

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549
Form 10-Q

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

For the quarterly period ended June 30, 2023
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: 001-34726

LYONDELLBASELL INDUSTRIES N.V.
(Exact name of registrant as specified in its charter)

Netherlands
(State or other jurisdiction of
incorporation or organization)

1221 McKinney St.,
Suite 300
Houston, Texas
USA 77010

4th Floor, One Vine Street
London
W1J0AH
United Kingdom

98-0646235
(I.R.S. Employer
Identification No.)

Delftseplein 27E
3013AA Rotterdam
Netherlands

(Addresses of registrant's principal executive offices) (Zip code)
(713) 309-7200 +44 (0) 207 220 2600 +31 (0) 10 2755 500
(Registrant's telephone numbers, including area codes)

(Former name, former address and former fiscal year, if changed since last report)

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

<u>Title of Each Class</u>	<u>Trading Symbol</u>	<u>Name of Each Exchange On Which Registered</u>
Ordinary Shares, €0.04 Par Value	LYB	New York Stock Exchange

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 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, smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	☒	Accelerated filer	☐
Non-accelerated filer	☐	Smaller reporting company	☐
Emerging growth company	☐		

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

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

The registrant had 324,197,207 ordinary shares, €0.04 par value, outstanding at August 2, 2023 (excluding 16,225,291 treasury shares).

LYONDELLBASELL INDUSTRIES N.V.

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PART I. FINANCIAL INFORMATION

ITEM 1. CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

LYONDELLBASELL INDUSTRIES N.V. CONSOLIDATED STATEMENTS OF INCOME

Millions of dollars, except earnings per share	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Sales and other operating revenues:				
Trade	\$ 10,149	\$ 14,559	\$ 20,225	\$ 27,399
Related parties	157	279	328	596
	10,306	14,838	20,553	27,995
Operating costs and expenses:				
Cost of sales	8,868	12,267	17,732	23,403
Impairments	—	69	252	69
Selling, general and administrative expenses	395	329	780	657
Research and development expenses	32	32	65	64
	9,295	12,697	18,829	24,193
Operating income	1,011	2,141	1,724	3,802
Interest expense	(115)	(58)	(231)	(132)
Interest income	28	4	51	6
Other expense, net	(7)	(86)	(2)	(67)
Income from continuing operations before equity investments and income taxes	917	2,001	1,542	3,609
(Loss) income from equity investments	(12)	22	5	51
Income from continuing operations before income taxes	905	2,023	1,547	3,660
Provision for income taxes	188	378	355	694
Income from continuing operations	717	1,645	1,192	2,966
Loss from discontinued operations, net of tax	(2)	(1)	(3)	(2)
Net income	715	1,644	1,189	2,964
Dividends on redeemable non-controlling interests	(1)	(1)	(3)	(3)
Net income attributable to the Company shareholders	\$ 714	\$ 1,643	\$ 1,186	\$ 2,961
Earnings per share:				
Net income (loss) attributable to the Company shareholders —				
Basic				
Continuing operations	\$ 2.19	\$ 5.00	\$ 3.64	\$ 9.01
Discontinued operations	(0.01)	—	(0.01)	(0.01)
	\$ 2.18	\$ 5.00	\$ 3.63	\$ 9.00
Diluted				
Continuing operations	\$ 2.19	\$ 4.98	\$ 3.63	\$ 8.99
Discontinued operations	(0.01)	—	(0.01)	(0.01)
	\$ 2.18	\$ 4.98	\$ 3.62	\$ 8.98

See Notes to the Consolidated Financial Statements.

LYONDELLBASELL INDUSTRIES N.V.
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME

Millions of dollars	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Net income	\$ 715	\$ 1,644	\$ 1,189	\$ 2,964
Other comprehensive income (loss), net of tax –				
Financial derivatives	3	102	7	190
Defined benefit pension and other postretirement benefit plans	2	78	4	83
Foreign currency translations	(31)	(161)	28	(186)
Total other comprehensive (loss) income, net of tax	(26)	19	39	87
Comprehensive income	689	1,663	1,228	3,051
Dividends on redeemable non-controlling interests	(1)	(1)	(3)	(3)
Comprehensive income attributable to the Company shareholders	\$ 688	\$ 1,662	\$ 1,225	\$ 3,048

See Notes to the Consolidated Financial Statements.

LYONDELLBASELL INDUSTRIES N.V.
CONSOLIDATED BALANCE SHEETS

<u>Millions of dollars</u>	<u>June 30, 2023</u>	<u>December 31, 2022</u>
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 2,468	\$ 2,151
Restricted cash	26	5
Accounts receivable:		
Trade, net	3,638	3,392
Related parties	173	201
Inventories	5,195	4,804
Prepaid expenses and other current assets	1,193	1,292
Total current assets	12,693	11,845
Operating lease assets	1,564	1,725
Property, plant and equipment	24,483	23,724
Less: Accumulated depreciation	(9,075)	(8,337)
Property, plant and equipment, net	15,408	15,387
Equity investments	4,152	4,295
Goodwill	1,610	1,827
Intangible assets, net	633	662
Other assets	623	624
Total assets	<u>\$ 36,683</u>	<u>\$ 36,365</u>

See Notes to the Consolidated Financial Statements.

LYONDELLBASELL INDUSTRIES N.V.
CONSOLIDATED BALANCE SHEETS

	June 30, 2023	December 31, 2022
<u>Millions of dollars, except shares and par value data</u>		
LIABILITIES, REDEEMABLE NON-CONTROLLING INTERESTS AND EQUITY		
Current liabilities:		
Current maturities of long-term debt	\$ 1,206	\$ 432
Short-term debt	130	349
Accounts payable:		
Trade	3,024	3,106
Related parties	493	477
Accrued liabilities	2,164	2,396
Total current liabilities	7,017	6,760
Long-term debt	10,276	10,540
Operating lease liabilities	1,437	1,510
Other liabilities	1,989	1,954
Deferred income taxes	2,905	2,858
Commitments and contingencies		
Redeemable non-controlling interests	114	114
Shareholders' equity:		
Ordinary shares, €0.04 par value, 1,275 million shares authorized, 324,516,083 and 325,723,567 shares outstanding, respectively	19	19
Additional paid-in capital	6,111	6,119
Retained earnings	9,580	9,195
Accumulated other comprehensive loss	(1,333)	(1,372)
Treasury stock, at cost, 15,906,415 and 14,698,931 ordinary shares, respectively	(1,446)	(1,346)
Total Company share of shareholders' equity	12,931	12,615
Non-controlling interests	14	14
Total equity	12,945	12,629
Total liabilities, redeemable non-controlling interests and equity	\$ 36,683	\$ 36,365

See Notes to the Consolidated Financial Statements.

LYONDELLBASELL INDUSTRIES N.V.
CONSOLIDATED STATEMENTS OF CASH FLOWS

<u>Millions of dollars</u>	Six Months Ended June 30,	
	2023	2022
Cash flows from operating activities:		
Net income	\$ 1,189	\$ 2,964
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	787	615
Impairments	252	69
Amortization of debt-related costs	4	8
Share-based compensation	48	37
Equity investments—		
Equity income	(5)	(51)
Distributions of earnings, net of tax	50	184
Deferred income tax provision	19	68
Changes in assets and liabilities that provided (used) cash:		
Accounts receivable	(192)	(829)
Inventories	(349)	(415)
Accounts payable	(64)	750
Other, net	33	(299)
Net cash provided by operating activities	1,772	3,101
Cash flows from investing activities:		
Expenditures for property, plant and equipment	(653)	(978)
Proceeds from equity securities	—	8
Other, net	(89)	(64)
Net cash used in investing activities	(742)	(1,034)
Cash flows from financing activities:		
Repurchases of Company ordinary shares	(170)	(262)
Dividends paid - common stock	(797)	(2,464)
Issuance of long-term debt	500	—
Payments of debt issuance costs	(5)	—
Net (repayments of) proceeds from commercial paper	(200)	105
Collateral received from interest rate derivatives	—	217
Other, net	(29)	12
Net cash used in financing activities	(701)	(2,392)
Effect of exchange rate changes on cash	9	(86)
Increase (decrease) in cash and cash equivalents and restricted cash	338	(411)
Cash and cash equivalents and restricted cash at beginning of period	2,156	1,477
Cash and cash equivalents and restricted cash at end of period	\$ 2,494	\$ 1,066

See Notes to the Consolidated Financial Statements.

LYONDELLBASELL INDUSTRIES N.V.
CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY

Millions of dollars	Ordinary Shares		Additional Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive Loss	Company Share of Shareholders' Equity	Non- Controlling Interests
	Issued	Treasury					
Balance, March 31, 2023	\$ 19	\$ (1,360)	\$ 6,092	\$ 9,277	\$ (1,307)	\$ 12,721	\$ 14
Net income	—	—	—	715	—	715	—
Other comprehensive loss	—	—	—	—	(26)	(26)	—
Share-based compensation	—	13	19	(3)	—	29	—
Dividends - common stock (\$1.25 per share)	—	—	—	(408)	—	(408)	—
Dividends - redeemable non-controlling interests (\$15.00 per share)	—	—	—	(1)	—	(1)	—
Repurchases of Company ordinary shares	—	(99)	—	—	—	(99)	—
Balance, June 30, 2023	<u>\$ 19</u>	<u>\$ (1,446)</u>	<u>\$ 6,111</u>	<u>\$ 9,580</u>	<u>\$ (1,333)</u>	<u>\$ 12,931</u>	<u>\$ 14</u>

Millions of dollars	Ordinary Shares		Additional Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive Loss	Company Share of Shareholders' Equity	Non- Controlling Interests
	Issued	Treasury					
Balance, March 31, 2022	\$ 19	\$ (1,156)	\$ 6,056	\$ 9,514	\$ (1,735)	\$ 12,698	\$ 14
Net income	—	—	—	1,644	—	1,644	—
Other comprehensive income	—	—	—	—	19	19	—
Share-based compensation	—	10	21	(14)	—	17	—
Dividends - common stock (\$1.19 per share)	—	—	—	(389)	—	(389)	—
Special dividends - common stock (\$5.20 per share)	—	—	—	(1,704)	—	(1,704)	—
Dividends - redeemable non-controlling interests (\$15.00 per share)	—	—	—	(1)	—	(1)	—
Repurchases of Company ordinary shares	—	(54)	—	—	—	(54)	—
Balance, June 30, 2022	<u>\$ 19</u>	<u>\$ (1,200)</u>	<u>\$ 6,077</u>	<u>\$ 9,050</u>	<u>\$ (1,716)</u>	<u>\$ 12,230</u>	<u>\$ 14</u>

LYONDELLBASELL INDUSTRIES N.V.
CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY

Millions of dollars	Ordinary Shares		Additional Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive Loss	Company Share of Shareholders' Equity	Non- Controlling Interests
	Issued	Treasury					
Balance, December 31, 2022	\$ 19	\$ (1,346)	\$ 6,119	\$ 9,195	\$ (1,372)	\$ 12,615	\$ 14
Net income	—	—	—	1,189	—	1,189	—
Other comprehensive income	—	—	—	—	39	39	—
Share-based compensation	—	73	(8)	(4)	—	61	—
Dividends - common stock (\$2.44 per share)	—	—	—	(797)	—	(797)	—
Dividends - redeemable non-controlling interests (\$30.00 per share)	—	—	—	(3)	—	(3)	—
Repurchases of Company ordinary shares	—	(173)	—	—	—	(173)	—
Balance, June 30, 2023	<u>\$ 19</u>	<u>\$ (1,446)</u>	<u>\$ 6,111</u>	<u>\$ 9,580</u>	<u>\$ (1,333)</u>	<u>\$ 12,931</u>	<u>\$ 14</u>

Millions of dollars	Ordinary Shares		Additional Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive Loss	Company Share of Shareholders' Equity	Non- Controlling Interests
	Issued	Treasury					
Balance, December 31, 2021	\$ 19	\$ (965)	\$ 6,044	\$ 8,563	\$ (1,803)	\$ 11,858	\$ 14
Net income	—	—	—	2,964	—	2,964	—
Other comprehensive income	—	—	—	—	87	87	—
Share-based compensation	—	21	33	(10)	—	44	—
Dividends - common stock (\$2.32 per share)	—	—	—	(760)	—	(760)	—
Special dividends - common stock (\$5.20 per share)	—	—	—	(1,704)	—	(1,704)	—
Dividends - redeemable non-controlling interests (\$30.00 per share)	—	—	—	(3)	—	(3)	—
Repurchases of Company ordinary shares	—	(256)	—	—	—	(256)	—
Balance, June 30, 2022	<u>\$ 19</u>	<u>\$ (1,200)</u>	<u>\$ 6,077</u>	<u>\$ 9,050</u>	<u>\$ (1,716)</u>	<u>\$ 12,230</u>	<u>\$ 14</u>

See Notes to the Consolidated Financial Statements.

LYONDELLBASELL INDUSTRIES N.V.
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

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LYONDELLBASELL INDUSTRIES N.V.
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

1. Basis of Presentation

LyondellBasell Industries N.V. is a limited liability company (Naamloze Vennootschap) incorporated under Dutch law by deed of incorporation dated October 15, 2009. Unless otherwise indicated, the “Company,” “we,” “us,” “our” or similar words are used to refer to LyondellBasell Industries N.V. together with its consolidated subsidiaries (“LyondellBasell N.V.”). LyondellBasell N.V. is a worldwide manufacturer of chemicals and polymers, a refiner of crude oil, a producer of gasoline blending components and a developer and licensor of technologies for the production of polymers.

The accompanying unaudited Consolidated Financial Statements have been prepared from the books and records of LyondellBasell N.V. in accordance with the instructions to Form 10-Q and Rule 10-01 of Regulation S-X for interim financial information. Certain notes and other information have been condensed or omitted from the interim financial statements included in this report. Accordingly, they do not include all of the information and notes required by accounting principles generally accepted in the United States (“U.S. GAAP”) for complete financial statements. These Consolidated Financial Statements should be read in conjunction with the Consolidated Financial Statements and notes thereto included in the Company’s Annual Report on Form 10-K for the year ended December 31, 2022. In the opinion of management, all adjustments, including normal recurring adjustments, considered necessary for a fair statement have been included. These statements contain some amounts that are based upon management estimates and judgments. Future actual results could differ from such current estimates. The results for interim periods are not necessarily indicative of results for the entire year.

Effective January 1, 2023, our *Catalloy* and polybutene-1 businesses were moved from our Advanced Polymer Solutions segment and reintegrated into our Olefins and Polyolefins-Americas and Olefins and Polyolefins-Europe, Asia, International segments. This move allows the Advanced Polymer Solutions team to focus on our compounding and solutions business, and to develop a more agile operating model with meaningful regional and segment growth strategies. Segment information provided throughout the report has been revised for all periods presented to reflect these changes.

2. Accounting and Reporting Changes

Recently Adopted Guidance

Supplier Finance Program—In September 2022, the FASB issued ASU 2022-04, *Liabilities—Supplier Finance Programs (Subtopic 405-50): Disclosure of Supplier Finance Program Obligations*. The guidance requires an entity that uses supplier finance programs in connection with the purchase of goods and services to disclose certain qualitative and quantitative information about its programs including the key terms and conditions, activity during the period, and potential magnitude. The guidance is effective retrospectively for the year ending December 31, 2023, including interim periods, with disclosures required for each period for which a balance sheet is presented, except for the disclosure of roll forward information, which is effective for fiscal years beginning after December 15, 2023. The adoption of this guidance did not have a material impact on our Consolidated Financial Statements.

Accounting Guidance Issued But Not Adopted as of June 30, 2023

Fair Value Measurement—In June 2022, the FASB issued ASU 2022-03, *Fair Value Measurement (Topic 820): Fair Value Measurement of Equity Securities Subject to Contractual Sale Restrictions*. The guidance clarifies that a contractual restriction on the sale of an equity security is not considered part of the unit of account of the equity security because it is a characteristic of the entity holding the equity security rather than a characteristic of the security and is not considered in measuring its fair value. The guidance is effective prospectively for the year ending December 31, 2024, including the interim periods, with the impact of adoption reflected in earnings. Early adoption is permitted. The adoption of this guidance will not have a material impact on our Consolidated Financial Statements.

LYONDELLBASELL INDUSTRIES N.V.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS-(Continued)

3. Revenues

Contract Balances—Contract liabilities were \$185 million and \$167 million at June 30, 2023 and December 31, 2022, respectively. Revenue recognized in each reporting period that was included in the contract liability balance at the beginning of the period was immaterial.

Disaggregation of Revenues—Effective January 1, 2023, our *Catalloy* and polybutene-1 businesses were moved from our Advanced Polymer Solutions segment and reintegrated into our Olefins and Polyolefins-Americas and Olefins and Polyolefins-Europe, Asia, International segments. See Note 12 for additional detail regarding the change in segments. Consistent with this change, we have updated the disclosure of revenue disaggregated by key products for all periods presented.

The following table presents our revenues disaggregated by key products:

<u>Millions of dollars</u>	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Sales and other operating revenues:				
Olefins and co-products	\$ 907	\$ 1,397	\$ 1,790	\$ 2,554
Polyethylene	1,920	2,749	3,936	5,456
Polypropylene	1,453	2,188	2,979	4,451
Propylene oxide and derivatives	538	931	1,179	1,816
Oxyfuels and related products	1,302	1,553	2,535	2,807
Intermediate chemicals	766	1,201	1,512	2,311
Compounding and solutions	956	1,113	1,951	2,248
Refined products	2,293	3,503	4,350	5,961
Other	171	203	321	391
Total	<u>\$ 10,306</u>	<u>\$ 14,838</u>	<u>\$ 20,553</u>	<u>\$ 27,995</u>

The following table presents our revenues disaggregated by geography, based upon the location of the customer:

<u>Millions of dollars</u>	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Sales and other operating revenues:				
United States	\$ 5,032	\$ 7,425	\$ 9,884	\$ 13,499
Germany	619	1,075	1,405	2,070
China	533	686	1,047	1,342
Mexico	389	598	819	1,040
Japan	426	461	791	884
Italy	346	521	722	1,039
France	272	446	566	833
The Netherlands	240	344	473	734
Poland	223	374	462	769
Other	2,226	2,908	4,384	5,785
Total	<u>\$ 10,306</u>	<u>\$ 14,838</u>	<u>\$ 20,553</u>	<u>\$ 27,995</u>

LYONDELLBASELL INDUSTRIES N.V.
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS-(Continued)

4. Accounts Receivable

Our accounts receivable are reflected in the Consolidated Balance Sheets, net of allowance for credit losses of \$6 million as of June 30, 2023 and December 31, 2022.

5. Inventories

Inventories consisted of the following components:

<u>Millions of dollars</u>	<u>June 30, 2023</u>	<u>December 31, 2022</u>
Finished goods	\$ 3,444	\$ 3,027
Work-in-process	217	227
Raw materials and supplies	1,534	1,550
Total inventories	<u>\$ 5,195</u>	<u>\$ 4,804</u>

LYONDELLBASELL INDUSTRIES N.V.
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS-(Continued)

6. Debt

Long-term loans, notes and other debt, net of unamortized discount and debt issuance cost, consisted of the following:

<u>Millions of dollars</u>	<u>June 30, 2023</u>	<u>December 31, 2022</u>
Senior Notes due 2024, \$1,000 million, 5.75% (\$1 million of debt issuance cost)	\$ 774	\$ 774
Senior Notes due 2055, \$1,000 million, 4.625% (\$15 million of discount; \$11 million of debt issuance cost)	974	974
Guaranteed Notes due 2027, \$300 million, 8.1%	300	300
Issued by LYB International Finance B.V.:		
Guaranteed Notes due 2023, \$750 million, 4.0%	425	424
Guaranteed Notes due 2043, \$750 million, 5.25% (\$19 million of discount; \$6 million of debt issuance cost)	725	725
Guaranteed Notes due 2044, \$1,000 million, 4.875% (\$10 million of discount; \$8 million of debt issuance cost)	982	982
Issued by LYB International Finance II B.V.:		
Guaranteed Notes due 2026, €500 million, 0.875% (\$1 million of discount; \$2 million of debt issuance cost)	528	518
Guaranteed Notes due 2027, \$1,000 million, 3.5% (\$2 million of discount; \$2 million of debt issuance cost)	584	587
Guaranteed Notes due 2031, €500 million, 1.625% (\$4 million of discount; \$3 million of debt issuance cost)	526	516
Issued by LYB International Finance III LLC:		
Guaranteed Notes due 2025, \$500 million, 1.25% (\$1 million of discount; \$2 million of debt issuance cost)	476	475
Guaranteed Notes due 2030, \$500 million, 3.375% (\$1 million of debt issuance cost)	120	120
Guaranteed Notes due 2030, \$500 million, 2.25% (\$3 million of discount; \$3 million of debt issuance cost)	471	469
Guaranteed Notes due 2033, \$500 million, 5.625% (\$5 million of debt issuance cost)	495	—
Guaranteed Notes due 2040, \$750 million, 3.375% (\$2 million of discount; \$7 million of debt issuance cost)	741	741
Guaranteed Notes due 2049, \$1,000 million, 4.2% (\$14 million of discount; \$10 million of debt issuance cost)	976	976
Guaranteed Notes due 2050, \$1,000 million, 4.2% (\$6 million of discount; \$10 million of debt issuance cost)	972	971
Guaranteed Notes due 2051, \$1,000 million, 3.625% (\$2 million of discount; \$11 million of debt issuance cost)	895	897
Guaranteed Notes due 2060, \$500 million, 3.8% (\$4 million of discount; \$6 million of debt issuance cost)	480	481
Other	38	42
Total	11,482	10,972
Less current maturities	(1,206)	(432)
Long-term debt	\$ 10,276	\$ 10,540

LYONDELLBASELL INDUSTRIES N.V.
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS-(Continued)

Fair value hedging adjustments associated with the fair value hedge accounting of our fixed-for-floating interest rate swaps for the applicable periods are as follows:

Millions of dollars	Gains (Losses)				Cumulative Fair Value Hedging Adjustments Included in Carrying Amount of Debt	
	Three Months Ended June 30,		Six Months Ended June 30,		June 30, 2023	December 31, 2022
	2023	2022	2023	2022		
Guaranteed Notes due 2025, 1.25%	\$ 1	\$ 1	\$ (1)	\$ 8	\$ 13	\$ 14
Guaranteed Notes due 2026, 0.875%	—	3	(1)	7	12	13
Guaranteed Notes due 2027, 3.5%	6	10	3	29	3	—
Guaranteed Notes due 2030, 3.375%	4	6	—	16	21	21
Guaranteed Notes due 2030, 2.25%	2	6	(1)	16	23	24
Guaranteed Notes due 2031, 1.625%	1	3	(1)	3	10	11
Guaranteed Notes due 2050, 4.2%	1	2	(1)	7	12	13
Guaranteed Notes due 2051, 3.625%	19	24	2	53	92	90
Guaranteed Notes due 2060, 3.8%	4	2	1	2	10	9
Total	\$ 38	\$ 57	\$ 1	\$ 141	\$ 196	\$ 195

Fair value adjustments are recognized in Interest expense in the Consolidated Statements of Income.

Short-term loans, notes and other debt consisted of the following:

Millions of dollars	June 30, 2023	December 31, 2022
U.S. Receivables Facility	\$ —	\$ —
Commercial paper	—	200
Precious metal financings	130	131
Other	—	18
Total Short-term debt	\$ 130	\$ 349

Long-Term Debt

Senior Revolving Credit Facility—Our \$3,250 million senior unsecured revolving credit facility (the “Senior Revolving Credit Facility”), which expires in November 2026, may be used for dollar and euro denominated borrowings. The facility has a \$200 million sub-limit for dollar and euro denominated letters of credit, a \$1,000 million uncommitted accordion feature and supports our commercial paper program. In May 2023, we amended our Senior Revolving Credit Facility to update the interest rate benchmark to reference the secured overnight financing rate (“SOFR”) rather than the London Interbank Offered Rate (“LIBOR”). Borrowings under the facility bear interest at either a base rate, SOFR or EURIBOR rate, plus an applicable margin. Additional fees are incurred for the average daily unused commitments. At June 30, 2023, we had no borrowings or letters of credit outstanding and \$3,250 million of unused availability under this facility.

LYONDELLBASELL INDUSTRIES N.V.**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS-(Continued)**

Guaranteed Notes due 2033—In May 2023, LYB International Finance III, LLC (“LYB Finance III”), a wholly owned finance subsidiary of LyondellBasell Industries N.V., as defined in Rule 13-01 of Regulation S-X, issued \$500 million of 5.625% guaranteed notes due 2033 (the “2033 Notes”) at a discounted price of 99.895%. Net proceeds from the sale of the notes totaled \$495 million, after deducting underwriting discounts and offering expenses.

The 2033 Notes are the first green financing instruments we have issued related to our green financing framework. Net proceeds from the sale of the 2033 Notes will be used to finance or refinance, in whole or in part, new or existing eligible green projects in the areas of circular economy, renewable energy, pollution prevention and control, and energy efficiency. Pending the full allocation of the net proceeds, any portion that has not been allocated to eligible green projects will be managed in accordance with our normal liquidity management practices.

These unsecured notes, which are fully and unconditionally guaranteed by LyondellBasell Industries N.V., rank equally in right of payment to all of LYB Finance III’s and LyondellBasell Industries N.V.’s existing and future senior unsecured indebtedness and will rank senior in right of payment to any future subordinated indebtedness that LYB Finance III or LyondellBasell Industries N.V. incurs. There are no significant restrictions that would impede LyondellBasell Industries N.V., as guarantor, from obtaining funds by dividend or loan from its subsidiaries.

The indenture governing these notes contains limited covenants, including those restricting our ability, and the ability of our subsidiaries, to incur indebtedness secured by significant property or by capital stock of subsidiaries that own significant property, enter into certain sale and lease-back transactions with respect to any significant property or enter into consolidations, mergers or sales of all or substantially all of our assets.

The 2033 Notes may be redeemed at any time in whole, or from time to time in part, prior to the scheduled maturity date, at a redemption price equal to the greater of (i) the sum of the present values of the remaining scheduled payments of principal and interest (discounted at the treasury rate plus the applicable basis points) less interest accrued on the notes to be redeemed, and (ii) 100% of the principal amount of the notes redeemed; plus, in either case, accrued and unpaid interest thereon to, but excluding, the redemption date. The 2033 Notes may also be redeemed at any time, on or after the date that is three months prior to the scheduled maturity date of the notes at a redemption price equal to 100% of the principal amount of the notes to be redeemed plus accrued and unpaid interest thereon to, but excluding, the redemption date. The notes are also redeemable upon certain tax events.

Guaranteed Notes due 2023—In July 2023, we repaid the \$425 million remaining of outstanding principal on our 4.0% guaranteed notes due 2023.

Short-Term Debt

U.S. Receivables Facility—Our U.S. Receivables Facility, which expires in June 2024, has a purchase limit of \$900 million in addition to a \$300 million uncommitted accordion feature. This facility provides liquidity through the sale or contribution of trade receivables by certain of our U.S. subsidiaries to a wholly owned, bankruptcy-remote subsidiary on an ongoing basis and without recourse. We pay variable interest rates on our secured borrowings. Additional fees are incurred for the average daily unused commitments. In May 2023, we amended our U.S. Receivables Facility to update the interest rate benchmark to reference SOFR rather than LIBOR. This facility also provides for the issuance of letters of credit up to \$200 million. At June 30, 2023, we had no borrowings or letters of credit outstanding and \$900 million unused availability under this facility.

Commercial Paper Program—We have a commercial paper program under which we may issue up to \$2,500 million of privately placed, unsecured, short-term promissory notes (“commercial paper”). At June 30, 2023, we had no borrowings of outstanding commercial paper.

Weighted Average Interest Rate—At June 30, 2023 and December 31, 2022, our weighted average interest rates on outstanding Short-term debt were 2.5% and 3.7%, respectively.

LYONDELLBASELL INDUSTRIES N.V.
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS-(Continued)

Additional Information

Debt Compliance—As of June 30, 2023, we are in compliance with our debt covenants.

Supply Chain Finance Arrangements

We facilitate a voluntary supply chain finance program that provides suppliers, at their sole discretion, the opportunity to sell their receivables due from us to a participating financial intermediary in order to be paid earlier than our contracted payment terms. We are not a party to any agreement between our suppliers and the financial intermediary. When a supplier utilizes the program and receives an early payment from the financial intermediary, the supplier takes a discount on the invoice. We pay the financial intermediary the full amount of the invoice on the contractually agreed upon due date. The majority of the suppliers using the program are on 90-day payment terms. There is no economic impact to the Company from a supplier's decision to take an early payment. No guarantees are provided by us or any of our subsidiaries under the program.

As of June 30, 2023 and December 31, 2022, Accounts payable-Trade included \$57 million and \$53 million, respectively, payable to suppliers who have elected to participate in the supply chain financing program.

LYONDELLBASELL INDUSTRIES N.V.
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS-(Continued)

7. Financial Instruments and Fair Value Measurements

We are exposed to market risks, such as changes in commodity pricing, interest rates and currency exchange rates. To manage the volatility related to these exposures, we selectively enter into derivative contracts pursuant to our risk management policies.

Financial Instruments Measured at Fair Value on a Recurring Basis—The following table summarizes financial instruments outstanding for the periods presented that are measured at fair value on a recurring basis:

<u>Millions of dollars</u>	<u>June 30, 2023</u>	<u>December 31, 2022</u>	<u>Balance Sheet</u>
	<u>Fair Value</u>	<u>Fair Value</u>	<u>Classification</u>
Assets—			
Derivatives designated as hedges:			
Commodities	\$ 2	\$ —	Prepaid expenses and other current assets
Foreign currency	107	109	Prepaid expenses and other current assets
Foreign currency	103	133	Other assets
Interest rates	41	16	Prepaid expenses and other current assets
Interest rates	—	25	Other assets
Derivatives not designated as hedges:			
Commodities	44	27	Prepaid expenses and other current assets
Commodities	1	—	Other assets
Foreign currency	2	—	Prepaid expenses and other current assets
Total	<u>\$ 300</u>	<u>\$ 310</u>	
Liabilities—			
Derivatives designated as hedges:			
Commodities	\$ 1	\$ 14	Accrued liabilities
Commodities	5	—	Other liabilities
Foreign currency	25	15	Accrued liabilities
Foreign currency	19	8	Other liabilities
Interest rates	29	23	Accrued liabilities
Interest rates	226	229	Other liabilities
Derivatives not designated as hedges:			
Commodities	5	11	Accrued liabilities
Commodities	2	3	Other liabilities
Foreign currency	13	6	Accrued liabilities
Total	<u>\$ 325</u>	<u>\$ 309</u>	

The financial instruments in the table above are classified as Level 2. We present the gross assets and liabilities of our derivative financial instruments on the Consolidated Balance Sheets.

LYONDELLBASELL INDUSTRIES N.V.
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS-(Continued)

Financial Instruments Not Measured at Fair Value on a Recurring Basis—The following table presents the carrying value and estimated fair value of our Short-term precious metal financings and Long-term debt:

Millions of dollars	June 30, 2023		December 31, 2022	
	Carrying Value	Fair Value	Carrying Value	Fair Value
Precious metal financings	\$ 130	\$ 99	\$ 131	\$ 113
Long-term debt	10,256	8,796	10,517	8,882
Total	\$ 10,386	\$ 8,895	\$ 10,648	\$ 8,995

The financial instruments in the table above are classified as Level 2. Our other financial instruments classified within Current assets and Current liabilities have a short maturity and their carrying value generally approximates fair value.

Derivative Instruments:

Commodity Prices—The following table presents the notional amounts of our outstanding commodity derivative instruments:

	June 30, 2023	December 31, 2022		
Millions of units	Notional Amount	Notional Amount	Unit of Measure	Maturity Date
Derivatives designated as hedges:				
Natural gas	62	5	MMBtu	2023 to 2026
Ethane	1	—	Bbl	2024
Power	1	—	MWhs	2024
Derivatives not designated as hedges:				
Crude oil	—	2	Bbl	—
Refined products	6	2	Bbl	2023 to 2024
Precious metals	1	1	Troy Ounces	2023 to 2024

Interest Rates—The following table presents the notional amounts of our outstanding interest rate derivative instruments:

Millions of dollars	June 30, 2023	December 31, 2022	Maturity Date
	Notional Amount	Notional Amount	
Cash flow hedges	\$ 400	\$ 400	2024
Fair value hedges	2,168	2,164	2025 to 2031

LYONDELLBASELL INDUSTRIES N.V.
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS-(Continued)

Foreign Currency Rates—The following table presents the notional amounts of our outstanding foreign currency derivative instruments:

<u>Millions of dollars</u>	June 30, 2023	December 31, 2022	<u>Maturity Date</u>
	<u>Notional Amount</u>	<u>Notional Amount</u>	
Net investment hedges	\$ 3,352	\$ 3,128	2023 to 2030
Cash flow hedges	1,150	1,150	2024 to 2027
Not designated	524	396	2023 to 2024

Impact on Earnings and Other Comprehensive Income—The following tables summarize the pre-tax effect of derivative instruments recorded in Accumulated other comprehensive loss (“AOCI”), the gains (losses) reclassified from AOCI to earnings and additional gains (losses) recognized directly in earnings:

<u>Millions of dollars</u>	Effects of Financial Instruments							
	Three Months Ended June 30,							
	Balance Sheet				Income Statement			
	Gain (Loss) Recognized in AOCI		Gain (Loss) Reclassified to Income from AOCI		Additional Gain (Loss) Recognized in Income		Income Statement Classification	
	<u>2023</u>	<u>2022</u>	<u>2023</u>	<u>2022</u>	<u>2023</u>	<u>2022</u>		
Derivatives designated as hedges:								
Commodities	\$ (3)	\$ 4	\$ —	\$ (21)	\$ —	\$ —	Cost of sales	
Foreign currency	(8)	277	(6)	(77)	24	19	Interest expense	
Interest rates	12	146	2	2	(53)	(50)	Interest expense	
Derivatives not designated as hedges:								
Commodities	—	—	—	—	(1)	46	Sales and other operating revenues	
Commodities	—	—	—	—	—	8	Cost of sales	
Foreign currency	—	—	—	—	(13)	(20)	Other expense, net	
Total	<u>\$ 1</u>	<u>\$ 427</u>	<u>\$ (4)</u>	<u>\$ (96)</u>	<u>\$ (43)</u>	<u>\$ 3</u>		

LYONDELLBASELL INDUSTRIES N.V.
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS-(Continued)

	Effects of Financial Instruments							
	Six Months Ended June 30,							
	Balance Sheet				Income Statement			
	Gain (Loss) Recognized in AOCI		Gain (Loss) Reclassified to Income from AOCI		Additional Gain (Loss) Recognized in Income		Income Statement Classification	
	2023	2022	2023	2022	2023	2022		
Millions of dollars								
Derivatives designated as hedges:								
Commodities	\$ (8)	\$ 30	\$ 19	\$ (32)	\$ —	\$ —	Cost of sales	
Foreign currency	(63)	321	14	(102)	38	31	Interest expense	
Interest rates	(2)	258	3	3	(30)	(127)	Interest expense	
Derivatives not designated as hedges:								
Commodities	—	—	—	—	(34)	82	Sales and other operating revenues	
Commodities	—	—	—	—	27	11	Cost of sales	
Foreign currency	—	—	—	—	(24)	(39)	Other expense, net	
Total	<u>\$ (73)</u>	<u>\$ 609</u>	<u>\$ 36</u>	<u>\$ (131)</u>	<u>\$ (23)</u>	<u>\$ (42)</u>		

As of June 30, 2023, on a pre-tax basis, \$5 million is scheduled to be reclassified from Accumulated other comprehensive loss as an increase to Interest expense over the next twelve months.

Other Financial Instruments:

Cash and Cash Equivalents—At June 30, 2023 and December 31, 2022, we had marketable securities classified as Cash and cash equivalents of \$1,630 million and \$1,191 million, respectively.

8. Income Taxes

For interim tax reporting, we estimate an annual effective tax rate which is applied to the year-to-date ordinary income. Tax effects of significant, unusual, or infrequently occurring items are excluded from the estimated annual effective tax rate calculation and recognized in the interim period in which they occur. Our effective income tax rate fluctuates based on, among other factors, changes in pre-tax income in countries with varying statutory tax rates, changes in valuation allowances, changes in foreign exchange gains or losses, the amount of exempt income, changes in unrecognized tax benefits associated with uncertain tax positions and changes in tax laws.

Our exempt income primarily includes interest income, export incentives, and equity earnings of joint ventures. Interest income earned by certain of our subsidiaries through intercompany financings is taxed at rates substantially lower than the U.S. statutory rate. Export incentives relate to tax benefits derived from elections and structures available for U.S. exports. Equity earnings attributable to the earnings of our joint ventures, when paid through dividends to certain European subsidiaries, are exempt from all or portions of normal statutory income tax rates. We currently anticipate the favorable treatment for interest income, dividends, and export incentives to continue in the near term; however, this treatment is based on current law. We continue to monitor the Organization for Economic Cooperation and Development (“OECD”)’s Pillar One and Two legislation which focus on taxing rights and minimum taxes in countries where we operate, including the United Kingdom; however, we do not expect the impact to be material based on the principles agreed to at this stage.

LYONDELLBASELL INDUSTRIES N.V.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS-(Continued)

Our effective income tax rate for the second quarter of 2023 was 20.8% compared to 18.7% for the second quarter of 2022. The higher effective tax rate for the second quarter of 2023 is primarily attributable to an audit settlement during the second quarter of 2023 of 4.8%, coupled with fluctuations in uncertain tax positions of 1.7%. The increase was partially offset by a 4.2% decrease in our effective income tax rate due to the increased relative impact of exempt income due to decreased pretax income.

Our effective income tax rate for the first six months of 2023 was 22.9% compared to 19.0% for the first six months of 2022. The higher effective tax rate for the first six months of 2023 was primarily due to the first quarter 2023 goodwill impairment, for which there is no tax benefit, of 2.8%, an audit settlement during the second quarter 2023 of 2.4%, and fluctuations in uncertain tax positions of 1.2%. These increases were partially offset by a 2.7% decrease in our effective income tax rate due to the increased relative impact of exempt income due to decreased pretax income.

9. Commitments and Contingencies

Commitments—We have various purchase commitments for materials, supplies and services incidental to the ordinary conduct of business, generally for quantities required for our businesses and at prevailing market prices. These commitments are designed to assure sources of supply and are not expected to be in excess of normal requirements. Additionally, we have capital expenditure commitments, which we incur in our normal course of business.

Financial Assurance Instruments—We have obtained letters of credit, performance and surety bonds and have issued financial and performance guarantees to support trade payables, potential liabilities and other obligations. Considering the frequency of claims made against the financial instruments we use to support our obligations, and the magnitude of those financial instruments in light of our current financial position, management does not expect that any claims against or draws on these instruments would have a material adverse effect on our Consolidated Financial Statements. We have not experienced any unmanageable difficulties in obtaining the required financial assurance instruments for our current operations.

Environmental Remediation—Our accrued liability for future environmental remediation costs at current and former plant sites and other remediation sites totaled \$123 million and \$127 million as of June 30, 2023 and December 31, 2022, respectively. At June 30, 2023, the accrued liabilities for individual sites range from less than \$1 million to \$24 million. The remediation expenditures are expected to occur over a number of years and are not concentrated in any single year. In our opinion, it is reasonably possible that losses in excess of the liabilities recorded may have been incurred. However, we cannot estimate any amount or range of such possible additional losses. New information about sites, new technology or future developments, such as involvement in investigations by regulatory agencies, could require us to reassess our potential exposure related to environmental matters.

Indemnification—We are parties to various indemnification arrangements, including arrangements entered into in connection with acquisitions, divestitures and the formation and dissolution of joint ventures. Pursuant to these arrangements, we provide indemnification to and/or receive indemnification from other parties in connection with liabilities that may arise in connection with the transactions and in connection with activities prior to completion of the transactions. These indemnification arrangements typically include provisions pertaining to third-party claims relating to environmental and tax matters and various types of litigation. As of June 30, 2023, we had not accrued any significant amounts for our indemnification obligations, and we are not aware of other circumstances that would likely lead to significant future indemnification obligations. We cannot determine with certainty the potential amount of future payments under the indemnification arrangements until events arise that would trigger a liability under the arrangements.

As part of our technology licensing contracts, we give indemnifications to our licensees for liabilities arising from possible patent infringement claims with respect to certain proprietary licensed technologies. Such indemnifications have a stated maximum amount and generally cover a period of 5 to 10 years.

Legal Proceedings—We are subject to various lawsuits and claims, including but not limited to, matters involving contract disputes, environmental damages, personal injury and property damage. We vigorously defend ourselves and prosecute these matters as appropriate.

LYONDELLBASELL INDUSTRIES N.V.
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS-(Continued)

Our legal organization applies its knowledge, experience and professional judgment to the specific characteristics of our cases, employing a litigation management process to manage and monitor legal proceedings in which we are a party. Our process facilitates the early evaluation and quantification of potential exposures in individual cases. This process also enables us to track those cases that have been scheduled for trial, mediation or other resolution. We regularly assess the adequacy of legal accruals based on our professional judgment, experience and the information available regarding our cases.

Based on consideration of all relevant facts and circumstances, we do not believe the ultimate outcome of any currently pending lawsuit against us will have a material adverse effect upon our operations, financial condition or Consolidated Financial Statements.

10. Shareholders' Equity and Redeemable Non-controlling Interests
Shareholders' Equity

Dividend Distributions—The following table summarizes the dividends paid in the periods presented:

<u>Millions of dollars, except per share amounts</u>	<u>Dividend Per Ordinary Share</u>	<u>Aggregate Dividends Paid</u>	<u>Date of Record</u>
March 2023 - Quarterly dividend	\$ 1.19	\$ 389	March 6, 2023
June 2023 - Quarterly dividend	1.25	408	May 30, 2023
	<u>\$ 2.44</u>	<u>\$ 797</u>	

Share Repurchase Authorization—In May 2023, our shareholders approved a proposal to authorize us to repurchase up to 34.0 million ordinary shares, through November 19, 2024 ("2023 Share Repurchase Authorization"), which superseded any prior repurchase authorizations. The timing and amount of these repurchases, which are determined based on our evaluation of market conditions and other factors, may be executed from time to time through open market or privately negotiated transactions. The repurchased shares, which are recorded at cost, are classified as Treasury stock and may be retired or used for general corporate purposes, including for various employee benefit and compensation plans.

The following table summarizes our share repurchase activity for the periods presented:

<u>Millions of dollars, except shares and per share amounts</u>	<u>Shares Repurchased</u>	<u>Average Purchase Price</u>	<u>Total Purchase Price, Including Commissions and Fees</u>
For six months ended June 30, 2023:			
2022 Share Repurchase Authorization	1,365,898	\$ 88.98	\$ 122
2023 Share Repurchase Authorization	576,044	89.34	51
	<u>1,941,942</u>	<u>\$ 89.09</u>	<u>\$ 173</u>
For six months ended June 30, 2022:			
2021 Share Repurchase Authorization	2,111,538	\$ 97.72	\$ 206
2022 Share Repurchase Authorization	560,396	89.24	50
	<u>2,671,934</u>	<u>\$ 95.94</u>	<u>\$ 256</u>

Total cash paid for share repurchases for the six months ended June 30, 2023 and 2022 was \$170 million and \$262 million, respectively. Cash payments made during the reporting period may differ from the total purchase price, including commissions and fees, due to the timing of payments.

LYONDELLBASELL INDUSTRIES N.V.
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS-(Continued)

Ordinary Shares—The changes in the outstanding amounts of ordinary shares are as follows:

	Six Months Ended June 30,	
	2023	2022
Ordinary shares outstanding:		
Beginning balance	325,723,567	329,536,389
Share-based compensation	571,224	255,185
Employee stock purchase plan	163,234	125,010
Purchase of ordinary shares	(1,941,942)	(2,671,934)
Ending balance	<u>324,516,083</u>	<u>327,244,650</u>

Treasury Shares—The changes in the amounts of treasury shares held by the Company are as follows:

	Six Months Ended June 30,	
	2023	2022
Ordinary shares held as treasury shares:		
Beginning balance	14,698,931	10,675,605
Share-based compensation	(571,224)	(255,185)
Employee stock purchase plan	(163,234)	—
Purchase of ordinary shares	1,941,942	2,671,934
Ending balance	<u>15,906,415</u>	<u>13,092,354</u>

Accumulated Other Comprehensive Loss—The components of, and after-tax changes in, Accumulated other comprehensive loss as of and for the six months ended June 30, 2023 and 2022 are presented in the following tables:

Millions of dollars	Financial Derivatives	Defined Benefit Pension and Other Postretirement Benefit Plans	Foreign Currency Translation Adjustments	Total
Balance – December 31, 2022	\$ (146)	\$ (182)	\$ (1,044)	\$ (1,372)
Other comprehensive income (loss) before reclassifications	(28)	—	17	(11)
Tax benefit before reclassifications	8	—	11	19
Amounts reclassified from accumulated other comprehensive loss	36	5	—	41
Tax expense	(9)	(1)	—	(10)
Net other comprehensive income	7	4	28	39
Balance – June 30, 2023	<u>\$ (139)</u>	<u>\$ (178)</u>	<u>\$ (1,016)</u>	<u>\$ (1,333)</u>

LYONDELLBASELL INDUSTRIES N.V.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS-(Continued)

<u>Millions of dollars</u>	Financial Derivatives	Defined Benefit Pension and Other Postretirement Benefit Plans	Foreign Currency Translation Adjustments	Total
Balance – December 31, 2021	\$ (354)	\$ (528)	\$ (921)	\$ (1,803)
Other comprehensive income (loss) before reclassifications	372	—	(123)	249
Tax expense before reclassifications	(84)	—	(63)	(147)
Amounts reclassified from accumulated other comprehensive loss	(131)	109	—	(22)
Tax (expense) benefit	33	(26)	—	7
Net other comprehensive income (loss)	190	83	(186)	87
Balance – June 30, 2022	<u>\$ (164)</u>	<u>\$ (445)</u>	<u>\$ (1,107)</u>	<u>\$ (1,716)</u>

The amounts reclassified out of each component of Accumulated other comprehensive loss are as follows:

<u>Millions of dollars</u>	Three Months Ended June 30,		Six Months Ended June 30,		Affected Line Item on the Consolidated Statements of Income
	2023	2022	2023	2022	
Reclassification adjustments for:					
Financial derivatives:					
Commodities	\$ —	\$ (21)	\$ 19	\$ (32)	Cost of sales
Foreign currency	(6)	(77)	14	(102)	Interest expense
Interest rates	2	2	3	3	Interest expense
Income tax (expense) benefit	1	25	(9)	33	Provision for income taxes
Financial derivatives, net of tax	(3)	(71)	27	(98)	
Amortization of defined pension items:					
Settlement loss	—	94	—	94	Other expense, net
Actuarial loss	1	6	3	13	Other expense, net
Prior service cost	1	1	2	2	Other expense, net
Income tax expense	—	(23)	(1)	(26)	Provision for income taxes
Defined pension items, net of tax	2	78	4	83	
Total reclassifications, before tax	(2)	5	41	(22)	
Income tax (expense) benefit	1	2	(10)	7	Provision for income taxes
Total reclassifications, after tax	<u>\$ (1)</u>	<u>\$ 7</u>	<u>\$ 31</u>	<u>\$ (15)</u>	Amount included in net income

LYONDELLBASELL INDUSTRIES N.V.
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS-(Continued)
Redeemable Non-controlling Interests

Our redeemable non-controlling interests relate to shares of cumulative perpetual special stock (“redeemable non-controlling interest stock”) issued by a consolidated subsidiary. As of June 30, 2023 and December 31, 2022, we had 113,290 and 113,471 shares of redeemable non-controlling interest stock outstanding, respectively. These shares may be redeemed at any time at the discretion of the holders.

In February and May 2023, we paid cash dividends of \$15.00 per share to our redeemable non-controlling interest shareholders of record as of January 15, 2023 and April 15, 2023. Dividends totaled \$3 million for each of the six months ended June 30, 2023 and 2022.

11. Per Share Data

Basic earnings per share is based upon the weighted average number of shares of common stock outstanding during the period. Diluted earnings per share includes the effect of certain stock option and other equity-based compensation awards. Our unvested restricted stock units contain non-forfeitable rights to dividend equivalents and are considered participating securities. We calculate basic and diluted earnings per share under the two-class method.

Earnings per share data is as follows:

	Three Months Ended June 30,			
	2023		2022	
	Continuing Operations	Discontinued Operations	Continuing Operations	Discontinued Operations
Millions of dollars				
Net income (loss)	\$ 717	\$ (2)	\$ 1,645	\$ (1)
Dividends on redeemable non-controlling interests	(1)	—	(1)	—
Net income attributable to participating securities	(4)	—	(7)	—
Net income (loss) attributable to ordinary shareholders – basic and diluted	<u>\$ 712</u>	<u>\$ (2)</u>	<u>\$ 1,637</u>	<u>\$ (1)</u>
Millions of shares, except per share amounts				
Basic weighted average common stock outstanding	325	325	328	328
Effect of dilutive securities	1	1	1	1
Potential dilutive shares	<u>326</u>	<u>326</u>	<u>329</u>	<u>329</u>
Earnings per share:				
Basic	<u>\$ 2.19</u>	<u>\$ (0.01)</u>	<u>\$ 5.00</u>	<u>\$ —</u>
Diluted	<u>\$ 2.19</u>	<u>\$ (0.01)</u>	<u>\$ 4.98</u>	<u>\$ —</u>

LYONDELLBASELL INDUSTRIES N.V.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS-(Continued)

	Six Months Ended June 30,			
	2023		2022	
	Continuing Operations	Discontinued Operations	Continuing Operations	Discontinued Operations
Millions of dollars				
Net income (loss)	\$ 1,192	\$ (3)	\$ 2,966	\$ (2)
Dividends on redeemable non-controlling interests	(3)	—	(3)	—
Net income attributable to participating securities	(5)	—	(9)	—
Net income (loss) attributable to ordinary shareholders – basic and diluted	<u>\$ 1,184</u>	<u>\$ (3)</u>	<u>\$ 2,954</u>	<u>\$ (2)</u>
Millions of shares, except per share amounts				
Basic weighted average common stock outstanding	326	326	328	328
Effect of dilutive securities	1	1	1	1
Potential dilutive shares	<u>327</u>	<u>327</u>	<u>329</u>	<u>329</u>
Earnings per share:				
Basic	<u>\$ 3.64</u>	<u>\$ (0.01)</u>	<u>\$ 9.01</u>	<u>\$ (0.01)</u>
Diluted	<u>\$ 3.63</u>	<u>\$ (0.01)</u>	<u>\$ 8.99</u>	<u>\$ (0.01)</u>

12. Segment and Related Information

Our operations are managed by senior executives who report to our Chief Executive Officer, the chief operating decision maker. Discrete financial information is available for each of the segments, and our Chief Executive Officer uses the operating results of each of the operating segments for performance evaluation and resource allocation.

The activities of each of our segments from which they earn revenues and incur expenses are described below:

- *Olefins and Polyolefins-Americas (“O&P-Americas”).* Our O&P-Americas segment produces and markets olefins and co-products, polyethylene and polypropylene.
- *Olefins and Polyolefins-Europe, Asia, International (“O&P-EAI”).* Our O&P-EAI segment produces and markets olefins and co-products, polyethylene and polypropylene.
- *Intermediates and Derivatives (“I&D”).* Our I&D segment produces and markets propylene oxide and its derivatives; oxyfuels and related products; and intermediate chemicals such as styrene monomer, acetyls, ethylene oxide and ethylene glycol.
- *Advanced Polymer Solutions (“APS”).* Our APS segment produces and markets compounding and solutions, such as polypropylene compounds, engineered plastics, masterbatches, engineered composites, colors and powders.
- *Refining.* Our Refining segment refines heavy, high-sulfur crude oils and other crude oils of varied types and sources available on the U.S. Gulf Coast into refined products, including gasoline and distillates.
- *Technology.* Our Technology segment develops and licenses chemical and polyolefin process technologies and manufactures and sells polyolefin catalysts.

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NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS-(Continued)

Our chief operating decision maker uses EBITDA as the primary measure for reviewing profitability of our segments, and therefore, we have presented EBITDA for all segments. We define EBITDA as earnings from continuing operations before interest, income taxes, and depreciation and amortization.

“Other” includes intersegment eliminations and items that are not directly related or allocated to business operations, such as foreign exchange gains or losses and components of pension and other postretirement benefit costs other than service costs. Sales between segments are made at prices approximating prevailing market prices.

