value in excess of \$25,000,000.

“Commitment” shall mean, as to any Revolving Lender or Issuing Lender at any time, the Revolving Commitment of such Revolving Lender or Issuing Lender, as the case may be, at such time.

“Commitment Fee” shall have the meaning set forth in Section 2.20.

“Commitment Fee Rate” shall mean (a) prior to the first anniversary of the Closing Date, [***]% per annum, and (b) thereafter [***] % per annum.

“Commodity Exchange Act” means the Commodity Exchange Act (7 U.S.C. §1 et seq.), as amended from time to time, and any successor statute.

“Core Collateral” shall include the following: (a) all of the Borrower’s slots at LaGuardia Airport (other than Excluded Slots) and (b) at least eight (8) Eligible Engines.

“Core Collateral Failure” shall mean, as of any date of determination following the date that is 30 days after the Closing Date, the Collateral not including the Core Collateral as of such date.

“Covered Entity” means any of the following:

(i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or

(iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Credit Rating” means (a) in the case of Moody’s, the long-term senior unsecured debt rating of the Borrower and (b) in the case of Fitch, the long-term issuer default rating of such entity.

“Default” means any event that, unless cured or waived, is, or with the passage of time or the giving of notice or both would be, an Event of Default.

“Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

"Defaulting Lender" shall mean, at any time, any Revolving Lender that (a) has failed, within two (2) Business Day of the date required to be funded or paid by it hereunder, to fund or pay (x) any portion of the Revolving Loans or (y) any other amount required to be paid by it hereunder to the Administrative Agent or any other Lender (or its banking Affiliates), unless, in the case of clause (x) above, such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender's good faith determination that a condition precedent to funding (specifically identified and including the particular default, if any) has not been satisfied, (b) has notified the Borrower, the Administrative Agent or any other Lender in writing, or has made a public statement to the effect, that it does not intend or expect to comply with any of its funding obligations (i) under this Agreement (unless such writing or public statement indicates that such position is based on such Lender's good faith determination that a condition precedent (specifically identified and including the particular default, if any) to funding a loan under this Agreement cannot be satisfied) or (ii) generally under other agreements in which it commits to extend credit, (c) has failed, within three (3) Business Days after request by the Administrative Agent, any other Lender or the Borrower, acting in good faith, to provide a confirmation in writing from an authorized officer or other authorized representative of such Lender that it will comply with its obligations (and is financially able to meet such obligations) to fund prospective Loans under this Agreement, which request shall only have been made after the conditions precedent to borrowings have been met, provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon the Administrative Agent's, such other Lender's or the Borrower's, as applicable, receipt of such confirmation in form and substance satisfactory to it and the Administrative Agent, (d) has become, or has had its Parent Company become, the subject of a Bankruptcy Event or Bail-In Action; provided that a Revolving Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Revolving Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Revolving Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Revolving Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Revolving Lender. If the Administrative Agent determines that a Revolving Lender is a Defaulting Lender under any of clauses (a) through (d) above, such Revolving Lender will be deemed to be a Defaulting Lender upon notification of such determination by the Administrative Agent to the Borrower, and the Revolving Lenders.

"Designated Banking Product Agreement" means any agreement evidencing Designated Banking Product Obligations entered into by the Borrower and any Person that, at the time such Person entered into such agreement, was a Lender or a banking Affiliate of a Lender, in each case designated by the relevant Lender and the Borrower, by written notice to the Administrative Agent, as a "Designated Banking Product Agreement"; provided that, so long as any Revolving Lender is a Defaulting Lender, such Revolving Lender shall not have any rights hereunder with respect to any Designated Banking Product Agreement entered into while such Revolving Lender was a Defaulting Lender.

"Designated Banking Product Obligations" means any Banking Product Obligations, in each case as designated by any Lender (or a banking Affiliate thereof) and the

Borrower from time to time and agreed to by the Administrative Agent as constituting "Designated Banking Product Obligations," which notice shall include (i) a copy of an agreement providing an agreed-upon maximum amount of Designated Banking Product Obligations that can be included as Obligations, and (ii) the acknowledgment of such Lender (or such banking Affiliate) that its security interest in the Collateral securing such Designated Banking Product Obligations shall be subject to the Loan Documents.

"Designated Hedging Agreement" means any Hedging Agreement entered into by the Borrower and any Person that, at the time such Person entered into such Hedging Agreement, was a Lender or an Affiliate of a Lender, as designated by the relevant Lender (or Affiliate of a Lender) and the Borrower, by written notice to the Administrative Agent, as a "Designated Hedging Agreement," which notice shall include a copy of an agreement providing for (i) a methodology agreed to by the Borrower, such Lender or Affiliate of a Lender and the Administrative Agent for reporting the outstanding amount of Designated Hedging Obligations under such Designated Hedging Agreement from time to time, (ii) an agreed-upon maximum amount of Designated Hedging Obligations under such Designated Hedging Agreement that can be included as Obligations, and (iii) the acknowledgment of such Lender or Affiliate of a Lender that its security interest in the Collateral securing such Designated Hedging Obligations shall be subject to the Loan Documents; provided that, after giving effect to such designation, the aggregate agreed-upon maximum amount of all "Designated Hedging Obligations" included as Obligations shall not exceed 10% of the original Total Revolving Commitment in effect on the Closing Date in the aggregate; provided, further, that so long as any Revolving Lender is a Defaulting Lender, such Revolving Lender shall not have any rights hereunder with respect to any Designated Hedging Agreement entered into while such Revolving Lender was a Defaulting Lender.

"Designated Hedging Obligations" means, as applied to any Person, all Hedging Obligations of such Person under Designated Hedging Agreements after taking into account the effect of any legally enforceable netting arrangements included in such Designated Hedging Agreements; it being understood and agreed that, on any date of determination, the amount of such Hedging Obligations under any Designated Hedging Agreement shall be determined based upon the "settlement amount" (or similar term) as defined under such Designated Hedging Agreement or, with respect to a Designated Hedging Agreement that has been terminated in accordance with its terms, the amount then due and payable (exclusive of expenses and similar payments but including any termination payments then due and payable) under such Designated Hedging Agreement.

"Disposition" shall mean, with respect to any property, any sale, lease, sale and leaseback, conveyance, transfer or other disposition thereof. The terms "Dispose" and "Disposed of" shall have correlative meanings.

"Dollars" and "\$" shall mean lawful money of the United States of America.

"Domestic Subsidiary" shall mean any Subsidiary of the Borrower that was formed under the laws of the United States or any state of the United States or the District of

Columbia or that guarantees, or pledges any property or assets to secure, any Obligations or Junior Secured Debt.

“DOT” shall mean the United States Department of Transportation and any successor thereto.

“Downgrade Event” means the downgrading of the applicable Credit Rating of the Borrower by any Rating Agency: (a) that is triggered as a result of the announcement of any Change of Control, (b) by two notches below the applicable Credit Rating that was in effect immediately prior to the announcement of such Change of Control and (c) that occurs within 90 days (or as long as the Borrower’s applicable Credit Rating is under publicly announced consideration for a possible downgrade by such Rating Agency as a result of such announcement, such longer period) after such Change of Control is announced.

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

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

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

“Eligible Account” shall mean any Account owned by the Borrower or another Grantor meeting the criteria and eligibility standards which are agreed upon by the Borrower and the Administrative Agent at the time of the initial pledge of Accounts to the Collateral Agent pursuant to the applicable Collateral Document.

“Eligible Aircraft” shall mean Airbus model A319, A320 or A321 family aircraft (including any new engine option variants of any such aircraft), in each case that are owned by the Borrower or any other applicable Grantor and that are eligible for the benefits of Section 1110.

“Eligible Airport” means LaGuardia Airport or any other airport reasonably acceptable to the Administrative Agent.

“Eligible Assignee” shall mean (a) a commercial bank having total assets in excess of \$1,000,000,000, (b) a finance company, insurance company or other financial institution or fund, in each case reasonably acceptable to the Administrative Agent, which in the ordinary course of business extends credit of the type contemplated herein or invests therein and has total assets in excess of \$200,000,000 and whose becoming an assignee would not constitute

a prohibited transaction under Section 4975 of the Code or Section 406 of ERISA, (c) any Lender or any Affiliate of any Lender, provided that such Affiliate has total assets in excess of \$200,000,000, (d) an Approved Fund of any Lender, provided that such Approved Fund has total assets in excess of \$200,000,000, and (e) any other financial institution reasonably satisfactory to the Administrative Agent, provided that such financial institution has total assets in excess of \$200,000,000; provided, further, that so long as no Event of Default has occurred and is continuing, no (i) airline, commercial air freight carrier, air freight forwarder or entity engaged in the business of parcel transport by air or (ii) Affiliate of any Person described in clause (i) above (other than any Affiliate of such Person as a result of common control by a Governmental Authority or instrumentality thereof, any Affiliate of such Person who becomes a Lender with the consent of the Borrower in accordance with Section 10.02(b), and any Affiliate of such Person under common control with such Person which Affiliate is not actively involved in the management and/or operations of such Person), shall constitute an Eligible Assignee; provided; further, that none of the Borrower, any Guarantor or any Affiliate of the Borrower or any Guarantor, or any natural person (or a holding company, investment vehicle or trust for, or owned and operated by or for the primary benefit of any natural person) shall constitute an Eligible Assignee.

“Eligible Collateral” shall mean, on any date of determination, all Collateral on which the Collateral Agent shall, as of such date, have, to the extent purported to be created by the applicable Collateral Document, a valid and perfected first priority Lien and/or mortgage (or comparable Lien) and which is otherwise subject only to Permitted Liens; provided, with respect to any Collateral having an aggregate Appraised Value of 10% or more (determined on the date such Collateral was added as Collateral) of the sum of the aggregate Appraised Value of all Eligible Collateral plus Pledged Cash and Cash Equivalents on which the Collateral Agent shall have been granted a valid and perfected first priority Lien and/or mortgage (or comparable Lien) subject only to Permitted Liens after the Closing Date in any individual transaction or series of substantially simultaneous transactions, at any time when the Administrative Agent shall not have received Appraisals, pursuant to Section 5.07 or otherwise pursuant to this Agreement, with respect to substantially all of the existing Eligible Collateral within the 180-day period preceding the date on which such Collateral is pledged (a “180-day Period”), such Collateral shall not, solely for purposes of satisfying the conditions set forth in Section 6.09(c) in connection with any release of Collateral requested by the Borrower pursuant to Section 6.09(c), constitute Eligible Collateral until the earlier of (x) the date on which the Collateral Agent shall have held such Lien and/or mortgage (or comparable Lien) for at least ninety (90) continuous days from the grant or perfection thereof prior to its constituting Eligible Collateral or (y) the date on which the Administrative Agent shall have received Appraisals (including, for purposes of this clause (y), all Appraisals received during such 180-Day Period), as applicable, pursuant to Section 5.07 or otherwise pursuant to this Agreement, with respect to substantially all of the other Collateral.

“Eligible Engine” shall mean any Engine (including any spare Engine) suitable for installation on an Eligible Aircraft or any other Engine reasonably acceptable to the Administrative Agent, in each case that are owned by the Borrower or any other applicable Grantor, that are not subject to a sublease, loan or similar arrangement, and that are eligible for the benefits of Section 1110.

"Eligible Spare Parts" shall mean any Spare Parts and Appliances, in each case that are owned by the Borrower or any other applicable Grantor and that are eligible for the benefits of Section 1110.

"Engine" shall mean an engine used, or intended to be used, to propel an Aircraft, including a part, appurtenance, and accessory of such Engine, except a Propeller.

"Environmental Laws" shall mean all applicable laws (including common law), statutes, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions or legally binding agreements issued, promulgated or entered into by or with any Governmental Authority, relating to the environment, preservation or reclamation of natural resources, the handling, treatment, storage, disposal, Release or threatened Release of, or the exposure of any Person (including employees) to, any Hazardous Materials.

"Environmental Liability" shall mean any liability (including any liability for damages, natural resource damage, costs of environmental investigation, remediation or monitoring or costs, fines or penalties) resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment, disposal or the arrangement for disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the Release or threatened Release of any Hazardous Materials into the environment or (e) any contract, agreement, lease or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"Equity Interests" shall mean Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated thereunder.

"Escrow Accounts" shall mean accounts of the Borrower or any Subsidiary, solely to the extent any such accounts hold funds set aside by the Borrower or any Subsidiary to manage the collection and payment of amounts collected, withheld or incurred by the Borrower or such Subsidiary for the benefit of third parties relating to: (a) federal income tax withholding and backup withholding tax, employment taxes, transportation excise taxes and security related charges, (b) any and all state and local income tax withholding, employment taxes and related charges and fees and similar taxes, charges and fees, including, but not limited to, state and local payroll withholding taxes, unemployment and supplemental unemployment taxes, disability taxes, workman's or workers' compensation charges and related charges and fees, (c) state and local taxes imposed on overall gross receipts, sales and use taxes, fuel excise taxes and hotel occupancy taxes, (d) passenger facility fees and charges collected on behalf of and owed to various administrators, institutions, authorities, agencies and entities, (e) other similar federal, state or local taxes, charges and fees (including without limitation any amount required to be withheld or collected under applicable law) and (f) other funds held in trust for, or otherwise pledged to or segregated for the benefit of, an identified beneficiary; or (2) accounts, capitalized

interest accounts, debt service reserve accounts, escrow accounts and other similar accounts or funds established in connection with the ARB Indebtedness.

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

“Eurodollar”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, is bearing interest at a rate determined by reference to the LIBO Rate.

“Eurodollar Tranche” shall mean the collective reference to Eurodollar Loans under the Facility the then current Interest Periods with respect to all of which begin on the same date and end on the same later date (whether or not such Loans shall originally have been made on the same day).

“Event of Default” shall have the meaning given such term in Section 7.

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

“Excluded Subsidiary” means each Subsidiary of the Borrower (or, following any Permitted Parent Reorganization, the Parent) that is a captive insurance company and is prohibited from becoming a Guarantor pursuant to applicable rules and regulations.

“Excluded Swap Obligation” means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act and the regulations thereunder at the time the Guarantee of such Guarantor or the grant of such security interest becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guarantee or security interest is or becomes illegal.

“Excluded Taxes” shall mean, with respect to the Administrative Agent, any Lender, any Issuing Lender or any other recipient of any payment to be made by or on account of any Obligation of the Borrower or any Guarantor hereunder or under any Loan Document, (a) any Taxes based on (or measured by) its net income, profits or capital, or any franchise taxes, imposed (i) by the United States of America or any political subdivision thereof or by the jurisdiction under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable lending office is located or (ii) as a result of a present or former connection between such recipient and the jurisdiction imposing such Taxes (other than a connection arising from such recipient’s having executed, delivered,

enforced, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, or engaged in any other transaction pursuant to, or enforced, this Agreement or any Loan Document, or sold or assigned an interest in this Agreement or any Loan Document), (b) any branch profits Taxes imposed by the United States of America or any similar Tax imposed by any other jurisdiction in which such recipient is located, (c) in the case of a Lender, any withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 2.18) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.16(a), amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (d) in the case of a Lender, any withholding Tax that is attributable to such Lender's failure to deliver the documentation described in Section 2.16(f) or 2.16(g) and (e) any U.S. withholding Tax that is imposed by reason of FATCA.

"Existing Engine Type" shall have the meaning given to such term in Section 5.07.

"Extended Revolving Commitment" shall have the meaning given to such term in Section 2.28(a).

"Extension" shall have the meaning given to such term in Section 2.28(a).

"Extension Amendment" shall have the meaning given to such term in Section 2.28(c).

"Extension Offer" shall have the meaning given to such term in Section 2.28(a).

"Extension Offer Date" shall have the meaning given to such term in Section 2.28(a).

"FAA" shall mean the Federal Aviation Administration of the United States of America and any successor thereto.

"FAA Slots" shall mean, in the case of airports in the United States, at any time, the right and operational authority to conduct one Instrument Flight Rule (as defined in Title 14) scheduled landing or take-off operation at a specific time or during a specific time period at any airport at which landings or take-offs are restricted, including, without limitation, slots and operating authorizations, whether pursuant to FAA or DOT regulations or orders pursuant to Title 14, Title 49 or other federal statutes now or hereinafter in effect.

"Facility" or "Revolving Facility" shall mean the Revolving Commitments and the Revolving Loans made and Letters of Credit issued thereunder.

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

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

"Fees" shall collectively mean the Commitment Fees, the Upfront Fees, Letter of Credit Fees and other fees referred to in Section 2.19.

"Fitch" shall mean Fitch Ratings Inc.

"Flight Simulators" shall mean the flight simulators and flight training devices of the Borrower or any other applicable Grantor (including, without limitation, any such simulators or training devices located on a Real Property Asset).

"Foreign Lender" shall mean any Lender that is organized under the laws of a jurisdiction other than that in which the Borrower is located. For purposes of this definition, the United States of America, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

"Foreign Subsidiary" shall mean any direct or indirect Subsidiary of the Borrower which is not a Domestic Subsidiary.

"GAAP" shall mean generally accepted accounting principles in the United States of America, which are in effect from time to time, including those set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants, statements and pronouncements of the Financial Accounting Standards Board, such other statements by such other entity as have been approved by a significant segment of the accounting profession and the rules and regulations of the SEC governing the inclusion of financial statements in periodic reports required to be filed pursuant to Section 13 of the Exchange Act, including opinions and pronouncements in staff accounting bulletins and similar written statements from the accounting staff of the SEC.

"Gate Leasehold" means, at any time, all of the right, title, privilege, interest and authority, now held or hereafter acquired, of the Borrower or a Guarantor in connection with the right to use or occupy space in an airport terminal at any airport.

“Governmental Authority” shall mean the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank organization, or other entity exercising executive, legislative, judicial, taxing or regulatory powers or functions of or pertaining to government. Governmental Authority shall not include any Person in its capacity as an Airport Authority.

“Grantor” shall mean the Borrower and any Guarantor that shall at any time pledge Collateral under a Collateral Document.

“Ground Support Equipment” shall mean the equipment owned by the Borrower or, if applicable, any other Grantor for crew and passenger ground transportation, cargo, mail and luggage handling, catering, fuel/oil servicing, de-icing, cleaning, aircraft maintenance and servicing, dispatching, security and motor vehicles.

“Guarantee” means a guarantee (other than (a) by endorsement of negotiable instruments for collection or (b) customary contractual indemnities, in each case in the ordinary course of business), direct or indirect, in any manner including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take or pay or to maintain financial statement conditions).

“Guaranteed Obligations” shall have the meaning given such term in Section 9.01(a).

“Guarantors” shall mean, collectively, each Domestic Subsidiary of the Borrower that becomes pursuant to Section 5.13, a party to the Guarantee contained in Section 9. As of the Closing Date, there are no Guarantors.

“Guaranty Obligations” shall have the meaning given such term in Section 9.01(a).

“Hazardous Materials” shall mean all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature that are regulated pursuant to, or could reasonably be expected to give rise to liability under any Environmental Law.

“Hedging Agreement” shall mean any agreement evidencing Hedging Obligations.

“Hedging Obligations” means, with respect to any Person, all obligations and liabilities of such Person under:

- (1) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements;
- (2) other agreements or arrangements designed to manage interest rates or interest rate risk; and
- (3) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange rates, fuel prices or other commodity prices, but excluding (x) clauses in purchase agreements and maintenance agreements pertaining to future prices and (y) fuel purchase agreements and fuel sales that are for physical delivery of the relevant commodity.

“IATA” means the International Air Transport Association and any successor thereto.

“Illegality Event” shall have the meaning given to such term in Section 2.29.

“Immaterial Subsidiary” shall mean any Subsidiary of the Borrower (or, following any Permitted Parent Reorganization, the Parent) for which (a) the assets of such Subsidiary constitute no more than 10.0% of the total assets of the Borrower (or, following any Permitted Parent Reorganization, the Parent) and its Subsidiaries on a consolidated basis (determined as of the last day of the most recent fiscal quarter of the Borrower for which financial statements are available to the Administrative Agent pursuant to Section 5.01) and (b) the revenues of such Subsidiary account for no more than 10.0% of the total revenues of the Borrower (or, following any Permitted Parent Reorganization, the Parent) and its Subsidiaries on a consolidated basis for the twelve-month period ending on the last day of the most recent fiscal quarter of the Borrower for which financial statements are available to the Administrative Agent pursuant to Section 5.01; provided that the total assets of all Immaterial Subsidiaries shall not exceed, in the aggregate, (x) 15.0% of the total assets of the Borrower (or, following any Permitted Parent Reorganization, the Parent) and its Subsidiaries on a consolidated basis (determined as of the last day of the most recent fiscal quarter of the Borrower for which financial statements are available to the Administrative Agent pursuant to Section 5.01) or (y) 15.0% of the total revenues of the Borrower (or, following any Permitted Parent Reorganization, the Parent) and its Subsidiaries on a consolidated basis for the twelve-month period ending on the last day of the most recent fiscal quarter of the Borrower for which financial statements are available to the Administrative Agent pursuant to Section 5.01; provided, further that (i) a Subsidiary will not be considered to be an Immaterial Subsidiary if it (1) directly or indirectly guarantees, or pledges any property or assets to secure, any Obligations or Junior Secured Debt or (2) owns any properties or assets that constitute Collateral and (ii) if one or more Subsidiaries of the Borrower (or, following any Permitted Parent Reorganization, the Parent) becomes an Immaterial Subsidiary by operation of the preceding proviso, the Borrower shall be entitled from time to time, in its sole discretion, to designate in writing to the Administrative Agent one or more Subsidiaries of the Borrower (or, following any Permitted Parent Reorganization, the Parent) as Subsidiaries that shall constitute “Material Subsidiaries” (and cease to be Immaterial Subsidiaries), so long as, after giving effect to such designation(s), all remaining Immaterial Subsidiaries meet the requirements of the preceding proviso and the Borrower has complied with the requirements of Section 5.13.

"Increase Effective Date" shall have the meaning given such term in Section 2.27(a).

"Increase Joinder" shall have the meaning given such term in Section 2.27(c).

"Indebtedness" means, with respect to any specified Person, any indebtedness of such Person (excluding accrued expenses and trade payables), whether or not contingent:

- (1) in respect of borrowed money;
- (2) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof);
- (3) in respect of banker's acceptances;
- (4) representing Capital Lease Obligations;
- (5) representing the balance deferred and unpaid of the purchase price of any property or services due more than six months after such property is acquired or such services are completed, but excluding in any event trade payables arising in the ordinary course of business; or
- (6) representing any Hedging Obligations,

if and to the extent any of the preceding items (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP. In addition, the term "Indebtedness" includes all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person) and, to the extent not otherwise included, the Guarantee by the specified Person of any Indebtedness of any other Person. Indebtedness shall be calculated without giving effect to the effects of Financial Accounting Standards Board Accounting Standards Codification 815 – Derivatives and Hedging and related interpretations to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose under this Agreement as a result of accounting for any embedded derivatives created by the terms of such Indebtedness.

For the avoidance of doubt, Banking Product Obligations do not constitute Indebtedness.

"Indemnified Taxes" shall mean Taxes other than Excluded Taxes imposed on or with respect to any payments made by the Borrower or any Guarantor under this Agreement or any other Loan Document.

"Indemnitee" shall have the meaning given such term in Section 10.04(b).

"Initial Appraisal" shall mean (a) with respect to the Aircraft or Engines, each of the appraisals of MBA dated March 27, 2020, and the appraisal of ASG dated March 27, 2020,

(b) with respect to the Slots and Gate Leaseholds, the appraisal of MBA dated March 27, 2020, and (c) with respect to the Flight Simulators, the appraisal of MBA dated March 27, 2020.

“Initial Period” means the period commencing on, and including, the Closing Date and ending on, and including, the date that is six months after the Closing Date.

“Intercreditor Agreement” shall have the meaning given such term in Section 10.17.

“Interest Election Request” shall mean a request by the Borrower to convert or continue a Borrowing in accordance with Section 2.05.

“Interest Payment Date” shall mean (a) as to any Eurodollar Loan having an Interest Period of one, two or three months, the last day of such Interest Period, (b) as to any Eurodollar Loan having an Interest Period of more than three months, each day that is three months, or a whole multiple thereof, after the first day of such Interest Period and the last day of such Interest Period and (c) with respect to ABR Revolving Loans, the 15th Business Day following the end of each March, June, September and December.

“Interest Period” shall mean, as to any Borrowing of Eurodollar Loans, the period commencing on the date of such Borrowing (including as a result of a conversion from ABR Loans) or on the last day of the preceding Interest Period applicable to such Borrowing and ending on (but excluding) the numerically corresponding day (or if there is no corresponding day, the last day) in the calendar month that is one, two, three or six months (or, if available to all applicable Lenders and agreed to by all Lenders, nine or twelve months) thereafter, as the Borrower may elect in the related notice delivered pursuant to Section 2.03 or 2.05; provided that (i) if any Interest Period would end on a day which shall not be a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day, and (ii) no Interest Period shall end later than the applicable Termination Date.

“International Interest” shall mean an “international interest” as defined in the Cape Town Treaty.

“International Registry” shall mean the “International Registry” as defined in the Cape Town Treaty.

“Investments” means, with respect to any Person, all direct or indirect investments made by such Person in other Persons (including Affiliates) in the forms of loans (including Guarantees or other obligations), advances (but excluding advance payments and deposits for goods and services in the ordinary course of business) or capital contributions (excluding commission, travel and similar advances to officers, employees and consultants made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities of other Persons, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP.

"Issuing Lender" shall mean (i) Citibank (or any of its Affiliates reasonably acceptable to the Borrower), in its capacity as the issuer of Letters of Credit hereunder, and its successors in such capacity as provided in Section 2.02(i), and (ii) if Citibank's Revolving Commitment is at any time less than \$60,000,000, any other Lender agreeing to act in such capacity, which other Lender shall be reasonably satisfactory to the Borrower and the Administrative Agent. Each Issuing Lender may, in its reasonable discretion, arrange for one or more Letters of Credit to be issued by Affiliates of such Issuing Lender reasonably acceptable to the Borrower, which Affiliate shall agree in writing reasonably acceptable to the Borrower to be bound by the provisions of the Loan Documents applicable to an Issuing Lender, in which case the term "Issuing Lender" shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.

"Junior Lien Cap" means, as of any date of determination, the aggregate amount of Junior Secured Debt that may be incurred by the Borrower and any Guarantor such that, after giving pro forma effect to such incurrence and the application of the net proceeds therefrom the Total Collateral Coverage Ratio shall be no less than 1.0 to 1.0.

"Junior Secured Debt" shall mean Indebtedness that is secured by a Lien on Collateral that is junior to the Liens securing the Obligations and permitted to be secured by a Lien on Collateral under Section 6.06.

"Junior Secured Debt Documents" shall mean each indenture, credit agreement and other agreements, instruments and notes evidencing Junior Secured Debt, and each other agreement executed in connection therewith, as each may be amended, restated, supplemented or otherwise modified from time to time in accordance with the terms hereof.

"LC Commitment" shall mean, with respect to any Issuing Lender, an amount equal to the Revolving Commitment of such Issuing Lender from time to time.

"LC Disbursement" shall mean a payment made by an Issuing Lender pursuant to a Letter of Credit issued by it.

"LC Exposure" shall mean, at any time, with respect to any Revolving Lender that is an Issuing Lender, the sum of (i) the aggregate maximum undrawn amount of all outstanding Letters of Credit issued by it at such time plus (ii) the aggregate amount of all LC Disbursements made by it that have not yet been reimbursed by or on behalf of the Borrower at such time; provided, that in the case of any escalating Letter of Credit where the face amount thereof is subject to escalation with no conditions, the applicable Issuing Lender's LC Exposure with respect to such Letter of Credit shall be determined by referring to the maximum face amount to which such Letter of Credit may be so escalated.

"Lenders" shall have the meaning set forth in the first paragraph of this Agreement.

"Letter of Credit" shall mean any irrevocable letter of credit issued pursuant to Section 2.02, which letter of credit shall be (i) a standby letter of credit, (ii) issued for general

corporate purposes of the Borrower or any Subsidiary of the Borrower; provided that in any case the account party of a Letter of Credit must be the Borrower, (iii) denominated in Dollars and (iv) otherwise in such form as may be reasonably approved from time to time by the Administrative Agent and the applicable Issuing Lender.

“Letter of Credit Account” shall mean the account established by the Borrower under the sole and exclusive control of the Collateral Agent maintained at the office of the Collateral Agent at Rodney Square North, 1100 North Market Street, Wilmington, Delaware 19801 designated as the “Spirit Pledge Account” that shall be used solely for the purposes set forth herein.

“Letter of Credit Fees” shall mean the fees payable in respect of Letters of Credit pursuant to Section 2.21.

“LIBO Rate” shall mean, with respect to each day during each Interest Period pertaining to a Eurodollar Loan, the rate per annum which appears on the page of the Bloomberg Screen which displays the London interbank offered rate administered by ICE Benchmark Administration Limited (such page currently being the LIBOR01 page) or any successor to or substitute for such service, providing rate quotations comparable to those currently provided on such page of such service, as determined by the Administrative Agent from time to time for purposes of providing quotations of interest rates applicable to Dollar deposits in the London interbank market) at approximately 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period, as the rate for Dollar deposits with a maturity comparable to such Interest Period; provided that, if negative, the LIBO Rate shall be deemed to be 0% for purposes of this Agreement.

“LIBO Rate Loan” means a Loan that bears interest at a rate based on the LIBO Rate.

“LIBOR Successor Rate” shall have the meaning given to such term in Section 2.09(b).

“Lien” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or similar encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law (but excluding any lease, sublease, use or license agreement or swap agreement or similar arrangement by any Grantor described in clause (e) or (f) of the definition of “Permitted Disposition”), including any conditional sale or other title retention agreement, any option or other agreement to sell or give a security interest in and, except in connection with any Qualified Receivables Transaction, any agreement to give any financing statement under the UCC (or equivalent statutes) of any jurisdiction.

“Liquidity” shall mean the sum of (i) all unrestricted cash, Cash Equivalents and “short-term investment securities” (as referred to in the Borrower’s Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and/or other public filings with the SEC) of the Borrower and its Subsidiaries (excluding, for the avoidance of doubt, any cash or Cash Equivalents held in accounts subject to Account Control Agreements or otherwise

then pledged to secure any Indebtedness other than the Obligations), and (ii) the aggregate principal amount committed and available to be drawn by the Borrower and its Subsidiaries (taking into account all borrowing base limitations, collateral coverage requirements or other restrictions on borrowing availability) under all revolving credit facilities (including this Facility) of the Borrower and its Subsidiaries; provided, that no more than \$200,000,000 of Liquidity under the foregoing clause (ii) may be derived from undrawn Commitments under this Facility at any given time; provided, further, that, as of any date of determination, any Liquidity contributed by Subsidiaries of the Borrower that are not also Guarantors on such date that is in excess of 10% of the total Liquidity shall, in each case, be excluded from the calculation of Liquidity on such date.

“Loan Request” shall mean a request by the Borrower, executed by a Responsible Officer of the Borrower, for a Loan in accordance with Section 2.03 in substantially the form of Exhibit D.

“Loans” shall mean the Revolving Loans.

“Loan Documents” shall mean this Agreement, the Collateral Documents, any Intercreditor Agreement and any other instrument or agreement (which is designated as a Loan Document therein) executed and delivered by the Borrower or a Guarantor to the Administrative Agent, the Collateral Agent, any Issuing Lender or any Lender, in each case, as the same may be amended, restated, modified, supplemented, extended or amended and restated from time to time in accordance with the terms hereof.

“Margin Stock” shall have the meaning given such term in Section 3.11(a).

“Material Adverse Change” shall mean any event, development or circumstance that has had or would reasonably be expected to have a Material Adverse Effect.

“Material Adverse Effect” shall mean (i) a material adverse effect on (a) the consolidated business, operations or financial condition of the Borrower and its Subsidiaries, taken as a whole, (b) the validity or enforceability of any of the Loan Documents or the rights or remedies of the Administrative Agent, the Collateral Agent and the Lenders thereunder, or (c) the ability of the Borrower and the Guarantors, collectively, to pay the Obligations or (ii) a Collateral Material Adverse Effect.

“Material Indebtedness” shall mean Indebtedness of the Borrower or one or more Guarantors (other than the Loans and obligations relating to Letters of Credit) outstanding under the same agreement in a principal amount exceeding \$100,000,000.

“MBA” shall mean Morten, Beyer and Agnew.

“Minimum Extension Condition” shall have the meaning given such term in Section 2.28(b).

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

“Mortgaged Collateral” shall mean all of the “Collateral” as defined in the Aircraft and Spare Engine Mortgage (including as supplemented by any Mortgage Supplement).

“Net Proceeds” means the aggregate cash and Cash Equivalents received by the Borrower or any of its Subsidiaries in respect of any Collateral Sale (including, without limitation, any cash or Cash Equivalents received in respect of or upon the sale or other disposition of any non-cash consideration received in any Collateral Sale) or Recovery Event, net of: (a) the direct costs and expenses relating to such Collateral Sale and incurred by the Borrower or a Subsidiary (including the sale or disposition of such non-cash consideration) or any such Recovery Event, including, without limitation, legal, accounting and investment banking fees, and sales commissions, and any relocation expenses incurred as a result of the Collateral Sale or Recovery Event, taxes paid or payable as a result of the Collateral Sale or Recovery Event, in each case, after taking into account any available tax credits or deductions and any tax sharing arrangements; (b) any reserve for adjustment or indemnification obligations in respect of the sale price of such asset or assets established in accordance with GAAP; and (c) any portion of the purchase price from a Collateral Sale placed in escrow pursuant to the terms of such Collateral Sale (either as a reserve for adjustment of the purchase price, or for satisfaction of indemnities in respect of such Collateral Sale) until the termination of such escrow.

“Net Proceeds Amount” shall have the meaning given such term in Section 2.12(a).

“New Lender” shall have the meaning given such term in Section 2.27(a).

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

“Non-Extending Lender” shall have the meaning given such term in Section 10.08(g).

“Objection Notice” shall have the meaning given such term in Section 2.09(b).

“Obligations” shall mean the unpaid principal of and interest on (including interest accruing after the maturity of the Loans and interest accruing after the filing of any petition of bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to the Borrower, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding), the Loans, the Designated Hedging Obligations, the Designated Banking Product Obligations, and all other obligations and liabilities of the Borrower to the Administrative Agent, the Collateral Agent any Issuing Lender or any Lender (or (i) in the case of Designated Hedging Obligations, any obligee with respect to such designated Hedging Obligations who was a Lender or an Affiliate of a Lender when the related Designated Hedging Agreement was entered into, or (ii) in the case of Designated Banking Product Obligations, any obligee with respect to such Designated Banking Product Obligations who was a Lender or a banking Affiliate of any Lender at the time the related Designated Banking Product Agreement was entered into), whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which arise under this Agreement or any other Loan

Document, whether on account of principal, interest, reimbursement obligations, fees, indemnities, out-of-pocket costs, and expenses (including all fees, charges and disbursements of counsel to any Agent, any Issuing Lender or any Lender that are required to be paid by the Borrower pursuant hereto) or otherwise; provided, however, that the aggregate amount of all Designated Hedging Obligations (valued in accordance with the definition thereof) at any time outstanding that shall be included as "Obligations" shall not exceed 10% of the original Total Revolving Commitment in effect on the Closing Date; provided, further, that in no event shall the Obligations include Excluded Swap Obligations.

"OFAC" means the U.S. Department of Treasury's Office of Foreign Assets Control.

"One-Month LIBOR" means, for any day, the rate for deposits in Dollars for a one-month period appearing on the Bloomberg Screen which displays the London interbank offered rate administered by ICE Benchmark Administration Limited (such page currently being the LIBOR01 page) as of 11:00 a.m., London time, on such day; provided that, if such rate shall be less than zero or the circumstances contemplated by Section 2.09(a) have occurred and are continuing, then in either such case the One-Month LIBOR shall be deemed to be zero for purposes of this Agreement.

"Officer" means, with respect to any Person, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary or any Vice-President of such Person.

"Officer's Certificate" shall mean a certificate signed on behalf of the Borrower by an Officer of the Borrower.

"Other Taxes" shall mean any and all present or future court stamp, mortgage, intangible, recording, filing or documentary taxes or any other similar charges or similar levies arising from any payment made hereunder or from the execution, performance, delivery, registration of or enforcement of this Agreement or any other Loan Document.

"Outstanding Letters of Credit" shall have the meaning given such term in Section 2.02(j).

"Parent Company" means, with respect to a Revolving Lender, the bank holding company (as defined in Federal Reserve Board Regulation Y), if any, of such Revolving Lender, and/or any Person owning, beneficially or of record, directly or indirectly, a majority of the shares of such Revolving Lender.

"Parent's Domestic Subsidiary" shall mean, following any Permitted Parent Reorganization, any Subsidiary of the Parent that was formed under the laws of the United States or any state of the United States or the District of Columbia or that guarantees, or pledges any property or assets to secure, any Obligations or Junior Secured Debt.

"Participant" shall have the meaning given such term in Section 10.02(d).

"Participant Register" shall have the meaning given such term in Section 10.02(d).

"Patriot Act" shall mean the USA PATRIOT Act, Title III of Pub. L. 107-56, signed into law on October 26, 2001 and any subsequent legislation that amends or supplements such Act or any subsequent legislation that supersedes such Act.

"Payroll Accounts" shall mean depository accounts used only for payroll.

"Permitted Business" means any business that is the same as, or reasonably related, ancillary, supportive or complementary to, or a reasonable extension of, the business in which the Borrower and its Subsidiaries are engaged on the date of this Agreement.

"Permitted Disposition" shall mean any of the following:

- a. the Disposition of Collateral permitted under the applicable Collateral Documents;
- b. the Disposition of cash or Cash Equivalents constituting Collateral in exchange for other cash or Cash Equivalents constituting Collateral and having reasonably equivalent value therefor; provided that this clause (b) shall not permit any Disposition of the Letter of Credit Account or any amounts on deposit therein;
- c. sales or dispositions of surplus, obsolete, negligible or uneconomical assets no longer used in the business of the Borrower and the other Grantors, including returns of Slots to the FAA;
- d. Dispositions of Collateral among the Grantors (including any Person that shall become a Grantor simultaneous with such Disposition in the manner contemplated by Section 5.13); provided that:

i. such Collateral remains at all times subject to a Lien with the same priority and level of perfection as was the case immediately prior to such Disposition (and otherwise subject only to Permitted Liens) in favor of the Collateral Agent for the benefit of the Secured Parties following such Disposition,

ii. concurrently therewith, the Grantors shall execute any documents and take any actions reasonably required to create, grant, establish, preserve or perfect such Lien in accordance with the other provisions of this Agreement or the Collateral Documents,

iii. concurrently therewith or promptly thereafter, the Administrative Agent and the Collateral Agent, for the benefit of the Secured Parties, shall receive an Officer's Certificate, with respect to the matters described in clauses (i) and (ii) hereof and, if reasonably requested by the Administrative Agent, an opinion of counsel to the Borrower (which may be in-house counsel) as to the validity and perfection of such Lien on the

Collateral, in each case in form and substance reasonably satisfactory to the Administrative Agent,

iv. concurrently with any Disposition of Collateral to any Person that shall become a Grantor simultaneous with such Disposition in the manner contemplated by Section 5.13, such Person shall have complied with the requirements of Section 5.13(b); provided further that this clause (d) shall not permit any Disposition of the Letter of Credit Account or any amounts on deposit therein, and

v. the preceding provisions of clauses (i) through (iv) shall not be applicable to any Disposition resulting from a merger or consolidation permitted by Section 6.10; and

e. abandonment of Slots and Gate Leaseholds; provided that such abandonment is (A) in connection with the downsizing of any hub or facility which does not materially and adversely affect the business of the Borrower and its Subsidiaries, taken as a whole, (B) in the ordinary course of business consistent with past practices and does not materially and adversely affect the business of the Borrower and its Subsidiaries, taken as a whole, (C) reasonably determined by the Borrower to relate to Collateral of *de minimis* value or surplus to the Borrower's needs or (D) required by the DOT, the FAA or other Governmental Authority and, in the case of any such abandonment under this clause (i), does not have a Collateral Material Adverse Effect,

ii. exchange of FAA Slots in the ordinary course of business that in the Borrower's reasonable judgment are of reasonably equivalent value (so long as the FAA Slots received in such exchange are concurrently pledged as Additional Collateral and constitute Eligible Collateral, and such exchange would not result in a Collateral Material Adverse Effect),

iii. the termination of leases or subleases or airport use or license agreements in the ordinary course of business to the extent such terminations do not have a Collateral Material Adverse Effect, or

iv. any other lease or sublease of, or use or license agreements with respect to, assets and properties that constitute Slots or Gate Leaseholds in the ordinary course of business and swap agreements or similar arrangements with respect to Slots in the ordinary course of business and which lease, sublease, use or license agreement or swap agreement or similar arrangement (A) has a term of one year or less, or does not extend beyond two comparable IATA traffic seasons (and contains no option to extend beyond either of such periods), (B) has a term (including any option period) longer than allowed in clause (A); provided, however, that (x) in the case of each transaction pursuant to this clause (B), an Officer's Certificate is delivered to the Administrative Agent concurrently with or promptly after the applicable Grantor's entering into any such transaction that (i) immediately after giving effect to such transaction the Collateral Coverage Ratio (excluding, for purposes of calculating such ratio, the proceeds of such transaction and the intended use thereof) would be no less than 1.0 to 1.0, (ii) the Collateral Agent's Liens on Collateral subject to such lease, sublease, use, license agreement or swap or

similar arrangement are not materially adversely affected (it being understood that no Permitted Lien shall be deemed to have such an effect) and (iii) no Event of Default exists at the time of such transaction, and (y) immediately after giving effect to any transaction pursuant to this clause (B), the aggregate Appraised Value of Collateral subject to transactions covered by this clause (B) shall not exceed \$30,000,000, (C) is for purposes of operations by another airline operating under a brand associated with the Borrower or otherwise operating routes at the Borrower's direction under a code share agreement, capacity purchase agreement, pro-rate agreement or similar arrangement between such airline and the Borrower or (D) is subject and subordinated to the rights (including remedies) of the Collateral Agent under the applicable Collateral Documents on terms reasonably satisfactory to the Administrative Agent; and

f. the lease or sublease of assets and properties in the ordinary course of business; provided that, the rights of the lessee or sublessee shall be subordinated to the rights (including remedies) of the Collateral Agent under the applicable Collateral Document on terms reasonably satisfactory to the Administrative Agent.