Summarized financial information concerning reportable segments is shown in the following tables for the periods presented:

Three Months Ended June 30, 2023								
Millions of dollars	O&P– Americas	O&P– EAI	I&D	APS	Refining	Technology	Other	Total
Sales and other operating revenues:								
Customers	\$ 1,756	\$ 2,535	\$ 2,629	\$ 956	\$ 2,293	\$ 137	\$ —	\$ 10,306
Intersegment	971	194	33	4	166	17	(1,385)	—
	2,727	2,729	2,662	960	2,459	154	(1,385)	10,306
Income (loss) from equity investments	12	(19)	(5)	—	—	—	—	(12)
EBITDA	679	84	472	34	47	79	(12)	1,383
Capital expenditures	102	65	104	14	—	15	1	301

Three Months Ended June 30, 2022								
Millions of dollars	O&P– Americas	O&P– EAI	I&D	APS	Refining	Technology	Other	Total
Sales and other operating revenues:								
Customers	\$ 2,710	\$ 3,635	\$ 3,714	\$ 1,113	\$ 3,503	\$ 163	\$ —	\$ 14,838
Intersegment	1,528	262	52	3	285	31	(2,161)	—
	4,238	3,897	3,766	1,116	3,788	194	(2,161)	14,838
Income (loss) from equity investments	29	(1)	(6)	—	—	—	—	22
EBITDA	954	186	675	42	418	112	(6)	2,381
Capital expenditures	107	109	265	9	12	27	3	532

Six Months Ended June 30, 2023								
Millions of dollars	O&P– Americas	O&P– EAI	I&D	APS	Refining	Technology	Other	Total
Sales and other operating revenues:								
Customers	\$ 3,483	\$ 5,245	\$ 5,270	\$ 1,951	\$ 4,350	\$ 254	\$ —	\$ 20,553
Intersegment	2,052	376	74	6	299	39	(2,846)	—
	5,535	5,621	5,344	1,957	4,649	293	(2,846)	20,553
Income (loss) from equity investments	35	(18)	(11)	(1)	—	—	—	5
EBITDA	1,220	161	898	(192)	293	152	(18)	2,514
Capital expenditures	184	119	283	31	2	32	2	653

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NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS-(Continued)

	Six Months Ended June 30, 2022							
Millions of dollars	O&P– Americas	O&P– EAI	I&D	APS	Refining	Technology	Other	Total
Sales and other operating revenues:								
Customers	\$ 5,163	\$ 7,322	\$ 6,990	\$ 2,248	\$ 5,961	\$ 311	\$ —	\$ 27,995
Intersegment	2,809	501	115	4	547	64	(4,040)	—
	7,972	7,823	7,105	2,252	6,508	375	(4,040)	27,995
Income (loss) from equity investments	62	—	(11)	—	—	—	—	51
EBITDA	1,893	400	1,221	113	566	215	(7)	4,401
Capital expenditures	242	198	428	24	26	56	4	978

The following assets are summarized and reconciled to consolidated totals in the following table:

Millions of dollars	O&P– Americas	O&P– EAI	I&D	APS	Refining	Technology	Total
June 30, 2023							
Property, plant and equipment, net	\$ 6,364	\$ 1,997	\$ 5,771	\$ 630	\$ 144	\$ 502	\$ 15,408
Equity investments	2,033	1,574	543	2	—	—	4,152
December 31, 2022							
Property, plant and equipment, net	\$ 6,378	\$ 1,880	\$ 5,728	\$ 636	\$ 255	\$ 510	\$ 15,387
Equity investments	2,053	1,655	585	2	—	—	4,295

Segment Structure Changes and Related Goodwill Impairment—Effective January 1, 2023, our *Catalloy* and polybutene-1 businesses were moved from our APS segment and reintegrated into our O&P-Americas and O&P-EAI segments. Accordingly, on January 1, 2023, we allocated goodwill from our APS segment to our O&P-Americas and O&P-EAI segments of \$315 million and \$269 million, respectively, based on the relative fair values of the businesses that were reintegrated compared to the fair value of the APS segment.

As of December 31, 2022, goodwill included in our APS reporting unit was \$1,370 million, the majority of which related to the 2018 acquisition of A. Schulman. As of December 31, 2022, a large portion of the APS reporting unit's fair value was derived from our *Catalloy* and polybutene-1 businesses, which had disproportionately low carrying values in comparison to the remaining assets of the reporting unit, which had relatively higher carrying values due to the 2018 purchase price allocation associated with the acquisition of A. Schulman. As a result of the reallocation of goodwill and the change in both fair value and carrying value among reporting units, we recognized a non-cash goodwill impairment charge of \$252 million in the first quarter of 2023 in our APS segment. Fair values were determined utilizing a discounted cash flow method under the income approach and assumptions including management's view on long-term growth rates in our industry, discount rates and other assumptions based on a market participant perspective, which are inherently subjective. The fair value of the reporting unit is Level 3 within the fair value hierarchy. The charge is reflected as Impairments in our Consolidated Statements of Income.

Exit of Houston Refinery Operations—In April 2022 we announced our decision to cease operation of our Houston refinery no later than the end of 2023 after determining that exiting the refining business is our best strategic and financial path forward. In May 2023 we announced our decision to extend the operations of our Houston refinery to no later than the end of the first quarter of 2025. Favorable inspections and consistent performance have given us confidence to continue safe and reliable operations. The extension will minimize workforce impacts as we continue to develop future options for the site and will enable a smoother transition between the shutdown and the implementation of the retrofitting and circular projects.

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NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS-(Continued)

Costs incurred for the planned exit from the refinery business are as follows:

<u>Millions of dollars</u>	<u>Three Months Ended June 30, 2023</u>	<u>Six Months Ended June 30, 2023</u>
Accelerated lease amortization costs	\$ 38	\$ 89
Personnel costs	27	43
Asset retirement obligation accretion	2	4
Asset retirement cost depreciation	44	99
Refinery exit costs	<u>\$ 111</u>	<u>\$ 235</u>

In subsequent periods, we expect to incur additional costs primarily consisting of accelerated amortization of operating lease assets of \$20 million to \$80 million, personnel costs of \$50 million to \$125 million and other charges of \$50 million to \$100 million. Additionally, we estimate that the Houston refinery's asset retirement obligations are in the range of \$150 million to \$450 million. As of June 30, 2023, we recorded asset retirement obligations of \$255 million representing our best estimate. We do not anticipate any material cash payments related to the exit of the refinery business to be made in 2023.

Disposal of Australia Facility—In the second quarter of 2022 we sold our ownership interest in our polypropylene manufacturing facility located in Geelong, Australia, LyondellBasell Australia (Holdings) Pty Ltd, for consideration of \$38 million. In connection with this sale, we assessed the net assets of the disposal group for impairment and determined that the carrying value exceeded the fair value less costs to sell. As a result, we recognized a non-cash impairment charge in the second quarter of 2022 of \$69 million in the operating results of our O&P-EAI segment. The fair value measurement for the disposal group is based on expected consideration and classified as Level 3 within the fair value hierarchy. The charge is reflected as Impairments in our Consolidated Statements of Income.

A reconciliation of EBITDA to Income from continuing operations before income taxes is shown in the following table for each of the periods presented:

<u>Millions of dollars</u>	<u>Three Months Ended June 30,</u>		<u>Six Months Ended June 30,</u>	
	<u>2023</u>	<u>2022</u>	<u>2023</u>	<u>2022</u>
EBITDA:				
Total segment EBITDA	\$ 1,395	\$ 2,387	\$ 2,532	\$ 4,408
Other EBITDA	(12)	(6)	(18)	(7)
Less:				
Depreciation and amortization expense	(391)	(304)	(787)	(615)
Interest expense	(115)	(58)	(231)	(132)
Add:				
Interest income	28	4	51	6
Income from continuing operations before income taxes	<u>\$ 905</u>	<u>\$ 2,023</u>	<u>\$ 1,547</u>	<u>\$ 3,660</u>

Item 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

GENERAL

This discussion should be read in conjunction with the information contained in our Consolidated Financial Statements, and the accompanying notes elsewhere in this report. Unless otherwise indicated, the “Company,” “we,” “us,” “our” or similar words are used to refer to LyondellBasell Industries N.V. together with its consolidated subsidiaries (“LyondellBasell N.V.”).

Effective January 1, 2023, our *Catalloy* and polybutene-1 businesses were moved from the Advanced Polymer Solutions (“APS”) segment and reintegrated into the Olefins and Polyolefins-Americas (“O&P-Americas”) and Olefins and Polyolefins-Europe, Asia, International (“O&P-EAI”) segments. This move will allow the APS team to focus on our compounding and solutions business, and to develop a more agile operating model with meaningful regional and segment growth strategies. The segment information provided herein has been revised for all periods presented to reflect these changes.

OVERVIEW

Excluding the impacts of the first quarter 2023 APS goodwill impairment, results for the second quarter of 2023 compared to the first quarter of 2023 were relatively unchanged. Our O&P-Americas and O&P-EAI segment results improved due to modest margin improvements driven by lower feedstock costs. Our I&D segment results improved primarily due to incremental volume driven by improved demand and production from our new PO/TBA plant which was largely offset by planned maintenance at our existing assets. These improvements were offset by a decline in refining margins during the quarter.

During the first six months of 2023 our results decreased compared to the first six months of 2022. Global olefins and polyolefins margins decreased primarily due to a decline in average sales prices resulting in lower O&P-Americas and O&P-EAI segment results. Our I&D segment results decreased due to unfavorable margins across most businesses partially offset by volume increases for oxyfuels. Refining results declined as a result of decreased margins and unplanned downtime in the first quarter of 2023.

During the first six months of 2023 we generated \$1,772 million in cash from operating activities. We remain committed to a disciplined approach to capital allocation, spending \$653 million for capital expenditures and returning \$967 million to shareholders through dividends and share repurchases. We continue to explore strategic options for our U.S. Gulf Coast-based ethylene oxide & derivatives (“EO&D”) business.

Results of operations for the periods discussed are presented in the table below:

	Three Months Ended		Six Months Ended	
	June 30, 2023	March 31, 2023	June 30, 2023	June 30, 2022
<u>Millions of dollars</u>				
Sales and other operating revenues	\$ 10,306	\$ 10,247	\$ 20,553	\$ 27,995
Cost of sales	8,868	8,864	17,732	23,403
Impairments	—	252	252	69
Selling, general and administrative expenses	395	385	780	657
Research and development expenses	32	33	65	64
Operating income	1,011	713	1,724	3,802
Interest expense	(115)	(116)	(231)	(132)
Interest income	28	23	51	6
Other (expense) income, net	(7)	5	(2)	(67)
(Loss) income from equity investments	(12)	17	5	51
Income from continuing operations before income taxes	905	642	1,547	3,660
Provision for income taxes	188	167	355	694
Income from continuing operations	717	475	1,192	2,966
Loss from discontinued operations, net of tax	(2)	(1)	(3)	(2)
Net income	715	474	1,189	2,964
Other comprehensive income (loss), net of tax –				
Financial derivatives	3	4	7	190
Defined benefit pension and other postretirement benefit plans	2	2	4	83
Foreign currency translations	(31)	59	28	(186)
Total other comprehensive (loss) income, net of tax	(26)	65	39	87
Comprehensive income	\$ 689	\$ 539	\$ 1,228	\$ 3,051

RESULTS OF OPERATIONS

Revenues—Revenues increased by \$59 million, or 1%, in the second quarter of 2023 compared to the first quarter of 2023. Higher volumes driven primarily by increases in our I&D and Refining segments resulted in an 8% increase in revenues. Favorable foreign exchange impacts resulted in a 1% increase in revenues. Average sales prices in the second quarter of 2023 were lower for many of our products as sales prices generally correlate with crude oil prices. These lower prices resulted in an 8% decrease in revenues.

Revenues decreased by \$7,442 million, or 27%, in the first six months of 2023 compared to the first six months of 2022. Average sales prices were lower for many of our products as sales prices generally correlate with crude oil prices, which decreased relative to the first six months of 2022. These lower prices led to a 25% decrease in revenues. Lower volumes driven by a decline in demand resulted in a 2% decrease in revenues.

Cost of Sales—Cost of sales remained relatively unchanged in the second quarter of 2023 compared to the first quarter of 2023. Cost of sales decreased by \$5,671 million, or 24%, in the first six months of 2023 compared to the first six months of 2022, primarily driven by lower feedstock and energy costs.

Impairments—During the first quarter of 2023 we recognized a non-cash goodwill impairment charge of \$252 million in our APS segment after the effect of moving our *Catalloy* and polybutene-1 businesses from our APS segment and reintegrating into our O&P-Americas and O&P-EAI segments. During the second quarter of 2022 we recognized a non-cash impairment charge of \$69 million related to the sale of our Australian polypropylene manufacturing facility. See Note 12 to our Consolidated Financial Statements for additional information.

SG&A Expenses—Selling, general and administrative (“SG&A”) expenses remained relatively unchanged in the second quarter of 2023 compared to the first quarter of 2023. SG&A expenses increased by \$123 million, or 19%, in the first six months of 2023 compared to the first six months of 2022. Approximately half of the increase was attributable to higher employee-related expenses. The remaining increase was largely driven by professional fees incurred for strategic projects.

Operating Income—Operating income increased by \$298 million, or 42%, in the second quarter of 2023 compared to the first quarter of 2023. Operating income in our APS, O&P-Americas, I&D, O&P-EAI and Technology segments increased by \$256 million, \$153 million, \$41 million, \$33 million, and \$9 million, respectively. These increases were partially offset by a decrease in our Refining segment of \$189 million.

Operating income decreased by \$2,078 million, or 55%, in the first six months of 2023 compared to the first six months of 2022. Operating income in our O&P-Americas, I&D, Refining, APS, O&P-EAI and Technology segments decreased by \$676 million, \$422 million, \$387 million, \$302 million, \$233 million and \$68 million, respectively.

Interest Expense—Interest expense remained relatively unchanged in the second quarter of 2023 compared to the first quarter of 2023. Interest expense increased by \$99 million, or 75%, in the first six months of 2023 compared to the first six months of 2022, primarily due to a decrease in capitalized interest associated with our new PO/TBA plant which started-up in the first quarter of 2023 and the impact of our fixed-for-floating interest rate swaps due to higher interest rates in current year.

Other Expense, net—Other expense, net remained relatively unchanged in the second quarter of 2023 compared to the first quarter of 2023. Other expense, net decreased by \$65 million, or 97%, in the first six months of 2023 compared to the first six months of 2022, primarily as a result of pension settlements recognized in the second quarter of 2022.

(Loss) Income from Equity Investments—Income from equity investments declined by \$29 million, or 171%, in the second quarter of 2023 compared to the first quarter of 2023, and by \$46 million, or 90%, in the first six months of 2023 compared to the first six months of 2022. The declines were related to the lower results across our joint ventures in O&P-Americas and O&P-EAI segments driven primarily by lower margins.

Results for each of our business segments are discussed further in the Segment Analysis section below.

Income Taxes—Our effective income tax rate for the second quarter of 2023 was 20.8% compared with 26.0% for the first quarter of 2023. The lower effective income tax rate for the second quarter of 2023 is primarily attributable to the first quarter goodwill impairment, for which there is no tax benefit, of 6.6% and the increased relative impact of exempt income due to decreased pretax income of 2.7%. These decreases were partially offset by a 4.8% increase in our effective income tax rate due to an audit settlement during the second quarter.

Our effective income tax rate for the first six months of 2023 was 22.9% compared to 19.0% for the first six months of 2022. The higher effective tax rate for the first six months of 2023 was primarily due to the first quarter 2023 goodwill impairment, for which there is no tax benefit, of 2.8%, an audit settlement during the second quarter 2023 of 2.4%, and fluctuations in uncertain tax positions of 1.2%. These increases were partially offset by a 2.7% decrease in our effective income tax rate due to the increased relative impact of exempt income due to decreased pretax income.

Our income tax results are discussed further in Note 8 to the Consolidated Financial Statements.

Comprehensive Income—Comprehensive income increased by \$150 million in the second quarter of 2023 compared to the first quarter of 2023, primarily due to the increase in Net income. Comprehensive income decreased by \$1,823 million in the first six months of 2023 compared to the first six months of 2022, primarily due to the decrease in Net income. The activities from the remaining components of Comprehensive income are discussed below.

Financial derivatives designated as cash flow hedges, primarily our forward-starting interest rate swaps, remained relatively unchanged in the second quarter of 2023 compared to the first quarter of 2023. Financial derivatives designated as cash flow hedges, primarily our forward-starting interest rate swaps, led to a decrease in Comprehensive income of \$183 million in the first six months of 2023 compared to the first six months of 2022 due to periodic changes in the benchmark interest rates.

Defined pension and other postretirement benefit plans remained relatively unchanged in the second quarter of 2023 compared to the first quarter of 2023. Defined pension and postretirement benefit plans led to a decrease of Comprehensive income of \$79 million in the first six months of 2023 compared to the first six months of 2022, primarily due to a pre-tax pension settlement of \$94 million that was reclassified from Accumulated other comprehensive loss to Other (expense) income, net, in the second quarter of 2022.

Foreign currency translations decreased Comprehensive income by \$90 million in the second quarter of 2023 compared to the first quarter of 2023, primarily due to the weakening of the U.S. dollar relative to the euro, offset by the effective portion of our net investment hedges. Foreign currency translation increased Comprehensive income by \$214 million in the first six months of 2023 compared to the first six months of 2022, primarily due to the strengthening of the U.S. dollar relative to the euro, offset by the effective portion of our net investment hedges.

See Notes 7 and 10 to our Consolidated Financial Statements for further discussions.

Segment Analysis

We use earnings from continuing operations before interest, income taxes, and depreciation and amortization (“EBITDA”) as our measure of profitability for segment reporting purposes. This measure of segment operating results is used by our chief operating decision maker to assess the performance of and allocate resources to our operating segments. Intersegment eliminations and items that are not directly related or allocated to business operations, such as foreign exchange gains or losses and components of pension and other postretirement benefits other than service costs are included in “Other”. For additional information related to our operating segments, as well as a reconciliation of EBITDA to its nearest generally accepted accounting principles (“GAAP”) measure, Income from continuing operations before income taxes, see Note 12 to our Consolidated Financial Statements.

Our continuing operations are managed through six reportable segments: O&P-Americas, O&P-EAI, I&D, APS, Refining and Technology.

Revenues and the components of EBITDA for the periods presented are reflected in the table below:

	Three Months Ended		Six Months Ended	
	June 30, 2023	March 31, 2023	June 30, 2023	June 30, 2022
Millions of dollars				
Sales and other operating revenues:				
O&P-Americas segment	\$ 2,727	\$ 2,808	\$ 5,535	\$ 7,972
O&P-EAI segment	2,729	2,892	5,621	7,823
I&D segment	2,662	2,682	5,344	7,105
APS segment	960	997	1,957	2,252
Refining segment	2,459	2,190	4,649	6,508
Technology segment	154	139	293	375
Other, including intersegment eliminations	(1,385)	(1,461)	(2,846)	(4,040)
Total	<u>\$ 10,306</u>	<u>\$ 10,247</u>	<u>\$ 20,553</u>	<u>\$ 27,995</u>
Operating income (loss):				
O&P-Americas segment	\$ 524	\$ 371	\$ 895	\$ 1,571
O&P-EAI segment	54	21	75	308
I&D segment	361	320	681	1,103
APS segment	9	(247)	(238)	64
Refining segment	(3)	186	183	570
Technology segment	70	61	131	199
Other, including intersegment eliminations	(4)	1	(3)	(13)
Total	<u>\$ 1,011</u>	<u>\$ 713</u>	<u>\$ 1,724</u>	<u>\$ 3,802</u>
Depreciation and amortization:				
O&P-Americas segment	\$ 144	\$ 144	\$ 288	\$ 291
O&P-EAI segment	47	48	95	92
I&D segment	117	110	227	162
APS segment	24	22	46	48
Refining segment	49	61	110	2
Technology segment	10	11	21	20
Total	<u>\$ 391</u>	<u>\$ 396</u>	<u>\$ 787</u>	<u>\$ 615</u>

	Three Months Ended		Six Months Ended	
	June 30, 2023	March 31, 2023	June 30, 2023	June 30, 2022
Millions of dollars				
Income (loss) from equity investments:				
O&P-Americas segment	\$ 12	\$ 23	\$ 35	\$ 62
O&P-EAI segment	(19)	1	(18)	—
I&D segment	(5)	(6)	(11)	(11)
APS segment	—	(1)	(1)	—
Total	<u>\$ (12)</u>	<u>\$ 17</u>	<u>\$ 5</u>	<u>\$ 51</u>
Other (expense) income, net:				
O&P-Americas segment	\$ (1)	\$ 3	\$ 2	\$ (31)
O&P-EAI segment	2	7	9	—
I&D segment	(1)	2	1	(33)
APS segment	1	—	1	1
Refining segment	1	(1)	—	(6)
Technology segment	(1)	1	—	(4)
Other, including intersegment eliminations	(8)	(7)	(15)	6
Total	<u>\$ (7)</u>	<u>\$ 5</u>	<u>\$ (2)</u>	<u>\$ (67)</u>
EBITDA:				
O&P-Americas segment	\$ 679	\$ 541	\$ 1,220	\$ 1,893
O&P-EAI segment	84	77	161	400
I&D segment	472	426	898	1,221
APS segment	34	(226)	(192)	113
Refining segment	47	246	293	566
Technology segment	79	73	152	215
Other, including intersegment eliminations	(12)	(6)	(18)	(7)
Total	<u>\$ 1,383</u>	<u>\$ 1,131</u>	<u>\$ 2,514</u>	<u>\$ 4,401</u>

Olefins and Polyolefin-Americas Segment

Overview—EBITDA in the second quarter of 2023 increased compared to the first quarter of 2023 driven by improvements in polyolefin margins. EBITDA decreased in the first six months of 2023 relative to the first six months of 2022 primarily driven by lower margins.

Ethylene Raw Materials—We have flexibility to vary the raw material mix and process conditions in our U.S. olefins plants in order to maximize profitability as market prices fluctuate for both feedstocks and products. Although prices of crude-based liquids and natural gas liquids are generally related to crude oil and natural gas prices, during specific periods the relationships among these materials and benchmarks may vary significantly. In the second and first quarter of 2023, and the first six months of 2023 and 2022, approximately 70% to 80% of the raw materials used in our North American crackers was ethane.

The following table sets forth selected financial information for the O&P-Americas segment including Income from equity investments, which is a component of EBITDA:

<u>Millions of dollars</u>	<u>Three Months Ended</u>		<u>Six Months Ended</u>	
	<u>June 30, 2023</u>	<u>March 31, 2023</u>	<u>June 30, 2023</u>	<u>June 30, 2022</u>
Sales and other operating revenues	\$ 2,727	\$ 2,808	\$ 5,535	\$ 7,972
Income from equity investments	12	23	35	62
EBITDA	679	541	1,220	1,893

Revenue—Revenues for our O&P-Americas segment decreased by \$81 million, or 3% in the second quarter of 2023 compared to the first quarter of 2023 and by \$2,437 million, or 31%, in the first six months of 2023 compared to the first six months of 2022.

Second quarter of 2023 versus first quarter of 2023—Revenue decreased by 6% as a result of lower average sales prices driven by lower demand. Higher volumes resulted in a revenue increase of 3% primarily driven by higher propylene and polypropylene sales and improved ethylene operating rates.

First six months of 2023 versus first six months of 2022—Lower average sales prices across all products resulted in a 30% decrease in revenue primarily driven by increased market supply. Lower volumes resulted in a 1% decrease in revenue.

EBITDA—EBITDA increased by \$138 million, or 26%, in the second quarter of 2023 compared to the first quarter of 2023 and decreased by \$673 million, or 36%, in the first six months of 2023 compared to the first six months of 2022.

Second quarter of 2023 versus first quarter of 2023—Higher polyethylene results led to a 12% increase in EBITDA due to higher margins driven by lower monomer and freight costs. Higher polypropylene results led to a 5% increase in EBITDA driven by higher margins resulting from lower propylene cost.

First six months of 2023 versus first six months of 2022—Lower polyethylene results led to a 16% decrease in EBITDA primarily driven by lower margins as a result of lower average sales prices. Lower polypropylene results led to a 14% decrease in EBITDA driven by a decrease in margin as a result of lower prices due to increased industry capacity and lower demand. Lower olefins results led to an 8% decrease in EBITDA due to lower margins driven by a decline in the average sales price of ethylene partially offset by lower feedstock costs.

Olefins and Polyolefin-Europe, Asia, International Segment

Overview—EBITDA increased in the second quarter of 2023 compared to the first quarter of 2023 primarily due to improved olefins margins, partially offset by lower polymers margins and lower income from equity investments. EBITDA decreased in the first six months of 2023 relative to the first six months of 2022 primarily as a result of lower polymers margins.

Quality Circular Polymers—In April 2023, we acquired the remaining 50% interest in Quality Circular Polymers (“QCP”). As a result of the acquisition, QCP became a wholly owned subsidiary and is included in our O&P-EAI consolidated results prospectively after the acquisition date.

Ethylene Raw Materials—In Europe, naphtha is the primary raw material for our ethylene production and represented approximately 65% to 70% of the raw materials used in the second and first quarter of 2023, and the first six months of 2023 and 2022.

The following table sets forth selected financial information for the O&P-EAI segment including Income (loss) from equity investments, which is a component of EBITDA:

<u>Millions of dollars</u>	<u>Three Months Ended</u>		<u>Six Months Ended</u>	
	<u>June 30,</u> <u>2023</u>	<u>March 31,</u> <u>2023</u>	<u>June 30,</u> <u>2023</u>	<u>June 30,</u> <u>2022</u>
Sales and other operating revenues	\$ 2,729	\$ 2,892	\$ 5,621	\$ 7,823
(Loss) income from equity investments	(19)	1	(18)	—
EBITDA	84	77	161	400

Revenue—Revenues decreased by \$163 million, or 6%, in the second quarter of 2023 compared to the first quarter of 2023 and by \$2,202 million, or 28%, in the first six months of 2023 compared to the first six months of 2022.

Second quarter of 2023 versus first quarter of 2023—Lower average sales prices resulted in a 6% decrease in revenue as sales prices generally correlate with crude oil prices, which on average, decreased compared to the first quarter of 2023. Lower volumes resulted in a revenue decrease of 2% primarily due to a decline in demand. Favorable foreign exchange impacts resulted in a revenue increase of 2%.

First six months of 2023 versus first six months of 2022—Lower average sales prices resulted in a 24% decrease in revenue as sales prices generally correlate with crude oil prices, which on average, decreased compared to the first six months of 2022. Lower volumes resulted in a revenue decrease of 3% primarily due to a decline in demand. Unfavorable foreign exchange impacts resulted in a revenue decrease of 1%.

EBITDA—EBITDA increased by \$7 million, or 9%, in the second quarter of 2023 compared to the first quarter of 2023 and decreased by \$239 million, or 60%, in the first six months of 2023 compared to the first six months of 2022.

Second quarter of 2023 versus first quarter of 2023—Higher olefins results led to an 88% increase in EBITDA primarily driven by higher cracker margins as a result of lower feedstock and energy costs. Lower polyolefins results led to a 56% decrease in EBITDA primarily driven by lower margins due to decreased demand as European markets remain challenging, especially for durable goods. A decrease in income from our equity investments led to a decline in EBITDA of 25% mainly attributable to the absence of a gain on sale of asset recognized by one of our joint ventures in Europe in the first quarter of 2023.

First six months of 2023 versus first six months of 2022—Lower polymer results led to a 91% decrease in EBITDA primarily driven by decreased margins resulting from lower average sales prices reflecting weak demand. Higher olefins results led to a 17% increase in EBITDA, which was primarily driven by higher volumes resulting from the absence of planned and unplanned downtime. In the second quarter of 2022, we recognized a \$69 million non-cash impairment charge in conjunction with the sale of our polypropylene manufacturing facility located in Australia. The absence of a similar charge in the first six months of 2023 resulted in a 17% increase in EBITDA.

Intermediates and Derivatives Segment

Overview—EBITDA increased in the second quarter of 2023 compared to the first quarter of 2023, primarily driven by volume improvements for oxyfuels and related products. EBITDA decreased in the first six months of 2023 compared to the first six months of 2022, primarily driven by a decrease in margins for propylene oxide and derivatives and intermediate chemicals, partially offset by volume improvements for oxyfuels and related products.

The following table sets forth selected financial information for the I&D segment including Income (loss) from equity investments, which is a component of EBITDA:

	Three Months Ended		Six Months Ended	
	June 30, 2023	March 31, 2023	June 30, 2023	June 30, 2022
Millions of dollars				
Sales and other operating revenues	\$ 2,662	\$ 2,682	\$ 5,344	\$ 7,105
Loss from equity investments	(5)	(6)	(11)	(11)
EBITDA	472	426	898	1,221

Revenue—Revenues decreased by \$20 million, or 1%, in the second quarter of 2023 compared to the first quarter of 2023 and decreased by \$1,761 million, or 25%, in the first six months of 2023 compared to the first six months of 2022.

Second quarter of 2023 versus first quarter of 2023—Lower average sales prices resulted in a 12% decrease in revenue driven by propylene oxide and derivatives as a result of lower demand. Sales volumes improved resulting in a 10% increase in revenue driven by improved demand. Favorable foreign exchange impacts resulted in a 1% increase in revenue.

First six months of 2023 versus first six months of 2022—Lower average sales prices resulted in a 24% decrease in revenue driven by lower pricing as a result of lower demand. Sales volumes decreased resulting in a 1% reduction in revenue due to lower demand and planned maintenance.

EBITDA—EBITDA increased by \$46 million, or 11%, in the second quarter of 2023 compared to the first quarter of 2023 and decreased by \$323 million, or 26%, in the first six months of 2023 compared to the first six months of 2022.

Second quarter of 2023 versus first quarter of 2023—EBITDA improved 23% as a result of higher oxyfuels and related products volumes driven by strong demand. Propylene oxide and derivatives results drove a 13% decrease in EBITDA driven equally by lower volumes and margins as a result of weak demand.

First six months of 2023 versus first six months of 2022—Propylene oxide and derivatives results drove a 25% decrease in EBITDA as margins declined due to lower demand. Intermediate chemicals results declined, resulting in an 18% decrease in EBITDA, primarily driven by lower margins as higher market supply drove average sales prices down. Improved oxyfuels and related products results led to an EBITDA increase of 10% as volumes increased as a result of strong demand.

Advanced Polymer Solutions Segment

Overview—EBITDA increased in the second quarter of 2023 relative to the first quarter of 2023 and decreased in the first six months of 2023 compared to the first six months of 2022 primarily due to the recognition of a non-cash goodwill impairment charge in the first quarter of 2023.

The following table sets forth selected financial information for the APS segment including Income (loss) from equity investments, which is a component of EBITDA:

	Three Months Ended		Six Months Ended	
	June 30, 2023	March 31, 2023	June 30, 2023	June 30, 2022
Millions of dollars				
Sales and other operating revenues	\$ 960	\$ 997	\$ 1,957	\$ 2,252
Loss from equity investments	—	(1)	(1)	—
EBITDA	34	(226)	(192)	113

Revenue—Revenues decreased by \$37 million, or 4%, in the second quarter of 2023 compared to the first quarter of 2023 and by \$295 million, or 13%, in the first six months of 2023 compared to the first six months of 2022.

Second quarter of 2023 versus first quarter of 2023—Sales volumes decreased resulting in a 3% decrease in revenue stemming from lower demand. Average sales prices decreased resulting in a 2% decrease in revenue. Favorable foreign exchange impacts resulted in a revenue increase of 1%.

First six months of 2023 versus first six months of 2022—Average sales price decreased resulting in an 8% decrease in revenue. Sales volumes decreased resulting in a 4% decrease in revenue stemming from lower demand. Unfavorable foreign exchange impacts resulted in a revenue decrease of 1%.

EBITDA—EBITDA increased by \$260 million or 115% in the second quarter of 2023 compared to the first quarter of 2023 and decreased by \$305 million or 270% in the first six months of 2023 compared to the first six months of 2022.

Second quarter of 2023 versus first quarter of 2023—During the first quarter of 2023 we recognized a non-cash goodwill impairment charge of \$252 million after the effect of moving our *Catalloy* and polybutene-1 businesses from our APS segment and reintegrating them into our O&P-Americas and O&P-EAI segments. The absence of a similar charge in the second quarter of 2023 resulted in a 112% increase in EBITDA when compared to the first quarter of 2023. See Note 12 to our Consolidated Financial Statements for additional information.

First six months of 2023 versus first six months of 2022—Margins in the first six months of 2023 decreased compared to the first six months of 2022, primarily due to sales prices decreasing more than production and raw material costs, resulting in a 27% decrease in EBITDA. Lower volumes resulted in a 26% decrease in EBITDA as a result of a decrease in demand. The remaining decrease was primarily due to the recognition of the non-cash goodwill impairment charge in the first quarter of 2023, discussed above.

Refining Segment

Overview—EBITDA decreased in the second quarter of 2023 compared to the first quarter of 2023 primarily due to lower margins. EBITDA decreased in the first six months of 2023 compared to the first six months of 2022 due to lower margins, unplanned downtime and costs incurred related to the planned exit from the refining business.

The following table sets forth selected financial information and heavy crude oil processing rates for the Refining segment and the U.S. refining market margins for the applicable periods. “Brent” is a light sweet crude oil and is one of the main benchmark prices for purchases of oil worldwide. “Maya” is a heavy sour crude oil grade produced in Mexico that is a relevant benchmark for heavy sour crude oils in the U.S. Gulf Coast market. References to industry benchmarks for refining market margins are to industry prices reported by Platts, a division of S&P Global.

	Three Months Ended		Six Months Ended	
	June 30, 2023	March 31, 2023	June 30, 2023	June 30, 2022
Millions of dollars				
Sales and other operating revenues	\$ 2,459	\$ 2,190	\$ 4,649	\$ 6,508
EBITDA	47	246	293	566
Thousands of barrels per day				
Heavy crude oil processing rates	245	226	236	254
Market margins, dollars per barrel				
Brent - 2-1-1	\$ 25.11	\$ 29.44	\$ 27.27	\$ 35.08
Brent - Maya differential	14.34	19.39	16.87	8.25
Total Maya 2-1-1	<u>\$ 39.45</u>	<u>\$ 48.83</u>	<u>\$ 44.14</u>	<u>\$ 43.33</u>

Revenue—Revenues increased by \$269 million, or 12%, in the second quarter of 2023 compared to the first quarter of 2023 and decreased by \$1,859 million, or 29%, in the first six months of 2023 compared to the first six months of 2022.

Second quarter of 2023 versus first quarter of 2023—Sales volumes increased resulting in an 18% increase in revenue due to the absence of unplanned downtime in the second quarter of 2023. Lower product prices led to a revenue decrease of 6% due to an average Brent crude oil price decrease of approximately \$4.20 per barrel.

First six months of 2023 versus first six months of 2022—Lower product prices led to a revenue decrease of 27% due to an average Brent crude oil price decrease of approximately \$24.47 per barrel. Sales volumes decreased resulting in a 2% decrease in revenue due to slightly lower operating rates.

EBITDA—EBITDA decreased by \$199 million, or 81%, in the second quarter of 2023 compared to the first quarter of 2023 and by \$273 million, or 48%, in the first six months of 2023 compared to the first six months of 2022.

Second quarter of 2023 versus first quarter of 2023—Lower margins resulted in a 99% decrease in EBITDA as the Maya 2-1-1 industry crack spread declined approximately \$9 per barrel to \$39 per barrel in the second quarter with heavy crude supply tightening leading to lower Maya and Western Canadian Select (“WCS”) crude discounts. Higher volumes, as a result of the absence of unplanned downtime in the second quarter of 2023, resulted in an 18% increase in EBITDA.

First six months of 2023 versus first six months of 2022—Costs incurred related to our planned exit from the refining business in the first six months of 2023 resulted in a 24% decrease in EBITDA. Lower margin drove a 14% decrease in EBITDA primarily due to unfavorable pricing on non-Maya crude purchases and lower operating yields of refined products. EBITDA decreased 11% as a result of a decrease in volumes driven by unplanned downtime in the first quarter of 2023. See Note 12 to the Consolidated Financial Statements for additional information regarding our planned exit of the refining business.

Technology Segment

Overview—EBITDA increased in the second quarter of 2023 compared to the first quarter of 2023 primarily due to higher licensing revenues from more contracts reaching significant milestones. EBITDA decreased in the first six months of 2023 relative to the first six months of 2022 primarily driven by lower catalyst volumes and lower licensing revenues from less contracts reaching significant milestones.

The following table sets forth selected financial information for the Technology segment:

	Three Months Ended		Six Months Ended	
	June 30, 2023	March 31, 2023	June 30, 2023	June 30, 2022
Millions of dollars				
Sales and other operating revenues	\$ 154	\$ 139	\$ 293	\$ 375
EBITDA	79	73	152	215

Revenue—Revenues increased by \$15 million, or 11%, in the second quarter of 2023 compared to the first quarter of 2023 and decreased by \$82 million, or 22%, in the first six months of 2023 compared to the first six months of 2022.

Second quarter of 2023 versus first quarter of 2023—Licensing revenues increased by 10% as more contracts reached significant milestones during the quarter. Increased average catalyst sales price resulted in a revenue increase of 2%. Favorable foreign exchange impact increased revenue by 2%. Lower catalyst volumes resulted in a 3% decrease in revenues.

First six months of 2023 versus first six months of 2022—Lower catalyst volumes resulted in a 16% decrease in revenue primarily driven by weaker demand. Lower licensing revenues resulting from fewer contracts reaching significant milestones drove a 6% decrease in revenue.

EBITDA—EBITDA increased by \$6 million, or 8%, in the second quarter of 2023 compared to the first quarter of 2022 and decreased by \$63 million, or 29%, in the first six months of 2023 compared to the first six months of 2022.

Second quarter of 2023 versus first quarter of 2023—Higher licensing revenues resulting from more contracts reaching significant milestones led to a 15% increase in EBITDA. Catalyst results drove an 8% decrease in EBITDA equally driven by price and volume declines as a result of lower demand.

First six months of 2023 versus first six months of 2022—Lower catalyst volumes driven by lower demand resulted in a 22% decrease in EBITDA. Lower licensing revenues from less contracts reaching significant milestones resulted in a 10% decrease in EBITDA.

FINANCIAL CONDITION

Operating, investing and financing activities of continuing operations, which are discussed below, are presented in the following table:

<u>Millions of dollars</u>	Six Months Ended June 30,	
	2023	2022
Cash provided by (used in):		
Operating activities	\$ 1,772	\$ 3,101
Investing activities	(742)	(1,034)
Financing activities	(701)	(2,392)

Operating Activities—Cash provided by operating activities of \$1,772 million in the first six months of 2023 primarily reflected earnings adjusted for non-cash items and cash used by the main components of working capital—Accounts receivable, Inventories, and Accounts payable.

In the first six months of 2023, the main components of working capital used \$605 million of cash driven primarily by increases in Inventories and Accounts receivable. The increase in Inventories was primarily due to inventory build associated with our PO/TBA plant as well as planned and unplanned outages. The increase in Accounts receivable was primarily driven by higher volumes and average sales prices in our O&P-EAI and I&D segments.

Cash provided by operating activities of \$3,101 million in the first six months of 2022 primarily reflected earnings adjusted for non-cash items and cash used by the main components of working capital.

In the first six months of 2022, the main components of working capital used \$494 million of cash driven primarily by an increase in Accounts receivable and Inventories partially offset by an increase in Accounts payable. The increase in Accounts receivable was driven by higher revenues across most businesses primarily driven by higher average sales prices and increased demand. The increase in Inventories was primarily due to replenishment of crude and refined products inventory levels to support anticipated business demands as well as increased prices of certain inventory. The increase in Accounts payable was primarily driven by increased raw material costs.

Investing Activities—Capital expenditures in the first six months of 2023 totaled \$653 million compared to \$978 million in the first six months of 2022. Approximately 40% and 45% of our capital expenditures in the first six months of 2023 and 2022, respectively, was for profit-generating growth projects, primarily our PO/TBA plant, with the remaining expenditures supporting sustaining maintenance. See Note 12 to the Consolidated Financial Statements for additional information regarding capital expenditures by segment.

Financing Activities—We made dividend payments totaling \$797 million and \$2,464 million in the first six months of 2023 and 2022, respectively. Additionally, in the first six months of 2023 and 2022, we made payments of \$170 million and \$262 million to repurchase outstanding ordinary shares, respectively.

In May 2023, we issued \$500 million of 5.625% guaranteed notes due 2033. For additional detail see Note 6 to the Consolidated Financial Statements.

Through the repurchase and issuance of commercial paper instruments under our commercial paper program, we made net repayments of \$200 million in the first six months of 2023 and received net proceeds of \$105 million in the first six months of 2022.

In the first six months of 2022, we received a return of collateral of \$217 million, related to the positions held with our counterparties for certain forward-starting interest rate swaps.

Liquidity and Capital Resources

Overview

We plan to fund our working capital, capital expenditures, debt service, dividends and other cash requirements with our current available liquidity and cash from operations, which could be affected by general economic, financial, competitive, legislative, regulatory, business and other factors, many of which are beyond our control. Debt repayment, and the purchase of shares under our share repurchase authorization, may be funded from cash and cash equivalents, cash from our short-term investments, cash from operating activities, proceeds from the issuance of debt, or a combination thereof.

As part of our overall capital allocation strategy, we plan to provide returns to shareholders in the form of dividends and share repurchases. Barring any significant or unforeseen business challenges, mergers or acquisitions, over the long-term, we are targeting shareholder returns of 70% of free cash flow, defined as net cash provided by operating activities less capital expenditures. We intend to continue to declare and pay quarterly dividends, with the goal of increasing the dividend over time, after giving consideration to our cash balances and expected results from operations. Our focus on funding our dividends while remaining committed to a strong investment grade balance sheet continues to be the foundation of our capital allocation strategy.

Cash and Liquid Investments

As of June 30, 2023, we had Cash and cash equivalents totaling \$2,468 million, which includes \$965 million in jurisdictions outside of the U.S., the majority of which is held within the European Union and the United Kingdom. There are currently no legal or economic restrictions that would materially impede our transfers of cash.

Credit Arrangements

At June 30, 2023, we had total debt, including current maturities, of \$11,612 million. Additionally, we had \$186 million of outstanding letters of credit, bank guarantees and surety bonds issued under uncommitted credit facilities to support trade payables and other obligations.

We had total unused availability under our credit facilities of \$4,150 million at June 30, 2023, which included the following:

- \$3,250 million under our \$3,250 million Senior Revolving Credit Facility, which backs our \$2,500 million commercial paper program. Availability under this facility is net of outstanding borrowings, outstanding letters of credit provided under the facility and notes issued under our commercial paper program. At June 30, 2023, we had no outstanding commercial paper and no borrowings or letters of credit outstanding under this facility; and
- \$900 million under our \$900 million U.S. Receivables Facility. Availability under this facility is subject to a borrowing base of eligible receivables, which is reduced by outstanding borrowings and letters of credit, if any. At June 30, 2023, we had no borrowings or letters of credit outstanding under this facility.

At any time and from time to time, we may repay or redeem our outstanding debt, including purchases of our outstanding bonds in the open market, through privately negotiated transactions or a combination thereof, in each case using cash and cash equivalents, cash from our short-term investments, cash from operating activities, proceeds from the issuance of debt or proceeds from asset divestitures. Any repayment or redemption of our debt will depend on prevailing market conditions, our liquidity requirements, contractual restrictions and other factors. In connection with such repurchases or redemptions, we may incur cash and non-cash charges, which could be material in the period in which they are incurred.

Share Repurchases

In May 2023, our shareholders approved a proposal to authorize us to repurchase up to 34.0 million ordinary shares, through November 19, 2024, which superseded any prior repurchase authorizations. Our share repurchase authorization does not have a stated dollar amount, and purchases may be made through open market purchases, private market transactions or other structured transactions. Repurchased shares could be retired or used for general corporate purposes, including for various employee benefit and compensation plans. The maximum number of shares that may yet be purchased is not necessarily an indication of the number of shares that will ultimately be purchased. In the first six months of 2023, we purchased approximately 1.9 million shares under our share repurchase authorizations for \$173 million.

As of August 2, 2023, we had approximately 33.1 million shares remaining under the current authorization. The timing and amounts of additional shares repurchased, if any, will be determined based on our evaluation of market conditions and other factors, including any additional authorizations approved by our shareholders. For additional information related to our share repurchase authorizations, see Note 10 to the Consolidated Financial Statements.

Capital Budget

In 2023, we are planning to invest approximately \$1.7 billion in capital expenditures. Approximately 70% of the 2023 budget is planned for sustaining maintenance, with the remaining budget supporting profit-generating growth projects.

CURRENT BUSINESS OUTLOOK

In the third quarter of 2023, we expect typical benefits from summer seasonality to be more than offset by soft demand due to ongoing economic uncertainty. Stagnant demand, volatile feedstock costs and new capacity in North America and China are challenging petrochemical margins. Summer demand for transportation fuels continues to support attractive oxyfuels and refining margins.

During the third quarter, we expect average operating rates of 85% for our North American olefins and polyolefins assets and 75% for our European olefins and polyolefins and I&D assets in line with global market demand. We believe current market conditions will persist amidst challenging economic conditions and a slower than expected recovery in China. As a result of the challenging economic environment, we expect our third quarter 2023 earnings will range from mid-teen to mid-twenty percentage points lower than the second quarter of 2023.

Value Enhancement Program

During 2022, we introduced our value enhancement program that is anticipated to generate approximately \$575 million in recurring annual Net income improvement by the end of 2025, which, after adding back income taxes and depreciation and amortization of \$140 million and \$35 million, respectively, results in \$750 million of EBITDA.

Our Value Enhancement Program is progressing ahead of schedule. As a result, the program's near-term target was increased by approximately 30% and is now expected to deliver \$150 million of Net income and \$200 million of recurring annual EBITDA by year end 2023. EBITDA excludes income taxes and depreciation and amortization of approximately \$35 million and \$15 million, respectively.

We estimate incurring costs of \$150 million in 2023 to achieve this milestone. Net income and recurring annual EBITDA for the value enhancement program is estimated based on 2017 through 2019 mid-cycle margins and modest inflation relative to a 2021 baseline year.

CRITICAL ACCOUNTING POLICIES

Goodwill Impairment—We evaluate the recoverability of the carrying value of goodwill annually or more frequently if events or changes in circumstances indicate that the carrying amount of the goodwill of a reporting unit may not be fully recoverable.

Effective January 1, 2023, our *Catalloy* and polybutene-1 businesses were moved from our APS segment and reintegrated into our O&P-Americas and O&P-EAI segments. When moved, a portion of the APS reporting unit’s goodwill was allocated to the O&P-Americas and O&P-EAI segments based on the businesses’ relative fair values compared to the reportable segment.

In the first quarter of 2023, we evaluated goodwill for impairment immediately before and after the transfer of these businesses. Our evaluation resulted in the recognition of a non-cash goodwill impairment of \$252 million recognized in our APS segment. Refer to Note 12 to our Consolidated Financial Statements.

Fair values were determined utilizing a discounted cash flow method under the income approach and assumptions including management’s view on long-term growth rates in our industry, discount rates and other assumptions based on a market participant perspective, which are inherently subjective. Discount rates utilized in our cash flow model were based on a variety of factors, including market and economic conditions, the risk and nature of the cash flows and the rate of return required by market participants. We believe our fair value estimates of projected financial information are reasonable and consistent with those used in our planning, capital investment and business performance reviews. However, actual results may differ from these projections.

An estimate of the sensitivity to net income resulting from impairment calculations is not practicable, given the numerous assumptions, including pricing, volumes and discount rates, which could materially affect our estimates. That is, unfavorable adjustments to some of the above listed assumptions may be offset by favorable adjustments in other assumptions.

ACCOUNTING AND REPORTING CHANGES

For a discussion of the potential impact of new accounting pronouncements on our Consolidated Financial Statements, see Note 2 to the Consolidated Financial Statements.

CAUTIONARY STATEMENT FOR THE PURPOSES OF THE “SAFE HARBOR” PROVISIONS OF THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995

This report includes forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 (the “Securities Act”) and Section 21E of the Securities Exchange Act of 1934 (the “Exchange Act”). You can identify our forward-looking statements by the words “anticipate,” “estimate,” “believe,” “continue,” “could,” “intend,” “may,” “plan,” “potential,” “predict,” “should,” “will,” “expect,” “objective,” “projection,” “forecast,” “goal,” “guidance,” “outlook,” “effort,” “target” and similar expressions.

We based forward-looking statements on our current expectations, estimates and projections of our business and the industries in which we operate. We caution you that these statements are not guarantees of future performance. They involve assumptions about future events that, while made in good faith, may prove to be incorrect, and involve risks and uncertainties we cannot predict. Our actual outcomes and results may differ materially from what we have expressed or forecast in the forward-looking statements. Any differences could result from a variety of factors, including the following:

- the cost of raw materials represents a substantial portion of our operating expenses, and energy costs generally follow price trends of crude oil, natural gas liquids and/or natural gas; price volatility can significantly affect our results of operations and we may be unable to pass raw material and energy cost increases on to our customers due to the significant competition that we face, the commodity nature of our products and the time required to implement pricing changes;
- our operations in the United States (“U.S.”) have benefited from low-cost natural gas and natural gas liquids; decreased availability of these materials (for example, from their export or regulations impacting hydraulic fracturing in the U.S.) could reduce the current benefits we receive;
- if crude oil prices are low relative to U.S. natural gas prices, we could see less benefit from low-cost natural gas and natural gas liquids and it could have a negative effect on our results of operations;
- industry production capacities and operating rates may lead to periods of oversupply and low profitability;
- we may face unplanned operating interruptions (including leaks, explosions, fires, weather-related incidents, mechanical failures, unscheduled downtime, supplier disruptions, labor shortages, strikes, work stoppages or other labor difficulties, transportation interruptions, spills and releases and other environmental incidents) at any of our facilities, which would negatively impact our operating results;
- changes in general economic, business, political and regulatory conditions in the countries or regions in which we operate could increase our costs, restrict our operations and reduce our operating results;
- our ability to execute our organic growth plans may be negatively affected by our ability to complete projects on time and on budget;
- our ability to acquire or dispose of product lines or businesses could disrupt our business and harm our financial condition;
- our ability to successfully implement initiatives identified pursuant to our value enhancement program and generate anticipated earnings;
- uncertainties associated with worldwide economies could create reductions in demand and pricing, as well as increased counterparty risks, which could reduce liquidity or cause financial losses resulting from counterparty default;
- the negative outcome of any legal, tax and environmental proceedings or changes in laws or regulations regarding legal, tax and environmental matters may increase our costs, reduce demand for our products, or otherwise limit our ability to achieve savings under current regulations;

- any loss or non-renewal of favorable tax treatment under tax agreements or tax treaties, or changes in tax laws, regulations or treaties, may substantially increase our tax liabilities;
- we may be required to reduce production or idle certain facilities because of the cyclical and volatile nature of the supply-demand balance in the chemical and refining industries, which would negatively affect our operating results;
- we rely on continuing technological innovation, and an inability to protect our technology, or others' technological developments could negatively impact our competitive position;
- we may be unable to continue operations until the shut down of the Houston refinery within the expected timeframe or without incurring additional charges or expenses;
- we have significant international operations, and fluctuations in exchange rates, valuations of currencies and our possible inability to access cash from operations in certain jurisdictions on a tax-efficient basis, if at all, could negatively affect our liquidity and our results of operations;
- we are subject to the risks of doing business at a global level, including wars, terrorist activities, political and economic instability and disruptions and changes in governmental policies, which could cause increased expenses, decreased demand or prices for our products and/or disruptions in operations, all of which could reduce our operating results;
- if we are unable to achieve our emission reduction, circularity, or other sustainability targets, it could result in reputational harm, changing investor sentiment regarding investment in our stock or a negative impact on our access to and cost of capital;
- if we are unable to comply with the terms of our credit facilities, indebtedness and other financing arrangements, those obligations could be accelerated, which we may not be able to repay; and
- we may be unable to incur additional indebtedness or obtain financing on terms that we deem acceptable, including for refinancing of our current obligations; higher interest rates and costs of financing would increase our expenses.

Any of these factors, or a combination of these factors, could materially affect our future results of operations and the ultimate accuracy of the forward-looking statements. Our management cautions against putting undue reliance on forward-looking statements or projecting any future results based on such statements or present or prior earnings levels.

All subsequent written and oral forward-looking statements attributable to us or any person acting on our behalf are expressly qualified in their entirety by the cautionary statements contained or referred to in this section and any other cautionary statements that may accompany such forward-looking statements. Except as otherwise required by applicable law, we disclaim any duty to update any forward-looking statements.

Item 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Our exposure to market and regulatory risks is described in Item 7A of our Annual Report on Form 10-K for the year ended December 31, 2022. Our exposure to such risks has not changed materially in the six months ended June 30, 2023.

Item 4. CONTROLS AND PROCEDURES

As of June 30, 2023, with the participation of our management, our Chief Executive Officer (principal executive officer) and our Chief Financial Officer (principal financial and accounting officer) carried out an evaluation, pursuant to Rule 13a-15(b) of the Securities Exchange Act of 1934, as amended (the “Act”), of the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rule 13a-15(e) of the Act). Based upon that evaluation, our Chief Executive Officer and our Chief Financial Officer concluded that our disclosure controls and procedures were effective as of June 30, 2023.

There have been no changes in our internal controls over financial reporting, as defined in Rule 13a-15(f) of the Act, in the period covered by this report 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

Information regarding our litigation and legal proceedings can be found in Note 9 to the Consolidated Financial Statements, which is incorporated into this Item 1 by reference.

In February 2020, the State of Texas filed suit against Houston Refining, LP, a subsidiary of LyondellBasell, in Travis County District Court seeking civil penalties and injunctive relief for violations of the Texas Clean Air Act related to several emission events. In July 2020, Harris County, Texas petitioned to intervene in the lawsuit and the State added additional claims to its petition relating to self-reported deviations of Houston Refining’s air operating permit. In May 2023, we agreed with the State to settle the matter for \$2.6 million, inclusive of attorney’s fees, which remains subject to comment and final approval by the court. In accordance with the settlement, Harris County has dismissed its claims.

On July 27, 2021, approximately 160,000 pounds of liquid process material containing primarily acetic acid was released from a reactor at the La Porte acetic acid unit. In October 2021, the Texas Commission on Environmental Quality (“TCEQ”) issued a Notice of Enforcement for the incident. In November 2021, the State of Texas filed a petition on behalf of the TCEQ seeking injunctive relief and civil penalties for unauthorized air pollution and regulatory nuisance related to the incident. We have agreed to a settlement of \$1.1 million, inclusive of attorney’s fees, and final judgment has been entered by the court.

Additional information about our environmental proceedings can be found in Part I, Item 3 of our 2022 Annual Report on Form 10-K, which is incorporated into this Item 1 by reference.

Item 1A. RISK FACTORS

There have been no material changes to the risk factors associated with our business previously disclosed in “Item 1A. Risk Factors,” in our Annual Report on Form 10-K for the year ended December 31, 2022.

Item 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

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 Authorizations	Maximum Number of Shares That May Yet Be Purchased Under the Plans or Authorizations
April 1 - April 30	243,575	\$ 93.37	243,575	30,650,656
May 1 - May 18	275,823	\$ 90.31	275,823	30,374,833
May 19 - May 31	163,750	\$ 88.56	163,750	33,878,500
June 1 - June 30	412,294	\$ 89.64	412,294	33,466,206
Total	1,095,442	\$ 90.48	1,095,442	33,466,206

On May 19, 2023, our shareholders approved a share repurchase authorization of up to 34,042,250 shares of our ordinary shares, through November 19, 2024, which superseded any prior repurchase authorizations. The maximum number of shares that may yet be purchased is not necessarily an indication of the number of shares that will ultimately be purchased.

Item 4. MINE SAFETY DISCLOSURES

Not applicable.

Item 5. OTHER INFORMATION

During the three months ended June 30, 2023, none of our officers or directors adopted or terminated any contract, instruction or written plan for the purchase or sale of our securities that was intended to satisfy the affirmative defense conditions of Rule 10b5-1(c) or any “non-Rule 10b5-1 trading arrangement.”

Item 6. EXHIBITS

Exhibit Number	Description
4.1	Indenture, among LYB International Finance III, LLC, as Issuer, LyondellBasell Industries N.V., as Guarantor, and Wells Fargo Bank, National Association, as Trustee, dated as of October 10, 2019 (incorporated by reference to Exhibit 4.1 to our Current Report on Form 8-K filed with the SEC on October 10, 2019)
4.2	Supplemental Indenture, among LYB International Finance III, LLC, as Issuer, LyondellBasell Industries N.V., as Guarantor, Computershare Trust Company, N.A., as Base Trustee (as successor to Wells Fargo Bank, National Association) and The Bank of New York Mellon Trust Company, N.A., as Trustee, dated as of May 17, 2023 (incorporated by reference to Exhibit 4.44 to Post-Effective Amendment No. 1 to the Registration Statement on Form S-3 (File No. 333-261639) filed with the SEC on May 17, 2023)
4.3	Officer’s Certificate of LYB International Finance III, LLC relating to the 5.625% Guaranteed Notes due 2033, dated as of May 19, 2023 (incorporated by reference to Exhibit 4.3 to our Current Report on Form 8-K filed with the SEC on May 19, 2023)
4.4	Form of LYB International Finance III, LLC’s 5.625% Guaranteed Notes due 2033 (included in Exhibit 4.3) (incorporated by reference to Exhibit 4.4 to our Current Report on Form 8-K filed with the SEC on May 19, 2023)
10.1*	Fifth Amendment to Receivables Purchase Agreement, dated as of May 31, 2023, among LYB Receivables LLC, as seller, Lyondell Chemical Company, as servicer, the conduit purchasers, related committed purchasers, LC participants and purchaser agents party thereto, the other parties thereto and Mizuho Bank, Ltd., as Administrator and LC Bank
10.2*	Amendment No. 1 to Second Amended and Restated Credit Agreement, dated as of May 31, 2023, among LyondellBasell Industries N.V. and LYB Americas Finance Company LLC, as Borrowers, the Lenders from time to time party thereto, Citibank, N.A., as Administrative Agent
31.1*	Certification of Principal Executive Officer pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934
31.2*	Certification of Principal Financial Officer pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934
32*	Certifications pursuant to 18 U.S.C. Section 1350
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 Schema Document

<u>Exhibit Number</u>	<u>Description</u>
101.CAL*	XBRL Calculation Linkbase Document
101.DEF*	XBRL Definition Linkbase Document
101.LAB*	XBRL Labels Linkbase Document
101.PRE*	XBRL Presentation Linkbase Document
104*	Cover Page Interactive Data File (formatted as inline XBRL and contained in Exhibit 101)

* Filed herewith

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.

LYONDELLBASELL INDUSTRIES N.V.

Date: August 4, 2023

/s/ Chukwuemeka A. Oyolu
Chukwuemeka A. Oyolu
Senior Vice President,
Chief Accounting Officer and Investor Relations
(Principal Accounting Officer)

FIFTH AMENDMENT TO RECEIVABLES PURCHASE AGREEMENT

THIS FIFTH AMENDMENT TO RECEIVABLES PURCHASE AGREEMENT (this “Amendment”), dated as of May 31, 2023, is entered into among LYB RECEIVABLES LLC, a Delaware limited liability company, as seller (the “Seller”), LYONDELL CHEMICAL COMPANY, a Delaware corporation (“Lyondell Chemical”), as initial servicer (in such capacity, together with its successors and permitted assigns in such capacity, the “Servicer”), the various CONDUIT PURCHASERS, RELATED COMMITTED PURCHASERS, LC PARTICIPANTS and PURCHASER AGENTS party hereto, and MIZUHO BANK, LTD. (“Mizuho”), as issuer of Letters of Credit (in such capacity, together with its successors and assigns in such capacity, the “LC Bank”), and as Administrator (in such capacity, together with its successors and assigns in such capacity, the “Administrator”).

RECITALS

1. The parties hereto are parties to that certain Receivables Purchase Agreement, dated as of September 11, 2012 (as amended, restated, supplemented or otherwise modified through the date hereof, the “Agreement”).

2. The parties hereto desire to amend the Agreement as hereinafter set forth.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Certain Defined Terms. Capitalized terms that are used but not defined herein shall have the meanings set forth in, or by reference in, the Agreement.

SECTION 2. Amendments to the Agreement. The Agreement is hereby amended to reflect the changes marked on Exhibit A attached hereto.

SECTION 3. Representations and Warranties. Each of the Seller and the Servicer hereby represents and warrants to the Administrator, the Purchaser Agents and the Purchasers as follows:

(a) Representations and Warranties. The representations and warranties made by such Person in the Agreement and each of the other Transaction Documents are true and correct in all material respects as of the date hereof and immediately after giving effect to this Amendment (unless stated to relate solely to an earlier date, in which case such representations or warranties were true and correct as of such earlier date).

(b) Enforceability. The execution and delivery by such Person of this Amendment, and the performance of such Person’s obligations under this Amendment and the Agreement, as amended hereby, are within such Person’s corporate or limited liability company powers, as the case may be, and have been duly authorized by all necessary corporate or limited liability company action on such Person’s part, as the case may be. This Amendment and the Agreement, as amended hereby, are such Person’s valid and legally binding obligations, enforceable in accordance with their respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance or other similar laws affecting creditors’ rights generally and by general principles of equity, regardless of whether enforceability is considered in a proceeding in equity or at law.

(c) No Default. Both immediately before and immediately after giving effect to this Amendment and the transactions contemplated hereby, no Termination Event or Unmatured Termination Event exists or shall exist.

SECTION 4. Effect of Amendment; Ratification. All provisions of the Agreement, as expressly amended and modified by this Amendment, shall remain in full force and effect. After this Amendment becomes effective, all references in the Agreement (or in any other Transaction Document) to “the Receivables Purchase Agreement”, “this Agreement”, “hereof”, “herein” or words of similar effect, in each case referring to the Agreement shall be deemed to be references to the Agreement as amended by this Amendment. This Amendment shall not be deemed, either expressly or impliedly, to waive, amend or supplement any provision of the Agreement other than as specifically set forth herein. The Agreement, as amended by this Amendment, is hereby ratified and confirmed in all respects.

SECTION 5. Effectiveness. This Amendment shall become effective as of the date (such date, the “Effective Date”) upon which the Administrator has received duly executed counterparts of this Amendment.

SECTION 6. Counterparts. This Amendment may be executed in any number of counterparts and by different parties on separate counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute but one and the same instrument. Delivery of an executed counterpart of a signature page to this Amendment by facsimile or other electronic transmission shall be effective as delivery of a manually executed counterpart hereof.

SECTION 7. Governing Law. THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO ANY OTHERWISE APPLICABLE CONFLICTS OF LAW PRINCIPLES (OTHER THAN SECTIONS 5-1401 AND 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK).

SECTION 8. Section Headings. The various headings of this Amendment are included for convenience only and shall not affect the meaning or interpretation of this Amendment, the Agreement or any provision hereof or thereof.

SECTION 9. Successors and Assigns. This Amendment shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

SECTION 10. Severability. Each provision of this Amendment shall be severable from every other provision of this Amendment for the purpose of determining the legal enforceability of any provision hereof, and the unenforceability of one or more provisions of this Amendment in one jurisdiction shall not have the effect of rendering such provision or provisions unenforceable in any other jurisdiction.

SECTION 11. Transaction Document. This Amendment shall be deemed to be a Transaction Document for all purposes of the Agreement and each other Transaction Document.

[SIGNATURES BEGIN ON NEXT PAGE]

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

LYB RECEIVABLES LLC,
as the Seller

By: /s/ Brendan J. Dalton
Name: Brendan J. Dalton
Title: Assistant Treasurer

LYONDELL CHEMICAL COMPANY,
as the Servicer

By: /s/ Donny Chia
Name: Donny Chia
Title: Treasurer

MIZUHO BANK, LTD.,
as a Related Committed Purchaser and
as an LC Participant

By: /s/ Richard A. Burke
Name: Richard A. Burke
Title: Managing Director

MIZUHO BANK, LTD.,
as LC Bank

By: /s/ Richard A. Burke
Name: Richard A. Burke
Title: Managing Director

MIZUHO BANK, LTD.,
as a Purchaser Agent

By: /s/ Richard A. Burke
Name: Richard A. Burke
Title: Managing Director

MIZUHO BANK, LTD.,
as Administrator

By: /s/ Richard A. Burke
Name: Richard A. Burke
Title: Managing Director

MUFG BANK, LTD.,
as a Purchaser Agent

By: /s/ Eric Williams
Name: Eric Williams
Title: Managing Director

MUFG BANK, LTD.,
as a Related Committed Purchaser
and as an LC Participant

By: /s/ Eric Williams
Name: Eric Williams
Title: Managing Director

GOTHAM FUNDING CORPORATION,
as a Conduit Purchaser

By: /s/ Kevin J. Corrigan
Name: Kevin J. Corrigan
Title: Vice President

SMBC NIKKO SECURITIES AMERICA, INC.,
as a Purchaser Agent

By: /s/ Yukimi Konno
Name: Yukimi Konno
Title: Managing Director

SUMITOMO MITSUI BANKING CORPORATION,
as a Related Committed Purchaser and
as an LC Participant

By: /s/ Jun Ashley
Name: Jun Ashley
Title: Director

RECEIVABLES PURCHASE AGREEMENT

DATED AS OF SEPTEMBER 11, 2012

BY AND AMONG

**LYB RECEIVABLES LLC,
as Seller,**

**LYONDELL CHEMICAL COMPANY,
as initial Servicer,**

**THE VARIOUS CONDUIT PURCHASERS, RELATED COMMITTED PURCHASERS,
LC PARTICIPANTS AND PURCHASER AGENTS FROM TIME TO TIME PARTY
HERETO,**

**MIZUHO BANK, LTD.,
as LC Bank,**

AND

**MIZUHO BANK, LTD.,
as Administrator**

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ANNEX F	FORM OF TRANSFER SUPPLEMENT

This RECEIVABLES PURCHASE AGREEMENT (as amended, restated, supplemented or otherwise modified from time to time, this “Agreement”) is entered into as of September 11, 2012 by and among LYB RECEIVABLES LLC, a Delaware limited liability company, as seller (the “Seller”), LYONDELL CHEMICAL COMPANY, a Delaware corporation (“Lyondell Chemical”), as initial servicer (in such capacity, together with its successors and permitted assigns in such capacity, the “Servicer”), the various CONDUIT PURCHASERS, RELATED COMMITTED PURCHASERS, LC PARTICIPANTS and PURCHASER AGENTS from time to time party hereto, MIZUHO BANK, LTD. (“Mizuho”), as issuer of Letters of Credit (in such capacity, together with its successors and assigns in such capacity, the “LC Bank”) and as administrator (in such capacity, together with its successors and assigns in such capacity, the “Administrator”).

PRELIMINARY STATEMENTS.

Certain terms that are capitalized and used throughout this Agreement are defined in, or by reference in, Exhibit I. References in the Exhibits, Schedules and Annexes hereto to the “Agreement” refer to this Agreement, as amended, supplemented or otherwise modified from time to time.

The Seller (i) desires to sell, transfer and assign an undivided percentage ownership interest in a pool of receivables, and the Purchasers desire to acquire such undivided percentage ownership interest, as such percentage interest shall be adjusted from time to time based upon, in part, reinvestment payments that are made by such Purchasers, and (ii) may, subject to the terms and conditions hereof, request that the LC Bank issue or cause the issuance of one or more Letters of Credit.

In consideration of the mutual agreements, provisions and covenants contained herein, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I. AMOUNTS AND TERMS OF THE PURCHASES

Section 1.1 Purchase Facility.

(a) On the terms and subject to the conditions hereof, the Seller may, from time to time before the Termination Date, (i) request that (x) the Conduit Purchasers ratably (based on the aggregate Commitments of the Related Committed Purchasers in their respective Purchaser Groups) make purchases (and deemed purchases) of and reinvestments in, or (y) only if a Conduit Purchaser denies such request or is unable to fund (and provides notice of such denial or inability to the Seller, the Administrator and its Purchaser Agent), the Related Committed Purchasers ratably (based on their respective Commitments) make purchases (and deemed purchases) of and reinvestments in, undivided percentage ownership interests with regard to the Purchased Interest from the Seller and (ii) request that the LC Bank issue or cause the issuance of Letters of Credit (each such purchase, deemed purchase, reinvestment or issuance is referred to herein as a “Purchase”). Subject to Section 1.4(b) concerning reinvestments, at no time will a Conduit Purchaser have any obligation to make a Purchase. Each Related Committed Purchaser severally hereby agrees, on the terms and subject to the conditions hereof, to make purchases of and reinvestments in undivided percentage ownership interests with regard to the Purchased Interest from the Seller from time to time from the Closing Date to (but excluding) the Termination Date, based on the applicable Purchaser Group’s Ratable Share of each Purchase requested pursuant to Section 1.2(a) (and, in the case of each Related Committed Purchaser, its Commitment Percentage of its Purchaser Group’s Ratable Share of such Purchase) and, on the terms of and subject to the conditions of this Agreement, the LC Bank hereby agrees to issue Letters of Credit in return for (and each LC Participant hereby severally agrees to make Participation Advances in connection with any draws under such Letters of Credit equal to such LC Participant’s Pro Rata Share of such draws), undivided percentage ownership interests with regard to the Purchased Interest from the Seller from time to time from the Closing Date to (but excluding) the Termination Date. Notwithstanding anything set forth in this Section 1.1(a) or otherwise herein to the contrary, under no circumstances shall any Purchaser make any purchase or reinvestment (including, without limitation, any Purchases deemed to have been requested by Seller pursuant to Section 1.14(a)) or issue any Letters of Credit hereunder, as applicable, if, after giving effect to such Purchase:

- (i) any event has occurred and is continuing, or would result from such Purchase, that constitutes a Termination Event or an Unmatured Termination Event;
- (ii) the aggregate outstanding Capital of such Purchaser, when added to all other Capital of all other Purchasers in such Purchaser's Purchaser Group, would exceed (A) its Purchaser Group's Group Commitment, minus (B) the related LC Participant's Pro Rata Share of the LC Participation Amount;
- (iii) the Aggregate Capital plus the LC Participation Amount would exceed the Purchase Limit;
- (iv) the LC Participation Amount would exceed the aggregate Commitments of the LC Participants;
- (v) the LC Participation Amount would exceed the LC Sub-Limit; or
- (vi) the Purchased Interest would exceed 100%.

The Seller may, subject to this paragraph (a) and the other requirements and conditions herein, use the proceeds of any purchase by the Purchasers hereunder to satisfy any Reimbursement Obligation to the LC Bank and the LC Participants (ratably, based on the outstanding amounts funded by the LC Bank and each such LC Participant) pursuant to Section 1.14 below.

(b) The Seller may, upon at least 30 days' prior written notice to the Administrator and each Purchaser Agent (except as otherwise provided below), terminate the Purchase Facility in whole or, upon at least five (5) days' prior written notice to the Administrator, from time to time, irrevocably reduce in part the unused portion of the Purchase Limit (but not below the amount that would cause the Aggregate Capital plus the LC Participation Amount to exceed the Purchase Limit or would cause the Group Capital of any Purchaser Group to exceed its Group Commitment, in each case after giving effect to such reduction); provided, that (x) each partial reduction shall be in the amount of at least \$5,000,000, or an integral multiple of \$1,000,000 in excess thereof, (y) unless terminated in whole, the Purchase Limit shall in no event be reduced below \$500,000,000 and (z) any such partial reduction in the Purchase Limit shall ratably reduce the Commitments of each Committed Purchaser unless each Committed Purchaser with a Commitment after giving effect to the proposed reduction consents to a non-ratable reduction in Commitments (in which case, the Purchasers with a Commitment after giving effect to the payment reduction shall enter into documentation reasonably satisfactory to such Purchasers to reallocate outstanding Capital to reflect such Purchasers' Pro Rata Share of the new Purchase Limit). The Administrator shall promptly advise the Purchaser Agents of any notice received by it pursuant to this Section 1.1(b). In addition to and without limiting any other requirements for termination, prepayment and/or the funding of the LC Collateral Account hereunder, no termination of the Purchase Facility shall be effective unless and until (i) the amount on deposit in the LC Collateral Account is at least equal to the then outstanding LC Participation Amount plus the Expected LC Fees, (ii) the Aggregate Capital is reduced to zero and (iii) all other amounts owed to the Administrator, the Purchaser Agents and the Purchasers under this Agreement and each of the other Transaction Documents have been paid in full.

(c) Each of the parties hereto hereby acknowledges and agrees that from and after the Second Amendment Effective Date, (i) the Purchaser Group that includes Mizuho, as a Purchaser Agent and as a Purchaser, shall not include a Conduit Purchaser, and each request by the Seller for ratable Purchases by the Conduit Purchasers pursuant to Section 1.1(a)(i) shall be deemed to be a request that the Related Committed Purchaser in Mizuho's Purchaser Group make its ratable share of such Purchases and (ii) the Purchaser Group that includes SMBCSI, as a Purchaser Agent and SMBC as a Purchaser, shall not include a Conduit Purchaser, and each request by the Seller for ratable Purchases by the Conduit Purchasers pursuant to Section 1.1(a)(i) shall be deemed to be a request that the Related Committed Purchaser in SMBC's Purchaser Group make its ratable share of such Purchases.

(d) So long as no Termination Event or Unmatured Termination Event has occurred and is continuing, upon written notice to the Administrator, the LC Bank and each Purchaser Agent, the Seller may from time to time request an increase (an “Increase”) in the Purchase Limit and the Commitment with respect to one or more Related Committed Purchasers, including any new Related Committed Purchasers that agree to become Related Committed Purchasers pursuant to a Transfer Supplement or other agreement pursuant to which such Purchaser becomes a party hereto at any time following the Second Amendment Effective Date and prior to the Termination Date; provided, that the Purchase Limit shall not exceed \$1,200,000,000 and the aggregate increase in such Related Committed Purchaser’s Commitments (for all such requests or additions) shall not exceed \$300,000,000; provided, further, that the Seller shall make no more than two such requests for an Increase during any period beginning on the Second Amendment Effective Date and ending on the Scheduled Termination Date. At the time of sending such notice with respect to any Related Committed Purchaser, the Seller (in consultation with the Administrator, the LC Bank and the Purchaser Agent related to such Related Committed Purchaser) shall specify the time period within which such Related Committed Purchasers, the LC Bank and the Administrator are requested to respond to the Seller’s request (which shall in no event be less than ten (10) Business Days from the date of delivery of such notice to the Administrator, the LC Bank and the Purchaser Agents), as such time period may be extended by the Seller upon the written request of any such Person). In respect of any Related Committed Purchaser, each of such Related Committed Purchaser being asked to increase its Commitment, the LC Bank and the Administrator shall notify the Seller and the Servicer within the applicable time period whether or not such Person agrees, in the case of each Related Commitment Purchaser, in its respective sole discretion, and in the case of the Administrator and the LC Bank, in such Person’s reasonable discretion, to the increase to such Related Committed Purchaser’s Commitment. Any such Person not responding within such time period shall be deemed to have declined to consent to an increase in such Related Committed Purchaser’s Commitment. For the avoidance of doubt, only the consent of the Related Committed Purchaser then being asked to increase its Commitment, the LC Bank and the Administrator shall be required in order to approve any such request. If the Commitment of any Related Committed Purchaser is increased in accordance with this clause (d), the Administrator, the Purchaser Agents for such Related Committed Purchasers, the LC Bank, the Seller and the Servicer shall determine the effective date with respect to such Increase and shall enter into such documents as agreed to by such parties to document such Increase; it being understood and agreed that the Administrator, the LC Bank or any Related Committed Purchaser increasing its Commitment pursuant to this clause (d) may request any of (x) resolutions of the board of directors of the Seller approving or consenting to such Increase and authorizing the execution, delivery and performance of any amendment to this Agreement, (y) a corporate and enforceability opinion of counsel of the Seller in form and substance reasonably satisfactory to the Administrator and (z) secretary certificates and certificates of good standing of the Seller reasonably requested by such Related Committed Purchaser or the Administrator.

Section 1.2 Making Purchases:-

(a) The Seller may request a purchase (but not reinvestment) of undivided percentage ownership interests with regard to the Purchased Interest hereunder to be made in cash on any day upon the Seller’s irrevocable written notice in the form of Annex B (each, a “Purchase Notice”) delivered to the Administrator and each Purchaser Agent in accordance with Section 5.2, which notice must be received by the Administrator and each Purchaser Agent by 1:00 p.m. (New York City time) at least two Business Days before the requested Purchase Date, and which notice shall specify (A) the amount requested to be paid to the Seller (such amount, which shall not be less than \$5,000,000 and shall be in integral multiples of \$1,000,000 in excess thereof, being the Capital relating to the undivided percentage ownership interest then being purchased with respect to each Purchaser Group), (B) the date of such purchase (which shall be a Business Day) and (C) the pro forma calculation of the Purchased Interest after giving effect to the increase in the Aggregate Capital resulting from such purchase.

(b) On the date of each purchase requested by the Seller pursuant to Section 1.2(a), each applicable Conduit Purchaser or Related Committed Purchaser, as the case may be, shall, upon satisfaction of the applicable conditions set forth in Exhibit II, make available to the Seller in same day funds, at the Purchase Account (or such other account as may be designated in writing by the Seller to the Administrator and each Purchaser Agent), an amount equal to the portion of Capital relating to the undivided percentage ownership interest then being purchased by such Purchaser.

(c) Effective on the date of each Purchase pursuant to this Agreement, the Seller hereby sells and assigns to the Administrator for the benefit of the Purchasers (ratably, based on the Aggregate Capital plus the LC Participation Amount outstanding at such time for each such Purchaser's Capital) an undivided percentage ownership interest in: (i) each Pool Receivable then existing, (ii) all Related Security with respect to such Pool Receivables and (iii) all Collections with respect to, and other proceeds of, such Pool Receivables and Related Security.

(d) To secure all of the Seller's obligations (monetary or otherwise) under this Agreement and the other Transaction Documents to which it is a party, whether now or hereafter existing or arising, due or to become due, direct or indirect, absolute or contingent (collectively, the "Obligations"), the Seller hereby grants to the Administrator (for the benefit of the Administrator, the Purchasers, the Purchaser Agents and their respective permitted assigns) a security interest in all of the Seller's right, title and interest (including any undivided interest of the Seller) in, to and under all of the following, whether now or hereafter owned, existing or arising: (i) all Pool Receivables, (ii) all Related Security with respect to such Pool Receivables, (iii) all Collections with respect to such Pool Receivables, (iv) the Lock-Box Accounts and all amounts on deposit therein, and all certificates and instruments, if any, from time to time evidencing such Lock-Box Accounts and amounts on deposit therein, (v) all rights (but none of the obligations) of the Seller under the Purchase and Sale Agreement and (vi) all proceeds of, and all amounts received or receivable under any or all of, the foregoing (collectively, the "Pool Assets"). The Seller hereby authorizes the Administrator to file financing statements naming the Seller as debtor or seller and describing the collateral covered thereby as "all of the debtor's personal property or assets" or words to that effect, notwithstanding that such wording may be broader in scope than the collateral described in this Agreement. The Administrator (on behalf of itself, the Purchasers, the Purchaser Agents and their respective permitted assigns) shall have, with respect to the Pool Assets, and in addition to all the other rights and remedies available to the Administrator and the Purchasers, all the rights and remedies of a secured party under any applicable UCC.

(e) Provided that no Termination Event or Unmatured Termination Event exists and is continuing, the Seller may request, in a written notice given to the Administrator and each Purchaser Agent, not less than 30 days and not more than 90 days prior to each anniversary of the Closing Date, that the then-current Scheduled Termination Date be extended to the date that is one year after such then-current Scheduled Termination Date. In the event that the Purchasers in any Purchaser Group are agreeable to such extension, the Administrator shall so notify the Seller and the Servicer in writing (it being understood that the Purchasers may accept or decline such a request in their sole discretion and on such terms as they may elect) and the Seller, the Servicer, the Purchasers, the Purchaser Agents and the Administrator shall enter into such documents as the Purchasers may reasonably deem necessary or appropriate to reflect such extension. In the event the Purchasers in any Purchaser Group decline the request for such extension, such Purchasers (or their Purchaser Agent) shall so notify the Administrator, and the Administrator shall so notify the Seller of such determination; provided, that the failure of the Administrator to affirmatively notify the Seller of any Purchasers' election regarding such extension request within 30 days following receipt of such request shall be deemed to be a refusal by such Purchasers to grant the requested extension. If the Purchasers in any Purchaser Group do not agree to an extension request, the Seller may cause such Purchasers to assign their interests, rights and obligations under this Agreement and the other Transaction Documents to new Purchasers as provided under Section 5.3(g). If the Scheduled Termination Date is extended with respect to one or more, but less than all, Purchasers and the Exiting Purchasers are not replaced as described in the foregoing sentence, then the Purchase Limit shall be reduced by an amount equal to the Commitment(s) of the Exiting Purchaser(s).

(f) Each Related Committed Purchaser's and LC Participant's obligations hereunder shall be several, such that the failure of any Related Committed Purchaser or LC Participant to make a payment in connection with any purchase hereunder, or drawing under a Letter of Credit hereunder, as the case may be, shall not relieve any other Related Committed Purchaser or LC Participant of its obligations hereunder to make payment for any Funded Purchase or such drawing.

Section 1.3 Purchased Interest Computation.

The Purchased Interest shall be initially computed on the Closing Date. Thereafter, until the Termination Date, the Purchased Interest shall be automatically recomputed (or deemed to be recomputed) on each Business Day other than a Termination Day. On each Termination Day, the Purchased Interest shall be deemed to be 100%. The Purchased Interest shall become zero on the Final Payout Date.

Section 1.4 Settlement Procedures.

(a) The collection of the Pool Receivables shall be administered by the Servicer in accordance with this Agreement. The Seller shall provide to the Servicer on a timely basis all information needed for such administration, including notice of the occurrence of any Termination Day and current computations of the Purchased Interest.

(b) The Servicer shall, on each day on which Collections of Pool Receivables are received (or deemed received) by the Seller or the Servicer:

(i) set aside and hold in trust (and shall, at the request of the Administrator, segregate in a separate account approved by the Administrator) for the benefit of the Purchasers, out of such Collections, an amount equal to the sum of (i) the Aggregate Discount accrued through such day for each Portion of Capital and not previously set aside, (ii) an amount equal to the fees set forth in the Fee Letters accrued and unpaid through such day and not previously set aside, and (iii) an amount equal to the aggregate of the Purchasers' Share of the Servicing Fee accrued through such day and not previously set aside;

(ii) subject to Section 1.4(f), if such day is not a Termination Day, remit to the Seller, ratably, on behalf of the Purchasers, the remainder of such Collections. Such remainder shall, to the extent representing a return of the Aggregate Capital, be automatically reinvested, ratably, according to each Purchaser's Capital, in Pool Receivables and in the Related Security, Collections and other proceeds with respect thereto; provided, however, that if, after giving effect to any such reinvestment, (x) the Purchased Interest would exceed 100%, or (y) the Aggregate Capital plus the Adjusted LC Participation Amount would exceed the Purchase Limit then in effect, then the Servicer shall not remit such remainder to the Seller or reinvest, but shall set aside and hold in trust for the Administrator (for the benefit of the Purchasers) (and shall, at the request of the Administrator, segregate in a separate account approved by the Administrator) a portion of such Collections that, together with the other Collections set aside pursuant to this paragraph, shall equal the amount necessary to reduce the Purchased Interest to 100% or cause the Aggregate Capital plus the Adjusted LC Participation Amount not to exceed the Purchase Limit, as the case may be (determined as if such Collections set aside had been applied to reduce the Aggregate Capital and/or the Adjusted LC Participation Amount at such time), which amount shall be distributed to the Administrator (for the benefit of the Purchasers) for distribution and application on the next Settlement Date in accordance with Section 1.4(d); provided, further, that in the case of any Purchaser that has either (i) provided notice to its Purchaser Agent and the Administrator of its refusal, following any request by the Seller to extend the then-current Scheduled Termination Date, to extend its Commitment hereunder or (ii) otherwise not affirmatively consented to any request by the Seller to extend the then-current Scheduled Termination Date (in either case, an "Exiting Purchaser"), then such Purchaser's ratable share (determined according to outstanding Capital and Pro Rate Share of the Adjusted LC Participation Amount) of Collections shall not be reinvested or remitted to the Seller and shall instead be held in trust for the benefit of such Purchaser and applied in accordance with clause (iii) below;

(iii) if such day is a Termination Day (or any Non-Extension Day), set aside, segregate and hold in trust for the benefit of the Purchasers or Exiting Purchasers, as applicable (and shall, at the request of the Administrator, segregate in a separate account approved by the Administrator), the entire remainder of such Collections (or in the case of any Non-Extension Day that is not also a Termination Day, an amount equal to the Exiting Purchasers' ratable share of such Collections based on their respective Capital; provided, however, that solely for purposes of determining such Exiting Purchasers' ratable share of such Collections, such Exiting Purchasers' Capital shall be deemed to remain constant from the first Non-Extension Day until the date such Exiting Purchasers' Capital has been paid in full; it being understood that if a Termination Day occurs following a Non-Extension Day, such Exiting Purchasers' Capital shall be recalculated taking into account amounts received by such Exiting Purchasers in respect of this parenthetical and, thereafter, Collections shall be set aside for all Purchasers ratably in respect of their respective Capital (as recalculated)); and

(iv) release to the Seller (subject to Section 1.4(f)) for its own account any Collections in excess of: (w) amounts required to be reinvested in accordance with clause (ii) plus (x) the amounts that are required to be set aside pursuant to clause (i) above, pursuant to the *proviso* to clause (ii) above and pursuant to clause (iii) above, plus (y) the Seller's Share of the Servicing Fee accrued and unpaid through such day and all reasonable and appropriate out-of-pocket costs and expenses of the Servicer for servicing, collecting and administering the Pool Receivables plus (z) all other amounts then due and payable by the Seller under this Agreement to the Purchasers, the Purchaser Agents, the Administrator, and any other Indemnified Party or Affected Person.

(c) The Servicer shall, in accordance with the priorities set forth in Section 1.4(d), deposit on each Settlement Date into the account from time to time specified in writing by the Administrator, Collections held for the benefit of the Purchasers pursuant to Section 1.4(b)(i) or 1.4(f) plus the amount of Collections then held for the benefit of the Purchasers pursuant to Sections 1.4(b)(ii) and 1.4(b)(iii); provided, that if Lyondell Chemical or an Affiliate thereof is the Servicer, such day is not a Termination Day and the Administrator has not notified Lyondell Chemical (or such Affiliate) that such right is revoked, Lyondell Chemical (or such Affiliate) may retain the portion of the Collections set aside pursuant to Section 1.4(b)(i) that represents the aggregate of the Purchasers' Share of the Servicing Fee. On or prior to the last day of each Settlement Period, each Purchaser Agent will notify the Servicer and the Administrator telephonically, by electronic mail or by facsimile of the amount of Discount accrued with respect to each Portion of Capital during such related Settlement Period.

(d) The Servicer shall distribute the amounts described in Section 1.4(c) as follows:

(i) if such distribution occurs on a day that is not a Termination Day:

(A) first, to the Administrator for distribution to each Purchaser Agent ratably according to the Discount and Fees accrued during such Settlement Period (for the benefit of the relevant Purchasers within such Purchaser Agent's Purchaser Group) in payment in full of all such accrued Discount with respect to each Portion of Capital funded or maintained by the Purchasers within such Purchaser Agent's Purchaser Group and all such accrued Fees; it being understood that each Purchaser Agent shall distribute such amounts to the Purchasers within such Purchaser Agent's Purchaser Group ratably according to Discount and Fees, respectively; and

(B) second, if the Servicer has set aside amounts in respect of the Servicing Fee pursuant to Section 1.4(b)(i) and has not retained such amounts pursuant to Section 1.4(c), to the Servicer (payable in arrears on each Settlement Date) in payment in full of the aggregate of the Purchasers' Share of accrued Servicing Fees so set aside; and

(ii) if such distribution occurs on a Termination Day:

(A) first, to the Servicer (if other than Lyondell Chemical or an Affiliate thereof), in payment in full of the Purchasers' Share of all accrued Servicing Fees;

(B) second, to the Administrator for distribution to each Purchaser Agent ratably (based on the aggregate accrued and unpaid Discount and Fees payable to all Purchasers at such time) (for the benefit of the relevant Purchasers in such Purchaser Agent's Purchaser Group) in payment in full of all such accrued Discount with respect to each Portion of Capital funded or maintained by the Purchasers within such Purchaser Agent's Purchaser Group and all such accrued Fees;

(C) third, to the Administrator for distribution to each Purchaser Agent ratably according to the aggregate of the Capital of each Purchaser in each such Purchaser Agent's Purchaser Group (for the benefit of the relevant Purchasers in such Purchaser Agent's Purchaser Group) in payment in full of each Purchaser's Capital; it being understood that each Purchaser Agent shall distribute such amounts described in the first, second and third clauses of this Section 1.4(d)(ii) to the Purchasers within such Purchaser Agent's Purchaser Group ratably according to Discount, Fees and Capital, respectively;

(D) fourth, to the LC Collateral Account for the benefit of the LC Bank and the LC Participants, the amount necessary to cash collateralize the LC Participation Amount until the amount of cash collateral held in such LC Collateral Account equals 100% of the LC Participation Amount plus the aggregate amount of all LC Participation Fees and LC Fronting Fees to accrue thereon through the scheduled expiration of the related Letters of Credit;

(E) fifth, if the Aggregate Capital and accrued Aggregate Discount with respect to each Portion of Capital for all Purchaser Groups have been reduced to zero, and the aggregate of the Purchasers' Share of all accrued Servicing Fees payable to the Servicer (if other than Lyondell Chemical or an Affiliate thereof) have been paid in full, to the Administrator for distribution to each Purchaser Agent ratably, based on the remaining amounts, if any, payable to each Purchaser in such Purchaser Agent's Purchaser Group (for the benefit of the relevant Purchasers in such Purchaser Agent's Purchaser Group), the Administrator and any other Indemnified Party or Affected Person in payment in full of any other amounts owed thereto by the Seller or the Servicer hereunder; and

(F) sixth, to the Servicer (if the Servicer is Lyondell Chemical or an Affiliate thereof) in payment in full of the aggregate of the Purchasers' Share of all accrued Servicing Fees.

After the Aggregate Capital, Aggregate Discount, fees payable pursuant to the Fee Letters and Servicing Fees with respect to the Purchased Interest, and any other amounts payable by the Seller and the Servicer to each Purchaser Group, the Administrator or any other Indemnified Party or Affected Person hereunder, have been paid in full, and (on and after a Termination Day) after an amount equal to 100% of the LC Participation Amount and the Expected LC Fees is on deposit in the LC Collateral Account, all additional Collections with respect to the Purchased Interest shall be paid to the Seller for its own account. Notwithstanding anything to the contrary set forth in this Section 1.4, the Administrator shall have no obligation to distribute or pay any amount under this Section 1.4 except to the extent actually received by the Administrator. Additionally, each Purchaser Agent hereby covenants and agrees to provide timely and accurate responses to each of the Administrator's requests for information necessary for the Administrator to make the allocations to the Purchaser Agents required to be made by the Administrator pursuant to Sections 1.4(d) and 1.4(f), including the applicable account of each Purchaser Agent for which amounts should be distributed.

(e) For the purposes of this Section 1.4:

(i) if on any day the Outstanding Balance of any Pool Receivable is either (A) reduced or canceled as a result of (I) any defective, rejected, returned goods or services, any cash or other discount, or any failure by an Originator to deliver any goods or perform any services or otherwise perform under the underlying Contract or invoice, (II) any change in or cancellation of any of the terms of such contract or invoice or any other adjustment by the Originator, the Servicer or the Seller which reduces the amount payable by the Obligor on the related Receivable, (III) any rebates, warranties, allowances or charge-backs or (IV) any setoff or credit in respect of any claim by the Obligor thereof (whether such claim arises out of the same or a related transaction or an unrelated transaction) or (B) subject to any specific dispute, offset, counterclaim or defense whatsoever (except the discharge in bankruptcy of the Obligor thereof), in either case, the Seller shall be deemed to have received on such day a Collection of such Pool Receivable in the amount of such reduction, adjustment, cancellation or dispute and shall, subject to Section 1.4(e)(v), (x) prior to the Termination Date, hold any and all such amounts in trust for the benefit of the Purchasers and their assigns and, on the following Settlement Date, apply such amounts in accordance with this Section 1.4 or (y) on or after the Termination Date, within two (2) Business Days of such reduction or adjustment, pay any and all such amounts in respect thereof to a Lock-Box Account for the benefit of the Purchasers and their assigns and for application pursuant to Section 1.4;

(ii) if (x) the representation and warranty in Section 1(j) of Exhibit III is not true on the day such representation and warranty is made or deemed made, (y) if any of the representations or warranties in Section 1(r) of Exhibit III is not true with respect to any Pool Receivable or (z) the Obligor with respect to any Pool Receivable is designated an Excluded Obligor in accordance with Section 4.2(b) on any day, the Seller shall be deemed to have received a Collection of the full Outstanding Balance of such Pool Receivable or such Excluded Receivable existing on the date of such designation, as applicable, and shall, within two (2) Business Days of such designation or of the Seller or the Servicer having knowledge or notice of any such inaccuracy, as applicable, subject to Section 1.4(e)(v), pay the amount of such deemed Collection to a Lock-Box Account (or as otherwise directed by the Administrator at such time) for the benefit of the Purchasers and their assigns and for application pursuant to Section 1.4(b) (Collections deemed to have been received pursuant to Section 1.4(e)(i) or (ii) are hereinafter sometimes referred to as “Deemed Collections”);

(iii) except as provided in Section 1.4(e)(i) and (ii) or as otherwise required by Applicable Law or the relevant Contract, all Collections received from an Obligor of any Receivable shall be applied to the Receivables of such Obligor in the order of the age of such Receivables, starting with the oldest such Receivable, unless such Obligor designates that its payment is to be applied to specific Receivables; and

(iv) if and to the extent the Administrator, any Purchaser Agent or any Purchaser shall be required for any reason to pay over to an Obligor (or any trustee, receiver, custodian or similar official in any Insolvency Proceeding) any amount received by it hereunder, such amount shall be deemed not to have been so received by such Person but rather to have been retained by the Seller and, accordingly, such Person shall have a claim against the Seller for such amount, payable when and to the extent that any distribution from or on behalf of such Obligor is made in respect thereof.

(v) so long as no Termination Day then exists, the Seller may satisfy its obligation to deliver the amount of such Deemed Collections to a Lock-Box Account by instead recalculating (or being deemed to have recalculated) the Purchased Interest by decreasing the Net Receivables Pool Balance by the amount of such Deemed Collections, but only so long as the Purchased Interest does not exceed 100% after giving effect to such adjustment.

(f) If at any time the Seller shall wish to cause a voluntary reduction (in whole or in part) of the Aggregate Capital, the Seller may do so as follows:

(i) the Seller shall give the Administrator and each Purchaser Agent written notice in substantially the form of Annex C (each, a “Paydown Notice”) at least two Business Days prior to the date of such reduction, which Paydown Notice shall include, among other things, the amount of such proposed reduction and the proposed date on which such reduction will commence;

(ii) (A) on the proposed date of the commencement of such reduction and on each day thereafter, the Servicer shall cause Collections not to be reinvested until the amount thereof not so reinvested shall equal the desired amount of reduction or (B) the Seller shall remit to the Administrator for distribution to each Purchaser Agent ratably according to the aggregate of the Capital of each Purchaser in each such Purchaser Agent’s Purchaser Group (for the benefit of the relevant Purchasers in such Purchaser Agent’s Purchaser Group), no later than 12:00 p.m. (New York City time), in immediately available funds, an amount equal to the desired amount of such reduction together with accrued and unpaid Aggregate Discount with respect to the amount of the Aggregate Capital reduced thereby and any amount due and payable under Section 1.8(a) in connection therewith;

(iii) in the case of clause (ii)(A) above, the Servicer shall hold such Collections in trust for the benefit of the Purchasers for payment to the Administrator for distribution to each Purchaser Agent ratably (based on their respective Portions of Capital funded thereby and for the benefit of the relevant Purchasers in such Purchaser Agent’s Purchaser Group) on the next Settlement Date immediately following the current Settlement Period or such other date approved by the Administrator and each such Purchaser Agent, and the Aggregate Capital (together with the Capital of any related Purchaser) shall be deemed reduced in the amount to be paid to each such Purchaser Agent (on behalf of its related Purchasers) only when in fact finally so paid; and

(iv) any such amounts owing by the Seller pursuant to Section 1.8 related to such reduction shall be distributed pursuant to Section 1.4(c) on the Settlement Date immediately following the date of such reduction; provided, that in connection with any one-time repayment permitted under Section 1.21(ba), the Seller may elect to make such payment on a date other than a Settlement Date;

provided, that the amount of any such reduction shall be not less than \$5,000,000 and shall be an integral multiple of \$1,000,000.

Section 1.5 Fees.

The Seller shall pay to the Administrator for distribution to each Purchaser Agent (for allocation among the members of the applicable Purchaser Group), certain fees in the amounts and on the dates set forth in (i) that certain fee letter agreement, dated as of the Second Amendment Effective Date, among the Seller, the Servicer, the Purchaser Agents (on behalf of their respective Purchaser Groups), the LC Bank and the Administrator (as amended, restated, supplemented or otherwise modified from time to time, the “RPA Fee Letter”) or (ii) that certain fee letter agreement, dated as of the Second Amendment Effective Date, among the Seller, the Servicer, the Administrator and the LC Bank (as amended, restated, supplemented or otherwise modified from time to time, the “Agent Fee Letter”; together with the RPA Fee Letter, individually, a “Fee Letter” and collectively, the “Fee Letters”).

Section 1.6 Payments and Computations, Etc.

(a) All amounts to be paid or deposited by the Seller or the Servicer hereunder or under any other Transaction Document shall be made without reduction for offset or counterclaim and shall be paid or deposited no later than 12:00 p.m. (New York City time) on the day when due in immediately available funds to the applicable account from time to time designated in writing by the Administrator. All amounts received after 12:00 p.m. (New York City time) will be deemed to have been received on the next Business Day. Except as expressly set forth herein (including, without limitation, as set forth in Sections 1.4(b)(ii) or (iii) with respect to Collections held in trust for Exiting Purchasers), the Administrator shall promptly (and, if reasonably practicable, on the day it receives such amounts) distribute to the applicable Purchaser Agent amounts received by it hereunder for the benefit of the Purchasers within such Purchaser Agent's Purchaser Group, and such Purchaser Agent shall promptly thereafter distribute such amounts received by it to the Purchasers within its Purchaser Group ratably (x) in the case of such amounts paid in respect of Discount and Fees, according to the Discount and Fees payable to such Purchasers and (y) in the case of such amounts paid in respect of Capital (or in respect of any other obligations other than Discount and Fees), according to the outstanding Capital funded by such Purchasers. Unless the Administrator shall have received notice from Seller prior to the date on which any payment is due to the Administrator for the account of any Purchasers hereunder that the Seller (or the Servicer on its behalf) will not make such payment (including because Collections are not available therefor), the Administrator may assume that the Seller has made or will make such payment on such date in accordance herewith and may (but shall not be obligated to), in reliance upon such assumption, distribute to the Purchaser Agents the amount due. In such event, if the Seller (or the Servicer on its behalf) has not in fact made such payment, then each Purchaser Agent severally agrees to repay to the Administrator forthwith on demand the amount so distributed to such Purchaser Agent, 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 Administrator, at the greater of the Federal Funds Rate and a rate determined by the Administrator in accordance with banking industry rules on interbank compensation.

(b) The Seller or the Servicer, as the case may be, shall, to the extent permitted by law, pay interest on any amount not paid or deposited by the Seller or the Servicer, as the case may be, when due hereunder, at an interest rate equal to 2.0% per annum above the Base Rate, payable on demand.

(c) All computations of interest under Section 1.6(b) and all computations of Discount, fees and other amounts hereunder shall be made on the basis of a year of 360 (or 365 or 366, as applicable, with respect to Discount or other amounts calculated by reference to the Base Rate) days for the actual number of days elapsed. Whenever any payment or deposit to be made hereunder shall be due on a day other than a Business Day, such payment or deposit shall be made on the next Business Day and such extension of time shall be included in the computation of such payment or deposit.

Section 1.7 Increased Costs.

(a) If after the Closing Date the Administrator, any Purchaser Agent, any Purchaser, any Liquidity Provider or any other Program Support Provider (each an "Affected Person") determines that any Change in Law affects or would affect the amount of capital required or expected to be maintained by such Affected Person, and such Affected Person determines that the amount of such capital is increased by or based upon the existence of any commitment to make purchases of (or otherwise to maintain the investment in) Pool Receivables or issue any Letter of Credit or any related liquidity facility, credit enhancement facility and other commitments of the same type, then, upon demand by such Affected Person or its related Purchaser Agent (with a copy to the Administrator), the Seller shall promptly pay to the related Purchaser Agent, for the account of such Affected Person, from time to time as specified by such Affected Person or its related Purchaser Agent, additional amounts sufficient to compensate such Affected Person for such increased costs in the light of such circumstances, to the extent that such Affected Person reasonably determines such increase in capital to be allocable to the existence of any of such commitments.

(b) If due to any Change in Law, there shall be any increase after the Closing Date in the cost (other than with respect to Taxes) to any Affected Person of agreeing to purchase or purchasing, or maintaining the ownership of, the Purchased Interest (or its portion thereof and including, without limitation, funding or maintaining its Capital or issuing or participating in any Letter of Credit), then, upon demand by such Affected Person, the Seller shall promptly pay, in accordance with Section 1.7(e), to such Affected Person, from time to time as specified by such Affected Person, additional amounts sufficient to compensate such Affected Person for such increased costs.

(c) If any Affected Person reasonably determines that any Change in Law (i) does or shall impose, modify or hold applicable any reserve, special deposit, compulsory loan or similar requirement against assets held by, or deposits or other liabilities in or for the account of, purchases, advances or loans by, or other credit extended by, or any other acquisition of funds by, any office of such Affected Person that are not otherwise included in the determination of ~~the Euro-Rate~~ Adjusted Term SOFR or the Base Rate hereunder, or (ii) does or shall impose on such Affected Person any other condition or requirement (other than with respect to Taxes), and the result of any of the foregoing is: (A) to increase the cost to such Affected Person of acting as Administrator, or of agreeing to purchase or purchasing or maintaining the ownership of undivided percentage ownership interests with regard to, or issuing any Letter of Credit in respect of, the Purchased Interest (or interests therein) or any portion of Capital, or (B) to reduce any amount receivable hereunder (whether directly or indirectly) by such Affected Person, then, in any such case, upon demand therefor by such Affected Person, the Seller shall pay to such Affected Person additional amounts necessary to compensate such Affected Person for such additional cost or reduced amount receivable (except to the extent such cost or reduction relates to Taxes). All such amounts shall be payable as incurred.

(d) If any Affected Person reasonably determines that a Change in Law subjects such Affected Person to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (e) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto, and the result of the foregoing is: (A) to increase the cost to such Affected Person of agreeing to purchase or purchasing or maintaining the ownership of undivided percentage ownership interests with regard to, or issuing any Letter of Credit in respect of, the Purchased Interest (or interests therein) or any portion of Capital, or (B) to reduce any amount receivable by such Affected Person under this Agreement, then, in any such case, upon demand therefor by such Affected Person, the Seller shall pay to such Affected Person additional amounts necessary to compensate such Affected Person for such additional cost or reduced amount receivable. All such amounts shall be payable as incurred.

(e) A certificate of an Affected Person (or its related Purchaser Agent) setting forth the amount or amounts necessary to compensate such Affected Person as specified in Sections 1.7(a), 1.7(b), 1.7(c) or 1.7(d) and delivered to the Seller and the Administrator, shall be conclusive absent manifest error. The Seller shall pay such Affected Person's related Purchaser Agent (for the account of such Affected Person) the amount shown as due on any such certificate on the first Settlement Date to occur at least 10 days after the Seller's receipt of such certificate.

Failure or delay on the part of any Affected Person to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Affected Person's right to demand such compensation, provided that the Seller shall not be required to compensate an Affected Person pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than 90 days prior to the date that such Affected Person notifies the Seller of the Change in Law giving rise to such increased costs or reductions and of such Affected Person's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 90-day period referred to above shall be extended to include the period of retroactive effect thereof).

Notwithstanding any other provision of this Agreement, no Affected Person shall demand compensation pursuant to the provisions of this Section if it shall not at the time be the general policy or practice of such Affected Person to demand such compensation in similar circumstances.

Section 1.8 Break Funding Costs.

(a) The Seller will compensate each Purchaser in accordance with the terms of this Section 1.8 for all losses, expenses and liabilities (including any loss, expense or liability incurred by reason of the liquidation or reemployment of deposits or other funds acquired by such Purchaser in order to fund or maintain any Portion of Capital hereunder) as a result of (i) any repayment (in whole or in part) of any Portion of Capital of such Purchaser on any day other than a Settlement Date or (ii) any Funded Purchase not being completed by the Seller in accordance with its request therefor pursuant to Section 1.2. Such losses, expenses and liabilities will include the amount, if any, by which (A) the additional Discount that would have accrued had such repayment or failure to Purchase not have occurred, exceeds (B) the income, if any, received by the applicable Purchaser.

(b) A certificate of a Purchaser (or its related Purchaser Agent) setting forth the amount or amounts necessary to compensate such Purchaser as specified in Section 1.8(a), and delivered to the Seller and the Administrator, shall be conclusive absent manifest error. The Seller shall pay such Purchaser's related Purchaser Agent (for the account of such Purchaser) the amount shown as due on any such certificate on the first Settlement Date to occur at least 10 days after the Seller's receipt of such certificate.

Section 1.9 Inability to Determine Rates; Illegality.

(c) ~~Section 1.9~~ Inability to Determine Euro-Rate Rates. Subject to Section 1.21, if:

(i) the Administrator determines (which determination shall be conclusive and binding absent manifest error) that if Adjusted Term SOFR is utilized in any calculations hereunder or under any other Transaction Document with respect to any Obligations, Discount, interest, fees, commissions or other amounts, "Adjusted Term SOFR" cannot be determined pursuant to the definition thereof on or prior to the first day of any Settlement Period;

(ii) the Majority Purchaser Agents determine that for any reason in connection with any request for such Loan or a conversion thereto or a continuation thereof that if Adjusted Term SOFR is utilized in any calculations hereunder or under any other Transaction Document with respect to any Obligations, Discount, interest, fees, commissions or other amounts, Adjusted Term SOFR does not adequately and fairly reflect the cost to such Purchasers of maintaining any Portion of Capital during any Settlement Period, and the Majority Purchaser Agents have provided notice of such determination to the Administrator;

~~(a) If then, in each case, the Administrator (or any Purchaser Agent) determines on any day (which determination shall be final and conclusive absent manifest error) that, by reason of circumstances affecting the interbank eurodollar market generally, (i) deposits in dollars are not being offered to banks in the interbank eurodollar market for such day, (ii) adequate means do not exist for ascertaining the Euro-Rate for such day or (iii) the Euro-Rate does not accurately reflect the cost to any Purchaser (as determined by such Purchaser or such Purchaser's Purchaser Agent) of maintaining any Portion of Capital during any Settlement Period (or portion thereof), then the Administrator (or any Purchaser Agent) shall give notice thereof to the Seller will promptly so notify the Seller and each applicable Purchaser. Thereafter, until the Administrator or such Purchaser Agent notifies the Seller that the circumstances giving rise to such suspension no longer exist, (A) no Portion of Capital shall be funded at the Alternate Rate determined by reference to the Euro-Rate Adjusted Term SOFR and (B) the Discount for any outstanding Portions of Capital then funded at the Alternate Rate determined by reference to the Euro-Rate Adjusted Term SOFR shall be converted to the Alternate Rate determined by reference to the Base Rate.~~

(a) ~~If, on any day, the Administrator shall have been notified by Illegality. If~~ any Affected Person ~~that such Affected Person has determined (which determination shall be final and conclusive) determines~~ that any Change in Law, ~~or compliance by such~~ has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for Affected Person ~~with any Change in Law, shall make it unlawful or impossible for such Affected Person to~~ fund or maintain any Portion of Capital ~~at the Alternate Rate whose Discount is~~ determined by reference to ~~the Euro-Rate, the Administrator shall notify the Seller thereof. Upon receipt of such notice, until the Administrator SOFR, the Term SOFR Reference Rate, Adjusted Term SOFR or Term SOFR, then, upon notice thereof by such Affected Person to the Seller (through the Administrator) (an "Illegality Notice"). (a) any obligation of the Lenders to maintain any Portion of Capital with a Discount determined by reference to SOFR, the Term SOFR Reference Rate, Adjusted Term SOFR or Term SOFR shall be suspended, and (b) the Discount on such Portions of Capital shall, if necessary to avoid such illegality, be determined by the Administrator without reference to clause (a) of the definition of "Alternate Rate", in each case until each Affected Person notifies the Administrator and the Seller that the circumstances giving rise to such determination no longer apply, (A) no Portion of Capital shall be funded at the Alternate Rate determined by reference to the Euro-Rate and (B) the Discount for any outstanding Portions of Capital then funded at exist. Upon receipt of an Illegality Notice, the Seller shall, if necessary to avoid such illegality, upon demand from any Affected Person (with a copy to the Administrator), prepay or, if applicable, convert the applicable Discount to the Alternate Rate determined by without reference to the Euro-Rate shall be converted to the clause (a) of the definition of "Alternate Rate determined by reference to the Base Rate either (i)", on the last day of the then current Settlement Period, if such Affected Person Persons may lawfully continue to maintain such Portion Portions of Capital at the Alternate Rate determined by reference to the Euro-Rate to such day, or (ii) immediately, if such any Affected Person may not lawfully continue to maintain such Portion Portions of Capital at the Alternate Rate determined by reference to the Euro-Rate to the last day of the then current Settlement Period to such day.~~

Section 1.10 Taxes.