"Permitted Liens" means:

(1) Liens held by the Collateral Agent securing the Obligations;

(2) Liens securing Junior Secured Debt in an aggregate principal amount (as of the date of incurrence of any such Junior Secured Debt and after giving pro forma effect to the application of the net proceeds therefrom), not exceeding the Junior Lien Cap, provided that such Liens shall (x) rank junior to the Liens in favor of the Collateral Agent securing the Obligations and (y) be subject to an Intercreditor Agreement reasonably acceptable to the Administrative Agent, the Collateral Agent, the Required Lenders and the Borrower;

(3) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings promptly instituted and diligently concluded; provided that any reserve or other appropriate provision as is required in conformity with GAAP has been made therefor;

(4) Liens imposed by law, including carriers', warehousemen's, landlord's and mechanics' Liens, in each case, incurred in the ordinary course of business;

(5) Liens arising by operation of law in connection with judgments, attachments or awards which do not constitute an Event of Default hereunder;

(6) Liens created for the benefit of (or to secure) the Obligations or any Guaranty Obligations;

(7) (A) any overdrafts and related liabilities arising from treasury, netting, depository and cash management services or in connection with any automated clearing house transfers of funds, in each case as it relates to cash or Cash Equivalents, if any, and (B) Liens arising by operation of law or that are contractual rights of set-off in favor of the

depository bank or securities intermediary in respect of the Letter of Credit Account or the Collateral Proceeds Account;

(8) licenses, sublicenses, leases and subleases by any Grantor as they relate to any aircraft, airframe, engine, Mortgaged Collateral or any Additional Collateral and to the extent (A) such licenses, sublicenses, leases or subleases do not interfere in any material respect with the business of the Borrower and its Subsidiaries, taken as a whole, and in each case, such license, sublicense, lease or sublease is to be subject and subordinate to the Liens granted to the Collateral Agent pursuant to the Collateral Documents, and in each case, would not result in a Collateral Material Adverse Effect or (B) otherwise expressly permitted by the Collateral Documents;

(9) salvage or similar rights of insurers, in each case as it relates to any aircraft, airframe, engine, Mortgaged Collateral or any Additional Collateral, if any;

(10) in each case as it relates to any aircraft, Liens on appliances, parts, components, instruments, appurtenances, furnishings and other equipment installed on such aircraft and separately financed by a Grantor, to secure such financing;

(11) Liens incurred in the ordinary course of business of the Borrower or any Subsidiary of the Borrower with respect to obligations that do not exceed in the aggregate \$7,500,000 at any one time outstanding;

(12) Liens on Collateral permitted under the Collateral Document granting a Lien on such Collateral; and

(13) Easements (including reciprocal easement agreements), rights-of-way, building, zoning and similar restrictions, utility agreements, covenants, reservations, restrictions, encroachments, charges, and other similar encumbrances or title defects incurred, leases or subleases, licenses or sublicenses, or occupancy agreements granted to others, whether or not of record and whether now in existence or hereafter entered into, in the ordinary course of business, which do not in the aggregate materially interfere with the ordinary conduct of the business of the Borrower and its Subsidiaries, taken as a whole.

“Permitted Parent Reorganization” shall mean the entry by the Borrower into any reorganization pursuant to Section 251(g) of the General Corporation Law of the State of Delaware pursuant to which a new holding company structure is implemented above the Borrower; provided that upon such reorganization any new holding company (such holding company, the “Parent”) and each Parent’s Domestic Subsidiary (other than the Borrower, any Immaterial Subsidiary, any Excluded Subsidiary and any Receivables Subsidiary) shall become a Guarantor pursuant to Section 5.13 of this Agreement.

“Person” shall mean any natural person, corporation, division of a corporation, partnership, limited liability company, trust, joint venture, association, company, estate, unincorporated organization, Airport Authority or Governmental Authority or any agency or political subdivision thereof.

“Pledged Aircraft” means, as of any date, the Eligible Aircraft included in the Collateral as of such date.

“Pledged Cash and Cash Equivalents” means, as of any date, the amount of cash and Cash Equivalents included in the Collateral as of such date.

“Pledged Engines” means, as of any date, the Eligible Engines included in the Collateral as of such date.

“Pledged Gate Leaseholds” means, as of any date, the Gate Leaseholds included in the Collateral as of such date.

“Pledged Ground Support Equipment” means, as of any date, the Ground Support Equipment included in the Collateral as of such date.

“Pledged Real Property Assets” means, as of any date, the Real Property Assets included in the Collateral as of such date.

“Pledged Slots” means, as of any date, the Slots included in the Collateral as of such date.

“Pledged Spare Parts” means, as of any date, the Eligible Spare Parts included in the Collateral as of such date.

“Prime Rate” shall mean the rate of interest per annum publicly announced from time to time by Citibank, as its prime rate in effect at its principal office in New York City (the Prime Rate not being intended to be the lowest rate of interest charged by Citibank in connection with extensions of credit to debtors); each change in the Prime Rate shall be effective from and including the date such change is publicly announced as being effective.

“Professional User” shall have the meaning given it in the Regulations and Procedures for the International Registry.

“Propeller” shall mean any propeller, including any part, appurtenance, and accessory of a propeller.

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

“Put Exposure” means the principal amount of Loans, LC Exposure and unused Revolving Commitments that Lenders have elected to be prepaid, discharged and terminated, respectively, pursuant to Section 2.12(g) in response to a Change of Control Offer.

“QEC Kits” means the quick engine change kits of any Grantor.

“QFC” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

“QFC Credit Support” has the meaning assigned to it in Section 10.20.

“Qualified Receivables Transaction” means any transaction or series of transactions entered into by the Borrower or any of its Subsidiaries pursuant to which the Borrower or any of its Subsidiaries sells, conveys or otherwise transfers to (a) a Receivables Subsidiary or any other Person (in the case of a transfer by the Borrower or any of its Subsidiaries) and (b) any other Person (in the case of a transfer by a Receivables Subsidiary), or grants a security interest in, any accounts receivable (whether now existing or arising in the future) of the Borrower or any of its Subsidiaries, and any assets related thereto including, without limitation, all Equity Interests and other investments in the Receivables Subsidiary, all collateral securing such accounts receivable, all contracts and all guarantees or other obligations in respect of such accounts receivable, proceeds of such accounts receivable and other assets which are customarily transferred or in respect of which security interests are customarily granted in connection with asset securitization transactions involving accounts receivable, other than assets that constitute Collateral or proceeds of Collateral.

“Qualified Replacement Assets” means Additional Collateral of any of the types described in clauses (b), (c), and (d) of the definition of “Additional Collateral”.

“Rating Agency” means Moody’s or Fitch.

“Real Property Assets” shall mean those parcels of real property owned in fee or ground leased by the Borrower or any other Grantor designated by the Borrower and together with, in each case, all of Borrower’s or Grantor’s (as applicable) right, title and interest in and to all buildings, improvements, facilities, appurtenant fixtures and equipment, easements and other property and rights incidental or appurtenant to the ownership or ground leasing of such parcel of real property. Notwithstanding the foregoing, no real property located in an area identified as a special flood hazard area by the Federal Emergency Management Agency or other applicable agency, in accordance with any of (i) the National Flood Insurance Reform Act of 1994 (which comprehensively revised the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973) as now or hereafter in effect or any successor statute thereto, (ii) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto or (iii) the Biggert-Waters Flood Insurance Reform Act of 2012 as now or hereafter in effect or any successor statute thereto, shall be a Real Property Asset for purposes hereof.

“Real Property Mortgages” shall mean the mortgages, deeds of trust and other security documents granting a Lien on any Real Property Assets of the Borrower or any Grantor, together with its interest in such property, to secure the Obligations, each in a form reasonably satisfactory to the Administrative Agent and the Collateral Agent.

“Receivables Subsidiary” means a Subsidiary of the Borrower which engages in no activities other than in connection with the financing of accounts receivable and which is designated by the Board of Directors of the Borrower (as provided below) as a Receivables Subsidiary (a) no portion of the Indebtedness or any other obligations (contingent or otherwise) of which (1) is guaranteed by the Borrower or any Subsidiary of the Borrower (other than comprising a pledge of the Capital Stock or other interests in such Receivables Subsidiary) (an

"incidental pledge"), and excluding any guarantees of obligations (other than the principal of, and interest on, Indebtedness) pursuant to representations, warranties, covenants and indemnities entered into in the ordinary course of business in connection with a Qualified Receivables Transaction), (2) is recourse to or obligates the Borrower or any Subsidiary of the Borrower in any way other than through an incidental pledge or pursuant to representations, warranties, covenants and indemnities entered into in the ordinary course of business in connection with a Qualified Receivables Transaction or (3) subjects any property or asset of the Borrower or any Subsidiary of the Borrower (other than accounts receivable and related assets as provided in the definition of "Qualified Receivables Transaction"), directly or indirectly, contingently or otherwise, to the satisfaction thereof, other than pursuant to representations, warranties, covenants and indemnities entered into in the ordinary course of business in connection with a Qualified Receivables Transaction, (b) with which neither the Borrower nor any Subsidiary of the Borrower has any material contract, agreement, arrangement or understanding (other than pursuant to the Qualified Receivables Transaction) other than (i) on terms no less favorable to the Borrower or such Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Borrower, and (ii) fees payable in the ordinary course of business in connection with servicing accounts receivable and (c) with which neither the Borrower nor any Subsidiary of the Borrower has any obligation to maintain or preserve such Subsidiary's financial condition, other than a minimum capitalization in customary amounts, or to cause such Subsidiary to achieve certain levels of operating results. Any such designation by the Board of Directors of the Borrower will be evidenced to the Administrative Agent by filing with the Administrative Agent a certified copy of the resolution of the Board of Directors of the Borrower giving effect to such designation and an Officer's Certificate certifying that such designation complied with the foregoing conditions.

"Recovery Event" shall mean any settlement of or payment in respect of any property or casualty insurance claim or any condemnation proceeding relating to any Collateral or any Event of Loss (as defined in the related Collateral Document pursuant to which a security interest in such Collateral is granted to the Collateral Agent, if applicable).

"Register" shall have the meaning set forth in Section 10.02(b)(iv).

"Regulations and Procedures for the International Registry" shall mean the official English language text of the International Registry Procedures and Regulations issued by the Supervisory Authority (as defined in the Cape Town Convention) pursuant to the Aircraft Protocol.

"Related Parties" shall mean, with respect to any specified Person, such Person's Affiliates and the respective directors, officers, partners, members, employees, agents and advisors of such Person and such Person's Affiliates.

"Release" shall have the meaning specified in Section 101(22) of the Comprehensive Environmental Response Compensation and Liability Act.

"Replacement Facility" shall have the meaning set forth in Section 2.12(h).

“Required Lenders” shall mean, at any time, Lenders holding more than 50% of the Total Revolving Commitments then in effect or, if the Revolving Commitments have been terminated, the Total Revolving Extensions of Credit then outstanding. The Revolving Extensions of Credit, outstanding Loans and Commitments of any Defaulting Lender shall be disregarded in determining the “Required Lenders” at any time.

“Responsible Officer” means an Officer.

“Resolution Authority” means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

“Revolving Availability Period” shall mean the period from and including the Closing Date to but excluding the Revolving Facility Termination Date with respect to the applicable Revolving Commitments.

“Revolving Commitment” shall mean the commitment of each Revolving Lender to make Revolving Loans and, if such Revolving Lender is an Issuing Lender, to issue Letters of Credit, hereunder in an aggregate principal not to exceed the amount set forth under the heading “Revolving Commitment” opposite its name in Annex A hereto or in the Assignment and Acceptance pursuant to which such Revolving Lender became a party hereto, as the same may be changed from time to time pursuant to the terms hereof. The aggregate amount of the Total Revolving Commitments as of the Closing Date is \$...........

“Revolving Commitment Percentage” shall mean, at any time, with respect to each Revolving Lender, the percentage obtained by dividing its Revolving Commitment at such time by the Total Revolving Commitment (or, if the Revolving Commitments have been terminated, the Revolving Extensions of Credit of such Revolving Lender at such time by the Total Revolving Extensions of Credit at such time).

“Revolving Extensions of Credit” shall mean, as to any Revolving Lender at any time, an amount equal to the sum of (a) the aggregate principal amount of all Revolving Loans held by such Lender then outstanding and (b) if such Lender is an Issuing Lender, such Lender’s LC Exposure then outstanding.

“Revolving Facility Maturity Date” shall mean, with respect to any (a) Revolving Commitments that have not been extended pursuant to Section 2.28, March 30, 2022 and (b) Extended Revolving Commitments, the final maturity date therefor as specified in the applicable Extension Offer accepted by the respective Revolving Lender or Revolving Lenders.

“Revolving Facility Termination Date” shall mean the earlier to occur of (a) the Revolving Facility Maturity Date with respect to the applicable Revolving Commitments, (b) the acceleration of the Loans (if any) and the termination of the Revolving Commitments in accordance with the terms hereof and (c) the termination of the applicable Revolving Commitments as a whole pursuant to Section 2.11.

“Revolving Lender” shall mean each Lender having a Revolving Commitment.

“Revolving Loan” shall have the meaning set forth in Section 2.01(a).

“Revolving Loan Percentage” shall mean, with respect to each Revolving Lender, determined as of the date of each advance of a Revolving Loan and prior to giving effect thereto, the percentage determined by dividing (i) the Revolving Commitment of such Revolving Lender minus the Revolving Extensions of Credit of such Revolving Lender by (ii) the Total Revolving Commitments minus the Total Revolving Extensions of Credit.

“Sale of a Grantor” means, with respect to any Collateral, an issuance, sale, lease, conveyance, transfer or other disposition of the Capital Stock of the applicable Grantor that owns such Collateral other than (1) an issuance of Equity Interests by a Grantor to the Borrower or another Subsidiary of the Borrower, and (2) an issuance of directors’ qualifying shares.

“Sanctioned Country” means, at any time, a country, territory or region which is itself the subject or target of any Sanctions, which as of the Closing Date include Crimea, Cuba, Iran, North Korea and Syria.

“Sanctioned Person” means, at any time, (a) a Person which is subject or target of any Sanctions or (b) any Person owned or controlled by any such Person or Persons.

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the United States government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State.

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

“SEC” shall mean the United States Securities and Exchange Commission.

“Section 1110” means 11 U.S.C. Section 1110 of the Bankruptcy Code or any successor or analogous section of the federal bankruptcy law in effect from time to time.

“Secured Parties” shall mean the Agents, the Issuing Lenders, the Lenders and all other holders of Obligations.

“Securities Act” shall mean the Securities Act of 1933, as amended.

“Significant Subsidiary” means any Subsidiary of the Borrower that would be a “significant subsidiary” as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the date of this Agreement.

“Slot” means (a) in the case of airports outside the United States, at any time, the right and operational authority to conduct one landing or takeoff at a specific time or during a specific time period, or (b) in the case of airports in the United States, FAA Slots.

“Slot and Gate Security Agreement” shall mean that certain Slot and Gate Security Agreement, in substantially the form of Exhibit F, entered into by the Borrower and the Collateral Agent, as the same may be amended, restated, modified, supplemented, extended or amended and restated from time to time.

“Spare Parts” shall mean all accessories, appurtenances, or parts of an Aircraft (except an Engine or Propeller), Engine (except a Propeller), Propeller, or Appliance, that are to be installed at a later time in an Aircraft, Engine, Propeller or Appliance.

“Spare Parts Security Agreement” means the Mortgage and Security Agreement (Spare Parts), entered into by the Borrower and the Collateral Agent, as the same may be amended, restated, modified, supplemented, extended or amended and restated from time to time.

“Spirit” means Spirit Airlines, Inc., a Delaware Corporation.

“Stated Maturity” means, with respect to any installment of interest or principal on any series of Indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the documentation governing such Indebtedness as of the Closing Date, and will not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

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

“Stored” shall mean, as to any Aircraft or Engine, that such Aircraft or Engine has been stored (a) with a low expectation of a return to service within the one year following commencement of such storage and (b) in a manner intended to minimize the rate of environmental degradation of the structure and components of such Aircraft or Engine (as the case may be) during such storage.

“Subsidiary” shall mean, with respect to any Person

(1) any corporation, association or other business entity (other than a partnership, joint venture or limited liability company) of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency and after giving effect to any voting agreement or

stockholders' agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person (or a combination thereof); and

(2) any partnership, joint venture or limited liability company of which (A) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general and limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person or a combination thereof, whether in the form of membership, general, special or limited partnership interests or otherwise and (B) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

"Survey" shall mean a survey of any Real Property Asset (and all improvements thereon) which is (a) (i) prepared by a surveyor or engineer licensed to perform surveys in the jurisdiction where such Real Property Asset is located, (ii) dated (or redated) not earlier than nine months prior to the date of delivery thereof unless there shall have occurred within nine months prior to such date of delivery any material exterior construction on the site of such Real Property Asset or any material easement, right of way or other interest in the Real Property Asset has been granted or become effective through operation of law or otherwise with respect to such Real Property Asset which, in either case, can be depicted on a survey, in which events, as applicable, such survey shall be dated (or redated) within a reasonable period after the completion of such construction or if such construction shall not have been completed as of such date of delivery, not earlier than 30 days prior to such date of delivery, or after the grant or effectiveness of any such easement, right of way or other interest in the Real Property Asset, (iii) certified by the surveyor (in a manner reasonably acceptable to the Administrative Agent) to the Collateral Agent, and the Title Company, (iv) complying in all respects with the minimum detail requirements of the American Land Title Association as such requirements are in effect on the date of preparation of such survey and (v) sufficient for the Title Company to remove all standard survey exceptions from the title insurance policy (or commitment) relating to such Real Property Asset (other than a "read-in" of the applicable Survey) and issue the endorsements of the type required by Section 5.12 or (b) otherwise reasonably acceptable to the Administrative Agent.

"Swap Obligation" means, with respect to any Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of Section 1a(47) of the Commodity Exchange Act.

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

"Termination Date" shall mean, with respect to any Revolving Loans, the Revolving Facility Termination Date applicable to the related Revolving Commitments.

"Title 14" means Title 14 of the U.S. Code of Federal Regulations, including Part 93, Subparts K and S thereof, as amended from time to time or any successor or recodified regulation.

"Title 49" shall mean Title 49 of the United States Code, which, among other things, recodified and replaced the U.S. Federal Aviation Act of 1958, and the rules and regulations promulgated pursuant thereto, and any subsequent legislation that amends, supplements or supersedes such provisions.

"Title Company" shall mean any title insurance company as shall be retained by the Borrower and reasonably acceptable to the Administrative Agent; provided that each of Stewart Title Insurance Company, First American Title Insurance Company and Chicago Title Insurance Company are hereby deemed acceptable to the Administrative Agent.

"Total Collateral Coverage Ratio" shall mean the ratio of (i) the aggregate Appraised Value of all Eligible Collateral plus the Pledged Cash and Cash Equivalents to (ii) the sum, without duplication, of (w) the Total Revolving Extensions of Credit then outstanding (other than LC Exposure that has been Cash Collateralized in accordance with Section 2.02(j)), plus (x) the aggregate amount of all Designated Hedging Obligations that constitute "Obligations" then outstanding, plus (y) the aggregate outstanding principal amount of Junior Secured Debt.

"Total Obligations" shall have the meaning provided in the definition of "Collateral Coverage Ratio".

"Total Revolving Commitment" shall mean, at any time, the sum of the Revolving Commitments at such time.

"Total Revolving Extensions of Credit" shall mean, at any time, the aggregate amount of the Revolving Extensions of Credit of the Revolving Lenders outstanding at such time.

"Transactions" shall mean the execution, delivery and performance by the Borrower and Guarantors of this Agreement and the other Loan Documents to which they may be a party, the creation of the Liens in the Collateral in favor of the Collateral Agent and/or the Administrative Agent for the benefit of the Secured Parties, the borrowing of Loans and the use of the proceeds thereof, and the request for and issuance of Letters of Credit hereunder.

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

"Type I Aircraft" shall mean any Aircraft that is an Airbus A319 family Aircraft.

“Type II Aircraft” shall mean any Aircraft that (i) is an Airbus A320ceo or A321ceo Aircraft and (ii) as of any date of determination, was delivered by the relevant manufacturer more than eight (8) years prior to such date.

“Type III Aircraft” shall mean any Aircraft that (i) is an Airbus A320ceo or A321ceo Aircraft and (ii) as of any date of determination, was delivered by the relevant manufacturer no less than eight (8) years prior to such date.

“Type IV Aircraft” shall mean any Aircraft that is Airbus A320neo or A321neo Aircraft.

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

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

“United States Citizen” shall have the meaning set forth in Section 3.02.

“Unused Total Revolving Commitment” shall mean, at any time, (a) the Total Revolving Commitment less (b) the Total Revolving Extensions of Credit.

“Use or Lose Rule” shall mean with respect to FAA Slots, the terms of 14 C.F.R. Section 93.227 or other applicable utilization requirements issued by the FAA, other Governmental Authorities or any Airport Authorities.

“Voting Stock” of any specified Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

“Withholding Agent” shall mean the Borrower, a Guarantor and the Administrative Agent.

“Write-Down and Conversion Powers” means, (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.

Section 1.02 Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, supplemented, extended, amended and restated or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s permitted successors and assigns, (c) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, unless expressly provided otherwise, (e) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights and (f) “knowledge” or “aware” or words of similar import shall mean, when used in reference to the Borrower or the Guarantors, the actual knowledge of any Responsible Officer.

Section 1.03 Accounting Terms; GAAP. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that, if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith. Upon any such request for an amendment, the Borrower, the Required Lenders and the Administrative Agent agree to consider in good faith any such amendment in order to amend the provisions of this Agreement so as to reflect equitably such accounting changes so that the criteria for evaluating the Borrower’s consolidated financial condition shall be the same after such accounting changes as if such accounting changes had not occurred.

Section 1.04 Divisions. For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law with respect to any Person that is a limited

liability company formed under Delaware law (or any comparable event under the applicable laws of any other relevant jurisdiction): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence as a result of such division or plan of division (or such other comparable event), such new Person shall be deemed to have been organized and acquired on the first date of its existence by the holders of its Equity Interests at such time.

SECTION 2.

AMOUNT AND TERMS OF CREDIT

Section 2.01 Commitments of the Lenders.

a. Revolving Commitments. Each Revolving Lender severally, and not jointly with the other Revolving Lenders, agrees, upon the terms and subject to the conditions herein set forth, to make revolving credit loans denominated in Dollars (each a "Revolving Loan" and collectively, the "Revolving Loans") to the Borrower at any time and from time to time during the Revolving Availability Period in an aggregate outstanding principal amount not to exceed, when added to such Revolving Lender's LC Exposure (if any), the Revolving Commitment of such Revolving Lender, which Revolving Loans may be repaid and reborrowed in accordance with the provisions of this Agreement. At no time shall the sum of the then outstanding aggregate principal amount of the Revolving Loans plus the LC Exposure exceed the Total Revolving Commitment.

ii. Each Borrowing of a Revolving Loan shall be made from the Revolving Lenders based upon each Revolving Lender's Revolving Loan Percentage of such Revolving Loan; provided, however, that the failure of any Revolving Lender to make any Revolving Loan shall not in itself relieve the other Revolving Lenders of their obligations to lend.

b. Type of Borrowing. Each Borrowing shall be comprised entirely of ABR Loans or Eurodollar Loans as the Borrower may request in accordance herewith. Each Lender at its option may make any Eurodollar Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement.

c. Amount of Borrowing. At the commencement of each Interest Period for any Eurodollar Borrowing, such Borrowing shall be in an aggregate amount that is in an integral multiple of \$1,000,000 and not less than \$1,000,000. At the time that each ABR Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of \$100,000 and not less than \$1,000,000; provided that an ABR Borrowing may be in an aggregate amount that is equal to the entire Unused Total Revolving Commitment or that is required to finance the reimbursement of an LC Disbursement as contemplated by Section 2.02(e). Borrowings of more than one Type may be outstanding at the same time.

d. Limitation on Interest Period. Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert or continue, any Borrowing of a Revolving Loan if the Interest Period requested with respect thereto would end after the Revolving Facility Maturity Date with respect to the applicable Revolving Commitments.

Section 2.02 Letters of Credit.

a. General. Subject to the terms and conditions set forth herein, the Borrower may request the issuance of (and, subject to the penultimate sentence of clause (b) below, the applicable Issuing Lender shall issue) Letters of Credit in Dollars, at any time and from time to time during the Revolving Availability Period, in each case, for the Borrower's own account or the account of any other Subsidiary of the Borrower, in a form reasonably acceptable to the Administrative Agent, such Issuing Lender and the Borrower. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Borrower to, or entered into by the Borrower with, an Issuing Lender relating to any Letter of Credit, the terms and conditions of this Agreement shall control.

b. Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of a Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Borrower shall either provide (i) telephonic notice promptly followed by written notice or (ii) hand deliver or telecopy (or transmit by electronic communication, if arrangements for doing so have been approved by the applicable Issuing Lender (which approval shall not be unreasonably withheld, delayed or conditioned)) to the applicable Issuing Lender and the Administrative Agent (at least two (2) Business Days in advance of the requested date of issuance, amendment, renewal or extension) a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, and specifying (1) the date of issuance, amendment, renewal or extension (which shall be a Business Day), (2) the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), (3) the amount of such Letter of Credit, (4) the name and address of the beneficiary thereof and (5) such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. If requested by the applicable Issuing Lender, the Borrower also shall submit a letter of credit application on such Issuing Lender's standard form in connection with any request for a Letter of Credit; provided that, to the extent such standard form (and/or any related reimbursement agreement) is inconsistent with the Loan Documents, the Loan Documents shall control. A Letter of Credit shall be issued, amended, renewed or extended only if (and upon issuance, amendment, renewal or extension of each Letter of Credit the Borrower shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension, the Revolving Extensions of Credit of such Issuing Lender shall not exceed its Revolving Commitment. No Issuing Lender (other than an Affiliate of the Administrative Agent) shall permit any such issuance, renewal, extension or amendment resulting in an increase in the amount of any Letter of Credit to occur without first obtaining written confirmation from the Administrative Agent that it is then permitted under this Agreement.

c. Expiration Date. Each Letter of Credit shall expire at or prior to the close of business on the earlier of (i) the date that is one year after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, one year after such renewal or extension) and (ii) the date that is one (1) Business Day prior to the earliest Revolving Facility Maturity Date with respect to the Revolving Commitments of the applicable Issuing Lender (provided that, to the extent that such Letter of Credit has been Cash Collateralized pursuant to the terms of any Extension Amendment, such Revolving Commitments shall be disregarded for purposes of this clause (ii)).

d. [Reserved].

e. Reimbursement. If an Issuing Lender shall make any LC Disbursement in respect of a Letter of Credit, the Borrower shall reimburse such LC Disbursement by paying to the Administrative Agent an amount equal to the amount of such LC Disbursement not later than the first Business Day following the date the Borrower receives notice from the Issuing Lender of such LC Disbursement; provided that, in the case of any LC Disbursement, to the extent not reimbursed and, subject to the satisfaction (or waiver) of the conditions to borrowing set forth herein, including, without limitation, making a request in accordance with Section 2.03(a) that such payment shall be financed with an ABR Revolving Borrowing, as the case may be, in an equivalent amount and, to the extent so financed, the Borrower's obligation to make such payment shall be discharged and replaced by the resulting ABR Revolving Borrowing; provided, further that for purposes of determining the Revolving Loan Percentage of each Revolving Lender with respect to such ABR Revolving Borrowing, such LC Disbursement shall not be deemed to be a Revolving Extension of Credit.

f. Obligations Absolute. The Borrower's obligation to reimburse LC Disbursements as provided in Section 2.02(e) shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision therein or herein, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by the applicable Issuing Lender under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit, or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section 2.02, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrower's obligations hereunder. Neither the Administrative Agent, the Revolving Lenders, nor the applicable Issuing Lender, nor any of their Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of the applicable Issuing Lender; provided that the foregoing shall not be construed to

excuse an Issuing Lender from liability to the Borrower to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are hereby waived by the Borrower to the extent permitted by applicable law) suffered by the Borrower that are caused by such Issuing Lender's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence, bad faith or willful misconduct on the part of the applicable Issuing Lender (as finally determined by a court of competent jurisdiction), the applicable Issuing Lender shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, the applicable Issuing Lender may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

g. Disbursement Procedures. The applicable Issuing Lender shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. The applicable Issuing Lender shall promptly notify the Administrative Agent and the Borrower by telephone (confirmed by telecopy) of such demand for payment, whether the applicable Issuing Lender has made or will make an LC Disbursement thereunder and the amount of such LC Disbursement; provided that any failure to give or delay in giving such notice shall not relieve the Borrower of its obligation to reimburse the applicable Issuing Lender with respect to any such LC Disbursement in accordance with the terms herein.

h. Interim Interest. If the applicable Issuing Lender shall make any LC Disbursement, then, unless the Borrower shall reimburse (including by a Borrowing) such LC Disbursement in full not later than the first Business Day following the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the Borrower reimburses such LC Disbursement, at the rate per annum then applicable to ABR Revolving Loans; provided that, if the Borrower fails to reimburse (including by a Borrowing) such LC Disbursement when due pursuant to Section 2.02(e), then Section 2.08 shall apply. Interest accrued pursuant to this paragraph shall be for the account of the applicable Issuing Lender.

i. Replacement of the Issuing Lender. Any Issuing Lender may be replaced at any time by written agreement among the Borrower, the Administrative Agent, the replaced Issuing Lender and the successor Issuing Lender. The Administrative Agent shall notify the Revolving Lenders of any such replacement of the Issuing Lender. At the time any such replacement shall become effective, the Borrower shall pay all unpaid fees accrued for the account of the replaced Issuing Lender pursuant to Section 2.21. From and after the effective date of any such replacement, (i) the successor Issuing Lender shall have all the rights and obligations of the Issuing Lender under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term "Issuing Lender" shall be deemed to refer to such successor or to any previous Issuing Lender, or to such successor and all previous Issuing Lenders, as the

context shall require. After the replacement of an Issuing Lender hereunder, the replaced Issuing Lender shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Lender under this Agreement with respect to Letters of Credit issued by it prior to such replacement, but shall not be required to issue additional Letters of Credit.

j. Replacement of Letters of Credit: Cash Collateralization. The Borrower shall (i) upon or prior to the occurrence of the earlier of (A) the Revolving Facility Maturity Date with respect to all Revolving Commitments and (B) the acceleration of the Loans (if any) and the termination of the Commitments in accordance with the terms hereof, (x) cause all Letters of Credit which expire after the earlier to occur of (A) the Revolving Facility Maturity Date with respect to all Revolving Commitments and (B) the acceleration of the Loans (if any) and the termination of the Commitments in accordance with the terms hereof (the "Outstanding Letters of Credit") to be returned to the applicable Issuing Lender undrawn and marked "cancelled" or (y) if the Borrower does not do so in whole or in part, either (A) provide one or more "back-to-back" letters of credit to each applicable Issuing Lender with respect to any such Outstanding Letters of Credit in a form reasonably satisfactory to each such Issuing Lender and the Administrative Agent, issued by a bank satisfactory to each such Issuing Lender (in its sole discretion) and the Administrative Agent, and/or (B) deposit cash in the Letter of Credit Account, as collateral security for the Borrower's reimbursement obligations in connection with any such Outstanding Letters of Credit, such cash (or any applicable portion thereof) to be promptly remitted to the Borrower (provided no Default or Event of Default has occurred and is continuing) upon the expiration, cancellation or other termination or satisfaction of the Borrower's reimbursement obligations with respect to such Outstanding Letters of Credit, in whole or in part, in an aggregate principal amount for all such "back-to-back" letters of credit and any such Cash Collateralization equal to 100% of the then outstanding amount of all LC Exposure (less the amount, if any, on deposit in the Letter of Credit Account prior to taking any action pursuant to clauses (A) or (B) above), and (ii) if required pursuant to Section 2.02(m), 2.12(c), 2.12(d), 2.12(e), 2.12(g)(iii) or 7.01 or pursuant to any Extension Amendment, deposit in the Letter of Credit Account an amount required pursuant to Section 2.02(m), 2.12(c), 2.12(d), 2.12(e), 2.12(g)(iii) or 7.01, or pursuant to any such Extension Amendment, as applicable (any such deposit or provision of back-to-back letters of credit described in the preceding clause (i) or clause (ii), "Cash Collateralization" (it being understood that any LC Exposure shall be deemed to be "Cash Collateralized" only to the extent a deposit or provision of back-to-back letters of credit as described above is made in an amount equal to 100% of the amount of such LC Exposure)). The Collateral Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over the Letter of Credit Account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Collateral Agent (in accordance with its usual and customary practices for investments of this type) and at the Borrower's risk and reasonable expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account and shall be paid to the Borrower on its request provided no Default or Event of Default has occurred and is continuing. Moneys in such account shall be applied by the Collateral Agent to reimburse the applicable Issuing Lender for LC Disbursements for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrower for the LC Exposure at such time. If the Borrower is

required to provide Cash Collateralization hereunder pursuant to Section 2.02(m), 2.12(c), 2.12(d), 2.12(e) or 2.12(g)(iii) or the terms of any Extension Amendment, such Cash Collateralization (to the extent not applied as contemplated by the applicable section) shall be returned to the Borrower within three (3) Business Days after the applicable section (or Extension Amendment) no longer requires the provision of such Cash Collateralization.

k. Issuing Lender Agreements. Unless otherwise requested by the Administrative Agent, each Issuing Lender shall report in writing to the Administrative Agent (i) on the first Business Day of each week, the daily activity (set forth by day) in respect of Letters of Credit during the immediately preceding week, including all issuances, extensions, amendments and renewals, all expirations and cancellations and all disbursements and reimbursements, (ii) on or prior to each Business Day on which such Issuing Lender expects to issue, amend, renew or extend any Letter of Credit, the date of such issuance, amendment, renewal or extension, the aggregate face amount of the Letters of Credit to be issued, amended, renewed, or extended by it (and whether, subject to Section 2.02(b), the face amount of any such Letter of Credit was changed thereby) and the aggregate face amount of such Letters of Credit outstanding after giving effect to such issuance, amendment, renewal or extension, (iii) on each Business Day on which such Issuing Lender makes any LC Disbursement, the date of such LC Disbursement and the amount of such LC Disbursement, (iv) on any Business Day on which the Borrower fails to reimburse an LC Disbursement required to be reimbursed to such Issuing Lender on such day, the date of such failure, and the amount of such LC Disbursement and (v) on any other Business Day, such other information as the Administrative Agent shall reasonably request.

l. [Reserved].

m. Provisions Related to Extended Revolving Commitments. If the maturity date in respect of any tranche of Revolving Commitments of an Issuing Lender occurs prior to the expiration of any Letter of Credit issued by such Issuing Lender, then (i) if one or more other tranches of Revolving Commitments of such Issuing Lender in respect of which the maturity date shall not have occurred are then in effect, such Letters of Credit shall automatically be deemed to have been issued under such Issuing Lender's Revolving Commitments in respect of such non-terminating tranches up to an aggregate amount not to exceed the aggregate principal amount of such Issuing Lender's unutilized Revolving Commitments thereunder at such time and (ii) to the extent not reallocated pursuant to the immediately preceding clause (i), the Borrower shall Cash Collateralize any such Letter of Credit in accordance with Section 2.02(j). For the avoidance of doubt, commencing with the maturity date of any tranche of Revolving Commitments of any Issuing Lender, the sublimit for Letters of Credit issued by such Issuing Lender under any tranche of Revolving Commitments that has not so then matured shall be as agreed in the relevant Extension Amendment with such Issuing Lender (to the extent such Extension Amendment so provides).

Section 2.03 Requests for Loans

a. Unless otherwise agreed to by the Administrative Agent in connection with making the initial Revolving Loans, to request a Revolving Loan, the Borrower shall notify the Administrative Agent of such request by (i) telephone or (ii) by hand or by facsimile delivery of a written Loan Request (A) in the case of a Eurodollar Loan, not later than 2:00 p.m., New York City time, three (3) Business Days before the date of the proposed Loan and (B) in the case of an ABR Loan, not later than 12:00 noon, New York City time, on the date of the proposed Loan. Each such telephonic Loan request shall be irrevocable and shall be confirmed promptly by hand delivery or teletype to the Administrative Agent of a written Loan Request signed by the Borrower. Each such telephonic Loan request and written Loan Request shall specify the following information in compliance with Section 2.01(a):

- i. the aggregate amount of the requested Loan (which shall comply with Section 2.01(c));
- ii. the date of such Loan, which shall be a Business Day;
- iii. whether such Loan is to be an ABR Loan or a Eurodollar Loan; and
- iv. in the case of a Eurodollar Loan, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period".

If no election as to the Type of Loan is specified, then the requested Loan shall be an ABR Loan. If no Interest Period is specified with respect to any requested Eurodollar Loan, then the Borrower shall be deemed to have selected an Interest Period of one month's duration.

b. Promptly following receipt of a Loan Request in accordance with this Section 2.03, the Administrative Agent shall advise each Revolving Lender of the details thereof and of the amount of such Revolving Lender's Loan to be made as part of the requested Loan.

Section 2.04 Funding of Loans

a. Each Revolving Lender shall make each Revolving Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 3:00 p.m., New York City time, or such earlier time as may be reasonably practicable, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders. Upon satisfaction or waiver of the conditions precedent specified herein, the Administrative Agent will make such Loans available to the Borrower by promptly crediting the amounts so received, in like funds, to an account designated by the Borrower in the applicable Loan Request; provided that ABR Loans made to finance the reimbursement of an LC Disbursement as provided in Section 2.02(e) shall be remitted by the Administrative Agent to the Issuing Lender.

b. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Loan (or, with respect to any ABR Loan made on same-day notice, prior to 12:30 p.m., New York City time, on the date of such Loan) that such Lender will not make available to the Administrative Agent such Lender's share of such Loan, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section 2.04 and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Loan available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith upon written demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrower, the interest rate otherwise applicable to such Loan. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Loan and the Borrower shall not be obligated to repay such amount pursuant to the preceding sentence if not previously repaid.