(a) Payments Free of Taxes. Any and all payments by or on account of any obligation of the Seller under this Agreement shall be made free and clear of and without reduction or withholding for any Taxes, except to the extent required by Applicable Law. In the event that a Tax shall be required by Applicable Law to be deducted from such payments, then (i) the applicable Withholding Agent shall be entitled to make such deductions as are determined by such Withholding Agent to be required based upon the information and documentation it has received pursuant to paragraph (e) below, (ii) such Withholding Agent shall timely pay the full amount deducted by it to the relevant Governmental Authority in accordance with Applicable Law and (iii) if the Tax is an Indemnified Tax, the sum payable shall be increased by the Seller as necessary so that after making all such deductions for Indemnified Taxes (including deductions for Indemnified Taxes applicable to additional sums payable under this paragraph (a)) the applicable Recipient receives an amount equal to the sum it would have received had no such deductions for Indemnified Taxes been made.

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

(c) Tax Indemnifications.

(i) The Seller shall indemnify the Administrator, any Purchaser and any Purchaser Agent within fifteen (15) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this paragraph (c)) described in this Section that are paid by the Administrator, such Purchaser, or such Purchaser Agent, as the case may be, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Seller by the Administrator, such Purchaser, or such Purchaser Agent (with a copy to the Administrator), shall be conclusive absent manifest error.

(ii) Each Purchaser shall, and does hereby, severally indemnify, and shall make payment in respect thereof within 10 days after demand therefor, (x) the Administrator against any Indemnified Taxes attributable to such Purchaser (but only to the extent that the Seller has not already indemnified the Administrator for such Indemnified Taxes and without limiting the obligation of the Seller to do so), (y) the Seller, the Servicer and the Administrator, as applicable, against any Taxes attributable to such Purchaser's failure to comply with the provisions of Section 5.3(b) relating to the maintenance of a Participant Register and (z) the Seller, the Servicer, and the Administrator, as applicable, against any Excluded Taxes attributable to such Purchaser, in each case, that are payable or paid by the Seller, the Servicer or the Administrator in connection with this Agreement or any Transaction Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Purchaser by the Administrator, the Seller or the Servicer shall be conclusive absent manifest error. Each Purchaser hereby authorizes the Administrator to set off and apply any and all amounts at any time owing to such Purchaser under this Agreement or any other Transaction Document against any amount due to the Administrator under this clause (ii).

(d) Evidence of Payments. As soon as practicable (but not later than 30 days) after any payment of Indemnified Taxes by the Seller to a Governmental Authority pursuant to this Section, the Seller shall deliver to the Administrator and the applicable Recipient (or its related Purchaser Agent) the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrator and the applicable Purchaser Agent.

(e) Tax Forms.

(i) Any Recipient or Affected Person that is entitled to an exemption from or reduction of any withholding Tax with respect to payments made under any Transaction Document shall deliver to the Seller and the Servicer, at the time or times reasonably requested by the Seller or the Servicer, such properly completed and executed documentation prescribed by Applicable Law or reasonably requested by the Seller or the Servicer as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Recipient or Affected Person, if reasonably requested by the Seller or the Servicer, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by the Seller or the Servicer as will enable the Seller or the Servicer to determine whether or not such Recipient is subject to backup withholding or information reporting requirements. Each Recipient and Affected Person agrees that if any form or certification it previously delivered pursuant to this Section 1.10(e) expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Seller and the Servicer in writing of its legal inability to do so.

(ii) Without limiting the generality of the foregoing,

(A) any Purchaser, Purchaser Agent, or Administrator that is a U.S. Person shall deliver to the Seller and the Servicer on or prior to the date on which such Purchaser, Purchaser Agent or Administrator becomes a Purchaser, Purchaser Agent or Administrator (as applicable) under this Agreement (and from time to time thereafter upon the reasonable request of the Seller or the Servicer), executed originals of IRS Form W-9 certifying that such Purchaser, Purchaser Agent or Administrator (as applicable) is exempt from U.S. federal backup withholding tax;

(B) any Purchaser, Purchaser Agent or Administrator that is not a U.S. Person shall, to the extent it is legally entitled to do so, deliver to the Seller and the Servicer (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Purchaser, Purchaser Agent or Administrator becomes a Purchaser, Purchaser Agent or Administrator (as applicable) under this Agreement (and from time to time thereafter upon the reasonable request of the Seller or the Servicer), whichever of the following is applicable:

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

(ii) executed originals of IRS Form W-8ECI;

(iii) in the case of a Purchaser, Purchaser Agent or Administrator claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate to the effect that such Purchaser, Purchaser Agent or Administrator (as applicable) is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Seller within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (a “U.S. Tax Compliance Certificate”) and (y) executed originals of IRS Form W-8BEN or IRS Form W-8BEN-E; or

(iv) to the extent a Purchaser, Purchaser Agent or Administrator (as applicable) is not the beneficial owner of payments made under a Transaction Document, executed originals of IRS Form W-8IMY on behalf of itself accompanied by IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable;

(C) any Purchaser, Purchaser Agent or Administrator that is not a U.S. Person shall, to the extent it is legally entitled to do so, deliver to the Seller and the Servicer (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Purchaser, Purchaser Agent or Administrator becomes a Purchaser, Purchaser Agent or Administrator (as applicable) under this Agreement (and from time to time thereafter upon the reasonable request of the Seller or the Servicer), executed originals of any other form prescribed by Applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by Applicable Law to permit the Seller or the Servicer to determine the withholding or deduction required to be made; and

(D) if a payment made to a Recipient under any Transaction Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Recipient 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 Recipient shall deliver to the Seller and the Servicer at the time or times prescribed by law and at such time or times reasonably requested by the Seller or the Servicer 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 Seller or the Servicer as may be necessary for the Seller and the Servicer to comply with their obligations under FATCA and to determine that such Recipient has complied with such Recipient's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(f) Treatment of Certain Refunds. If any Recipient determines, in its sole discretion, exercised in good faith, that it has received a refund or credit of any Taxes as to which it has been reimbursed or indemnified by the Seller or with respect to which the Seller has paid additional amounts pursuant to this Section, it shall pay over such refund or credit to the Seller (but only to the extent of indemnity payments made, or additional amounts paid, by the Seller under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses of such Recipient and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that the Seller, upon the request of such Recipient, agrees to repay the amount paid over to the Seller pursuant to this paragraph (f) (plus any penalties, interest, or other charges imposed by the relevant Governmental Authority) to such Recipient in the event such Recipient is required to repay such refund to such Governmental Authority. The foregoing shall not be construed to require any Recipient to make available its tax returns (or any other information relating to its Taxes which it deems confidential) to the Seller or any other Person.

(g) FATCA Treatment. For purposes of determining withholding Taxes imposed under FATCA, from and after the Second Amendment Effective Date, the Seller and the Servicer shall treat (and any Recipient and Affected Person hereby authorizes the Seller and the Servicer to treat) this Agreement and any outstanding Obligation as not qualifying as a "grandfathered obligation" within the meaning of Treasury Regulation Section 1.1471-2(b)(2)(i).

Section 1.11 Letters of Credit.

Subject to the terms and conditions hereof, the LC Bank shall issue or cause the issuance of Letters of Credit ("Letters of Credit") on behalf of the Seller (and, if applicable, on behalf of, or for the account of, an Originator or an Affiliate of an Originator in favor of such beneficiaries as such Originator or such Affiliate may elect with the consent of the Seller); provided, however, that the LC Bank will not be required to issue or cause to be issued any Letter of Credit to the extent that, after giving effect to the issuance of such Letter of Credit, (a) the sum of (i) the Aggregate Capital plus (ii) the LC Participation Amount would exceed the Purchase Limit, (b) the LC Participation Amount would exceed the aggregate of the Commitments of the LC Participants or (c) the LC Participation Amount would exceed the LC Sub-Limit. All amounts drawn upon Letters of Credit shall accrue Discount for each day on and after the applicable Reimbursement Date that such drawn amounts shall have not been reimbursed.

Section 1.12 Issuance of Letters of Credit; Participations.

(a) The Seller may request the LC Bank, upon two Business Days' prior written notice submitted on or before 2:00 p.m., New York City time (or such later date and time as the LC Bank may agree in its sole discretion), to issue a Letter of Credit by completing and delivering to the Administrator (i) the LC Bank's form of Letter of Credit Application (the "Letter of Credit Application"), substantially in the form of Annex E hereto, and a Purchase Notice, substantially in the form of Annex B hereto, in each case completed to the satisfaction of the Administrator and the LC Bank, and (ii) such other certificates, documents and other papers and information as the LC Bank may reasonably request. The Seller will also have the right to give instructions and make agreements with respect to any Letter of Credit Application and the disposition of documents, and to agree with the LC Bank upon any amendment, extension or renewal of any Letter of Credit.

(b) Each Letter of Credit will, among other things, (i) provide for the payment of sight drafts or other written demands for payment when presented for honor thereunder in accordance with the terms thereof and when accompanied by the documents described therein and (ii) have an expiry date not later than twelve (12) months after the date of issuance, extension or renewal, as the case may be, of such Letter of Credit and in no event later than twelve (12) months after the Termination Date. The terms of each Letter of Credit may include customary "evergreen" provisions providing that such Letter of Credit's expiry date shall automatically be extended for additional periods not to exceed twelve (12) months unless, not less than thirty (30) days (or such longer period as may be specified in such Letter of Credit) (the "Notice Date") prior to the applicable expiry date, the LC Bank delivers written notice to the beneficiary thereof declining such extension; provided, however, that if (x) any such extension would cause the expiry date of such Letter of Credit to occur after the date that is twelve (12) months after the Termination Date or (y) the LC Bank determines that any condition precedent (including, without limitation, those set forth in Section 1.1(a) or Exhibit II) to issuing such Letter of Credit hereunder (as if such Letter of Credit were then being first issued) is not satisfied (other than any such condition requiring the Seller to submit a Purchase Notice or Letter of Credit Application in respect thereof), then the LC Bank, in the case of clause (x) above, may (or, at the written direction of any LC Participant, shall) or, in the case of clause (y) above, shall, use reasonable efforts in accordance with (and to the extent permitted by) the terms of such Letter of Credit to prevent the extension of such expiry date (including notifying the Seller and the beneficiary of such Letter of Credit in writing prior to the Notice Date that such expiry date will not be so extended). Each Letter of Credit shall be subject either to the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce Publication No. 600, and any amendments or revisions thereof adhered to by the LC Bank or the International Standby Practices (ISP98-International Chamber of Commerce Publication Number 590), and any amendments or revisions thereof adhered to by the LC Bank, as determined by the LC Bank.

(c) The Administrator shall promptly notify the LC Bank and each LC Participant of the request by the Seller for a Letter of Credit hereunder.

(d) Immediately upon the issuance by the LC Bank of any Letter of Credit (or any amendment to a Letter of Credit increasing the amount thereof), the LC Bank shall be deemed to have sold and transferred to each LC Participant, and each LC Participant shall be deemed irrevocably and unconditionally to have purchased and received from the LC Bank, without recourse or warranty, an undivided interest and participation, to the extent of such LC Participant's Pro Rata Share, in such Letter of Credit, each drawing made thereunder and the obligations of the Seller hereunder with respect thereto, and any security therefor or guaranty pertaining thereto. Upon any change in the Commitments or Pro Rata Shares of the LC Participants pursuant to this Agreement, it is hereby agreed that, with respect to all outstanding Letters of Credit and unreimbursed drawings thereunder, there shall be an automatic adjustment to the participations pursuant to this Section 1.12(d) to reflect the new Pro Rata Shares of the assignor and assignee LC Participant or of all LC Participants with Commitments, as the case may be. In the event that the LC Bank makes any payment under any Letter of Credit and the Seller shall not have reimbursed such amount in full to the LC Bank pursuant to Section 1.14(a), each LC Participant will be obligated to make Participation Advances with respect to such Letter of Credit in accordance with Section 1.14(b).

Section 1.13 Requirements For Issuance of Letters of Credit.

The Seller shall authorize and direct the LC Bank to name the Seller, an Originator or an Affiliate of an Originator as the “Applicant” or “Account Party” of each Letter of Credit.

Section 1.14 Disbursements, Reimbursement.

(a) In the event of any request for a drawing under a Letter of Credit by the beneficiary or transferee thereof, the LC Bank will promptly notify the Administrator who will notify the Seller and each Purchaser Agent of such request. The Seller shall reimburse (such obligation to reimburse the LC Bank, the “Reimbursement Obligation”) the LC Bank (i) if the Seller shall have received notice of such drawing prior to 10:00 a.m., New York City time, on any Business Day, no later than 3:00 p.m., New York City time, on such Business Day, or (ii) otherwise, noon, New York City time, on the Business Day immediately following the day that the Seller receives such notice (each such date for reimbursement, a “Reimbursement Date”) in an amount equal to the amount so paid by the LC Bank. Upon its receipt of such notice, (i) the Seller will be deemed to have requested that a Purchase (each such Purchase, a “Reimbursement Purchase”) be made on the applicable Reimbursement Date in an amount equal to such Reimbursement Obligation and (ii) the Administrator will notify the Purchaser Agents of such requested Reimbursement Purchase. Subject to the limitations set forth in Section 1.1(a), a Reimbursement Purchase will be made by the Purchasers in each related Purchaser Group in accordance with Section 1.1(a) by delivering its Pro Rata Share of such Reimbursement Purchase (or, in the case of a Defaulting Purchaser, by the Administrator using funds in the LC Collateral Account, if available, to fund such Defaulting Purchaser’s Pro Rata Share of the Reimbursement Purchase) directly to the LC Bank. In the event the Seller fails to reimburse the LC Bank for the full amount of any drawing under any Letter of Credit by the applicable time, on the Reimbursement Date (including because the conditions precedent to a Reimbursement Purchase deemed to have been requested by the Seller pursuant to this Section 1.14(a) to reimburse the LC Bank shall not have been satisfied), the LC Bank will promptly notify each LC Participant thereof.

(b) Each LC Participant shall, upon receipt of any notice pursuant to Section 1.14(a), make available to the LC Bank an amount in immediately available funds equal to its Pro Rata Share of the amount of the drawing (a “Participation Advance”). If any LC Participant so notified fails to make available to the LC Bank the amount of such LC Participant’s Pro Rata Share of such amount by no later than 2:00 p.m., New York City time on the Reimbursement Date, then interest shall accrue on such LC Participant’s obligation to make such payment, from the Reimbursement Date to the date on which such LC Participant makes such payment (i) at a rate per annum equal to the Federal Funds Rate during the first three days following the Reimbursement Date and (ii) at a rate per annum equal to the rate applicable to Capital on and after the fourth day following the Reimbursement Date. Each LC Participant’s Commitment shall continue until the last to occur of any of the following events: (A) the LC Bank ceases to be obligated to issue or cause to be issued Letters of Credit hereunder; (B) no Letter of Credit issued hereunder remains outstanding and uncanceled or (C) all Persons (other than the Seller) have been fully reimbursed for all payments made under or relating to Letters of Credit.

Section 1.15 Repayment of Participation Advances.

(a) Upon receipt by the LC Bank for its account of immediately available funds from or for the account of the Seller (i) in reimbursement of any payment made by the LC Bank under a Letter of Credit with respect to which any LC Participant has made a Participation Advance to the LC Bank, or (ii) in payment of Discount on the Reimbursement Purchases made or deemed to have been requested in connection with any such draw, the LC Bank will pay to each LC Participant, ratably (based on the outstanding drawn amounts funded by each such LC Participant in respect of such Letter of Credit), in the same funds as those received by the LC Bank.

(b) If the LC Bank is required at any time to return to the Seller, or to a trustee, receiver, liquidator, custodian, or any official in any insolvency proceeding, any portion of the payments made by the Seller to the LC Bank pursuant to this Agreement in reimbursement of a payment made under a Letter of Credit or interest or fee thereon, each LC Participant shall, on demand of the LC Bank, forthwith return to the LC Bank the amount of its Pro Rata Share of any amounts so returned by the LC Bank plus interest at the Federal Funds Rate, from the date the payment was first made to such LC Participant through, but not including, the date the payment is returned by such LC Participant.

(c) If any Letters of Credit are outstanding and undrawn on the Termination Date, the LC Collateral Account shall be funded from Collections (or by other funds available to the Seller) in an amount equal to the aggregate undrawn face amount of such Letters of Credit plus fees to accrue through the stated expiration dates thereof.

(d) Funds in the LC Collateral Account will be used to reimburse the LC Bank and (to the extent they have unreimbursed Participation Advances) the LC Participants for fees related to the Letters of Credit and for any draws on the Letters of Credit and Participation Advances which have not reimbursed by the Seller or repaid from Collections. If at any time the amount of the funds on deposit in the LC Collateral Account exceeds 100% of the LC Participation Amount at such time, plus the amount of the Expected LC Fees at such time, the Administrator shall remit an amount equal to such excess to the Servicer to be applied as a Collection of Pool Receivables in accordance with Section 1.4(d). Any funds on deposit in the LC Cash Collateral Account after all Letters of Credit have expired, all draws on the Letters of Credit have been reimbursed, all Participation Advances have been repaid, all fees due with respect to the Letters of Credit have been paid in full, and the Facility has been terminated, shall be remitted to the Seller.

Section 1.16 Documentation.

The Seller agrees to be bound by the terms of the Letter of Credit Application and by the LC Bank's reasonable interpretations of any Letter of Credit issued for the Seller and by the LC Bank's written regulations and customary practices relating to letters of credit, though the LC Bank's reasonable interpretation of such regulations and practices may be different from the Seller's own. In the event of a conflict between the Letter of Credit Application and this Agreement, this Agreement shall govern. It is understood and agreed that, except in the case of gross negligence or willful misconduct by the LC Bank, the LC Bank shall not be liable for any error, negligence and/or mistakes, whether of omission or commission, in following the Seller's instructions or those contained in the Letters of Credit or any modifications, amendments or supplements thereto.

Section 1.17 Determination to Honor Drawing Request.

In determining whether to honor any request for drawing under any Letter of Credit by the beneficiary thereof, the LC Bank shall be responsible only to determine that the documents and certificates required to be delivered under such Letter of Credit have been delivered and that they comply on their face with the requirements of such Letter of Credit and that any other drawing condition appearing on the face of such Letter of Credit has been satisfied in the manner so set forth.

Section 1.18 Nature of Participation and Reimbursement Obligations.

Each LC Participant's obligation in accordance with this Agreement to make Participation Advances as a result of a drawing under a Letter of Credit, and the obligations of the Seller to reimburse the LC Bank upon a draw under a Letter of Credit, shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Article I under all circumstances, including the following circumstances:

(i) any set-off, counterclaim, recoupment, defense or other right which such LC Participant may have against the LC Bank, the Administrator, the Purchaser Agents, the Purchasers, the Seller or any other Person for any reason whatsoever;

(ii) the failure of the Seller or any other Person to comply with the conditions set forth in this Agreement for the making of a purchase, reinvestments, requests for Letters of Credit or otherwise, it being acknowledged that such conditions are not required for the making of Participation Advances hereunder;

(iii) any lack of validity or enforceability of any Letter of Credit or any set-off, counterclaim, recoupment, defense or other right which the Seller, any Originator or any Affiliate thereof on behalf of which a Letter of Credit has been issued may have against the LC Bank, the Administrator, any Purchaser, any Purchaser Agent or any other Person for any reason whatsoever;

(iv) any claim of breach of warranty that might be made by the Seller, the LC Bank or any LC Participant against the beneficiary of a Letter of Credit, or the existence of any claim, set-off, defense or other right which the Seller, the LC Bank or any LC Participant may have at any time against a beneficiary, any successor beneficiary or any transferee of any Letter of Credit or the proceeds thereof (or any Persons for whom any such transferee may be acting), the LC Bank, any LC Participant, the Administrator, any Purchaser or any Purchaser Agent or any other Person, whether in connection with this Agreement, the transactions contemplated herein or any unrelated transaction (including any underlying transaction between the Seller or any Subsidiaries of the Seller or any Affiliates of the Seller and the beneficiary for which any Letter of Credit was procured);

(v) the lack of power or authority of any signer of, or lack of validity, sufficiency, accuracy, enforceability or genuineness of, any draft, demand, instrument, certificate or other document presented under any Letter of Credit, or any such draft, demand, instrument, certificate or other document proving to be forged, fraudulent, invalid, defective or insufficient in any respect or any statement therein being untrue or inaccurate in any respect, even if the Administrator or the LC Bank has been notified thereof;

(vi) payment by the LC Bank under any Letter of Credit against presentation of a demand, draft or certificate or other document which does not comply with the terms of such Letter of Credit other than as a result of the gross negligence or willful misconduct of the LC Bank;

(vii) the solvency of, or any acts or omissions by, any beneficiary of any Letter of Credit, or any other Person having a role in any transaction or obligation relating to a Letter of Credit, or the existence, nature, quality, quantity, condition, value or other characteristic of any property or services relating to a Letter of Credit;

(viii) any failure by the LC Bank or any of the LC Bank's Affiliates to issue any Letter of Credit in the form requested by the Seller, unless the LC Bank has received written notice from the Seller of such failure within three Business Days after the LC Bank shall have furnished the Seller a copy of such Letter of Credit and such error is material and no drawing has been made thereon prior to receipt of such notice;

(ix) any Material Adverse Effect;

(x) any breach of this Agreement or any other Transaction Document by any party thereto;

(xi) the occurrence or continuance of an Insolvency Proceeding with respect to the Seller, any Originator or any Affiliate thereof;

(xii) the fact that a Termination Event or an Unmatured Termination Event shall have occurred and be continuing;

(xiii) the fact that this Agreement or the obligations of the Seller or the Servicer hereunder shall have been terminated; and

(xiv) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing.

Section 1.19 Liability for Acts and Omissions.

As between the Seller, on the one hand, and the Administrator, the LC Bank, the LC Participants, the Purchaser Agents and the Purchasers, on the other, the Seller assumes all risks of the acts and omissions of, or misuse of any Letter of Credit by, the respective beneficiaries of such Letter of Credit. In furtherance and not in limitation of the foregoing, none of the Administrator, the LC Bank, the LC Participants, the Purchaser Agents or the Purchasers shall be responsible for: (i) the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for an issuance of any such Letter of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged (even if the LC Bank or any LC Participant shall have been notified thereof); (ii) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any such Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason; (iii) the failure of the beneficiary of any such Letter of Credit, or any other party to which such Letter of Credit may be transferred, to comply fully with any conditions required in order to draw upon such Letter of Credit or any other claim of the Seller against any beneficiary of such Letter of Credit, or any such transferee, or any dispute between or among the Seller and any beneficiary of any Letter of Credit or any such transferee; (iv) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, electronic mail, cable, telegraph, telex, facsimile or otherwise, whether or not they be encrypted; (v) errors in interpretation of technical terms; (vi) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any such Letter of Credit or of the proceeds thereof; (vii) the misapplication by the beneficiary of any such Letter of Credit of the proceeds of any drawing under such Letter of Credit; or (viii) any consequences arising from causes beyond the control of the Administrator, the LC Bank, the LC Participants, the Purchaser Agents and the Purchasers, including any Governmental Acts, and none of the above shall affect or impair, or prevent the vesting of, any of the LC Bank's rights or powers hereunder. Nothing in the preceding sentence shall relieve the LC Bank from liability for its gross negligence or willful misconduct, as determined by a final non-appealable judgment of a court of competent jurisdiction, in connection with actions or omissions described in such clauses (i) through (viii) of such sentence. In no event shall the Administrator, the LC Bank, the LC Participants, the Purchaser Agents or the Purchasers or their respective Affiliates, be liable to the Seller or any other Person for any indirect, consequential, incidental, punitive, exemplary or special damages or expenses (including without limitation attorneys' fees), or for any damages resulting from any change in the value of any property relating to a Letter of Credit.

Without limiting the generality of the foregoing, the Administrator, the LC Bank, the LC Participants, the Purchaser Agents and the Purchasers and each of its Affiliates (i) may rely on any written communication believed in good faith by such Person to have been authorized or given by or on behalf of the applicant for a Letter of Credit; (ii) may honor any presentation if the documents presented appear on their face to comply with the terms and conditions of the relevant Letter of Credit; (iii) may honor a previously dishonored presentation under a Letter of Credit, whether such dishonor was pursuant to a court order, to settle or compromise any claim of wrongful dishonor, or otherwise, and shall be entitled to reimbursement to the same extent as if such presentation had initially been honored, together with any interest paid by the LC Bank or its Affiliates; (iv) may honor any drawing that is payable upon presentation of a statement advising negotiation or payment, upon receipt of such statement (even if such statement indicates that a draft or other document is being delivered separately), and shall not be liable for any failure of any such draft or other document to arrive, or to conform in any way with the relevant Letter of Credit; (v) may pay any paying or negotiating bank claiming that it rightfully honored under the laws or practices of the place where such bank is located; and (vi) may settle or adjust any claim or demand made on the Administrator, the LC Bank, the LC Participants, the Purchaser Agents or the Purchasers or their respective Affiliates, in any way related to any order issued at the applicant's request to an air carrier, a letter of guarantee or of indemnity issued to a carrier or any similar document (each an "Order") and may honor any drawing in connection with any Letter of Credit that is the subject of such Order, notwithstanding that any drafts or other documents presented in connection with such Letter of Credit fail to conform in any way with such Letter of Credit.

In furtherance and extension and not in limitation of the specific provisions set forth above, any action taken or omitted by the LC Bank under or in connection with any Letter of Credit issued by it or any documents and certificates delivered thereunder, if taken or omitted in good faith and without gross negligence or willful misconduct, as determined by a final non-appealable judgment of a court of competent jurisdiction, shall not put the LC Bank under any resulting liability to the Seller, any LC Participant or any other Person.

Section 1.20 Intended Tax Treatment.

All parties to this Agreement covenant and agree to treat any undivided percentage ownership interest with regard to the Purchased Interest acquired by Purchase and any Reimbursement Obligation with respect to a Letter of Credit under this Agreement as debt for all U.S. federal income tax purposes and to not take any position on any tax return inconsistent with the foregoing, except as otherwise required pursuant to a "determination" within the meaning of Section 1313(a) of the Code (or any comparable provision of any state, local or foreign law).

Section 1.21 Benchmark Replacement Setting.

(a) ~~Section 1.21~~ Benchmark Replacement Setting. Notwithstanding anything to the contrary herein or in any other Transaction Document:

~~(a), upon the occurrence of a Benchmark Transition Event with respect to any Benchmark, the Administrator and the Company may amend this Agreement to replace such Benchmark with a Benchmark Replacement. Any such amendment with respect to Replacing USD LIBOR. On March 5, 2021 the Financial Conduct Authority ("FCA"), the regulatory supervisor of USD LIBOR's administrator ("IBA"), announced in a public statement the future cessation or loss of representativeness of overnight/Spot Next, 1-week, 1-month, 2-month, 3-month, 6-month and 12-month USD LIBOR tenor settings. On the earlier of (i) the date that all Available Tenors of USD LIBOR have either permanently or indefinitely ceased to be provided by IBA or have been announced by the FCA pursuant to public statement or publication of information to be no longer representative (ii) the Early Opt-in Effective Date and (iii) an Other Benchmark Rate Effective Date, if the then-current Benchmark is USD LIBOR, the Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Transaction Document in respect of any setting of such Benchmark on such day and all subsequent settings without any amendment to, or further action or consent of any other party to this Agreement or any other Transaction Document; provided that, in the Administrator's discretion and without obligation to do so, if an Other Benchmark Rate Effective Date has not occurred and the Administrator determines that Term SOFR has become available and has been recommended for use by the Relevant Governmental Body, is administratively feasible for the Administrator and would have been identified as the Benchmark Replacement then in effect was so identified, and the Administrator notifies the Seller and the Purchasers of such availability, then, if the Seller consents thereto (which consent the Seller may grant or withhold in its sole discretion), from and after the beginning of the next Settlement Period commencing no less than thirty (30) days after the date of such notice, the Benchmark Replacement shall be Term SOFR (giving effect to any spread adjustment to Term SOFR that is consistent with the prevailing market convention for similar U.S. dollar credit facilities). If the Benchmark Replacement is Daily Simple SOFR, all Discount will be payable on a monthly basis.~~

~~(b) Replacing Future Benchmarks. Upon the occurrence of a Benchmark Transition Event or an Other Benchmark Rate Election, the Benchmark Replacement will replace the then-current Benchmark for all purposes hereunder and under any Transaction Document in respect of any Benchmark setting at or after 5:00 p.m. will become effective at 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Purchasers without any amendment to, or further action or consent of any other party to, this Agreement or any other Transaction Document.~~ Administrator has posted such proposed amendment to all affected Purchasers and the Seller so long as the Administrator has not received, by such time, written notice of objection to such ~~Benchmark Replacement from Purchasers~~ amendment from Purchaser Agents comprising the Majority ~~Purchaser Agents. At any time that the administrator of the then-current Benchmark has permanently or indefinitely ceased to provide such Benchmark or such Benchmark has been announced by the regulatory supervisor for the administrator of such Benchmark pursuant to public statement or publication of information to be no longer representative of the underlying market and economic reality that such Benchmark is intended to measure and that representativeness will not be restored, the Seller may revoke any request for Purchases to be made, converted or continued that would accrue Discount by reference to such Benchmark until the Seller's receipt of notice from the Administrator that a Benchmark Replacement has replaced such Benchmark, and, failing that, the Seller will be deemed to have converted any such request into a request for a Purchase accruing Discount by reference to the Base Rate; provided that the~~ Purchaser Agents. No replacement of a Benchmark with a Benchmark Replacement pursuant to this Section 1.21(a) will occur prior to the applicable Benchmark Transition Start Date. The Seller may, on a one-time basis, on any day during the period from the date a Benchmark Replacement has replaced such Benchmark to the first Settlement Date occurring thereafter, repay Capital without penalty or payment otherwise required under Section 1.8 hereof.

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

~~(c)~~ ~~(d) Notices; Standards for Decisions and Determinations.~~ The Administrator will promptly notify the Seller and the Purchasers of (i) the implementation of any Benchmark Replacement and (ii) the effectiveness of any ~~Benchmark Replacement~~ Conforming Changes in connection with the use, administration, adoption or implementation of a Benchmark Replacement. The Administrator will notify the Seller of (x) the removal or reinstatement of any tenor of a Benchmark pursuant to Section 1.21(d) and (y) the commencement of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrator or, if applicable, any Purchaser or Purchaser Agent (or group of Purchasers or Purchaser Agents) pursuant to this Section 1.21, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party ~~hereto to this Agreement~~ or any other Transaction Document, except, in each case, as expressly required pursuant to this Section 1.21.

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

(e) Benchmark Unavailability Period. Upon the Seller’s receipt of notice of the commencement of a Benchmark Unavailability Period with respect to a given Benchmark, (A) no Portion of Capital shall be funded at the Alternate Rate determined by reference to Adjusted Term SOFR and (B) the Discount for any outstanding Portions of Capital then funded at the Alternate Rate determined by reference to Adjusted Term SOFR shall be converted to the Alternate Rate determined by reference to the Base Rate.

(f) Disclaimer and Exculpation With Respect to ~~USD LIBOR and any Other Benchmark Rate~~. The Administrator does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to ~~USD LIBOR~~the Alternate Rate, Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR or any Benchmark or with respect to any alternative, successor or replacement rate thereof (including any Benchmark Replacement), or any calculation, component definition thereof or rate referenced in the definition thereof, including, without limitation, (i) any such alternative, successor or replacement rate (including any Benchmark Replacement) implemented pursuant to this ~~Section 1.21, whether~~ upon the occurrence of a Benchmark Transition Event, ~~Term SOFR transition event pursuant to the proviso in clause (a) of this Section 1.21, Early Opt-in Election or Other Benchmark Rate Election,~~ and (ii) the effect, implementation or composition of any ~~Benchmark Replacement~~ Conforming Changes pursuant to ~~clause (c) of this Section 1.21(b),~~ including without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate (including any Benchmark Replacement) will be similar to, or produce the same value or economic equivalence of, ~~USD LIBOR~~the Alternate Rate, Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR or any Benchmark or have the same volume or liquidity as did ~~USD LIBOR~~the Alternate Rate, Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR or any Benchmark prior to ~~the its~~ discontinuance or unavailability ~~of USD LIBOR~~. In addition, the discontinuation of ~~USD LIBOR~~the Alternate Rate, Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR or any Benchmark and any alternative, successor or replacement reference rate may result in a mismatch between the reference rate referenced in this Agreement and your other financial instruments, including potentially those that are intended as hedges. The Administrator and its Affiliates and/or other related entities may engage in transactions that affect the calculation of the Alternate Rate, Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR, any Benchmark or any alternative, successor or replacement rate (including any Benchmark Replacement) and/or any relevant adjustments thereto, in each case, with all determinations of such the Alternate Rate, Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR, any Benchmark or such alternative, successor or replacement rate by the Administrator to be conclusive, absent manifest error. The Administrator may select information sources or services in its reasonable discretion to ascertain the Alternate Rate, Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR, any Benchmark or any such alternative, successor or replacement rate, in each case pursuant to the terms of this Agreement (as amended, amended and restated, supplemented or otherwise modified from time to time), and shall have no liability to the Seller, any Purchaser, Purchaser Agent or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

(g) Definitions:

“Available Tenor” means, ~~as of any date of determination and with respect to the then-current Benchmark, as applicable, (x) if the then-current Benchmark is a term rate, any tenor for such Benchmark that is or may be used for determining the length of an Settlement Period or (y) otherwise, any payment period for interest calculated with reference to such Benchmark, as applicable, pursuant to this Agreement as of such date.~~

“Benchmark” means, initially, ~~USD LIBOR; provided that if a replacement of the Benchmark has occurred pursuant to this Section 1.21, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate. Any reference to “Benchmark” shall include, as applicable, the published component used in the calculation thereof.~~

“Benchmark Replacement” means, ~~for any Available Tenor:~~

~~(1) For purposes of clause (a) of this Section 1.21, the first alternative set forth below that can be determined by the Administrator; provided that, in the case of an Other Benchmark Rate Election, “Benchmark Replacement” shall mean the alternative set forth in clause (2) below:~~

(a) the sum of: (i) Term SOFR and (ii) 0.11440% (11.440 basis points) for an Available Tenor of one-month's duration; 0.26161% (26.161 basis points) for an Available Tenor of three-months' duration; and 0.42026% (42.026 basis points) for an Available Tenor of six-months' duration; or

(b) the sum of: (i) Daily Simple SOFR and (ii) the spread adjustment selected or recommended by the Relevant Governmental Body for the replacement of the tenor of USD LIBOR with a SOFR-based rate having approximately the same length as the interest payment period specified in clause (a) of this Section 1.21; and

(2) For purposes of clause (a) (in the case of an Other Benchmark Rate Election only) or clause (b) of this Section 1.21, the sum of (a) the alternate benchmark rate and (b) an adjustment (which may be a positive or negative value or zero), in each case, that has been selected by the Administrator and the Seller as the replacement for such Available Tenor of such Benchmark giving due consideration to any evolving or then-prevailing market convention, including any applicable recommendations made by the Relevant Governmental Body, for U.S. dollar-denominated syndicated credit facilities at such time;

~~provided~~ that, if ~~the Benchmark Replacement as determined pursuant to clause (1) or (2) above~~ would be less than the Floor, ~~the Benchmark Replacement~~ will be deemed to be the Floor for the purposes of this Agreement and the other Transaction Documents.

~~"Benchmark Replacement Conforming Changes"~~ means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of ~~"Base Rate,"~~ the definition of ~~"Business Day,"~~ the definition of ~~"Settlement Period,"~~ timing and frequency of determining rates and making payments of interest, timing of ~~purchase~~ requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of ~~breakage provisions,~~ the formula for calculating any successor rates identified pursuant to the definition of ~~"Benchmark Replacement,"~~ the formula, methodology or convention for applying the successor Floor to the successor Benchmark Replacement and other technical, administrative or operational matters) that the Administrator decides may be appropriate to reflect the adoption and implementation of ~~such Benchmark Replacement~~ and to permit the administration thereof by the Administrator in a manner substantially consistent with market practice (or, if the Administrator decides that adoption of any portion of such market practice is not administratively feasible or if the Administrator determines that no market practice for the administration of ~~such Benchmark Replacement~~ exists, in such other manner of administration as the Administrator decides is reasonably necessary in connection with the administration of this Agreement and the other Transaction Documents).

~~"Benchmark Transition Event"~~ means, with respect to any then-current Benchmark other than USD LIBOR, the occurrence of a public statement or publication of information by or on behalf of the administrator of ~~the then-current Benchmark,~~ the regulatory supervisor for the administrator of such Benchmark, the Federal Reserve Board, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark, a resolution authority with jurisdiction over the administrator for such Benchmark or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark, ~~announcing or stating that (a) such administrator has ceased or will cease on a specified date to provide all Available Tenors of such Benchmark, permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark or (b) all Available Tenors of such Benchmark are or will no longer be representative of the underlying market and economic reality that such Benchmark is intended to measure and that representativeness will not be restored.~~

~~"Daily Simple SOFR"~~ means, for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by the Administrator in accordance with the conventions for this rate recommended by the Relevant Governmental Body for determining "Daily Simple SOFR" for syndicated business loans; ~~provided~~, that if the Administrator decides that any such convention is not administratively feasible for the Administrator, then the Administrator may establish another convention in its reasonable discretion.

~~“Early Opt-in Effective Date” means, with respect to any Early Opt-in Election, the sixth (6th) Business Day after the date notice of such Early Opt-in Election is provided to the Purchasers, so long as the Administrator has not received, by 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Early Opt-in Election is provided to the Purchasers, written notice of objection to such Early Opt-in Election from the Majority Purchaser Agents; provided, however, the Purchasers and Seller may choose a later date as specified in such notice:~~

~~“Early Opt-in Election” means the occurrence of:~~

- ~~(1) a notification by the Administrator to (or the request by the Seller to the Administrator to notify) each of the other parties hereto that at least five currently outstanding U.S. dollar-denominated syndicated credit facilities at such time contain (as a result of amendment or as originally executed) a SOFR-based rate (including SOFR, a term SOFR or any other rate based upon SOFR) as a benchmark rate (and such syndicated credit facilities are identified in such notice and are publicly available for review); and~~
- ~~(2) the joint election by the Administrator and the Seller to trigger a fallback from USD LIBOR and the provision by the Administrator of written notice of such election to the Purchasers;~~

~~“Floor” means the benchmark rate floor, if any, provided in this Agreement initially (as of the execution of this Agreement, the modification, amendment or renewal of this Agreement or otherwise) with respect to USD LIBOR:~~

~~“Other Benchmark Rate Effective Date” means, with respect to any Other Benchmark Rate Election, the sixth (6th) Business Day after the date notice of such Other Benchmark Rate Election is provided to the Purchasers, so long as the Administrator has not received, by 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Other Benchmark Rate Election is provided to the Purchasers, written notice of objection to such Other Benchmark Rate Election from the Majority Purchaser Agents; provided, however, the Purchasers and Seller may choose a later date as specified in such notice:~~

~~“Other Benchmark Rate Election” means, if the then-current Benchmark is USD LIBOR or another Benchmark, the occurrence of:~~

- ~~(1) a request by either the Seller to the Administrator to notify each of the other parties hereto that, at the determination of the Seller or Administrator, as applicable, dollar-denominated syndicated credit facilities at such time contain (as a result of amendment or as originally executed), in lieu of a rate based on such Benchmark, a term benchmark rate as a benchmark rate, and~~
- ~~(2) the joint election by the Administrator and the Seller to trigger a fallback from such Benchmark and the provision by the Administrator of written notice of such election to the Purchasers;~~

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

~~“SOFR” means a rate per annum equal to the secured overnight financing rate for such Business Day published by the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate) on the website of the Federal Reserve Bank of New York, currently at <http://www.newyorkfed.org> (or any successor source for the secured overnight financing rate identified as such by the administrator of the secured overnight financing rate from time to time);~~

~~“Term SOFR” means, for the applicable corresponding tenor, the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body:~~

~~“USD LIBOR” means the London interbank offered rate for U.S. dollars:~~

ARTICLE II.
REPRESENTATIONS AND WARRANTIES; COVENANTS;
TERMINATION EVENTS

Section 2.1 Representations and Warranties; Covenants.

Each of the Seller and the Servicer hereby makes the representations and warranties, and hereby agrees to perform and observe the covenants, applicable to it as set forth in Exhibits III and IV, respectively.

Section 2.2 Termination Events.

If any of the Termination Events set forth in Exhibit V shall occur, the Administrator may (with the consent of the Majority Purchaser Agents) and shall (at the direction of the Majority Purchaser Agents), by notice to the Seller, declare the Termination Date to have occurred (in which case the Termination Date shall be deemed to have occurred); provided, that the Termination Date shall occur automatically upon the occurrence of any event described in paragraph (d) of Exhibit V. Upon any such declaration, occurrence or deemed occurrence of the Termination Date, the Purchasers, the Purchaser Agents and the Administrator shall have, in addition to the rights and remedies that they may have under this Agreement, all other rights and remedies provided to secured parties after default under the UCC and under other Applicable Law, which rights and remedies shall be cumulative.

ARTICLE III.
INDEMNIFICATION

Section 3.1 Indemnities by the Seller.

Without limiting any other rights that the Administrator, the Purchasers, the Purchaser Agents, the Liquidity Providers, any Program Support Provider, the LC Bank or any of their respective Affiliates, employees, officers, directors, agents, counsel, successors or permitted assigns (each, an “Indemnified Party”) may have hereunder or under Applicable Law, the Seller hereby agrees to indemnify each Indemnified Party from and against any and all claims, damages, expenses, costs, losses, liabilities and penalties (including reasonable Attorney Costs), but excluding Taxes (all of the foregoing being collectively referred to as “Indemnified Amounts”) at any time awarded against or incurred by such Indemnified Party arising out of, relating to or in connection with the Transaction Documents, the LC Collateral Account, the transactions contemplated thereby (including the issuance of, or the fronting for, any Letter of Credit), or the ownership, maintenance or funding, directly or indirectly, of the Purchased Interest (or any part thereof), the issuance of or drawing on any Letter of Credit, or in respect of or related to the Pool Receivables or any Related Security or otherwise arising out of or relating to or in connection with the actions of the Seller (including any action taken by the Administrator as attorney-in-fact for the Seller or any Originator under any Transaction Document), provided, however, notwithstanding anything to the contrary in this provision, that such indemnity shall not, as to any Indemnified Party, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction in a final and nonappealable judgment to have resulted from the bad faith, gross negligence or willful misconduct of such Indemnified Party, (y) result from a claim brought by the Seller against an Indemnified Party for breach of such Indemnified Party’s obligations under this Agreement or under any other Transaction Document, if the Seller has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction or (z) constitute recourse with respect to a Pool Receivable by reason of the bankruptcy or insolvency, or the financial or credit condition or financial default, of the related Obligor. Without limiting the foregoing, the Seller shall indemnify, subject to the express limitations set forth in this provision, and hold harmless each Indemnified Party for any and all Indemnified Amounts incurred by any of them arising out of, relating to or in connection with:

- (i) the transfer by the Seller or the Originators of any interest in any Pool Receivable other than the transfer of any Pool Receivable and Related Security to the Administrator and any Purchaser pursuant to this Agreement, to the Administrator and to the Seller pursuant to the Purchase and Sale Agreement and the grant of a security interest to the Administrator pursuant to this Agreement and to the Seller pursuant to the Purchase and Sale Agreement;
- (ii) any representation or warranty made by the Seller under or in connection with any Transaction Document, any Information Package or any other information or report delivered by or on behalf of the Seller pursuant to this Agreement or any other Transaction Document, which shall have been untrue, false or incorrect when made or deemed made;
- (iii) the failure of the Seller to comply with the terms of any Transaction Document or any Applicable Law (including with respect to any Pool Receivable or Related Security), or the nonconformity of any Pool Receivable or Related Security with any such law;
- (iv) the lack of an enforceable ownership interest, or a first priority perfected lien, in the Pool Receivables (and all Related Security) against all Persons (including any bankruptcy trustee or similar Person), in either case, free and clear of any Adverse Claim;
- (v) any Dilution;
- (vi) the failure to file, or any delay in filing of, financing statements or other similar instruments or documents under the UCC of any applicable jurisdiction or under any other Applicable Laws with respect to any Pool Receivable as may be necessary from time to time to perfect the Seller's or the Administrator's interest therein;
- (vii) any dispute, claim, offset or defense (other than discharge in bankruptcy) of the Obligor to the payment of any Receivable in the Receivables Pool (including a defense based on such Receivable's or the related Contract's not being a legal, valid and binding obligation of such Obligor enforceable against it in accordance with its terms) or any other claim resulting from the sale of the petrochemicals or other property, products or services related to such Receivable or the furnishing or failure to furnish such petrochemicals, property, products, or services;
- (viii) any suit or claim related to the Pool Receivables or any Transaction Document (including any products liability or environmental liability claim arising out of or in connection with the petrochemicals or other property, products or services that are the subject of any Pool Receivable to the extent not covered pursuant to other applicable provisions of this Agreement);
- (ix) the ownership, delivery, non-delivery, possession, design, construction, use, maintenance, transportation, performance (whether or not according to specifications), operation (including the failure to operate or faulty operation), condition, return, sale, repossession or other disposition or safety of any Related Security (including claims for patent, trademark, or copyright infringement and claims for injury to persons or property, liability principles, or otherwise, and claims of breach of warranty, whether express or implied);
- (x) the failure by the Seller to notify (or to cause notification to be delivered to) any Obligor of the assignment pursuant to the terms of this Agreement of any Pool Receivable to Administrator for the benefit of Purchasers or the failure to require that payments (including any under the related insurance policies) be made directly to the Administrator for the benefit of Purchasers;
- (xi) any commingling of any Collections by the Seller, the Originators, the Parent or the Servicer relating to the Pool Receivables with any of their funds or the funds of any other Person;

(xii) the failure or delay to provide any Obligor with an invoice or other evidence of indebtedness;

(xiii) any inability of the Originators or the Seller to assign any Receivable or other Related Asset as contemplated under the Transaction Documents; or the violation or breach by any Originator, the Seller, the Servicer, the Parent or any of their respective Affiliates of any confidentiality provision, or of any similar covenant of non-disclosure, with respect to any Contract, or any other Indemnified Amount with respect to or resulting from any such violation or breach;

(xiv) the use of proceeds of purchases or reinvestments or the issuance of any Letter of Credit; or

(xv) any reduction in Capital as a result of the distribution of Collections pursuant to Section 1.4(d), if all or a portion of such distributions shall thereafter be rescinded or otherwise must be returned for any reason.

Section 3.2 Indemnities by the Servicer.

Without limiting any other rights that any Indemnified Party may have hereunder or under Applicable Law, the Servicer hereby agrees to indemnify and hold harmless each Indemnified Party from any and all Indemnified Amounts incurred by any of them and arising out of, relating to or in connection with (i) any breach of any representation, warranty or agreement by the Servicer in any Transaction Document; (ii) the failure of any information contained in an Information Package to be true and correct, or the failure of any other information provided to any such Indemnified Party by, or on behalf of, the Servicer (in any capacity) to be true and correct; (iii) any gross negligence or willful misconduct on the Servicer's (in any capacity) part arising out of, relating to, in connection with, or affecting any transaction contemplated by the Transaction Documents, any Pool Receivable or any Related Asset; (iv) the failure by the Servicer (in any capacity) to comply with any Applicable Law, rule or regulation with respect to any Pool Receivable or the related Contract or its servicing thereof; or (v) any commingling of any funds by the Servicer (in any capacity) with any of the Servicer's funds or the funds of any other Person; provided that such indemnity shall not, as to any Indemnified Party, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction in a final and nonappealable judgment to have resulted from the bad faith, gross negligence or willful misconduct of such Indemnified Party, (y) result from a claim brought by the Servicer against an Indemnified Party for breach of such Indemnified Party's obligations hereunder or under any other Transaction Document, if the Servicer has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction or (z) constitute recourse with respect to a Pool Receivable by reason of the bankruptcy or insolvency, or the financial or credit condition or financial default, of the related Obligor.

ARTICLE IV. ADMINISTRATION AND COLLECTIONS

Section 4.1 Appointment of the Servicer.

(a) The servicing, administering and collection of the Pool Receivables shall be conducted by the Person so designated from time to time as the Servicer in accordance with this Section. Until the Administrator gives notice to Lyondell Chemical in accordance with this Section of the designation of a new Servicer, Lyondell Chemical is hereby designated as, and hereby agrees to perform the duties and obligations of, the Servicer pursuant to the terms hereof. Upon the occurrence and during the continuation of a Termination Event, the Administrator may (with the consent of the Majority Purchaser Agents) and shall (at the direction of the Majority Purchaser Agents) designate as the Servicer any Person (including itself) to succeed Lyondell Chemical or any successor Servicer, on the condition in each case that any such Person so designated shall agree to perform the duties and obligations of the Servicer pursuant to the terms hereof.

(b) Upon the designation of a successor Servicer as set forth in Section 4.1(a) above, Lyondell Chemical agrees that it will terminate its activities as the Servicer hereunder in a manner that the Administrator determines will facilitate the transition of the performance of such activities to the new Servicer, and Lyondell Chemical shall cooperate with and assist such new Servicer. Such cooperation shall include access to and transfer of records (including Contracts) related to Pool Receivables and use by the new Servicer of all licenses, hardware or software necessary or desirable to collect the Pool Receivables and the Related Security.

(c) Lyondell Chemical acknowledges that, in making their decision to execute and deliver this Agreement, the Administrator, the Purchaser Agents and the Purchasers have relied on Lyondell Chemical's agreement to act as the Servicer hereunder. Accordingly, Lyondell Chemical agrees that it will not voluntarily resign as the Servicer without the prior written consent of the Administrator and each Purchaser Agent; provided that Lyondell Chemical may transfer all of its rights and obligations under this Agreement in accordance with Section 4.1(e).

(d) The Servicer may delegate its duties and obligations under this Agreement to any subservicer (each a "Sub-Servicer"); provided, that, in each such delegation: (i) each such Sub-Servicer shall agree in writing to perform the delegated duties and obligations of the Servicer pursuant to the terms of this Agreement, (ii) the Servicer shall remain liable for the performance of the duties and obligations so delegated, (iii) the Seller, the Administrator, the Purchaser Agents and the Purchasers shall have the right to look solely to the Servicer for performance, and (iv) the terms of any agreement with any Sub-Servicer shall provide that the Administrator may terminate such agreement upon the termination of the Servicer hereunder by giving notice of its desire to terminate such agreement to the Servicer (and the Servicer shall provide appropriate notice to each such Sub-Servicer); provided, however, that if any such delegation is to any Person other than an Originator or another Affiliate of the Parent, the Administrator and the Majority Purchaser Agents shall have consented in writing in advance to such delegation.

(e) At any time and from time to time when no Termination Event or Unmatured Termination Event exists, the Servicer may, with the consent of the Seller and each Originator, transfer all of its rights and obligations under this Agreement and each of the other Transaction Documents to another wholly-owned Subsidiary of the Parent, upon the satisfaction of each of the following conditions (collectively, the "Servicer Replacement Conditions"): (i) receipt of 30 days' prior written notice thereof by the Administrator and each Purchaser Agent, (ii) prior written consent to such replacement by the Administrator and the Majority Purchaser Agents, (iii) delivery to the Administrator and each Purchaser Agent of opinions of counsel to the replacement Servicer and the Parent covering corporate and enforceability matters and that are addressed, and in form and substance reasonably satisfactory, to the Administrator, the Purchasers and each Purchaser Agent, (iv) delivery to the Administrator and each Purchaser Agent of a replacement Performance Undertaking by the Parent with respect to the obligations of the replacement Servicer under the Transaction Documents, in form and substance reasonably satisfactory to the Administrator and each Purchaser Agent, (v) each of the representations and warranties made by the Servicer under each of the Transaction Documents shall be true and correct with respect to the replacement Servicer after giving effect to such replacement and (vi) receipt by the Administrator and each Purchaser Agent of such additional documents and information reasonably requested by such Person concerning the replacement Servicer. Any such assignee shall be the "Servicer" for all purposes under this Agreement and each of the other Transaction Documents from and after the date of the transferee's written acceptance of such transfer of rights and obligations, which acceptance shall be in form and substance reasonably satisfactory to the Administrator and the Majority Purchaser Agents. Upon such transfer, the previous Servicer shall transfer to the new Servicer all its documents and rights as the Servicer and will be released from any liability for actions or inactions of the Servicer taken thereafter; provided, that notwithstanding such transfer, the Servicer shall remain liable under the Transaction Documents for any breach, indemnity or other obligation owing by the Servicer under any Transaction Document that occurred or accrued at any time prior to the effectiveness of such assignment of its rights and obligations under the Transaction Documents to the replacement Servicer.

Section 4.2 Duties of the Servicer.

(a) The Servicer shall take or cause to be taken all such action as may be necessary or advisable to service, administer and collect the Pool Receivables from time to time, in accordance with this Agreement and all Applicable Laws, with reasonable care and diligence, and in accordance with the Credit and Collection Policy. The Servicer shall set aside, for the accounts of the Seller and the Purchasers, the amount of the Collections to which each is entitled in accordance with Article I. The Servicer may, in accordance with the Credit and Collection Policy, take such action, including modifications, waivers or restructurings of Pool Receivables and the related Contracts, as the Servicer may determine to be appropriate to maximize Collections thereof or reflect adjustments permitted under the Credit and Collection Policy or required under Applicable Laws or the applicable Contract; provided, however, that for the purposes of this Agreement, (i) such action shall not change the number of days such Pool Receivable has remained unpaid from the date of the original due date related to such Pool Receivable, (ii) such action shall not alter the status of such Pool Receivable as a Delinquent Receivable or a Defaulted Receivable under this Agreement or limit the rights of any of the Purchasers, Purchaser Agents or the Administrator under this Agreement or any other Transaction Document and (iii) if a Termination Event has occurred and is continuing, the Servicer may take such action only with the prior written consent of the Administrator. The Seller shall deliver to the Servicer and the Servicer shall hold for the benefit of the Seller and the Administrator (individually and for the benefit of the Purchasers), in accordance with their respective interests, all records and documents (including computer tapes or disks) with respect to each Pool Receivable. Notwithstanding anything to the contrary contained herein, if a Termination Event has occurred and is continuing, the Administrator may direct the Servicer to commence or settle any legal action to enforce collection of any Pool Receivable that is a Delinquent Receivable or to foreclose upon or repossess, if applicable, any Related Security with respect to any such Delinquent Receivable.

(b) The Servicer may, from time to time, designate at its own discretion one or more Obligor as Excluded Obligor by delivering a revised copy of Schedule VI hereto to the Administrator and each Purchaser Agent; provided, however, that the Servicer shall not add any additional Obligor to Schedule VI hereto if at the time of such addition or after giving effect thereto, either (i) a Termination Event or Unmatured Termination Event (other than an Unmatured Termination Event that is cured by such addition and the resulting removal of such Obligor's Excluded Receivables from the Receivables Pool) has occurred and is continuing or (ii) the aggregate Outstanding Balance of all Receivables, the Obligor of which are Excluded Obligor, exceeds \$100,000,000 at such time, unless each Purchaser Agent has either (A) consented in writing to the addition of such Obligor as an Excluded Obligor (which consent shall not be unreasonably withheld) or (B) failed to notify the Seller or the Servicer of its objection to the addition of such Obligor as an Excluded Obligor within fourteen (14) days following its receipt of a revised copy of Schedule VI hereto. Upon any such designation and the Seller's satisfaction of its obligation to deliver to the applicable Lock-Box Account the amount of the resulting Deemed Collection pursuant to Section 1.4(e)(ii) or 1.4(e)(v), as applicable, (i) the Administrator shall be deemed to have sold and assigned (without recourse) to the Seller its entire undivided percentage ownership interest in the resulting Excluded Receivables of such Excluded Obligor and to have relinquished and disclaimed any right to such Excluded Receivables and (ii) the security interests in any such Excluded Receivables created by the Transaction Documents shall be automatically terminated and released.

Section 4.3 Account Arrangements.

On the Closing Date, the Seller shall enter into Lock-Box Agreements with all of the Lock-Box Banks and in each case deliver executed counterparts thereof to the Administrator. Upon the occurrence of a Termination Event and during the continuance thereof, the Administrator may, or shall, at the direction of the Majority Purchaser Agents, instruct the Seller or the Servicer to direct Obligor of Receivables to make payments to such accounts (other than the Lock-Box Accounts) as directed by the Administrator; provided, that if the Seller or the Servicer, as the case may be, fails to so direct each Obligor, the Administrator (at the Seller's or the Servicer's, as the case may be, expense) may so direct the Obligor. Any proceeds of Pool Receivables received by the Seller or the Servicer thereafter other than through a Lock-Box Account shall be sent immediately to, or as otherwise instructed by, the Administrator.

Section 4.4 Enforcement Rights.

(a) At any time following the occurrence and during the continuation of a Termination Event and upon notice to the Seller and the Servicer:

(i) the Administrator may instruct the Seller or the Servicer to direct the Obligors that payment of all amounts payable under any Pool Receivable is to be made directly to the Administrator or its designee; provided, that if (i) the Seller or the Servicer, as the case may be, fails to so instruct each Obligor within two Business Days following request by the Administrator or (ii) a Termination Event set forth in clause (d) of the definition thereof shall have occurred and be continuing, the Administrator (at the Seller's or the Servicer's, as the case may be, expense) may so direct the Obligors;

(ii) the Administrator may instruct the Seller or the Servicer to give notice of the Purchasers' interest in Pool Receivables to each Obligor, which notice shall direct that payments be made directly to the Administrator or its designee (on behalf of the Purchasers), and the Seller or the Servicer, as the case may be, shall give such notice at the expense of the Seller or the Servicer, as the case may be; provided, that if (i) the Seller or the Servicer, as the case may be, fails to so notify each Obligor within two Business Days following request by the Administrator or (ii) a Termination Event set forth in clause (d) of the definition thereof shall have occurred and be continuing, the Administrator (at the Seller's or the Servicer's, as the case may be, expense) may so notify the Obligors;

(iii) the Administrator may request the Servicer to, and upon such request the Servicer shall: (A) assemble all of the records necessary or desirable to collect the Pool Receivables and the Related Security, and transfer or license to a successor Servicer the use of all software necessary or desirable to collect the Pool Receivables and the Related Security, and make the same available to the Administrator or its designee (for the benefit of the Purchasers) at a place selected by the Administrator, and (B) segregate all cash, checks and other instruments received by it from time to time constituting Collections in a manner acceptable to the Administrator and, promptly upon receipt, remit all such cash, checks and instruments, duly endorsed or with duly executed instruments of transfer, to the Administrator or its designee;

(iv) the Administrator may notify the Lock-Box Banks that the Seller and the Servicer will no longer have any access to the Lock-Box Accounts; and

(v) the Administrator may (with the consent of the Majority Purchaser Agents) and shall (at the direction of the Majority Purchaser Agents) replace the Person then acting as the Servicer.

(b) The Seller hereby authorizes the Administrator (on behalf of each Purchaser Group), and irrevocably appoints the Administrator as its attorney-in-fact with full power of substitution and with full authority in the place and stead of the Seller, which appointment is coupled with an interest, to take any and all steps in the name of the Seller and on behalf of the Seller necessary or desirable, in the determination of the Administrator, following the occurrence and during the continuation of a Termination Event, to collect any and all amounts or portions thereof due under any and all Pool Assets, including endorsing the name of the Seller on checks and other instruments representing Collections and enforcing such Pool Assets. Notwithstanding anything to the contrary contained in this Section 4.4(b), none of the powers conferred upon such attorney-in-fact pursuant to the preceding sentence shall subject such attorney-in-fact to any liability if any action taken by it shall prove to be inadequate or invalid, nor shall they confer any obligations upon such attorney-in-fact in any manner whatsoever.

Section 4.5 Responsibilities of the Seller.

(a) Anything herein to the contrary notwithstanding, the Seller shall: (i) perform all of its obligations, if any, under the Contracts related to the Pool Receivables to the same extent as if interests in such Pool Receivables had not been transferred hereunder, and the exercise by the Administrator, any Purchaser Agent or any Purchaser of their respective rights hereunder shall not relieve the Seller from such obligations, and (ii) pay (or cause to be paid) when due any taxes payable by the Seller, including any sales taxes payable by the Seller in connection with the Pool Receivables and their creation and satisfaction. None of the Administrator, the Purchaser Agents and the Purchasers shall have any obligation or liability with respect to any Pool Asset, nor shall any of them be obligated to perform any of the obligations of the Seller or any Originator thereunder.

(b) Lyondell Chemical hereby irrevocably agrees that if at any time it shall cease to be the Servicer hereunder, it shall act (if the then-current Servicer so requests) as the data-processing agent of the Servicer and, in such capacity, Lyondell Chemical shall conduct the data-processing functions of the administration of the Receivables and the Collections thereon in substantially the same way that Lyondell Chemical conducted such data-processing functions while it acted as the Servicer.

Section 4.6 Servicing Fee.

The Servicer shall be paid a fee (the “Servicing Fee”) equal to 1.00% per annum (the “Servicing Fee Rate”) of the daily average aggregate Outstanding Balance of the Pool Receivables. The Purchasers’ Share of the Servicing Fee shall be paid through the distributions contemplated by Section 1.4(d), and the Seller’s Share of the Servicing Fee shall be paid by the Seller on each Settlement Date.

Section 4.7 Authorization and Action of the Administrator and Purchaser Agents.

(a) Each Purchaser and Purchaser Agent hereby accepts the appointment of and irrevocably authorizes the Administrator to take such actions as agent on its behalf and to exercise such powers as are delegated to the Administrator hereby and to exercise such other powers as are reasonably incidental thereto. The Administrator shall hold, in its name, for the benefit of each Purchaser, ratably, the Purchased Interest. The Administrator shall not have any duties other than those expressly set forth herein or any fiduciary relationship with any Purchaser or Purchaser Agent, and no implied obligations or liabilities shall be read into this Agreement, or otherwise exist, against the Administrator. The Administrator does not assume, nor shall it be deemed to have assumed, any obligation to, or relationship of trust or agency with, the Seller or the Servicer. Notwithstanding any provision of this Agreement or any other Transaction Document to the contrary, in no event shall the Administrator ever be required to take any action which exposes the Administrator to personal liability or which is contrary to the provisions of this Agreement, any other Transaction Document or Applicable Law. The appointment and authority of the Administrator hereunder shall terminate on the Final Payout Date.

(b) Each Purchaser hereby accepts the appointment of the respective institution identified as the Purchaser Agent for such Purchaser’s Purchaser Group on Schedule IV hereto or in the Transfer Supplement or other agreement pursuant to which such Purchaser becomes a party hereto, and irrevocably authorizes such Purchaser Agent to take such action on its behalf under the provisions of this Agreement and to exercise such powers and perform such duties as are expressly delegated to such Purchaser Agent by the terms of this Agreement, if any, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, no Purchaser Agent shall have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with any Purchaser or other Purchaser Agent or the Administrator, and no implied obligations or liabilities shall be read into this Agreement, or otherwise exist, against any Purchaser Agent.

(c) Except as otherwise specifically provided in this Agreement, the provisions of this Section 4.7 are solely for the benefit of the Administrator, the Purchaser Agents and the Purchasers, and none of the Seller or the Servicer shall have any rights as a third-party beneficiary or otherwise under any of the provisions of this Section 4.7, except that this Section 4.7 shall not affect any obligations which the Administrator, any Purchaser Agent or any Purchaser may have to the Seller or the Servicer under the other provisions of this Agreement. Furthermore, no Purchaser shall have any rights as a third-party beneficiary or otherwise under any of the provisions hereof in respect of a Purchaser Agent that is not the Purchaser Agent for such Purchaser.

(d) In performing its functions and duties hereunder, the Administrator shall act solely as the agent of the Purchasers and the Purchaser Agents and does not assume nor shall be deemed to have assumed any obligation or relationship of trust or agency with or for the Seller or the Servicer or any of their respective successors and assigns. In performing its functions and duties hereunder, each Purchaser Agent shall act solely as the agent of its respective Purchasers and does not assume nor shall be deemed to have assumed any obligation or relationship of trust or agency with or for the Seller, the Servicer, any Purchaser not in such Purchaser Agent's Purchaser Group, any other Purchaser Agent or the Administrator, or any of their respective successors and assigns.

Section 4.8 Nature of Administrator's Duties; Delegation of Administrator's Duties; Exculpatory Duties.

(a) The Administrator shall have no duties or responsibilities except those expressly set forth in this Agreement or in the other Transaction Documents. The duties of the Administrator shall be mechanical and administrative in nature. At no time shall the Administrator have any duty or responsibility to any Person to investigate or confirm the correctness or accuracy of any information or documents delivered to it in its role as Administrator hereunder or any obligation in respect of the failure of any Person (other than the Administrator) to perform any obligation hereunder or under any other Transaction Document. The Administrator shall not have, by reason of this Agreement, a fiduciary relationship in respect of any Purchaser. Nothing in this Agreement or any of the Transaction Documents, express or implied, is intended to or shall be construed to impose upon the Administrator any obligations in respect of this Agreement or any of the Transaction Documents except as expressly set forth herein or therein. The Administrator shall not have any duty or responsibility, either initially or on a continuing basis, to provide any Purchaser or Purchaser Agent with any credit or other information with respect to the Seller, the Parent, any Originator, Lyondell Chemical, any Sub-Servicer or the Servicer, whether coming into its possession before the Closing Date or at any time or times thereafter. If the Administrator seeks the consent or approval of the Purchasers or the Purchaser Agents to the taking or refraining from taking any action hereunder, the Administrator shall send notice thereof to each Purchaser (or such Purchaser's Purchaser Agent, on its behalf) or each Purchaser Agent, as applicable. The Administrator shall promptly notify each Purchaser Agent any time that the Purchasers and/or Purchaser Agents, as the case may be, have instructed the Administrator to act or refrain from acting pursuant hereto.

(b) The Administrator may execute any of its duties through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Administrator shall not be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it with reasonable care.

(c) None of the Administrator and the Purchaser Agents, nor any of their respective directors, officers, agents or employees, shall be liable for any action taken or omitted (i) with the consent or at the direction of the Majority Purchaser Agents (or, in the case of any Purchaser Agent, the Purchasers within such Purchaser Agent's Purchaser Group that have a majority of the aggregate Commitments of such Purchaser Group) or (ii) in the absence of such Person's gross negligence or willful misconduct. The Administrator shall not be responsible to any Purchaser, Purchaser Agent or other Person for (i) any recitals, representations, warranties or other statements made by the Seller, the Parent, any Sub-Servicer, the Servicer, Lyondell Chemical, any Originator or any of their Affiliates, (ii) the value, validity, effectiveness, genuineness, enforceability or sufficiency of any Transaction Document, (iii) any failure of the Seller, the Parent, any Sub-Servicer, the Servicer, Lyondell Chemical, any Originator or any of their Affiliates to perform any obligation hereunder or under the other Transaction Documents to which it is a party (or under any Contract), or (iv) the satisfaction of any condition specified in Exhibit II. The Administrator shall not have any obligation to any Purchaser Agent or Purchaser to ascertain or inquire about the observance or performance of any agreement contained in any Transaction Document or to inspect the properties, books or records of the Seller, the Servicer, any Originator or any of their respective Affiliates.

Section 4.9 UCC Filings.

Each of the Seller and the Purchasers expressly recognizes and agrees that the Administrator may be listed as the assignee or secured party of record on the various UCC filings required to be made hereunder in order to perfect the transfer of the Purchased Interest from the Seller to the Purchasers, that such listing shall be for administrative convenience only in creating a record or nominee owner to take certain actions hereunder on behalf of the Purchasers and that such listing will not affect in any way the status of the Purchasers as the beneficial owners of the Purchased Interest. In addition, such listing shall impose no duties on the Administrator other than those expressly and specifically undertaken in accordance with this Section 4.9.

None of the Administrator and the Purchaser Agents, nor any of their respective directors, officers, agents or employees shall be liable for any action taken or omitted to be taken by it as Administrator or as Purchaser Agent, as the case may be, under or in connection with this Agreement except for such Person's own gross negligence or willful misconduct. Each of the Administrator and each Purchaser Agent: (i) may consult with legal counsel (including counsel for the Seller), independent public accountants and other experts selected by the Administrator and shall not be liable for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts; (ii) makes no warranty or representation to any Purchaser or Purchaser Agent and shall not be responsible to any Purchaser or Purchaser Agent for any statements, warranties or representations made in or in connection with this Agreement; (iii) shall not have any duty to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions of this Agreement on the part of the Seller, the Servicer, any Sub-Servicer, Lyondell Chemical or any Originator or to inspect the property (including the books and records) of the Seller, the Servicer, any Sub-Servicer, Lyondell Chemical or any Originator; (iv) shall not be responsible to any Purchaser or Purchaser Agent for the due execution, legality, validity, enforceability, genuineness, sufficiency, or value of this Agreement, or any other instrument or document furnished pursuant hereto; and (v) shall incur no liability under or in respect of this Agreement or any other Transaction Document by acting upon any notice (including notice by telephone), consent, certificate or other instrument or writing (which may be by facsimile) believed by it to be genuine and signed or sent by the proper party or parties. The Administrator may at any time request instructions from the Purchasers and/or Purchaser Agents, and the Purchaser Agents may at any time request instructions from the Purchasers in their Purchaser Groups, with respect to any actions or approvals which by the terms of this Agreement or of any of the other Transaction Documents the Administrator or such Purchaser Agent is permitted or required to take or to grant, and if such instructions are promptly requested, the Administrator and/or such Purchaser Agent shall be absolutely entitled to refrain from taking any action or to withhold any approval and shall not be under any liability whatsoever to any Person for refraining from any action or withholding any approval under any of the Transaction Documents until it shall have received such instructions from the Majority Purchaser Agents, in the case of the Administrator or Purchasers holding the majority of the aggregate of the Commitments in such Purchaser Agent's Purchaser Group, in the case of any Purchaser Agent (or, in either case, where expressly required hereunder, from the Majority LC Participants, the LC Bank, all of the Purchasers and/or all of the LC Participants). Without limiting the foregoing, (x) none of the Purchasers and the Purchaser Agents shall have any right of action whatsoever against the Administrator as a result of the Administrator acting or refraining from acting under this Agreement or any of the other Transaction Documents in accordance with the instructions of the Majority Purchaser Agent and (y) none of the Purchasers in a Purchaser Agent's Purchaser Group shall have any right of action whatsoever against such Purchaser Agent as a result of such Purchaser Agent acting or refraining from acting under this Agreement or any of the other Transaction Documents in accordance with the instructions of the Purchasers within such Purchaser Agent's Purchaser Group with a majority of the Commitments of such Purchaser Group. The Administrator shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement in accordance with a request of the required Purchasers or required Purchaser Agents, and such request and any action taken or failure to act pursuant thereto shall be binding upon all Purchasers, all Purchaser Agents and the Administrator. Each Purchaser Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement in accordance with a request of the Purchasers in such Purchaser Agent's Purchaser Group with a majority of the Commitments of such Purchaser Group, and any such request and any action taken or failure to act pursuant thereto shall be binding upon all the Purchasers in such Purchaser Agent's Purchaser Group and such Purchaser Agent.

Section 4.11 Administrator and Affiliates.

To the extent that the Administrator or any of its Affiliates is or shall become an LC Participant hereunder, the Administrator or such Affiliate, in such capacity, shall have the same rights and powers under this Agreement as would any other LC Participant hereunder and may exercise the same as though it were not the Administrator. The Administrator and its Affiliates may generally engage in any kind of business with the Seller, any Originator, Lyondell Chemical, any Sub-Servicer or the Servicer, any of their respective Affiliates and any Person who may do business with or own securities of the Seller, any Originator, Lyondell Chemical, any Sub-Servicer or the Servicer or any of their respective Affiliates, all as if it were not the Administrator hereunder and without any duty to account therefor to any Purchaser Agent or Purchaser.

Section 4.12 Notice of Termination Events.

Neither the Administrator nor any Purchaser Agent shall be deemed to have knowledge or notice of the occurrence of any Termination Event or Unmatured Termination Event unless it has received notice from, in the case of the Administrator, any Purchaser Agent, any Purchaser, the Servicer or the Seller and, in the case of any Purchaser Agent, the Administrator, any other Purchaser Agent, any Purchaser, the Servicer or the Seller, in each case stating that a Termination Event or an Unmatured Termination Event has occurred hereunder and describing such Termination Event or Unmatured Termination Event. In the event that the Administrator receives such a notice, it shall promptly give notice thereof to each Purchaser Agent. In the event that a Purchaser Agent receives such a notice, it shall promptly give notice thereof to the Administrator (unless such Purchaser Agent first received notice of such Termination Event or Unmatured Termination Event from the Administrator) and to each of its related Purchasers. The Administrator shall take such action concerning a Termination Event or an Unmatured Termination Event as may be directed by the Majority Purchaser Agents (unless such action otherwise requires the consent of all Purchasers, all Purchaser Agents or the LC Bank), but until the Administrator receives such directions, the Administrator may (but shall not be obligated to) take such action, or refrain from taking such action, as the Administrator deems advisable and in the best interests of the Purchasers and the Purchaser Agents.

Section 4.13 Non-Reliance on Administrator, Purchaser Agents and other Purchasers; Administrators and Affiliates.

(a) Each Purchaser and Purchaser Agent expressly acknowledges that none of the Administrator and the Purchaser Agents, in the case of such Purchaser, and none of the Administrator or any other Purchaser Agent, in the case of such Purchaser Agent, nor in either case any of their respective officers, directors, employees, agents, attorneys-in-fact or Affiliates has made any representations or warranties to it and that no act by the Administrator or any Purchaser Agent hereafter taken, including any review of the affairs of the Seller, Lyondell Chemical, the Servicer or any Originator, shall be deemed to constitute any representation or warranty by the Administrator or such Purchaser Agent. Each Purchaser and Purchaser Agent represents and warrants to the Administrator and such Purchaser's Purchaser Agent, in the case of such Purchaser, and the Administrator, in the case of such Purchaser Agent, that it has, independently and without reliance upon the Administrator, the LC Bank, any Purchaser Agent or any Purchaser and based on such documents and information as it has deemed appropriate, made and will continue to make its own appraisal of any investigation into the business, operations, property, prospects, financial and other conditions and creditworthiness of the Seller, Lyondell Chemical, the Servicer or the Originators, and made its own evaluation and decision to enter into this Agreement. Except for items specifically required to be delivered hereunder, the Administrator shall not have any duty or responsibility to provide any Purchaser or Purchaser Agent, and no Purchaser Agent have any duty or responsibility to provide any Purchaser, with any information concerning the Seller, Lyondell Chemical, the Servicer or the Originators or any of their Affiliates that comes into the possession of the Administrator or such Purchaser Agent, respectively, or any of their respective officers, directors, employees, agents, attorneys-in-fact or Affiliates.

(b) Each of the Purchasers, the Purchaser Agents and the Administrator and any of their respective Affiliates may extend credit to, accept deposits from and generally engage in any kind of banking, trust, debt, entity or other business with the Seller, Lyondell Chemical, the Servicer or any Originator or any of their Affiliates. With respect to the acquisition of the Eligible Receivables pursuant to this Agreement, each of the Purchaser Agents and the Administrator shall have the same rights and powers under this Agreement as any Purchaser and may exercise the same as though it were not such an agent, and the terms “Purchaser” and “Purchasers” shall include, to the extent applicable, each of the Purchaser Agents and the Administrator in their individual capacities.

Section 4.14 Indemnification.

Each LC Participant and Related Committed Purchaser agrees to indemnify and hold harmless the Administrator and its officers, directors, employees, representatives and agents and the LC Bank (to the extent not reimbursed by the Seller, the Servicer or any Originator and without limiting the obligation of the Seller, the Servicer, or any Originator to do so), ratably according to its Pro Rata Share, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, settlements, costs, expenses and/or disbursements of any kind or nature whatsoever (including in connection with any investigative or threatened proceeding, whether or not the Administrator, the LC Bank or such Person shall be designated a party thereto) that may at any time be imposed on, incurred by, or asserted against the Administrator, the LC Bank or such Person as a result of, or related to, any of the transactions contemplated by the Transaction Documents or the execution, delivery or performance of the Transaction Documents or any other document furnished in connection therewith; provided, however, that no LC Participant or Related Committed Purchaser shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses, or disbursements resulting from the Administrator’s or the LC Bank’s gross negligence or willful misconduct, as determined by a final non-appealable judgment of a court of competent jurisdiction. Without limiting the generality of the foregoing, each LC Participant agrees to reimburse the Administrator and the LC Bank, ratably according to their Pro Rata Shares, promptly upon demand, for any out-of-pocket expenses (including reasonable Attorney Costs) incurred by the Administrator or the LC Bank in connection with the administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of its rights or responsibilities under, this Agreement.

Section 4.15 Successor Administrator.

The Administrator may resign as Administrator, subject to the following sentence, (i) by written notice to the Seller, the Purchaser Agents and the Servicer, if neither the Administrator nor any Affiliate thereof is a party to this Agreement in the capacity of a Purchaser or a Purchaser Agent or (ii) otherwise, upon at least thirty (30) days’ prior written notice to the Seller, the Purchaser Agents and the Servicer. Such resignation shall not become effective until (a) a successor Administrator is appointed by the Majority Purchaser Agents and the LC Bank, and such successor Administrator has accepted such appointment (provided, if no successor Administrator is appointed within thirty (30) days of the Administrator’s written notice of resignation delivered in accordance with the above, the Administrator may appoint a successor Administrator from among the Purchasers and Purchaser Agents) and (b) so long as no Termination Event or Unmatured Termination Event has occurred and is continuing, the Seller and the Servicer shall have consented to such successor Administrator; provided, such consent by the Seller and the Servicer shall not be required if the successor Administrator is an existing Purchaser or Purchaser Agent. Upon such acceptance of its appointment as Administrator hereunder by a successor Administrator, such successor Administrator shall succeed to and become vested with all the rights and duties of the resigning Administrator, and the resigning Administrator shall be discharged from its duties and obligations under the Transaction Documents. After any retiring Administrator’s resignation hereunder, the provisions of Sections 3.1 and 3.2 and this Article IV shall inure to its benefit as to any actions taken or omitted to be taken by it while it was the Administrator.

ARTICLE V. MISCELLANEOUS

Section 5.1 Amendments, Etc.

No amendment or waiver of any provision of this Agreement or any other Transaction Document (other than the Agent Fee Letter) shall be effective unless in a writing signed by the Administrator, the Majority Purchaser Agents, the LC Bank and, in the case of an amendment, by the other parties thereto; provided, however, that no such amendment shall, (a) without the consent of each affected Purchaser, (i) extend the date of any payment or deposit of Collections by the Seller or the Servicer or decrease the outstanding amount of or rate of Discount or extend the repayment of or any scheduled payment date for the payment of any Discount in respect of any Portion of Capital or any Fees owed to a Purchaser; (ii) reduce any Fees payable pursuant to the RPA Fee Letter; (iii) forgive or waive or otherwise excuse any repayment of Capital or change either the amount of Capital of any Purchaser or any Purchaser's Ratable Share of the Purchased Interest; (iv) increase the Commitment of such Purchaser; (v) amend or modify the Pro Rata Share of any LC Participant; (vi) amend or modify the provisions of this Section 5.1 or the definition of "Capital", "Eligible Receivables", "Majority LC Participants", "Majority Purchaser Agents", "Net Receivables Pool Balance", "Purchased Interest", "Scheduled Termination Date" (other than pursuant to an extension thereof in accordance with Section 1.2(e)), "Termination Date" or "Total Reserves" or (vii) amend or modify any defined term (or any term used directly or indirectly in such defined term) used in clauses (i) through (vi) above in a manner that would circumvent the intention of the restrictions set forth in such clauses and (b) without the consent of the Majority Purchaser Agents and/or Majority LC Participants, as applicable, amend, waive or modify any provision expressly requiring the consent of such Majority Purchaser Agents and/or Majority LC Participant. Notwithstanding the foregoing, this Agreement may be amended in accordance with the terms and conditions of Section 1.1(d). Defaulting Purchasers shall have limited voting rights as set forth in Section 5.16. Each such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. No failure on the part of any Purchaser Agent, any Purchaser or the Administrator to exercise, and no delay in exercising any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right.

In the event that the Seller (or the Servicer on its behalf) requests that the Administrator, any Purchaser Agent or any Purchaser, in any case, that is then or whose Affiliate is then a party to the Lyondell Credit Agreement as a lender, agree to amend or waive clause (h) of Exhibit IV to this Agreement (including, without limitation, to change the meaning of the term "Leverage Ratio" (or any defined term constituting a component thereof under the Lyondell Credit Agreement) or to increase the ratio that would result in a Termination Event under such clause (h)) concurrently with a substantially similar amendment to or waiver of the minimum leverage ratio covenant under the Lyondell Credit Agreement (which covenant is set forth in Section 5.15 of the Lyondell Credit Agreement as of the Closing Date) or the defined term "Leverage Ratio" (or any defined term constituting a component thereof under the Lyondell Credit Agreement), then the Administrator, such Purchaser Agent or such Purchaser, as the case may be, shall be deemed to have agreed (for all purposes hereof) to such amendment or waiver of clause (h) of Exhibit IV to this Agreement if the Administrator, such Purchaser Agent or such Purchaser or such entity's Affiliate, as the case may be, also agrees in writing to such concurrent amendment or waiver under the Lyondell Credit Agreement.

Section 5.2 Notices, Etc.

All notices and other communications provided for hereunder shall, unless otherwise stated herein, be in writing (including facsimile or electronic mail communication) and shall be delivered or sent by facsimile, electronic mail or by overnight mail, to the intended party at the mailing or electronic mail address or facsimile number of such party set forth under its name on the signature pages hereof (or in any other document or agreement pursuant to which it is or became a party hereto), or at such other address or facsimile number as shall be designated by such party in a written notice to the other parties hereto. All such notices and communications shall be effective (i) if delivered by overnight mail, when received, and (ii) if transmitted by facsimile or electronic mail, when sent, receipt confirmed by telephone or electronic means.

Section 5.3 Successors and Assigns; Assignability; Participations; Replacement of Purchasers.

(a) Successors and Assigns. Unless the context otherwise requires, whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the successors and permitted assigns of such party; all covenants, promises and agreements by or on behalf of any parties hereto that are contained in this Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Except as otherwise provided in Section 4.1(d) or 4.1(e), neither the Seller nor the Servicer may assign or transfer any of its rights or delegate any of its duties hereunder or under any Transaction Document without the prior written consent of each Purchaser Agent.

(b) Participations. Any Purchaser may sell participating interests (each acquirer of a participating interest, a “participant”) in its rights and obligations pursuant to this Agreement; provided, however, that the selling Purchaser shall retain all rights and obligations under this Agreement and all parties to this Agreement shall continue to deal solely with such selling Purchaser. Except with respect to participations by Conduit Purchasers pursuant to Section 5.3(i), each agreement between a Purchaser and a participant shall provide that such Purchaser shall retain the sole right to enforce the Transaction Documents and to approve any amendment, modification or waiver of any provision of this Agreement (other than any amendment, modification or waiver of a provision described in Section 5.1(a) that affects such participant). The Seller agrees that each participant shall be entitled to the benefits of the Sections 1.7, 1.8 and 1.10 (subject to the requirements and limitations therein, including the requirements under Section 1.10; it being understood that the documentation required under Section 1.10(e) shall be delivered to the Purchaser who sells the participation) to the same extent as if it were a Purchaser and had acquired its interest by assignment pursuant to this Section 5.3(b), provided that such participant (A) agrees to be subject to the provisions of the Sections 5.3(g) and 5.3(h) as if it were an assignee under this Section and (B) shall not be entitled to receive any greater payment under the Section 1.7 or Section 1.10, with respect to any participation, than the Purchaser from whom it acquired the applicable participation would have been entitled to receive. Each Purchaser that sells a participation agrees, at the Seller’s request and expense, to use reasonable efforts to cooperate with the Seller to effectuate the provisions of Section 5.3(g) with respect to any participant. To the extent permitted by Applicable Law, each participant also shall be entitled to the benefits of any set-off rights provided to the Purchasers under this Agreement as though it were a Purchaser, provided that such Participant agrees to be subject to the provisions of Section 5.15 as though it were a Purchaser. Each Purchaser that sells a participation shall, acting solely for this purpose as an agent of the Seller, maintain a register on which it enters the name and address of each participant and the principal amounts (and stated Discount) of each participant’s interest in the Receivables and rights under this Agreement (the “Participant Register”); provided that no Purchaser shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any participant or any information relating to a participant’s interest in any commitments, loans, letters of credit or its other obligations under this Agreement) to any Person except to the extent that such disclosure is necessary to establish that such interest in Receivables and under this Agreement 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 Purchaser shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrator shall have no responsibility for maintaining the Participant Register.

(c) Assignments by Purchasers. Each Purchaser may assign, in whole or in part, its interests in the Receivables and its rights or obligations pursuant to this Agreement to any financial or other institution (which, in the case of an assignment by a Related Committed Purchaser, shall be to a financial institution with short-term unsecured debt ratings of at least “A-1” by Standard & Poor’s and “P-1” by Moody’s and that is consented to in writing by the Administrator and the LC Bank, such consent not to be unreasonably withheld or delayed), pursuant to a supplement hereto, substantially in the form of Annex F with any changes as have been approved by the parties thereto (each, a “Transfer Supplement”) executed by each such assignee, such selling Purchaser, such related Purchaser Agent and the Administrator; provided that, so long as no Termination Event has occurred and is continuing, any such assignment (other than to another Purchaser or Program Support Provider within its Purchaser Group or conduit managed or sponsored by the same Purchaser Agent) shall require the consent of the Seller. No assignment shall be effective until recorded in the Register. The Administrator, acting solely for this purpose as an agent of the Seller, shall maintain at one of its offices in Pittsburgh, PA a copy of each Transfer Supplement delivered to it and a register for the recordation of the names and addresses of the Purchasers and the Commitments of, and principal amounts (and stated Discount) of the interests in the Receivables and rights under this Agreement owing to each Purchaser pursuant to the terms of this Agreement from time to time (the “Register”). The entries in the Register shall be conclusive absent manifest error, and the Seller and the Administrator shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Purchaser hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Seller and any Purchaser, at any reasonable time and from time to time upon reasonable prior notice.

(d) Certain Pledges. Without limiting the right of any Purchaser to sell or grant interests, security interests or participations to any Person as otherwise described in this Section 5.3, any Purchaser may pledge, or grant a security interest in, all or any portion of its rights under this Agreement to secure its obligations to a Federal Reserve Bank without any notice to, or consent of, the Seller; provided that no such pledge or grant of a security interest shall release a Purchaser from any of its obligations under this Agreement or substitute any such pledgee or grantee for such Purchaser as a party to this Agreement.

(e) Agents. Without limiting any other rights that may be available under Applicable Law, the rights of the Purchasers and each Liquidity Provider may be enforced through it or by its agents, including its related Purchaser Agents.

(f) Disclosure; Notice. Each assignor may, in connection with an assignment permitted hereunder, disclose to the applicable assignee (that shall have agreed to be bound by an agreement containing a confidentiality undertaking in substantially the form set forth in Section 5.6) any information relating to the Servicer, the Seller or the Pool Receivables furnished to such assignor by or on behalf of the Servicer, the Seller, any Purchaser, any Purchaser Agent or the Administrator. Such assignor shall give prior written notice to the Seller of any assignment of such assignor’s rights and obligations (including ownership of the Purchased Interest) to any Person other than a Program Support Provider.

(g) Replacement of Purchasers. If (a) the Seller receives a claim for compensation under Section 1.7 or Section 1.10 of this Agreement from any Purchaser (or its Liquidity Provider or Program Support Provider), (b) any Purchaser is a Defaulting Purchaser, or (c) any Purchaser does not consent to a request to extend the Scheduled Termination Date, then the Seller may, at its sole expense and effort, upon notice to such Purchaser, its related Purchaser Agent and the Administrator, require such Purchaser, its related Purchaser Agent and any other Purchaser in such Purchaser's Purchaser Group to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 5.3(c) or (j), as applicable, of this Agreement), all of their respective interests, rights (other than their existing rights to payment under Sections 1.7 and 1.10 of this Agreement) and obligations under this Agreement and the other Transaction Documents, to an assignee that shall assume such obligations (which assignee may be a member of an existing Purchaser Group, if such Person accepts such assignment); provided, however, that the Seller shall be permitted to require the assignment by (i) the Purchaser Group of which the Administrator is a member, or (ii) any Purchaser which is administered by the Administrator or an Affiliate thereof only if, in either case, the Administrator is also replaced contemporaneously, pursuant to documents reasonably satisfactory to the Administrator; provided, further, that (i) the assignee financial institution shall purchase, at par, all Capital, Discount and other amounts owing to such assigning Purchaser and Purchaser Agent (other than any amounts owing under Sections 1.7 and 1.10 of this Agreement for which payment is then sought) on or prior to the date of assignment, (ii) if the replacement financial institution is not already a member of an existing Purchaser Group, the Seller shall have received the written consent of the Administrator and the LC Bank (which consents shall not be unreasonably withheld or delayed) to such assignment, (iii) until such time as such assignment shall be consummated, the Seller shall pay all additional amounts required under Sections 1.7 and 1.10, subject to the terms of this Agreement, (iv) such assignment shall not conflict with Applicable Law, (v) any such assignment shall not be deemed to be a waiver of any right that the Seller, the Administrator, any Purchaser Agent or any other Purchaser shall have against the assignor Purchaser or any member of its Purchaser Group and (vi) any such assignment by a Related Committed Purchaser shall be to a financial institution with short-term unsecured debt ratings of at least A-1 by Standard & Poor's and "P-1" by Moody's. No Purchaser or Purchaser Group may be required to make an assignment pursuant to this Section 5.3(g). (i) at any time when there is only one Purchaser Group or (ii) if the condition that gave rise to the Seller's right to require such assignment ceases to apply.

(h) Mitigation Obligations. If any Affected Person requests compensation under Section 1.7, or if the Seller is required to pay any additional amount to any Affected Person or any Governmental Authority for the account of any Affected Person pursuant to Section 1.10, then such Affected Person shall (at the request of the Seller) use reasonable efforts to designate a different office for funding or booking its Purchases hereunder or to assign its rights and obligations hereunder to another of its offices, branches or Affiliates, if, in the judgment of such Affected Person, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 1.7 or 1.10, as the case may be, in the future and (ii) would not subject such Affected Person to any unreimbursed cost or expense and would not otherwise be materially disadvantageous to such Affected Person. The Seller hereby agrees to pay all reasonable costs and expenses incurred by any Affected Person in connection with any such designation or assignment; provided, that such Affected Person is generally seeking compensation from similarly situated borrowers under similar trade receivables securitization facilities (to the extent such Affected Person has the right under such similar facilities to do so).

(i) Assignments to Liquidity Providers and other Program Support Providers. Any Conduit Purchaser may at any time grant to one or more of its Liquidity Providers or other Program Support Providers participating interests in its portion of the Purchased Interest. In the event of any such grant by such Conduit Purchaser of a participating interest to a Liquidity Provider or other Program Support Provider, such Conduit Purchaser shall remain responsible for the performance of its obligations hereunder. The Seller agrees that each Liquidity Provider and Program Support Provider shall be entitled to the benefits of Sections 1.7 and 1.8.

(j) Other Assignment by Conduit Purchasers. Each party hereto agrees and consents (i) to any Conduit Purchaser's assignment, participation, grant of security interests in or other transfers of any portion of, or any of its beneficial interest in, the Purchased Interest (or portion thereof), including without limitation to any collateral agent in connection with its commercial paper program and (ii) to the complete assignment by any Conduit Purchaser of all of its rights and obligations hereunder to any Liquidity Provider or Related Committed Purchaser for such Conduit Purchaser or to any other Person; provided, that such Conduit Purchaser may not, without the prior consent of its Related Committed Purchasers and, so long as no Termination Event is continuing, of the Seller (which consent the Seller may grant or withhold in its sole discretion), make any such assignment of its rights hereunder unless the assignee (x) is a commercial paper conduit that (i) is principally engaged in the purchase of assets similar to the assets being purchased hereunder, (ii) has as its Purchaser Agent the Purchaser Agent of the assigning Conduit Purchaser and (iii) issues commercial paper or other Notes with credit ratings substantially comparable to the ratings of the assigning Conduit Purchaser or (y) is a Related Committed Purchaser or Liquidity Provider for such Conduit Purchaser. Any assigning Conduit Purchaser shall deliver to any assignee a Transfer Supplement with any changes as have been approved by the parties thereto, duly executed by such Conduit Purchaser, assigning any portion of its interest in the Purchased Interest to its assignee. Such Conduit Purchaser shall promptly (i) notify each of the other parties hereto of such assignment and (ii) take all further action that the assignee reasonably requests in order to evidence the assignee's right, title and interest in such interest in the Purchased Interest and to enable the assignee to exercise or enforce any rights of such Conduit Purchaser hereunder. Upon the assignment of any portion of its interest in the Purchased Interest, the assignee shall have all of the rights hereunder with respect to such interest (except that the Discount therefor shall thereafter accrue at the rate, determined with respect to the assigning Conduit Purchaser unless the Seller, the related Purchaser Agent and the assignee shall have agreed upon a different Discount). No assignment (excluding a collateral assignment, pledge or granting of a security interest) shall be effective until recorded in the Register. Any transfer (excluding a collateral assignment, pledge or granting of a security interest) other than by assignment shall be treated as a sale of a participation pursuant to Section 5.3(b).

Section 5.4 Costs and Expenses.

Without limiting any of the Seller's other obligations hereunder or under any other Transaction Document (including, without limitation, its obligations under Sections 1.5, 1.7, 1.8, 1.10, 3.1 or Section 1(e) of Exhibit IV of this Agreement), the Seller will pay all reasonable and documented out-of-pocket expenses related to execution and delivery of this Agreement and each of the other Transaction Documents, including, without limitation, the rating agency fees, the reasonable and properly documented costs and expenses of counsel from one law firm to the Administrator and the Purchaser Agents, and the reasonable fees of a consulting firm selected by the Administrator in conducting the agreed-upon procedures. From the Closing Date until the Final Payout Date, the Seller shall pay (a) all reasonable and documented out-of-pocket fees and expenses incurred by the Administrator with respect to the administration of this Agreement and each of the other Transaction Documents (including, without limitation, the reasonable and properly documented fees and expenses of one law firm for the Administrator), including all reasonable fees and expenses actually incurred in connection with amendments to this Agreement or any other Transaction Document, the granting of any waivers under this Agreement or any other Transaction Document, and audit and due diligence fees (limited as provided in this Agreement), and (b) during the continuation of a Termination Event, all reasonable and documented out-of-pocket fees and expenses (including reasonable and properly documented attorneys' fees and expenses) incurred by the Administrator, the Purchasers and the Purchaser Agents in connection with the enforcement or protection of its rights under this Agreement or any other Transaction Document.

Section 5.5 No Proceedings; Limitation on Payments.

(a) Each of the Seller, the Servicer, the Administrator, the LC Bank, the Purchaser Agents and the Purchasers and each assignee of the Purchased Interest or any interest therein, and each Person that enters into a commitment to purchase the Purchased Interest or interests therein, hereby covenants and agrees that it will not institute against, or join any other Person in instituting against, any Conduit Purchaser any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding, or any other proceeding under any federal or state bankruptcy or similar law, for one year and one day after the latest maturing Note issued by such Conduit Purchaser is paid in full. The provisions of this paragraph shall survive any termination of this Agreement.

(b) Each of the Servicer, the Administrator, the LC Bank, the Purchaser Agents and the Purchasers and each assignee of the Purchased Interest or any interest therein, and each Person that enters into a commitment to purchase the Purchased Interest or interests therein, hereby covenants and agrees that it will not institute against, or join any other Person in instituting against, the Seller any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding, or any other proceeding under any federal or state bankruptcy or similar law, for one year and one day after the Final Payout Date; provided, that the Administrator may take any such action with the prior written consent of the Majority Purchaser Agents and the LC Bank. The provisions of this paragraph shall survive any termination of this Agreement.

(c) Notwithstanding any provisions contained in this Agreement to the contrary, no Conduit Purchaser shall, or shall be obligated to, pay any amount, if any, payable by it pursuant to this Agreement or any other Transaction Document unless (i) such Conduit Purchaser has received funds which may be used to make such payment and which funds are not required to repay such Conduit Purchaser's Notes when due and (ii) after giving effect to such payment, either (x) such Conduit Purchaser could issue Notes to refinance all of its outstanding Notes (assuming such outstanding Notes matured at such time) in accordance with the program documents governing such Conduit Purchaser's securitization program or (y) all such Conduit Purchaser's Notes are paid in full. Any amount which a Conduit Purchaser does not pay pursuant to the operation of the preceding sentence shall not constitute a claim (as defined in §101 of the Bankruptcy Code) against or company obligation of such Conduit Purchaser for any such insufficiency unless and until such Conduit Purchaser satisfies the provisions of clauses (i) and (ii) above. The provisions of this paragraph shall survive any termination of this Agreement.

Section 5.6 Confidentiality.

(a) Unless otherwise required by Applicable Law, each of the Seller and the Servicer will agree to maintain the confidentiality of the Transaction Documents (and all drafts thereof) in communications with third parties and otherwise; provided, that any Transaction Document may be disclosed: (a) to third parties to the extent such disclosure is made pursuant to a written agreement of confidentiality in form and substance reasonably satisfactory to the Administrator and each Purchaser Agent, (b) to the Seller's legal counsel, financial advisors and auditors if they agree to hold it confidential, subject to Applicable Law, (c) in connection with any legal proceeding arising out of or in connection with this Agreement or any other Transaction Document or the preservation or maintenance of that party's rights hereunder or thereunder, (d) if required to do so by a court of competent jurisdiction whether in pursuance of any procedure for discovering documents or otherwise, (e) in connection with a party's compliance with any law pursuant to which that party is required or accustomed to act (including applicable SEC requirements) and (f) to any Governmental Authority having jurisdiction over the Seller or the Servicer, the Originators or the Parent. The restrictions in the preceding sentence shall not apply to disclosures to any party to this Agreement by any other party thereto, information already known to a recipient otherwise than in breach of this confidentiality agreement, information also received from another source on terms not requiring it to be kept confidential, or information that is or becomes publicly available otherwise than in breach of this Section 5.6(a).

(b) Unless otherwise required by Applicable Law (in which case, the disclosing Person shall (i) promptly notify the Seller, the Parent, the Servicer and the Originators in advance of such disclosure, to the extent permitted by Applicable Law, and (ii) furnish only that portion of the information which in the good faith determination of the applicable Person is legally required to disclose), each of the Administrator, the Purchaser Agents and the Purchasers will agree to maintain the confidentiality of non-public information regarding the Seller, the Parent, the Servicer and the Originators; provided, that such information may be disclosed to: (i) third parties to the extent such disclosure is made pursuant to a written agreement of confidentiality in form and substance reasonably satisfactory to the Parent, the Servicer, the Seller and the Originators, (ii) legal counsel and auditors of the Purchasers, the Purchaser Agents or the Administrator if they agree to hold it confidential, (iii) any nationally recognized statistical rating organization, (iv) any Program Support Provider or potential Program Support Provider (if they agree to hold it confidential), and (v) any placement agency placing any Conduit Purchaser's commercial paper notes and (vi) any Governmental Authority having jurisdiction over the Administrator, any Purchaser Agent, any Purchaser, or any Program Support Provider.

Section 5.7 GOVERNING LAW AND JURISDICTION.

(a) **THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO ANY OTHERWISE APPLICABLE CONFLICTS OF LAW PRINCIPLES (OTHER THAN SECTIONS 5-1401 AND 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK).**

(b) **ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT MAY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK; AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH OF THE PARTIES HERETO CONSENTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THOSE COURTS. EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES, TO THE MAXIMUM EXTENT PERMITTED BY LAW, ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, THAT IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY ACTION OR PROCEEDING IN SUCH JURISDICTION IN RESPECT OF THIS AGREEMENT OR ANY DOCUMENT RELATED HERETO. EACH OF THE PARTIES HERETO WAIVES PERSONAL SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER PROCESS, WHICH SERVICE MAY BE MADE BY ANY OTHER MEANS PERMITTED BY NEW YORK LAW.**

Section 5.8 Execution in Counterparts.

This Agreement may be executed in any number of counterparts, each of which, when so executed, shall be deemed to be an original, and all of which, when taken together, shall constitute one and the same agreement.

Section 5.9 Survival of Termination.

The provisions of Sections 1.7, 1.8, 1.10, 1.18, 1.19, 1.20, 3.1, 3.2, 4.14, 5.4, 5.5, 5.6, 5.7, 5.9, 5.10 and 5.14 shall survive any termination of this Agreement.

Section 5.10 WAIVER OF JURY TRIAL.

EACH OF THE PARTIES HERETO WAIVES ITS RESPECTIVE RIGHTS TO A TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY IN ANY ACTION, PROCEEDING OR OTHER LITIGATION OF ANY TYPE BROUGHT BY ANY OF THE PARTIES AGAINST ANY OTHER PARTY OR PARTIES, WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS OR OTHERWISE. EACH OF THE PARTIES HERETO AGREES THAT ANY SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A COURT TRIAL WITHOUT A JURY. WITHOUT LIMITING THE FOREGOING, EACH OF THE PARTIES HERETO FURTHER AGREES THAT ITS RESPECTIVE RIGHT TO A TRIAL BY JURY IS WAIVED BY OPERATION OF THIS SECTION AS TO ANY ACTION, COUNTERCLAIM OR OTHER PROCEEDING THAT SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THIS AGREEMENT OR ANY PROVISION HEREOF. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT.

Section 5.11 Entire Agreement.

This Agreement and the other Transaction Documents embody the entire agreement and understanding between the parties hereto, and supersede all prior or contemporaneous agreements and understandings of such Persons, verbal or written, relating to the subject matter hereof and thereof.

Section 5.12 Headings.

The captions and headings of this Agreement and any Exhibit, Schedule or Annex hereto are for convenience of reference only and shall not affect the interpretation hereof or thereof.

Section 5.13 Right of Setoff.

Each Purchaser is hereby authorized (in addition to any other rights it may have), at any time during the continuance of a Termination Event, to setoff, appropriate and apply (without presentment, demand, protest or other notice which are hereby expressly waived) any deposits and any other indebtedness held or owing by such Purchaser (including by any branches or agencies of such Purchaser) to, or for the account of, the Seller against amounts owing by the Seller hereunder (even if contingent or unmatured); provided that such Purchaser shall notify the Seller concurrently with such setoff.

Section 5.14 Purchaser Groups' Liabilities.

The obligations of the Administrator, each Purchaser Agent and each Purchaser under the Transaction Documents are solely the corporate obligations of such Person. No recourse shall be had for any obligation or claim arising out of or based upon any Transaction Document against any member, employee, officer, director or incorporator of any such Person.

Section 5.15 Sharing of Recoveries.

Each Purchaser agrees that if it receives any recovery, through set-off, judicial action or otherwise, on any amount payable or recoverable hereunder in a greater proportion than should have been received hereunder or otherwise inconsistent with the provisions hereof, then the recipient of such recovery shall purchase for cash an interest in amounts owing to the other Purchasers (as return of Capital or otherwise), without representation or warranty except for the representation and warranty that such interest is being sold by each such other Purchaser free and clear of any Adverse Claim created or granted by such other Purchaser, in the amount necessary to create proportional participation by the Purchaser in such recovery. If all or any portion of such amount is thereafter recovered from the recipient, such purchase shall be rescinded and the purchase price restored to the extent of such recovery, but without interest.

Section 5.16 Defaulting Purchasers.

(a) If any LC Participant becomes a Defaulting Purchaser at any time when there are undrawn Letters of Credit outstanding, then all or any part of such Defaulting Purchaser's participation in such Letters of Credit shall be reallocated among the LC Participants that are not Defaulting Purchasers in accordance with their respective Pro Rata Shares (calculated without regard to such Defaulting Purchaser's Commitment), but only to the extent that (x) the conditions precedent to issuance of Letters of Credit are satisfied at the time of such reallocation (and, unless the Seller shall have otherwise notified the Administrator at such time, the Seller shall be deemed to have represented and warranted that such conditions are satisfied at such time), and (y) such reallocation does not cause the aggregate credit exposure of any Purchaser to exceed such Purchaser's Commitment. No such reallocation shall constitute a waiver or release of any claim of any party against a Defaulting Purchaser arising from that Purchaser having become a Defaulting Purchaser, including any claim of any other Purchaser as a result of such other Purchaser's increased exposure following such reallocation.

(b) If any LC Participant becomes a Defaulting Purchaser at any time when there are undrawn Letters of Credit outstanding and the reallocation described in Section 5.16(a) above cannot, or can only partially, be effected, then the Seller shall (i) within two (2) Business Days following notice by the LC Bank, cash collateralize for the benefit of the LC Bank a portion of the amount of the then outstanding Letters of Credit equal to such Defaulting Purchaser's Pro Rata Share (determined after giving effect to any reallocation of its participation in Letters of Credit pursuant to Section 5.16(a) above) of the undrawn stated amount of outstanding Letters of Credit by depositing such amount into the LC Collateral Account, and (ii) maintain funds in the LC Collateral Account to cash collateralize such Defaulting Purchaser's Pro Rata Share (determined after giving effect to any reallocation of its participation in Letters of Credit pursuant to Section 5.16(a) above) of the undrawn stated amount of outstanding Letters of Credit. The Administrator shall apply funds deposited into the LC Collateral Account to satisfy a Defaulting Purchaser's obligation to fund its portion of a Reimbursement Purchase requested or deemed requested by the Seller and to fund any Participation Advance required to be made by such Defaulting Purchaser.

(c) The Seller shall not be required to pay such Defaulting Purchaser any fees payable with respect to the amount of the undrawn Letters of Credit that is so cash collateralized by the Seller.

(d) No amount payable by the Seller for the account of a Defaulting Purchaser (whether on account of Capital, Discount, indemnity payments or other amounts) shall be paid or distributed to such Defaulting Purchaser (or its Purchaser Agent), but instead shall be deposited to the LC Collateral Account until the amount therein is equal to the amount of such Defaulting Purchaser's Pro Rata Share of the stated amount of the undrawn Letters of Credit that is not cash collateralized, and to the extent of any remaining amounts, to pay to such Defaulting Purchaser amounts owed to it. Notwithstanding any provision herein or in any Fee Letter to the contrary, if any Related Committed Purchaser becomes a Defaulting Purchaser, for so long as such Related Committed Purchaser is a Defaulting Purchaser, Commitment Fees (as defined in the RPA Fee Letter) shall cease to accrue on the Commitment of such Defaulting Purchaser.

(e) No Defaulting Purchaser shall have any right to approve or disapprove any amendment, waiver or consent under this Agreement (and any amendment, waiver or consent which by its terms requires the consent of all Purchasers or each affected Purchaser may be effected with the consent of the applicable Purchasers other than Defaulting Purchasers), except that (x) the Commitment of any Defaulting Purchaser may not be increased or extended without the consent of such Purchaser and (y) any waiver, amendment or modification requiring the consent of all Purchasers or each affected Purchaser that by its terms affects any Defaulting Purchaser more adversely than other affected Purchasers shall require the consent of such Defaulting Purchaser.

Section 5.17 USA Patriot Act.

Each of the Administrator and each of the Purchasers hereby notifies the Seller and the Servicer that pursuant to the requirements of the USA PATRIOT Act, Title III of Pub. L. 107-56 (signed into law October 26, 2001) (the “PATRIOT Act”), the Administrator and the Purchasers may be required to obtain, verify and record information that identifies the Seller, the Servicer, the Originators and the Parent, which information includes the name, address, tax identification number and other information regarding the Seller, the Servicer, the Originators and the Parent that will allow the Administrator and the Purchasers to identify the Seller, the Servicer, the Originators and the Parent in accordance with the PATRIOT Act. This notice is given in accordance with the requirements of the PATRIOT Act. Each of the Seller and the Servicer agrees to provide the Administrator and the Purchasers, from time to time, with all documentation and other information required by bank regulatory authorities under “know your customer” and anti-money laundering rules and regulations, including, without limitation, the PATRIOT Act.