Section 2.05 Interest Elections.

a. The Borrower may elect from time to time to (i) convert ABR Loans to Eurodollar Loans, (ii) convert Eurodollar Loans to ABR Loans, provided that any such conversion of Eurodollar Loans may be made only on the last day of an Interest Period with respect thereto or (iii) continue any Eurodollar Loan as such upon the expiration of the then current Interest Period with respect thereto.

b. To make an Interest Election Request pursuant to this Section 2.05, the Borrower shall notify the Administrative Agent of such election by telephone or by hand or facsimile delivery of a written Interest Election Request by the time that a Loan Request would be required under Section 2.03(a) if the Borrower were requesting a Loan of the Type resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery or telecopy to the Administrative Agent of a written Interest Election Request in substantially the same form as a Loan Request signed by the Borrower.

c. Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.01:

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

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

iii. whether the resulting Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing; and

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

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

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

e. If the Borrower fails to deliver a timely Interest Election Request with respect to a Eurodollar Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be converted to a one month Eurodollar Borrowing. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing, and upon the request of the Required Lenders, (i) no outstanding Borrowing may be converted to or continued as a Eurodollar Borrowing and (ii) unless repaid, each Eurodollar Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

Section 2.06 Limitation on Eurodollar Tranches. Notwithstanding anything to the contrary in this Agreement, all borrowings, conversions and continuations of Eurodollar Loans and all selections of Interest Periods shall be in such amounts and be made pursuant to such elections so that, (a) after giving effect thereto, the aggregate principal amount of the Eurodollar Loans comprising each Eurodollar Tranche shall be equal to \$1,000,000 or a whole multiple of \$1,000,000 in excess thereof and (b) no more than twenty Eurodollar Tranches shall be outstanding at any one time.

Section 2.07 Interest on Loans.

a. Subject to the provisions of Section 2.08, each ABR Loan shall bear interest (computed on the basis of the actual number of days elapsed over a year of 365 days or 366 days in a leap year) at a rate per annum equal to the Alternate Base Rate plus the Applicable Margin.

b. Subject to the provisions of Section 2.08, each Eurodollar Loan shall bear interest (computed on the basis of the actual number of days elapsed over a year of 360 days) at a rate per annum equal, during each Interest Period applicable thereto, to the LIBO Rate for such Interest Period in effect for such Borrowing plus the Applicable Margin.

c. Accrued interest on all Loans shall be payable in arrears on each Interest Payment Date applicable thereto, on the Termination Date with respect to such Loans and thereafter on written demand and upon any repayment or prepayment thereof (on the amount repaid or

prepaid); provided that in the event of any conversion of any Eurodollar Loan to an ABR Loan, accrued interest on such Loan shall be payable on the effective date of such conversion.

Section 2.08 Default Interest. If the Borrower or any Guarantor, as the case may be, shall default in the payment of the principal of or interest on any Loan or in the payment of any other amount becoming due hereunder (including, without limitation, the reimbursement pursuant to Section 2.02(e) of any LC Disbursements), whether at stated maturity, by acceleration or otherwise, the Borrower or such Guarantor, as the case may be, shall on written demand of the Administrative Agent from time to time pay interest, to the extent permitted by law, on all overdue amounts up to (but not including) the date of actual payment (after as well as before judgment) at a rate per annum (computed on the basis of the actual number of days elapsed over a year of 360 days or, when the Alternate Base Rate is applicable, a year of 365 days or 366 days in a leap year) equal to (a) with respect to the principal amount of any Loan, the rate then applicable for such Borrowings plus 2.0%, and (b) in the case of all other amounts, the rate applicable for ABR Loans plus 2.0%.

Section 2.09 Alternate Rate of Interest. In the event, and on each occasion, that on the date that is two (2) Business Days prior to the commencement of any Interest Period for a Eurodollar Loan, the Administrative Agent shall have reasonably determined (which determination shall be conclusive and binding upon the Borrower absent manifest error) that reasonable means do not exist for ascertaining the applicable LIBO Rate, the Administrative Agent shall, as soon as practicable thereafter, give written or facsimile notice of such determination to the Borrower and the Lenders and, subject to clause (b) below, until the circumstances giving rise to such notice no longer exist, any request by the Borrower for a Borrowing of Eurodollar Loans hereunder (including pursuant to a refinancing with Eurodollar Loans and including any request to continue, or to convert to, Eurodollar Loans) shall be deemed a request for a Borrowing of ABR Loans.

b. Notwithstanding anything to the contrary in this Agreement or any other Loan Document, in the event that:

i. the Borrower and the Administrative Agent (x) mutually agree that ICE Benchmark Administration Limited (or any successor administrator) has permanently discontinued administering and publishing the rate described in clause (i) of the definition of LIBO Rate and (y) mutually determine an alternative benchmark rate for the rate described in clause (i) of the definition of LIBO Rate, taking into account any such alternative benchmark rate broadly accepted in the United States;

ii. the Borrower and the Administrative Agent (x) mutually agree that ICE Benchmark Administration Limited (or any successor administrator) will permanently discontinue administering and publishing the rate described in clause (i) of the definition of LIBO Rate as of a specific date and (y) mutually agree to adopt and implement, on or prior to such specific date, an alternative benchmark rate for the rate described in clause (i) of the definition of LIBO Rate, taking into account any such alternative benchmark rate broadly accepted in the United States; or

iii. (x) the Administrative Agent determines that an alternative benchmark rate has been adopted in the syndicated loan market in lieu of the rate described in clause (i) of the

definition of LIBO Rate at a time when ICE Benchmark Administration Limited (or any successor administrator) has not yet permanently discontinued administering and publishing such rate and (y) the Borrower agrees to accept such alternative benchmark rate in lieu of the rate described in clause (i) of the definition of LIBO Rate;

then the Administrative Agent and the Borrower shall amend this Agreement (including, without limitation, the definition of LIBO Rate, Alternate Base Rate, the timing and frequency of determining rates and other administrative matters as may be appropriate) to adopt and implement such alternative benchmark rate (the "LIBOR Successor Rate"); provided that in no event shall any LIBOR Successor Rate be less than zero and any such amendment shall become effective at 5:00 p.m. (New York time) on the fifth Business Day after the Administrative Agent shall have posted such proposed amendment to all Lenders and the Borrower (by promptly posting such information on a website on the Internet under an arrangement whereby the Lenders agree to maintain the confidentiality of such information pursuant to Section 10.03 hereof) unless, prior to such time, the Administrative Agent shall have received written notice from Lenders comprising the Required Lenders that such Required Lenders do not accept such amendment (such notice, an "Objection Notice"). If the circumstances under clause (b)(i)(x) above exist but no LIBOR Successor Rate has been determined pursuant to clause (b)(i)(y), the obligation of the Lenders to make or maintain Eurodollar Loans shall be suspended (to the extent of the affected Eurodollar Loans or Interest Periods) and the Borrower may revoke any pending request for a Eurodollar Borrowing of, conversion to or continuation of Eurodollar Loans (to the extent of the affected Eurodollar Loans or Interest Periods) or, failing that, will be deemed to have converted such request into a request for a Borrowing of or conversion to ABR Loans in the amount specified therein.

Section 2.10 Repayment of Loans; Evidence of Debt.

a. The Borrower hereby unconditionally promises to pay to the Administrative Agent for the ratable account of each Revolving Lender the then unpaid principal amount of each Revolving Loan then outstanding on the Revolving Facility Termination Date applicable to such Revolving Loan.

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

c. The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof. The Borrower shall have the right, upon reasonable notice, to request information regarding the accounts referred to in the preceding sentence.

d. The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this Section 2.10 shall be prima facie evidence of the existence and amounts of the obligations recorded therein; provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement.

e. Any Lender may request that Loans made by it be evidenced by a promissory note. In such event, the Borrower shall promptly execute and deliver to such Lender a promissory note payable to such Lender and its registered assigns in a form furnished by the Administrative Agent and reasonably acceptable to the Borrower. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 10.02) be represented by one or more promissory notes in such form payable to such payee and its registered assigns.

Section 2.11 Optional Termination or Reduction of Revolving Commitments. Upon at least one (1) Business Day revocable prior written notice to the Administrative Agent, the Borrower may at any time in whole permanently terminate a Total Revolving Commitment (subject to compliance with Section 2.12(e)), or from time to time in part permanently reduce the Unused Total Revolving Commitment. Each such reduction of the Unused Total Revolving Commitment shall be in the principal amount not less than \$1,000,000 and in an integral multiple of \$1,000,000. Simultaneously with each reduction or termination of the Revolving Commitment, the Borrower shall (i) pay to the Administrative Agent for the account of each Revolving Lender the Commitment Fee accrued and unpaid on the amount of the Revolving Commitment of such Revolving Lender so terminated or reduced through the date thereof and (ii) any outstanding Letters of Credit issued by an Issuing Lender that results in the amount of such Issuing Lender's Revolving Extensions of Credit then outstanding to exceed the Revolving Commitment (as so reduced) of such Revolving Lender shall be reduced and cancelled (or Cash Collateralized in accordance with Section 2.02(j)) as necessary to ensure the portion (if any) thereof outstanding and not Cash Collateralized does not exceed such Issuing Lender's Revolving Commitment (as so reduced). Any reduction of the Unused Total Revolving Commitment pursuant to this Section 2.11 shall be applied to reduce the Revolving Commitments of each Revolving Lender on a pro rata basis.

Section 2.12 Mandatory Prepayment of Loans; Commitment Termination; Change of Control Offer.

a. Within five (5) Business Days of the Borrower or any of its Subsidiaries receiving any Net Proceeds as a result of a Collateral Sale or a Recovery Event in respect of Collateral, if the Borrower shall not be in compliance with Section 6.09(a) on the date such Net Proceeds are received, the Borrower shall deposit cash in an amount (the "Net Proceeds Amount") equal to the amount of such received Net Proceeds (solely to the extent necessary to maintain compliance with Section 6.09(a)) into the Collateral Proceeds Account that is maintained with the Collateral Agent for such purpose and subject to an Account Control Agreement and thereafter such Net Proceeds Amount shall be applied (to the extent not otherwise applied pursuant to the immediately succeeding proviso and solely to the extent the Borrower is not in compliance with Section 6.09(a)) in accordance with the requirements of Section 2.12(c); provided that (i) the

Borrower may use such Net Proceeds Amount to replace with Qualified Replacement Assets or, solely in the case of any Net Proceeds Amount in respect of any Recovery Event, repair the assets which are the subject of such Recovery Event or Collateral Sale within 365 days after such deposit is made, (ii) all such Net Proceeds Amounts shall be subject to release as provided in Section 6.09(c) or, at the option of the Borrower at any time, may be applied in accordance with the requirements of Section 2.12(c), and (iii) upon the occurrence of an Event of Default, the amount of any such deposit may be applied by the Administrative Agent in accordance with Section 2.12(c); provided further that any release of any Net Proceeds Amount pursuant to clause (ii) of this Section 2.12(a) shall be conditioned on the Borrower being in compliance with Section 6.09(a) after giving effect thereto (it being understood that the failure to be in compliance with Section 6.09(a) shall not prevent the release of any Net Proceeds Amount in connection with any repair or replacement of assets permitted hereunder so long as no decrease in the Collateral Coverage Ratio will result therefrom).

b. The Borrower shall prepay the Revolving Loans (without any corresponding reduction in Revolving Commitments) when and in an amount necessary to comply with Section 6.09.

c. Amounts required to be applied to the prepayment of Loans pursuant to Section 2.12(a) and (b) shall be applied to prepay the outstanding Revolving Loans (and to provide Cash Collateralization for the outstanding LC Exposure following the repayment of all outstanding Revolving Loans) in an amount necessary to comply with Section 6.09, in each case as directed by the Borrower. Such prepayments of Revolving Loans (and Cash Collateralization of the outstanding LC Exposure) shall not result in a corresponding permanent reduction in the Revolving Commitments. Any Cash Collateralization of outstanding LC Exposure shall be consummated in accordance with Section 2.02(j). The application of any prepayment pursuant to this Section 2.12 shall be made, first, to ABR Loans and, second, to Eurodollar Loans.

d. If at any time the Total Revolving Extensions of Credit for any reason exceed the Total Revolving Commitment at such time, the Borrower shall prepay Revolving Loans on a pro rata basis in an amount sufficient to eliminate such excess. If, after giving effect to the prepayment of all outstanding Revolving Loans, the Total Revolving Extensions of Credit exceed the Total Revolving Commitment then in effect, the Borrower shall Cash Collateralize outstanding Letters of Credit to the extent of such excess.

e. Upon the Revolving Facility Termination Date applicable to any Revolving Commitment, such Revolving Commitment shall be terminated in full and the Borrower shall repay the applicable Revolving Loans in full and, except as the Administrative Agent may otherwise agree in writing, if any Letter of Credit remains outstanding, comply with Section 2.02(j) in accordance therewith.

f. All prepayments under this Section 2.12 shall be accompanied by accrued but unpaid interest on the principal amount being prepaid to (but not including) the date of prepayment, plus any accrued and unpaid Fees and any losses, costs and expenses, as more fully described in Section 2.15 hereof.

g. Unless otherwise prepaid in accordance with Section 2.12 or 2.13 hereof, and subject to the next sentence, upon the occurrence of a Downgrade Event, each Lender shall have the right to require the Borrower to prepay pursuant to clause (iii) below all or part of such Lender's Loans at a prepayment price equal to 100% of the principal amount thereof, plus accrued and unpaid interest, if any, to the date of prepayment, to discharge all or part of such Lender's LC Exposure (if any) and to terminate all or part of such Lender's unused Revolving Commitment in accordance with this Section 2.12. Notwithstanding the foregoing, the Borrower shall not be required to make a Change of Control Offer in connection with the occurrence of a Downgrade Event if, upon direction of the Borrower, a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Section 2.12(g) applicable to a Change of Control Offer made by the Borrower and purchases all Loans validly surrendered and not withdrawn under such Change of Control Offer and the Borrower otherwise complies with this Section 2.12(g).

i. Within 30 days following the occurrence of any Downgrade Event, the Borrower shall provide a written notice to the Administrative Agent and each Lender containing the following information (such notice, a "Change of Control Offer"):

A. that a Downgrade Event has occurred and that such Lender has the right to require Borrower to repay such Lender's Loans at a prepayment price in cash equal to 100% of the principal amount thereof, plus accrued and unpaid interest to the date of purchase, to discharge its LC Exposure by Cash Collateralizing such LC Exposure and to terminate such Lender's unused Revolving Commitment;

B. the date of prepayment, LC Exposure discharge and unused Revolving Commitment termination (the "Prepayment Date") (which shall be no earlier than 30 days nor later than 60 days from the date such notice is mailed); and

C. a statement that any Lender wishing to have its Loans repaid, LC Exposure discharged and unused Revolving Commitment terminated pursuant to such Change of Control Offer must comply with Section 2.12(g)(ii).

A Change of Control Offer may be made in advance of a Change of Control, and conditioned upon such Change of Control occurring, if a definitive agreement is in place for the Change of Control at the time of making the Change of Control Offer.

ii. In order to accept any Change of Control Offer, a Lender shall notify the Administrative Agent in writing at its address for notices contained in this Agreement prior to 12:00 noon, New York time, on the Business Day next preceding the Prepayment Date with respect to such Change of Control Offer (the "Election Time") of such Lender's election to require the Borrower to prepay all or a specified portion of such Lender's Loans, to discharge all or a specified portion of such Lender's LC Exposure and to terminate all or a specified portion of such Lender's unused Revolving Commitment pursuant to such Change of Control Offer (which, in the case of any election to require

less than all of such Lender's Loans to be prepaid, less than all of such Lender's LC Exposure to be discharged and less than all such Lender's unused Revolving Commitment to be terminated in such Change of Control Offer, shall be, taken together, in a minimum principal amount of \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof) and the principal amount of such Lender's Loans to be prepaid, the amount of such Lender's LC Exposure to be discharged and the amount of such Lender's unused Revolving Commitment to be terminated each shall be in the same proportion of such Lender's total Loans, total LC Exposure and total unused Revolving Commitment, respectively), and shall specify the amount of such Lender's Loans which such Lender requests be prepaid, amount of such Lender's LC Exposure which such Lender requests be discharged and amount of unused Revolving Commitment to be terminated in such Change of Control Offer. In order to validly withdraw any election with respect to any Put Exposure in any Change of Control Offer, the Lender holding such Put Exposure shall notify the Administrative Agent in writing at its address for notices contained in this Agreement prior to the Election Time of such Lender's election to withdraw such Put Exposure from such Change of Control Offer, which notification shall include a copy of such Lender's previous notification electing to have its Put Exposure prepaid, discharged or terminated in such Change of Control Offer and shall state that such election is withdrawn. All such prepayments of such Lender's Loans and discharge of such Lender's LC Exposure shall automatically result in a corresponding permanent reduction in such Lender's Revolving Commitments. The Administrative Agent shall from time to time, upon request by the Borrower, advise the Borrower of the amount of Put Exposure with respect to any Change of Control Offer.

iii. If as of the Election Time there is any Put Exposure as to which the election to accept the Change of Control Offer has not been withdrawn pursuant to Section 2.12(g)(ii), prior to 1:00 p.m., New York City time, on the Prepayment Date the Borrower shall pay to the Administrative Agent the aggregate amount payable with respect to such Put Exposure pursuant to Section 2.12(g)(i)(A). The Administrative Agent shall apply such funds to repay the Loans included in such Put Exposure and to Cash-Collateralize the LC Exposure included in the Put Exposure. In addition, the Administrative Agent shall recalculate the Revolving Commitment Percentage of each Lender after giving effect to such Change of Control Offer and give written notice thereof to the Borrower and each Lender.

h. Within three (3) Business Days following: (i) the effectiveness of any 364-day term loan facility between the Borrower and a syndicate of major U.S. financial institutions similar to the Lenders having an aggregate commitment amount of at least \$100,000,000 and that is secured by Aircraft or Engines (the "Replacement Facility"), and (ii) the Lenders becoming party to the Replacement Facility as lenders in an aggregate commitment amount no less than the total Commitments of the Lenders under this Agreement in effect immediately prior to the effectiveness of the Replacement Facility, the Revolving Commitments shall be terminated in full and the Borrower shall repay the Revolving Loans in full and, except as the Administrative Agent may otherwise agree in writing, if any Letter of Credit remains outstanding, comply with Section 2.02(j) in accordance therewith.

Section 2.13 Optional Prepayment of Loans.

a. The Borrower shall have the right, at any time and from time to time, to prepay any Loans, in whole or in part, (i) with respect to Eurodollar Loans, upon (A) telephonic notice (followed promptly by written or facsimile notice) or (B) written or facsimile notice, in any case received by 1:00 p.m., New York City time, three (3) Business Days prior to the proposed date of prepayment and (ii) with respect to ABR Loans, upon written or facsimile notice received by 1:00 p.m., New York City time, one Business Day prior to the proposed date of prepayment; provided that ABR Loans may be prepaid on the same day notice is given if such notice is received by the Administrative Agent by 12:00 noon, New York City time; provided further, however, that (A) each such partial prepayment shall be in an amount not less than \$1,000,000 and in integral multiples of \$1,000,000 in the case of Eurodollar Loans and integral multiples of \$100,000 in the case of ABR Loans, (B) no prepayment of Eurodollar Loans shall be permitted pursuant to this Section 2.13(a) other than on the last day of an Interest Period applicable thereto unless such prepayment is accompanied by the payment of the amounts described in Section 2.15, and (C) no partial prepayment of a Eurodollar Tranche shall result in the aggregate principal amount of the Eurodollar Loans remaining outstanding pursuant to such Eurodollar Tranche being less than \$1,000,000.

b. Any prepayments under Section 2.13(a) shall be applied to repay the outstanding Revolving Loans of the Revolving Lenders (without any reduction in the Total Revolving Commitment) as the Borrower shall specify until all Revolving Loans shall have been paid in full (plus any accrued but unpaid interest and fees thereon). All prepayments under Section 2.13(a) shall be accompanied by accrued but unpaid interest on the principal amount being prepaid to (but not including) the date of prepayment, plus any Fees and any losses, costs and expenses, as more fully described in Section 2.15 hereof.

c. Each notice of prepayment shall specify the prepayment date, the principal amount of the Loans to be prepaid and, in the case of Eurodollar Loans, the Borrowing or Borrowings pursuant to which made, shall be irrevocable and shall commit the Borrower to prepay such Loan by the amount and on the date stated therein; provided that the Borrower may revoke any notice of prepayment under this Section 2.13 if such prepayment would have resulted from a refinancing of any or all of the Obligations hereunder, which refinancing shall not be consummated or shall otherwise be delayed. The Administrative Agent shall, promptly after receiving notice from the Borrower hereunder, notify each Lender of the principal amount of the Loans held by such Lender which are to be prepaid, the prepayment date and the manner of application of the prepayment.

Section 2.14 Increased Costs.

a. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender or Issuing Lender (except any such reserve requirement subject to Section 2.14(c)); or

(ii.)impose on any Lender or Issuing Lender or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Eurodollar Loans made by such Lender or any Letter of Credit issued hereunder;

and the result of any of the foregoing shall be to increase the cost to such Lender of making, converting into, continuing or maintaining any Eurodollar Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to such Issuing Lender of issuing or maintaining any Letter of Credit or to reduce the amount of any sum received or receivable by such Lender or Issuing Lender hereunder with respect to any Eurodollar Loan or Letter of Credit (whether of principal, interest or otherwise), then, upon the request of such Lender or Issuing Lender, the Borrower will pay to such Lender or Issuing Lender, as the case may be, such additional amount or amounts as will compensate such Lender or Issuing Lender, as the case may be, for such additional costs incurred or reduction suffered.

a. If any Lender or Issuing Lender reasonably determines in good faith that any Change in Law affecting such Lender or Issuing Lender or such Lender's or Issuing Lender's holding company regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or Issuing Lender's capital or on the capital of such Lender's or Issuing Lender's holding company, if any, as a consequence of this Agreement or the Eurodollar Loans made by such Lender, or the Letters of Credit issued by such Issuing Lender, to a level below that which such Lender or Issuing Lender or such Lender's or Issuing Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or Issuing Lender's policies and the policies of such Lender's or Issuing Lender's holding company with respect to capital adequacy), then from time to time the Borrower will pay to such Lender or Issuing Lender, as the case may be, such additional amount or amounts, in each case as documented by such Lender or Issuing Lender to the Borrower as will compensate such Lender or Issuing Lender or such Lender's or Issuing Lender's holding company for any such reduction suffered; it being understood that to the extent duplicative of the provisions in Section 2.16, this Section 2.14(b) shall not apply to Taxes.

b. Solely to the extent arising from a Change in Law, the Borrower shall pay to each Lender (i) as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurodollar funds or deposits, additional interest on the unpaid principal amount of each Eurodollar Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive in the absence of manifest error) and (ii) as long as such Lender shall be required to comply with any reserve ratio requirement or analogous requirement of any other central banking or financial regulatory authority imposed in respect of the maintenance of the Commitments or the funding of the Eurodollar Loans, such additional costs (expressed as a percentage per annum and rounded upwards, if necessary, to the nearest five decimal places) equal to the actual costs allocated to such Commitment or Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive absent manifest error) which in each case shall be due and payable on each date on which interest is payable on such Loan, provided the Borrower shall have received at least fifteen (15) days' prior written notice (with a copy to the Administrative Agent, and which notice shall specify the Statutory Reserve

Rate, if any, applicable to such Lender) of such additional interest or cost from such Lender. If a Lender fails to give written notice fifteen (15) days prior to the relevant Interest Payment Date, such additional interest or cost shall be due and payable fifteen (15) days from receipt of such notice.

c. A certificate of a Lender or Issuing Lender setting forth the amount or amounts necessary to compensate such Lender or Issuing Lender or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section 2.14 and the basis for calculating such amount or amounts shall be delivered to the Borrower and shall be *prima facie* evidence of the amount due. The Borrower shall pay such Lender or Issuing Lender, as the case may be, the amount due within fifteen (15) days after receipt of such certificate.

d. Failure or delay on the part of any Lender or Issuing Lender to demand compensation pursuant to this Section 2.14 shall not constitute a waiver of such Lender's or Issuing Lender's right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender or Issuing Lender pursuant to this Section 2.14 for any increased costs or reductions incurred more than 180 days prior to the date that such Lender or Issuing Lender, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or Issuing Lender's intention to claim compensation therefor; provided further that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof. The protection of this Section 2.14 shall be available to each Lender regardless of any possible contention as to the invalidity or inapplicability of the law, rule, regulation, guideline or other change or condition which shall have occurred or been imposed.

e. The Borrower shall not be required to make payments under this Section 2.14 to any Lender or Issuing Lender if (A) a claim hereunder arises solely through circumstances peculiar to such Lender or Issuing Lender and which do not affect commercial banks in the jurisdiction of organization of such Lender or Issuing Lender generally, (B) the claim arises out of a voluntary relocation by such Lender or Issuing Lender of its applicable Lending Office (it being understood that any such relocation effected pursuant to Section 2.18 is not "voluntary"), or (C) such Lender or Issuing Lender is not seeking similar compensation for such costs to which it is entitled from its borrowers generally in commercial loans of a similar size.

f. Notwithstanding anything herein to the contrary, regulations, requests, rules, guidelines or directives implemented after the Closing Date pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act shall be deemed to be a Change in Law; provided however, that any determination by a Lender or Issuing Lender of amounts owed pursuant to this Section 2.14 to such Lender or Issuing Lender due to any such Change in Law shall be made in good faith in a manner generally consistent with such Lender's or Issuing Lender's standard practice.

Section 2.15 Break Funding Payments. In the event of (a) the payment of any principal of any Eurodollar Loan other than on the last day of an Interest Period applicable thereto (including as a result of the occurrence and continuance of an Event of Default), (b) the failure to borrow, convert,

continue or prepay any Eurodollar Loan on the date specified in any notice delivered pursuant hereto, or (c) the assignment (or reallocation) of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.18, 2.27(d) or 10.08(d), then, in any such event, at the request of such Lender, the Borrower shall compensate such Lender for the loss, cost and expense sustained by such Lender attributable to such event. Such loss, cost or expense to any Lender shall be deemed to include an amount reasonably determined in good faith by such Lender or Issuing Lender to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such Loan had such event not occurred, at the applicable rate of interest for such Loan (excluding, however the Applicable Margin included therein, if any), for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest (as reasonably determined by such Lender) which would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for dollar deposits of a comparable amount and period from other banks in the eurodollar market. A certificate of any Lender setting forth any amount or amounts (and the basis for requesting such amount or amounts) that such Lender is entitled to receive pursuant to this Section 2.15 shall be delivered to the Borrower and shall be *prima facie* evidence of the amount due. The Borrower shall pay such Lender the amount due within fifteen (15) days after receipt of such certificate.

Section 2.16 Taxes.

a. Any and all payments by or on account of any Obligation of the Borrower or any Guarantor hereunder or under any other Loan Document shall be made free and clear of and without deduction for any Indemnified Taxes or Other Taxes; provided that if any Indemnified Taxes or Other Taxes are required to be withheld from any amounts payable to the Administrative Agent, any Lender or any Issuing Lender, as determined in good faith by the applicable Withholding Agent, then (i) the sum payable by the Borrower or applicable Guarantor shall be increased as necessary so that after making all required deductions for any Indemnified Taxes or Other Taxes (including deductions for any Indemnified Taxes or Other Taxes applicable to additional sums payable under this Section 2.16), the Administrative Agent, Lender, Issuing Lender or any other recipient of such payments (as the case may be) receives an amount equal to the sum it would have received had no such deductions been made, (ii) the applicable Withholding Agent shall make such deductions and (iii) the applicable Withholding Agent shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

b. In addition, the Borrower or any Guarantor, as applicable, shall pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

c. The Borrower shall indemnify the Administrative Agent, each Lender and each Issuing Lender, within ten (10) days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes paid by or on behalf of or withheld or deducted from payments owing to the Administrative Agent, such Lender or such Issuing Lender, as the case may be, on or with respect to any payment by or on account of any obligation of the Borrower or

any Guarantor hereunder or under any other Loan Document (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 2.16) and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender or Issuing Lender, or by the Administrative Agent on its own behalf or on behalf of a Lender or Issuing Lender, shall be conclusive absent manifest error.

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

e. Each Lender shall, within ten (10) days after written demand therefor, indemnify the Administrative Agent (to the extent the Administrative Agent has not been reimbursed by the Borrower) for the full amount of any Taxes imposed by any Governmental Authority that are attributable to such Lender and that are payable or paid by the Administrative Agent, together with all interest, penalties, reasonable costs and expenses arising therefrom or with respect thereto, as determined by the Administrative Agent in good faith. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error.

f. Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which the Borrower is located, or any treaty to which such jurisdiction is a party, with respect to payments under this Agreement shall deliver to the Borrower (with a copy to the Administrative Agent), at the time or times prescribed by applicable law and as reasonably requested by the Borrower, such properly completed and executed documentation prescribed by applicable law or requested by the Borrower as will permit such payments to be made without withholding or at a reduced rate; provided that a Foreign Lender shall not be required to deliver any documentation pursuant to this Section 2.16(f) that such Foreign Lender is not legally able to deliver.

g. Without limiting the generality of the foregoing, each Foreign Lender shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter when the previously delivered certificates and/or forms expire, or upon request of the Borrower or the Administrative Agent) whichever of the following is applicable:

- (i) two (2) duly executed originals of Internal Revenue Service Form W-8BEN-E, claiming eligibility for benefits of an income tax treaty to which the United States of America is a party,
- (ii) two (2) duly executed originals of Internal Revenue Service Form W-8ECI,

(iii) two (2) duly executed originals of Internal Revenue Service Form W-8IMY, together with applicable attachments,

(iv) in the case of a Foreign Lender claiming the benefits of exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate to the effect that such Foreign Lender is not (A) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (B) a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, (C) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code or (D) conducting a trade or business in the United States with which the relevant interest payments are effectively connected and (y) two (2) duly executed originals of the Internal Revenue Service Form W-8BEN-E, or

(v) any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in United States federal withholding tax and reasonably requested by the Borrower or the Administrative Agent to permit the Borrower to determine the withholding or required deduction to be made.

A Foreign Lender shall not be required to deliver any form or statement pursuant to this Section 2.16(g) that such Foreign Lender is not legally able to deliver.

2. Any Lender that is a "United States Person" (as such term is defined in Section 7701(a)(30) of the Code) shall deliver to the Administrative Agent and the Borrower, on or prior to the date on which such Lender becomes a party to this Agreement (and from time to time thereafter when the previously delivered certificates and/or forms expire, or upon request of the Borrower or the Administrative Agent), two (2) copies of Internal Revenue Service Form W-9 (or any successor form), properly completed and duly executed by such Lender, certifying that such Lender is entitled to an exemption from United States backup withholding tax.

3. If a payment made to a Lender under this Agreement or any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent, at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent, such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower or the Administrative Agent to comply with its obligations under FATCA, to determine that such Lender has or has not complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment.

h. If the Administrative Agent or a Lender determines, in its sole discretion, that it has received a refund of any Taxes or Other Taxes from the Governmental Authority to which such Taxes or Other Taxes were paid and as to which it has been indemnified by the Borrower or a Guarantor or with respect to which the Borrower or a Guarantor has paid additional amounts pursuant to this Section 2.16, it shall pay over such refund to the Borrower or such Guarantor

(but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower or such Guarantor under this Section 2.16 with respect to the Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Administrative Agent or such Lender incurred in obtaining such refund (including Taxes imposed with respect to such refund) and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that the Borrower or such Guarantor, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to the Borrower or such Guarantor (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (h), in no event will the Administrative Agent or any Lender be required to pay any amount to the Borrower pursuant to this paragraph (h) if, and then only to the extent, the payment of such amount would place the Administrative Agent or such Lender in a less favorable net after-Tax position than the Administrative Agent or such Lender would have been in if the indemnification payments or additional amounts giving rise to such refund had never been paid. This Section shall not be construed to require the Administrative Agent or any Lender to make available its tax returns (or any other information relating to its taxes which it deems confidential) to the Borrower or any other Person.

Section 2.17 Payments Generally; Pro Rata Treatment.

a. The Borrower shall make each payment or prepayment required to be made by it hereunder (whether of principal, interest, fees or reimbursement of LC Disbursements, or of amounts payable under Section 2.14 or 2.15, or otherwise) prior to 1:00 p.m., New York City time, on the date when due, in immediately available funds, without set-off or counterclaim. Any amounts received after such time on any date may, in the reasonable discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent at its offices at 388 Greenwich Street, New York, NY 10013, pursuant to wire instructions to be provided by the Administrative Agent, except payments to be made directly to an Issuing Lender as expressly provided herein and except that payments pursuant to Sections 2.14, 2.15 and 10.04 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments hereunder shall be made in U.S. Dollars.

b. If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all Obligations then due hereunder, such funds shall be applied (i) first, towards payment of Fees and expenses then due under Sections 2.19 and 10.04 payable to each Agent, (ii) second, towards payment of Fees and expenses then due under Sections 2.20, 2.21 and 10.04 payable to the Lenders and the Issuing Lenders and towards payment of interest then due on account of the Revolving Loans and Letters of Credit, ratably among the parties

entitled thereto in accordance with the amounts of such Fees and expenses and interest then due to such parties, (iii) third, towards payment of (A) principal of the Revolving Loans and unreimbursed LC Disbursements then due hereunder, and (B) any Designated Hedging Obligations then due, to the extent such Designated Hedging Obligations constitute "Obligations" hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal, unreimbursed LC Disbursements and Designated Hedging Obligations constituting Obligations then due to such parties and (iv) fourth, towards payment of any Designated Banking Product Obligations then due, to the extent such Designated Banking Product Obligations constitute "Obligations" hereunder. Excluded Swap Obligations with respect to any Guarantor shall not be paid with amounts received from such Guarantor or its assets, but appropriate adjustment shall be made with respect to payments from the Borrower or other Guarantors to preserve the allocations to Obligations otherwise set forth above in this Section 2.17(b).

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

d. If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.04(a), 2.04(b), 8.04 or 10.04(d), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

Section 2.18 Mitigation Obligations; Replacement of Lenders.

a. If the Borrower is required to pay any additional amount to any Lender under Section 2.14 or to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder, to assign its rights and obligations hereunder to another of its offices, branches or affiliates, to file any certificate or document reasonably requested by the Borrower or to take other reasonable measures, if, in the judgment of such Lender, such designation, assignment, filing or other measures (i) would eliminate or reduce amounts payable pursuant to Section 2.14 or 2.16, as the case may be, and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be

disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment. Nothing in this Section 2.18 shall affect or postpone any of the obligations of the Borrower or the rights of any Lender pursuant to Section 2.14 or 2.16.

b. If, after the Closing Date, any Lender requests compensation under Section 2.14 or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16, or any Lender gives notice that it is the subject of an Illegality Event pursuant to Section 2.29, or if any Lender becomes a Defaulting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, (i) terminate such Lender's Revolving Commitment, prepay such Lender's outstanding Loans and provide Cash Collateralization for such Lender's LC Exposure or (ii) require such Lender to assign, without recourse (in accordance with and subject to the restrictions contained in Section 10.02), all its interests, rights and obligations under this Agreement to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), in any case as of a Business Day specified in such notice from the Borrower; provided that (i) such terminated or assigning Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts due, owing and payable to it hereunder at the time of such termination or assignment, from the assignee (to the extent of such outstanding principal and accrued interest and fees in the case of an assignment) or the Borrower (in the case of all other amounts) and (ii) in the case of an assignment due to payments required to be made pursuant to Section 2.16, such assignment will result in a reduction in such compensation or payments.

Section 2.19 Certain Fees. The Borrower shall pay to the Administrative Agent the fees set forth in that certain Administrative Agent Fee Letter, dated as of the Closing Date, between the Administrative Agent and the Borrower, in each case at the times set forth therein.

Section 2.20 Commitment Fee and Upfront Fee. (a) The Borrower shall pay to the Administrative Agent for the accounts of the Revolving Lenders a commitment fee (the "Commitment Fee") for the period commencing on the Closing Date to the Revolving Facility Termination Date with respect to the applicable Revolving Commitments or the earlier date of termination of the applicable Revolving Commitment, computed (on the basis of the actual number of days elapsed over a year of 360 days) at the Commitment Fee Rate on the average daily Unused Total Revolving Commitment. Such Commitment Fee, to the extent then accrued, shall be payable quarterly in arrears (a) on the 15th Business Day following the end of each March, June, September and December, (b) on the Revolving Facility Termination Date with respect to the applicable Revolving Commitments, and (c) as provided in Section 2.11 hereof, upon any reduction or termination in whole or in part of the Total Revolving Commitment.

b. The Borrower shall pay on the Closing Date to each Lender as of such date, an upfront fee in an amount as set forth in a separate fee letter entered into by the Borrower with such Lender on or prior to the Closing Date.

Section 2.21 Letter of Credit Fees. The Borrower shall pay with respect to each Letter of Credit (i) to the Administrative Agent for the account of the applicable Issuing Lender a fee calculated (on the basis of the actual number of days elapsed over a year of 360 days) at the per annum rate equal to the Applicable Margin then in effect with respect to Eurodollar Loans under the Revolving Facility on the daily average LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) with respect to such Letter of Credit and (ii) to each Issuing Lender (with respect to each Letter of Credit issued by it), such Issuing Lender's customary and reasonable fees as may be agreed by the Issuing Lender and the Borrower for issuance, amendments and processing referred to in Section 2.02. In addition, the Borrower agrees to pay each Issuing Lender for its account a fronting fee of 0.125% per annum, up to a maximum amount of \$1,000 per annum per Letter of Credit, in respect of each Letter of Credit issued by such Issuing Lender, for the period from and including the date of issuance of such Letter of Credit to and including the date of termination of such Letter of Credit. Accrued fees described in this paragraph in respect of each Letter of Credit shall be due and payable quarterly in arrears on the 15th Business Day following the end of each March, June, September and December and on the Revolving Facility Termination Date with respect to the applicable Revolving Commitments. So long as no Event of Default has occurred, fees accruing on any Letter of Credit outstanding after the applicable Revolving Facility Termination Date shall be payable quarterly in the manner described in the immediately preceding sentence and on the date of expiration or termination of any such Letter of Credit.

Section 2.22. Nature of Fees. All Fees shall be paid on the dates due, in immediately available funds, to the Administrative Agent, as provided herein and in the fee letters described in Section 2.19. Once paid, none of the Fees shall be refundable under any circumstances.

Section 2.23. Right of Set-Off. Upon the occurrence and during the continuance of any Event of Default pursuant to Section 7.01(b), each Agent, and each Lender (and their respective banking Affiliates) are hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final but excluding deposits in the Escrow Accounts, Payroll Accounts and other accounts, in each case, held in trust for an identified beneficiary) at any time held and other indebtedness at any time owing by such Agent and each such Lender (or any of such banking Affiliates) to or for the credit or the account of the Borrower or any Guarantor against any and all of any such overdue amounts owing under the Loan Documents, irrespective of whether or not the Administrative Agent or such Lender shall have made any demand under any Loan Document; provided that in the event that any Defaulting Lender exercises any such right of setoff, (x) all amounts so set off will be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.26(d) and, pending such payment, will be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Issuing Lenders and the Revolving Lenders and (y) the Defaulting Lender will provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. Each Lender agrees promptly to notify the Borrower and the Administrative Agent after any such set-off and application made by such Lender (or any of such banking Affiliates) and the Administrative Agent agrees promptly to notify the Borrower after any such set-off and application made by it (or any of its banking Affiliates), as the case may be, provided that the failure to give such notice shall not affect the validity of such set-off and application. The rights of each Lender and each Agent under this Section

2.23 are in addition to other rights and remedies which such Lender and such Agent may have upon the occurrence and during the continuance of any Event of Default.

Section 2.24. Security Interest in Letter of Credit Account. The Borrower hereby pledges to the Collateral Agent, for its benefit and for the benefit of the other Secured Parties, and hereby grants to the Collateral Agent, for its benefit and for the benefit of the other Secured Parties, a first priority security interest, senior to all other Liens, if any, in all of the Borrower's right, title and interest in and to the Letter of Credit Account, any direct investment of the funds contained therein and any proceeds thereof. Cash held in the Letter of Credit Account shall not be available for use by the Borrower, and shall be released to the Borrower only as described in Section 2.02(j).

Section 2.25. Payment of Obligations. Subject to the provisions of Section 7.01, upon the maturity (whether by acceleration or otherwise) of any of the Obligations under this Agreement or any of the other Loan Documents of the Borrower, the Lenders shall be entitled to immediate payment of such Obligations.