Section 5.18 Release of Security Interests.

Upon the Final Payout Date, the security interests in all of the Pool Receivables and Related Security and the Lock-Box Accounts created by the Transaction Documents (for the avoidance of doubt, excluding any ownership, security or other interest of the Seller) shall be automatically terminated and released. In connection with any release pursuant to Section 4.2(b) or this Section 5.18, the Administrator shall (and each Purchaser, each Purchaser Agent and the LC Bank irrevocably authorizes the Administrator to), at the Seller’s expense, execute, deliver or authorize, as applicable, any documents (in form and substance reasonably satisfactory to the Administrator) that Seller (or Servicer on its behalf) may reasonably request which are necessary or desirable to evidence such release, including, without limitation, financing statement amendments (Form UCC-3).

Section 5.19 Construction.

The parties acknowledge and agree that this Agreement shall not be construed more favorably in favor of any party hereto based upon which party drafted the same, it being acknowledged that all parties hereto contributed substantially to the drafting and negotiation of this Agreement.

Section 5.20 Interpretation; Accounting Terms and Principles.

For purposes of this Agreement and all such certificates and other documents delivered in connection herewith, unless the context otherwise requires or unless otherwise specifically provided herein: (a) 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 (subject to the immediately succeeding paragraph); (b) all terms used in Article 9 of the UCC in the State of New York, and not specifically defined herein, are used herein as defined in such Article 9; (c) references to any amount as on deposit or outstanding on any particular date means such amount at the close of business on such day; (d) the words “hereof,” “herein” and “hereunder” and words of similar import refer to such agreement (or the certificate or other document in which they are used) as a whole and not to any particular provision of such agreement (or such certificate or document); (e) references to any Section, Annexes, Schedule or Exhibit are references to Sections, Annexes, Schedules and Exhibits in or to such agreement (or the certificate or other document in which the reference is made), and references to any paragraph, subsection, clause or other subdivision within any Section or definition refer to such paragraph, subsection, clause or other subdivision of such Section or definition; (f) the term “including” means “including without limitation”; (g) references to any Applicable Law refer to that Applicable Law as amended from time to time and include any successor Applicable Law; (h) references to any agreement refer to that agreement as from time to time amended, restated or supplemented or as the terms of such agreement are waived or modified in accordance with its terms; (i) references to any Person include that Person’s permitted successors and assigns; (j) headings are for purposes of reference only and shall not otherwise affect the meaning or interpretation of any provision hereof; (k) unless otherwise provided, in the calculation of time from a specified date to a later specified date, the term “from” means “from and including”, and the terms “to” and “until” each means “to but excluding”; (l) terms in one gender include the parallel terms in the neuter and opposite gender; and (m) the term “or” is not exclusive.

If, after the date of this Agreement, there shall occur any change in GAAP from those used in the preparation of the financial statements referred to in Section 1(a) or 2(a) of Exhibit IV and such change shall result in a change in the calculation of any financial covenant, requirement, standard or term found in this Agreement, either the Seller or the Majority Purchaser Agents may by notice to the Purchasers and the Seller, respectively, require that the Purchasers and the Seller negotiate in good faith to amend such covenant, requirement, standard and term so as equitably to reflect such change in accounting principles, with the desired result being that the criteria for evaluating the financial condition of the Parent and its Subsidiaries shall be the same as if such change had not been made. No delay by the Seller or the Majority Purchaser Agents in requiring such negotiation shall limit their right to so require such a negotiation at any time after such a change in accounting principles. Until any such covenant, standard, or term is amended in accordance with this Section 5.20, financial covenants shall be computed and determined in accordance with GAAP in effect prior to such change in accounting principles. Obligations relating to a lease that was accounted for by a Person as an operating lease before such change in GAAP and any similar lease entered into after such change in GAAP shall be accounted for as obligations relating to an operating lease and not as a capital lease.

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

LYB RECEIVABLES LLC,
as the Seller

By: _____
Name: Anuj Dhruv
Title: Treasurer

Address: LYB Receivables LLC
1221 McKinney, Suite 700
Houston, Texas 77010

Attention: Anuj Dhruv
Telephone: (713) 309-2457
Email: anuj.dhruv@lyb.com

LYONDELL CHEMICAL COMPANY,
as the initial Servicer

By: _____
Name: Anuj Dhruv
Title: Treasurer

Address: Lyondell Chemical Company
1221 McKinney, Suite 700
Houston, Texas 77010

Attention: Anuj Dhruv
Telephone: (713) 309-2457
Email: anuj.dhruv@lyb.com

MIZUHO BANK, LTD.,
as a Related Committed Purchaser and
as an LC Participant

By: _____
Name:
Title:

Address: Mizuho Bank, Ltd.
1251 Avenue of the Americas
New York, NY 10020

Attention: Donna DeMagistris
Telephone: (212) 282-3335
Facsimile: (212) 282-4488
Email: donna.demagistris@mizuhocbus.com

MIZUHO BANK, LTD.,

as LC Bank

By: _____

Name:

Title:

Address: Mizuho Bank, Ltd.
1251 Avenue of the Americas
New York, NY 10020

Attention: Donna DeMagistris
Telephone: (212) 282-3335
Facsimile: (212) 282-4488
Email: donna.demagistris@mizuhocbus.com

MIZUHO BANK, LTD.,

as a Purchaser Agent

By: _____
Name:
Title:

Address: Mizuho Bank, Ltd.
1251 Avenue of the Americas
New York, NY 10020

Attention: Donna DeMagistris
Telephone: (212) 282-3335
Facsimile: (212) 282-4488
Email: donna.demagistris@mizuhocbus.com

MIZUHO BANK, LTD.,

as Administrator

By: _____
Name:
Title:

Address: Mizuho Bank, Ltd.
1251 Avenue of the Americas
New York, NY 10020

Attention: Donna DeMagistris
Telephone: (212) 282-3335
Facsimile: (212) 282-4488
Email: donna.demagistris@mizuhocbus.com

MUFG BANK, LTD.,

as a Purchaser Agent

By: _____
Name:
Title:

Address: MUFG Bank, Ltd.
1251 Avenue of the Americas, 12th Floor
New York, NY 10020

Attention: Securitization Group
Telephone: (212) 784-4910
Facsimile: (212) 782-6448
Email: ewilliams@us.mufg.jp and
securitization_reporting@us.mufg.jp

MUFG BANK, LTD.,

as a Related Committed Purchaser
and as an LC Participant

By: _____
Name:
Title:

Address: MUFG Bank, Ltd.
1251 Avenue of the Americas, 12th Floor
New York, NY 10020

Attention: Securitization Group
Telephone: (212) 784-4910
Facsimile: (212) 782-6448
Email: ewilliams@us.mufg.jp and
securitization_reporting@us.mufg.jp

GOTHAM FUNDING CORPORATION,
as a Conduit Purchaser

By: _____
Name:
Title:

Address: Gotham Funding Corporation
c/o Global Securitization Services
114 West 47th Street, Suite 2310
New York, NY 10036

Attention: Frank Bilotta
Facsimile: (212) 302-8767
Email: fbilotta@gssnyc.com

SMBC NIKKO SECURITIES AMERICA, INC.,
as a Purchaser Agent

By: _____
Name:
Title:

Address: SMBC Nikko Securities America, Inc.
277 Park Avenue
New York, New York 10172

Attention: Peter Nakhla
Telephone: (212) 224-5370
Facsimile: (212) 224-4929
Email: PNakhla@smbcnikko-si.com

SUMITOMO MITSUI BANKING CORPORATION,
as a Related Committed Purchaser and
as an LC Participant

By: _____
Name:
Title:

Address: Sumitomo Mitsui Banking Corporation
277 Park Avenue
New York, New York 10172

Attention: Mohan Mahimtura
Telephone: (212) 224-4715
Facsimile: (212) 224-4384
Email: Mohan_Mahimtura@smbcgroup.com

EXHIBIT I DEFINITIONS

As used in this Agreement (including its Exhibits, Schedules and Annexes), the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined). Unless otherwise indicated, all Section, Annex, Exhibit and Schedule references in this Exhibit are to Sections of and Annexes, Exhibits and Schedules to this Agreement.

“Adjusted LC Participation Amount” means, at any time, the LC Participation Amount minus the amount of cash collateral held in the LC Collateral Account at such time.

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

“Administrator” has the meaning set forth in the preamble to this Agreement.

“Adverse Claim” means a lien, security interest or other charge or encumbrance, or any other type of preferential arrangement; it being understood that any thereof in favor of, or assigned to, the Administrator (for the benefit of the Purchasers) shall not constitute an Adverse Claim.

“Affected Person” has the meaning set forth in Section 1.7(a) of this Agreement.

“Affiliate” means, as to any Person (a) any Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such Person and (b) in the case of each Conduit Purchaser, the holder(s) of its capital stock or membership interests, as the case may be. A Person shall be deemed to control another Person for purposes of this definition if such Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the other Person, whether through the ownership of voting securities, common directors, trustees or officers, by contract or otherwise.

“Affiliate Receivables” mean any Receivable, the Obligor of which is an Affiliate of the Seller, the Servicer, any Originator or the Parent.

“Agent Fee Letter” has the meaning set forth in Section 1.5 of this Agreement.

“Aggregate Capital” means at any time the aggregate outstanding Capital of all Purchasers at such time.

“Aggregate Discount” means, at any time, the sum of the aggregate for each Purchaser of the accrued and unpaid Discount with respect to each such Purchaser’s Capital at such time.

“Agreement” has the meaning set forth in the preamble to the Receivables Purchase Agreement to which this Exhibit I is attached and made a part.

“Alternate Rate” means, for any Settlement Period for any Capital (or portion thereof) funded by any Purchaser other than through the issuance of Notes, an interest rate per annum equal to: (a) ~~the Euro-Rate~~ Adjusted Term SOFR for such Settlement Period or (b) solely for any Portion of Capital for such Settlement Period for which ~~the Euro-Rate~~ Adjusted Term SOFR is unavailable as described in Section 1.9, the daily average Base Rate for such Settlement Period; provided, however, that the “Alternate Rate” for any day while a Termination Event has occurred and is continuing shall be an interest rate equal to the Base Rate plus 2.0% per annum.

“Applicable Law” shall mean all applicable provisions of constitutions, laws, statutes, ordinances, rules, treaties, regulations, permits, licenses, approvals, interpretations and orders of courts or Governmental Authorities and all orders and decrees of all courts and arbitrators.

“Anti-Corruption Laws” means the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and all other similar legislation governing bribery or corruption, in each case, as applicable to the Parent or its Subsidiaries from time to time.

“Attorney Costs” means the reasonable and properly documented out-of-pocket fees, charges and disbursements of one counsel for the Administrator and the other Indemnified Parties taken as a whole and, in the case of any conflict of interest, one additional counsel to each group of affected Indemnified Parties similarly situated taken as a whole.

“Available Tenor” means, as of any date of determination and with respect to any then-current Benchmark, if such Benchmark is a term rate, any tenor for such Benchmark (or component thereof) that is or may be used for determining the length of an interest period pursuant to this Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of “Settlement Period” pursuant to Section 1.21(d).

“Bankruptcy Code” means the Title 11 of the United States Code (11 U.S.C. § 101, et seq.), as amended from time to time.

“Base Rate” means, for any day and any Purchaser Group, a fluctuating interest rate per annum as shall be in effect from time to time, which rate shall be at all times equal to the greater of:

(a) the rate of interest in effect for such day as publicly announced from time to time by the applicable Purchaser Agent or its Affiliate as its “reference rate” or “prime rate”, as applicable. Such “reference rate” or “prime rate” is set by the applicable Purchaser Agent or its Affiliate based upon various factors, including such Person’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above or below such announced rate, and is not necessarily the lowest rate charged to any customer; and

(b) 0.50% per annum above the latest Federal Funds Rate.

“Benchmark” means, initially, the Term SOFR Reference Rate; provided that if a Benchmark Transition Event has occurred with respect to any then-current Benchmark, then “Benchmark” means, the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 1.21(a).

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

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

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

- (a) in the case of clause (a) or (b) of the definition of “Benchmark Transition Event,” the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, all Available Tenors of such Benchmark (or such component thereof); or
- (b) in the case of clause (c) of the definition of “Benchmark Transition Event”, the first date on which such Benchmark (or the published component used in the calculation thereof) has been or, if such Benchmark is a term rate, all Available Tenors of such Benchmark (or such component thereof) have been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be non-representative; provided that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (c) and even if such Benchmark (or such component thereof) or, if such Benchmark is a term rate, any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

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

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

- (a) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, any Available Tenor of such Benchmark (or such component thereof);
- (b) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, any Available Tenor of such Benchmark (or such component thereof); or
- (c) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such Benchmark (or such component thereof) or, if such Benchmark is a term rate, all Available Tenors of such Benchmark (or such component thereof) are not, or as of a specified future date will not be, representative.

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

“Benchmark Transition Start Date” means, with respect to any Benchmark, in the case of a Benchmark Transition Event, the earlier of (a) the applicable Benchmark Replacement Date and (b) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the 90th day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than 90 days after such statement or publication, the date of such statement or publication).

“Benchmark Unavailability Period” means, with respect to any then-current Benchmark for any currency, the period (if any) (a) beginning at the time that a Benchmark Replacement Date with respect to such Benchmark has occurred if, at such time, no Benchmark Replacement has replaced such Benchmark for all purposes hereunder and under any Transaction Document in accordance with Section 1.21 and (b) ending at the time that a Benchmark Replacement has replaced such Benchmark for all purposes hereunder and under any Transaction Document in accordance with Section 1.21.

“Beneficial Ownership Certification” means a certification regarding beneficial ownership required by the Beneficial Ownership Regulation, which certification shall be substantially similar in form and substance to the form of Certification Regarding Beneficial Owners of Legal Entity Customers published jointly, in May 2018, by the Loan Syndications and Trading Association and Securities Industry and Financial Markets Association.

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

“Business Day” means any day other than a Saturday, Sunday, or other day on which commercial banks are authorized to close under the laws of, or are in fact closed in, New York City, and if ~~this definition of “Business Day” is utilized in connection with the Euro-Rates~~ such day relates to any rate settings with respect to any Portion of Capital funded at the Alternate Rate determined by reference to Term SOFR, any fundings, disbursements, settlements and payments in respect of any such Portion of Capital, or any other dealings to be carried out pursuant to this Agreement in respect of any such Portion of Capital, such day is also a ~~day on which dealings in deposits in U.S. Dollars are conducted by and between banks in the London interbank eurodollar market~~ U.S. Government Securities Business Day.

“Canadian Obligor” means an Obligor which (i) if a natural person, is a resident of Canada or (ii) if a corporation or other business organization, is organized under the laws of Canada or any political subdivision thereof, or is a resident of Canada or any political subdivision thereof.

“Capital” means, with respect to any Purchaser, without duplication, the aggregate amounts (i) paid to, or on behalf of, the Seller in connection with all Funded Purchases made by such Purchaser pursuant to Sections 1.2(b) and 1.14(a) of this Agreement, (ii) paid by such Purchaser, as an LC Participant, to the LC Bank in respect of a Participation Advance made by such Purchaser to LC Bank pursuant to Section 1.14(b) of this Agreement and (iii) with respect to the Purchaser that is the LC Bank, paid by the LC Bank with respect to all drawings under Letters of Credit to the extent such drawings have not been reimbursed by the Seller or funded by Participation Advances, as reduced from time to time by Collections distributed and applied on account of such Capital pursuant to Section 1.4(d) of this Agreement; provided, that if such Capital shall have been reduced by any distribution and thereafter all or a portion of such distribution is rescinded or must otherwise be returned for any reason, such Capital shall be increased by the amount of such rescinded or returned distribution as though it had not been made.

“Change in Control” means the occurrence of any of the following:

- (a) the Parent ceases to own, directly or indirectly, 100% of the issued and outstanding capital stock, membership interests and all other equity interests of the Servicer and each Originator free and clear of all Adverse Claims;
- (b) Lyondell Chemical ceases to own, directly, 100% of the issued and outstanding membership interests and all other equity interests of the Seller free and clear of all Adverse Claims;
- (c) the sale, lease or transfer, in one or a series of related transactions, of all or substantially all of the assets of the Parent and its Subsidiaries, taken as a whole, to any Person other than the Parent or one of its Subsidiaries; or
- (d) the Parent becomes aware of (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) the acquisition by any Person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision), including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act), in a single transaction or in a related series of transactions, by way of acquisition, merger, amalgamation, consolidation, transfer, conveyance or other business combination or purchase of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision) of more than 50% of the total voting power of the Voting Stock of the Parent, other than by virtue of the imposition of a holding company, or the reincorporation of the Parent in another jurisdiction, so long as the beneficial owners of the Voting Stock of the Parent immediately prior to such transaction hold a majority of the voting power of the Voting Stock of such holding company or reincorporation entity immediately thereafter.

“Change in Law” means the occurrence, after the Closing Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty or (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to the agreements reached by the Basel Committee on Banking Supervision in “Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems” (as amended, supplemented or otherwise modified or replaced from time to time), shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

“Closing Date” means September 11, 2012.

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

“Collections” means, with respect to any Pool Receivable: (a) all funds that are received by any Originator, the Seller, the Servicer, the Parent, any Affiliate of any of the foregoing or any other Person on their behalf in payment of any amounts owed in respect of such Receivable (including purchase price, finance charges, interest and all other charges), or applied to amounts owed in respect of such Receivable (including insurance payments and net proceeds of the sale or other disposition of repossessed goods or other collateral or property of the related Obligor or any other Person directly or indirectly liable for the payment of such Pool Receivable and available to be applied thereon), (b) all amounts deemed to have been received pursuant to Section 1.4(e) of this Agreement and (c) all other proceeds of such Pool Receivable.

“Commitment” means, with respect to any Related Committed Purchaser, LC Participant or LC Bank, as applicable, the maximum aggregate amount which such Purchaser is obligated to pay hereunder on account of all Funded Purchases and all drawings under all Letters of Credit, on a combined basis, as set forth on Schedule IV or in the applicable Transfer Supplement or other agreement pursuant to which it became a Purchaser, as such amount may be modified pursuant to any subsequent assignment pursuant to Section 5.3 or pursuant to an increase pursuant to Section 1.1(d) or a reduction in the Purchase Limit pursuant to Section 1.1(b) of this Agreement. If the context so requires, “Commitment” also refers to a Purchaser’s obligation to make Purchases, make Participation Advances and/or issue Letters of Credit hereunder.

“Commitment Percentage” means, for each Related Committed Purchaser or related LC Participant in a Purchaser Group, the Commitment of such Related Committed Purchaser or related LC Participant, as the case may be, divided by the total of all Commitments of all Related Committed Purchasers or related LC Participants, as the case may be, in such Purchaser Group.

“Concentration Percentage” means (i) for any Group A Obligor, 10.00%, (ii) for any Group B Obligor, 8.00%, (iii) for any Group C Obligor, 6.00% and (iv) for any Group D Obligor, 4.00%.

“Concentration Reserve Percentage” means, at any time, the largest of: (a) the sum of the five (5) largest Obligor Percentages of the Group D Obligors at such time, (b) the sum of the three (3) largest Obligor Percentages of the Group C Obligors at such time, (c) the sum of the two (2) largest Obligor Percentages of the Group B Obligors at such time, (d) the largest Obligor Percentage of the Group A Obligors at such time and (e) 10.00%.

“Conduit Purchaser” means each commercial paper conduit that is or becomes a party to this Agreement as a “Conduit Purchaser.”

“Conforming Changes” means, with respect to either the use or administration of any Benchmark or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Alternate Rate” (if applicable), the definition of “Business Day,” the definition of “U.S. Government Securities Business Day,” the definition of “Settlement Period” or any similar or analogous definition (or the addition of a concept of “interest period”), timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of Section 1.8 and other technical, administrative or operational matters) that the Administrator decides (in consultation with the Seller) may be appropriate to reflect the adoption and implementation of any such rate or to permit the use and administration thereof by the Administrator in a manner substantially consistent with market practice (or, if the Administrator decides that adoption of any portion of such market practice is not administratively feasible or if the Administrator determines that no market practice for the administration of any such rate exists, in such other manner of administration as the Administrator decides is reasonably necessary in connection with the administration of this Agreement and the other Transaction Documents).

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

“Contract” means, with respect to any Receivable or Excluded Receivable, any and all contracts, instruments, agreements, leases, invoices, notes or other writings pursuant to which such Receivable or Excluded Receivables arises or that evidence such Receivable or Excluded Receivable or under which an Obligor becomes or is obligated to make payment in respect of such Receivable or Excluded Receivable.

“Controlled Group” means all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with the Seller, the Originators and Lyondell Chemical, are treated as a single employer under Section 414 of the Code.

“CP Rate” means, for any Conduit Purchaser and for any Settlement Period for any Portion of Capital, (a) the per annum rate equivalent to the weighted average cost (as determined by the applicable Purchaser Agent and which shall include commissions of placement agents and dealers, incremental carrying costs incurred with respect to Notes of such Person maturing on dates other than those on which corresponding funds are received by such Conduit Purchaser, other borrowings by such Conduit Purchaser (other than under any Program Support Agreement) and any other costs associated with the issuance of Notes) of or related to the issuance of Notes that are allocated, in whole or in part, by the applicable Conduit Purchaser to fund or maintain such Portion of Capital (and which may be also allocated in part to the funding of other assets of such Conduit Purchaser); provided, however, that if any component of such rate is a discount rate, in calculating the “CP Rate” for such Portion of Capital for such Settlement Period, the applicable Purchaser Agent shall for such component use the rate resulting from converting such discount rate to an interest bearing equivalent rate per annum; provided, further, that notwithstanding anything in this Agreement or the other Transaction Documents to the contrary, the Seller agrees that any amounts payable to Conduit Purchasers in respect of Discount for any Settlement Period with respect to any Portion of Capital funded by such Conduit Purchasers at the CP Rate shall include an amount equal to the portion of the face amount of the outstanding Notes issued to fund or maintain such Portion of Capital that corresponds to the portion of the proceeds of such Notes that was used to pay the interest component of maturing Notes issued to fund or maintain such Portion of Capital, to the extent that such Conduit Purchaser had not received payments of interest in respect of such interest component prior to the maturity date of such maturing Notes (for purposes of the foregoing, the “interest component” of Notes equals the excess of the face amount thereof over the net proceeds received by such Conduit Purchaser from the issuance of Notes, except that if such Notes are issued on an interest-bearing basis, its “interest component” will equal the amount of interest accruing on such Notes through maturity) or (b) any other rate agreed to by the Seller and such Conduit Purchaser as the “CP Rate” for such Conduit Purchaser in the document pursuant to which such Person becomes a party as a Conduit Purchaser to this Agreement, or any other writing or agreement provided by such Conduit Purchaser to the Seller, the Servicer and the applicable Purchaser Agent from time to time. The “CP Rate” for any Conduit Purchaser for any day while a Termination Event has occurred and is continuing shall be an interest rate equal to the Base Rate plus 2.0% per annum.

“Credit and Collection Policy” means the global credit policy of the Parent and its operating Subsidiaries (including the Servicer) in effect on the Closing Date and attached as Schedule I to this Agreement, as from time to time modified in compliance with this Agreement.

“Days’ Sales Outstanding” means the ratio, calculated as of the last day of each calendar month, of (a) the average aggregate Outstanding Balance of all Receivables over the prior three (3) calendar months to (b) the ratio of (i) the aggregate initial Outstanding Balance of all Receivables generated by the Originators during the prior three (3) calendar months to (ii) 90.

“Debt” means, as to any Person at any time, without duplication, any and all indebtedness, obligations or liabilities (whether matured or unmatured, liquidated or unliquidated, direct or indirect, absolute or contingent, or joint or several) of such Person for or in respect of: (i) borrowed money, (ii) bonds, notes, debentures or similar instruments, (iii) reimbursement obligations under any drawn letter of credit, (iv) any other transaction (including production payments (excluding royalties), installment purchase agreements, forward sale or purchase agreements, capitalized leases and conditional sales agreements) having the commercial effect of a borrowing of money entered into by such Person to finance its operations or capital requirements (but not including (x) any earn-out obligation until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP and (y) accounts payable incurred in the ordinary course of such Person’s business payable on terms customary in the trade), or (v) any Guaranty of any such indebtedness of another Person.

“Deemed Collections” has the meaning set forth in Section 1.4(e)(ii) of this Agreement.

“Defaulted Receivable” means a Receivable:

- (a) which remains unpaid for more than 90 days but equal to or less than 120 days from the original due date;

- (b) as to which an Insolvency Proceeding shall have occurred with respect to the Obligor thereof; or
- (c) which, consistent with the Credit and Collection Policy, would be written off as uncollectible;

it being understood and agreed that the Outstanding Balance of any Defaulted Receivable shall be computed without giving effect to any open credit memos or credit balances; and provided that any Receivable described in clause (b) or (c) above shall only constitute a Defaulted Receivable for the 30-day period following the date of commencement of the related Insolvency Proceeding or write-off, as the case may be.

“Defaulting Purchaser” means any Related Committed Purchaser or LC Participant, as applicable, that (a) has failed to (i) perform its obligation to fund any portion of its Purchases or Participation Advances or (ii) pay over to the Administrator or any Purchaser any other amount within two Business Days of the date required to be funded or paid by it hereunder, unless, in the case of clause (i) above, such Related Committed Purchaser or LC Participant, as applicable, notifies the Administrator and the Seller in writing that such failure is the result of such Related Committed Purchaser’s or LC Participant’s, as applicable, 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 Seller, the Administrator or any Purchaser in writing, or has made a public statement to the effect, that it does not intend to comply with any of its funding obligations under this Agreement or any other Transaction Document or generally under other agreements in which it commits or extends credit (unless such writing or public statement relates to such Related Committed Purchaser’s or LC Participant’s, as applicable, obligation to fund any portion of its Purchases or Participation Advances and states that such position is based on such Related Committed Purchaser’s or LC Participant’s, as applicable, good faith determination that a condition precedent to funding (specifically identified and including the particular default, if any) has not been satisfied), (c) has failed, within three Business Days after written request by the Administrator or the Seller, to confirm in writing in a manner satisfactory to the Administrator and the Seller, that it will comply with the terms of this Agreement and the other Transaction Documents relating to its obligations to fund prospective Purchases and Participation Advances under this Agreement (provided that such Related Committed Purchaser or LC Participant, as applicable, shall cease to be a Defaulting Purchaser pursuant to this clause (c) upon receipt of such written confirmation by the Administrator and the Seller), (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any bankruptcy or insolvency proceeding or (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such capacity; provided that, for the avoidance of doubt, a Related Committed Purchaser or LC Participant, as applicable, shall not be a Defaulting Purchaser solely by virtue of the ownership or acquisition of any equity interest in such Related Committed Purchaser or LC Participant, as applicable, 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 Related Committed Purchaser or LC Participant, as applicable, 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 Related Committed Purchaser or LC Participant, as applicable (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Related Committed Purchaser or LC Participant, as applicable.

“Delinquency Ratio” means the ratio (expressed as a percentage) calculated as of the last day of each calendar month, of (i) the aggregate Outstanding Balance of all Delinquent Receivables on such day to (ii) the aggregate Outstanding Balance of all Receivables on such day.

“Delinquent Receivable” means a Receivable which remains unpaid for more than 90 days from the original due date or which would be classified as delinquent pursuant to the Credit and Collection Policy; it being understood that the Outstanding Balance of Delinquent Receivables shall be computed without regard to any open credit memos or credit balances.

“Designated Jurisdiction” means any country or territory to the extent that such country or territory itself is the subject of any Sanction.

“Dilution” the portion of any Receivable which is reduced or canceled as a result of any of the events set forth in Section 1.4(e)(i) of this Agreement.

“Dilution Horizon Ratio” means the ratio (expressed as a percentage), calculated as of the last day of each calendar month, of (i) the aggregate initial Outstanding Balance of all Receivables generated by the Originators during the most recent calendar month (and/or such other calendar month(s) as may be agreed by the Administrator and the Servicer following an audit of the Servicer), to (ii) the Net Receivables Pool Balance as of the last day of the most recent calendar month.

“Dilution Ratio” means the ratio (expressed as a percentage), calculated as of the last day of each calendar month, of (i) the aggregate amount of Dilutions during such month (other than amounts related to the Specifically Reserved Dilution Amount), to (ii) the aggregate initial Outstanding Balance of all Receivables generated by the Originators during the calendar month prior to such month.

“Dilution Reserve Floor Percentage” means, on any day, a percentage equal to the product of (a) the Expected Dilution, times (b) the Dilution Horizon Ratio.

“Dilution Spike” means the highest Dilution Ratio for any calendar month over the twelve most recently ended calendar months.

“Dilution Volatility” means, on any date, a percentage equal to the product of (i) the Dilution Spike minus the Expected Dilution and (ii) the Dilution Spike divided by the Expected Dilution.

“Discount” means:

(a) for any Portion of Capital for any Settlement Period with respect to any Purchaser to the extent such Portion of Capital will be funded by such Purchaser during such Settlement Period through the issuance of Notes:

$$\text{CPR} \times \text{C} \times \text{ED}/360$$

(b) for any Portion of Capital for any Settlement Period with respect to any Purchaser to the extent such Portion of Capital will not be funded by such Purchaser during such Settlement Period through the issuance of Notes or, if the LC Bank or any LC Participant has made, or is deemed to have made, a Funded Purchase in connection with any drawing under a Letter of Credit that has not been reimbursed pursuant to Section 1.14 of this Agreement:

$$\text{AR} \times \text{C} \times \text{ED}/\text{Year}$$

where:

AR = the Alternate Rate for such Portion of Capital for such Settlement Period with respect to such Purchaser,

C = the Portion of Capital during such Settlement Period with respect to such Purchaser,

CPR = the CP Rate for the Portion of Capital for such Settlement Period with respect to such Purchaser,

ED = the actual number of days during such Settlement Period, and

Year = if such Portion of Capital is funded based upon: (i) ~~the Euro-Rate~~ Adjusted Term SOFR, 360 days, and (ii) the Base Rate, 365 or 366 days, as applicable;

provided, that no provision of this Agreement shall require the payment or permit the collection of Discount in excess of the maximum permitted by Applicable Law; and provided further, that Discount for the Portion of Capital shall not be considered paid by any distribution to the extent that at any time all or a portion of such distribution is rescinded or must otherwise be returned for any reason.

“Dynamic Dilution Reserve Percentage” means the ratio (expressed as a percentage), calculated on any day, of the product of (a) the sum of (i) the Stress Factor multiplied by Expected Dilution, plus (ii) the Dilution Volatility, times (b) the Dilution Horizon Ratio.

“Dynamic Loss Reserve Percentage” means a percentage equal to the product of (i) Stress Factor, (ii) the highest average of the Loss Ratios for any three consecutive calendar months during the twelve most recent calendar months and (iii) the Loss Horizon Ratio.

“Eligible Export Obligor” means an Obligor that (i) is not a U.S. Obligor or Canadian Obligor and (ii) is organized in or that has a head office (domicile), registered office, and/or chief executive office located in any country other than a Designated Jurisdiction.

“Eligible Receivable” means, at any time, a Pool Receivable that satisfies the following:

(a) the Receivable is an “account” or “payment intangible”, each as defined in Article 9 of the Uniform Commercial Code as in effect from time to time in the applicable jurisdiction;

(b) the Obligor of the Receivable is: (i) a U.S. Obligor, Canadian Obligor or an Eligible Export Obligor; (ii) not a government or a governmental subdivision, affiliate or agency; (iii) not a debtor in any Insolvency Proceeding; (iv) not an Affiliate of the Seller, the Servicer, any Originator or the Parent and (v) not a Sanctioned Obligor;

(c) the Receivable is denominated in U.S. dollars and payable in the United States of America;

(d) the Receivable is free of all Adverse Claims and freely transferable/assignable (without requiring the consent of the related Obligor), giving effect to Applicable Laws that render unenforceable restrictions on assignment of such Receivable under Applicable Law (including the UCC);

(e) the Receivable represents a bona fide obligation of the Obligor to pay the stated amount, and the Receivable, together with the related Contract, is enforceable against the related Obligor in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors’ rights generally and by general principles of equity, regardless of whether enforceability is considered in a proceeding in equity or at law;

(f) the Receivable is not subject to any dispute, counterclaim or hold back defense, adverse claim, litigation or right of set-off or any offset or netting arrangement between the related Obligor and an Originator, the Seller or the Servicer, but a Receivable subject to any of the foregoing shall be ineligible only to the extent of the amount of such dispute, counterclaim or hold back defense, adverse claim, litigation or right of set-off or offset or netting arrangement;

(g) the Receivable, together with the related Contract, conforms with all Applicable Laws in effect that would materially affect the payment obligations of the Obligor thereunder;

(h) the Receivable satisfies in all material respects the applicable requirements of the Credit and Collection Policy;

- (i) the Receivable has been billed and is due within 90 days of its original billing date;
- (j) the Originator has validly sold or transferred all of its right, title and interest in and to such Receivable to the Seller, and the Seller owns good and marketable title to the Receivable, free and clear of any Adverse Claim;
- (k) the Receivable represents a specified amount earned and payable by the related Obligor that is not subject to the performance of additional services or the delivery of additional products or goods by the Seller or the Originators, other than an Originator's obligation to deliver the related products or goods to such Obligor's destination if such products or goods were shipped to such Obligor within the preceding 14 days and remain in transit to such Obligor; it being understood that such Receivable shall cease to constitute an Eligible Receivable if the related products or goods are not delivered (per the terms of the related Contract) to such Obligor on or prior to the 14th day after the origination of such Receivable;
- (l) the Receivable is not a Delinquent Receivable;
- (m) the payment terms of the Receivable have not been amended in any material respect since its creation, except in accordance with the Credit and Collection Policy or as otherwise permitted in this Agreement;
- (n) the Receivable is not owed by an Obligor of which 50% or more of such Obligor's aggregate Receivables balance constitutes Delinquent Receivables or Defaulted Receivables; and
- (o) the Receivable was not originated by a business line or division of a Person (other than an Originator) that merged or was consolidated with or into an Originator (whether originated before or after such merger or consolidation) unless (x) such merger or consolidation complied with the applicable terms of the Purchase and Sale Agreement and (y) the inclusion of such business line's or division's Receivables as Eligible Receivables has been approved in writing by the Administrator and each Purchaser Agent, such approvals not to be unreasonably withheld or delayed so long as the Servicer, the Seller and the Originator shall have provided the Administrator and each Purchaser Agent with such information with respect to such merger or consolidation, such business line or division and the affected Receivables as the Administrator or any Purchaser Agent has reasonably requested.

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

~~"Euro-Rate" means, with respect to any Settlement Period, the greater of (a) 0.00% and (b) the interest rate per annum determined by the Administrator (which determination shall be conclusive absent manifest error) by dividing (the resulting quotient rounded upwards, if necessary, to the nearest 1/100th of 1% per annum) (i) the rate appearing on the Reuters Screen LIBOR01 Page (or on any successor or substitute page of such service, or any successor to or substitute for such service, in either case, providing rate quotations comparable to those currently provided on such page of such service, as selected by the Administrator for purposes of providing quotations of interest rates applicable to U.S. dollar deposits in the London interbank market) at or about 11:00 a.m. (London time) on the Business Day which is two (2) Business Days prior to the first day of such Settlement Period for an amount comparable to the Portion of Capital to be funded at the Alternate Rate determined by reference to the Euro-Rate during such Settlement Period, for a one-month period, by (ii) a number equal to 1.00 minus the Euro-Rate Reserve Percentage. The Euro-Rate may also be expressed by the following formula:~~

$$\text{Euro-Rate} = \frac{\text{Average of London interbank offered rates quoted by BBA as shown on Reuters Screen LIBOR01 Page or appropriate successor}}{1.00 - \text{Euro-Rate Reserve Percentage}}$$

where “Euro-Rate Reserve Percentage” means the maximum effective percentage in effect on ~~such day~~ as prescribed by the Federal Reserve Board for determining the reserve requirements (including without limitation, supplemental, marginal, and emergency reserve requirements) with respect to eurocurrency funding (currently referred to as “Eurocurrency Liabilities”). The Euro-Rate shall be adjusted with respect to any Portion of Capital funded at the Alternate Rate and based upon the Euro-Rate that is outstanding on the effective date of any change in the Euro-Rate Reserve Percentage as of such effective date. The Administrator shall give prompt notice to the Seller of the Euro-Rate as determined or adjusted in accordance herewith (which determination shall be conclusive absent manifest error);

“Excess Concentration” means, without duplication, the sum of the following amounts:

- (a) the sum of the amounts calculated for each of the Obligors equal to the excess (if any) of the aggregate Outstanding Balance of the Eligible Receivables of such Obligor, over the product of (x) such Obligor’s Concentration Percentage, multiplied by (y) the aggregate Outstanding Balance of all Eligible Receivables; plus
- (b) the amount (if any) by which the aggregate Outstanding Balance of all Eligible Receivables, the Obligors of which are Eligible Export Obligors, exceeds 12.50% of the aggregate Outstanding Balance of all Eligible Receivables; plus
- (c) the amount (if any) by which the aggregate Outstanding Balance of all Eligible Receivables, the Obligors of which are Canadian Obligors, exceeds 7.50% of the aggregate Outstanding Balance of all Eligible Receivables; plus
- (d) the amount (if any) by which the aggregate Outstanding Balance of all Eligible Receivables due more than 60 days after the original billing date thereof, exceeds 15.00% of the aggregate Outstanding Balance of all Eligible Receivables; plus
- (e) the amount (if any) by which the aggregate Outstanding Balance of all Eligible Receivables, the Obligors of which are Tier 1 Eligible Export Obligors, exceeds 12.50% of the aggregate Outstanding Balance of all Eligible Receivables; plus
- (f) the amount (if any) by which the aggregate Outstanding Balance of all Eligible Receivables, the Obligors of which are Tier 2 Eligible Export Obligors, exceeds 10.00% of the aggregate Outstanding Balance of all Eligible Receivables; plus

(g) the amount (if any) by which the aggregate Outstanding Balance of all Eligible Receivables, the Obligors of which are Tier 3 Eligible Export Obligors, exceeds 7.50% of the aggregate Outstanding Balance of all Eligible Receivables; plus

(h) the amount (if any) by which the aggregate Outstanding Balance of all Eligible Receivables, the Obligors of which are Tier 4 Eligible Export Obligors, exceeds 2.00% of the aggregate Outstanding Balance of all Eligible Receivables; plus

(i) the amount (if any) by which the aggregate Outstanding Balance of all Eligible Receivables, the Obligors of which are Tier 5 Eligible Export Obligors, exceeds 0.00% of the aggregate Outstanding Balance of all Eligible Receivables; plus

(j) the amount (if any) by which the aggregate Outstanding Balance of all Eligible Receivables for which the related products and goods have been shipped to the related Obligor but not delivered (per the terms of the related Contract) to the related Obligor, exceeds 10.00% (or such lesser percentage, if any, which may be zero percent, designated by the Majority Purchaser Agents upon at least 15 days' prior written notice to the Seller and the Servicer) of the aggregate Outstanding Balance of all Eligible Receivables.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Excluded Obligor" means each of the Persons identified on Schedule VI to this Agreement, as such Schedule may be amended (or deemed amended) by the Servicer from time to time in accordance with Section 4.2(b) of this Agreement.

"Excluded Receivable" means any Receivables owing by any Obligor that is designated as an "Excluded Obligor".

"Excluded Taxes" means, with respect to any Recipient or Affected Person, (a) Taxes imposed on, or measured by, net income (however denominated, including gross margin Taxes), franchise Taxes and branch profits Taxes, in each case, (i) imposed as a result of such Recipient (or Affected Person) being organized under the laws of, or having an applicable office or branch in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) any U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Recipient (or Affected Person) with respect to an applicable interest in Receivables, Related Security, Pool Receivables, a Purchased Interest, a Purchase, a Letter of Credit or a Commitment, or otherwise under this Agreement or another Transaction Document pursuant to a law in effect on the date on which (i) such Recipient (or Affected Person) acquires such interest in such Receivables, Related Security, Pool Receivables, Purchased Interest, Purchase, Letter of Credit, or Commitment or becomes a party to this Agreement or such other Transaction Document (other than pursuant to a request of the Seller pursuant to Section 5.3(g)) or (ii) such Recipient (or Affected Person) changes its applicable office or branch, except in each case to the extent that amounts with respect to such Taxes were payable (pursuant to Section 1.10(a) or (c)) either to such Recipient's (or Affected Person's) assignor immediately before such Recipient (or Affected Person) became a party to this Agreement or to such Recipient (or Affected Person) immediately before it changed its applicable office or branch, (c) Taxes attributable to such Recipient's (or Affected Person's) failure to deliver documentation prescribed by Section 1.10(e), (d) any U.S. federal backup withholding imposed pursuant to Section 3406 of the Code (or any successor provision) and (e) any U.S. Federal withholding Taxes imposed pursuant to FATCA.

"Exiting Purchaser" has the meaning set forth in Section 1.4(b)(ii) of this Agreement.

"Expected Dilution" means the average of the Dilution Ratios for the twelve most recently ended calendar months.

“Expected LC Fees” means, on any day, the aggregate amount of all LC Participation Fees and LC Fronting Fees that are scheduled to accrue on all outstanding Letters of Credit over the period beginning on such day and ending for each Letter of Credit on the date that such Letter of Credit is scheduled to have expired in accordance with its terms (assuming that no such Letter of Credit will be drawn or extended, except to the extent already extended or required to be extended in accordance with its terms).

“FATCA” means (a) Sections 1471 through 1474 of the Code, as of the Closing Date (or any amended or successor version that is substantially comparable and not materially more onerous to comply with) and any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code, (b) any treaty, law, regulation or other official guidance enacted in any jurisdiction, or relating to an intergovernmental agreement between the United States and any other jurisdiction, with the purpose (in either case) of facilitating the implementation of clause (a) above, or (c) any agreement pursuant to the implementation of clauses (a) or (b) above with the United States Internal Revenue Service, the United States government or any governmental or taxation authority.

“Federal Funds Rate” means, for any day, the per annum rate set forth in the weekly statistical release designated as H.15(519), or any successor publication, published by the Federal Reserve Board (including any such successor, “H.15(519)”) for such day opposite the caption “Federal Funds (Effective).” If on any relevant day such rate is not yet published in H. 15(519), the rate for such day will be the rate set forth in the daily statistical release designated as the Composite 3:30 p.m. Quotations for U.S. Government Securities, or any successor publication, published by the Federal Reserve Bank of New York (including any such successor, the “Composite 3:30 p.m. Quotations”) for such day under the caption “Federal Funds Effective Rate.” If on any relevant day the appropriate rate is not yet published in either H.15(519) or the Composite 3:30 p.m. Quotations, the rate for such day will be the arithmetic mean as determined by the Administrator of the rates for the last transaction in overnight Federal funds arranged before 9:00 a.m. (New York City time) on that day by each of three leading brokers of Federal funds transactions in New York City selected by the Administrator.

“Federal Reserve Board” means the Board of Governors of the Federal Reserve System, or any entity succeeding to any of its principal functions.

“Fee Letters” has the meaning set forth in Section 1.5 of this Agreement.

“Fees” means the fees payable by the Seller pursuant to the Fee Letters.

“Final Payout Date” means the date on or after the Termination Date when (i) all amounts owed to the Administrator, the Purchaser Agents, the Purchasers, the LC Bank and the LC Participants by the Seller, the Originators, the Servicer and the Parent under this Agreement and the other Transaction Documents have been paid; (ii) the Aggregate Capital is reduced to zero and (iii) no Letters of Credit remain outstanding (or other arrangements with respect to any outstanding Letters of Credit that are satisfactory to the LC Bank have been made).

“Floor” means a rate of interest equal to 0.00%.

“Funded Purchase” shall mean (a) a Purchase that (i) is made pursuant to Section 1.2(b) or (ii) deemed to have been requested by the Seller pursuant to Section 1.14(a), the proceeds of which are used to reimburse the LC Bank on behalf of the Seller for a drawing under a Letter of Credit and (b) a Participation Advance made by an LC Participant pursuant to Section 1.14(b).

“GAAP” means generally accepted accounting principles as in effect in the United States as set forth from time to time in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board (or agencies with similar functions of comparable stature and authority within the U.S. accounting profession), which are applicable to the circumstances as of the date of determination.

“Governmental Acts” means any act or omission, whether rightful or wrongful, of any present or future de jure or de facto Governmental Authority.

“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).

“Group A Obligor” means an Obligor (or its parent or majority owner, as applicable, if such parent or majority owner is a guarantor on the related Contract) with a short-term rating of at least: (a) “A-1” by Standard & Poor’s, or if such Obligor does not have a short-term rating from Standard & Poor’s, a rating of “A+” or better by Standard & Poor’s on such Obligor’s (or, if applicable, its parent’s or its majority owner’s) long-term senior unsecured and uncredit-enhanced debt securities, and (b) “P-1” by Moody’s, or if such Obligor does not have a short-term rating from Moody’s, a rating of “A1” or better by Moody’s on such Obligor’s (or, if applicable, its parent’s or its majority owner’s) long-term senior unsecured and uncredit-enhanced debt securities; provided, that if an Obligor (or its parent or majority owner, as applicable, if such parent or majority owner is a guarantor on the related Contract) receives a split rating from Standard & Poor’s and Moody’s, then such Obligor (or its parent or majority owner, as applicable) shall be deemed to have the lower of the two ratings; provided, further, that if an Obligor (or its parent or majority owner, as applicable, if such parent or majority owner is a guarantor on the related Contract) is rated by either Standard & Poor’s or Moody’s, but not both, and satisfies either clause (a) or clause (b) above, then such Obligor (or its parent or majority owner, as applicable) shall be deemed to be a Group B Obligor. Notwithstanding the foregoing, any Obligor that is a Subsidiary or an Affiliate of an Obligor that satisfies the definition of “Group A Obligor” shall be deemed to be a Group A Obligor and shall be aggregated with the Obligor that satisfies such definition for the purposes of determining the “Concentration Reserve Percentage” and clause (i) of the definition of “Excess Concentration” for such Obligors, unless such deemed Obligor separately satisfies the definition of “Group A Obligor”, “Group B Obligor”, or “Group C Obligor”, in which case such Obligor shall be separately treated as a Group A Obligor, a Group B Obligor or a Group C Obligor, as the case may be, and shall be aggregated and combined for such purposes with any of its Subsidiaries that are Obligors.

“Group B Obligor” means an Obligor (or its parent or majority owner, as applicable, if such parent or majority owner is a guarantor on the related Contract) that is not a Group A Obligor and that has a short-term rating of at least: (a) “A-2” by Standard & Poor’s, or if such Obligor does not have a short-term rating from Standard & Poor’s, a rating of “BBB+” or better by Standard & Poor’s on such Obligor’s (or, if applicable, its parent’s or its majority owner’s) long-term senior unsecured and uncredit-enhanced debt securities, and (b) “P-2” by Moody’s, or if such Obligor does not have a short-term rating from Moody’s, a rating of “Baa1” or better by Moody’s on such Obligor’s (or, if applicable, its parent’s or its majority owner’s) long-term senior unsecured and uncredit-enhanced debt securities; provided, that if an Obligor (or its parent or majority owner, as applicable, if such parent or majority owner is a guarantor on the related Contract) receives a split rating from Standard & Poor’s and Moody’s, then such Obligor (or its parent or majority owner, as applicable) shall be deemed to have the lower of the two ratings; provided, further, that if an Obligor (or its parent or majority owner, as applicable, if such parent or majority owner is a guarantor on the related Contract) is rated by either Standard & Poor’s or Moody’s, but not both, and satisfies either clause (a) or clause (b) above, then such Obligor (or its parent or majority owner, as applicable) shall be deemed to be a Group C Obligor. Notwithstanding the foregoing, any Obligor that is a Subsidiary or Affiliate of an Obligor that satisfies the definition of “Group B Obligor” shall be deemed to be a Group B Obligor and shall be aggregated with the Obligor that satisfies such definition for the purposes of determining the “Concentration Reserve Percentage” and clause (i) of the definition of “Excess Concentration” for such Obligors, unless such deemed Obligor separately satisfies the definition of “Group A Obligor”, “Group B Obligor”, or “Group C Obligor”, in which case such Obligor shall be separately treated as a Group A Obligor, a Group B Obligor or a Group C Obligor, as the case may be, and shall be aggregated and combined for such purposes with any of its Subsidiaries that are Obligors.

“Group C Obligor” means an Obligor (or its parent or majority owner, as applicable, if such parent or majority owner is a guarantor on the related Contract) that is not a Group A Obligor or a Group B Obligor and that has a short-term rating of at least: (a) “A-3” by Standard & Poor’s, or if such Obligor does not have a short-term rating from Standard & Poor’s, a rating of “BBB-” or better by Standard & Poor’s on such Obligor’s (or, if applicable, its parent’s or its majority owner’s) long-term senior unsecured and uncredit-enhanced debt securities, and (b) “P-3” by Moody’s, or if such Obligor does not have a short-term rating from Moody’s, a rating of “Baa3” or better by Moody’s on such Obligor’s (or, if applicable, its parent’s or its majority owner’s) long-term senior unsecured and uncredit-enhanced debt securities; provided, that if an Obligor (or its parent or majority owner, as applicable, if such parent or majority owner is a guarantor on the related Contract) receives a split rating from Standard & Poor’s and Moody’s, then such Obligor (or its parent or majority owner, as applicable) shall be deemed to have the lower of the two ratings; provided, further, that if an Obligor (or its parent or majority owner, as applicable, if such parent or majority owner is a guarantor on the related Contract) is rated by either Standard & Poor’s or Moody’s, but not both, and satisfies either clause (a) or clause (b) above, then such Obligor (or its parent or majority owner, as applicable) shall be deemed to be a Group D Obligor. Notwithstanding the foregoing, any Obligor that is a Subsidiary or Affiliate of an Obligor that satisfies the definition of “Group C Obligor” shall be deemed to be a Group C Obligor and shall be aggregated with the Obligor that satisfies such definition for the purposes of determining the “Concentration Reserve Percentage” and clause (i) of the definition of “Excess Concentration” for such Obligors, unless such deemed Obligor separately satisfies the definition of “Group A Obligor”, “Group B Obligor”, or “Group C Obligor”, in which case such Obligor shall be separately treated as a Group A Obligor, a Group B Obligor or a Group C Obligor, as the case may be, and shall be aggregated and combined for such purposes with any of its Subsidiaries that are Obligors.

“Group Capital” means, with respect to any Purchaser Group, an amount equal to the aggregate outstanding Capital of all Purchasers within such Purchaser Group.

“Group Commitment” means, with respect to any Purchaser Group at any time, the aggregate Commitments of all Related Committed Purchasers within such Purchaser Group.

“Group D Obligor” means any Obligor that is not a Group A Obligor, Group B Obligor or Group C Obligor; provided, that any Obligor (or its parent or majority owner, as applicable, if such Obligor is unrated) that is rated by neither Moody’s nor Standard & Poor’s shall be a Group D Obligor.

“Guaranty” of any Person means any obligation of such Person guarantying or in effect guarantying any liability or obligation of any other Person in any manner, whether directly or indirectly, including any such liability arising by virtue of partnership agreements, including any agreement to indemnify or hold harmless any other Person, any performance bond or other suretyship arrangement and any other form of assurance against loss, except endorsement of negotiable or other instruments for deposit or collection in the ordinary course of business.

“Illegality Notice” has the meaning set forth in Section 1.9(b) of this Agreement.

“Indemnified Amounts” has the meaning set forth in Section 3.1 of this Agreement.

“Indemnified Party” has the meaning set forth in Section 3.1 of this Agreement.

“Indemnified Taxes” means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of the Seller under any Transaction Document, and (b) to the extent not otherwise described in clause (a) above, Other Taxes.

“Independent Director” has the meaning set forth in paragraph 3(c) of Exhibit IV to this Agreement.

“Information Package” means a report, in substantially the form of Annex A to this Agreement, furnished to the Administrator and each Purchaser Agent pursuant to this Agreement, reflective of the Receivables Pool as of the end of the most recently ended calendar month.

“Insolvency Proceeding” means (a) any case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or (b) any general assignment for the benefit of creditors of a Person, or any composition or marshaling of assets for creditors of a Person, or other similar arrangement in respect of a Person’s creditors generally or any substantial portion of a Person’s creditors, in each of cases (a) and (b) undertaken under U.S. Federal, state or foreign law, including the Bankruptcy Code.

“Investment Company Act” means the Investment Company Act of 1940, as amended.

“LC Bank” has the meaning set forth in the preamble to this Agreement.

“LC Collateral Account” means the account at any time designated as the LC Collateral Account established and maintained by the Administrator (for the benefit of the LC Bank and the LC Participants), or such other account as may be so designated as such by the Administrator.

“LC Fronting Fees” has the meaning set forth in the Agent Fee Letter.

“LC Participant” means each Person listed as such for each Purchaser Group as set forth on the signature pages of this Agreement or in the applicable Transfer Supplement or other agreement pursuant to which it became an LC Participant.

“LC Participation Amount” means at any time, the sum of the amounts then available to be drawn under all outstanding Letters of Credit.

“LC Participation Fees” has the meaning set forth in the RPA Fee Letter.

“LC Sub-Limit” means an amount equal to the lesser of (a) \$200,000,000 and (b) the Purchase Limit.

“Letter of Credit” means any stand-by letter of credit issued by the LC Bank at the request of the Seller pursuant to this Agreement.

“Letter of Credit Application” has the meaning set forth in Section 1.12(a) of this Agreement.

“Liquidity Agent” means any bank or other financial institution acting as agent for the various Liquidity Providers under each Liquidity Agreement.

“Liquidity Agreement” means any agreement entered into in connection with this Agreement pursuant to which a Liquidity Provider agrees to make purchases or advances to, or purchase assets from, any Conduit Purchaser in order to provide liquidity for such Conduit Purchaser’s Purchases.

“Liquidity Provider” means each bank or other financial institution that provides liquidity support to any Conduit Purchaser pursuant to the terms of a Liquidity Agreement.

“Lock-Box” means each locked postal box with respect to which a Lock-Box Bank that has executed a Lock-Box Agreement pursuant to which it has been granted exclusive access for the purpose of retrieving and processing payments made on the Receivables and which is listed on Schedule II to this Agreement (as such schedule may be modified from time to time in connection with the addition or removal of any Lock-Box in accordance with the terms hereof).

“Lock-Box Account” means each account listed on Schedule II to this Agreement (as such schedule may be modified from time to time in connection with the closing or opening of any Lock-Box Account in accordance with the terms hereof) (in each case, in the name of the Seller) and maintained at a bank or other financial institution acting as a Lock-Box Bank pursuant to a Lock-Box Agreement for the purpose of receiving Collections.

“Lock-Box Agreement” means each deposit account control agreement or similar agreement, in form and substance satisfactory to the Administrator, among the Seller, the Servicer (if applicable), the Administrator and a Lock-Box Bank, governing the terms of the related Lock-Box Accounts, as the same may be amended, restated, supplemented or otherwise modified from time to time.

“Lock-Box Bank” means any of the banks or other financial institutions holding one or more Lock-Box Accounts.

“Loss Horizon Ratio” means the ratio (expressed as a percentage), calculated on any day, of (i) the aggregate initial Outstanding Balance of all Receivables generated by the Originators during the five (5) most recent calendar months (or such other number of calendar months as may be agreed by the Administrator and the Servicer following an audit of the Servicer), to (ii) the Net Receivables Pool Balance as of the last day of the most recent calendar month.

“Loss Ratio” means the ratio (expressed as a percentage), calculated as of the last day of each calendar month, of (a) the sum of (i) the aggregate Outstanding Balance of all Defaulted Receivables as of the last day of such calendar month and (ii) the aggregate Outstanding Balance of all Receivables that were less than or equal to 90 days past due and were written off the applicable Originator’s or the Seller’s books as uncollectible during the most recently ended calendar month, to (b) the aggregate initial Outstanding Balance of all Receivables generated by the Originators during the fourth (4th) most recent calendar month.

“Lyondell Chemical” has the meaning set forth in the preamble to this Agreement.

“Lyondell Credit Agreement” means the Credit Agreement, dated as of May 4, 2012, among the Parent and LYB Americas Finance Company, as borrowers, the various lenders from time to time party thereto, Bank of America, N.A., as administrative agent, swing line lender and letter of credit issuer, and the other parties from time to time party thereto, as amended, restated, supplemented or otherwise modified from time to time.

“Majority LC Participants” means, at any time, the LC Participants who at such time are not Defaulting Purchasers and whose Commitments aggregate more than 50% of the Commitments of all LC Participants at such time who are not Defaulting Purchasers.

“Majority Purchaser Agents” means, at any time, the Purchaser Agents for the Purchaser Groups with Related Committed Purchasers who at such time are not Defaulting Purchasers and whose Commitments aggregate more than 50% of the aggregate of all Group Commitments without giving effect to the Commitment of any Related Committed Purchaser who at such time is a Defaulting Purchaser.

“Material Adverse Effect” means relative to any Person (provided that if no particular Person is specified, “Material Adverse Effect” shall be deemed to be relative to the Seller, the Servicer, the Parent and the Originators, individually and in the aggregate) with respect to any event or circumstance, a material adverse effect on:

- (a) the assets, operations, business or financial condition of such Person;
- (b) the ability of any such Person to perform its obligations under this Agreement or any other Transaction Document to which it is a party;
- (c) the validity or enforceability of this Agreement or any other Transaction Document, or the validity, enforceability or collectability of any material portion of the Pool Receivables; or
- (d) the status, perfection, enforceability or priority of the Administrator’s, any Purchaser’s or the Seller’s interest in the Pool Assets.

“Mizuho” has the meaning set forth in the preamble to this Agreement.

“Monthly Settlement Date” means the 18th calendar day of each calendar month (or if such day is not a Business Day, the next occurring Business Day).

“Moody’s” means Moody’s Investors Service, Inc. and any successor thereto that is a nationally recognized statistical rating organization.

“Net Receivables Pool Balance” means, at any time: (a) the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool, minus (b) the Excess Concentration, minus (c) the Specifically Reserved Dilution Amount.

“Net Worth” means, at any time, an amount equal to (i) the Outstanding Balance at such time of all Pool Receivables that (A) an Insolvency Proceeding has not have occurred with respect to the applicable Obligor thereof, (B) consistent with the Credit and Collection Policy, neither have nor should have been written off as uncollectible and (C) are then owned by the Seller, minus (ii) the sum of (A) Aggregate Capital at such time, plus (B) the Adjusted LC Participation Amount, plus (C) the aggregate accrued and unpaid Discount and Fees at such time, plus (D) the aggregate outstanding principal balance of all Subordinated Notes at such time, plus (E) the aggregate accrued and unpaid interest on the Subordinated Notes at such time, plus (F) the aggregate amount of all other accrued and unpaid obligations of the Seller at such time.

“Non-Extension Day” means the date on which the Scheduled Termination Date would have occurred if no Purchaser Group had consented to the extension thereof and each day thereafter until the Capital and all other amounts owed to the applicable Exiting Purchasers have been paid in full.

“Notes” means short-term promissory notes issued, or to be issued, by any Conduit Purchaser to fund its investments in accounts receivable or other financial assets.

“Notice Date” has the meaning set forth in Section 1.12(b).

“Obligations” has the meaning set forth in Section 1.2(d).

“Obligor” means, with respect to any Receivable or Excluded Receivable, the Person obligated to make payments pursuant to the Contract relating to such Receivable or Excluded Receivable, as the case may be.

“Obligor Percentage” means, at any time, for each Obligor, a fraction, expressed as a percentage, (a) the numerator of which is the aggregate Outstanding Balance of the Eligible Receivables of such Obligor at such time less the amount (if any) then included in the calculation of the Excess Concentration pursuant to clause (i) of the definition thereof with respect to such Obligor, and (b) the denominator of which is the aggregate Outstanding Balance of all Eligible Receivables at such time.

“OFAC” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“Order” has the meaning set forth in Section 1.19 of this Agreement.

“Originator” and “Originators” have the meaning set forth in the Purchase and Sale Agreement, as the same may be modified from time to time by adding new Originators or removing Originators, in each case in accordance with the terms thereof.

“Other Connection Taxes” means, with respect to any Recipient or Affected Person, Taxes imposed as a result of a present or former connection between such Recipient or Affected Person and the jurisdiction imposing such Tax (other than connections arising from such Recipient or Affected Person having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Transaction Document, or sold or assigned an interest in any Purchase or Transaction Document).

“Other Taxes” means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, this Agreement and the other Transaction Documents, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment or participation (other than an assignment made pursuant to a request of the Seller pursuant to Section 5.3(g)).

“Outstanding Balance” of any Receivable at any time means the then outstanding principal balance thereof.

“Parent” means LyondellBasell Industries N.V., a *naamloze vennootschap* (a public limited liability company) formed under the laws of The Netherlands.

“Participant Register” has the meaning set forth in Section 5.3(b) of this Agreement.

“Participation Advance” has the meaning set forth in Section 1.14(b).

“Paydown Notice” has the meaning set forth in Section 1.4(f)(i) of this Agreement.

“PBGC” means the Pension Benefit Guaranty Corporation, or any successor thereto.

“Performance Undertaking” means the Performance Undertaking, dated as of the Closing Date, by the Parent in favor of the Administrator for the benefit of the Purchasers and the Purchaser Agents, as the same may be amended, restated, supplemented or otherwise modified from time to time.

[“Periodic Term SOFR Determination Day” has the meaning specified in the definition of “Term SOFR”.](#)

“Person” means an individual, partnership, corporation (including a business trust), joint stock company, trust, unincorporated association, joint venture, limited liability company or other entity, or a government or any political subdivision or agency thereof.

“Plan” means any employee pension benefit plan covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code that either (a) is maintained by a member of the Controlled Group for employees of a member of the Controlled Group or (b) is maintained pursuant to a collective bargaining agreement or any other arrangement under which more than one employer makes contributions and to which a member of the Controlled Group is then making or accruing an obligation to make contributions or has within the preceding five plan years made contributions.

“Pool Assets” has the meaning set forth in Section 1.2(d) of this Agreement.

“Pool Receivable” means a Receivable in the Receivables Pool.

“Portion of Capital” means, with respect to any Purchaser and its related Capital, the portion of such Capital being funded or maintained by such Purchaser by reference to a particular interest rate basis.

“Pro Rata Share” shall mean, (i) as to any LC Participant, a fraction, the numerator of which equals the Commitment of such LC Participant at such time and the denominator of which equals the aggregate of the Commitments of all LC Participants at such time and (ii) as to any Related Committed Purchaser, a fraction, the numerator of which equals the Commitment of such Related Committed Purchaser at such time and the denominator of which equals the aggregate of the Commitments of all Related Committed Purchaser at such time.

“Program Support Agreement” means and includes any Liquidity Agreement and any other agreement entered into by any Program Support Provider providing for: (a) the issuance of one or more letters of credit for the account of any Conduit Purchaser, (b) the issuance of one or more surety bonds for which any Conduit Purchaser is obligated to reimburse the applicable Program Support Provider for any drawings thereunder, (c) the sale by any Conduit Purchaser to any Program Support Provider of the Purchased Interest (or portions thereof) maintained by such Conduit Purchaser and/or (d) the making of loans and/or other extensions of credit to any Conduit Purchaser in connection with such Conduit Purchaser’s receivables securitization program contemplated in this Agreement, together with any letter of credit, surety bond or other instrument issued thereunder.

“Program Support Provider” means and includes, with respect to any Conduit Purchaser, any Liquidity Provider and any other Person (other than any customer of such Conduit Purchaser) now or hereafter extending credit or having a commitment to extend credit to or for the account of, or to make purchases from, such Conduit Purchaser pursuant to any Program Support Agreement.

“Purchase” has the meaning set forth in Section 1.1(a) of this Agreement.

“Purchase Account” means the account identified as such on Schedule V of this Agreement.

“Purchase and Sale Agreement” means the Purchase and Sale Agreement, dated as of the Closing Date, among the Servicer, the Originators and the Seller, as such agreement may be amended, supplemented or otherwise modified from time to time.

“Purchase Date” means the date on which a Funded Purchase or a reinvestment is made pursuant to this Agreement.

“Purchase Facility” means the receivables purchase facility evidenced by this Agreement.

“Purchase Limit” means \$900,000,000, as such amount may be reduced from time to time pursuant to Section 1.1(b) or increased from time to time pursuant to Section 1.1(d). References to the unused portion of the Purchase Limit shall mean, at any time, an amount equal to (x) the Purchase Limit at such time, minus (y) the sum of the Aggregate Capital plus the LC Participation Amount.

“Purchase Notice” has the meaning set forth in Section 1.2(a) of this Agreement.

“Purchased Interest” means, at any time, the undivided percentage ownership interest in: (a) each and every Pool Receivable now existing or hereafter arising, (b) all Related Security with respect to such Pool Receivables and (c) all Collections with respect to, and other proceeds of, such Pool Receivables and Related Security. Such undivided percentage interest shall be computed as:

$$\frac{\text{Aggregate Capital} + \text{Adjusted LC} \\ \text{Participation Amount} + \text{Total Reserves}}{\text{Net Receivables Pool Balance}}$$

The Purchased Interest shall be determined from time to time pursuant to Section 1.3 of this Agreement.

“Purchaser” means each Conduit Purchaser, each Related Committed Purchaser, each LC Participant and the LC Bank, as applicable.

“Purchaser Agent” means each Person acting as agent on behalf of a Purchaser Group and designated as a Purchaser Agent for such Purchaser Group on the signature pages to this Agreement or any other Person who becomes a party to this Agreement as a Purchaser Agent in accordance with this Agreement.

“Purchaser Group” means, (i) for any Conduit Purchaser, such Conduit Purchaser, together with such Conduit Purchaser’s Related Committed Purchasers, related Purchaser Agent and related LC Participants and (ii) for any other Purchaser that does not have a related Conduit Purchaser, such Purchaser, together with its Purchaser Agent and each other Purchaser for which such Purchaser Agent acts as a Purchaser Agent hereunder. Each Purchaser Group party to this Agreement as of the Second Amendment Effective Date is identified on Schedule IV.

“Purchasers’ Share” of any amount, at any time, means such amount multiplied by the Purchased Interest at such time.

“Ratable Share” means, for each Purchaser Group, such Purchaser Group’s Group Commitment divided by the aggregate Group Commitments of all Purchaser Groups.

“Rating Agency” mean each of Standard & Poor’s, Moody’s and each of the other nationally recognized statistical rating organizations (and each other rating agency then rating the Notes of any Conduit Purchaser).

“Receivable” means any indebtedness and other obligations owed to any Originator or the Seller (as assignee of an Originator), or any right of the Seller or any Originator to payment from or on behalf of, an Obligor, whether constituting an account, chattel paper, payment intangible, instrument or general intangible, in each instance arising in connection with the sale of petrochemicals or other goods and the rendering of services in the ordinary course of the applicable Originator’s business, and includes, without limitation, the obligation to pay any finance charges, fees and other charges with respect thereto. Indebtedness and other obligations arising from any one transaction, including, without limitation, indebtedness and other obligations represented by an individual invoice or agreement, shall constitute a Receivable separate from a Receivable consisting of the indebtedness and other obligations arising from any other transaction. Notwithstanding the foregoing, neither (i) Excluded Receivables nor (ii) Affiliate Receivables shall constitute “Receivables” for purposes of this Agreement or any other Transaction Document.

“Receivables Pool” means, at any time, all of the then outstanding Receivables sold or contributed (or purported to be sold or contributed) to the Seller pursuant to the Purchase and Sale Agreement prior to the Termination Date.

“Recipient” means the Administrator, a Purchaser, a Purchaser Agent or any other recipient of any payment to be made by or on account of any obligation of the Seller (or otherwise) under this Agreement.

“Register” has the meaning set forth in Section 5.3(c) of this Agreement.

“Reimbursement Date” has the meaning set forth in Section 1.14(a) of this Agreement.

“Reimbursement Obligation” has the meaning set forth in Section 1.14(a) of this Agreement.

“Related Committed Purchaser” means each Person listed as such on the signature pages of this Agreement or in the applicable Transfer Supplement or other agreement pursuant to which it became a Related Committed Purchaser, other than any such Person that ceases to be a party hereto pursuant to a Transfer Supplement.

“Related Rights” has the meaning set forth in Section 1.1 of the Purchase and Sale Agreement.

“Related Security” means, with respect to any Receivable:

- (a) all of the Seller’s and each Originator’s interest in any goods (including returned goods), and documentation of title evidencing the shipment or storage of any goods (including returned goods), the sale of which gave rise to such Receivable;
- (b) all instruments and chattel paper that may evidence such Receivable;

(c) all other security interests or liens and property subject thereto from time to time purporting to secure payment of such Receivable, whether pursuant to the Contract related to such Receivable or otherwise, together with all UCC financing statements or similar filings relating thereto;

(d) solely to the extent applicable to such Receivable, all of the Seller's and each Originator's rights, interests and claims under the related Contracts and all guaranties, indemnities, insurance and other agreements (including the related Contract) or arrangements of whatever character from time to time supporting or securing payment of such Receivable or otherwise relating to such Receivable, whether pursuant to the Contract related to such Receivable or otherwise; and

(e) all of the Seller's rights, interests and claims under the Purchase and Sale Agreement and the other Transaction Documents.

"Relevant Governmental Body" means the Board of Governors of the Federal Reserve Board or the Federal Reserve Bank of New York, or a committee officially endorsed by the Federal Reserve Board or the Federal Reserve Bank of New York, or any successor thereto.

"Required Capital Amount" has the meaning set forth in the Purchase and Sale Agreement.

"Restricted Payments" has the meaning set forth in Section 1(l) of Exhibit IV of this Agreement.

"RPA Fee Letter" has the meaning set forth in Section 1.5 of this Agreement.

"Sanctions" means any sanction administered or enforced by the United States Government (including without limitation, OFAC), the United Nations Security Council, the European Union, ~~Her~~His Majesty's Treasury, Japan or other relevant sanctions authority.

"Sanctioned Obligor" means an Obligor that is (a) currently the subject of any Sanctions or (b) located, organized or resident in a Designated Jurisdiction.

"Scheduled Termination Date" means June 28, 2024, subject to the extension thereof with respect to any Purchaser pursuant to Section 1.2(e).

"SEC" shall mean the U.S. Securities and Exchange Commission or any successor thereto.

"Second Amendment Effective Date" means August 26, 2015.

"Seller" has the meaning set forth in the preamble to this Agreement.

"Seller's Share" of any amount means the greater of: (a) \$0 and (b) such amount minus the Purchasers' Share.

"Servicer" has the meaning set forth in the preamble to this Agreement.

"Servicer Replacement Conditions" has the meaning set forth in Section 4.1(e) of this Agreement.

"Servicing Fee" shall mean the fee referred to in Section 4.6 of this Agreement.

"Servicing Fee Rate" shall mean the rate referred to in Section 4.6 of this Agreement.

“Settlement Date” means with respect to any Portion of Capital for any Settlement Period, (i) prior to the Termination Date, the Monthly Settlement Date and (ii) on and after the Termination Date, each Business Day selected from time to time by the Administrator (it being understood that the Administrator may select such Settlement Date to occur as frequently as daily), or, in the absence of such selection, the Monthly Settlement Date.

“Settlement Period” means: (a) before the Termination Date: (i) initially the period commencing on the date of the initial purchase pursuant to Section 1.2 of this Agreement (or in the case of any fees payable hereunder, commencing on the Closing Date) and ending on (but not including) the next Monthly Settlement Date, and (ii) thereafter, each period commencing on such Monthly Settlement Date and ending on (but not including) the next Monthly Settlement Date, and (b) on and after the Termination Date, such period (including a period of one day) as shall be selected from time to time by the Administrator or, in the absence of any such selection, each period of 30 days from the last day of the preceding Settlement Period.

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

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

“SOFR Administrator’s Website” means the website of the Federal Reserve Bank of New York, currently at <http://www.newyorkfed.org>, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

“Specifically Reserved Dilution Amount” means, at any time, the aggregate amount then recorded on the books and records of the Originators as the aggregate accrued liability for future deductions or rebate payments related to trade and marketing activities of the Originators with respect to the Pool Receivables.

“Standard & Poor’s” means Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business and any successor thereto that is a nationally recognized statistical rating organization.

“Stress Factor” means 2.25.

“Subordinated Note” has the meaning set forth in the Purchase and Sale Agreement.

“Sub-Servicer” has the meaning set forth in Section 4.1(d) of this Agreement.

“Subsidiary” means, as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock of each class or other interests having ordinary voting power (other than stock or other interests having such power only by reason of the happening of a contingency) to elect a majority of the Board of Directors or other managers of such entity are at the time owned, or management of which is otherwise controlled: (a) by such Person, (b) by one or more Subsidiaries of such Person or (c) by such Person and one or more Subsidiaries of such Person.

“Taxes” means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings imposed by any Governmental Authority and all interest, penalties, additions to tax and any similar liabilities with respect thereto.

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

“Term SOFR Adjustment” means a percentage equal to 0.10% per annum.

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

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

“Termination Date” means, the earliest to occur of: (a) the Scheduled Termination Date, (b) the date determined pursuant to Section 2.2 of this Agreement, and (c) the date specified by the Seller upon 30 days prior written notice to the Administrator and the Purchaser Agents pursuant to Section 1.1(b).

“Termination Day” means: (a) each day on which any of the conditions set forth in Section 2 of Exhibit II to this Agreement are not satisfied and (b) each day that occurs on or after the Termination Date.

“Termination Event” has the meaning specified in Exhibit V to this Agreement. For the avoidance of doubt, any Termination Event that occurs shall be deemed to be continuing unless and until such Termination Event has been waived in accordance with the terms of this Agreement.

“Tier 1 Eligible Export Obligor” means an Eligible Export Obligor that is organized in or that has a head office (domicile), registered office, and/or chief executive office located in any country (other than the United States) that has a long-term foreign currency rating of at least one of “AAA” by Standard & Poor’s or “Aaa” by Moody’s.

“Tier 2 Eligible Export Obligor” means an Eligible Export Obligor that is not a Tier 1 Eligible Export Obligor that is organized in or that has a head office (domicile), registered office, and/or chief executive office located in any country (other than the United States) that has a long-term foreign currency rating of at least one of “A” by Standard & Poor’s or “A2” by Moody’s.

“Tier 3 Eligible Export Obligor” means an Eligible Export Obligor that is not a Tier 1 Eligible Export Obligor or a Tier 2 Eligible Export Obligor that is organized in or that has a head office (domicile), registered office, and/or chief executive office located in any country (other than the United States) that has a long-term foreign currency rating of at least one of “BBB-” by Standard & Poor’s or “Baa3” by Moody’s.

“Tier 4 Eligible Export Obligor” means an Eligible Export Obligor that is not a Tier 1 Eligible Export Obligor, Tier 2 Eligible Export Obligor or a Tier 3 Eligible Export Obligor that is organized in or that has a head office (domicile), registered office, and/or chief executive office located in any country (other than the United States) that has a long-term foreign currency rating of at least one of “B” by Standard & Poor’s or “B2” by Moody’s.

“Tier 5 Eligible Export Obligor” means an Eligible Export Obligor that is not a Tier 1 Eligible Export Obligor, Tier 2 Eligible Export Obligor, Tier 3 Eligible Export Obligor or a Tier 4 Eligible Export Obligor.

“Total Reserves” means an amount, as of any date of calculation, equal to the sum of (I) the product of (i) the sum of (a) the higher of (x) the sum of the Concentration Reserve Percentage and Dilution Reserve Floor Percentage and (y) the sum of the Dynamic Loss Reserve Percentage and Dynamic Dilution Reserve Percentage and (b) the Yield and Servicing Fee Reserve Percentage and (ii) the Net Receivables Pool Balance, plus (II) (i) if such date is more than ninety (90) days prior to the Scheduled Termination Date (or, if the Purchasers have agreed to extend the current Scheduled Termination Date in accordance with [Section 1.2\(e\)](#), the Scheduled Termination Date as it will be so extended), zero (\$0), or (ii) in any other case, the aggregate amount of all LC Participation Fees that are scheduled to accrue on all outstanding Letters of Credit over the period beginning on the Scheduled Termination Date and ending for each Letter of Credit on the date that such Letter of Credit is scheduled to have expired in accordance with its terms (assuming that no such Letter of Credit will be drawn or extended, except to the extent already extended or required to be extended in accordance with its terms).

“Transaction Documents” means this Agreement, the Purchase and Sale Agreement, the Subordinated Notes, the Fee Letters, the Performance Undertaking, the Lock-Box Agreements, the Seller’s limited liability company agreement and all other certificates, instruments, UCC financing statements, reports, notices, agreements and documents executed or delivered under or in connection with this Agreement, in each case as the same may be amended, supplemented or otherwise modified from time to time in accordance with this Agreement.

“Transaction Information” means any information provided to any Rating Agency in connection with such Rating Agency providing or proposing to provide a rating of any Conduit Purchaser’s commercial paper notes or monitoring any such rating, including, without limitation, such information regarding the Seller, the Servicer, any Originator, the Parent, any of their respective Affiliates or the Receivables; provided, however, that, “Transaction Information” shall not include any information provided by the Parent or any of its Affiliates to any nationally recognized statistical rating organization (other than information solely related to the Receivables subject to this Agreement) in connection with such rating organization providing a rating or proposing to provide a rating to, or monitoring an existing rating of the Parent or any of its Affiliates or any debt securities of any of the foregoing.

“Transfer Supplement” has the meaning set forth in [Section 5.3\(c\)](#).

“UCC” means the Uniform Commercial Code as from time to time in effect in the applicable jurisdiction.

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

“Unfunded Vested Liabilities” means, for any Plan at any time, the amount (if any) by which the present value of all vested nonforfeitable accrued benefits under such Plan exceeds the fair market value of all Plan assets allocable to such benefits, all determined as of the then most recent valuation date for such Plan, but only to the extent that such excess represents a potential liability of a member of the Controlled Group to the PBGC or the Plan under Title IV of ERISA.

“Unmatured Termination Event” means an event that, with the giving of notice or lapse of time, or both, would constitute a Termination Event.

“U.S. Government Securities Business Day” means any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

“U.S. Obligor” means an Obligor which (i) if a natural person, is a resident of the United States (or of a U.S. territory (including, without limitation, Puerto Rico and the U.S. Virgin Islands)) or (ii) if a corporation or other business organization, is organized under the laws of the United States (or of a U.S. territory (including, without limitation, Puerto Rico and the U.S. Virgin Islands)) or any political subdivision thereof, or is a resident of the United States (or of a U.S. territory (including, without limitation, Puerto Rico and the U.S. Virgin Islands)) or any political subdivision thereof.

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

“Voting Stock” of any Person means capital stock or other equity interests of any class or classes (however designated) having ordinary power for the election of directors or other similar governing body of such Person (including, without limitation, general partners of a partnership), other than stock or other equity interests having such power only by reason of the happening of a contingency.

“Welfare Plan” means a “welfare plan” as defined in Section 3(1) of ERISA.

“Withholding Agent” means the Seller, the Servicer and any party making a payment on behalf of, and at the request of, the Seller or the Servicer.

“Yield and Servicing Fee Reserve Percentage” means at any time:

$$1.50 \times \text{DSO} \times \frac{(\text{BR} + \text{SFR})}{360}$$

where:

BR = the daily average Base Rate computed for the most recent Settlement Period,

DSO = Days’ Sales Outstanding for the Fiscal Month most recently ended, and

SFR = the Servicing Fee Rate.

EXHIBIT II
CONDITIONS OF PURCHASES

1. Conditions Precedent to Effectiveness. The effectiveness of this Agreement is subject to the condition precedent that the Administrator shall have received, on or before the Closing Date, each of the following, each in form and substance (including the date thereof) reasonably satisfactory to the Administrator and each Purchaser Agent:

(a) Counterparts of (i) this Agreement, duly executed by the parties hereto, and (ii) the Lock-Box Agreements, the Fee Letters, the Purchase and Sale Agreement, the Performance Undertaking and each of the other Transaction Documents, duly executed by the parties thereto.

(b) Copies of: (i) the resolutions or unanimous written consents of the board of directors (or equivalent governing body) of each of the Parent, the Seller, the Servicer and each Originator authorizing the execution, delivery and performance by the Parent, the Seller, the Servicer and such Originator, as the case may be, of this Agreement and the other Transaction Documents to which it is a party; (ii) all documents evidencing other necessary corporate or organizational action and governmental approvals, if any, with respect to this Agreement and the other Transaction Documents and (iii) the certificate of incorporation (or equivalent organizational document) and by-laws (or equivalent governing document) of the Parent, the Seller, each Originator and the Servicer, in each case, certified by the Secretary or Assistant Secretary (or equivalent authorized person) of the applicable party.

(c) A certificate of the Secretary or Assistant Secretary (or equivalent authorized person) of each of the Parent, the Seller, the Servicer and each Originator certifying as to the names and true signatures of its officers who are authorized to sign this Agreement and the other Transaction Documents to which it is a party. Until the Administrator receives a subsequent incumbency certificate from the Parent, the Seller, the Servicer or such Originator, as the case may be, the Administrator shall be entitled to rely on the last such certificate delivered to it by the Parent, the Seller, the Servicer or such Originator, as the case may be.

(d) Proper financing statements (Form UCC-1), duly authorized and suitable for filing under the UCC of all jurisdictions that the Administrator may reasonably deem necessary or desirable in order to perfect the interests of the Seller and the Administrator (for the benefit of the Purchasers) contemplated by the Purchase and Sale Agreement and this Agreement, as applicable.

(e) Proper financing statement amendments (Form UCC-3), duly authorized and suitable for filing under the UCC of all jurisdictions that the Administrator may reasonably deem necessary or desirable to release all security interests and other rights of any Person in the Receivables, Contracts or Related Security previously granted by any Originator or the Seller.

(f) Completed UCC search reports, dated on or shortly before the Closing Date, listing the financing statements filed with the Secretary of State (or similar official) in all applicable jurisdictions that name the Originators or the Seller as debtor, together with copies of such financing statements, and similar search reports with respect to judgment liens, federal tax liens and liens of the PBGC in such jurisdictions, as the Administrator may reasonably request, showing no Adverse Claims on any Pool Assets other than those which are released as of the Closing Date pursuant to clause (e) above.

(g) Favorable opinions, addressed to the Administrator, each Purchaser Agent and each Purchaser, in form and substance reasonably satisfactory to the Administrator, from outside counsel for the Parent, the Seller, the Originators and the Servicer, and internal counsel for the Parent, the Seller, the Originators and the Servicer, covering such matters as the Administrator may reasonably request, including, without limitation, certain organizational and New York enforceability matters, certain bankruptcy matters and certain UCC matters.

(h) A pro forma Information Package representing the performance of the Receivables Pool for the calendar month of July, 2012.

(i) Evidence of payment by the Seller of all accrued and unpaid fees (including those contemplated by the Fee Letters), costs and expenses to the extent then due and payable on the Closing Date, including, to the extent invoices have been presented to the Seller at least one (1) Business Day prior to the Closing Date, any such costs, fees and expenses arising under or referenced in Section 5.4 of this Agreement and the Fee Letters.

(j) certificates of existence or good standing with respect to each of the Seller, the Originators and the Servicer issued by the Secretary of State (or similar official) of the jurisdiction of each such Person's organization or formation.

(k) All information with respect to the Receivables as the Administrator or the Purchasers may reasonably request.

(l) Such other approvals, opinions or documents as the Administrator or the Purchasers may reasonably request.

2. Conditions Precedent to All Funded Purchases, Issuances of Letters of Credit and Reinvestments. Each Funded Purchase (including the initial Funded Purchase) and the issuance of any Letters of Credit and each reinvestment shall be subject to the further conditions precedent that:

(a) in the case of each Funded Purchase and the issuance of any Letters of Credit, the Servicer shall have delivered to the Administrator and each Purchaser Agent on or before such purchase or issuance, as the case may be, in form and substance reasonably satisfactory to the Administrator and each Purchaser Agent, a completed pro forma Information Package to reflect the level of Aggregate Capital, the LC Participation Amount and related reserves and the calculation of the Purchased Interest after such purchase or issuance, as the case may be, and a completed Purchase Notice in the form of Annex B; and

(b) on the date of such Funded Purchase, issuance of any Letters of Credit or reinvestment, as the case may be, the following statements shall be true (and acceptance of the proceeds of such Funded Purchase, issuance or reinvestment shall be deemed a representation and warranty by the Seller that such statements are then true):

(i) the representations and warranties contained in Exhibit III to this Agreement are true and correct in all material respects on and as of the date of such Funded Purchase, issuance or reinvestment as though made on and as of such date except for representations and warranties that are expressly made as of an earlier date (in which case such representations and warranties shall be true and correct in all material respects as of such earlier date);

(ii) no event has occurred and is continuing, or would result immediately after giving effect to such Funded Purchase, issuance or reinvestment, that constitutes a Termination Event or an Unmatured Termination Event;

(iii) the Aggregate Capital plus the LC Participation Amount, immediately after giving effect to any such Funded Purchase, issuance or reinvestment, as the case may be, does not exceed the Purchase Limit;

(iv) the LC Participation Amount, immediately after giving effect to any such issuance, does not exceed the aggregate of the Commitments of the LC Participants;

(v) the Purchased Interest, immediately after giving effect to any such Funded Purchase, issuance or reinvestment, as the case may be, does not exceed 100%; and

(vi) the Termination Date has not occurred.

EXHIBIT III REPRESENTATIONS AND WARRANTIES

1. Representations and Warranties of the Seller. The Seller represents and warrants to the Administrator, each Purchaser Agent and each Purchaser on the Closing Date and on the date of each Funded Purchase, reinvestment and issuance of a Letter of Credit under this Agreement that:

(a) Existence and Power. The Seller (i) is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, (ii) has the limited liability company power and authority to transact the business in which it is engaged and proposes to engage and (iii) is duly qualified and in good standing in each jurisdiction where the ownership, leasing or operation of property or the conduct of its business requires such qualification, except where the failure to be so qualified and in good standing would not reasonably be expected to have a Material Adverse Effect.

(b) Company and Governmental Authorization, Contravention. The execution, delivery and performance by the Seller of this Agreement and each other Transaction Document to which it is a party (i) are within the Seller's limited liability company powers, (ii) have been duly authorized by all necessary limited liability company action, (iii) require no authorization, consent, license or exemption from, or filing or registration with, any governmental body, agency or official, except (A) such approvals which have been obtained prior to the Closing Date and remain in full force and effect, (B) the filing of UCC financing statements and continuation statements and (C) such approvals, the absence of which would not reasonably be expected have a Material Adverse Effect, (iv) do not contravene, or constitute a default under, (A) any provision of Applicable Law or any judgment, injunction, order or decree binding upon the Seller, (B) any provision of the limited liability company agreement of the Seller, (C) any covenant, indenture or agreement of or affecting the Seller or any of its property, in each case, where such contravention or default, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect, and (v) do not result in the creation or imposition of any lien prohibited by the Transaction Documents on any property of the Seller.

(c) Binding Effect of Agreement. This Agreement and each other Transaction Document to which it is a party constitute the legal, valid and binding obligation of the Seller enforceable against the Seller in accordance with its respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance or other similar laws affecting creditors' rights generally and by general principles of equity, regardless of whether enforceability is considered in a proceeding in equity or at law.

(d) Accuracy of Information. Each Information Package and all other information (including, without limitation, any financial statements) furnished by or on behalf of the Seller in writing (or, in the case of any Information Package, by or on behalf of the Servicer) to the Administrator, any Purchaser Agent or any Purchaser for purposes of or in connection with this Agreement or any other Transaction Document is true and accurate in all material respects on the date such information is stated or certified; provided that to the extent any such information was based upon or constitutes a forecast or projection, the Seller represents only that it acted in good faith and utilized assumptions reasonable at the time made (it being understood and agreed that any information set forth in any Information Package shall not constitute a forecast or projection for purposes of this proviso).

(e) Actions, Suits. There is no litigation, arbitration or governmental proceeding pending or, to the knowledge of the Seller, threatened in writing against the Seller that (i) purports to adversely affect the legality, validity or enforceability of this Agreement or any other Transaction Document (other than such litigation that the Administrator has reasonably determined to be frivolous) or (ii) would reasonably be expected to have a Material Adverse Effect.

(f) Accuracy of Exhibits; Account Arrangements. The names and addresses of all the Lock-Box Banks together with the account numbers of the Lock-Box Accounts and Lock-Boxes at such Lock-Box Banks, are specified in Schedule II to this Agreement (or at such other Lock-Box Banks and/or with such other Lock-Box Accounts and Lock-Boxes as have been notified to the Administrator), and each Lock-Box Account and Lock-Box is subject to a Lock-Box Agreement. All information on each Exhibit, Schedule or Annex to this Agreement or the other Transaction Documents is true and complete. The Seller has not granted any interest in any Lock-Box Account (or any related Lock-Box) to any Person other than the Administrator and the Administrator has control (within the meaning of Section 9-104 of the UCC) of each Lock-Box Account.

(g) No Material Adverse Effect. Since the date of formation of the Seller as set forth in its certificate of formation, there has been no Material Adverse Effect.

(h) Names and Location. The Seller has not used any corporate names, trade names or assumed names other than its name set forth on the signature pages of this Agreement. The Seller is “located” (as such term is defined in the applicable UCC) in Delaware. The office where the Seller keeps its records concerning the Receivables is at the address set forth in the notice provision of this Agreement.

(i) Margin Stock. The Seller is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulations T, U and X, as issued by the Federal Reserve Board), and no proceeds of any purchase or reinvestment under this Agreement 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.

(j) Eligible Receivables. Each Pool Receivable listed as an Eligible Receivable in any Information Package or any other report delivered by the Seller or the Servicer to the Administrator or included as an Eligible Receivable in the calculation of the Net Receivables Pool Balance on any date is an Eligible Receivable as of the effective date of the information reported in such Information Package or other report or as of the date of such calculation, as the case may be.

(k) Credit and Collection Policy. The Seller has complied, or has caused the compliance, in all material respects with the Credit and Collection Policy with regard to each Pool Receivable.

(l) Investment Company Act. The Seller is not required to be registered as an “investment company” under the Investment Company Act. The Seller (a) satisfies the requirements to rely on the exemption from the definition of “investment company” provided by Section 3(c)(5)(A) under the Investment Company Act, although there may be additional exclusions or exemptions available to the Seller, and (b) is not a “covered fund” as defined in the final regulations issued December 10, 2013, implementing the “Volcker Rule” (Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act).

(m) No Other Obligations. The Seller does not have outstanding any security of any kind except membership interests issued to Lyondell Chemical in connection with its organization and the Subordinated Notes, and has not incurred, assumed, guaranteed or otherwise become directly or indirectly liable for, or in respect of, any Debt and no Person has any commitment or other arrangement to extend credit to the Seller, in each case, except pursuant to the terms of the Transaction Documents.

(n) OFAC; Anti-Corruption Laws.

(i) Neither the Seller, nor any of the Parent’s Subsidiaries, nor to the knowledge of any officer of the Seller, any director, officer or employee of the Seller or any of the Parent’s Subsidiaries, is an individual or entity that is, or is owned or controlled by any individual or entity that is (a) currently the subject of any Sanctions or (b) located, organized or resident in a Designated Jurisdiction.

(ii) The Parent and its Subsidiaries have conducted their businesses in material compliance with applicable Anti-Corruption Laws, and the Parent has instituted and maintains policies and procedures designed to promote and achieve compliance with such Anti-Corruption Laws and Sanctions.

(o) Tax Status. The Seller has (i) timely filed all material tax returns (federal, state and local) required to be filed by it and (ii) paid, or caused to be paid, all taxes, assessments and other governmental charges, which are shown to be due and payable by it in such returns, other than taxes, assessments and other governmental charges being contested in good faith, except where the failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Adequate provisions in accordance with GAAP for taxes on the books of the Seller have been made for all open years and for the current fiscal period.

(p) Bulk Sales Act. No transaction contemplated by this Agreement requires compliance by it with any bulk sales act or similar law.

(q) Ordinary Course of Business. Each remittance of Collections by or on behalf of the Seller to the Purchasers under this Agreement will have been (i) in payment of a debt incurred by the Seller in the ordinary course of business or financial affairs of the Seller and (ii) made in the ordinary course of business or financial affairs of the Seller.

(r) The Receivables.

(i) Creation. This Agreement creates a valid and continuing security interest (as defined in the applicable UCC) in the Pool Receivables in favor of the Administrator (for the benefit of the Purchasers), which security interest is prior to all other Adverse Claims and is enforceable as such as against creditors of and purchasers from the Seller.

(ii) Ownership of Receivables. The Seller has acquired, for fair consideration and reasonably equivalent value, all of the right, title and interest of the applicable Originator in each Pool Receivable, together with the Related Security. Each Pool Receivable, together with the Related Security, is owned by the Seller free and clear of any Adverse Claim.

(iii) Perfection and Related Security. All appropriate financing statements have been filed in the proper filing office in the appropriate jurisdictions under Applicable Law in order to perfect the sale of the Receivables and Related Security from the Originators to the Seller pursuant to the Purchase and Sale Agreement, and the sale and security interest therein from the Seller to the Administrator under this Agreement.

(s) The Lock-Box Accounts.

(i) Nature of Lock-Box Accounts. Each Lock-Box Account constitutes a “deposit account” within the meaning of the applicable UCC.

(ii) Ownership. Each Lock-Box Account is in the name of the Seller, and the Seller owns the Lock-Box Accounts free and clear of any Adverse Claim (other than the interest of the Lock-Box Bank as set forth in the applicable Lock-Box Agreement).

(iii) Perfection. The Seller has delivered to the Administrator a fully executed Lock-Box Agreement relating to each Lock-Box Account, pursuant to which each applicable Lock-Box Bank has agreed, following notice by the Administrator that it is exercising its right to assume exclusive control of such Lock-Box Account, to comply only with all instructions originated by the Administrator (on behalf of the Purchasers) directing the disposition of funds in such Lock-Box Account without further consent by the Seller or the Servicer.

(t) Priority.

(i) Other than the transfer of the Receivables to the Seller under the Purchase and Sale Agreement, and by the Seller under this Agreement and/or the security interest granted to the Administrator pursuant to this Agreement, neither the Seller nor any Originator has pledged, assigned, sold, granted a security interest in, or otherwise conveyed any of the Receivables transferred or purported to be transferred under the Transaction Documents, the Lock-Box Accounts or any subaccount thereof. Neither the Seller nor any Originator has authorized the filing of, or is aware of any financing statements against any of the Seller or such Originator that purport to perfect a security interest in Receivables or include a description of Receivables transferred or purported to be transferred under the Transaction Documents, the Lock-Box Accounts or any subaccount thereof, other than any financing statement (i) relating to the sale thereof by such Originator to the Seller under the Purchase and Sale Agreement or (ii) relating to the security interest granted to the Administrator under this Agreement.

(ii) Neither the Seller nor the Servicer has consented to any bank maintaining any Lock-Box Account to comply with instructions of any person other than the Seller, the Servicer and the Administrator.

(u) Beneficial Ownership Certification. The Beneficial Ownership Certification executed and delivered to the Administrator and the Purchasers for the Seller, as updated from time to time in accordance with this Agreement, is true and accurate as of the date hereof and as of the date any such update is delivered.

2. Representations and Warranties of the Servicer. The Servicer represents and warrants to the Administrator, each Purchaser Agent and each Purchaser on the Closing Date and on the date of each Funded Purchase, reinvestment and issuance of a Letter of Credit under this Agreement that:

(a) Existence and Power. The Servicer (i) is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, (ii) has the corporate power and authority to transact the business in which it is engaged and proposes to engage and (iii) is duly qualified and in good standing in each jurisdiction where the ownership, leasing or operation of property or the conduct of its business requires such qualification, except where the failure to be so qualified and in good standing would not reasonably be expected to have a Material Adverse Effect.

(b) Company and Governmental Authorization, Contravention. The execution, delivery and performance by the Servicer of this Agreement and each other Transaction Document to which it is a party (i) are within the Servicer's corporate powers, (ii) have been duly authorized by all necessary corporate action, (iii) require no authorization, consent, license or exemption from, or filing or registration with, any governmental body, agency or official, except (A) such approvals which have been obtained prior to the Closing Date and remain in full force and effect and (B) such approvals, the absence of which would not reasonably be expected have a Material Adverse Effect, (iv) do not contravene, or constitute a default under, (A) any provision of Applicable Law or any judgment, injunction, order or decree binding upon the Servicer, (B) any provision of the certificate of incorporation or bylaws of the Servicer, (C) any covenant, indenture or material agreement of or affecting the Servicer or any of its property, in each case, where such contravention or default, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect, and (v) do not result in the creation or imposition of any lien prohibited by the Transaction Documents any property of the Servicer or any of its Subsidiaries.

(c) Binding Effect of Agreement. This Agreement and each other Transaction Document to which it is a party constitute the legal, valid and binding obligation of the Servicer enforceable against the Servicer in accordance with its respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance or other similar laws affecting creditors' rights generally and by general principles of equity, regardless of whether enforceability is considered in a proceeding in equity or at law.

(d) Accuracy of Information. Each Information Package and all other information (including, without limitation, any financial statements) furnished by (or on behalf of) the Servicer in writing to the Administrator, any Purchaser Agent or any Purchaser for purposes of or in connection with this Agreement or any other Transaction Document is true and accurate in all material respects on the date such information is stated or certified; provided that to the extent any such information was based upon or constitutes a forecast or projection, the Servicer represents only that it acted in good faith and utilized assumptions reasonable at the time made.

(e) Actions, Suits. Except as disclosed in the Parent's Form 10-K for the fiscal year ended December 31, 2014, there is no litigation, arbitration or governmental proceeding pending or, to the knowledge of the Servicer, threatened in writing against the Servicer that (i) purports to adversely affect the legality, validity or enforceability of this Agreement or any other Transaction Document (other than such litigation that the Administrator has reasonably determined to be frivolous) or (ii) would reasonably be expected to have a Material Adverse Effect.

(f) No Material Adverse Effect. Since December 31, 2014, there has been no Material Adverse Effect.

(g) Credit and Collection Policy. The Servicer has complied in all material respects with the Credit and Collection Policy with regard to each Receivable.

(h) Investment Company Act. The Servicer is not required to register as an "investment company" under the Investment Company Act.

(i) OFAC; Anti-Corruption Laws.

(i) Neither the Servicer, nor any of the Parent's Subsidiaries, nor, to the knowledge of the Chief Executive Officer, Chief Compliance Officer or General Counsel of the Servicer, any director, officer or employee of the Parent or any of Parent's Subsidiaries, is an individual or entity that is, or is owned or controlled by any individual or entity that is (a) currently the subject of any Sanctions or (b) located, organized or resident in a Designated Jurisdiction.

(ii) The Parent and its Subsidiaries have conducted their businesses in material compliance with applicable Anti-Corruption Laws, and the Parent has instituted and maintains policies and procedures designed to promote and achieve compliance with such Anti-Corruption Laws and Sanctions.

(j) Financial Condition. The consolidated balance sheets of the Parent and its consolidated subsidiaries as of June 30, 2012 and the related statements of income and shareholders' equity of the Parent and its consolidated subsidiaries for the fiscal quarter then ended, copies of which have been furnished to the Administrator and each Purchaser Agent, present fairly in all material respects the consolidated financial position of the Parent and its consolidated subsidiaries for the period ended on such date, all in accordance with GAAP consistently applied except as noted therein.

(k) Tax Status. The Servicer has (i) timely filed all material tax returns (federal, state and local) required to be filed by it and (ii) paid, or caused to be paid, all taxes, assessments and other governmental charges, which are shown to be due and payable by it in such returns, other than taxes, assessments and other governmental charges being contested in good faith, except where the failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Adequate provisions in accordance with GAAP for taxes on the books of the Servicer have been made for all open years and for the current fiscal period.

(l) ERISA. Each member of the Controlled Group has fulfilled its obligations under the minimum funding standards of, and is in compliance in all material respects with, ERISA and the Code to the extent applicable to it and, other than a liability for premiums under Section 4007 of ERISA, does not owe any liability to the PBGC or a Plan under Title IV of ERISA, except any such matters as would not reasonably be expected, in the aggregate, to have a Material Adverse Effect. As of the Closing Date, no member of the Controlled Group has any contingent liabilities with respect to any post-retirement benefits under a Welfare Plan, other than liability for continuation coverage described in article 6 of Title I of ERISA except such liabilities as would not reasonably be expected, in the aggregate, to have a Material Adverse Effect.

**EXHIBIT IV
COVENANTS**

1. Covenants of the Seller. At all times from the Closing Date until the Final Payout Date:

(a) Financial Reporting. The Seller will maintain a system of accounting established and administered in accordance with GAAP, and the Seller (or the Servicer on its behalf) shall furnish to the Administrator and each Purchaser Agent:

(i) Annual Financial Statements of the Seller. Promptly upon completion and in no event later than 90 days after the close of each fiscal year of the Seller, annual unaudited financial statements of the Seller certified by a designated financial or other officer of the Seller.

(ii) Information Packages. Not later than 2 Business Days prior to each Settlement Date, an Information Package as of the most recently completed calendar month.

(iii) Quarterly Financial Statements of the Parent. As soon as available and in no event later than 60 days following the end of each of the first three fiscal quarters in each of the Parent's fiscal years, (A) the unaudited consolidated balance sheet and statements of income of the Parent and its Subsidiaries as at the end of such fiscal quarter and the related unaudited consolidated statements of earnings and cash flows for such fiscal quarter and for the elapsed portion of the fiscal year ended with the last day of such fiscal quarter, in each case setting forth comparative figures for the corresponding fiscal quarter in the prior fiscal year, all of which shall be certified by the chief financial officer, the treasurer or any financial officer (including a controller) of the Parent that they fairly present in all material respects, in accordance with GAAP, the financial condition of the Parent and its consolidated Subsidiaries as of the dates indicated and the results of their operations for the periods indicated, subject to normal year-end audit adjustments and the absence of footnotes, and (B) management's discussion and analysis of the important operational and financial developments during such fiscal quarter.

(iv) Annual Financial Statements of the Parent. Within 90 days after the close of each of the Parent's fiscal years, the consolidated balance sheet of the Parent and its consolidated Subsidiaries as at the end of such fiscal year and the related consolidated statements of earnings and cash flows for such fiscal year setting forth comparative figures for the preceding fiscal year, all reported on by independent certified public accountants of recognized national standing (without a "going concern" or like qualification or exception) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of the Parent and its Subsidiaries on a consolidated basis in accordance with GAAP.

(v) Other Reports and Filings. Promptly (but in any event within ten days) after the filing or delivery thereof, copies of all financial information, proxy materials and reports, if any, which the Parent or any of its consolidated Subsidiaries shall publicly file with the SEC.

(vi) Other Information. Such other information (including non-financial information) as the Administrator or any Purchaser Agent may from time to time reasonably request.

Documents required to be delivered pursuant to Sections 3(a)(iii), 3(a)(iv) and 3(a)(v) of this Exhibit IV (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) (A) on which the Parent posts such documents, or provides a link thereto on the Parent's website on the Internet at www.lyondellbasell.com/index.htm, or such documents are posted to the SEC's website at www.sec.gov; or (B) on which such documents are posted on the Parent's behalf on IntraLinks/IntraAgency or another relevant website, if any, to which each Purchaser Agent and the Administrator have access (whether a commercial, third-party website or whether sponsored by the Administrator), and (ii) on which the Seller notifies (which may be by facsimile or electronic mail) the Administrator and each Purchaser Agent of the posting of any such documents.

(b) Notice of Termination Events or Unmatured Termination Events. The Seller (or the Servicer on its behalf) will notify the Administrator and each Purchaser Agent in writing promptly upon (but in no event later than five Business Days after) a financial or other officer learning of the occurrence of a Termination Event or Unmatured Termination Event. Such notice shall be given by the chief financial officer or chief accounting officer of the Seller and shall describe such Termination Event or Unmatured Termination Event, and if applicable, the steps being taken by the Person(s) affected with respect thereto.

(c) Conduct of Business. The Seller will carry on and conduct its business in substantially the same manner and in substantially the same fields of enterprise as it is presently conducted and will do all things necessary to remain duly organized, validly existing and in good standing as a domestic organization in its jurisdiction of organization and maintain all requisite authority to conduct its business in each jurisdiction in which its business is conducted, except, in each case, where the failure to do so would not reasonably be expected to have a Material Adverse Effect; provided, however, that nothing in this paragraph (c) shall prevent any transaction permitted by paragraph (i) below or not otherwise prohibited by this Agreement or any other Transaction Document.

(d) Compliance with Laws. The Seller will comply in all material respects with the requirements of all laws, rules, orders, writs, judgments, injunctions, decrees or awards to which it may be subject and regulations applicable to its property or business operations, except in such instance where any failure to comply therewith, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(e) Furnishing of Information and Inspection of Receivables. The Seller will furnish or cause to be furnished to the Administrator and each Purchaser Agent from time to time such information with respect to the Pool Receivables as the Administrator or any Purchaser Agent may reasonably request. The Seller will, at the Seller's expense, during regular business hours upon reasonable prior written notice, permit the Administrator and/or any Purchaser Agent or their agents or representatives to (i) examine and make copies of and abstracts from the books and records relating to the Pool Receivables or other Pool Assets, (ii) visit the offices and properties of the Seller for the purpose of examining such books and records (subject to applicable restrictions or limitations on access to any facility or information that is classified or restricted by contract (so long as any such contractual restrictions are not created in contemplation of preventing the inspection rights under this provision) or by law, regulation or governmental guidelines and in accordance with applicable safety procedures), and (iii) discuss matters relating to the Pool Receivables, other Pool Assets or the Seller's performance under the Transaction Documents to which it is a party with any of the officers of the Seller and (only during the continuance of a Termination Event) its independent accountants, in each case, having knowledge of such matters; provided, that unless a Termination Event has occurred and is continuing, (A) the Seller shall be required to reimburse the Administrator for only one (1) such audit in any twelve-month period and (B) the Administrator and the Purchaser Agents hereby agree to coordinate their due diligence visits.

(f) Payments on Receivables, Lock-Box Accounts. The Seller (or the Servicer on its behalf) will, and will cause each Originator to, at all times, instruct all Obligor to deliver payments on the Pool Receivables to a Lock-Box Account or a Lock-Box. If any payments on the Pool Receivables or other Collections are received by the Seller, the Servicer or an Originator, it shall hold (or cause the Servicer or such Originator to hold) such payments in trust for the benefit of the Administrator, the Purchaser Agents and the Purchasers and promptly (but in any event within one Business Day after receipt) remit such funds into a Lock-Box Account. The Seller (or the Servicer on its behalf) will cause each Lock-Box Bank to comply with the terms of each applicable Lock-Box Agreement. The Seller shall not permit funds other than Collections on Pool Receivables and other Pool Assets to be deposited into any Lock-Box Account. If such funds are nevertheless deposited into any Lock-Box Account, the Seller (or the Servicer on its behalf) will within two Business Days identify and transfer such funds, to the appropriate Person entitled to such funds. The Seller will not, and will not permit the Servicer, any Originator or other Person to commingle Collections or other funds to which the Administrator, any Purchaser Agent or any Purchaser is entitled with any other funds. The Seller shall only add a Lock-Box Account (or the related Lock-Box), or a Lock-Box Bank to those listed on Schedule II to this Agreement, if the Administrator has received notice of such addition and an executed and acknowledged copy of a Lock-Box Agreement in form and substance acceptable to the Administrator from any such new Lock-Box Bank. The Seller shall only terminate a Lock-Box Bank or close a Lock-Box Account (or the related Lock-Box) with the prior written consent of the Administrator.

(g) Sales, Liens, etc. Except as otherwise provided herein, the Seller will not sell, assign (by operation of law or otherwise) or otherwise dispose of, or create or suffer to exist any Adverse Claim upon (including, without limitation, the filing of any financing statement) or with respect to, any Pool Receivable or other Pool Asset, or assign any right to receive income in respect thereof.