Section 2.26 Defaulting Lenders.

a. If at any time any Lender becomes a Defaulting Lender, then the Borrower may, on ten (10) Business Days' prior written notice to the Administrative Agent and such Lender, replace such Lender by causing such Lender to (and such Lender shall be obligated to) assign pursuant to Section 10.02(b) (with the assignment fee to be waived in such instance and subject to any consents required by such Section) all of its rights and obligations under this Agreement to one or more assignees; provided that neither the Administrative Agent nor any Lender shall have any obligation to the Borrower to find a replacement Lender or other such Person.

b. Any Lender being replaced pursuant to Section 2.26(a) shall (i) execute and deliver an Assignment and Acceptance with respect to such Lender's outstanding Commitments and Loans, and (ii) deliver any documentation evidencing such Loans to the Borrower or the Administrative Agent. Pursuant to such Assignment and Acceptance, (A) the assignee Lender shall acquire all or a portion, as specified by the Borrower and such assignee, of the assigning Lender's outstanding Commitments and Loans, (B) all obligations of the Borrower owing to the assigning Lender relating to the Commitments and Loans so assigned shall be paid in full by the assignee Lender to such assigning Lender concurrently with such Assignment and Acceptance (including, without limitation, any amounts owed under Section 2.15 due to such replacement occurring on a day other than the last day of an Interest Period), and (C) upon such payment and, if so requested by the assignee Lender, delivery to the assignee Lender of the appropriate documentation executed by the Borrower in connection with previous Borrowings, the assignee Lender shall become a Lender hereunder and the assigning Lender shall cease to constitute a Lender hereunder with respect to such assigned Commitments and Loans, except with respect to indemnification provisions under this Agreement, which shall survive as to such assigning Lender; provided that an assignment contemplated by this Section 2.26(b) shall become effective notwithstanding the failure by the Lender being replaced to deliver the Assignment and Acceptance contemplated by this Section 2.26(b), so long as the other actions specified in this Section 2.26(b) shall have been taken.

c. Anything herein to the contrary notwithstanding, if a Revolving Lender becomes, and during the period it remains, a Defaulting Lender, during such period, such Defaulting Lender shall not be entitled to any fees accruing during such period pursuant to Section 2.20 (without prejudice to the rights of the Non-Defaulting Lenders in respect of such fees).

d. Any amount paid by the Borrower or otherwise received by the Administrative Agent for the account of a Defaulting Lender under this Agreement (whether on account of principal, interest, fees, indemnity payments or other amounts) will not be paid or distributed to such Defaulting Lender, but shall instead be retained by the Administrative Agent in a segregated account until (subject to Section 2.26(f)) the termination of the Revolving Commitments and payment in full of all obligations of the Borrower hereunder and will be applied by the Administrative Agent, to the fullest extent permitted by law, to the making of payments from time to time in the following order of priority:

first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent,

second, to the payment of the default interest and then current interest due and payable to the Revolving Lenders which are Non-Defaulting Lenders hereunder, ratably among them in accordance with the amounts of such interest then due and payable to them,

third, to the payment of fees then due and payable to the Non-Defaulting Lenders hereunder, ratably among them in accordance with the amounts of such fees then due and payable to them,

fourth, to the ratable payment of other amounts then due and payable to the Non-Defaulting Lenders, and

fifth, after the termination of the Revolving Commitments and payment in full of all obligations of the Borrower hereunder, to pay amounts owing under this Agreement to such Defaulting Lender or as a court of competent jurisdiction may otherwise direct.

e. The Borrower may terminate the unused amount of the Commitment of any Lender that is a Defaulting Lender upon not less than ten (10) Business Days' prior notice to the Administrative Agent (which shall promptly notify the Revolving Lenders thereof), and in such event the provisions of Section 2.26(d) will apply to all amounts thereafter paid by the Borrower for the account of such Defaulting Lender under this Agreement (whether on account of principal, interest, fees, indemnity or other amounts), provided that (i) no Event of Default shall have occurred and be continuing and (ii) such termination shall not be deemed to be a waiver or release of any claim the Borrower, the Administrative Agent, or any Lender may have against such Defaulting Lender.

f. If the Borrower and the Administrative Agent agree in writing that a Revolving Lender that is a Defaulting Lender should no longer be deemed to be a Defaulting Lender, the Administrative Agent will so notify the Revolving Lenders, whereupon as of the effective date

specified in such notice and subject to any conditions set forth therein, such Revolving Lender shall purchase at par such portions of outstanding Revolving Loans of the other Revolving Lenders, and/or make such other adjustments, as the Administrative Agent may determine to be necessary to cause the Revolving Lenders to hold Revolving Loans on a pro rata basis in accordance with their respective Revolving Commitments, whereupon such Revolving Lender shall cease to be a Defaulting Lender and will be a Non-Defaulting Lender; provided that no adjustments shall be made retroactively with respect to fees accrued while such Revolving Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Non-Defaulting Lender shall constitute a waiver or release of any claim of any party hereunder arising from such Revolving Lender's having been a Defaulting Lender.

g. Notwithstanding anything to the contrary herein, (x) any Lender that is an Issuing Lender hereunder may not be replaced in its capacity as an Issuing Lender at any time that it has a Letter of Credit outstanding hereunder unless arrangements reasonably satisfactory to such Issuing Lender have been made with respect to such outstanding Letters of Credit and (y) the Administrative Agent may not be replaced hereunder except in accordance with the terms of Section 8.05.

Section 2.27 Increase in Commitment.

a. Borrowing Request. The Borrower may by written notice to the Administrative Agent request, prior to the then latest Revolving Facility Maturity Date, an increase to the existing Revolving Commitments; provided that after giving effect to such increase, the Total Revolving Commitments shall not exceed \$350,000,000. Such notice shall specify (i) the date (each, an "Increase Effective Date") on which the Borrower proposes that the increased Commitments shall be effective, which shall be a date not less than 10 Business Days after the date on which such notice is delivered to the Administrative Agent and (ii) the identity of each Eligible Assignee to whom the Borrower proposes any portion of such increased Commitments be allocated (each, a "New Lender") and the amounts of such allocations; provided that any existing Lender approached to provide all or a portion of the increased Commitments may elect or decline, in its sole discretion, to provide such increased Commitment.

b. Conditions. The increased Commitments shall become effective, as of such Increase Effective Date provided that:

i. each of the conditions set forth in Section 4.02 shall be satisfied on or prior to such Increase Effective Date;

ii. no Event of Default shall have occurred and be continuing or would result from giving effect to the increased Commitments on such Increase Effective Date;

iii. after giving pro forma effect to the increased Commitments to be made on such Increase Effective Date, the Borrower shall be in pro forma compliance with the covenant set forth in Section 6.09(a); and

iv. the Borrower shall deliver or cause to be delivered any legal opinions or other documents reasonably requested by the Administrative Agent in connection with any such transaction.

c. Terms of Revolving Loans and Commitments. The terms and provisions of Revolving Loans made pursuant to the increased Commitments shall be identical to the Revolving Loans. The increased Commitments shall be effected by a joinder agreement (the "Increase Joinder") executed by the Borrower, the Administrative Agent and each Lender making such increased Commitment, in form and substance satisfactory to each of them. The Increase Joinder may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of the Administrative Agent, to effect the provisions of this Section 2.27. In addition, unless otherwise specifically provided herein, all references in the Loan Documents to Revolving Loans shall be deemed, unless the context otherwise requires, to include references to Revolving Loans made pursuant to any increased Revolving Commitments made pursuant to this Agreement.

d. Adjustment of Revolving Loans. Each of the existing Revolving Lenders shall assign to each of the applicable New Lenders, and each of the New Lenders shall purchase from each of the existing Revolving Lenders, at the principal amount thereof (together with accrued interest), such interests in the Revolving Loans outstanding on such Increase Effective Date as shall be necessary in order that, after giving effect to all such assignments and purchases, such Revolving Loans will be held by the existing Lenders and New Lenders ratably in accordance with their Revolving Commitments after giving effect to the increased Revolving Commitments on such Increase Effective Date; provided that no such reallocation shall result in any Issuing Lender having Revolving Extensions of Credit greater than its Revolving Commitment. If there is a new Borrowing of Revolving Loans on such Increase Effective Date, the Revolving Lenders after giving effect to such Increase Effective Date shall make such Revolving Loans in accordance with Section 2.01(a). Any amounts owed under Section 2.15 due to a reallocation of Eurodollar Loans pursuant to this Section 2.27(d) occurring on a day other than the last day of an Interest Period applicable thereto shall be payable by the Borrower pursuant to Section 2.15.

e. Equal and Ratable Benefit. The Revolving Loans and Commitments established pursuant to this paragraph shall constitute Revolving Loans and Commitments under, and shall be entitled to all the benefits afforded by, this Agreement and the other Loan Documents and shall, without limiting the foregoing, benefit equally and ratably from the security interests created by the Collateral Documents.

Section 2.28. Extension of the Revolving Facility.

a. Notwithstanding anything to the contrary in this Agreement, pursuant to one or more offers (each, an "Extension Offer") made from time to time by the Borrower to all Lenders holding Revolving Commitments with a like maturity date, on a pro rata basis (based on the aggregate Revolving Commitments with a like maturity date) and on the same terms to each such Lender, the Borrower is hereby permitted to consummate from time to time transactions with individual Lenders that accept the terms contained in such Extension Offers to extend the maturity date of each such Lender's Revolving Commitments and otherwise modify the terms of

such Revolving Commitments pursuant to the terms of the relevant Extension Offer (including, without limitation, by the changing interest rate or fees payable in respect of such Revolving Commitments (and related outstandings)) (each, an “Extension”, and each group of Revolving Commitments, as so extended, as well as the original Revolving Commitments not so extended, being a “tranche”, and any Extended Revolving Commitments shall constitute a separate tranche of Revolving Commitments from the tranche of Revolving Commitments from which they were converted), so long as the following terms are satisfied:

- (i) no Event of Default shall have occurred and be continuing at the time the offering document in respect of an Extension Offer is delivered to the Lenders (the “Extension Offer Date”),
- (ii) except as to interest rates, fees and final maturity (which shall be set forth in the relevant Extension Offer), the Revolving Commitment of any Revolving Lender that agrees to an Extension with respect to such Revolving Commitment extended pursuant to an Extension (an “Extended Revolving Commitment”), and the related outstandings, shall be a Revolving Commitment (or related outstandings, as the case may be) with the same terms as the original Revolving Commitments (and related outstandings); provided that (1) the borrowing and repayment (except for (A) payments of interest and fees at different rates on Extended Revolving Commitments (and related outstandings), (B) repayments required upon the maturity date of the non-extending Revolving Commitments and (C) repayment made in connection with a permanent repayment and termination of commitments) of Loans with respect to Extended Revolving Commitments after the applicable Extension date shall be made on a pro rata basis with all other Revolving Commitments, (2) the permanent repayment of Revolving Loans with respect to, and termination of, Extended Revolving Commitments after the applicable Extension date shall be made on a pro rata basis with all other Revolving Commitments, except that the Borrower shall be permitted to permanently repay and terminate commitments of any such tranche on a better than a pro rata basis as compared to any other tranche with a later maturity date than such tranche, (3) assignments and participations of Extended Revolving Commitments and extended Revolving Loans shall be governed by the same assignment and participation provisions applicable to Revolving Commitments and Revolving Loans and (4) at no time shall there be Revolving Commitments hereunder (including Extended Revolving Commitments and any original Revolving Commitments) which have more than five different maturity dates,
- (iii) if the aggregate principal amount of Revolving Commitments in respect of which Revolving Lenders shall have accepted the relevant Extension Offer shall exceed the maximum aggregate principal amount of Revolving Commitments, as the case may be, offered to be extended by the Borrower pursuant to such Extension Offer, then the Revolving Loans of such Revolving Lenders shall be extended ratably up to such maximum amount based on the respective principal amounts (but not to exceed actual holdings of record) with respect to which such Revolving Lenders have accepted such Extension Offer,

(iv) if the aggregate principal amount of Revolving Commitments in respect of which Revolving Lenders shall have accepted the relevant Extension Offer shall be less than the maximum aggregate principal amount of Revolving Commitments, as the case may be, offered to be extended by the Borrower pursuant to such Extension Offer, then the Borrower may require each Revolving Lender that does not accept such Extension Offer to assign pursuant to Section 10.02 no later than forty-five (45) days after the Extension Offer Date its pro rata share of the outstanding Revolving Commitments and Revolving Loans offered to be extended pursuant to such Extension Offer to one or more assignees which have agreed to such assignment and to extend the applicable Revolving Facility Maturity Date; provided that (1) each Revolving Lender that does not respond affirmatively within thirty (30) days of the Extension Offer Date shall be deemed not to have accepted such Extension Offer, (2) each assigning Revolving Lender shall have received payment of an amount equal to the outstanding principal of its Revolving Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts), (3) the processing and recordation fee specified in Section 10.02(b) shall be paid by the Borrower or such assignee and (4) the assigning Revolving Lender shall continue to be entitled to the rights under Section 10.04 for any period prior to the effectiveness of such assignment,

(v) all documentation in respect of such Extension shall be consistent with the foregoing, and

(vi) any applicable Minimum Extension Condition shall be satisfied unless waived by the Borrower. For the avoidance of doubt, no Lender shall be obligated to accept any Extension Offer.

b. With respect to all Extensions consummated by the Borrower pursuant to this Section, (i) such Extensions shall not constitute voluntary or mandatory payments or prepayments for purposes of Section 2.12 or Section 2.13 and (ii) each Extension Offer shall specify the minimum amount of Revolving Commitments to be tendered, which shall be a minimum amount approved by the Administrative Agent (a "Minimum Extension Condition"). The Administrative Agent and the Lenders hereby consent to the transactions contemplated by this Section (including, for the avoidance of doubt, payment of any interest, fees or premium in respect of any Extended Revolving Commitments on such terms as may be set forth in the relevant Extension Offer) and hereby waive the requirements of any provision of this Agreement (including, without limitation, Sections 2.11, 2.12, 2.17 and 8.08) or any other Loan Document that may otherwise prohibit any such Extension or any other transaction contemplated by this Section 2.28.

c. The consent of the Administrative Agent shall be required to effectuate any Extension, such consent not to be unreasonably withheld. No consent of any Lender shall be required to effectuate any Extension, other than the consent of each Lender agreeing to such Extension with respect to one or more of its Revolving Commitments (or a portion thereof) (or, in the case of an Extension pursuant to clause (iv) of Section 2.28(a), the consent of the assignee

agreeing to the assignment of one or more Revolving Commitments and/or Revolving Loans). All Extended Revolving Commitments and all obligations in respect thereof shall be Obligations under this Agreement and the other Loan Documents that are secured by the Collateral on a *pari passu* basis with all other applicable Obligations under this Agreement and the other Loan Documents. The Lenders hereby irrevocably authorize the Administrative Agent to enter into amendments to this Agreement and the other Loan Documents (each, an "Extension Amendment") with the Borrower as may be necessary in order to establish new tranches or sub-tranches in respect of Revolving Commitments so extended and such technical amendments as may be necessary or appropriate in the reasonable opinion of the Administrative Agent and the Borrower in connection with the establishment of such new tranches or sub-tranches, in each case on terms consistent with this Section 2.28.

d. In connection with any Extension, the Borrower shall provide the Administrative Agent at least five (5) Business Days (or such shorter period as may be agreed by the Administrative Agent) prior written notice thereof, and shall agree to such procedures (including, without limitation, regarding timing, rounding and other adjustments and to ensure reasonable administrative management of the credit facilities hereunder after such Extension), if any, as may be established by, or acceptable to, the Administrative Agent, in each case acting reasonably to accomplish the purposes of this Section 2.28.

Section 2.29. Illegality. Subject to Section 2.09(b), if any Lender determines that any Change in Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable lending office to make, maintain, or fund Loans whose interest is determined by reference to the LIBO Rate, or to determine or charge interest rates based upon the LIBO Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market (any such occurrence, an "Illegality Event"), then, upon notice thereof by such Lender to the Borrower (through the Administrative Agent), (a) any obligation of such Lender to make or continue LIBO Rate Loans or to convert ABR Loans to LIBO Rate Loans shall be suspended, and (b) if such notice asserts the illegality of such Lender making or maintaining ABR Loans the interest rate on which is determined by reference to the LIBO Rate component of the Alternate Base Rate, the interest rate on which ABR Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the LIBO Rate component of the Alternate Base Rate, in each case until such Lender notifies the Administrative Agent and the Borrower that such Illegality Event no longer exists. Upon receipt of such notice, (i) the Borrower shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all LIBO Rate Loans of such Lender to ABR Loans (the interest rate on which ABR Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the LIBO Rate component of the Alternate Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such LIBO Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such LIBO Rate Loans and (ii) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the LIBO Rate, the Administrative Agent shall during the period of such suspension compute the Alternate Base Rate applicable to such Lender without reference to the LIBO Rate component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon

the LIBO Rate. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 2.15.

SECTION 3.

REPRESENTATIONS AND WARRANTIES

In order to induce the Lenders to make Loans and issue Letters of Credit hereunder, the Borrower and each of the Guarantors jointly and severally represent and warrant as follows:

Section 3.01 Organization and Authority. Each of the Borrower and the Guarantors (a) is duly organized, validly existing and in good standing (to the extent such concept is applicable in the applicable jurisdiction) under the laws of the jurisdiction of its organization and is duly qualified and in good standing in each other jurisdiction in which the failure to so qualify would have a Material Adverse Effect and (b) has the requisite corporate or limited liability company power and authority to effect the Transactions, to own or lease and operate its properties and to conduct its business as now or currently proposed to be conducted.

Section 3.02 Air Carrier Status. The Borrower is an "air carrier" within the meaning of Section 40102 of Title 49 and holds a certificate under Section 41102 of Title 49. The Borrower holds an air carrier operating certificate issued pursuant to Chapter 447 of Title 49. The Borrower is a "citizen of the United States" as defined in Section 40102(a)(15) of Title 49 and as that statutory provision has been interpreted by the DOT pursuant to its policies (a "United States Citizen"). The Borrower possesses all necessary certificates, franchises, licenses, permits, rights, designations, authorizations, exemptions, concessions, frequencies and consents which relate to the operation of the routes flown by it and the conduct of its business and operations as currently conducted except where failure to so possess would not, in the aggregate, have a Material Adverse Effect.

Section 3.03. Due Execution. The execution, delivery and performance by each of the Borrower and the Guarantors of each of the Loan Documents to which it is a party (a) are within the respective corporate or limited liability company powers of each of the Borrower and the Guarantors, have been duly authorized by all necessary corporate or limited liability company action, including the consent of shareholders or members where required, and do not (i) contravene the charter, by-laws or limited liability company agreement (or equivalent documentation) of the Borrower or any of the Guarantors, (ii) violate any applicable law (including, without limitation, the Securities Exchange Act of 1934) or regulation (including, without limitation, Regulations T, U or X of the Board), or any order or decree of any court or Governmental Authority, other than violations by the Borrower or the Guarantors which would not reasonably be expected to have a Material Adverse Effect, (iii) conflict with or result in a breach of, or constitute a default under, any material indenture, mortgage or deed of trust or any material lease, agreement or other instrument binding on the Borrower or the Guarantors or any of their properties, which, in the aggregate, would reasonably be expected to have a Material Adverse Effect, or (iv) result in or require the creation or imposition of any Lien upon any of the property of the Borrower or any of the other Grantors other than the Liens granted pursuant to this Agreement or the other Loan Documents; and (b) do not require the consent, authorization by or approval of or notice to or filing or

registration with any Governmental Authority or any other Person, other than (i) the filing of financing statements under the UCC, (ii) the filings and consents contemplated by the Collateral Documents, (iii) approvals, consents and exemptions that have been obtained on or prior to the Closing Date and remain in full force and effect, (iv) consents, approvals and exemptions that the failure to obtain in the aggregate would not be reasonably expected to result in a Material Adverse Effect and (v) routine reporting obligations. Each Loan Document to which the Borrower or a Guarantor is a party has been duly executed and delivered by the Borrower and each of the Guarantors party thereto. This Agreement and the other Loan Documents to which the Borrower or any of the Guarantors is a party, each is a legal, valid and binding obligation of the Borrower and each Guarantor party thereto, enforceable against the Borrower and the Guarantors, as the case may be, in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

Section 3.04 Statements Made.

a. The written information furnished by or on behalf of the Borrower to the Administrative Agent or any Lender in connection with the negotiation of this Agreement (as modified or supplemented by other written information so furnished), together with the Annual Report on Form 10-K for 2019 of the Borrower filed with the SEC (giving effect to any amendments thereof made prior to the date that this representation and warranty is being made and the Current Report on Form 8-K filed on March 26, 2020) and all Quarterly Reports on Form 10-Q or Current Reports on Form 8-K that have been filed after December 31, 2019, by the Borrower, with the SEC (giving effect to any amendments thereof made prior to the date that this representation and warranty is being made), taken as a whole as of the Closing Date did not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made therein not misleading in light of the circumstances in which such information was provided; provided that, with respect to projections, estimates or other forward-looking information the Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time.

b. The Annual Report on Form 10-K of the Borrower most recently filed with the SEC (giving effect to the Current Report on Form 8-K filed on March 26, 2020), and each Quarterly Report on Form 10-Q and Current Report on Form 8-K of the Borrower filed with the SEC subsequently and prior to the date that this representation and warranty is being made, did not as of the date filed with the SEC (giving effect to any amendments thereof made prior to the date that this representation and warranty is being made) contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading.

Section 3.05 Financial Statements; Material Adverse Change.

a. Except as disclosed in the Current Report on Form 8-K filed on March 26, 2020, the audited consolidated financial statements of the Borrower and its Subsidiaries for the fiscal year ended December 31, 2019, included in the Borrower's Annual Report on Form 10-K for 2019 filed with the SEC, as amended and restated prior to the date that this representation and

warranty is being made, present fairly, in all material respects, in accordance with GAAP, the financial condition, results of operations and cash flows of the Borrower and its Subsidiaries on a consolidated basis as of such date and for such period.

b. Except as disclosed in the Borrower's Annual Report on Form 10-K for 2019 (giving effect to any amendments thereof made prior to the date that this representation and warranty is being made) or any subsequent report filed by the Borrower on Form 10-Q or Form 8-K with the SEC, since March 18, 2020, there has been no Material Adverse Change.

Section 3.06 Ownership of Subsidiaries. As of the Closing Date, other than as set forth on Schedule 3.06, (a) each of the Persons listed on Schedule 3.06 is a wholly-owned, direct or indirect Subsidiary of the Borrower, and (b) the Borrower owns no other Subsidiaries (other than Immaterial Subsidiaries), whether directly or indirectly.

Section 3.06 Liens. There are no Liens of any nature whatsoever on any Collateral other than Permitted Liens.

Section 3.08 Use of Proceeds. The proceeds of the Loans, and the Letters of Credit, shall be used for working capital or other general corporate purposes of the Borrower and its Subsidiaries (including the repayment of indebtedness and the payment of fees and transaction costs as contemplated hereby and as referred to in Sections 2.19 and 2.20).

Section 3.09. Litigation and Compliance with Laws.

a. Except as disclosed in the Borrower's Annual Report on Form 10-K for 2019 or any subsequent report filed by the Borrower on Form 10-Q or Form 8-K with the SEC since December 31, 2019, there are no actions, suits, proceedings or investigations pending or, to the knowledge of the Borrower or the Guarantors, threatened against the Borrower or the Guarantors or any of their respective properties (including any properties or assets that constitute Collateral under the terms of the Loan Documents), before any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, that (i) are likely to have a Material Adverse Effect or (ii) would reasonably be expected to affect the legality, validity, binding effect or enforceability of the Loan Documents or, in any material respect, the rights and remedies of the Administrative Agent or the Lenders thereunder or in connection with the Transactions.

b. Except with respect to any matters that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect, the Borrower and each Guarantor to its knowledge is currently in compliance with all applicable statutes, regulations and orders of, and all applicable restrictions imposed by, all Governmental Authorities, in respect of the conduct of its business and ownership of its property.

Section 3.10. FAA Slot Utilization.

a. As of the Closing Date, all of the Pledged Slots held by the Borrower and the other Grantors constituting Collateral are FAA Slots.

b. Except for matters which would not reasonably be expected to have a Material Adverse Effect, the Borrower and the other Grantors, as applicable, are utilizing, or causing to be utilized, their respective Pledged Slots (except Pledged Slots which are reasonably determined by the Borrower to be of *de minimis* value or surplus to the Borrower's needs) in a manner consistent in all material respects with applicable rules, regulations, laws and contracts in order to preserve both their respective right to hold and operate the Pledged Slots, taking into account any waivers or other relief granted to the Borrower or any Guarantor by the FAA, other applicable U.S. Governmental Authorities or U.S. Airport Authorities. Neither the Borrower nor any Guarantor has received any written notice from the FAA, other applicable U.S. Governmental Authorities or U.S. Airport Authorities, or is otherwise aware of any other event or circumstance, that would be reasonably likely to impair in any material respect its respective right to hold and operate any Pledged Slot, except for any such impairment that, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

Section 3.11. Margin Regulations; Investment Company Act.

a. Neither the Borrower nor any Guarantor is engaged, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the Board, "Margin Stock"), or extending credit for the purpose of purchasing or carrying Margin Stock, and no proceeds of any Loans will be used to purchase or carry any Margin Stock or to extend credit to others for the purpose of purchasing or carrying any Margin Stock in violation of Regulation U.

b. Neither the Borrower nor any Guarantor is, or after the making of the Loans will be, or is required to be, registered as an "investment company" under the Investment Company Act of 1940, as amended. Neither the making of any Loan, nor the issuance of any Letters of Credit, nor the application of the proceeds of any Loan or repayment of any Loan or reimbursement of any LC Disbursement by the Borrower, nor the consummation of the other transactions contemplated by the Loan Documents, will violate any provision of such Act or any rule, regulation or order of the SEC thereunder.

Section 3.12. Ownership of Collateral. Each Grantor has good title to the Collateral owned by it, free and clear of all Liens other than Permitted Liens.

Section 3.13. Perfected Security Interests. The Collateral Documents, taken as a whole, are effective to create in favor of the Collateral Agent, for the benefit of the Secured Parties, a legal, valid and enforceable security interest in all of the Collateral to the extent purported to be created thereby, subject as to enforceability to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law. With respect to the Collateral as of the Closing Date, at such time as (a) financing statements in appropriate form are filed in the appropriate offices (and the appropriate fees are paid) and (b) the execution of the Account Control Agreements, the Collateral Agent, for the benefit of the Secured Parties, shall have a first priority perfected security interest and/or mortgage (or comparable Lien) in all of such Collateral to the extent that the Liens on such Collateral may be perfected upon the filings or recordations or upon the taking of the actions

described in clauses (a) and (b) above, subject in each case only to Permitted Liens, and such security interest is entitled to the benefits, rights and protections afforded under the Collateral Documents applicable thereto (subject to the qualification set forth in the first sentence of this Section 3.13).

Section 3.14. Payment of Taxes. Each of the Borrower and its Subsidiaries has timely filed or caused to be filed all Tax returns and reports required to have been filed by it and has paid or caused to be paid when due all Taxes required to have been paid by it, except and solely to the extent that, in each case (a) such Taxes are being contested in good faith by appropriate proceedings or (b) the failure to do so would not reasonably be expected to result in a Material Adverse Effect.

Section 3.15. Anti-Corruption Laws and Sanctions. Borrower has implemented and maintains in effect policies and procedures intended to ensure compliance by Borrower, its Subsidiaries and, when acting in such capacity, their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and Borrower and its Subsidiaries are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. None of Borrower, any of its Subsidiaries or to the knowledge of Borrower any of their respective directors or officers is a Sanctioned Person.

SECTION 4. CONDITIONS OF LENDING

Section 4.01 Conditions Precedent to Closing Date. This Agreement shall become effective on the date on which the following conditions precedent shall have been satisfied (or waived by the Lenders in accordance with Section 10.08 and by the Administrative Agent):

a. Supporting Documents. The Administrative Agent shall have received with respect to the Borrower and the Guarantors in form and substance reasonably satisfactory to the Administrative Agent:

i.a certificate of the Secretary of State of the state of such entity's incorporation or formation, dated as of a recent date, as to the good standing of that entity (to the extent available in the applicable jurisdiction) and as to the charter documents on file in the office of such Secretary of State;

ii.a certificate of the Secretary or an Assistant Secretary (or similar officer), of such entity dated the Closing Date and certifying (A) that attached thereto is a true and complete copy of the certificate of incorporation or formation and the by-laws or limited liability company or other operating agreement (as the case may be) of that entity as in effect on the date of such certification, (B) that attached thereto is a true and complete copy of resolutions adopted by the board of directors, board of managers or members of that entity authorizing the Borrowings and Letter of Credit issuances hereunder, the execution, delivery and performance in accordance with their respective terms of this Agreement, the other Loan Documents and any other documents required or contemplated hereunder or thereunder, and the granting of the security interest in the Letter of Credit Account and other Liens contemplated hereby or the other Loan

Documents (in each case to the extent applicable to such entity), (C) that the certificate of incorporation or formation of that entity has not been amended since the date of the last amendment thereto indicated on the certificate of the Secretary of State furnished pursuant to clause (i) above, and (D) as to the incumbency and specimen signature of each officer of that entity executing this Agreement and the Loan Documents or any other document delivered by it in connection herewith or therewith (such certificate to contain a certification by another officer of that entity as to the incumbency and signature of the officer signing the certificate referred to in this clause (ii));

iii. an Officer's Certificate from the Borrower certifying (A) as to the truth in all material respects of the representations and warranties made by it contained in the Loan Documents as though made on the Closing Date, except to the extent that any such representation or warranty relates to a specified date, in which case as of such date (provided that any representation or warranty that is qualified by materiality, "Material Adverse Change" or "Material Adverse Effect" shall be true and correct in all respects as of the applicable date, before and after giving effect to the Transactions) and (B) as to the absence of any event occurring and continuing, or resulting from the Transactions, that constitutes an Event of Default; and

iv. an incumbency certificate of the Collateral Agent as to the person or persons authorized to execute and deliver this Agreement, the Collateral Documents, and any other documents to be executed on behalf of the Collateral Agent in connection with the transactions contemplated hereby and the signatures of such person or persons.

b. Credit Agreement. Each party hereto shall have duly executed and delivered to the Administrative Agent this Agreement.

c. Security Agreement. The Borrower shall have duly executed and delivered to the Administrative Agent the Aircraft and Spare Engine Mortgage.

d. [Reserved].

e. Opinions of Counsel. The Administrative Agent and the Lenders shall have received:

i. a written opinion of Thomas Canfield, General Counsel for the Borrower, in form and substance reasonably satisfactory to the Administrative Agent and the Lenders;

ii. a written opinion of Debevoise & Plimpton LLP, special New York counsel to the Borrower and the Guarantors, dated the Closing Date, in form and substance reasonably satisfactory to the Administrative Agent and the Lenders; and

iii. a written opinion of Milbank LLP, special New York counsel to the Administrative Agent, dated the Closing Date, in form and substance reasonably satisfactory to the Administrative Agent.

f. Payment of Fees and Expenses. The Borrower shall have paid to each Agent and the Lenders the then unpaid balance of all accrued and unpaid Fees due, owing and payable under and pursuant to this Agreement, including, as referred to in Sections 2.19 and Section 2.20, and all reasonable and documented out-of-pocket expenses of the Administrative Agent (including reasonable attorneys' fees of Milbank LLP) for which invoices have been presented at least one Business Day prior to the Closing Date.

g. [Reserved].

h. Consents. All material governmental and third party consents and approvals necessary in connection with the financing contemplated hereby shall have been obtained, in form and substance reasonably satisfactory to the Administrative Agent, and be in full force and effect.

i. Representations and Warranties. All representations and warranties of the Borrower and the Guarantors contained in this Agreement and the other Loan Documents executed and delivered on the Closing Date shall be true and correct in all material respects on and as of the Closing Date, as though made on and as of such date (except to the extent any such representation or warranty by its terms is made as of a different specified date, in which case as of such specified date); provided that any representation or warranty that is qualified by materiality, "Material Adverse Change" or "Material Adverse Effect" shall be true and correct in all respects, as though made on and as of the applicable date, after giving effect to the Transactions.

j. No Event of Default. Before and after giving effect to the Transactions, no Event of Default shall have occurred and be continuing on the Closing Date.

k. Patriot Act. The Lenders shall have received at least five (5) days prior to the Closing Date all documentation and other information required by bank regulatory authorities under applicable "know-your-customer" and anti-money laundering rules and regulations, including the Patriot Act, that such Lenders shall have requested from the Borrower or a Guarantor prior to such date.

The execution by each Lender of this Agreement shall be deemed to be confirmation by such Lender that any condition relating to such Lender's satisfaction or reasonable satisfaction with any documentation set forth in this Section 4.01 has been satisfied as to such Lender.

Section 4.02. Conditions Precedent to Each Loan and Each Letter of Credit. The obligation of the Lenders to make each Loan and of the Issuing Lenders to issue each Letter of Credit, including the initial Loans and the initial Letters of Credit, is subject to the satisfaction (or waiver in accordance with Section 10.08) of the following conditions precedent:

a. Notice. The Administrative Agent shall have received a Loan Request pursuant to Section 2.03 with respect to such borrowing or a request for issuance of such Letter of Credit pursuant to Section 2.02, as the case may be.

b. Representations and Warranties. All representations and warranties contained in this Agreement and the other Loan Documents (other than, with respect to Loans made or Letters of Credit issued after the Closing Date, the representations and warranties set forth in Sections 3.05(b), 3.06 and 3.09(a)) shall be true and correct in all material respects on and as of the date of such Loan or the issuance of such Letter of Credit hereunder (both before and after giving effect thereto and, in the case of each Loan, the application of proceeds therefrom) with the same effect as if made on and as of such date except to the extent such representations and warranties expressly relate to an earlier date and in such case as of such date; provided that any representation or warranty that is qualified by materiality, "Material Adverse Change" or "Material Adverse Effect" shall be true and correct in all respects, as though made on and as of the applicable date, before and after giving effect to such Loan or the issuance of such Letter of Credit hereunder.

c. No Default. On the date of such Loan or the issuance of such Letter of Credit hereunder, no Event of Default or material Default shall have occurred and be continuing nor shall any such Event of Default or material Default, as the case may be, occur by reason of the making of the requested Borrowing or the issuance of the requested Letter of Credit and, in the case of each Loan, the application of proceeds thereof.

d. Collateral Coverage Ratio. On the date of such Loan or the issuance of such Letter of Credit hereunder (and after giving pro forma effect thereto), the Collateral Coverage Ratio shall not be less than 1.0 to 1.0.

e. No Going Concern Qualification. On the date of such Loan or the issuance of such Letter of Credit hereunder, the opinion of the independent public accountants (after giving effect to any reissuance or revision of such opinion) on the most recent audited consolidated financial statements delivered by the Borrower pursuant to Section 5.01(a) shall not include a "going concern" qualification under GAAP as in effect on the date of this Agreement or, if there is a change in the relevant provisions of GAAP thereafter, any like qualification or exception under GAAP after giving effect to such change.

f. Additional Collateral. If Additional Collateral is to be pledged in connection with the making of such Loan and/or the issuance of such Letter of Credit in order to cause the Collateral Coverage Ratio to be no less than 1.0 to 1.0 on such date (after giving pro forma effect to such Loan and/or Letter of Credit), the Borrower shall have complied with the requirements of Section 5.13(b) with respect to such Additional Collateral.

g. Appraisals. If Additional Collateral is to be pledged in connection with the making of such Loan and/or the issuance of such Letter of Credit in order to cause the Collateral Coverage Ratio to be no less than 1.0 to 1.0 on such date (after giving pro forma effect to such Loan and/or Letter of Credit), the Administrative Agent shall have received Appraisals with respect to such Additional Collateral pursuant to Section 5.07, in form reasonably satisfactory to the Administrative Agent, demonstrating that the Borrower shall be in compliance on a pro forma basis with Section 6.09(a) on such date.

The acceptance by the Borrower of each extension of credit hereunder shall be deemed to be a representation and warranty by the Borrower that the conditions specified in this Section 4.02 have been satisfied at that time.

SECTION 5.

AFFIRMATIVE COVENANTS

From the Closing Date and for so long as the Commitments remain in effect, any Letter of Credit remains outstanding (in a face amount in excess of the sum of (i) the amount of cash then held in the Letter of Credit Account and (ii) the face amount of back-to-back letters of credit delivered pursuant to Section 2.02(j)), or the principal of or interest on any Loan or reimbursement of any LC Disbursement is owing (or any other amount that is due and unpaid on the first date that none of the foregoing is in effect, outstanding or owing, respectively, is owing) to any Lender or the Administrative Agent hereunder:

Section 5.01 Financial Statements, Reports, etc. The Borrower shall deliver to the Administrative Agent on behalf of the Lenders:

a. Within ninety (90) days after the end of each fiscal year, the Borrower's consolidated balance sheet and related statement of income and cash flows, showing the financial condition of the Borrower and its Subsidiaries on a consolidated basis as of the close of such fiscal year and the results of their respective operations during such year, the consolidated statement of the Borrower to be audited for the Borrower by independent public accountants of recognized national standing and to be accompanied by an opinion of such accountants (without any qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements fairly present in all material respects the financial condition and results of operations of the Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP; provided that the foregoing delivery requirement shall be satisfied if the Borrower shall have filed with the SEC its Annual Report on Form 10-K for such fiscal year, which is available to the public via EDGAR or any similar successor system;

b. Within forty-five (45) days after the end of each of the first three fiscal quarters of each fiscal year, the Borrower's consolidated balance sheets and related statements of income and cash flows, showing the financial condition of the Borrower and its Subsidiaries on a consolidated basis as of the close of such fiscal quarter and the results of their operations during such fiscal quarter and the then elapsed portion of the fiscal year, each certified by a Responsible Officer of the Borrower as fairly presenting in all material respects the financial condition and results of operations of the Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP, subject to normal year-end audit adjustments and the absence of footnotes; provided that the foregoing delivery requirement shall be satisfied if the Borrower shall have filed with the SEC its Quarterly Report on Form 10-Q for such fiscal quarter, which is available to the public via EDGAR or any similar successor system;

c. Within the time period under Section 5.01(a) above, a certificate of a Responsible Officer of the Borrower certifying that, to the knowledge of such Responsible Officer, no Default

or Event of Default has occurred and is continuing, or, if, to the knowledge of such Responsible Officer, such a Default or Event of Default has occurred and is continuing, specifying the nature and extent thereof and any corrective action taken or proposed to be taken with respect thereto;

d. Within the time period under (a) and (b) of this Section 5.01, a certificate of a Responsible Officer demonstrating in reasonable detail compliance with Sections 6.08 and 6.09(a) as of the end of the preceding fiscal quarter, including an updated calculation of the Collateral Coverage Ratio reflecting the most recent Appraisals (as adjusted for any Dispositions or additions to the Collateral since the date of delivery to the Administrative Agent of such Appraisals);

e. Within 15 days after a Responsible Officer of the Borrower obtains knowledge that there has been one or more Dispositions of Collateral (excluding those described in clause (b), (d) or (e) (iv) of the definition of "Permitted Disposition") since the date of the Officer's Certificate demonstrating compliance with Section 6.09(a) most recently delivered under this Agreement by the Borrower to the Administrative Agent consisting of (i) a Pledged Aircraft, (ii) a Pledged Engine or (iii) any other Collateral having an Appraised Value in the aggregate in excess of 10% of the sum of the aggregate Appraised Value of all Collateral plus Pledged Cash and Cash Equivalents, a certificate of a Responsible Officer demonstrating in reasonable detail compliance with Section 6.09(a);

f. [Reserved].

g. Promptly after a Responsible Officer obtains knowledge thereof, notice of the failure of any material assumption contained in any Appraisal to be correct, except if such failure would not reasonably be expected to materially adversely affect the Appraised Value of the applicable type of Collateral;

h. So long as any Commitment, Loan or Letter of Credit is outstanding, within 30 days after the Chief Financial Officer or the Treasurer of the Borrower becoming aware of the occurrence of a Default or an Event of Default that is continuing, an Officer's Certificate specifying such Default or Event of Default and what action the Borrower and its Subsidiaries are taking or propose to take with respect thereto; and

i. Promptly, from time to time, such other information regarding the Collateral and the operations, business affairs and financial condition of either the Borrower or any Guarantor, in each case as the Administrative Agent, at the request of any Lender, may reasonably request (it being understood that, upon the request of the Administrative Agent, the Borrower shall provide utilization reports with respect to the Pledged Slots (but no more than once per fiscal quarter)).

Subject to the next succeeding sentence, information delivered pursuant to this Section 5.01 to the Administrative Agent may be made available by the Administrative Agent to the Lenders by posting such information on the DebtDomain website on the Internet at <http://www.debtDomain.com>. Information required to be delivered pursuant to this Section 5.01 by the Borrower shall be delivered pursuant to Section 10.01 hereto. Information required to be

delivered pursuant to this Section 5.01 (to the extent not made available as set forth above) shall be deemed to have been delivered to the Administrative Agent on the date on which the Borrower provides written notice to the Administrative Agent that such information has been posted on the Borrower's general commercial website on the Internet (to the extent such information has been posted or is available as described in such notice), as such website may be specified by the Borrower to the Administrative Agent from time to time. Information required to be delivered pursuant to this Section 5.01 shall be in a format which is suitable for transmission.

Any notice or other communication delivered pursuant to this Section 5.01, or otherwise pursuant to this Agreement, shall be deemed to contain material non-public information unless (i) expressly marked by the Borrower or a Guarantor as "PUBLIC", (ii) such notice or communication consists of copies of the Borrower's public filings with the SEC or (iii) such notice or communication has been posted on a the Borrower's general commercial website on the Internet, as such website may be specified by the Borrower to the Administrative Agent from time to time.

Section 5.02 Taxes. The Borrower shall pay, and cause each of its Subsidiaries to pay, all material taxes, assessments, and governmental levies before the same shall become more than 90 days delinquent, other than taxes, assessments and levies (i) being contested in good faith by appropriate proceedings and (ii) the failure to effect such payment of which are not reasonably be expected to have a Material Adverse Effect.

Section 5.03. Stay, Extension and Usury Laws. The Borrower and each of the Guarantors covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Agreement; and the Borrower and each of the Guarantors (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Administrative Agent, but will suffer and permit the execution of every such power as though no such law has been enacted.

Section 5.04 Corporate Existence. The Borrower shall do or cause to be done all things reasonably necessary to preserve and keep in full force and effect:

1. its corporate existence, and the corporate, partnership or other existence of each of its Subsidiaries, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Borrower or any such Subsidiary; and
2. the rights (charter and statutory) and material franchises of the Borrower and its Subsidiaries; provided, however, that the Borrower shall not be required to preserve any such right or franchise, or the corporate, partnership or other existence of it or any of its Subsidiaries, if its Board of Directors shall determine that the preservation thereof is no longer desirable in the conduct of the

business of the Borrower and its Subsidiaries, taken as a whole, and that the loss thereof would not, individually or in the aggregate, have a Material Adverse Effect.

For the avoidance of doubt, this Section 5.04 shall not prohibit any actions permitted by Section 6.10 hereof or described in Section 6.10(b).

Section 5.05. Compliance with Laws. The Borrower shall comply, and cause each of its Subsidiaries to comply, with all applicable laws, rules, regulations and orders of any Governmental Authority applicable to it or its property, except where such noncompliance, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect. Without limiting the foregoing, the Borrower will maintain in effect policies and procedures intended to ensure compliance by Borrower, its Subsidiaries and, when acting in such capacity, their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions.

Section 5.06. Core Collateral. So long as any Loans or Letters of Credit are outstanding (other than such as have been Cash Collateralized or covered by a "back-to-back" letter of credit in accordance with the terms of the Loan Documents), the Borrower shall not permit any Core Collateral Failure to occur.

Section 5.07. Delivery of Appraisals. The Borrower shall:

1. on a date within 60 days prior to (A) March 15 of each year, beginning in 2021, (B) solely with respect to any Pledged Aircraft, Pledged Engines, Pledged Spare Parts and Pledged Ground Support Equipment, September 15 of each year, beginning with the first such date occurring at least 90 days after any such Collateral is first added to the Collateral and (C) solely with respect to any Pledged Spare Parts and Pledged Ground Support Equipment, June 15 and December 15 of each year, beginning with the first such date occurring at least 90 days after any such Collateral is first added to the Collateral;
2. on the date upon which any Additional Collateral is pledged as Collateral, but only with respect to such Additional Collateral;
3. promptly (but in any event within 45 days) following a request by the Administrative Agent if an Event of Default has occurred and is continuing; and
4. promptly (but in any event within 45 days) following any Disposition or series of related Dispositions of Pledged Slots (other than any Disposition described in clause (d), (e) (ii), (e)(iv) or (f) of the definition of "Permitted Disposition") comprising more than 15% of the aggregate Appraised Value of the Pledged Slots.

deliver or cause to be delivered to the Administrative Agent one or more Appraisals establishing the Appraised Value of the Collateral; provided, however, that:

(i) the Borrower shall be required to deliver or cause to be delivered only an Appraisal with respect to the (w) Pledged Slots (in the case of clause (4) above), (x) Pledged Aircraft, Pledged Engines, Pledged Spare Parts and Pledged Ground Support Equipment (in the case of clause 1(B) above), (y) Pledged Spare Parts and Pledged Ground Support Equipment (in the case of clause 1(C) above) or (z) the applicable Additional Collateral (in the case of clause (2) above);

(ii) in connection with the pledging of any Additional Collateral, any Appraisal with respect to such Additional Collateral that is more than 90 days old as of the date on which such Additional Collateral is pledged hereunder shall not be deemed to satisfy the Appraisal requirement in clause (2) above; and

(iii) if any new spare Engine is pledged as Collateral and such new spare Engine is of the same make and model as any spare Engine then currently included (or being replaced) in the Collateral (any such Engine make and model, an "Existing Engine Type"), an Appraisal with respect to such new spare Engine shall only be required under this Section 5.07 if the Borrower elects to provide such an Appraisal for purposes of determining the Appraised Value of such new spare Engine pursuant to clause (iii) of the proviso of the definition of "Appraised Value".

The Borrower may from time to time cause subsequent Appraisals to be delivered to the Administrative Agent if it believes that any affected item of Collateral has a higher Appraised Value than that reflected in the most recent Appraisals delivered pursuant to this Section 5.07.

Section 5.08. Regulatory Cooperation. In connection with any foreclosure, collection, sale or other enforcement of Liens granted to the Collateral Agent in the Collateral Documents, the Borrower will, and will cause its Subsidiaries to, reasonably cooperate in good faith with the Collateral Agent or its designee in obtaining all regulatory licenses, consents and other governmental approvals necessary or (in the reasonable opinion of the Collateral Agent or its designee) reasonably advisable to conduct all aviation operations with respect to the Collateral and will, at the reasonable request of the Collateral Agent and in good faith, continue to operate and manage the Collateral and maintain all applicable regulatory licenses with respect to the Collateral until such time as the Collateral Agent or its designee obtain such licenses, consents and approvals, and at such time the Borrower will, and will cause its Subsidiaries to, cooperate in good faith with the transition of the aviation operations with respect to the Collateral to any new aviation operator (including, without limitation, the Collateral Agent or its designee).

Section 5.09. Regulatory Matters; Citizenship; Utilization; Collateral Requirements.

A. The Borrower will:

1. maintain at all times its status as an "air carrier" within the meaning of Section 40102(a)(2) of Title 49, and hold a certificate under Section 41102(a)(1) of Title 49;

2. be a United States Citizen;

3. maintain at all times its status at the FAA as an "air carrier" and hold an air carrier operating certificate under Section 44705 of Title 49 and operations specifications issued by the FAA pursuant to Parts 119 and 121 of Title 14 as currently in effect or as may be amended or recodified from time to time;

4. possess and maintain all necessary certificates, exemptions, franchises, licenses, permits, designations, rights, concessions, authorizations, frequencies and consents that are material to the operation of the Pledged Slots operated by it, and to the conduct of its business and operations as currently conducted, except to the extent that any failure to possess or maintain would not reasonably be expected to result in a Collateral Material Adverse Effect;

5. maintain Pledged Gate Leaseholds sufficient to ensure its ability to service the flights using its Pledged Slots, except to the extent that any failure to maintain would not reasonably be expected to result in a Collateral Material Adverse Effect;

6. utilize its Pledged Slots in a manner consistent with applicable regulations, rules and contracts (including FAA directives, orders and waivers) in order to preserve its right to hold and use its Pledged Slots, except to the extent that any failure to utilize would not reasonably be expected to result in a Collateral Material Adverse Effect;

7. cause to be done all things reasonably necessary to preserve and keep in full force and effect its rights in and to use its Pledged Slots, including, without limitation, satisfying any applicable Use or Lose Rule, except to the extent that any failure to do so would not reasonably be expected to result in a Collateral Material Adverse Effect; and

8. if Eligible Spare Parts are included in the Collateral at any time, take or cause to be taken such actions to ensure that at all times the Pledged Spare Parts include all Spare Parts and Appliances then owned by the Borrower and its Subsidiaries (subject to the provisions of the Spare Parts Security Agreement).

b. Without in any way limiting Section 5.09(a) hereof, the Borrower will promptly take all such steps as may be necessary to maintain, renew and obtain, or obtain the use of, Pledged Gate Leaseholds as needed for its continued and future operations using the Pledged Slots. The Borrower will further take all actions reasonably necessary or advisable in order to have access to its Pledged Gate Leaseholds. The Borrower will pay any applicable filing fees and other expenses related to the submission of applications, renewal requests, and other filings as may be reasonably necessary to have access to its Pledged Gate Leaseholds.

Section 5.10. Collateral Ownership. Subject to the provisions described (including the actions permitted) under Sections 6.04 and 6.10 hereof, each Grantor will continue to maintain its interest in and right to use all property and assets so long as such property and assets constitute Collateral, except as provided in Section 5.09.

Section 5.11. Insurance. The Borrower shall:

1. keep all Collateral (other than the Mortgaged Collateral, as to which only the insurance provisions of the Aircraft and Spare Engine Mortgage shall be applicable, and Pledged Spare Parts, Pledged Ground Support Equipment, and Pledged Real Property Assets, as to which only the insurance provisions of the applicable Collateral Document shall be applicable) that is tangible property insured at all times, against such risks, including risks insured against by extended coverage, as is prudent and customary with U.S.-based companies of the same or similar size in the same or similar businesses;
2. maintain in full force and effect public liability insurance against claims for personal injury or death or property damage occurring upon, in, about or in connection with the use of the tangible Collateral (other than the Mortgaged Collateral, as to which only the insurance provisions of the Aircraft and Spare Engine Mortgage shall be applicable, and Pledged Spare Parts, Pledged Ground Support Equipment, and Pledged Real Property Assets, as to which only the insurance provisions of the applicable Collateral Document shall be applicable) owned, occupied or controlled by the Borrower, in such amounts and with such deductibles as are prudent and customary with U.S.-based companies of the same or similar size in the same or similar businesses and in the same geographic area; and
3. maintain such other insurance or self-insurance as may be required by law, except where such noncompliance would not reasonably be expected to result in a Material Adverse Effect.

Section 5.12. Real Property Assets. In connection with the pledge of any Real Property Assets, the Collateral Agent and the Administrative Agent shall have received the following upon the date such Real Property Assets are pledged (unless waived by the Administrative Agent in its sole discretion):

- a. a Real Property Mortgage encumbering each Real Property Asset in favor of the Collateral Agent, for the benefit of the Secured Parties, duly executed and acknowledged by the Borrower or Subsidiary that is the owner of or holder of any interest in such Real Property Asset, and otherwise in form for recording in the recording office of each applicable political subdivision where each such Real Property Asset is situated, together with such certificates, affidavits, questionnaires or returns as shall be reasonably and customarily required by the Title Company in connection with the recording or filing thereof to create a lien under applicable requirements of law, and such financing statements and any other instruments necessary to grant a mortgage lien under the laws of any applicable jurisdiction, all of which shall be in form and

substance reasonably satisfactory to the Administrative Agent and the Collateral Agent; provided, however, that Borrower shall only be obligated to execute and deliver, or cause to be executed and delivered, to the Collateral Agent any relevant Real Property Mortgage and shall not be responsible for recording such Real Property Mortgage in the event that the Collateral Agent shall fail to do so after such Real Property Mortgage and any other related deliverables required to be delivered to the Collateral Agent or the Administrative Agent in connection with such filing pursuant to the terms of this Agreement have been executed and delivered;

b. with respect to each Real Property Asset, such consents, approvals, amendments, supplements, estoppels (but only to the extent obtained), tenant subordination agreements (unless the applicable tenant's lease provides for automatic subordination) or other instruments as necessary to consummate the transactions contemplated by the Loan Documents or as shall reasonably be deemed necessary by the Administrative Agent or the Collateral Agent in order for the owner or holder of the fee or ground leasehold interest constituting such Real Property Asset to grant the Lien contemplated by the Real Property Mortgage with respect to such Real Property Asset and the owner or ground tenant thereof;

c. with respect to each Real Property Mortgage, either a bringdown of an existing title policy or a loan policy of title insurance (or marked up title insurance commitment having the effect of a loan policy of title insurance) insuring the Lien of such Real Property Mortgage as a valid first mortgage Lien on the Real Property Asset and fixtures described therein in the amount reasonably acceptable to the Administrative Agent and the Collateral Agent, which policy (or such marked-up commitment) (each, a "Title Policy") shall (A) be issued by a Title Company, (B) to the extent necessary and available, include such reinsurance arrangements (with provisions for direct access, if necessary) as shall be reasonably acceptable to the Administrative Agent and the Collateral Agent, (C) contain a "tie-in" or "cluster" endorsement, if available under applicable law (i.e., policies which insure against losses regardless of location or allocated value of the insured property up to a stated maximum coverage amount), (D) have been supplemented by such endorsements (if available in the applicable jurisdiction of the Real Property Asset) as shall be reasonably requested by the Administrative Agent or the Collateral Agent (including endorsements on matters relating to usury, first loss, zoning, contiguity, revolving credit, doing business, non-imputation, public road access, survey, variable rate, environmental lien, subdivision, mortgage recording tax, separate tax lot, and so-called comprehensive coverage over covenants and restrictions); provided that to the extent that any such endorsement(s) or other documentation cannot be issued or is not available due to the state or condition of the Real Property Asset, and such state or condition existed on the date of the pledge of such Real Property Asset and such state or condition does not materially and adversely affect the use or the value of such Real Property Asset for the business of the Borrower and its Affiliates, the Borrower shall have no obligation to procure such endorsement or other documentation, and (E) contain no exceptions to title other than Permitted Liens and other exceptions reasonably acceptable to the Administrative Agent or the Collateral Agent or a dated own endorsement on the existing Title Policy for each existing Real Property Mortgage;

d. with respect to each Real Property Asset, such affidavits, certificates, information and instruments of indemnification (including a so-called "gap" indemnification) as shall be

reasonably and customarily required to induce the Title Company to issue the title policy/ies and endorsements contemplated above;

- e. evidence reasonably acceptable to the Administrative Agent and the Collateral Agent of payment by the Borrower of all title policy premiums, search and examination charges, escrow charges and related charges, mortgage recording taxes, fees, charges, costs and expenses required for the recording of the Real Property Mortgages and issuance of the title policies referred to above;
- f. with respect to each Real Property Asset, copies of all leases in which the Borrower or any Subsidiary holds the lessor's interest or other agreements relating to possessory interests if any. To the extent any of the foregoing leases affect any Real Property Asset, such leases shall (x) be subordinate to the Lien of the Real Property Mortgage to be recorded against such Real Property Asset, either expressly by its terms or pursuant to a subordination, non-disturbance and attornment agreement in form and substance reasonably acceptable to the Administrative Agent and the Collateral Agent, with respect to which the Borrower or its applicable Subsidiary shall have used its commercially reasonable efforts to obtain and (y) shall otherwise be reasonably acceptable to the Administrative Agent and the Collateral Agent, provided that, if the Administrative Agent or the Collateral Agent, respectively, fails to notify the Borrower of rejection of the lease within 10 Business Days from receipt of the lease, the lease shall be deemed to have been reasonably accepted by the Administrative Agent and the Collateral Agent;
- g. Surveys with respect to each Real Property Asset (or survey updates to the extent sufficient to obtain survey coverage under the title policy); provided that, if the Borrower is able to obtain a "no change" affidavit reasonably acceptable to the Title Company to enable it to issue a Title Policy removing all exceptions which would otherwise have been raised by the Title Company as a result of the absence of a new Survey for such Real Property Asset, and issuing all available survey related endorsements and coverages, then a new Survey shall not be requested;
- h. a completed Federal Emergency Management Agency Standard Flood Hazard Determination with respect to each Real Property Asset; and
- i. a local law enforceability opinion of counsel in the jurisdiction where each Real Property Asset is located relating to such Real Property Asset described above, which opinion of counsel shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent; provided, however, that Clark Hill PLC is hereby approved by the Administrative Agent.

Section 5.13. Additional Guarantors; Grantors; Collateral.

- a. If the Borrower or any of its Subsidiaries acquires or creates another Domestic Subsidiary after the Closing Date, then the Borrower will promptly cause such Domestic Subsidiary to become a party to the Guarantee contained in Section 9 hereof by executing an Instrument of Assumption and Joinder substantially in the form attached hereto as Exhibit B; provided, that any Domestic Subsidiary that constitutes an Immaterial Subsidiary, a Receivables

Subsidiary or an Excluded Subsidiary need not become a Guarantor unless and until 30 Business Days after such time as it ceases to be an Immaterial Subsidiary, a Receivables Subsidiary or an Excluded Subsidiary or such time as it guarantees, or pledges any property or assets to secure, any other Obligations.

b. If the Borrower or any of its Subsidiaries desires or is required pursuant to the terms of this Agreement to add Additional Collateral or, if any Subsidiary acquires any existing Collateral from a Grantor that it desires or is required pursuant to the terms of this Agreement to maintain as Collateral, in each case, after the Closing Date, the Borrower shall, in each case at its own expense, (A) cause any such Subsidiary to become a party to the Guarantee contained in Section 9 hereof (to the extent such Subsidiary is not already a party thereto) and cause any such Subsidiary to become a party to each applicable Collateral Document and all other agreements, instruments or documents that create or purport to create and perfect a first priority Lien (subject to Permitted Liens) in favor of the Collateral Agent for the benefit of the Secured Parties applicable to such Collateral, by executing and delivering to the Administrative Agent an Instrument of Assumption and Joinder substantially in the form attached hereto as Exhibit B and/or joinders to all applicable Collateral Documents or pursuant to new Collateral Documents, as the case may be, in form and substance reasonably satisfactory to the Administrative Agent and the Collateral Agent (it being understood that (i) in the case of Collateral consisting of Eligible Aircraft or Eligible Engines, the applicable Collateral Documents shall be the Aircraft and Spare Engine Mortgage, which shall include a pledge of any QEC Kit associated with any such Pledged Engine, (ii) in the case of Collateral consisting of Eligible Spare Parts, the applicable Collateral Documents shall be the Spare Parts Security Agreement, (iii) in the case of Collateral consisting of Slots and Gate Leaseholds, the applicable Collateral Documents shall be the Slot and Gate Security Agreement, (iv) in the case of Collateral consisting of Real Property Assets, such Additional Collateral shall be subject to the terms and conditions of Section 5.12, and (v) in the case of any other Additional Collateral of a type that has not been theretofore included in the Collateral (other than Aircraft, Engines, Spare Parts and Slots), such Additional Collateral may be subject to such additional terms and conditions as may be customarily required by lenders in similar financings of a similar size for similarly situated borrowers secured by the same type of Collateral, as agreed by the Borrower and the Administrative Agent in their reasonable discretion), (B) promptly execute and deliver (or cause such Subsidiary to execute and deliver) to the Administrative Agent and/or the Collateral Agent such documents and take such actions to create, grant, establish, preserve and perfect the first priority Liens (subject to Permitted Liens) (including to obtain any release or termination of Liens not permitted under the definition of "Additional Collateral" in Section 1.01 or under Section 6.06 and the filing of UCC financing statements) in favor of the Collateral Agent for the benefit of the Secured Parties on such assets of the Borrower or such Subsidiary, as applicable, to secure the Obligations to the extent required under the applicable Collateral Documents or reasonably requested by the Administrative Agent or the Collateral Agent, and to ensure that such Collateral shall be subject to no other Liens other than Permitted Liens and (C) if reasonably requested by the Administrative Agent, deliver to the Administrative Agent and the Collateral Agent, for the benefit of the Secured Parties, a written opinion of counsel (which counsel shall be reasonably satisfactory to the Administrative Agent) to the Borrower or such Subsidiary, as applicable, with respect to the matters described in clauses

(A) and (B) hereof, in each case within twenty (20) Business Days after the addition of such Collateral and in form and substance reasonably satisfactory to the Administrative Agent.

Section 5.14. Access to Books and Records.

a. The Borrower and the Guarantors will make and keep books, records and accounts in which full, true and correct entries in conformity with GAAP are made of all financial dealings and transactions in relation to its business and activities, including, without limitation, an accurate and fair reflection of the transactions and dispositions of the assets of the Borrower and the Guarantors.

b. The Borrower and the Guarantors will permit, to the extent not prohibited by applicable law, any representatives designated by the Administrative Agent or any Governmental Authority that is authorized to supervise or regulate the operations of a Lender, as designated by such Lender, upon reasonable prior written notice and, so long as no Event of Default has occurred and is continuing, at no out-of-pocket cost to the Borrower and the Guarantors, to visit the properties of the Borrower and the Guarantors, to examine its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants, all at such reasonable times during normal business hours, not more than once every twelve (12) months unless an Event of Default has occurred and is continuing, in which case such inspection right shall not be so limited; provided that if an Event of Default has occurred and is continuing, the Borrower and the Guarantors shall be responsible for the reasonable costs and expenses of any visits of the Administrative Agent and the Lenders, acting together (but not separately).

Section 5.15. Further Assurances. The Borrower and each Guarantor shall execute any and all further documents and instruments, and take all further actions, that may be required or advisable under applicable law, or by the FAA, or that the Administrative Agent may reasonably request, in order to create, grant, establish, preserve, protect and perfect the validity, perfection and priority of the Liens and security interests created or intended to be created by the Collateral Documents, to the extent required under this Agreement or the Collateral Documents.

SECTION 6.

NEGATIVE COVENANTS

From the Closing Date and for so long as the Commitments remain in effect, any Letter of Credit remains outstanding (in a face amount in excess of the sum of (i) the amount of cash then held in the Letter of Credit Account and (ii) the face amount of back-to-back letters of credit delivered pursuant to Section 2.02(j)) or principal of or interest on any Loan or reimbursement of any LC Disbursement is owing (or any other amount that is due and unpaid on the first date that none of the foregoing is in effect, outstanding or owing, respectively, is owing) to any Lender or the Administrative Agent hereunder:

Section 6.01. [Reserved].

Section 6.02. [Reserved].

Section 6.03. [Reserved].

Section 6.04. Disposition of Collateral. Neither the Borrower nor any Grantor shall sell or otherwise Dispose of any Collateral (including, without limitation, by way of any Sale of a Grantor) except that such sale or other Disposition shall be permitted (i) in the case of a Permitted Disposition; provided that, so long as any Loans or Letters of Credit are outstanding (other than such as have been Cash Collateralized or covered by a "back-to-back" letter of credit in accordance with the terms of the Loan Documents), no Core Collateral Failure results therefrom, or (ii) provided that upon consummation of any such sale or other Disposition (A) no Event of Default shall have occurred and be continuing, (B) the Collateral Coverage Ratio is no less than 1.0 to 1.0 after giving effect to such sale or other Disposition (including any deposit of any Net Proceeds received upon consummation thereof in the Collateral Proceeds Account subject to an Account Control Agreement and any concurrent pledge of Additional Collateral, if any) and (C) so long as any Loans or Letters of Credit are outstanding (other than such as have been Cash Collateralized or covered by a "back-to-back" letter of credit in accordance with the terms of the Loan Documents), no Core Collateral Failure results from such sale or other Disposition; provided that nothing contained in this Section 6.04 is intended to excuse performance by the Borrower or any Guarantor of any requirement of any Collateral Document that would be applicable to a Disposition permitted hereunder. A Disposition of Collateral referred to in clause (d), (e)(iv) or (f) of the definition of "Permitted Disposition" shall not result in the automatic release of such Collateral from the security interest of the applicable Collateral Document, and the Collateral subject to such Disposition shall continue to constitute Collateral for all purposes of the Loan Documents (without prejudice to the rights of the Borrower to release any such Collateral pursuant to Section 6.09(c)).

Section 6.05. [Reserved].

Section 6.06. Liens. The Borrower will not, and will not permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind on any property or asset that constitutes Collateral, except Permitted Liens.

Section 6.07. Business Activities. The Borrower will not, and will not permit any of its Subsidiaries to, engage in any business other than Permitted Businesses, except to such extent as would not be material to the Borrower and its Subsidiaries taken as a whole.

Section 6.08. Liquidity. The Borrower will not permit the aggregate amount of Liquidity to be less than \$400,000,000 at the end of any Business Day following the Closing Date; provided that, so long as no Loans or Letters of Credit are outstanding (other than such as have been Cash Collateralized or covered by a "back-to-back" letter of credit in accordance with the terms of the Loan Documents), non-compliance by the Borrower with this Section 6.08 shall not constitute a default by the Borrower or any Guarantor of any of their respective obligations hereunder or under any other Loan Document, and will not result in any Default or Event of Default.

Section 6.09. Collateral Coverage Ratio.

a. Subject to the immediately following proviso, the Borrower will not permit at any time following the Closing Date the Collateral Coverage Ratio to be less than 1.0 to 1.0 (such occurrence, a "Collateral Coverage Ratio Failure"); provided, that if, (A) upon delivery of an

Appraisal pursuant to Section 5.07 or otherwise pursuant to this Agreement (except pursuant to Section 5.07(2) or 5.07(3) or any Appraisal delivered to the Administrative Agent in connection with the designation of Additional Collateral solely to evidence compliance with the requirements of this Section 6.09(a) and (B) solely with respect to determining compliance with this Section as a result thereof, it is determined that a Collateral Coverage Ratio Failure has occurred, the Borrower shall, within forty-five (45) days (or, in the case of an Appraisal delivered pursuant to Section 5.07(4) within thirty (30) days) of the date of such Appraisal (or, in the case of an Appraisal required under Section 5.07(1) or 5.07(4) not delivered by the deadline thereunder, the date such Appraisal was due thereunder) designate Additional Collateral as additional Eligible Collateral and comply with Section 5.13 and/or prepay or cause to be prepaid the Loans in accordance with Section 2.12(b), collectively, in an amount sufficient to cure such Collateral Coverage Ratio Failure.

b. Notwithstanding anything to the contrary contained herein, if the Borrower shall fail at any time to be in compliance with this Section 6.09 solely as a result of damage to or loss of any Collateral covered by insurance (pursuant to which the Collateral Agent is named as loss payee and with respect to which payments are to be delivered directly to the Collateral Agent) for which the insurer thereof has been notified of the relevant claim and has not challenged such coverage, any calculation made pursuant to this Section 6.09 shall deem the relevant Grantor to have received Net Proceeds (and to have taken all steps necessary to have pledged such Net Proceeds as Additional Collateral) in an amount equal to the expected coverage amount (as determined by the Borrower in good faith and updated from time to time to reflect any agreements reached with the applicable insurer) and net of any amounts required to be paid out of such proceeds and secured by a Lien until the earliest of (i) the date any such Net Proceeds are actually received by the Collateral Agent, (ii) the date that is 270 days after such damage and (iii) the date on which any such insurer denies such claim; provided that, prior to giving effect to this clause (b), (x) the aggregate Appraised Value of all the Collateral plus (y) the Pledged Cash and Cash Equivalents, shall be no less than 150% of the Total Obligations. It is understood and agreed that if the Collateral Agent should receive any Net Proceeds directly from the insurer in respect of a Recovery Event and at the time of such receipt, (A) no Event of Default shall have occurred and be continuing and the Borrower is in compliance with Section 6.09(a) (without giving effect to the receipt of such Net Proceeds), the Collateral Agent shall promptly cause such proceeds to be paid to the Borrower or the applicable Grantor and (B) an Event of Default shall have occurred and be continuing or the Borrower fails to be in compliance with Section 6.09(a) (without giving effect to the receipt of such Net Proceeds), the Collateral Agent shall promptly cause such proceeds to be deposited into the Collateral Proceeds Account maintained for such purpose with the Collateral Agent that is subject to an Account Control Agreement and such proceeds shall be applied or released from such account in accordance with Section 2.12(a).

c. At the Borrower's request, the Lien on any asset or type or category of asset (including after-acquired assets of that type or category) included in the Collateral will be promptly released, provided, in each case, that the following conditions are satisfied or waived: (A) no Event of Default shall have occurred and be continuing, (B) either (x) after giving effect to such release, the Collateral Coverage Ratio is not less than 1.0 to 1.0 or (y) the Borrower shall prepay or cause to be prepaid the Loans and/or shall designate Additional Collateral and comply

with Section 5.13, collectively, in an amount necessary to cause the Collateral Coverage Ratio to not be less than 1.0 to 1.0, (C) so long as any Loans or Letters of Credit are outstanding (other than such as have been Cash Collateralized or covered by a "back-to-back" letter of credit in accordance with the terms of the Loan Documents), no Core Collateral Failure results from such release, and (D) the Borrower shall deliver an Officer's Certificate demonstrating compliance with this Section 6.09(c) following such release. In connection herewith, the Collateral Agent agrees to promptly provide any documents or releases reasonably requested by the Borrower to evidence such release.

Section 6.10. Merger, Consolidation, or Sale of Assets.

a. The Borrower shall not directly or indirectly: (i) consolidate or merge with or into another Person (whether or not the Borrower is the surviving corporation) or (ii) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Borrower and its Subsidiaries taken as a whole, in one or more related transactions, to another Person, unless:

1. either:

A. the Borrower is the surviving corporation; or

B. the Person formed by or surviving any such consolidation or merger (if other than the Borrower) or to which such sale, assignment, transfer, conveyance or other disposition has been made is an entity organized or existing under the laws of the United States, any state of the United States or the District of Columbia; and, if such entity is not a corporation, a co-obligor of the Loans is a corporation organized or existing under any such laws;

2. the Person formed by or surviving any such consolidation or merger (if other than the Borrower) or the Person to which such sale, assignment, transfer, conveyance or other disposition has been made assumes all the obligations of the Borrower under the Loan Documents pursuant to agreements reasonably satisfactory to the Administrative Agent;

3. immediately after such transaction, no Event of Default exists; and

4. the Borrower shall have delivered to the Administrative Agent an Officer's Certificate stating that such consolidation, merger or transfer complies with this Agreement.

In addition, the Borrower will not, directly or indirectly, lease all or substantially all of the properties and assets of the Borrower and its Subsidiaries taken as a whole, in one or more related transactions, to any other Person.

b. Section 6.10(a) will not apply to any Permitted Parent Reorganization or to any sale, assignment, transfer, conveyance, lease or other disposition of assets between or among the Borrower and/or the Guarantors.

c. Upon any consolidation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the properties or assets of the Borrower in a transaction that is subject to, and that complies with the provisions of, Section 6.10(a), the successor Person formed by such consolidation or into or with which the Borrower is merged or to which such sale, assignment, transfer, lease, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, assignment, transfer, lease, conveyance or other disposition, the provisions of this Agreement referring to the Borrower shall refer instead to the successor Person and not to the Borrower), and may exercise every right and power of the Borrower under this Agreement with the same effect as if such successor Person had been named as the Borrower herein; provided, however, that the Borrower, if applicable, shall not be relieved from the obligation to pay the principal of, and interest, if any, on the Loan except in the case of a sale of all of the Borrower's assets in a transaction that is subject to, and that complies with the provisions of, Section 6.10(a) hereof. In connection with any transfer under this clause (c), such successor Person shall provide all documentation and other information required by bank regulatory authorities under applicable "know-your-customer" and anti-money laundering rules and regulations, including the Patriot Act, as reasonably requested by any Lender.

Section 6.11. Use of Proceeds. The Borrower will not use, and will not permit any of its Subsidiaries to use, the proceeds of any Borrowing or any Letter of Credit (A) in violation of any Anti-Corruption Laws, (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country (except to the extent permitted by applicable law), or (C) in any manner that would result in the violation of any Sanctions applicable to the Borrower or any of its Subsidiaries.

SECTION 7.

EVENTS OF DEFAULT

Section 7.01. Events of Default. In the case of the happening of any of the following events and the continuance thereof beyond the applicable grace period if any (each, an "Event of Default"):

- a. any representation or warranty made by the Borrower or any Guarantor in this Agreement or in any other Loan Document shall prove to have been false or incorrect in any material respect when made and such representation is not corrected within ten (10) Business Days after receipt by the Borrower of notice from the Administrative Agent of such default; or
- b. default shall be made in the payment of (i) any principal of the Loans or reimbursement obligations or cash collateralization in respect of Letters of Credit, when and as the same shall become due and payable; (ii) any interest on the Loans and such default shall continue unremedied for more than five (5) Business Days; or (iii) any other amount payable hereunder when due and such default shall continue unremedied for more than ten (10) Business Days

Days after receipt of written notice by the Borrower from the Administrative Agent of the default in making such payment when due; or

c. default shall be made by the Borrower in the due observance of the covenant contained in Section 5.01(h), 6.08 or 6.09(a) hereof; or

d. default shall be made by the Borrower or any Subsidiary of the Borrower in the due observance or performance of any other covenant, condition or agreement to be observed or performed by it pursuant to the terms of this Agreement or any of the other Loan Documents and such default shall continue unremedied for more than sixty (60) days after receipt of written notice by the Borrower from the Administrative Agent of such default; or

e. (A) any material provision of any Loan Document to which the Borrower or a Guarantor is a party ceases to be a valid and binding obligation of the Borrower or such Guarantor for a period of fifteen (15) consecutive Business Days after the Borrower receives written notice thereof from the Administrative Agent, or the Borrower or any of the Guarantors shall so assert in any pleading filed in any court or (B) the Lien on any material portion of the Collateral intended to be created by the Loan Documents shall cease to be or shall not be a valid and perfected Lien having the priorities contemplated hereby or thereby (subject to Permitted Liens and except as permitted by the terms of this Agreement or the Collateral Documents or other than as a result of the action, delay or inaction of the Administrative Agent or the Collateral Agent) for a period of fifteen (15) consecutive Business Days after the Borrower receives written notice thereof from the Administrative Agent; or

f. The Borrower, any Significant Subsidiary or any group of Subsidiaries of the Borrower that, taken together, would constitute a Significant Subsidiary pursuant to or within the meaning of Bankruptcy Law:

1. commences a voluntary case,
2. consents to the entry of an order for relief against it in an involuntary case,
3. consents to the appointment of a custodian of it or for all or substantially all of its property,
4. makes a general assignment for the benefit of its creditors, or
5. admits in writing its inability generally to pay its debts; or

c. a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

1. is for relief against the Borrower, any Significant Subsidiary or any group of Subsidiaries of the Borrower that, taken together, would constitute a Significant Subsidiary in an involuntary case;

2. appoints a custodian of the Borrower, any Significant Subsidiary or any group of Subsidiaries of the Borrower that, taken together, would constitute a Significant Subsidiary or for all or substantially all of the property of the Borrower, any Significant Subsidiary or any group of Subsidiaries of the Borrower that, taken together, would constitute a Significant Subsidiary; or

3. orders the liquidation of the Borrower, any Significant Subsidiary or any group of Subsidiaries of the Borrower that, taken together, would constitute a Significant Subsidiary; and in each case the order or decree remains unstayed and in effect for sixty (60) consecutive days; or

h. failure by the Borrower or any of the Borrower's Subsidiaries to pay final judgments entered by a court or courts of competent jurisdiction aggregating in excess of \$50,000,000 (determined net of amounts covered by insurance policies issued by creditworthy insurance companies (and as to which the applicable insurance company has not denied coverage) or by third party indemnities or a combination thereof), which judgments are not paid, discharged, bonded, satisfied or stayed for a period of sixty (60) days; or

i. (1) the Borrower or any Guarantor shall default in the performance of any obligation relating to Material Indebtedness and any applicable grace periods shall have expired and any applicable notice requirements shall have been complied with, and as a result of such default the holder or holders of such Material Indebtedness or any trustee or agent on behalf of such holder or holders shall be permitted to cause such Material Indebtedness to become due prior to its scheduled final maturity date, and such ability to cause such Material Indebtedness to become due shall be continuing for a period of more than 60 consecutive days, (2) the Borrower or any Guarantor shall default in the performance of any obligation relating to any Indebtedness of the Borrower or a Guarantor (other than the Loans and obligations relating to Letters of Credit) outstanding under one or more agreements of the Borrower or a Guarantor that results in such Indebtedness coming due prior to its scheduled final maturity date in an aggregate principal amount at any single time unpaid exceeding \$100,000,000 or (3) the Borrower or any Guarantor shall default in the payment of the outstanding principal amount due on the scheduled final maturity date of any Indebtedness outstanding under one or more agreements of the Borrower or a Guarantor, any applicable grace periods shall have expired and any applicable notice requirements shall have been complied with and such failure to make payment when due shall be continuing for a period of more than five (5) consecutive Business Days following the applicable scheduled final maturity date thereunder, in an aggregate principal amount at any single time unpaid exceeding \$100,000,000.

then, and in every such event and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders, the Administrative Agent shall, by written notice to the Borrower, take one or more of the following actions, at the same or different times:

(i) terminate forthwith the Commitments;

(ii) declare the Loans or any portion thereof then outstanding to be forthwith due and payable, whereupon the principal of the Loans and other Obligations (other than Designated Hedging Obligations) together with accrued interest thereon and any unpaid accrued Fees and all other liabilities of the Borrower accrued hereunder and under any other Loan Document, shall become forthwith due and payable, without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by the Borrower and the Guarantors, anything contained herein or in any other Loan Document to the contrary notwithstanding;

(iii) require the Borrower and the Guarantors promptly upon written demand to deposit in the Letter of Credit Account Cash Collateralization for the LC Exposure (and to the extent the Borrower and the Guarantors shall fail to furnish such funds as demanded by the Administrative Agent, the Administrative Agent shall be authorized to debit the accounts of the Borrower and the Guarantors (other than Escrow Accounts, Payroll Accounts or other accounts held in trust for an identified beneficiary) maintained with the Administrative Agent in such amounts);

(iv) instruct the Collateral Agent to, and the Collateral Agent may, set-off amounts in the Letter of Credit Account or any other accounts (other than Escrow Accounts, Payroll Accounts or other accounts held in trust for an identified beneficiary) maintained with the Collateral Agent and apply such amounts to the obligations of the Borrower and the Guarantors hereunder and in the other Loan Documents; and

(v) exercise, or instruct the Collateral agent to exercise, any and all remedies under the Loan Documents and under applicable law available to the Administrative Agent, the Collateral Agent and the Lenders.

In case of any event with respect to the Borrower, any Significant Subsidiary or any group of Subsidiaries that, taken together, would constitute a Significant Subsidiary described in clause (f) or (g) of this Section 7.01, the actions and events described in clauses (i), (ii) and (iii) above shall be required or taken automatically, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower. Any payment received as a result of the exercise of remedies hereunder shall be applied in accordance with Section 2.17(b).

SECTION 8.

THE AGENTS

Section 8.01. Administration by Agents.

a. Each of the Lenders and each Issuing Lender hereby irrevocably appoints Citibank, N.A. as its administrative agent and Wilmington Trust, National Association, as its collateral agent, as the case may be, and authorizes such Agent to take such actions on its behalf and to exercise such powers as are delegated to such Agent by the terms hereof, together with such actions and powers as are reasonably incidental thereto.

b. Each of the Lenders and each Issuing Lender hereby authorizes each Agent, as applicable, in its sole discretion:

i. in connection with the sale or other disposition of any asset that is part of the Collateral of the Borrower or any other Grantor, as the case may be, to the extent permitted by the terms of this Agreement, to release a Lien granted to the Collateral Agent, for the benefit of the Secured Parties, on such asset;;

ii. to determine that the cost to the Borrower or any other Grantor, as the case may be, is disproportionate to the benefit to be realized by the Secured Parties by perfecting a Lien in a given asset or group of assets included in the Collateral and that the Borrower or such other Grantor, as the case may be, should not be required to perfect such Lien in favor of the Collateral Agent, for the benefit of the Secured Parties;

iii. to enter into, execute and deliver the other Loan Documents on terms acceptable to the Administrative Agent and to perform its respective obligations thereunder;

iv. to execute any documents or instruments necessary to release any Guarantor from the guarantees provided herein pursuant to Section 9.05;

v. to enter into, execute and deliver intercreditor and/or subordination agreements in accordance with Sections 6.06 and 10.17 on terms reasonably acceptable to the Administrative Agent and to perform its obligations thereunder and to take such action and to exercise the powers, rights and remedies granted to it thereunder and with respect thereto; and

vi. to enter into, execute and deliver any other agreements reasonably satisfactory to the Administrative Agent granting Liens to the Collateral Agent, for the benefit of the Secured Parties, on any assets of the Borrower or any other Grantor to secure the Obligations.

Section 8.02. Rights of Agents. Any institution serving as an Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not an Agent, and such bank and its respective Affiliates may accept deposits from, lend money to and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate of the Borrower as if it were not an Agent hereunder.

Section 8.03. Liability of Agents.

a. The Agents shall not have any duties or obligations except those expressly set forth herein and the other Loan Documents and no implied duties or obligations shall be read into this Agreement or the other Loan Documents against any Agent. Without limiting the generality of the foregoing, (i) the Agents shall not be subject to any fiduciary or other implied duties, regardless of whether an Event of Default has occurred and is continuing, (ii) the Agents shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby that each Agent is

required to exercise in writing as directed by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 10.08), (iii) except as expressly set forth herein, the Agents shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of the Borrower's Subsidiaries that is communicated to or obtained by the institution serving as an Agent or any of its Affiliates in any capacity and (iv) the Agents will not be required to take any action that, in their opinion or the opinion of their counsel, may expose any Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt, any action that may be in violation of the automatic stay under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect. No Agent shall be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 10.08) or in the absence of its own gross negligence, bad faith or willful misconduct. No Agent shall be deemed to have knowledge of any Event of Default unless and until written notice thereof is given to such Agent by the Borrower or a Lender, and the Administrative Agent shall not be responsible for, or have any duty to ascertain or inquire into, (A) any statement, warranty or representation made in or in connection with this Agreement, (B) the contents of any certificate, report or other document delivered hereunder or in connection herewith, (C) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein, (D) the validity, enforceability, effectiveness or genuineness of this Agreement or any other agreement, instrument or document, or (E) the satisfaction of any condition set forth in Section 4 or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to such Agent.

b. Each Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing believed by it to be genuine and to have been signed or sent by the proper Person. Each Agent also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person, and shall not incur any liability for relying thereon. Each Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

c. Each Agent may perform any and all of its duties and exercise its rights and powers by or through any one or more sub-agents appointed by it. Each Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers through its Related Parties. The exculpatory provisions of the preceding paragraphs shall apply to any such sub-agent and to the Related Parties of any Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Agent.

Section 8.04. Reimbursement and Indemnification. Each Lender agrees (a) to reimburse on demand each Agent for such Lender's Aggregate Exposure Percentage of any expenses and fees incurred for the benefit of the Lenders under this Agreement and any of the Loan Documents, including, without limitation, counsel fees and compensation of agents and employees paid for services rendered on behalf of the Lenders, and any other expense incurred in connection with the operations or enforcement thereof, not reimbursed by the Borrower or the Guarantors and (b) to indemnify and hold harmless each Agent and any of its Related Parties, on demand, in the amount equal to such Lender's Aggregate Exposure Percentage, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses, or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against it or any of them in any way relating to or arising out of this Agreement or any of the Loan Documents or any action taken or omitted by it or any of them under this Agreement or any of the Loan Documents to the extent not reimbursed by the Borrower or the Guarantors (except such as shall result from its gross negligence or willful misconduct as determined in a final and nonappealable judgment by a court of competent jurisdiction).

Section 8.05. Successor Agents. Subject to the appointment and acceptance of a successor agent as provided in this paragraph, each Agent may resign at any time by notifying the other Agent, the Lenders, the Issuing Lenders and the Borrower. Upon any such resignation by such Agent, the Required Lenders shall have the right, with the consent (provided no Event of Default or Default has occurred and is continuing) of the Borrower (such consent not to be unreasonably withheld or delayed), to appoint a successor. If no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Agent gives notice of its resignation, then the retiring Agent may, with the consent (provided no Event of Default or Default has occurred or is continuing) of the Borrower (such consent not to be unreasonably withheld or delayed), appoint a successor Agent which, in the case of the retiring Administrative Agent, shall be a bank institution with an office in New York, New York, or an Affiliate of any such bank. Upon the acceptance of its appointment as Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Agent, and the retiring Agent shall be discharged from its duties and obligations hereunder. The fees payable by the Borrower to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Agent's resignation hereunder, the provisions of this Article and Section 10.04 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while it was acting as an Agent.

Section 8.06. Independent Lenders. Each Lender acknowledges that it has, independently and without reliance upon any Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon any Agent or any other Lender and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any related agreement or any document furnished hereunder or thereunder.

Section 8.07. Advances and Payments.

a. On the date of each Loan, the Administrative Agent shall be authorized (but not obligated) to advance, for the account of each of the Lenders, the amount of the Loan to be made by it in accordance with its Revolving Commitment hereunder. Should the Administrative Agent do so, each of the Lenders agrees forthwith to reimburse the Administrative Agent in immediately available funds for the amount so advanced on its behalf by the Administrative Agent, together with interest at the Federal Funds Effective Rate if not so reimbursed on the date due from and including such date but not including the date of reimbursement.

b. Any amounts received by the Administrative Agent in connection with this Agreement (other than amounts to which the Administrative Agent is entitled pursuant to Sections 2.19, 2.20, 8.04 and 10.04), the application of which is not otherwise provided for in this Agreement, shall be applied in accordance with Section 2.17(b). All amounts to be paid to a Lender by the Administrative Agent shall be credited to that Lender, after collection by the Administrative Agent, in immediately available funds either by wire transfer or deposit in that Lender's correspondent account with the Administrative Agent, as such Lender and the Administrative Agent shall from time to time agree.

Section 8.08. Sharing of Setoffs. Each Lender agrees that, except to the extent this Agreement expressly provides for payments to be allocated to a particular Lender, if it shall, through the exercise either by it or any of its banking Affiliates of a right of banker's lien, setoff or counterclaim against the Borrower or a Guarantor, including, but not limited to, a secured claim under Section 506 of the Bankruptcy Code or other security or interest arising from, or in lieu of, such secured claim and received by such Lender (or any of its banking Affiliates) under any applicable bankruptcy, insolvency or other similar law, or otherwise, obtain payment in respect of its Revolving Extensions of Credit as a result of which the unpaid portion of its Revolving Extensions of Credit is proportionately less than the unpaid portion of the Revolving Extensions of Credit of any other Lender (other than with respect to any LC Exposure under clause (i) of the definition thereof) (a) it shall promptly purchase at par (and shall be deemed to have thereupon purchased) from such other Lender a participation in the Loans or LC Exposure of such other Lender, so that the aggregate amount of each Lender's Revolving Extensions of Credit and its participation in Loans and LC Exposure of the other Lenders shall be in the same proportion to the aggregate unpaid principal amount of all Revolving Extensions of Credit then outstanding as the amount of its Revolving Extensions of Credit prior to the obtaining of such payment was to the amount of all Revolving Extensions of Credit prior to the obtaining of such payment and (b) such other adjustments shall be made from time to time as shall be equitable to ensure that the Lenders share such payment pro-rata, provided that if any such non-pro-rata payment is thereafter recovered or otherwise set aside, such purchase of participations shall be rescinded (without interest). The Borrower expressly consents to the foregoing arrangements and agrees, to the fullest extent permitted by law, that any Lender holding (or deemed to be holding) a participation in a Loan or LC Exposure acquired pursuant to this Section or any of its banking Affiliates may exercise any and all rights of banker's lien, setoff or counterclaim with respect to any and all moneys owing by the Borrower to such Lender as fully as if such Lender was the original obligee thereon, in the amount of such participation. The provisions of this Section 8.08 shall not be construed to apply to (a) any payment made by the Borrower or a Guarantor pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender) or (b) any payment obtained by

any Lender as consideration for the assignment or sale of a participation in any of its Loans or other Obligations owed to it.

Section 8.09. Withholding Taxes. To the extent required by any applicable law, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any withholding tax applicable to such payment. If the Internal Revenue Service or any other Governmental Authority asserts a claim that the Administrative Agent did not properly withhold tax from amounts paid to or for the account of any Lender for any reason, or the Administrative Agent has paid over to the Internal Revenue Service applicable withholding tax relating to a payment to a Lender but no deduction has been made from such payment, without duplication of any indemnification obligations set forth in Section 8.04, such Lender shall indemnify the Administrative Agent fully for all amounts paid, directly or indirectly, by the Administrative Agent as tax or otherwise, including any penalties or interest and together with any expenses incurred.

Section 8.10. Appointment by Secured Parties. Each Secured Party that is not a party to this Agreement shall be deemed to have appointed the Administrative Agent and the Collateral Agent as its agent under the Loan Documents in accordance with the terms of this Section 8 and to have acknowledged that the provisions of this Section 8 apply to such Secured Party *mutatis mutandis* as though it were a party hereto (and any acceptance by such Secured Party of the benefits of this Agreement or any other Loan Document shall be deemed an acknowledgment of the foregoing).

SECTION 9.

GUARANTY

Section 9.01. Guaranty.

a. Each of the Guarantors unconditionally, absolutely and irrevocably guarantees the due and punctual payment by the Borrower of the Obligations (including interest accruing on and after the filing of any petition in bankruptcy or of reorganization of the obligor whether or not post filing interest is allowed in such proceeding) (collectively, the "Guaranteed Obligations") and the obligations of each Guarantor in respect thereof, its "Guaranty Obligations"). Each of the Guarantors further agrees that, to the extent permitted by applicable law, the Obligations may be extended or renewed, in whole or in part, without notice to or further assent from it, and it will remain bound upon this guaranty notwithstanding any extension or renewal of any of the Obligations. The Guaranteed Obligations of the Guarantors shall be joint and several. Each of the Guarantors further agrees that its guaranty hereunder is a primary obligation of such Guarantor and not merely a contract of surety.

b. To the extent permitted by applicable law, each of the Guarantors waives presentation to, demand for payment from and protest to the Borrower or any other Guarantor, and also waives notice of protest for nonpayment. The obligations of the Guarantors hereunder shall not, to the extent permitted by applicable law, be affected by (i) the failure of the Administrative Agent, the Collateral Agent or a Lender to assert any claim or demand or to

enforce any right or remedy against the Borrower or any other Guarantor under the provisions of this Agreement or any other Loan Document or otherwise; (ii) any extension or renewal of any provision hereof or thereof; (iii) any rescission, waiver, compromise, acceleration, amendment or modification of any of the terms or provisions of any of the Loan Documents; (iv) the release, exchange, waiver or foreclosure of any security held by the Collateral Agent for the Obligations or any of them; (v) the failure of the Administrative Agent, the Collateral Agent or a Lender to exercise any right or remedy against any other Guarantor; or (vi) the release or substitution of any Collateral or any other Guarantor.

c. To the extent permitted by applicable law, each of the Guarantors further agrees that this guaranty constitutes a guaranty of payment when due and not just of collection, and waives any right to require that any resort be had by the Administrative Agent, the Collateral Agent or a Lender to any security held for payment of the Obligations or to any balance of any deposit, account or credit on the books of the Administrative Agent, the Collateral Agent or a Lender in favor of the Borrower or any other Guarantor, or to any other Person.

d. To the extent permitted by applicable law, each of the Guarantors hereby waives any defense that it might have based on a failure to remain informed of the financial condition of the Borrower and of any other Guarantor and any circumstances affecting the ability of the Borrower to perform under this Agreement.

e. To the extent permitted by applicable law, each Guarantor's guaranty shall not be affected by the genuineness, validity, regularity or enforceability of the Obligations or any other instrument evidencing any Obligations, or by the existence, validity, enforceability, perfection, or extent of any collateral therefor or by any other circumstance relating to the Obligations which might otherwise constitute a defense to this guaranty (other than payment in full in cash of the Obligations in accordance with the terms of this Agreement (other than those that constitute unasserted contingent indemnification obligations)). Neither the Administrative Agent nor any of the Lenders makes any representation or warranty in respect to any such circumstances or shall have any duty or responsibility whatsoever to any Guarantor in respect of the management and maintenance of the Obligations.

f. Upon the occurrence of the Obligations becoming due and payable (by acceleration or otherwise), the Lenders shall be entitled to immediate payment of such Obligations by the Guarantors upon written demand by the Administrative Agent.

Section 9.02. No Impairment of Guaranty. To the extent permitted by applicable law, the obligations of the Guarantors hereunder shall not be subject to any reduction, limitation or impairment for any reason, including, without limitation, any claim of waiver, release, surrender, alteration or compromise, other than pursuant to a written agreement in compliance with Section 10.08 and shall not be subject to any defense or set-off, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of the Obligations. To the extent permitted by applicable law, without limiting the generality of the foregoing, the obligations of the Guarantors hereunder shall not be discharged or impaired or otherwise affected by the failure of the Administrative Agent or a Lender to assert any claim or demand or to enforce any remedy under this Agreement or any other agreement, by any waiver or modification of any provision hereof or thereof, by any default, failure or

delay, willful or otherwise, in the performance of the Obligations, or by 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 the Guarantors or would otherwise operate as a discharge of the Guarantors as a matter of law.

Section 9.03. Continuation and Reinstatement, etc. Each Guarantor further agrees that its guaranty hereunder shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of any Obligation is rescinded or must otherwise be restored by the Administrative Agent, the Issuing Lenders, any Lender or any other Secured Party upon the bankruptcy or reorganization of the Borrower or a Guarantor, or otherwise.

Section 9.04. Subrogation. Upon payment by any Guarantor of any sums to the Administrative Agent, the Collateral Agent or a Lender hereunder, all rights of such Guarantor against the Borrower arising as a result thereof by way of right of subrogation or otherwise, shall in all respects be subordinate and junior in right of payment to the prior payment in full of all the Obligations (including interest accruing on and after the filing of any petition in bankruptcy or of reorganization of an obligor whether or not post filing interest is allowed in such proceeding). If any amount shall be paid to such Guarantor for the account of the Borrower relating to the Obligations prior to payment in full of the Obligations, such amount shall be held in trust for the benefit of the Administrative Agent and the Lenders and shall forthwith be paid to the Administrative Agent and the Lenders to be credited and applied to the Obligations, whether matured or unmatured.

Section 9.05. Discharge of Guaranty.

a. In the event of any sale or other disposition of all or substantially all of the assets of any Guarantor, by way of merger, consolidation or otherwise, or a sale or other disposition of all Capital Stock of any Guarantor, in each case to a Person that is not (either before or after giving effect to such transactions) the Borrower or a Guarantor or the merger or consolidation of a Guarantor with or into the Borrower or another Guarantor, in each case, in a transaction permitted under this Agreement, then such Guarantor (in the event of a sale or other disposition, by way of merger, consolidation or otherwise, of all of the Capital Stock of such Guarantor) or the corporation acquiring the property (in the event of a sale or other disposition of all or substantially all of the assets of such Guarantor) will be automatically released and relieved of any obligations under its Guarantee of the Guaranteed Obligations.

b. Upon the request of the Borrower, the guarantee of any Guarantor that is an Immaterial Subsidiary shall be promptly released; provided that (i) no Event of Default shall have occurred and be continuing or shall result therefrom and (ii) the Borrower shall have delivered a certificate of a Responsible Officer certifying that such Subsidiary is an Immaterial Subsidiary; provided further that a Subsidiary that is considered not to be an Immaterial Subsidiary solely pursuant to clause (i)(1) of the second proviso of the definition thereof shall, solely for purposes of this clause (b), be considered an Immaterial Subsidiary, so long as any applicable guarantee, pledge or other obligation of such Subsidiary with respect to any Junior Secured Debt shall be irrevocably released and discharged substantially simultaneously with the release of such guarantee hereunder.

c. The Administrative Agent and the Collateral Agent shall use commercially reasonable efforts to execute and deliver, at the Borrower's expense, such documents as the Borrower or any Guarantor may reasonably request to evidence the release of the guarantee of such Guarantor provided herein.

SECTION 10.

MISCELLANEOUS

Section 10.01. Notices.

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

i. if to the Borrower or any Guarantor, to it at Spirit Airlines, Inc., 2800 Executive Way, Miramar, FL 33025, telephone: [***], facsimile: [***], email: [***]; Attention: [***];

ii. if to Citibank as Administrative Agent, to it at Citibank, N.A., 338 Greenwich St., New York, NY 10013, Attn: [***], email: [***], telephone: [***], with a copy to Citibank Delaware, One Penns Way, OPS 2/2, New Castle, Delaware 19720, telephone: [***], facsimile: [***]; Attention: [***];

iii. if to an Issuing Lender that is a Lender, to it at its address determined pursuant to clause (iv) below or, if to an Issuing Lender that is not a Lender, to it at the address most recently specified by it in notice delivered by it to the Administrative Agent and the Borrower, unless no such notice has been received, in which case to it in care of its Affiliate that is a Lender at its address determined pursuant to clause (iv);

iv. if to any other Lender, to it at its address (or telecopy number) set forth in Annex A hereto or, if subsequently delivered, an Assignment and Acceptance; and

v. if to Wilmington Trust, National Association, as Collateral Agent, to it at Wilmington Trust, National Association, Rodney Square North, 1100 North Market Street, Wilmington, Delaware 19801, telephone: [***], facsimile: [***]; Attention: [***]

b. Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Section 2 unless otherwise agreed by the Administrative Agent and the applicable Lender. The Administrative Agent or the Borrower may, in its reasonable discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved

by it; provided that approval of such procedures may be limited to particular notices or communications.

c. Any party hereto may change its address, telecopy number or e-mail address for notices and other communications hereunder by notice to the other parties hereto. All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt.

Section 10.02. Successors and Assigns.

a. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of an Issuing Lender that issues any Letter of Credit), except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void), provided that the foregoing shall not restrict any transaction permitted by Section 6.10, and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 10.02. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of an Issuing Lender that issues any Letter of Credit), Participants (to the extent provided in paragraph (d) of this Section 10.02) and, to the extent expressly contemplated hereby, the Related Parties of the Administrative Agent, the Collateral Agent, the Issuing Lenders and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

b. Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Revolving Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of:

A. the Administrative Agent; provided that no consent of the Administrative Agent shall be required for an assignment if the assignee is a Lender, an Affiliate of a Lender or an Approved Fund of a Lender, in each case so long as such assignee is an Eligible Assignee; and

B. the Borrower; provided that no consent of the Borrower shall be required for an assignment (I) if an Event of Default has occurred and is continuing or (II) if the assignee is a Lender, an Affiliate of a Lender or an Approved Fund of a Lender, in each case so long as such assignee is an Eligible Assignee; provided, further, that the Borrower's consent will be deemed given with respect to a proposed assignment if no response is received with ten (10) Business Days after having received a written request from such Lender pursuant to this Section 10.02(b).

ii. Assignments shall be subject to the following additional conditions:

- A. any assignment of any portion of the Total Revolving Commitment, Revolving Loans and LC Exposure shall be made to an Eligible Assignee;
- B. except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund of a Lender or an assignment of the entire remaining amount of the assigning Lender's Revolving Commitment or Loans, the amount of such Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$5,000,000, and after giving effect to such assignment, the portion of the Loan or Commitment held by the assigning Lender of the same tranche as the assigned portion of the Loan or Commitment shall not be less than \$5,000,000, in each case unless the Borrower and the Administrative Agent otherwise consent; provided that no consent of the Borrower shall be required with respect to such assignment if an Event of Default has occurred and is continuing; provided, further, that any such assignment shall be in increments of \$500,000 in excess of the minimum amount described above;
- C. each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement;
- D. the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Acceptance, together with a processing and recordation fee of \$3,500 for the account of the Administrative Agent; and
- E. the assignee, if it was not a Lender immediately prior to such assignment, shall deliver (i) to the Administrative Agent an administrative questionnaire in a form as the Administrative Agent may require and (ii) any documents required to be delivered pursuant to Section 2.16.

For the purposes of this Section 10.02(b), the term "Approved Fund" means with respect to any Lender, any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of an entity that administers or manages such Lender.

iii. Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section 10.02, from and after the effective date specified in each Assignment and Acceptance, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Revolving Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all of the assigning Lender's rights and obligations under this Agreement, such

Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.14, 2.16 and 10.04). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 10.02 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (d) of this Section 10.02.

iv. The Administrative Agent shall maintain at its offices a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Revolving Commitments of, and principal amount (and stated interest) of the Loans and LC Disbursements owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Guarantors, the Administrative Agent, the Issuing Lenders and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower, the Issuing Lenders and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

v. Notwithstanding anything to the contrary contained herein, no assignment may be made hereunder to any Defaulting Lender or any of its subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (v).

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

c. Upon its receipt of a duly completed Assignment and Acceptance executed by an assigning Lender and an assignee, the assignee's completed administrative questionnaire in a form as the Administrative Agent may require (unless the assignee shall already be a Lender

hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Acceptance and record the information contained therein in the Register; provided that if either the assigning Lender or the assignee shall have failed to make any payment required to be made by it pursuant to Section 2.04(a), 8.04 or 10.04(d), the Administrative Agent shall have no obligation to accept such Assignment and Acceptance and record the information therein in the Register unless and until such payment shall have been made in full, together with all accrued interest thereon. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

d. Any Lender may, without the consent of the Borrower, the Administrative Agent, the Collateral Agent or any Issuing Lender, sell participations to one or more banks or other entities (a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (C) the Borrower, the Administrative Agent, the Collateral Agent, the Issuing Lenders and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and (D) no Participant may be an Affiliate of the Borrower or any Guarantor, or any natural person (or a holding company, investment vehicle or trust for, or owned and operated by or for the primary benefit of any natural person). Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 10.08(a) that affects such Participant. Subject to Section 10.02(d)(ii), the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.14 and 2.16 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.02(b). To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 8.08 as though it were a Lender, provided such Participant agrees to be subject to the requirements of Section 8.08 as though it were a Lender. Each Lender that sells a participation, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under this Agreement (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Loans, Letters of Credit or its other obligations under this Agreement or any Loan Document) except to the extent that such disclosure is necessary to establish that such Commitment, Loan, Letter of Credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender, the Borrower, a Guarantor and the Administrative Agent shall treat each person

whose name is recorded in the Participant Register pursuant to the terms hereof as the owner of such participation for all purposes of this Agreement, notwithstanding notice to the contrary.

ii. A Participant shall not be entitled to receive any greater payment under Section 2.14 or 2.16 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant and shall be subject to the terms of Section 2.18(a). The Lender selling the participation to such Participant shall be subject to the terms of Section 2.18(b) if such Participant requests compensation or additional amounts pursuant to Section 2.14 or 2.16. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 2.16 unless such Participant agrees, for the benefit of the Borrower, to comply with Sections 2.16(f), 2.16(g) and 2.16(h) as though it were a Lender.

e. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank or other central bank having jurisdiction over such Lender, and this Section 10.02 shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

f. Any Lender may, in connection with any assignment or participation or proposed assignment or participation pursuant to this Section 10.02, disclose to the assignee or participant or proposed assignee or participant, any information relating to the Borrower or any of the Guarantors furnished to such Lender by or on behalf of the Borrower or any of the Guarantors; provided that prior to any such disclosure, each such assignee or participant or proposed assignee or participant provides to the Administrative Agent its agreement in writing to be bound for the benefit of the Borrower by either the provisions of Section 10.03 or other provisions at least as restrictive as Section 10.03.

Section 10.03. Confidentiality. Each Lender agrees to keep any information delivered or made available by the Borrower or any of the Guarantors to it confidential, in accordance with its customary procedures, from anyone other than persons employed or retained by such Lender who are or are expected to become engaged in evaluating, approving, structuring or administering the Loans, and who are advised by such Lender of the confidential nature of such information; provided that nothing herein shall prevent any Lender from disclosing such information (a) to any of its Affiliates and their respective agents, advisors and service providers (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such information and instructed to keep such information confidential) or to any other Lender or any other party hereto, (b) upon the order of any court or administrative agency, (c) upon the request or demand of any regulatory agency or authority (including any self-regulatory authority), (d) which has been publicly disclosed other than as a result of a disclosure by the Administrative Agent, the Collateral Agent or any Lender which is not permitted by this Agreement, (e) in connection with any litigation to which the Administrative Agent, the Collateral Agent, any Lender, or their respective Affiliates may be a party to the extent reasonably required under applicable rules of discovery, (f) to the extent reasonably required in connection with the exercise of any

remedy or enforcement of rights hereunder, (g) to such Lender's legal counsel and independent auditors, (h) on a confidential basis to any rating agency in connection with rating the Borrower and its Subsidiaries or the Revolving Facility, (i) with the consent of the Borrower, and (j) to any actual or proposed participant or assignee of all or part of its rights hereunder, to any direct or indirect contractual counterparty (or the professional advisors thereto) to any swap or derivative transaction relating to the Borrower and its obligations or to any credit insurance provider relating to the Borrower and its obligations, in each case, subject to the proviso in Section 10.02(f) (with any reference to any assignee or participant set forth in such proviso being deemed to include a reference to such contractual counterparty or credit insurance provider for purposes of this Section 10.03(j)). If any Lender is in any manner requested or required to disclose any of the information delivered or made available to it by the Borrower or any of the Guarantors under clauses (b) or (e) of this Section, such Lender will, to the extent permitted by law, provide the Borrower or such Guarantor with prompt notice, to the extent reasonable, so that the Borrower or such Guarantor may seek, at its sole expense, a protective order or other appropriate remedy or may waive compliance with this Section 10.03.

Section 10.04. Expenses; Indemnity; Damage Waiver.

a. The Borrower shall pay or reimburse: (A) all reasonable fees and reasonable out-of-pocket expenses of the Administrative Agent (including the reasonable fees, disbursements and other charges of Milbank LLP, special counsel to the Administrative Agent) and the Collateral Agent (including the reasonable fees, disbursements and other charges of Morris James LLP, special counsel to the Collateral Agent) associated with the syndication of the credit facilities provided for herein, and the preparation, execution and delivery of the Loan Documents and any amendments, modifications or waivers of the provisions hereof requested by the Borrower (whether or not the transactions contemplated hereby or thereby shall be consummated); and (B) in connection with any enforcement of the Loan Documents, (x) all fees and out-of-pocket expenses of each Agent (including the reasonable fees, disbursements and other charges of a single counsel for each of the Agents) incurred during the continuance of a Default, and (y) all such fees and expenses of the Administrative Agent, the Collateral Agent and the Lenders (including the reasonable fees, disbursements and other charges of counsel for the Administrative Agent, the Collateral Agent and the Lenders, which may be separate counsel) incurred during the continuance of an Event of Default; and (C) all reasonable, documented, out-of-pocket costs, expenses, taxes, assessments and other charges (including the reasonable fees, disbursements and other charges of counsel for each of the Administrative Agent and the Collateral Agent) incurred by the Administrative Agent or the Collateral Agent in connection with any filing, registration, recording or perfection of any security interest contemplated by any Loan Document or incurred in connection with any release or addition of Collateral after the Closing Date.

ii. All payments or reimbursements pursuant to the foregoing clause (a)(i) shall be paid within thirty (30) days of written demand together with back-up documentation supporting such reimbursement request.

b. The Borrower shall indemnify the Administrative Agent, the Collateral Agent, the Issuing Lenders and each Lender, and each Related Party of any of the foregoing Persons (each

such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses, including the reasonable fees, charges and disbursements of any counsel for any Indemnitee, arising out of, in connection with, or as a result of any actual or prospective claim, litigation, investigation or proceeding, whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto and whether or not any such claim, litigation, investigation or proceeding is brought by the Borrower, its equity holders, its Affiliates, its creditors or any other Person (including any investigating, preparing for or defending any such claims, actions, suits, investigations or proceedings, whether or not in connection with pending or threatened litigation in which such Indemnitee is a party), relating to (i) the execution or delivery of this Agreement or any agreement or instrument contemplated hereby, the performance by the parties hereto of their respective obligations hereunder or the consummation of the Transactions or any other transactions contemplated hereby, (ii) any Loan or Letter of Credit or the use of the proceeds therefrom (including any refusal by any Issuing Lender to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit) or (iii) any actual or alleged presence or Release of Hazardous Materials on or from any property owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to, or asserted against, the Borrower or any of its Subsidiaries; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the bad faith, gross negligence or willful misconduct of such Indemnitee (or of any Related Party that is a controlled Affiliate of such Indemnitee (a "Controlled Related Party")), and any such Indemnitee shall repay the Borrower the amount of any expenses previously reimbursed by the Borrower in connection with any such loss, claims, damages, expenses or liability to such Indemnitee and, to the extent not repaid by any of them, such Indemnitee's Controlled Related Parties not a party to this Agreement. This Section 10.04(b) shall not apply with respect to Taxes other than Taxes that represent losses or damages arising from any non-Tax claim.

c. In case any action or proceeding shall be brought or asserted against an Indemnitee in respect of which indemnity may be sought against the Borrower under the provisions of any Loan Document, such Indemnitee shall promptly notify the Borrower in writing and the Borrower shall, if requested by such Indemnitee or if the Borrower desires to do so, assume the defense thereof, including the employment of counsel reasonably satisfactory to such Indemnitee but only if (i) no Event of Default shall have occurred and be continuing and (ii) such action or proceeding does not involve any risk of criminal liability or material risk of material civil money penalties being imposed on such Indemnitee. The Borrower shall not enter into any settlement of any such action or proceeding that admits any Indemnitee's misconduct or negligence. The failure to so notify the Borrower shall not affect any obligations the Borrower may have to such Indemnitee under the Loan Documents or otherwise other than to the extent that the Borrower is materially adversely affected by such failure. The Indemnitees shall have the right to employ separate counsel in such action or proceeding and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of the Indemnitees unless: (i) the Borrower has agreed to pay such fees and expenses, (ii) the Borrower has failed to

assume the defense of such action or proceeding and employ counsel reasonably satisfactory to the Indemnitees or (iii) the Indemnitees shall have been advised in writing by counsel that under prevailing ethical standards there may be a conflict between the positions of the Borrower and the Indemnitees in conducting the defense of such action or proceeding or that there may be legal defenses available to the Indemnitees different from or in addition to those available to the Borrower, in which case, if the Indemnitees notify the Borrower in writing that they elect to employ separate counsel at the expense of the Borrower, the Borrower shall not have the right to assume the defense of such action or proceeding on behalf of the Indemnitees; provided, however, that the Borrower shall not, in connection with any one such action or proceeding or separate but substantially similar or related actions or proceedings in the same jurisdiction arising out of the same general allegations or circumstances, be responsible hereunder for the reasonable fees and expenses of more than one such firm of separate counsel, in addition to any local counsel. The Borrower shall not be liable for any settlement of any such action or proceeding effected without the written consent of the Borrower (which shall not be unreasonably withheld or delayed).

d. To the extent that the Borrower fails to pay any amount required to be paid by it to the Administrative Agent or the Collateral Agent under paragraph (a) or (b) of this Section 10.04, each Lender severally agrees to pay to the Administrative Agent or the Collateral Agent, as the case may be, such portion of the unpaid amount equal to such Lender's Aggregate Exposure Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought); provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent or the Collateral Agent in its capacity as such.

e. To the extent permitted by applicable law, each party hereto shall not assert, and hereby waives, any claim against any other party hereto, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement or any agreement or instrument contemplated hereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof; provided that the foregoing will not relieve the Borrower of any obligation it may have to indemnify any Indemnitee pursuant to Section 10.04(b). No Indemnitee referred to in paragraph (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby (except to the extent determined in a final and non-appealable judgment by a court of competent jurisdiction to have arisen from the bad faith, willful misconduct or gross negligence of such Indemnitee or any Controlled Related Party of such Indemnitee).

Section 10.05. Governing Law; Jurisdiction; Consent to Service of Process.

a. This Agreement shall be construed in accordance with and governed by the law of the State of New York.

b. Each party hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State court or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall, to the extent permitted by law, be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

c. Each party hereto hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any court referred to in Section 10.05(b). Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

d. Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 10.01. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

Section 10.06. No Waiver. No failure on the part of the Administrative Agent, the Collateral Agent or any of the Lenders to exercise, and no delay in exercising, any right, power or remedy hereunder or any of the other Loan Documents shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. All remedies hereunder are cumulative and are not exclusive of any other remedies provided by law.

Section 10.07. Extension of Maturity. Should any payment of principal or interest or any other amount due hereunder become due and payable on a day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day and, in the case of principal, interest shall be payable thereon at the rate herein specified during such extension.

Section 10.08. Amendments, etc.

a. No modification, amendment or waiver of any provision of (i) this Agreement, and no consent to any departure by the Borrower or any Guarantor therefrom, shall in any event be effective unless the same shall be in writing and signed by the Required Lenders (or signed by the Administrative Agent with the consent of the Required Lenders) or (ii) any Collateral Document, and no consent to any departure by the Borrower or any Guarantor therefrom, shall in any event be effective unless the same shall be in writing and signed by the Collateral Agent (with the consent of the Required Lenders), and, in each case, then such waiver or consent shall be effective only in the specific instance and for the purpose for which given; provided, however, that, subject to Section 2.09(b) of this Agreement, no such modification or amendment shall without the prior written consent of:

i. each Lender directly and adversely affected thereby (A) increase the Commitment of any Lender or extend the termination date of the Commitment of any Lender (it being understood that a waiver of an Event of Default shall not constitute an increase in or extension of the termination date of the Commitment of a Lender), or (B) reduce the principal amount of any Loan, any reimbursement obligation in respect of any Letter of Credit issued by it, or the rate of interest payable thereon (provided that only the consent of the Required Lenders (or in the case of any such reimbursement obligation, the applicable Issuing Lender) shall be necessary for a waiver of default interest referred to in Section 2.08), or extend any date for the payment of interest or Fees hereunder or reduce any Fees payable hereunder or extend the final stated maturity of the Revolving Loans or reimbursement or cash collateralization obligations in respect of Letters of Credit or (C) amend, modify or waive any provision of Section 2.17(b); and

ii. all of the Lenders (A) amend or modify any provision of this Agreement which provides for the unanimous consent or approval of the Lenders, (B) amend this Section 10.08 that has the effect of changing the number or percentage of Lenders that must approve any modification, amendment, waiver or consent or modify the percentage of the Lenders required in the definition of Required Lenders, or (C) release all or substantially all of the Collateral from the Liens granted to the Collateral Agent hereunder or under any other Loan Document (except to the extent contemplated by Section 6.09 on the Closing Date or by the terms of the Collateral Documents);

provided further, that any Collateral Document may be amended, supplemented or otherwise modified with the consent of the applicable Grantor and the Collateral Agent (i) to add assets (or categories of assets) to the Collateral covered by such Collateral Document, as contemplated by the definition of Additional Collateral set forth in Section 1.01 hereof or (ii) to remove any asset or type or category of asset (including after-acquired assets of that type or category) from the Collateral covered by such Collateral Document to the extent the release thereof is permitted by Section 6.09(c).

Notwithstanding any provision to the contrary set forth herein or in any other Loan Document, without the consent of any Lender or the Collateral Agent, the Borrower and the Administrative Agent may enter into one or more amendments hereto or to any other Loan Document in furtherance of the adoption of the LIBOR Successor Rate mutually determined by the Borrower and the Administrative Agent pursuant to Section 2.09(b) of this Agreement and such amendments shall be binding on each Lender, unless the Required Lenders have delivered an Objection Notice to such amendment(s) in accordance with Section 2.09(b).

b. No such amendment or modification shall adversely affect the rights and obligations of the Administrative Agent, the Collateral Agent or any Issuing Lender hereunder without its prior written consent.

c. No notice to or demand on the Borrower or any Guarantor shall entitle the Borrower or any Guarantor to any other or further notice or demand in the same, similar or other circumstances. Each assignee under Section 10.02(b) shall be bound by any amendment, modification, waiver, or consent authorized as provided herein, and any consent by a Lender

shall bind any Person subsequently acquiring an interest on the Loans held by such Lender. No amendment to this Agreement shall be effective against the Borrower or any Guarantor unless signed by the Borrower or such Guarantor, as the case may be.

d. Notwithstanding anything to the contrary contained in Section 10.08(a), (i) in the event that either the Borrower requests that this Agreement be modified or amended in a manner which would require the unanimous consent of all of the Lenders or the consent of all Lenders directly and adversely affected thereby and, in each case, such modification or amendment is agreed to by the Required Lenders, then the Borrower may replace any non-consenting Lender in accordance with Section 10.02; provided that such amendment or modification can be effected as a result of the assignment contemplated by such Section (together with all other such assignments required by the Borrower to be made pursuant to this clause (i)); and (ii) if the Administrative Agent and the Borrower shall have jointly identified an obvious error or any error or omission of a technical or immaterial nature in any provision of the Loan Documents, then the Administrative Agent and the Borrower shall be permitted to amend such provision and such amendment shall become effective without any further action or consent of any other party to any Loan Document if the same is not objected to in writing by the Required Lenders within five (5) Business Days after written notice thereof to the Lenders.

e. [Reserved].

f. In addition, notwithstanding anything to the contrary contained in Section 10.08(a), this Agreement and, as appropriate, the other Loan Documents, may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Borrower (a) to add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Revolving Loans and the accrued interest and fees in respect thereof and (b) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders.

g. In addition, notwithstanding anything to the contrary contained in Section 7.01 or Section 10.08(a), following the consummation of any Extension pursuant to Section 2.28, no modification, amendment or waiver (including, for the avoidance of doubt, any forbearance agreement entered into with respect to this Agreement) shall limit the right of any non-extending Revolving Lender (each, a "Non-Extending Lender") to enforce its right to receive payment of amounts due and owing to such Non-Extending Lender on the Revolving Facility Maturity Date applicable to the Revolving Commitments of such Non-Extending Lenders without the prior written consent of Non-Extending Lenders that would constitute Required Lenders if the Non-Extending Lenders were the only Lenders hereunder at the time.

h. It is understood that the amendment provisions of this Section 10.08 shall not apply to extensions of the Revolving Facility Maturity Date or the maturity date of any tranche of Revolving Commitments, in each case, made in accordance with Section 2.28.

Section 10.09. Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

Section 10.10. Headings. Section headings used herein are for convenience only and are not to affect the construction of or be taken into consideration in interpreting this Agreement.

Section 10.11. Survival. All covenants, agreements, representations and warranties made by the Borrower herein and in the certificates or other instruments delivered in connection with or pursuant to this Agreement shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, the Collateral Agent, any Issuing Lender or any Lender may have had notice or knowledge of any Event of Default or incorrect representation or warranty at the time any credit is extended hereunder. The provisions of Sections 2.14, 2.15, 2.16 and 10.04 and Section 8 shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments, or the termination of this Agreement or any provision hereof.

Section 10.12. Execution in Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement constitutes the entire contract among the parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or electronic .pdf copy shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 10.13. USA Patriot Act. Each Lender that is subject to the requirements of the Patriot Act hereby notifies the Borrower and each Guarantor that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies the Borrower and each Guarantor, which information includes the name and address of the Borrower and each Guarantor and other information that will allow such Lender to identify the Borrower and each Guarantor in accordance with the Patriot Act.

Section 10.14. New Value. It is the intention of the parties hereto that any provision of Collateral by a Grantor as a condition to, or in connection with, the making of any Loan or the issuance of any Letter of Credit hereunder, shall be made as a contemporaneous exchange for new value given by the Lenders or Issuing Lenders, as the case may be, to the Borrower.

Section 10.15. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO ANY OF THE LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.15.

Section 10.16. No Fiduciary Duty. The Administrative Agent, the Collateral Agent, each Lender and their Affiliates (collectively, solely for purposes of this paragraph, the “Lenders”), may have economic interests that conflict with those of the Borrower, its stockholders and/or its affiliates. The Borrower agree that nothing in the Loan Documents or otherwise related to the Transactions will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender, on the one hand, and the Borrower, its stockholders or its affiliates, on the other hand. The parties hereto acknowledge and agree that (i) the transactions contemplated by the Loan Documents (including the exercise of rights and remedies hereunder and thereunder) are arm’s-length commercial transactions between the Lenders, on the one hand, and the Borrower and the Guarantors, on the other hand, and (ii) in connection therewith and with the process leading thereto, (x) no Lender has assumed an advisory or fiduciary responsibility in favor of the Borrower, its stockholders or its affiliates with respect to the transactions contemplated hereby (or the exercise of rights or remedies with respect thereto) or the process leading thereto (irrespective of whether any Lender has advised, is currently advising or will advise the Borrower, its stockholders or its affiliates on other matters) or any other obligation to the Borrower except the obligations expressly set forth in the Loan Documents and (y) each Lender is acting solely as principal and not as the agent or fiduciary of the Borrower, its management, stockholders, affiliates, creditors or any other Person. The Borrower acknowledges and agrees that it has consulted its own legal and financial advisors to the extent it deemed appropriate and that it is responsible for making its own independent judgment with respect to such transactions and the process leading thereto. The Borrower agrees that it will not claim that any Lender has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to the Borrower, in connection with such transaction or the process leading thereto.

Section 10.17. Intercreditor Agreements. Notwithstanding anything to the contrary contained in this Agreement, if at any time the Administrative Agent shall enter into any intercreditor agreement pursuant to and as permitted by the terms of this Agreement (any such intercreditor agreement, an “Intercreditor Agreement”) and such Intercreditor Agreement shall remain outstanding, the rights granted to the Secured Parties hereunder and under the other Loan Documents, the lien and security interest granted to the Collateral Agent pursuant to this Agreement or any other Loan Document and the exercise of any right or remedy by the Administrative Agent or the Collateral Agent hereunder or under any other Loan Document shall be subject to the terms and conditions of such Intercreditor Agreement. In the event of any conflict between the terms of this Agreement, any other Loan Document and such Intercreditor Agreement, the terms of such Intercreditor Agreement shall govern and control with

respect to any right or remedy, and no right, power or remedy granted to the Administrative Agent or the Collateral Agent hereunder or under any other Loan Document shall be exercised by the Administrative Agent or the Collateral Agent, and no direction shall be given by the Administrative Agent or the Collateral Agent, in contravention of such Intercreditor Agreement.

Section 10.18. Registrations with International Registry. Each of the parties hereto (i) consents to the registrations with the International Registry of the International Interests constituted by the Aircraft and Spare Engine Mortgage, and (ii) covenants and agrees that it will take all such action reasonably requested by the Borrower or Collateral Agent in order to make any registrations with the International Registry, including without limitation establishing a valid and existing account with the International Registry and appointing an Administrator and/or a Professional User reasonably acceptable to the Collateral Agent to make registrations with respect to the Mortgaged Collateral and providing consents to any registration as may be contemplated by the Loan Documents.

Section 10.19. 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.

Section 10.20. Acknowledgment Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Hedging Agreements 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 Resolutions 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 United States or any other state of the United States):

In the event a Covered Entity that is a 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 or such QFC Credit Support, and any rights in property securing such Supported QFC and 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 United States or a state of the United States. 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 United States or a state of the United States.

Section 10.21. Certain ERISA Matters.

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

i. such Lender is not using “plan assets” (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments or this Agreement;

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

iii. (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to

enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement; or

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

b. In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Borrower or any Subsidiary of the Borrower, that neither the Administrative Agent nor the Collateral Agent is a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent or the Collateral Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and the year first written.

SPIRIT AIRLINES, INC., as Borrower

By: /s/ Scott Haralson
Name: Scott Haralson
Title: Senior Vice President and
Chief Financial Officer

CITIBANK, N.A., as Administrative Agent, a Lender and Issuing Lender

By: /s/ Michael Lenoard

Name: Michael Lenoard

Title: Vice President

WILMINGTON TRUST, NATIONAL ASSOCIATION, as Collateral Agent

By: s/ Chad May
Name: Chad May
Title: Vice President

MORGAN STANLEY SENIOR FUNDING, INC., as a Lender

By: /s/ Alysha Salinger
Name: Alysha Salinger
Title: Vice President

LENDERS AND COMMITMENTS

A. Total Revolving Commitments

<i>Revolving Lender</i>	<i>Revolving Commitment</i>
Citibank, N.A.	\$60,000,000
Morgan Stanley Senior Funding, Inc.	\$50,000,000
TOTAL:	\$110,000,000

B. Lender Notices

Citibank, N.A.
c/o Citibank Delaware
One Penns Way
OPS 2/2
New Castle, DE 19720

Attn: [***]

Phone: [***]

Fax: [***]

Borrower inquiries only: [***]

Borrower notifications: [***]

Disclosure Team Mail (Financial Reporting): [***]

Investor Relations Team (investor inquiries only): [***]

With a copy to:

Citibank, NA
388 Greenwich Street
New York, NY 10013

Attn: [***]

Phone: [***]

[***]

Morgan Stanley Senior Funding, Inc.
c/o Morgan Stanley Loan Servicing
1300 Thames Street Wharf, 4th Floor
Baltimore, Maryland 21231

Facsimile: [***]

Email: [***]

LIST OF AIRCRAFT AND ENGINE APPRAISERS

Aviation Specialists Group, Inc.
AVITAS, Inc.
Ascend FG Advisory
IBA Group Ltd
ICF International, Inc.
Morten, Beyer and Agnew

[Reserved]

FORM OF INSTRUMENT OF ASSUMPTION AND JOINDER

FORM OF ASSIGNMENT AND ACCEPTANCE

FORM OF LOAN REQUEST

FORM OF AIRCRAFT AND SPARE ENGINE MORTGAGE

FORM OF SLOT AND GATE SECURITY AGREEMENT

SUBSIDIARIES

OF

SPIRIT AIRLINES, INC.

Jurisdiction of Incorporation

Ownership (directly or indirectly)

[\(Back To Top\)](#)

Section 4: EX-10.2 (PAYROLL SUPPORT PROGRAM AGREEMENT)

Exhibit 10.2

PAYROLL SUPPORT PROGRAM AGREEMENT

Recipient: Spirit Airlines, Inc. 2800 Executive Way Miramar, FL 33025	PSP Participant Number: PSA-2004030420 Employer Identification Number: 38-1747023 DUNS Number: -----
Amount of Initial Payroll Support Payment: \$167,368,416	
The Department of the Treasury (Treasury) hereby provides Payroll Support (as defined herein) under Division A, Title IV, Subtitle B of the Coronavirus Aid, Relief, and Economic Security Act. The Signatory Entity named above, on behalf of itself and its Affiliates (as defined herein), agrees to comply with this Agreement and applicable Federal law as a condition of receiving Payroll Support. The Signatory Entity and its undersigned authorized representatives acknowledge that a materially false, fictitious, or fraudulent statement (or concealment or omission of a material fact) in connection with this Agreement may result in administrative remedies as well as civil and/or criminal penalties.	
The undersigned hereby agree to the attached Payroll Support Program Agreement.	
<u>/s/Steven Mnuchin</u> Department of the Treasury Name: Steven Mnuchin Title: Secretary Date: April 20, 2020	<hr style="width: 100%;"/> <div style="text-align: right;"> Spirit Airlines, Inc. First Authorized Representative: Title: Date: </div> <hr style="width: 100%;"/> <div style="text-align: right;"> Spirit Airlines, Inc. Second Authorized Representative: Title: Date: </div>

PAYROLL SUPPORT PROGRAM AGREEMENT

Recipient: Spirit Airlines, Inc. 2800 Executive Way Miramar, FL 33025	PSP Participant Number: PSA-2004030420 Employer Identification Number: 38-1747023 DUNS Number: -----
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Amount of Initial Payroll Support Payment: \$167,368,416

The Department of the Treasury (Treasury) hereby provides Payroll Support (as defined herein) under Division A, Title IV, Subtitle B of the Coronavirus Aid, Relief, and Economic Security Act. The Signatory Entity named above, on behalf of itself and its Affiliates (as defined herein), agrees to comply with this Agreement and applicable Federal law as a condition of receiving Payroll Support. The Signatory Entity and its undersigned authorized representatives acknowledge that a materially false, fictitious, or fraudulent statement (or concealment or omission of a material fact) in connection with this Agreement may result in administrative remedies as well as civil and/or criminal penalties.

The undersigned hereby agree to the attached Payroll Support Program Agreement.

Department of the Treasury
Name:
Title:
Date:

/s/ Edward Christie
Spirit Airlines, Inc.
First Authorized Representative: Edward Christie
Title: President & CEO
Date: April 20, 2020

/s/ Scott Haralson
Spirit Airlines, Inc.
Second Authorized Representative: Scott Haralson
Title: SVP & CFO
Date: April 20, 2020

PAYROLL SUPPORT PROGRAM AGREEMENT

INTRODUCTION

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act or Act) directs the Department of the Treasury (Treasury) to provide Payroll Support (as defined herein) to passenger air carriers, cargo air carriers, and certain contractors that must be exclusively used for the continuation of payment of Employee Salaries, Wages, and Benefits (as defined herein). The Act permits Treasury to provide Payroll Support in such form, and on such terms and conditions, as the Secretary of the Treasury determines appropriate, and requires certain assurances from the Recipient (as defined herein).

This Payroll Support Program Agreement, including the application and all supporting documents submitted by the Recipient and the Payroll Support Certification attached hereto (collectively, Agreement), memorializes the binding terms and conditions applicable to the Recipient.

DEFINITIONS

As used in this Agreement, the following terms shall have the following respective meanings, unless the context clearly requires otherwise. In addition, this Agreement shall be construed in a manner consistent with any public guidance Treasury may from time to time issue regarding the implementation of Division A, Title IV, Subtitle B of the CARES Act.

Act or *CARES Act* means the Coronavirus Aid, Relief, and Economic Security Act (Pub. L. No. 116-136).

Additional Payroll Support Payment means any disbursement of Payroll Support occurring after the first disbursement of Payroll Support under this Agreement.

Affiliate means any Person that directly or indirectly controls, is controlled by, or is under common control with, the Recipient. For purposes of this definition, "control" of a Person shall mean having the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person, whether by ownership of voting equity, by contract, or otherwise.

Benefits means, without duplication of any amounts counted as Salary or Wages, pension expenses in respect of Employees, all expenses for accident, sickness, hospital, and death benefits to Employees, and the cost of insurance to provide such benefits; any Severance Pay or Other Benefits payable to Employees pursuant to a bona fide voluntary early retirement program or voluntary furlough; and any other similar expenses paid by the Recipient for the benefit of Employees, including any other fringe benefit expense described in lines 10 and 11 of Financial Reporting Schedule P-6, Form 41, as published by the Department of Transportation, but excluding any Federal, state, or local payroll taxes paid by the Recipient.

Corporate Officer means, with respect to the Recipient, its president; any vice president in charge of a principal business unit, division, or function (such as sales, administration or

finance); any other officer who performs a policy-making function; or any other person who performs similar policy making functions for the Recipient. Executive officers of subsidiaries or parents of the Recipient may be deemed Corporate Officers of the Recipient if they perform such policy-making functions for the Recipient.

Employee means an individual who is employed by the Recipient and whose principal place of employment is in the United States (including its territories and possessions), including salaried, hourly, full-time, part-time, temporary, and leased employees, but excluding any individual who is a Corporate Officer or independent contractor.

Involuntary Termination or Furlough means the Recipient terminating the employment of one or more Employees or requiring one or more Employees to take a temporary suspension or unpaid leave for any reason, including a shut-down or slow-down of business; provided, however, that an Involuntary Termination or Furlough does not include a Permitted Termination or Furlough.

Maximum Awardable Amount means the amount determined by the Secretary with respect to the Recipient pursuant to section 4113(a)(1), (2), or (3) (as applicable) of the CARES Act.

Payroll Support means funds disbursed by the Secretary to the Recipient under this Agreement, including the first disbursement of Payroll Support and any Additional Payroll Support Payment.

Permitted Termination or Furlough means, with respect to an Employee, (1) a voluntary furlough, voluntary leave of absence, voluntary resignation, or voluntary retirement, (2) termination of employment resulting from such Employee's death or disability, or (3) the Recipient terminating the employment of such Employee for cause or placing such Employee on a temporary suspension or unpaid leave of absence for disciplinary reasons, in either case, as reasonably determined by the Recipient acting in good faith.

Person means any natural person, corporation, limited liability company, partnership, joint venture, trust, business association, governmental entity, or other entity.

Recipient means, collectively, the Signatory Entity; its Affiliates that are air carriers as defined in 49 U.S.C. § 40102; and their respective heirs, executors, administrators, successors, and assigns.

Salary means, without duplication of any amounts counted as Benefits, a predetermined regular payment, typically paid on a weekly or less frequent basis but which may be expressed as an hourly, weekly, annual or other rate, as well as cost-of-living differentials, vacation time, paid time off, sick leave, and overtime pay, paid by the Recipient to its Employees, but excluding any Federal, state, or local payroll taxes paid by the Recipient.

Secretary means the Secretary of the Treasury.

Severance Pay or Other Benefits means any severance payment or other similar benefits, including cash payments, health care benefits, perquisites, the enhancement or acceleration of the payment or vesting of any payment or benefit or any other in-kind benefit payable (whether in lump sum or over time, including after March 24, 2022) by the Recipient to a Corporate Officer

or Employee in connection with any termination of such Corporate Officer's or Employee's employment (including, without limitation, resignation, severance, retirement, or constructive termination), which shall be determined and calculated in respect of any Employee or Corporate Officer of the Recipient in the manner prescribed in 17 CFR 229.402(j) (without regard to its limitation to the five most highly compensated executives and using the actual date of termination of employment rather than the last business day of the Recipient's last completed fiscal year as the trigger event).

Signatory Entity means the passenger air carrier, cargo air carrier, or contractor that has entered into this Agreement.

Taxpayer Protection Instruments means warrants, options, preferred stock, debt securities, notes, or other financial instruments issued by the Recipient or an Affiliate to Treasury as compensation for the Payroll Support under this Agreement, if applicable.

Total Compensation means compensation including salary, wages, bonuses, awards of stock, and any other financial benefits provided by the Recipient or an Affiliate, as applicable, which shall be determined and calculated for the 2019 calendar year or any applicable 12-month period in respect of any Employee or Corporate Officer of the Recipient in the manner prescribed under paragraph e.5 of the award term in 2 CFR part 170, App. A, but excluding any Severance Pay or Other Benefits in connection with a termination of employment.

Wage means, without duplication of any amounts counted as Benefits, a payment, typically paid on an hourly, daily, or piecework basis, including cost-of-living differentials, vacation, paid time off, sick leave, and overtime pay, paid by the Recipient to its Employees, but excluding any Federal, state, or local payroll taxes paid by the Recipient.

PAYROLL SUPPORT PAYMENTS

1. Upon the execution of this Agreement by Treasury and the Recipient, the Secretary shall approve the Recipient's application for Payroll Support.
2. The Recipient may receive Payroll Support in multiple payments up to the Maximum Awardable Amount, and the amounts (individually and in the aggregate) and timing of such payments will be determined by the Secretary in his sole discretion. The Secretary may, in his sole discretion, increase or reduce the Maximum Awardable Amount (a) consistent with section 4113(a) of the CARES Act and (b) on a pro rata basis in order to address any shortfall in available funds, pursuant to section 4113(c) of the CARES Act.
3. The Secretary may determine in his sole discretion that any Payroll Support shall be conditioned on, and subject to, such additional terms and conditions (including the receipt of, and any terms regarding, Taxpayer Protection Instruments) to which the parties may agree in writing.

TERMS AND CONDITIONS

Retaining and Paying Employees

4. The Recipient shall use the Payroll Support exclusively for the continuation of payment of Wages, Salaries, and Benefits to the Employees of the Recipient.
 - a. *Furloughs and Layoffs.* The Recipient shall not conduct an Involuntary Termination or Furlough of any Employee between the date of this Agreement and September 30, 2020.
 - b. *Employee Salary, Wages, and Benefits*
 - i. *Salary and Wages.* Except in the case of a Permitted Termination or Furlough, the Recipient shall not, between the date of this Agreement and September 30, 2020, reduce, without the Employee's consent, (A) the pay rate of any Employee earning a Salary, or (B) the pay rate of any Employee earning Wages.
 - ii. *Benefits.* Except in the case of a Permitted Termination or Furlough, the Recipient shall not, between the date of this Agreement and September 30, 2020, reduce, without the Employee's consent, the Benefits of any Employee; provided, however, that for purposes of this paragraph, personnel expenses associated with the performance of work duties, including those described in line 10 of Financial Reporting Schedule P-6, Form 41, as published by the Department of Transportation, may be reduced to the extent the associated work duties are not performed.

Dividends and Buybacks

5. Through September 30, 2021, neither the Recipient nor any Affiliate shall, in any transaction, purchase an equity security of the Recipient or of any direct or indirect parent company of the Recipient that, in either case, is listed on a national securities exchange.
6. Through September 30, 2021, the Recipient shall not pay dividends, or make any other capital distributions, with respect to the common stock (or equivalent equity interest) of the Recipient.

Limitations on Certain Compensation

7. Beginning March 24, 2020, and ending March 24, 2022, the Recipient and its Affiliates shall not pay any of the Recipient's Corporate Officers or Employees whose Total Compensation exceeded \$425,000 in calendar year 2019 (other than an Employee whose compensation is determined through an existing collective bargaining agreement entered into before March 27, 2020):
 - a. Total Compensation which exceeds, during any 12 consecutive months of such two- year period, the Total Compensation the Corporate Officer or Employee received in calendar year 2019; or

- b. Severance Pay or Other Benefits in connection with a termination of employment with the Recipient which exceed twice the maximum Total Compensation received by such Corporate Officer or Employee in calendar year 2019.
8. Beginning March 24, 2020, and ending March 24, 2022, the Recipient and its Affiliates shall not pay any of the Recipient's Corporate Officers or Employees whose Total Compensation exceeded \$3,000,000 in calendar year 2019 Total Compensation in excess of the sum of:
- a. \$3,000,000; and
 - b. 50 percent of the excess over \$3,000,000 of the Total Compensation received by such Corporate Officer or Employee in calendar year 2019.
9. For purposes of determining applicable amounts under paragraphs 7 and 8 with respect to any Corporate Officer or Employee who was employed by the Recipient or an Affiliate for less than all of calendar year 2019, the amount of Total Compensation in calendar year 2019 shall mean such Corporate Officer's or Employee's Total Compensation on an annualized basis.

Continuation of Service

10. If the Recipient is an air carrier, until March 1, 2022, the Recipient shall comply with any applicable requirement issued by the Secretary of Transportation under section 4114(b) of the CARES Act to maintain scheduled air transportation service to any point served by the Recipient before March 1, 2020.

Effective Date

11. This Agreement shall be effective as of the date of its execution by both parties.

Reporting and Auditing

12. Until the calendar quarter that begins after the later of March 24, 2022, and the date on which no Taxpayer Protection Instrument is outstanding, not later than 45 days after the end of each of the first three calendar quarters of each calendar year and 90 days after the end of each calendar year, the Signatory Entity, on behalf of itself and each other Recipient, shall certify to Treasury that it is in compliance with the terms and conditions of this Agreement and provide a report containing the following:
- a. the amount of Payroll Support funds expended during such quarter;
 - b. the Recipient's financial statements (audited by an independent certified public accountant, in the case of annual financial statements); and

- c. a copy of the Recipient's IRS Form 941 filed with respect to such quarter; and
 - d. a detailed summary describing, with respect to the Recipient, (a) any changes in Employee headcount during such quarter and the reasons therefor, including any Involuntary Termination or Furlough, (b) any changes in the amounts spent by the Recipient on Employee Wages, Salary, and Benefits during such quarter, and (c) any changes in Total Compensation for, and any Severance Pay or Other Benefits in connection with the termination of, Corporate Officers and Employees subject to limitation under this Agreement during such quarter; and the reasons for any such changes.
13. If the Recipient or any Affiliate, or any Corporate Officer of the Recipient or any Affiliate, becomes aware of facts, events, or circumstances that may materially affect the Recipient's compliance with the terms and conditions of this Agreement, the Recipient or Affiliate shall promptly provide Treasury with a written description of the events or circumstances and any action taken, or contemplated, to address the issue.
14. In the event the Recipient contemplates any action to commence a bankruptcy or insolvency proceeding in any jurisdiction, the Recipient shall promptly notify Treasury.
15. The Recipient shall:
- a. Promptly provide to Treasury and the Treasury Inspector General a copy of any Department of Transportation Inspector General report, audit report, or report of any other oversight body, that is received by the Recipient relating to this Agreement.
 - b. Immediately notify Treasury and the Treasury Inspector General of any indication of fraud, waste, abuse, or potentially criminal activity pertaining to the Payroll Support.
 - c. Promptly provide Treasury with any information Treasury may request relating to compliance by the Recipient and its Affiliates with this Agreement.
16. The Recipient and Affiliates will provide Treasury, the Treasury Inspector General, and such other entities as authorized by Treasury timely and unrestricted access to all documents, papers, or other records, including electronic records, of the Recipient related to the Payroll Support, to enable Treasury and the Treasury Inspector General to make audits, examinations, and otherwise evaluate the Recipient's compliance with the terms of this Agreement. This right also includes timely and reasonable access to the Recipient's and its Affiliates' personnel for the purpose of interview and discussion related to such documents. This right of access shall continue as long as records are required to be retained.

Recordkeeping and Internal Controls

17. If Treasury notifies the Recipient that the first disbursement of Payroll Support to the Recipient under this Agreement is the Maximum Awardable Amount (subject to any pro rata reductions and as determined by the Secretary as of the date of such disbursement), the Recipient shall maintain the Payroll Support funds in a separate account over which Treasury shall have a perfected security interest to continue the payment of Wages, Salary, and Benefits to the Employees. For the avoidance of doubt, regardless whether the first disbursement of Payroll Support to the Recipient under this Agreement is the Maximum Awardable Amount, if the Recipient is a debtor as defined under 11 U.S.C. § 101(13), the Payroll Support funds, any claim or account receivable arising under this Agreement, and any segregated account holding funds received under this Agreement shall not constitute or become property of the estate under 11 U.S.C. § 541.
18. The Recipient shall expend and account for Payroll Support funds in a manner sufficient to:
- a. Permit the preparation of accurate, current, and complete quarterly reports as required under this Agreement.
 - b. Permit the tracing of funds to a level of expenditures adequate to establish that such funds have been used as required under this Agreement.
19. The Recipient shall establish and maintain effective internal controls over the Payroll Support; comply with all requirements related to the Payroll Support established under applicable Federal statutes and regulations; monitor compliance with Federal statutes, regulations, and the terms and conditions of this Agreement; and take prompt corrective actions in accordance with audit recommendations. The Recipient shall promptly remedy any identified instances of noncompliance with this Agreement.
20. The Recipient and Affiliates shall retain all records pertinent to the receipt of Payroll Support and compliance with the terms and conditions of this Agreement (including by suspending any automatic deletion functions for electronic records, including e-mails) for a period of three years following the period of performance. Such records shall include all information necessary to substantiate factual representations made in the Recipient's application for Payroll Support, including ledgers and sub-ledgers, and the Recipient's and Affiliates' compliance with this Agreement. While electronic storage of records (backed up as appropriate) is preferable, the Recipient and Affiliates may store records in hardcopy (paper) format. The term "records" includes all relevant financial and accounting records and all supporting documentation for the information reported on the Recipient's quarterly reports.
21. If any litigation, claim, investigation, or audit relating to the Payroll Support is started before the expiration of the three-year period, the Recipient and Affiliates shall retain all records described in paragraph 20 until all such litigation, claims, investigations, or audit findings have been completely resolved and final judgment entered or final action taken.

Remedies

22. If Treasury believes that an instance of noncompliance by the Recipient or an Affiliate with (a) this Agreement, (b) sections 4114 or 4116 of the CARES Act, or (c) the Internal Revenue Code of 1986 as it applies to the receipt of Payroll Support has occurred, Treasury may notify the Recipient in writing of its proposed determination of noncompliance, provide an explanation of the nature of the noncompliance, and specify a proposed remedy. Upon receipt of such notice, the Recipient shall, within seven days, accept Treasury's proposed remedy, propose an alternative remedy, or provide information and documentation contesting Treasury's proposed determination. Treasury shall consider any such submission by the Recipient and make a final written determination, which will state Treasury's findings regarding noncompliance and the remedy to be imposed.
23. If Treasury makes a final determination under paragraph 22 that an instance of noncompliance has occurred, Treasury may, in its sole discretion, withhold any Additional Payroll Support Payments; require the repayment of the amount of any previously disbursed Payroll Support, with appropriate interest; require additional reporting or monitoring; initiate suspension or debarment proceedings as authorized under 2 CFR Part 180; terminate this Agreement; or take any such other action as Treasury, in its sole discretion, deems appropriate.
24. Treasury may make a final determination regarding noncompliance without regard to paragraph 22 if Treasury determines, in its sole discretion, that such determination is necessary to protect a material interest of the Federal Government. In such event, Treasury shall notify the Recipient of the remedy that Treasury, in its sole discretion, shall impose, after which the Recipient may contest Treasury's final determination or propose an alternative remedy in writing to Treasury. Following the receipt of such a submission by the Recipient, Treasury may, in its sole discretion, maintain or alter its final determination.
25. Any final determination of noncompliance and any final determination to take any remedial action described herein shall not be subject to further review. To the extent permitted by law, the Recipient waives any right to judicial review of any such determinations and further agrees not to assert in any court any claim arising from or relating to any such determination or remedial action.
26. Instead of, or in addition to, the remedies listed above, Treasury may refer any noncompliance or any allegations of fraud, waste, or abuse to the Treasury Inspector General.
27. Treasury, in its sole discretion, may grant any request by the Recipient for termination of this Agreement, which such request shall be in writing and shall include the reasons for such termination, the proposed effective date of the termination, and the amount of any unused Payroll Support funds the Recipient requests to return to Treasury. Treasury may, in its sole discretion, determine the extent to which the requirements under this Agreement may cease to apply following any such termination.
28. If Treasury determines that any remaining portion of the Payroll Support will not accomplish the purpose of this Agreement, Treasury may terminate this Agreement in its entirety to the extent permitted by law.

Debts

29. Any Payroll Support in excess of the amount which Treasury determines, at any time, the Recipient is authorized to receive or retain under the terms of this Agreement constitutes a debt to the Federal Government.
30. Any debts determined to be owed by the Recipient to the Federal Government shall be paid promptly by the Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made. Interest, penalties, and administrative charges shall be charged on delinquent debts in accordance with 31 U.S.C. § 3717, 31 CFR 901.9, and paragraphs 31 and 32. Treasury will refer any debt that is more than 180 days delinquent to Treasury's Bureau of the Fiscal Service for debt collection services.
31. Penalties on any debts shall accrue at a rate of not more than 6 percent per year or such other higher rate as authorized by law.
32. Administrative charges relating to the costs of processing and handling a delinquent debt shall be determined by Treasury.
33. The Recipient shall not use funds from other federally sponsored programs to pay a debt to the government arising under this Agreement.

Protections for Whistleblowers

34. In addition to other applicable whistleblower protections, in accordance with 41 U.S.C. § 4712, the Recipient shall not discharge, demote, or otherwise discriminate against an Employee as a reprisal for disclosing information to a Person listed below that the Employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant:
- a. A Member of Congress or a representative of a committee of Congress;
 - b. An Inspector General;
 - c. The Government Accountability Office;
 - d. A Treasury employee responsible for contract or grant oversight or management;
 - e. An authorized official of the Department of Justice or other law enforcement agency;
 - f. A court or grand jury; or

- g. A management official or other Employee of the Recipient who has the responsibility to investigate, discover, or address misconduct.

Lobbying

35. The Recipient shall comply with the provisions of 31 U.S.C. § 1352, as amended, and with the regulations at 31 CFR Part 21.

Non-Discrimination

36. The Recipient shall comply with, and hereby assures that it will comply with, all applicable Federal statutes and regulations relating to nondiscrimination including:

- a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*), including Treasury's implementing regulations at 31 CFR Part 22;
- b. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794);
- c. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), including Treasury's implementing regulations at 31 CFR Part 23 and the general age discrimination regulations at 45 CFR Part 90; and
- d. The Air Carrier Access Act of 1986 (49 U.S.C. § 41705).

Additional Reporting

37. Within seven days after the date of this Agreement, the Recipient shall register in SAM.gov, and thereafter maintain the currency of the information in SAM.gov until at least March 24, 2022. The Recipient shall review and update such information at least annually after the initial registration, and more frequently if required by changes in the Recipient's information. The Recipient agrees that this Agreement and information related thereto, including the Maximum Awardable Amount and any executive total compensation reported pursuant to paragraph 38, may be made available to the public through a U.S. Government website, including SAM.gov.

38. For purposes of paragraph 37, the Recipient shall report total compensation as defined in paragraph e.5 of the award term in 2 CFR part 170, App. A for each of the Recipient's five most highly compensated executives for the preceding completed fiscal year, if:

- a. the total Payroll Support is \$25,000 or more;
- b. in the preceding fiscal year, the Recipient received:

- i. 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance, as defined at 2 CFR 170.320 (and subawards); and
 - ii. \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance, as defined at 2 CFR 170.320 (and subawards); and
- c. the public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. To determine if the public has access to the compensation information, the Recipient shall refer to U.S. Securities and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.

39. The Recipient shall report executive total compensation described in paragraph 38:

- a. as part of its registration profile at <https://www.sam.gov>; and
- b. within five business days after the end of each month following the month in which this Agreement becomes effective, and annually thereafter.

40. The Recipient agrees that, from time to time, it will, at its own expense, promptly upon reasonable request by Treasury, execute and deliver, or cause to be executed and delivered, or use its commercially reasonable efforts to procure, all instruments, documents and information, all in form and substance reasonably satisfactory to Treasury, to enable Treasury to ensure compliance with, or effect the purposes of, this Agreement, which may include, among other documents or information, (a) certain audited financial statements of the Recipient, (b) documentation regarding the Recipient's revenues derived from its business as a passenger or cargo air carrier or regarding the passenger air carriers for which the Recipient provides services as a contractor (as the case may be), and (c) the Recipient's most recent quarterly Federal tax returns. The Recipient agrees to provide Treasury with such documents or information promptly.

41. If the total value of the Recipient's currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period before termination of this Agreement, then the Recipient shall make such reports as required by 2 CFR part 200, Appendix XII.

Other

42. The Recipient acknowledges that neither Treasury, nor any other actor, department, or agency of the Federal Government, shall condition the provision of Payroll Support on the Recipient's implementation of measures to enter into negotiations with the certified bargaining representative of a craft or class of employees of the Recipient under the

Railway Labor Act (45 U.S.C. 151 *et seq.*) or the National Labor Relations Act (29 U.S.C. 151 *et seq.*), regarding pay or other terms and conditions of employment.

43. Notwithstanding any other provision of this Agreement, the Recipient has no right to, and shall not, transfer, pledge, mortgage, encumber, or otherwise assign this Agreement or any Payroll Support provided under this Agreement, or any interest therein, or any claim, account receivable, or funds arising thereunder or accounts holding Payroll Support, to any party, bank, trust company, or other Person without the express written approval of Treasury.
44. The Signatory Entity will cause its Affiliates to comply with all of their obligations under or relating to this Agreement.
45. Unless otherwise provided in guidance issued by Treasury or the Internal Revenue Service, the form of any Taxpayer Protection Instrument held by Treasury and any subsequent holder will be treated as such form for purposes of the Internal Revenue Code of 1986 (for example, a Taxpayer Protection Instrument in the form of a note will be treated as indebtedness for purposes of the Internal Revenue Code of 1986).
46. This Agreement may not be amended or modified except pursuant to an agreement in writing entered into by the Recipient and Treasury, except that Treasury may unilaterally amend this Agreement if required in order to comply with applicable Federal law or regulation.
47. Subject to applicable law, Treasury may, in its sole discretion, waive any term or condition under this Agreement imposing a requirement on the Recipient or any Affiliate.
48. This Agreement shall bind and inure to the benefit of the parties and their respective heirs, executors, administrators, successors, and assigns.
49. The Recipient represents and warrants to Treasury that this Agreement, and the issuance and delivery to Treasury of the Taxpayer Protection Instruments, if applicable, have been duly authorized by all requisite corporate and, if required, stockholder action, and will not result in the violation by the Recipient of any provision of law, statute, or regulation, or of the articles of incorporation or other constitutive documents or bylaws of the Recipient, or breach or constitute an event of default under any material contract to which the Recipient is a party.
50. The Recipient represents and warrants to Treasury that this Agreement has been duly executed and delivered by the Recipient and constitutes a legal, valid, and binding obligation of the Recipient enforceable against the Recipient in accordance with its terms.
51. This Agreement may be executed in counterparts, each of which shall constitute an original, but all of which together shall constitute a single contract.

52. The words “execution,” “signed,” “signature,” and words of like import in any assignment shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act. Notwithstanding anything herein to the contrary, delivery of an executed counterpart of a signature page of this Agreement by electronic means, or confirmation of the execution of this Agreement on behalf of a party by an email from an authorized signatory of such party, shall be effective as delivery of a manually executed counterpart of this Agreement.
53. The captions and paragraph headings appearing herein are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.
54. This Agreement is governed by and shall be construed in accordance with Federal law. Insofar as there may be no applicable Federal law, this Agreement shall be construed in accordance with the laws of the State of New York, without regard to any rule of conflicts of law (other than section 5-1401 of the New York General Obligations Law) that would result in the application of the substantive law of any jurisdiction other than the State of New York.
55. Nothing in this Agreement shall require any unlawful action or inaction by either party.
56. The requirement pertaining to trafficking in persons at 2 CFR 175.15(b) is incorporated herein and made applicable to the Recipient.
57. This Agreement, together with the attachments hereto, including the Payroll Support Certification and any attached terms regarding Taxpayer Protection Instruments, constitute the entire agreement of the parties relating to the subject matter hereof and supersede any previous agreements and understandings, oral or written, relating to the subject matter hereof. There may exist other agreements between the parties as to other matters, which are not affected by this Agreement and are not included within this integration clause.
58. No failure by either party to insist upon the strict performance of any provision of this Agreement or to exercise any right or remedy hereunder, and no acceptance of full or partial Payroll Support (if applicable) or other performance by either party during the continuance of any such breach, shall constitute a waiver of any such breach of such provision.

ATTACHMENT

Payroll Support Program Certification of Corporate Officer of Recipient

PAYROLL SUPPORT PROGRAM CERTIFICATION OF CORPORATE OFFICER OF RECIPIENT

In connection with the Payroll Support Program Agreement (Agreement) between Spirit Airlines, Inc. and the Department of the Treasury (Treasury) relating to Payroll Support being provided by Treasury to the Recipient under Division A, Title IV, Subtitle B of the Coronavirus Aid, Relief and Economic Security Act, I hereby certify under penalty of perjury to the Treasury that all of the following are true and correct. Capitalized terms used but not defined herein have the meanings set forth in the Agreement.

- (1) I have the authority to make the following representations on behalf of myself and the Recipient. I understand that these representations will be relied upon as material in the decision by Treasury to provide Payroll Support to the Recipient.
- (2) The information and certifications provided by the Recipient in an application for Payroll Support, and in any attachments or other information provided by the Recipient to Treasury related to the application, are true and correct and do not contain any materially false, fictitious, or fraudulent statement, nor any concealment or omission of any material fact.
- (3) The Recipient has the legal authority to apply for the Payroll Support, and it has the institutional, managerial, and financial capability to comply with all obligations, terms, and conditions set forth in the Agreement and any attachment thereto.
- (4) The Recipient and any Affiliate will give Treasury, Treasury's designee or the Treasury Office of Inspector General (as applicable) access to, and opportunity to examine, all documents, papers, or other records of the Recipient or Affiliate pertinent to the provision of Payroll Support made by Treasury based on the application, in order to make audits, examinations, excerpts, and transcripts.
- (5) No Federal appropriated funds, including Payroll Support, have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (6) If the Payroll Support exceeds \$100,000, the Recipient shall comply with the disclosure requirements in 31 CFR Part 21 regarding any amounts paid for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the Payroll Support.

I acknowledge that a materially false, fictitious, or fraudulent statement (or concealment or omission of a material fact) in this certification, or in the application that it supports, may be the subject of criminal prosecution and also may subject me and the Recipient to civil penalties and/or administrative remedies for false claims or otherwise.

/s/ Edward Christie
Corporate Officer of Signatory Entity
Name: Edward Christie
Title: President & CEO
Date: April 20, 2020

/s/ Scott Haralson
Second Authorized Representative
Name: Scott Haralson
Title: SVP & CFO
Date: April 20, 2020

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Section 5: EX-10.3 (PROMISSORY NOTE)

Exhibit 10.3

Execution Version

PROMISSORY NOTE

THE SECURITIES REPRESENTED BY THIS INSTRUMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE TRANSFERRED, SOLD OR OTHERWISE DISPOSED OF EXCEPT WHILE A REGISTRATION STATEMENT RELATING THERETO IS IN EFFECT UNDER SUCH ACT AND APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT OR SUCH LAWS.

Reference is made to that certain Payroll Support Program Agreement ("PSP Agreement") dated as of the date hereof by and among Spirit Airlines, Inc., a Delaware corporation ("Issuer"), having an office at 2800 Executive Way, Miramar, FL 33025 and the United States Department of the Treasury ("Treasury"), having an office at 1500 Pennsylvania Avenue, NW, Washington, D.C. 20220, entered into by Issuer and Treasury pursuant to the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136 (Mar. 27, 2020) ("CARES Act").

WHEREAS, Issuer has requested that Treasury provide financial assistance to the Issuer and certain of its Affiliates (as defined below) that are Recipients (as defined in the PSP Agreement) that shall be used for the continuation of payment of employee wages, salaries, and benefits as is permissible under Section 4112(a) of the CARES Act.

WHEREAS, as appropriate compensation to the Federal Government of the United States of America for the provision of financial assistance under the PSP Agreement, Issuer has agreed to issue this Promissory Note ("Note") to Treasury on the terms and conditions set forth herein.

FOR VALUE RECEIVED, Issuer unconditionally promises to pay to the Holder (as defined below) the principal sum of twenty million, two hundred and ten thousand, five hundred and twenty-five Dollars (\$20,210,525.00), subject to increases and/or decreases made pursuant to Section 2.1, as permissible under the PSP Agreement, or Section 2.3, in each case as noted by the Holder in Schedule I (the "Principal Amount"), outstanding hereunder, together with all accrued interest thereon on the Maturity Date (as defined below) as provided in this Note. Notations made by the Holder in Schedule I shall be final and conclusive absent manifest error; provided, however, that any failure by the Holder to make such notations or any error by omission by the Holder in this regard shall not affect the obligation of the Issuer to pay the full amount of the principal of and interest on the Note or any other amount owing hereunder.

1 DEFINITIONS

1.1 Defined Terms. As used in this Note, capitalized terms have the meanings specified in Annex A.

1.2 Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." The word "or" is not exclusive. The word "year" shall refer (i) in the case of a leap year, to a year of three hundred sixty-six (366) days, and (ii) otherwise, to a year of three hundred sixty-five (365) days. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, (c) the words "herein," "hereof" and "hereunder," and words of similar import, shall be construed to refer to this Note in its entirety and not to any particular provision hereof, (d) all references herein to Sections, Annexes and Schedules shall be construed to refer to Sections of, and Annexes and Schedules to, this Note, (e) any reference to any law or regulation herein shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (f) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

1.3 Accounting Terms. All accounting terms not otherwise defined herein shall be construed in conformity with GAAP, as in effect from time to time.

2 NOTE

- 2.1 Principal Amount. Upon any disbursement to the Issuer under the PSP Agreement after the Closing Date, the Principal Amount of this Note shall be increased in an amount equal to 30% of any such disbursement; provided, however, that no increases in the Principal Amount of this Note shall occur pursuant to this Section until the aggregate principal amount of any disbursements to the Issuer under the PSP Agreement is greater than \$100,000,000.
- 2.2 Maturity Date. The aggregate unpaid principal amount of the Note, all accrued and unpaid interest, and all other amounts payable under this Note shall be due and payable on the Maturity Date, unless otherwise provided in Section 5.1.
- 2.3 Prepayments.
- (1) Optional Prepayments. The Issuer may, upon written notice to the Holder, at any time and from time to time prepay the Note in whole or in part without premium or penalty in a minimum aggregate principal amount equal to the lesser of \$5,000,000 and the Principal Amount outstanding.
- (2) Mandatory Prepayments. If a Change of Control occurs, within thirty (30) days following the occurrence of such Change of Control, the Issuer shall prepay the aggregate principal amount outstanding under the Note and any accrued interest or other amounts owing under the Note. The Issuer will not, and will not permit any Subsidiary to, enter into any Contractual Obligation (other than this Note) that, directly or indirectly, restricts the ability of the Issuer or any Subsidiary to make such prepayment hereunder.
- 2.4 Interest.
- (a) Interest Rate. Subject to paragraph (b) of this Section, the Note shall bear interest on the Principal Amount outstanding from time to time at a rate per annum equal to 1.00% until the fifth anniversary of the Closing Date, and the Applicable SOFR Rate plus 2.00% thereafter until the Maturity Date. All interest hereunder shall be computed on the basis of the actual number of days in each interest period and a year of 365 or 366 days, as applicable, until the fifth anniversary of the Closing Date and computed in a manner determined by the Holder thereafter, based on prevailing customary market conventions for the use of the Applicable SOFR Rate in floating-rate debt instruments at the time of the announcement of the Applicable SOFR Rate. Each interest period will be from, and including, the Closing Date, or from and including the most recent interest payment date to which interest has been paid or provided for, to, but excluding the next interest payment date.
- (b) Default Interest. If any amount payable by the Issuer or any Guarantor under this Note (including principal of the Note, interest, fees or other amount) is not paid when due, whether at stated maturity, upon acceleration or otherwise, such amount shall thereafter bear interest at a rate per annum equal to the applicable Default Rate. While any Event of Default exists, the Issuer or any Guarantor shall pay interest on the principal amount of the Note outstanding hereunder at a rate per annum equal to the applicable Default Rate.
- (c) Payment Dates. Accrued interest on the Note shall be payable in arrears on the last Business Day of March and September of each year, beginning with September 30, 2020, and on the Maturity Date and at such other times as may be specified herein; provided that (i) interest accrued pursuant to paragraph (b) of this Section shall be payable on demand and (ii) in the event of any repayment or prepayment of the Note, accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment.
- (d) SOFR Fallback. If, at any time, the Holder or its designee determines that a Benchmark Transition Event has occurred with respect to the Applicable SOFR Rate or SOFR, or any successor rate, the Holder or its designee will designate a Benchmark Replacement and, as applicable, make Benchmark Conforming Changes in a manner consistent with the methodology set forth in the ARRC Fallback Provisions. Any determination, decision or election that may be made by the Holder or its designee pursuant to this Section (d), and any decision to take or refrain from taking any action or making any determination, decision or election arising out of or relating to this Section (d), shall be conclusive and binding absent manifest error, may be made by the Holder or its designee in its sole discretion, and, notwithstanding anything to the contrary in this Note, shall become effective without the consent of the Issuer, any Guarantor or any other

party. Any terms used in this Section (d) but not defined in this Note shall be construed in a manner consistent with the ARRC Fallback Provisions.

2.5 Payments Generally.

(a) Payments by Issuer. All payments to be made by the Issuer hereunder shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, (i) for so long as Treasury is the Holder of this Note, each payment under this Note shall be paid in immediately available funds by electronic funds transfer to the account of the United States Treasury maintained at the Federal Reserve Bank of New York specified by Treasury in a written notice to the Issuer, or to such other account as may be specified from time to time by Treasury in a written notice to the Issuer, or (ii) in the event that Treasury is not the Holder of this Note, then each payment under this Note shall be made in immediately available funds by electronic funds transfer to such account as shall be specified by the Holder in a written notice to the Issuer, in each case not later than 12:00 noon (Washington, D.C. time) on the date specified herein. All amounts received by the Holder after such time on any date shall be deemed to have been received on the next succeeding Business Day and any applicable interest or fees shall continue to accrue. If any payment to be made by the Issuer shall fall due on a day that is not a Business Day, payment shall be made on the next succeeding Business Day and such extension of time shall be reflected in computing interest or fees, as the case may be; provided that, if such next succeeding Business Day would fall after the Maturity Date, payment shall be made on the immediately preceding Business Day. Except as otherwise expressly provided herein, all payments hereunder shall be made in Dollars.

(b) Application of Insufficient Payments. If at any time insufficient funds are received by and available to the Holder to pay fully all amounts of principal, interest, fees and other amounts then due hereunder, such funds shall be applied (i) first, to pay interest, fees and other amounts then due hereunder, and (ii) second, to pay principal then due hereunder.

3 REPRESENTATIONS AND WARRANTIES

The Issuer and each Guarantor represents and warrants to the Holder on the Closing Date and is deemed to represent and warrant to the Holder on any date on which the amount of the Note is increased pursuant to the terms hereof and in accordance with the PSP Agreement that:

3.1 Existence, Qualification and Power. The Issuer, each Guarantor and each Subsidiary (a) is duly organized or formed, validly existing and, as applicable, in good standing under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) own or lease its assets and carry on its business and (ii) execute, deliver and perform its obligations under the Note, and (c) is duly qualified and is licensed and, as applicable, in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license, except, in each case referred to in clause (a) (other than with respect to the Issuer and each Guarantor), (b)(i) or (c), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

3.2 Authorization; No Contravention. The execution, delivery and performance by the Issuer and each Guarantor of the Note have been duly authorized by all necessary corporate or other organizational action, and do not and will not (a) contravene the terms of its Organizational Documents, (b) conflict with or result in any breach or contravention of, or the creation of any Lien under, or require any payment to be made under (i) any material Contractual Obligation to which the Issuer or any Guarantor is a party or affecting the Issuer or any Guarantor or the material properties of the Issuer, any Guarantor or any Subsidiary or (ii) any material order, injunction, writ or decree of any Governmental Authority or any arbitral award to which the Issuer, the Guarantor or any Subsidiary or its property is subject or (c) violate any Law, except to the extent that such violation could not reasonably be expected to have a Material Adverse Effect.

- 3.3 Governmental Authorization; Other Consents. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, the Issuer or any Guarantor of this Note, except for such approvals, consents, exemptions, authorizations, actions or notices that have been duly obtained, taken or made and in full force and effect.
- 3.4 Execution and Delivery; Binding Effect. This Note has been duly executed and delivered by the Issuer and each Guarantor. This Note constitutes a legal, valid and binding obligation of the Issuer and each Guarantor, enforceable against the Issuer and each Guarantor in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, receivership, moratorium or other Laws affecting creditors' rights generally and by general principles of equity.

4 COVENANTS

Until all Obligations shall have been paid in full or until any later date as provided for in this Note, the Issuer covenants and agrees with the Holder that:

- 4.1 Notices. The Issuer will promptly notify the Holder of the occurrence of any Default.
- 4.2 Guarantors. The Guarantors listed on the signature page to this Note hereby Guarantee the Guaranteed Obligations as set forth in Annex B. If any Subsidiary (other than an Excluded Subsidiary) is formed or acquired after the Closing Date or if any Subsidiary ceases to be an Excluded Subsidiary, then the Issuer will cause such Subsidiary to become a Guarantor of this Note within 30 days of such Subsidiary being formed or acquired or of such Subsidiary ceasing to be an Excluded Subsidiary pursuant to customary documentation reasonably acceptable to the Holder and on the terms and conditions set forth in Annex B.
- 4.3 Pari Passu Ranking. The Obligations of the Issuer and any Guaranteed Obligations of any Guarantor under this Note shall be unsecured obligations of the Issuer and any Guarantor ranking *pari passu* with all existing and future senior unsecured Indebtedness of the Issuer or any Guarantor that is not subordinated in right of payment to the holder or lender of such Indebtedness.

5 EVENTS OF DEFAULT

5.1 Events of Default. If any of the following events (each, an "Event of Default") shall occur:

- (a) the Issuer shall fail to pay any principal of the Note when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;
- (b) the Issuer shall fail to pay any interest on the Note, or any fee or any other amount (other than an amount referred to in clause (a) of this Section) payable under this Note, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of two (2) or more Business Days;
- (c) any representation or warranty made or deemed made by or on behalf of the Issuer or any Guarantor, including those made prior to the Closing Date, in or in connection with this Note or any amendment or modification hereof, or any waiver hereunder, or in the PSP Agreement, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with this Note, the PSP Agreement or the PSP Application or any amendment or modification hereof or thereof, or any waiver hereunder or thereunder, shall prove to have been incorrect in any material respect (or, in the case of any such representation or warranty under this Note already qualified by materiality, such representation or warranty shall prove to have been incorrect) when made or deemed made;
- (d) the Issuer shall fail to observe or perform any covenant, condition or agreement contained in Section 4.1;

(e) the Issuer or any Guarantor shall fail to observe or perform any covenant, condition or agreement contained in this Note (other than those specified in clause (a), (b) or (d) of this Section) and such failure shall continue unremedied for a period of 30 or more days after notice thereof by the Holder to the Issuer;

(f) (i) the Issuer or any Guarantor shall default in the performance of any obligation relating to any Indebtedness (other than Indebtedness under the Note) having an aggregate principal amount equal to or greater than \$15,000,000 ("Material Indebtedness") and any applicable grace periods shall have expired and any applicable notice requirements shall have been complied with, and as a result of such default the holder or holders of such Material Indebtedness or any trustee or agent on behalf of such holder or holders shall have caused such Material Indebtedness to become due prior to its scheduled final maturity date or (ii) the Issuer or any Guarantor shall default in the payment of the outstanding principal amount due on the scheduled final maturity date of any Indebtedness outstanding under one or more agreements of the Issuer or any Guarantor, any applicable grace periods shall have expired and any applicable notice requirements shall have been complied with and such failure to make payment when due shall be continuing for a period of more than five (5) consecutive Business Days following the applicable scheduled final maturity date or the applicable grace period thereunder, in an aggregate principal amount at any single time unpaid exceeding \$15,000,000;

(g) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Issuer, any Guarantor or any Subsidiary or its debts, or of a substantial part of its assets, under any Debtor Relief Law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Issuer or any of its Subsidiaries or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed for a period of 60 or more days or an order or decree approving or ordering any of the foregoing shall be entered;

(h) the Issuer, any Guarantor or any Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Debtor Relief Law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (g) of this Section, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Issuer, any Guarantor or any Subsidiary or for a substantial part of its assets,

(iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding or (v) make a general assignment for the benefit of creditors;

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

(j) there is entered against the Issuer, any Guarantor or any Subsidiary (i) a final judgment or order for the payment of money in an aggregate amount (as to all such judgments and orders) exceeding an amount equal to or greater than \$15,000,000 (to the extent not covered by independent third-party insurance as to which the insurer has been notified of such judgment or order and has not denied or failed to acknowledge coverage), or (ii) a non-monetary final judgment or order that, either individually or in the aggregate, has or could reasonably be expected to have a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) there is a period of 30 consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect; or

(k) any material provision of the Note, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or satisfaction in full of all Obligations, ceases to be in full force and effect; or the Issuer, any Guarantor or any other Person contests in writing the validity or enforceability of any provision of the Note; or the Issuer or any Guarantor denies in writing that it has any or further liability or obligation under the Note, or purports in writing to revoke, terminate or rescind the Note;

then, and in every such event (other than an event with respect to the Issuer or any Guarantor described in clause (g) or (h) of this Section), and at any time thereafter during the continuance of such event, the Holder may, by notice to the Issuer, take any or all of the following actions, at the same or different times:

(i) declare any amounts then outstanding under the Note to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Note so declared to be due and payable, together with accrued interest thereon and all fees and other Obligations of the Issuer accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Issuer and any Guarantor; and

(ii) exercise on all rights and remedies available to it under the Note and Applicable Law;

provided that, in case of any event with respect to the Issuer or any Guarantor described in clause (g) or (h) of this Section, the principal of the Note then outstanding, together with accrued interest thereon and all fees and other Obligations accrued hereunder, shall automatically become due and payable, in each case without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Issuer and any Guarantor.

6 MISCELLANEOUS

6.1 Notices.

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

(i) if to the Issuer or any Guarantor, to Legal Department, Spirit Airlines, Inc., 2800 Executive Way, Miramar, FL 33025 (Telephone No. (954) 447-7920; Email: legaldepartment@spirit.com);

(ii) if to the Holder, to the Department of the Treasury at 1500 Pennsylvania Avenue, NW, Washington D.C. 20220, Attention of Assistant General Counsel (Banking and Finance) (Telephone No. (202) 622-0283; Email: eric.forman@treasury.gov); and

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

(b) Electronic Communications. Notices and other communications to the Holder hereunder may be delivered or furnished by electronic communication (including e-mail, FpML, and Internet or intranet websites) pursuant to procedures approved by the Holder. The Holder, the Issuer or any Guarantor may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

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

6.2 Waivers; Amendments.

(a) No Waiver; Remedies Cumulative; Enforcement. No failure or delay by the Holder in exercising any right, remedy, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, remedy, power or privilege, or any abandonment or discontinuance of steps to enforce such a right remedy, power or privilege, preclude any other or further exercise thereof or the exercise of any other right remedy, power or privilege. The rights, remedies, powers and privileges of the Holder hereunder and under the Note are cumulative and are not exclusive of any rights, remedies, powers or privileges that any such Person would otherwise have.

(b) Amendments, Etc. Except as otherwise expressly set forth in this Note, no amendment or waiver of any provision of this Note, and no consent to any departure by the Issuer therefrom, shall be effective unless in writing executed by the Issuer and the Holder, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

6.3 Expenses; Indemnity; Damage Waiver.

(a) Costs and Expenses. The Issuer shall pay (i) all reasonable out-of-pocket expenses incurred by the Holder (including the reasonable fees, charges and disbursements of any counsel for the Holder) in connection with the preparation, negotiation, execution, delivery and administration of this Note and the PSP Agreement, any other agreements or documents executed in connection herewith or therewith, or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), and (ii) all out-of-pocket expenses incurred by the Holder (including the fees, charges and disbursements of any counsel for the Holder), in connection with the enforcement or protection of its rights in connection with this Note and the PSP Agreement, any other agreements or documents executed in connection herewith or therewith, or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), including all such out-of-pocket expenses incurred during any workout, restructuring, negotiations or enforcement in respect of such Note, PSP Agreement and other agreements or documents executed in connection herewith or therewith.

(b) Indemnification by the Issuer. The Issuer shall indemnify the Holder and each of its Related Parties (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities, obligations, penalties, fines, settlements, judgments, disbursements and related costs and expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless each Indemnitee from all fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any Person (including the Issuer) arising out of, in connection with, or as a result of (i) the execution or delivery of this Note or any agreement or instrument contemplated hereby, the performance by the Issuer or any Guarantor of its obligations hereunder or the consummation of the transactions contemplated hereby, (ii) the Note or the use or proposed use of the proceeds therefrom, or (iii) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Issuer or any Guarantor, and regardless of whether any Indemnitee is a party thereto.

(c) Waiver of Consequential Damages, Etc. To the fullest extent permitted by Applicable Law, the Issuer and any Guarantor shall not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Note or any agreement or instrument contemplated hereby, the transactions contemplated hereby, or the use of the proceeds thereof. No Indemnitee referred to in paragraph (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Note or the transactions contemplated hereby.

(d) Payments. All amounts due under this Section shall be payable not later than five (5) days after demand therefor.

(e) Survival. Each party's obligations under this Section shall survive the termination of the Note and payment of the obligations hereunder.

6.4 Successors and Assigns. Neither the Issuer nor any Guarantor may assign or transfer this Note or any of its rights or obligations hereunder and any purported assignment or transfer in violation of this Note shall be void. Holder may assign or participate a portion or all of its rights under this Note at any time in compliance with all Applicable Laws. This Note shall inure to the benefit of and be binding upon Issuer, any Guarantor and Holder and their permitted successors and assigns. Any Holder that assigns, or sells participations in, any portion of the Note will take such actions as are necessary for the Note and such portion to be in "registered form" (within the meaning of Treasury Regulations Section 5f.103-1).

6.5 Counterparts; Integration; Effectiveness. This Note and any amendments, waivers, consents or supplements hereto may be executed in counterparts, each of which shall constitute an original, but all taken together shall constitute a single contract. This Note constitutes the entire contract between Issuer, any Guarantor and the Holder with respect to the subject matter hereof and supersedes all previous agreements and understandings, oral or written, with respect thereto. Notwithstanding anything herein to the contrary, delivery of an executed counterpart of a signature page of this Note by electronic means shall be effective as delivery of a manually executed counterpart of this Note.

6.6 Severability. If any term or provision of this Note is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Note or invalidate or render unenforceable such term or provision in any other jurisdiction.

6.7 Right of Setoff. If an Event of Default shall have occurred and be continuing, the Holder is hereby authorized at any time and from time to time, to the fullest extent permitted by Applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held, and other obligations (in whatever currency) at any time owing, by the Holder, to or for the credit or the account of the Issuer against any and all of the due and unpaid Obligations of the Issuer now or hereafter existing under this Note to the Holder, irrespective of whether or not the Holder shall have made any demand under this Note. The rights of the Holder under this Section are in addition to other rights and remedies (including other rights of setoff) that the Holder may have. The Holder agrees to notify the Issuer promptly after any such setoff and application; provided that the failure to give such notice shall not affect the validity of such setoff and application.

6.9 Governing Law; Jurisdiction; Etc. This Note will be governed by and construed in accordance with the federal law of the United States if and to the extent such law is applicable, and otherwise in accordance with the laws of the State of New York applicable to contracts made and to be performed entirely within such State. Each of the Issuer, any Guarantor and the Holder agrees (a) to submit to the exclusive jurisdiction and venue of the United States District Court for the District of Columbia for any civil action, suit or proceeding arising out of or relating to this Note or the transactions contemplated hereby, and (b) that notice may be served upon the Issuer, any Guarantor or the Holder at the applicable address in Section 6.1 hereof (or upon any Holder that is not Treasury at an address provided by such Holder to Issuer in writing). To the extent permitted by Applicable Law, each of the Issuer, any Guarantor and the Holder hereby unconditionally waives trial by jury in any civil legal action or proceeding relating to the Note or the transactions contemplated hereby.

6.9 Headings. Section headings used herein are for convenience of reference only, are not part of this Note and shall not affect the construction of, or be taken into consideration in interpreting, this Note.

IN WITNESS WHEREOF, the Issuer has executed this Note as of the day and year written below.

SPIRIT AIRLINES, INC.,
as Issuer

By /s/ Scott Haralson
Name: Scott Haralson
Title: Senior Vice President and Chief Financial Officer
Date: April 20, 2020

ANNEX A

DEFINITIONS

“Affiliate” means any Person that directly or indirectly Controls, is Controlled by, or is under common Control with, the Issuer.

“Applicable Law” means, as to any Person, all applicable Laws binding upon such Person or to which such a Person is subject.

“Applicable SOFR Rate” means a rate of interest based on SOFR that shall be determined by the Holder and publicly announced by the Holder on or prior to the fifth anniversary of the Closing Date and shall, to the extent reasonably practicable, be based on customary market conventions as in effect at the time of such announcement. In no event will the Applicable SOFR Rate be less than 0.00% per annum.

“ARRC Fallback Provisions” means the Fallback Language for New Issuances of LIBOR Floating Rate Notes set forth in the ARRC Recommendations Regarding More Robust Fallback Language for New Issuances of LIBOR Floating Rate Notes, dated April 25, 2019.

“ASU” means the Accounting Standards Update 2016-02, Leases (Topic 842) by the Financial Accounting Standards Board issued on February 25, 2016.

“Beneficial Owner” has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular “person” (as that term is used in Section 13(d)(3) of the Exchange Act), such “person” will be deemed to have beneficial ownership of all securities that such “person” has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only after the passage of time. The terms “Beneficially Owns” and “Beneficially Owned” have a corresponding meaning.

“Business Day” means any on which Treasury and the Federal Reserve Bank of New York are both open for business.

“Capitalized Lease Obligations” means, at the time any determination thereof is to be made, the amount of the liability in respect of a Capitalized Lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with GAAP; provided that all leases of such Person that are or would have been treated as operating leases for purposes of GAAP prior to the issuance of the ASU shall continue to be accounted for as operating leases for purposes of all financial definitions and calculations for purposes of this Note (whether or not such operating lease obligations were in effect on such date) notwithstanding the fact that such obligations are required in accordance with the ASU (on a prospective or retroactive basis or otherwise) to be treated as capitalized lease obligations for other purposes.

“Capitalized Leases” means all leases that have been or should be, in accordance with GAAP as in effect on the Closing Date, recorded as capitalized leases; provided that for all purposes hereunder the amount of obligations under any Capitalized Lease shall be the amount thereof accounted for as a liability in accordance with GAAP; provided, further, that all leases of such Person that are or would have been treated as operating leases for purposes of GAAP prior to the issuance of the ASU shall continue to be accounted for as operating leases for purposes of all financial definitions and calculations for purposes of this Note (whether or not such operating lease obligations were in effect on such date) notwithstanding the fact that such obligations are required in accordance with the ASU (on a prospective or retroactive basis or otherwise) to be treated as capitalized lease obligations for other purposes.

“CARES Act” has the meaning specified in the preamble to this Note.

“Change of Control” means the occurrence of any of the following: (a) the sale, lease, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Issuer and its Subsidiaries, or if the Issuer is a Subsidiary of any Guarantor, such Guarantor (the “Parent Guarantor”) and its Subsidiaries, taken as a whole to any Person (including any “person” (as that term is used in Section 13(d)(3) of the Exchange Act)); or (b) the consummation of any transaction (including, without limitation, any merger or consolidation), the result of which is that any Person (including any “person” (as defined above)) becomes the Beneficial Owner, directly or indirectly, of more than 50%

of the Voting Stock of the Issuer or Parent Guarantor, as applicable, (measured by voting power rather than number of shares), other than (i) any such transaction where the Voting Stock of the Issuer or Parent Guarantor, as applicable, (measured by voting power rather than number of shares) outstanding immediately prior to such transaction constitutes or is converted into or exchanged for at least a majority of the outstanding shares of the Voting Stock of such Beneficial Owner (measured by voting power rather than number of shares), or (ii) any merger or consolidation of the Issuer or Parent Guarantor, as applicable, with or into any Person (including any "person" (as defined above)) which owns or operates (directly or indirectly through a contractual arrangement) a Permitted Business (a "Permitted Person") or a Subsidiary of a Permitted Person, in each case, if immediately after such transaction no Person (including any "person" (as defined above)) is the Beneficial Owner, directly or indirectly, of more than 50% of the total Voting Stock of such Permitted Person (measured by voting power rather than number of shares).

"Closing Date" means the date set forth on the Issuer's and each Guarantor's signature page to this Note.

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

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

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

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

"Default Rate" means an interest rate (before as well as after judgment) equal to the interest rate on the Note plus 2.00% per annum.

"Disqualified Equity Interest" means any equity interest that, by its terms (or the terms of any security or other equity interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition

(a) matures or is mandatorily redeemable (other than solely for equity interests that are not Disqualified Equity Interests), pursuant to a sinking fund obligation or otherwise (except as a result of a change of Control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of Control or asset sale event shall be subject to the prior repayment in full of the Note and all other Obligations that are accrued and payable), (b) is redeemable at the option of the holder thereof, in whole or in part, (c) provides for scheduled payments of dividends in cash, or (d) is or becomes convertible into or exchangeable for Indebtedness or any other equity interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is ninety-one days after the Maturity Date; provided that if such equity interests are issued pursuant to a plan for the benefit of employees of the Issuer or any Subsidiary or by any such plan to such employees, such equity interests shall not constitute Disqualified Equity Interests solely because they may be required to be repurchased by the Issuer or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, death or disability.

"Dollar" and "\$" mean lawful money of the United States. "Event of Default" has the meaning specified in Section 5.

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

"Excluded Subsidiary" means any Subsidiary of the Issuer that is not an obligor in respect of any Material Indebtedness that is unsecured of the Issuer or any of its Subsidiaries, unless such Subsidiary is required to be an obligor under any agreement, instrument or other document relating to any Material Indebtedness that is unsecured of the Issuer or any of its Subsidiaries.

"GAAP" means United States generally accepted accounting principles as in effect as of the date of determination thereof. Notwithstanding any other provision contained herein, (a) all terms of an accounting or financial nature used

herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to any election under FASB Accounting Standards Codification 825-Financial Instruments, or any successor thereto (including pursuant to the FASB Accounting Standards Codification), to value any Indebtedness of any subsidiary at “fair value,” as defined therein and (b) the amount of any Indebtedness under GAAP with respect to Capitalized Lease Obligations shall be determined in accordance with the definition of Capitalized Lease Obligations.

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

“Guarantee” means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part) or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien); provided that the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business. The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term “Guarantee” as a verb has a corresponding meaning.

“Guaranteed Obligations” has the meaning specified in Annex B.

“Guarantor” means each Guarantor listed on the signature page to this Note and any other Person that Guarantees this Note.

“Holder” means the United States Department of the Treasury or its designees or any other Person that shall have rights pursuant to an assignment hereunder.

“Indebtedness” means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP: (a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments; (b) all direct or contingent obligations of such Person arising under (i) letters of credit (including standby and commercial), bankers’ acceptances and bank guarantees and (ii) surety bonds, performance bonds and similar instruments issued or created by or for the account of such Person; (c) net obligations of such Person under any swap contract; (d) all obligations of such Person to pay the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business); (e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse; (f) attributable indebtedness in respect of any Capitalized Lease Obligation and any synthetic lease obligation of any Person; (g) all obligations of such Person in respect of Disqualified Equity Interests; and (h) all Guarantees of such Person in respect of any of the foregoing. For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly made non-recourse to such Person. The amount of any net obligation under any swap contract on any date shall be deemed to be the swap termination value thereof as of such date. The amount of any Indebtedness of any Person for purposes of clause (e) that is expressly made non-recourse or limited-recourse (limited solely to the assets securing such Indebtedness) to such Person shall be deemed to be equal to the lesser of (i) the aggregate principal

amount of such Indebtedness and (ii) the fair market value of the property encumbered thereby as determined by such Person in good faith.

“Indemnitee” has the meaning specified in Section 6.3(b).

“Issuer” has the meaning specified in the preamble to this Note.

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

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

“Material Adverse Effect” means (a) a material adverse change in, or a material adverse effect on, the operations, business, properties, liabilities (actual or contingent), condition (financial or otherwise) or prospects of the Issuer and its Subsidiaries taken as a whole; or (b) a material adverse effect on (i) the ability of the Issuer or any Guarantor to perform its Obligations, (ii) the legality, validity, binding effect or enforceability against the Issuer or any Guarantors of the Note or (iii) the rights, remedies and benefits available to, or conferred upon, the Holder under the Note.

“Material Indebtedness” has the meaning specified in Section 5.1(f).

“Maturity Date” means the date that is ten years after the Closing Date (except that, if such date is not a Business Day, the Maturity Date shall be the next preceding Business Day).

“Note” has the meaning specified in the preamble to this Note.

“Obligations” means all advances to, and debts, liabilities, obligations, covenants and duties of, the Issuer arising under or otherwise with respect to the Note, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against the Issuer or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding. Without limiting the foregoing, the Obligations include (a) the obligation to pay principal, interest, charges, expenses, fees, indemnities and other amounts payable by the Issuer under the Note and (b) the obligation of the Issuer to reimburse any amount in respect of any of the foregoing that the Holder, in each case in its sole discretion, may elect to pay or advance on behalf of the Issuer.

“Obligee Guarantor” has the meaning specified in Annex B.

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

“Permitted Business” means any business that is the same as, or reasonably related, ancillary, supportive or complementary to, the business in which the Issuer and its Subsidiaries are engaged on the date of this Note.

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

“Principal Amount” has the meaning specified in the preamble to this Note. “PSP Agreement” has the meaning specified in the preamble to this Note.

“PSP Application” means the application form and any related materials submitted by the Issuer to Treasury in connection with an application for financial assistance under Division A, Title IV, Subtitle B of the CARES Act.

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

“SOFR” means the secured overnight financing rate published by the Federal Reserve Bank of New York, as administrator of the benchmark (or a successor administrator) on the Federal Reserve Bank of New York’s (or such successor’s) website.

“Subsidiary” of a Person means a corporation, partnership, limited liability company, association or joint venture or other business entity of which a majority of the equity interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time owned or the management of which is Controlled, directly, or indirectly through one or more intermediaries, by such Person. Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of the Issuer.

“Treasury” has the meaning specified in the preamble to this Note. “United States” and “U.S.” mean the United States of America.

“Voting Stock” of any specified Person as of any date means the equity interests of such Person that is at the time entitled to vote in the election of the board of directors of such Person.

ANNEX B

GUARANTEE

1. **Guarantee of the Obligations.** Each Guarantor jointly and severally hereby irrevocably and unconditionally guarantees to the Holder, the due and punctual payment in full of all Obligations (or such lesser amount as agreed by the Holder in its sole discretion) 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, 11 U.S.C. § 362(a)) (collectively, the "Guaranteed Obligations").
2. **Payment by a Guarantor.** Each Guarantor hereby jointly and severally agrees, in furtherance of the foregoing and not in limitation of any other right which the Holder may have at law or in equity against any Guarantor by virtue hereof, that upon the failure of the Issuer 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, 11 U.S.C. § 362(a)), such Guarantor will upon demand pay, or cause to be paid, in cash, to the Holder 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 the Issuer'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 the Issuer for such interest in the related bankruptcy case) and all other Guaranteed Obligations then owed to the Holder as aforesaid.
3. **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 Guarantee is a guarantee of payment when due and not of collectability;
 - (b) the Holder may enforce this Guarantee upon the occurrence of an Event of Default notwithstanding the existence of any dispute between the Issuer and the Holder with respect to the existence of such Event of Default;
 - (c) a separate action or actions may be brought and prosecuted against such Guarantor whether or not any action is brought against the Issuer or any other Guarantors and whether or not Issuer or such Guarantors are 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 other Guarantor's liability for any portion of the Guaranteed Obligations which has not been paid;
 - (e) the Holder, upon such terms as it deems 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 subordinate the payment of the same to the payment of any other obligations; (iii) 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 guarantees of the Guaranteed Obligations, or any other obligation of any Person (including any other Guarantor) with respect to the Guaranteed Obligations; and (iv) enforce its rights and remedies even though such action may operate to impair or extinguish any right of reimbursement or subrogation or other right or remedy of any Guarantor against the Issuer or any security for the Guaranteed Obligations; and

(f) this Guarantee and the obligations of each Guarantor 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: (i) any failure, delay 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 with respect to the Guaranteed Obligations, or with respect to any 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 hereof; (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 Holder's consent to the change, reorganization or termination of the corporate structure or existence of the Issuer or any of its Subsidiaries and to any corresponding restructuring of the Guaranteed Obligations; (v) any defenses, set-offs or counterclaims which the Issuer or any Guarantor may allege or assert against the Holder in respect of the Guaranteed Obligations, including failure of consideration, lack of authority, validity or enforceability, breach of warranty, payment, statute of frauds, statute of limitations, accord and satisfaction and usury; and (vi) any other event or circumstance that might in any manner vary the risk of any Guarantor as an obligor in respect of the Guaranteed Obligations.

4. Waivers by Guarantors. Each Guarantor hereby waives, for the benefit of the Holder: (a) any right to require the Holder, as a condition of payment or performance by such Guarantor, to (i) proceed against Issuer, any Guarantor or any other Person; (ii) proceed against or exhaust any security in favor of the Holder; or (iii) pursue any other remedy in the power of the Holder whatsoever or (b) presentment to, demand for payment from and protest to the Issuer or any Guarantor or notice of acceptance; and (c) 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.

5. Guarantors' Rights of Subrogation, Contribution, etc. Until the Guaranteed Obligations shall have been paid in full, each Guarantor hereby waives any claim, right or remedy, direct or indirect, that such Guarantor now has or may hereafter have against the Issuer or any other Guarantor or any of its assets in connection with this Guarantee or the performance by such Guarantor of its obligations hereunder, including without limitation (a) any right of subrogation, reimbursement or indemnification that such Guarantor now has or may hereafter have against the Issuer with respect to the Guaranteed Obligations, (b) any right to enforce, or to participate in, any claim, right or remedy that the Holder now has or may hereafter have against the Issuer, and (c) any benefit of, and any right to participate in, any collateral or security now or hereafter held by the Holder. In addition, until the Guaranteed Obligations shall have been paid in full, 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. 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 paid in full, such amount shall be held in trust for the Holder and shall forthwith be paid over to the Holder to be credited and applied against the Guaranteed Obligations, whether matured or unmatured, in accordance with the terms hereof.

6. Subordination. Any Indebtedness of the Issuer 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 the Holder and shall forthwith be paid over to the Holder 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.

7. Continuing Guarantee. This Guarantee is a continuing guarantee and shall remain in effect until all of the Guaranteed Obligations shall have been paid in full. Each Guarantor hereby irrevocably waives any right to revoke this Guarantee as to future transactions giving rise to any Guaranteed Obligations.

8. Financial Condition of the Issuer. The Note may be issued to the Issuer without notice to or authorization from any Guarantor regardless of the financial or other condition of the Issuer at the time of such grant. Each Guarantor has adequate means to obtain information from the Issuer on a continuing basis concerning the financial condition of the Issuer and its ability to perform its obligations under the Note, and each Guarantor assumes the responsibility for being and keeping informed of the financial condition of the Issuer and of all circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations.

9. Reinstatement. In the event that all or any portion of the Guaranteed Obligations are paid by the Issuer or any Guarantor, the obligations of any other Guarantor 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 the Holder 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.

10. Discharge of Guarantee Upon Sale of the Guarantor. If, in compliance with the terms and provisions of the Note, all of the capital stock of any Guarantor that is a Subsidiary of the Issuer or any of its successors in interest hereunder shall be sold or otherwise disposed of (including by merger or consolidation) to any Person (other than to the Issuer or to any other Guarantor), the Guarantee of such Guarantor or such successor in interest, as the case may be, hereunder shall automatically be discharged and released without any further action by any beneficiary or any other Person effective as of the time of such asset sale.

(based on the average closing price of Spirit common stock for the 5 trading days prior to the date of grant). The Off-Cycle LTI Award will be subject to the terms and conditions of the Company's 2015 Incentive Award Plan, as amended from time to time ("Incentive Award Plan"). The Off-Cycle LTI Award will be in the form of Restricted Stock Units, vesting over a four-year period as follows: 50% on the second anniversary of the grant date, 25% on the third anniversary of the grant date and the remaining 25% on the fourth anniversary of the grant date. Should your employment with the Company terminate for any reason (other than death or permanent disability), prior to the fourth anniversary of the grant date, the unvested portion of the Off-Cycle LTI Award would automatically terminate and forfeit at that time. It is contemplated that the grant of the Off-Cycle LTI Award would be approved by our Compensation Committee at its first meeting following your start date. The next meeting of the Compensation Committee is scheduled for August 15, 2016.

5. Commencing in 2017, during your employment with the Company, you will be eligible to be granted annual long-term incentive equity awards ("Annual LTI Awards") under the Incentive Award Plan. Your eligibility to receive an Annual LTI Award in any year will be on the basis, terms and conditions determined by the Compensation Committee in its discretion. It is contemplated that the 2017 Annual LTI Awards at the SVP level will have a grant date value of \$450,000 and will be split 50/50

between Restricted Stock Units, vesting in equal annual installments over a four-year period, and Performance Share Units, to be settled in shares of Company common stock after a three-year measurement period. Your Annual LTI Awards will be granted at the same time Annual LTI Awards are granted to other senior executive officers. Should your employment with the Company terminate for any reason (other than death or permanent disability) prior to the vesting date of any Annual LTI Award granted to you, the unvested portion of such Annual LTI Award will automatically terminate and forfeit at that time.

6. You will be entitled to a signing bonus of \$50,000 (gross - subject to withholdings for taxes and applicable deductions) payable in cash *within thirty* days after your start date. Should you terminate your employment with the Company at any time within 12 months following your start date, you hereby agree to promptly repay the full signing bonus to the Company.

7. To assist with your relocation to South Florida, the Company is prepared to reimburse you for up to \$75,000 (gross - subject to withholding for taxes and other required deductions) in relocation expenses that are documented in reasonable detail. You hereby agree to promptly repay to the Company, in full, all amounts paid or reimbursed to you by the Company for relocation if you terminate employment with the Company at any time within 18 months following your start date.

8. Commencing ninety days from your start date, you will be eligible to participate in Company sponsored employee benefits, including medical, life, dental, vision insurance and the voluntary benefit plans. You will be eligible for the Company's 401(k) plan participation after sixty days of employment. You must complete all enrollment forms within your first ninety days. On your start date, you and your immediate family will be eligible for positive space airline travel privileges on Spirit, and after six months, you will be eligible to receive Spirit buddy passes according to the Company's program. You will also receive travel privileges on other specified airlines subject to their policies and their respective agreements with the Company. Your eligibility for the foregoing benefits will automatically terminate if you cease to be employed by the Company for any reason. Of course, the Company may change its benefits package at any time.

9. You agree that the Company may withhold from any compensation, reimbursements and benefits payable to you all taxes as required by law and well as other standard or customary withholdings and deductions. You also agree that target incentives do not constitute a promise of payment.

10. Under the Company's current vacation pay policy, on your start date, you will begin to accrue vacation at a semi-monthly rate of 5.00 hours per pay period. If you worked an entire year, you would be eligible to accrue a maximum of three weeks. Of course, the Company may change or discontinue the policy at any time.

11. As an officer of the Company, you will be eligible for participation in the Spirit Airlines, Inc. Executive Severance Plan (as amended), a copy of *which* will be provided to you under separate cover. In addition, as an officer of the Company, you will be covered by the Company's directors' and officers' liability insurance policy, which may be changed or discontinued by the Company at any time.

12. Please note and understand that, consistent with Company practice, your employment with the Company constitutes "at will" employment and will not be for a specified period. As a result, your employment with the Company may be terminated by you or the Company at any time, with or without cause and with or without advance notice.

13. As an employee of the Company, you will be expected and required to abide by the Company's policies and procedures, including (but not limited to) the Company's Code of Business Conduct and Ethics and Insider Trading Compliance Program.

14. This offer is contingent upon your passing required Company and TSA background checks, as well as you signing and returning this letter to us no later than July 28, 2016, and commencing

employment on or prior to August 8, 2016 or a date mutually agreeable. Our Human Resources Department will be in touch with you to coordinate pre-employment arrangements.

15. You agree and warrant that in performing services for the Company, you will not use or disclose any confidential information of any prior employer or other person or entity. You further warrant and represent that you have not taken or brought with you any confidential, proprietary or potentially trade secret information from any prior employer or other person or entity for use at the Company, and that you are able to fully and effectively perform your job functions for the Company without resort to, or reliance on, any such confidential information of any prior employer or other person or entity. You further warrant and represent that your acceptance of this offer and your employment with the Company will not breach or violate any agreement you have with a former employer or any other third party. You further warrant and represent that all information provided to the Company or its agents with regard to your background is true and correct.

16. You recognize that you will be subject to Spirit's stock ownership guidelines and "clawback" policies as in effect from time to time.

As a confirmation of your agreement and acceptance of this offer, please sign and date below, and return this original offer letter to 2800 Executive Way, Miramar, Florida, 33025, attention: Laurie Villa.

Should you have any questions, please do not hesitate to let us know. We look forward to you joining us as we continue to build the first Ultra Low-Cost Carrier in the Americas.

Sincerely,

SPIRIT AIRLINES, INC.

/s/ Robert Fornaro

Robert Fornaro Date: 7/25/16

President & Chief Executive Officer

Agreed & Accepted,

/s/ Matthew Klein

Matthew Klein

7/26/2016

Date

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Section 7: EX-31.1 (CERTIFICATION OF THE CHIEF EXECUTIVE OFFICER PURSUANT TO SECTION 302 OF THE SARB)

Exhibit 31.1

CERTIFICATION

I, Edward M. Christie, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Spirit Airlines, Inc. (the "Registrant");
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this report;
4. The Registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as described in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:
 - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) disclosed in this report any change in the Registrant's internal control over financial reporting that occurred during the Registrant's most recent fiscal quarter (the Registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Registrant's internal control over financial reporting; and
5. The Registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Registrant's auditors and the audit committee of the Registrant's board of directors (or persons performing the equivalent functions):
 - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize and report financial information; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

May 6, 2020

/s/ Edward M. Christie

Edward M. Christie

President and Chief Executive Officer

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Section 8: EX-31.2 (CERTIFICATION OF THE CHIEF FINANCIAL OFFICER PURSUANT TO SECTION 302 OF THE SARB)

Exhibit 31.2

CERTIFICATION

I, Scott M. Haralson, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Spirit Airlines, Inc. (the "Registrant");
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this report;
4. The Registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as described in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:
 - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) disclosed in this report any change in the Registrant's internal control over financial reporting that occurred during the Company's most recent fiscal quarter (the Registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Registrant's internal control over financial reporting; and
5. The Registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Registrant's auditors and the audit committee of the Registrant's board of directors (or persons performing the equivalent functions):
 - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize and report financial information; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

May 6, 2020

/s/ Scott M. Haralson
Scott M. Haralson
Senior Vice President and Chief Financial Officer

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Section 9: EX-32.1 (CERTIFICATION OF THE CHIEF EXECUTIVE OFFICER PURSUANT TO 18 U.S.C. SECTION 1350)

Exhibit 32.1

Certification of Chief Executive Officer Pursuant to 18 U.S.C. § 1350 As Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

Pursuant to 18 U.S.C. § 1350, adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned officer of Spirit Airlines, Inc. (the "Company") hereby certifies, to such officer's knowledge, that:

- (i) the Quarterly Report on Form 10-Q of the Company for the quarter ended March 31, 2020 (the "Report") fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and
- (ii) the information contained in the Report fairly present, in all material respects, the financial condition and results of operations of the Company.

May 6, 2020

/s/ Edward M. Christie
Edward M. Christie
President and Chief Executive Officer

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Section 10: EX-32.2 (CERTIFICATION OF THE CHIEF FINANCIAL OFFICER PURSUANT TO 18 U.S.C. SECTION 1350)

Exhibit 32.2

Certification of Chief Financial Officer Pursuant to 18 U.S.C. § 1350 As Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

Pursuant to 18 U.S.C. § 1350, adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned officer of Spirit Airlines, Inc. (the "Company") hereby certifies, to such officer's knowledge, that:

- (i.) the Quarterly Report on Form 10-Q of the Company for the quarter ended March 31, 2020 (the "Report") fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and
- (ii.) the information contained in the Report fairly present, in all material respects, the financial condition and results of operations of the Company.

May 6, 2020

/s/ Scott M. Haralson

Scott M. Haralson

Senior Vice President and Chief Financial Officer

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