(h) Extension or Amendment of Pool Receivables. Except as otherwise permitted under Section 4.2(a) of this Agreement, the Seller will not, and will not permit the Servicer to, alter the delinquency status or adjust the Outstanding Balance or otherwise modify the terms of any Pool Receivable in any material respect, or amend, modify or waive, in any material respect, any term or condition of any related Contract. The Seller shall at its expense, timely and fully perform and comply in all material respects with all provisions, covenants and other promises required to be observed by it under the Contracts related to the Pool Receivables, and timely and fully comply with the Credit and Collection Policy with regard to each Pool Receivable and the related Contract.

(i) Fundamental Changes. The Seller shall not, without the prior written consent of the Administrator and the Majority Purchaser Agents, permit itself (i) to merge or consolidate with or into, or convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to, any Person or (ii) to be owned by any Person other than Lyondell Chemical. The Seller shall provide the Administrator at least 30 days' prior written notice before making any change in the Seller's name, location or making any other change in the Seller's identity or corporate structure that could impair or otherwise render any UCC financing statement filed in connection with this Agreement "seriously misleading" as such term (or similar term) is used in the applicable UCC; each notice to the Administrator pursuant to this sentence shall set forth the applicable change and the proposed effective date thereof. The Seller will also maintain and implement (or cause the Servicer to maintain and implement) administrative and operating procedures (including an ability to recreate records evidencing Pool Receivables and related Contracts in the event of the destruction of the originals thereof), and keep and maintain (or cause the Servicer to keep and maintain) all documents, books, records, computer tapes and disks and other information reasonably necessary or advisable for the collection of all Pool Receivables (including records adequate to permit the daily identification of each Pool Receivable and all Collections of and adjustments to each existing Pool Receivable).

(j) Ownership Interest, Etc. The Seller shall (and shall cause the Servicer to), at its expense, take all action necessary or reasonably desirable to establish and maintain a valid and enforceable undivided percentage ownership or security interest, to the extent of the Purchased Interest, in the Pool Receivables, the Related Security and Collections with respect thereto, and a first priority perfected security interest in the Pool Assets, in each case free and clear of any Adverse Claim, in favor of the Administrator (on behalf of the Purchasers), including taking such action to perfect, protect or more fully evidence the interest of the Administrator (on behalf of the Purchasers) as the Administrator or any Purchaser Agent may reasonably request.

(k) Certain Agreements. Without the prior written consent of the Administrator and the Majority Purchaser Agents, the Seller will not (and will not permit the Originators to) amend, modify, waive, revoke or terminate any Transaction Document to which it is a party or any provision of the Seller's organizational documents which requires the consent of the "Independent Director" (as such term is used in the Seller's limited liability company agreement).

(l) Restricted Payments.

(i) Except pursuant to clause (ii) below, the Seller will not: (A) purchase or redeem any shares of its capital stock, (B) declare or pay any dividend or set aside any funds for any such purpose, (C) prepay, purchase or redeem any Debt, (D) lend or advance any funds or (E) repay any loans or advances to, for or from any of its Affiliates (the amounts described in clauses (A) through (E) being referred to as "Restricted Payments").

(ii) Subject to the limitations set forth in clause (iii) below, the Seller may make Restricted Payments so long as such Restricted Payments are made only in one or more of the following ways: (A) the Seller may make cash payments (including prepayments) on the Subordinated Notes in accordance with their respective terms (it being understood that the foregoing shall not restrict any adjustment to the balance of any Subordinated Note pursuant to the Purchase and Sale Agreement as a result of the issuance or expiration of any Letter of Credit), and (B) the Seller may declare and pay dividends and distributions if, both immediately before and immediately after giving effect thereto, the Seller's Net Worth is equal to or greater than the Required Capital Amount.

(iii) The Seller may make Restricted Payments only out of the funds, if any, it receives pursuant to Sections 1.2(b), 1.4(b), (ii) and (iv) and 1.4(d) of this Agreement. Furthermore, the Seller shall not pay, make or declare any Restricted Payment (including any dividend) if, after giving effect thereto, any Termination Event or Unmatured Termination Event shall have occurred and be continuing.

(m) Other Business. The Seller will not: (i) engage in any business other than the transactions contemplated by the Transaction Documents, (ii) create, incur or permit to exist any Debt of any kind (or cause or permit to be issued for its account any letters of credit (excluding, for the avoidance of doubt, Letters of Credit issued under this Agreement) or bankers' acceptances) other than pursuant to this Agreement or the Subordinated Notes, or (iii) form any Subsidiary or make any investments in any other Person.

(n) Use of the Seller's Share of Collections. The Seller shall apply the Seller's Share of Collections to make payments in the following order of priority: (i) to the extent not otherwise paid in accordance with Section 1.4 of this Agreement, the payment of its expenses (including all obligations payable to the Purchasers, Purchaser Agents and the Administrator under this Agreement and under the Fee Letters), (ii) the payment of accrued and unpaid interest on the Subordinated Notes and (iii) other legal and valid purposes.

(o) Further Assurances; Change in Name or Jurisdiction of Origination, etc.

(i) The Seller hereby authorizes and hereby agrees from time to time, at its own expense, promptly to execute (if necessary) and deliver all further instruments and documents, and to take all further actions, that the Administrator may reasonably request, to perfect, protect or more fully evidence the purchases or issuances made under this Agreement and/or security interest granted pursuant to this Agreement or any other Transaction Document, or to enable the Administrator (on behalf of the Purchasers) to exercise and enforce the Purchaser Agents' and the Purchasers' rights and remedies under this Agreement and any other Transaction Document. Without limiting the foregoing, the Seller hereby authorizes, and will, upon the request of the Administrator, at the Seller's own expense, execute (if necessary) and file such financing or continuation statements, or amendments thereto, and such other instruments and documents, that may be necessary or desirable, or that the Administrator may reasonably request, to perfect, protect or evidence any of the foregoing.

(ii) The Seller authorizes the Administrator to file financing or continuation statements, and amendments thereto and assignments thereof, relating to the Receivables and the Related Security, the related Contracts and the Collections with respect thereto and the other collateral subject to a lien under any Transaction Document without the signature of the Seller. A photocopy or other reproduction of this Agreement shall be sufficient as a financing statement where permitted by law.

(iii) The Seller shall at all times be organized under the laws of the State of Delaware and shall not take any action to change its jurisdiction of organization.

(iv) The Seller will not change its name, location, identity or corporate structure unless (x) the Seller, at its own expense, shall have taken all action necessary or appropriate to perfect or maintain the perfection of the lien under this Agreement (including, without limitation, the filing of all financing statements and the taking of such other action as the Administrator may request in connection with such change or relocation), and (y) if requested by the Administrator, the Seller shall cause to be delivered to the Administrator, an opinion, in form and substance satisfactory to the Administrator as to such UCC perfection and priority matters as such Person may request at such time.

(p) Sanctions; Anti-Corruption Laws.

(i) The Seller will not, nor will it permit the Parent or any of the Parent's Subsidiaries to, directly or indirectly, use the proceeds of any Receivable or any Purchase under this Agreement, or lend, contribute or otherwise make available such proceeds to any other individual or entity, to fund any activities of or business with any individual or entity, or in any Designated Jurisdiction, that, at the time of such funding, is known by any officer of the Seller to be the subject of Sanctions.

(ii) The Seller will not, nor will it permit the Parent or any of the Parent's Subsidiaries to, use the proceeds of any Receivable or any Purchase under this Agreement (including any indirect use intended by the Seller, the Parent or such Subsidiary) for any purpose which would result in a violation by the Seller, the Parent or such Subsidiary of any Anti-Corruption Law or in a violation of any Sanctions by any party hereto.

(q) Transaction Information. None of the Seller, any Affiliate of the Seller or any third party with which the Seller or any Affiliate thereof has contracted, shall deliver, in writing or orally, to any Rating Agency, any Transaction Information without providing such Transaction Information to the applicable Purchaser Agent prior to delivery to such Rating Agency and will not participate in any oral communications with respect to Transaction Information with any Rating Agency without the participation of such Purchaser Agent.

(r) Seller's Net Worth. The Seller shall not permit its Net Worth to be less than the Required Capital Amount.

(s) Beneficial Ownership Certification and Other Additional Information. The Seller will provide to the Administrator and the Purchasers: (i) confirmation of the accuracy of the information set forth in the most recent Beneficial Ownership Certification provided to the Administrator and the Purchasers reasonably promptly following receipt of request therefor; (ii) a new Beneficial Ownership Certification, in form and substance acceptable to the Administrator and each Purchaser, when the individual(s) to be identified as a Beneficial Owner have changed reasonably promptly following the effective date thereof; and (iii) such other information and documentation as may reasonably be requested by the Administrator or any Purchaser in writing from time to time for purposes of compliance by the Administrator or such Purchaser with applicable laws (including without limitation the PATRIOT Act and other "know your customer" and anti-money laundering rules and regulations), and any policy or procedure implemented by the Administrator or such Purchaser to comply therewith reasonably promptly following receipt of such request.

2. Covenants of the Servicer. At all times from the Closing Date until the Final Payout Date:

(a) Financial Reporting. The Servicer will maintain a system of accounting established and administered in accordance with GAAP, and the Servicer shall furnish to the Administrator and each Purchaser Agent:

(i) Compliance Certificates. A compliance certificate not later than 10 days after the Seller's delivery of the Parent's quarterly and annual financial statements, in each case, substantially in the form of Annex D to this Agreement and signed by the Servicer's chief accounting officer or treasurer solely in its capacity as officers of the Servicer, which certificate shall state that no Termination Event or Unmatured Termination Event has occurred and is continuing, or if any Termination Event or Unmatured Termination Event has occurred and is continuing, stating the nature and status thereof.

(ii) Information Packages. Not later than 2 Business Days prior to each Settlement Date, an Information Package as of the most recently completed calendar month.

(iii) Quarterly Financial Statements of the Parent. As soon as available and in no event later than 60 days following the end of each of the first three fiscal quarters in each of the Parent's fiscal years, (A) the unaudited consolidated balance sheet and statements of income of the Parent and its Subsidiaries as at the end of such fiscal quarter and the related unaudited consolidated statements of earnings and cash flows for such fiscal quarter and for the elapsed portion of the fiscal year ended with the last day of such fiscal quarter, in each case setting forth comparative figures for the corresponding fiscal quarter in the prior fiscal year, all of which shall be certified by the chief financial officer, the treasurer or any financial officer (including a controller) of the Parent that they fairly present in all material respects, in accordance with GAAP, the financial condition of the Parent and its consolidated Subsidiaries as of the dates indicated and the results of their operations for the periods indicated, subject to normal year-end audit adjustments and the absence of footnotes, and (B) management's discussion and analysis of the important operational and financial developments during such fiscal quarter.

(iv) Annual Financial Statements of the Parent. Within 90 days after the close of each of the Parent's fiscal years, the consolidated balance sheet of the Parent and its consolidated Subsidiaries as at the end of such fiscal year and the related consolidated statements of earnings and cash flows for such fiscal year setting forth comparative figures for the preceding fiscal year, all reported on by independent certified public accountants of recognized national standing (without a "going concern" or like qualification or exception) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of the Parent and its Subsidiaries on a consolidated basis in accordance with GAAP.

(v) Other Reports and Filings. Promptly (but in any event within ten days) after the filing or delivery thereof, copies of all financial information, proxy materials and reports, if any, which the Parent or any of its consolidated Subsidiaries shall publicly file with the SEC.

(vi) Other Information. Such other information (including non-financial information) as the Administrator or any Purchaser Agent may from time to time reasonably request.

Documents required to be delivered pursuant to Section 4(a)(iii), 4(a)(iv), and 4(a)(v) of this Exhibit IV (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) (A) on which the Parent posts such documents, or provides a link thereto on the Parent's website on the Internet at www.lyondellbasell.com/index.htm, or such documents are posted to the SEC's website at www.sec.gov; or (B) on which such documents are posted on the Parent's behalf on IntraLinks/IntraAgency or another relevant website, if any, to which each Purchaser Agent and the Administrator have access (whether a commercial, third-party website or whether sponsored by the Administrator), and (ii) on which the Seller notifies (which may be by facsimile or electronic mail) the Administrator and each Purchaser Agent of the posting of any such documents.

(b) Notice of Termination Events or Unmatured Termination Events. The Servicer will notify the Administrator and each Purchaser Agent in writing promptly upon (but in no event later than five Business Days after) a financial or other officer learning of the occurrence of a Termination Event or Unmatured Termination Event. Such notice shall be given by the chief financial officer or chief accounting officer of the Servicer and shall describe such Termination Event or Unmatured Termination Event, and if applicable, the steps being taken by the Person(s) affected with respect thereto.

(c) Conduct of Business. The Servicer will carry on and conduct its business in substantially the same manner and in substantially the same fields of enterprise as it is presently conducted and will do all things necessary to preserve and keep in full force and effect its existence and, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect, its franchises, authority to do business in each jurisdiction in which its business is conducted, licenses, patents, trademarks, copyrights and other proprietary rights; provided however, that nothing in this paragraph (c) shall prevent any transaction permitted by paragraph (m) below or not otherwise prohibited by this Agreement or any other Transaction Document.

(d) Compliance with Laws. The Servicer will comply with the requirements of all laws, rules and regulations applicable to its property or business operations, except in such instance where (i) any failure to comply therewith, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect or (ii) the requirement to comply therewith is being contested in good faith.

(e) Furnishing of Information and Inspection of Receivables. The Servicer will furnish or cause to be furnished to the Administrator and each Purchaser Agent from time to time such information with respect to the Pool Receivables as the Administrator or any Purchaser Agent may reasonably request. The Servicer will, during regular business hours upon reasonable prior written notice, permit the Administrator and/or any Purchaser Agent or their agents or representatives to (i) examine the books and records relating to the Pool Receivables or other Pool Assets and (ii) visit the offices and properties of the Servicer for the purpose of examining such books and records (subject to applicable restrictions or limitations on access to any facility or information that is classified or restricted by contract (so long as any such contractual restrictions are not created in contemplation of preventing the inspection rights under this provision) or by law, regulation or governmental guidelines and in accordance with applicable safety procedures), and (iii) discuss matters relating to the Pool Receivables, other Pool Assets or the Servicer's performance under the Transaction Documents to which it is a party with any of the officers of the Servicer and (only during the continuance of a Termination Event) its independent accountants, in each case, having knowledge of such matters; provided, that unless a Termination Event has occurred and is continuing, (A) the Servicer shall be required to reimburse the Administrator for only one (1) such audit in any twelve-month period and (B) the Administrator and the Purchaser Agents hereby agree to coordinate their due diligence visits.

(f) Payments on Receivables, Lock-Box Accounts. The Servicer will, and will cause each Originator to, at all times, instruct all Obligor to deliver payments on the Pool Receivables to a Lock-Box Account or a Lock-Box. If any payments on the Pool Receivables or other Collections are received by the Seller, the Servicer or an Originator, it shall hold (or cause the Seller or such Originator to hold) such payments in trust for the benefit of the Administrator, the Purchaser Agents and the Purchasers and promptly (but in any event within one Business Day after receipt) remit such funds into a Lock-Box Account. The Servicer will cause each Lock-Box Bank to comply with the terms of each applicable Lock-Box Agreement. The Servicer shall not permit funds other than Collections on Pool Receivables and other Pool Assets to be deposited into any Lock-Box Account. If such funds are nevertheless deposited into any Lock-Box Account, the Servicer will within two Business Days identify and transfer such funds, to the appropriate Person entitled to such funds. The Servicer will not, and will not permit any Originator or other Person to commingle Collections or other funds to which the Administrator, any Purchaser Agent or any Purchaser is entitled with any other funds. The Servicer shall only add a Lock-Box Account (or the related Lock-Box), or a Lock-Box Bank to those listed on Schedule II to this Agreement, if the Administrator has received notice of such addition and an executed and acknowledged copy of a Lock-Box Agreement in form and substance acceptable to the Administrator from any such new Lock-Box Bank. The Servicer shall only terminate a Lock-Box Bank or close a Lock-Box Account (or the related Lock-Box) with the prior written consent of the Administrator. Notwithstanding the foregoing, if on any date, any funds in payment of any amounts owed in respect of any Excluded Receivable (including purchase price, finance charges, interest and all other charges) or funds to be applied to amounts owed in respect of any Excluded Receivable (including insurance payments and net proceeds of the sale or other disposition of repossessed goods or other collateral or property of the related Excluded Obligor or any other Person directly or indirectly liable for the payment of such Excluded Receivable and available to be applied thereon) are delivered to a Lock-Box Account or Lock-Box, the Servicer shall remit the amount of any such funds to the owner of such Excluded Receivable or its designee.

(g) Extension or Amendment of Pool Receivables. Except as otherwise permitted in Section 4.2 of this Agreement, the Servicer will not alter the delinquency status or adjust the Outstanding Balance or otherwise modify the terms of any Pool Receivable in any material respect, or amend, modify or waive, in any material respect, any term or condition of any related Contract. The Servicer shall at its expense, timely and fully perform and comply in all material respects with all provisions, covenants and other promises required to be observed by it under the Contracts related to the Pool Receivables, and timely and fully comply with the Credit and Collection Policy with regard to each Pool Receivable and the related Contract.

(h) Change in Credit and Collection Policy. The Servicer will not make any material change in the Credit and Collection Policy without the prior written consent of the Administrator and the Majority Purchaser Agents (such consent not to be unreasonably withheld or delayed).

(i) Records. The Servicer will maintain and implement administrative and operating procedures (including an ability to recreate records evidencing Pool Receivables and related Contracts in the event of the destruction of the originals thereof), and keep and maintain all documents, books, records, computer tapes and disks and other information reasonably necessary or advisable for the collection of all Pool Receivables (including records adequate to permit the daily identification of each Pool Receivable and all Collections of and adjustments to each existing Pool Receivable).

(j) Ownership Interest, Etc. The Servicer shall, at its expense, take all action necessary or reasonably desirable to establish and maintain a valid and enforceable undivided percentage ownership or security interest, to the extent of the Purchased Interest, in the Pool Receivables, the Related Security and Collections with respect thereto, and a first priority perfected security interest in the Pool Assets, in each case free and clear of any Adverse Claim, in favor of the Administrator (on behalf of the Purchasers), including taking such action to perfect, protect or more fully evidence the interest of the Administrator (on behalf of the Purchasers) as the Administrator or any Purchaser Agent may reasonably request. In order to evidence the interests of the Administrator (on behalf of the Purchasers) under this Agreement, the Servicer shall, from time to time take such action, or execute and deliver such instruments as may be necessary (including, without limitation, such actions as are reasonably requested by the Administrator) to maintain and perfect, as a first-priority interest, the Administrator's security interest in the Receivables, Related Security and Collections. The Servicer shall, from time to time and within the time limits established by law, prepare and present to the Administrator for the Administrator's authorization and approval, all financing statements, amendments, continuations or initial financing statements in lieu of a continuation statement, or other filings necessary to continue, maintain and perfect the Administrator's security interest as a first-priority interest. The Administrator's approval of such filings shall authorize the Servicer to file such financing statements under the UCC without the signature of the Seller, any Originator or the Administrator where allowed by Applicable Law. Notwithstanding anything else in the Transaction Documents to the contrary, the Servicer shall not have any authority to file a termination, partial termination, release, partial release, or any amendment that deletes the name of a debtor or excludes collateral of any such financing statements filed in connection with the Transaction Documents, without the prior written consent of the Administrator.

(k) Further Assurances. The Servicer hereby authorizes and hereby agrees from time to time, at its own expense, promptly to execute (if necessary) and deliver all further instruments and documents, and to take all further actions, that may be necessary or desirable, or that the Administrator may reasonably request, to perfect, protect or more fully evidence the purchases or issuances made under this Agreement and/or security interest granted pursuant to this Agreement or any other Transaction Document, or to enable the Administrator (on behalf of the Purchasers) to exercise and enforce their respective rights and remedies under this Agreement or any other Transaction Document.

(l) Transaction Information. None of the Servicer, any Affiliate of the Servicer or any third party with which the Servicer or any Affiliate thereof has contracted, shall deliver, in writing or orally, to any Rating Agency, any Transaction Information without providing such Transaction Information to the applicable Purchaser Agent prior to delivery to such Rating Agency and will not participate in any oral communications with respect to Transaction Information with any Rating Agency without the participation of such Purchaser Agent.

(m) Mergers, Sales, Etc. The Servicer shall not sell substantially all of its business or assets and shall not merge or consolidate with or into any other Person; provided, however, that (i) if no Termination Event or Unmatured Termination Event has occurred and is continuing or would result therefrom and (ii) either (A) the Servicer is the surviving Person or (B) the Servicer is not the surviving Person but the Seller complies with the Servicer Replacement Conditions as if the surviving Person is the assignee of the Servicer, the Servicer may merge or consolidate with any other U.S. corporation or limited liability company.

(n) Sanctions; Anti-Corruption Laws.

(i) The Servicer will not, nor will it permit the Parent or any of the Parent's Subsidiaries to, directly or indirectly, use the proceeds of any Receivable or any Purchase under this Agreement, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other individual or entity, to fund any activities of or business with any individual or entity, or in any Designated Jurisdiction, that, at the time of such funding, is known by Chief Executive Officer, Chief Compliance Officer or General Counsel of the Servicer to be the subject of Sanctions.

(ii) The Servicer will not, nor will the Servicer permit the Parent or any of the Parent's Subsidiaries to, use the proceeds of any Receivable or any Purchase under this Agreement (including any indirect use intended by the Servicer, the Parent or such Subsidiary) for any purpose which would result in a violation by the Servicer, the Parent or such Subsidiary of any Anti-Corruption Law or in a violation of any Sanctions by any party hereto.

3. Separateness Covenants. In order to preserve the bankruptcy-remote status of the Seller, each of the Seller and the Servicer covenants to take such actions as shall be necessary in order that:

(a) Special Purpose Entity. The Seller will be a special purpose limited liability company whose primary activities are restricted in its limited liability company agreement to: (i) purchasing or otherwise acquiring from the Originators, owning, holding, granting security interests or selling interests in Pool Assets, (ii) entering into agreements for the selling, servicing and financing of the Receivables Pool (including the Transaction Documents), and (iii) conducting such other activities as it deems necessary or appropriate to carry out its primary activities.

(b) No Other Business or Debt. The Seller shall not engage in any business or activity except as set forth in the Transaction Documents nor, incur any indebtedness or liability other than as expressly permitted by this Agreement.

(c) Independent Director. Not fewer than one member of the Seller's board of directors (the "Independent Director") shall be a natural person who (A) for the five-year period prior to his or her appointment as Independent Director of the Seller has not been, and during the continuation of his or her service as Independent Director of the Seller is not: (i) an employee, director, stockholder, member, manager, partner or officer of the Seller, the Parent, the Servicer, any Originator or any of their respective Affiliates (other than his or her service as an Independent Director of the Seller); (ii) a customer or supplier of the Seller, the Parent, the Servicer, any Originator or any of their respective Affiliates (other than his or her service as an Independent Director of the Seller); or (iii) any member of the immediate family of a person described in (i) or (ii); (B) has (x) prior experience as an Independent Director for a corporation or limited liability company whose organizational or charter documents required the unanimous consent of all Independent Directors thereof before such corporation or limited liability company could consent to the institution of bankruptcy or insolvency proceedings against it or could file a petition seeking relief under any applicable federal or state law relating to bankruptcy and (y) at least three years of employment experience with one or more entities that provide, in the ordinary course of their respective businesses, advisory, management or placement services to issuers of securitization or structured finance instruments, agreements or securities; and (C) is either (x) an employee of Lord Securities Corporation or any Affiliate thereof or (y) reasonably acceptable to the Administrator as evidenced in a writing executed by the Administrator.

The Seller shall (A) give written notice to the Administrator of the election or appointment, or proposed election or appointment, of a new Independent Director of the Seller, which notice shall be given not later than 10 days prior to the date such appointment or election would be effective (except when such election or appointment is necessary to fill a vacancy caused by the death, disability, or incapacity of the existing Independent Director, or the failure of such Independent Director to satisfy the criteria for an Independent Director set forth in this Section 5(c) of Exhibit IV, in which case the Seller shall provide written notice of such election or appointment within one Business Day), and (B) with any such written notice, certify to the Administrator that the Independent Director satisfies the criteria for an Independent Director set forth in this Section 5(c) of Exhibit IV.

The Seller's limited liability company agreement shall provide that: (A) the Seller's board of directors shall not approve, or take any other action to cause the filing of, a voluntary bankruptcy petition with respect to the Seller unless the Independent Director shall approve the taking of such action in writing before the taking of such action, and (B) such provision and each other provision requiring an Independent Director cannot be amended without the prior written consent of the Independent Director.

The Independent Director shall not at any time serve as a trustee in bankruptcy for the Seller, the Parent, any Originator, the Servicer or any of their respective Affiliates.

(d) Organizational Documents. The Seller shall maintain its limited liability company agreement and other organizational documents in conformity with this Agreement, such that it does not amend, restate, supplement or otherwise modify its ability to comply with the terms and provisions of any of the Transaction Documents, including, without limitation, paragraph (c) above.

(e) Conduct of Business. The Seller shall conduct its affairs strictly in accordance with its organizational documents and observe all necessary, appropriate and customary company formalities, including, but not limited to, holding all regular and special members' and board of directors' (or managers') meetings appropriate to authorize all corporate action, keeping separate and accurate minutes of its meetings, passing all resolutions or consents necessary to authorize actions taken or to be taken, and maintaining accurate and separate books, records and accounts, including, but not limited to, payroll and intercompany transaction accounts.

(f) Compensation. Any employee, consultant or agent of the Seller will be compensated from the Seller's funds for services provided to the Seller, and to the extent that the Seller shares the same officers or other employees as the Servicer (or the Parent or any other Affiliate thereof), the salaries and expenses relating to providing benefits to such officers and other employees shall be fairly allocated among such entities, and each such entity shall bear its fair share of the salary and benefit costs associated with such common officers and employees. The Seller will not engage any agents other than its attorneys, auditors and other professionals, and a servicer and any other agent contemplated by the Transaction Documents for the Receivables Pool, which servicer will be fully compensated for its services by payment of the Servicing Fee.

(g) Servicing and Costs. The Seller will contract with the Servicer to perform for the Seller all operations required on a daily basis to service the Receivables Pool. The Seller will not incur any indirect or overhead expenses for items shared with the Servicer (or the Parent or any other Affiliate thereof) that are not reflected in the Servicing Fee. To the extent, if any, that the Seller (or any Affiliate thereof) shares items of expenses not reflected in the Servicing Fee, such as legal, auditing and other professional services, such expenses will be allocated to the extent practical on the basis of actual use or the value of services rendered, and otherwise on a basis reasonably related to the actual use or the value of services rendered.

(h) Operating Expenses. The Seller's operating expenses will not be borne by the Servicer, any Originator, the Parent or any of their Affiliates.

(i) Stationery. The Seller will have its own separate stationery.

(j) Books and Records. The Seller's books and records will be maintained separately from those of the Servicer, the Originators, the Parent and any of their Affiliates and in a manner such that it will not be difficult or costly to segregate, ascertain or otherwise identify the assets and liabilities of the Seller.

(k) Disclosure of Transactions. All financial statements of the Servicer, the Parent, the Originators and any Affiliate thereof that are consolidated to include the Seller will disclose that (i) the Seller's sole business consists of the purchase or acceptance through capital contributions of the Receivables and Related Rights from the Originators and the subsequent retransfer of or granting of a security interest in such Receivables and Related Rights to certain purchasers party to this Agreement, (ii) the Seller is a separate legal entity with its own separate creditors who will be entitled, upon its liquidation, to be satisfied out of the Seller's assets prior to any assets or value in the Seller becoming available to the Seller's equity holders and (iii) the assets of the Seller are not available to pay creditors of the Servicer, the Parent, any Originator or any Affiliate thereof.

(l) Segregation of Assets. The Seller's assets will be maintained in a manner that facilitates their identification and segregation from those of the Servicer, the Parent, the Originators and any Affiliates thereof.

(m) Corporate Formalities. The Seller will strictly observe corporate formalities in its dealings with the Servicer, the Parent, the Originators and any Affiliates thereof, and funds or other assets of the Seller will not be commingled with those of the Servicer, the Parent, the Originators and any Affiliates thereof except as permitted by this Agreement in connection with servicing the Pool Receivables. The Seller shall not maintain joint bank accounts or other depository accounts to which the Servicer, the Parent, the Originators and any Affiliates thereof (other than the Servicer solely in its capacity as such) has independent access. The Seller is not named, and has not entered into any agreement to be named, directly or indirectly, as a direct or contingent beneficiary or loss payee on any insurance policy with respect to any loss relating to the property of the Servicer, the Parent, the Originators or any Affiliates thereof. The Seller will pay to the appropriate Affiliate (or will provide in the allocation of overhead described below) the marginal increase or, in the absence of such increase, the market amount of its portion of the premium payable with respect to any insurance policy that covers the Seller and such Affiliate.

(n) Arm's-Length Relationships. The Seller will maintain arm's-length relationships with the Servicer, the Parent, the Originators and any Affiliates thereof. Neither the Seller on the one hand, nor the Servicer, the Parent, any Originator or any Affiliate thereof, on the other hand, will be or will hold itself out to be responsible for the debts of the other or the decisions or actions respecting the daily business and affairs of the other. The Seller, the Servicer, the Parent, the Originators and their respective Affiliates will immediately correct any known misrepresentation with respect to the foregoing, and they will not operate or purport to operate as an integrated single economic unit with respect to each other or in their dealing with any other entity.

(o) Allocation of Overhead. To the extent that the Seller, on the one hand, and the Servicer, the Parent, any Originator or any Affiliate thereof, on the other hand, have offices in the same location, there shall be a fair and appropriate allocation of overhead costs between them, and the Seller shall bear its fair share of such expenses, which may be paid through the Servicing Fee or otherwise.

EXHIBIT V
TERMINATION EVENTS

The occurrence of any of the following shall constitute a “Termination Event”:

(a) (i) the Seller, any Originator, the Parent or the Servicer shall fail to make when due any payment or deposit to be made by it under this Agreement or any other Transaction Document and such failure shall continue unremedied for three (3) Business Days, (ii) the Seller or the Servicer shall fail to deliver any Information Package when due pursuant to this Agreement, and such failure shall continue unremedied for two (2) Business Days, (iii) Lyondell Chemical shall resign as the Servicer, and no successor Servicer reasonably satisfactory to the Administrator and each Purchaser Agent shall have been appointed or (iv) the Seller, any Originator, the Parent or the Servicer shall fail to perform or observe any other term, covenant or agreement under this Agreement or any other Transaction Document and such failure, solely to the extent capable of cure, shall continue unremedied for thirty (30) days after the Seller, the Parent, any Originator or the Servicer has knowledge or receives written notice thereof;

(b) any representation or warranty made or deemed made by the Seller, the Parent, any Originator or the Servicer (or any of their respective officers) under or in connection with this Agreement or any other Transaction Document or any information or report delivered by the Seller, the Parent, any Originator or the Servicer pursuant to this Agreement or any other Transaction Document, shall prove to have been incorrect or untrue in any material respect when made or deemed made or delivered; provided, however, that such circumstance shall not constitute a Termination Event pursuant to this clause (b) if (i) such breach is corrected promptly (but not later than five (5) Business Days) after the Seller, the Parent, any Originator or the Servicer has knowledge or receives notice thereof or (ii) such breach is of a representation or warranty that a Pool Receivable is an Eligible Receivable and the Purchased Interest will not exceed 100% after excluding such Pool Receivable from the Net Receivables Pool Balance;

(c) this Agreement or any purchase or reinvestment pursuant to this Agreement shall for any reason: (i) cease to create, or the Purchased Interest shall for any reason cease to be, a valid and enforceable first priority perfected undivided percentage ownership or security interest to the extent of the Purchased Interest in each Pool Receivable, the Related Security and Collections with respect thereto, free and clear of any Adverse Claim, or (ii) cease to create with respect to the Pool Assets, or the interest of the Administrator with respect to such Pool Assets shall cease to be, a valid and enforceable first priority perfected security interest, free and clear of any Adverse Claim;

(d) the Seller, the Parent, the Servicer or any Originator shall make a general assignment for the benefit of creditors; or any proceeding shall be instituted by or against the Seller, the Parent, the Servicer or any Originator seeking to adjudicate it as bankrupt or insolvent, or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian or other similar official for it or for any substantial part of its property and, in the case of any such proceeding instituted against it (but not instituted by it), either such proceeding shall remain undismissed or unstayed for a period of 60 days, or any of the actions sought in such proceeding (including the entry of an order for relief against, or the appointment of a receiver, trustee, custodian or other similar official for, it or for any substantial part of its property) shall occur; or the Seller, the Parent, the Servicer or any Originator shall take any corporate or organizational action to authorize any of the actions set forth above in this paragraph;

(e) the Seller, the Parent, the Servicer or any Originator shall generally not pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally;

(f) (i) the sum of (A) the Aggregate Capital, plus the Adjusted LC Participation Amount, plus (B) the Total Reserves, exceeds (ii) the sum of (A) Net Receivables Pool Balance at such time, plus (B) the Purchasers' Share of the amount of Collections then on deposit in the Lock-Box Accounts (other than amounts set aside therein representing Discount and fees), and such circumstance shall not have been cured within two (2) Business Days;

(g) default shall occur under any Debt of the Parent or any of its Subsidiaries aggregating in excess of \$150,000,000, or under any indenture, agreement or other instrument under which the same may be issued, the effect of such default is to cause the acceleration of the maturity of any such Indebtedness (whether automatically or otherwise), or any such Debt shall not be paid when due (whether by demand, lapse of time, acceleration or otherwise) after expiry of any applicable grace period;

(h) the "Leverage Ratio" (subject to Section 5.1, as such term and any defined terms used therein are defined in the Lyondell Credit Agreement as in effect on the Closing Date, without giving effect to any subsequent amendments or modifications thereto and regardless if the Lyondell Credit Agreement is subsequently terminated or replaced) as of the last day of any fiscal quarter of the Parent shall exceed the applicable level set forth below adjacent to such fiscal quarter:

Fiscal Quarter Ending:	Maximum Leverage Ratio
June 30, 2021	4.75 to 1.00
September 30, 2021	4.50 to 1.00
December 31, 2021	4.50 to 1.00
March 30, 2022	4.00 to 1.00
June 30, 2022 and thereafter	3.50 to 1.00

(i) a Change in Control shall occur;

(j) any member of the Controlled Group shall fail to pay when due an amount or amounts aggregating in excess of \$100,000,000 which it shall have become liable to pay to the PBGC or to a Plan subject to Title IV of ERISA; or notice of intent to terminate a Plan or Plans having aggregate Unfunded Vested Liabilities in excess of \$100,000,000 (collectively, a "Material Plan") shall be filed under Title IV of ERISA by the Parent or any of its Subsidiaries, or any other member of the Controlled Group, any plan administrator or any combination of the foregoing; or the PBGC shall institute proceedings under Title IV of ERISA to terminate or to cause a trustee to be appointed to administer any Material Plan or a proceeding shall be instituted by a fiduciary of any Material Plan against the Parent or any of its Subsidiaries, or any member of the Controlled Group, to enforce Section 515 or 4219(c)(5) of ERISA and such proceeding shall not have been dismissed within 30 days thereafter; or a condition shall exist by reason of which the PBGC would be entitled to obtain a decree adjudicating that any Material Plan must be terminated;

(k) either (i) the Internal Revenue Service shall file notice of a lien pursuant to Section 6323 of the Code with regard to any assets of the Seller and such lien shall not have been released within five (5) days, or (ii) the PBGC shall file notice of a lien pursuant to Section 4068 of ERISA with regard to any of the assets of the Seller, or (iii) a judgment lien shall be imposed on the assets of the Seller in connection with a complete or partial withdrawal from, or a default, within the meaning of Section 4219(c)(5) of ERISA, with respect to one or more Plans;

(l) the average for three consecutive calendar months of: (A) the Loss Ratio shall exceed 2.0%, (B) the Delinquency Ratio shall exceed 5.5% or (C) the Dilution Ratio shall exceed 4.5%;

(m) the Seller shall fail (i) at any time (other than for ten (10) Business Days following notice of the death or resignation of any Independent Director) to have an Independent Director who satisfies each requirement and qualification specified in Section 3(c) of Exhibit IV to this Agreement for Independent Directors, on the Seller's board of directors or (ii) to timely notify the Administrator of any replacement or appointment of any director that is to serve as an Independent Director on the Seller's board of directors as required pursuant to such Section 3(c);

(n) any Letter of Credit is drawn upon and is not fully reimbursed by the Seller, or funded by Participation Advances as required pursuant to Section 1.14;

(o) any material provision of this Agreement or any other Transaction Document shall cease to be in full force and effect or any of the Seller, the Servicer, the Parent or any Originator shall so state in writing; or

(p) one or more judgments or decrees shall be entered against the Seller, the Parent, the Servicer, any Originator or any other Significant Subsidiary (as defined in the Lyondell Credit Agreement) involving in the aggregate a liability (not paid or to the extent not covered by a reputable and solvent insurance company) and such judgments and decrees either shall be final and non-appealable or shall not be vacated, discharged or stayed or bonded pending appeal for any period of 60 consecutive days, and the aggregate amount of all such judgments equals or exceeds \$100,000,000 (or solely with respect to the Seller, \$12,500).

SCHEDULE IV

PURCHASER GROUPS AND MAXIMUM COMMITMENTS

Purchaser Group of Mizuho		
<u>Party</u>	<u>Capacity</u>	<u>Maximum Commitment</u>
Mizuho	Related Committed Purchaser	\$400,000,000
Mizuho	LC Participant	An amount equal to such LC Participant's Pro Rata Share multiplied by the LC Sub-Limit
Mizuho	LC Bank	N/A
Mizuho	Purchaser Agent	N/A
Purchaser Group of Gotham		
<u>Party</u>	<u>Capacity</u>	<u>Maximum Commitment</u>
Gotham	Conduit Purchaser	N/A
MUFG	Related Committed Purchaser	\$200,000,000
MUFG	LC Participant	An amount equal to such LC Participant's Pro Rata Share multiplied by the LC Sub-Limit
MUFG	Purchaser Agent	N/A
Purchaser Group of SMBC		
<u>Party</u>	<u>Capacity</u>	<u>Maximum Commitment</u>
SMBC	Related Committed Purchaser	\$300,000,000
SMBC	LC Participant	An amount equal to such LC Participant's Pro Rata Share multiplied by the LC Sub-Limit
SMBCSI	Purchaser Agent	N/A

AMENDMENT NO. 1 TO SECOND AMENDED AND RESTATED CREDIT
AGREEMENT

AMENDMENT NO. 1 TO SECOND AMENDED AND RESTATED CREDIT AGREEMENT (this “**Amendment**”), dated as of May 31, 2023, by and among LYONDELLBASELL INDUSTRIES N.V., a *naamloze vennootschap* (a public limited liability company) formed under the laws of The Netherlands (the “**Company**”), LYB AMERICAS FINANCE COMPANY LLC, a Delaware limited liability company (the “**Co-Borrower**” and, together with the Company, the “**Borrowers**” and each, a “**Borrower**”), the Lenders (as defined below) party hereto and the Administrative Agent (as defined below), which amends that certain SECOND AMENDED AND RESTATED CREDIT AGREEMENT (as amended, supplemented or otherwise modified from time to time prior to the effectiveness of this Amendment, the “**Existing Credit Agreement**” and as modified by this Amendment, the “**Credit Agreement**”) dated as of November 23, 2021, among the Borrowers, the various institutions from time to time party thereto as lenders and L/C Issuers (the “**Lenders**”) and CITIBANK, N.A., as Administrative Agent (in such capacity, the “**Administrative Agent**”).

WITNESSETH:

WHEREAS, the Borrowers have requested that the Lenders agree to amend certain provisions of the Existing Credit Agreement as set forth herein;

WHEREAS, Section 9.10 of the Existing Credit Agreement permits the Existing Credit Agreement to be amended from time to time by the Borrowers, the Administrative Agent and the Lenders; and

WHEREAS, the Borrowers, the Administrative Agent and each Lender desire to amend the Existing Credit Agreement on the terms set forth herein;

NOW, THEREFORE, it is agreed:

SECTION 1. Defined Terms. Capitalized terms used but not defined herein shall have the meaning assigned to such terms in the Credit Agreement.

SECTION 2. Amendments. The Borrowers and the Administrative Agent agree that, effective as of the Amendment Effective Date (as defined below):

(a) the Existing Credit Agreement is hereby amended as set forth in **Exhibit A** attached hereto such that all of the newly inserted bold, double-underlined text (indicated textually in the same manner as the following example: **double-underlined text**) and any formatting changes attached hereto shall be deemed to be inserted in the text of the Credit Agreement and all of the deleted stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) shall be deemed to be deleted from the text of the Existing Credit Agreement;

(b) Exhibit B to the Existing Credit Agreement is amended and replaced in its entirety with Exhibit B attached hereto; and

(c) Exhibit C to the Existing Credit Agreement is amended and replaced in its entirety with Exhibit C attached hereto.

SECTION 3. Conditions to Effectiveness of Amendment. This Amendment shall become a binding agreement of the parties hereto and the agreements set forth herein, and the amendments set forth in Section 2 shall each become effective on the date on which the Administrative Agent (or its counsel) shall have received from the Borrowers and each of the Lenders either (a) a counterpart of this Amendment signed on behalf of such party or (b) written evidence satisfactory to the Administrative Agent (which may include email or facsimile transmission of a signed signature page of this Amendment) that such party has signed a counterpart of this Amendment (such date, the “**Amendment Effective Date**”). The Administrative Agent shall notify the Borrowers and the Lenders of the Amendment Effective Date, and such notice shall be conclusive and binding absent manifest error.

SECTION 4. Effects on Loan Documents. This Amendment shall constitute a “Loan Document” for purposes of the Credit Agreement and the other Loan Documents. From and after the Amendment Effective Date, all references to the Existing Credit Agreement and each of the other Loan Documents shall be deemed to be references to the Credit Agreement. Except as expressly amended pursuant to the terms hereof, all of the representations, warranties, terms, covenants and conditions of the Loan Documents shall remain unamended and not waived and shall continue to be in full force and effect. The execution, delivery and effectiveness of this Amendment shall not, except as expressly provided herein, operate as a waiver of any right, power or remedy of any Lender or the Administrative Agent under any of the Loan Documents.

SECTION 5. Benchmark Transition Matters.

(a) Notwithstanding anything to the contrary contained herein or in any other Loan Documents, all Eurocurrency Loans (as defined in the Existing Credit Agreement) denominated in U.S. Dollars that are outstanding or have been requested under the Existing Credit Agreement as of the Amendment Effective Date (collectively, the “**Existing LIBOR Loans**”) shall continue to bear interest at a rate per annum equal to the sum of (i) the LIBOR Rate (as defined in the Existing Credit Agreement) applicable for such existing Interest Period (as defined in the Existing Credit Agreement) (the “**Existing Interest Period**”) plus (ii) the Applicable Margin applicable to such Existing LIBOR Loan immediately prior to giving effect to this Amendment until the last day of Existing Interest Period. Thereafter, all such Existing Loans shall be converted to SOFR Loans in accordance with the Credit Agreement; *provided* that in no event shall an Existing Loan be permitted to be continued as a Eurocurrency Loan after the termination or expiration of the Existing Interest Period.

(b) Subject to any express limitations set forth in the immediately preceding clause (a), the terms of the Existing Credit Agreement in respect of the administration of Eurocurrency Loans (solely with respect to the Existing LIBOR Loans) shall remain in effect from and after the Amendment Effective Date until the last day of the applicable Existing Interest Period, in each case, solely for purposes of administering the Existing LIBOR Loans (including, without limitation, with respect to the payment of interest accrued thereon, determination of breakage fees and other related subject matter set forth in the Existing Credit Agreement).

SECTION 6. Miscellaneous.

(a) The Borrowers represent and warrant to the Lenders and the Administrative Agent that (i) the representations and warranties set forth in Article 4 of the Credit Agreement (other than the representations and warranties set forth in Section 4.05, Section 4.06 and Section 4.18 of the Credit Agreement) are true and correct in all material respects (except that any representation and warranty that is qualified by materiality shall to the extent so qualified be true and correct in all respects) as of the date hereof, except to the extent the same expressly relate to an earlier date with respect to which such representations and warranties shall be true and correct in all material respects (except that any representation and warranty that is qualified by materiality shall to the extent so qualified be true and correct in all respects) as of such earlier date and (ii) no Default exists on the Amendment Effective Date.

(b) The provisions of Sections 9.15 (Treatment of Certain Information; Confidentiality); 9.21 (Governing Law; Jurisdiction; Etc.); and 9.22 (Waiver of Jury Trial) of the Credit Agreement are incorporated herein by reference as if fully set forth herein, *mutatis mutandis*.

SECTION 7. Counterparts; Electronic Execution. This Amendment may be executed in any number of counterparts, and by the different parties hereto on separate counterpart signature pages, and all such counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Amendment by facsimile or in electronic (e.g., “pdf” or “tif”) format shall be effective as delivery of a manually executed counterpart of this Amendment. The words “execution,” “signed,” “signature,” and words of like import in this Amendment shall be deemed to include electronic signatures or electronic records, 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.

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed by their respective authorized officers as of the day and year first above written.

LYONDELLBASELL INDUSTRIES N.V.,
as the Company

By: /s/ Donny Chia
Name: Donny Chia
Title: Authorized Person

LYB AMERICAS, FINANCE COMPANY LLC,
as the Co-Borrower

By: /s/Brendan J. Dalton
Name: Brendan J. Dalton
Title: Assistant Treasurer

Signature Page to Amendment No 1. to Credit Agreement

CITIBANK, N.A., as Administrative Agent,

a Swing Line Lender, an L/C Issuer and a Lender

By: /s/ Michael Vondriska

Name: Michael Vondriska

Title: Vice President

Signature Page to Amendment No 1. to Credit Agreement

**WELLS FARGO BANK, NATIONAL
ASSOCIATION**, as a Lender, an L/C Issuer,
and a Swing Line Lender

By: /s/ Nathan R. Rantala

Name: Nathan R. Rantala

Title: Managing Director

Signature Page to Amendment No 1. to Credit Agreement

Bank of America, N.A.,
as a Lender

By: /s/ Bettina Buss
Name: Bettina Buss
Title: Director

Signature Page to Amendment No 1. to Credit Agreement

**DEUTSCHE BANK AG NEW YORK
BRANCH, as Lender**

By: /s/ Ming K. Chu

Name: Ming K. Chu

Title: Director

By: /s/ Marko Lukin

Name: Marko Lukin

Title: Vice President

Signature Page to Amendment No 1. to Credit Agreement

JPMORGAN CHASE BANK, N.A., as a
Lender

By: /s/ Will Price
Name: Will Price
Title: Vice President

Signature Page to Amendment No 1. to Credit Agreement

MIZUHO BANK, LTD., as a Lender

By: /s/ Donna DeMagistris
Name: Donna DeMagistris
Title: Executive Director

Signature Page to Amendment No 1. to Credit Agreement

MORGAN STANLEY BANK, N.A.
as a Lender

By: /s/ Rikin Pandya
Name: Rikin Pandya
Title: Authorized Signatory

Signature Page to Amendment No 1. to Credit Agreement

BARCLAYS BANK PLC,
as a Lender

By: /s/ Sydney G. Dennis
Name: Sydney G. Dennis
Title: Director

Signature Page to Amendment No 1. to Credit Agreement

CREDIT SUISSE AG, NEW YORK BRANCH
as a Lender

By: /s/ Doreen Barr

Name: Doreen Barr

Title: Authorized Signatory

By: /s/ Wing Yee Lee-Cember

Name: Wing Yee Lee-Cember

Title: Authorized Signatory

Signature Page to Amendment No 1. to Credit Agreement

ING Bank N.V., Dublin Branch,
as a Lender

By: /s/Sean Hassett
Name: Sean Hassett
Title: Director

By: /s/ Cormac Langford
Name: Cormac Langford
Title: Director

Signature Page to Amendment No 1. to Credit Agreement

UNICREDIT BANK AG,
as a Lender

By: /s/ Carl Josef Schulte

Name: Carl Josef Schulte

Title: Managing Director

By: /s/ Simone Faber

Name: Simone Faber

Title: Director

Signature Page to Amendment No 1. to Credit Agreement

Goldman Sachs Bank USA,
as a Lender

By: /s/ Keshia Leday
Name: Keshia Leday
Title: Authorized Signatory

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MUFG Bank, Ltd.
as a Lender

By: /s/ Jorge Georgalos
Name: Jorge Georgalos
Title: Director

Signature Page to Amendment No 1. to Credit Agreement

PNC Bank, National Association,
as a Lender

By: /s/ Mark H. Wolf

Name: Mark H. Wolf

Title: Senior Vice President

Signature Page to Amendment No 1. to Credit Agreement

SUMITOMO MITSUI BANKING CORPORATION,
as a Lender

By: /s/ Jun Ashley

Name: Jun Ashley

Title: Director

Signature Page to Amendment No 1. to Credit Agreement

**THE BANK OF NOVA SCOTIA,
HOUSTON BRANCH**
as a Lender

By: /s/ Alex Franks

Name: Alex Franks

Title: Director

Signature Page to Amendment No 1. to Credit Agreement

Agricultural Bank of China Limited, New York Branch,
as a Lender

By: /s/ Nelson Chou

Name: Nelson Chou

Title: Senior Vice President & Head of
Corporate Banking Department

Signature Page to Amendment No 1. to Credit Agreement

Bank of China, New York Branch,
as a Lender

By: /s/ Raymond Qiao

Name: Raymond Qiao
Title: Executive Vice President

Signature Page to Amendment No 1. to Credit Agreement

STANDARD CHARTERED BANK,
as a Lender

By: /s/ Kristopher Tracy
Name: Kristopher Tracy
Title: Director, Financing Solutions

Signature Page to Amendment No 1. to Credit Agreement

The Toronto-Dominion Bank, New York Branch,
as a Lender

By: /s/ Victoria Roberts
Name: Victoria Roberts
Title: Authorized Signatory

Signature Page to Amendment No 1. to Credit Agreement

THE BANK OF NEW YORK MELLON,
as a Lender

By: /s/ Yipeng Zhang
Name: Yipeng Zhang
Title: Vice President

Signature Page to Amendment No 1. to Credit Agreement

The Northern Trust Company,
as a Lender

By: /s/ Keith L. Burson
Name: Keith L. Burson
Title: Senior Vice President

Signature Page to Amendment No 1. to Credit Agreement

SECOND AMENDED AND RESTATED CREDIT AGREEMENT

among



LYONDELLBASELL INDUSTRIES N.V.
and
LYB AMERICAS FINANCE COMPANY LLC,
as Borrowers,

VARIOUS LENDERS AND L/C ISSUERS
FROM TIME TO TIME PARTY HERETO
and

CITIBANK, N.A.,
as Administrative Agent,

CITIBANK, N.A., WELLS FARGO SECURITIES LLC, BofA SECURITIES, INC.,
DEUTSCHE BANK SECURITIES INC., JPMORGAN CHASE BANK, N.A., MIZUHO
BANK, LTD. and MORGAN STANLEY SENIOR FUNDING, INC.,
as Joint Lead Arrangers and Joint Bookrunners,

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Syndication Agent,

and

BANK OF AMERICA, N.A., Deutsche Bank Securities Inc., JPMORGAN CHASE
BANK, N.A., MIZUHO BANK, LTD. and MORGAN STANLEY SENIOR FUNDING, INC.,
as Documentation Agents

November 23, 2021

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SECOND AMENDED AND RESTATED CREDIT AGREEMENT

This Second Amended and Restated Credit Agreement is entered into as of November 23, 2021, by and among LYONDELLBASELL INDUSTRIES N.V., a *naamloze vennootschap* (a public limited liability company) formed under the laws of The Netherlands (the “**Company**”), LYB AMERICAS FINANCE COMPANY LLC, a Delaware limited liability company (the “**Co-Borrower**” and, together with the Company, the “**Borrowers**” and each, a “**Borrower**”), the various institutions from time to time party to this Agreement as Lenders and L/C Issuers and CITIBANK, N.A., as Administrative Agent.

RECITALS:

A. The Borrowers, Bank of America, N.A., as the administrative agent (in such capacity, the “**Existing Administrative Agent**”), swing line lender and an L/C issuer thereunder, and the Existing Lenders are parties to the Existing Credit Agreement.

B. The Borrowers have requested that the Existing Credit Agreement be amended and restated in its entirety as set forth in this Agreement wherein the Lenders would provide a credit facility under which revolving credit loans may be made to either Borrower denominated in either U.S. Dollars or Euros, letters of credit denominated in either U.S. Dollars or Euros may be issued for the account of the Company or any Subsidiary and swing line loans may be made to either Borrower by Wells Fargo Bank, if denominated in U.S. Dollars, and Citibank, if denominated in Euros (such credit facility, the “**Facility**”).

C. The Lenders are willing to amend and restate the Existing Credit Agreement and provide the Facility as set forth in this Agreement.

The parties hereto hereby agree as follows:

ARTICLE 1 DEFINITIONS; INTERPRETATION

Section 1.01. ~~*Definitions.*~~ ~~*Definitions.*~~ The following terms when used herein shall have the following meanings:

“**Additional Commitments**” is defined in Section 2.01(b) hereof.

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

“**Administrative Agent**” means Citibank, as contractual representative for itself and the other Lenders and any successor pursuant to Section 8.06 hereof.

“**Administrative Agent’s Office**” means, with respect to any currency, the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 9.07 with respect to such currency, or such other address or account with respect to such currency as the Administrative Agent may from time to time notify the Company and the Lenders.

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

“**Affected Lender**” is defined in Section 7.06 hereof.

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

“**Affiliate**” means any Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, another Person. A Person shall be deemed to control another Person for purposes of this definition if such Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the other Person, whether through the ownership of voting securities, common directors, trustees or officers, by contract or otherwise.

“**Agent Parties**” is defined in [Section 9.07\(c\)](#) hereof.

“**Agreement**” means this Second Amended and Restated Credit Agreement.

“**Alternative Currency Equivalent**” means, at any time, with respect to any amount denominated in U.S. Dollars, the equivalent amount thereof in the applicable alternative currency as determined by the Administrative Agent or the L/C Issuer, as the case may be, at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date) for the purchase of such alternative currency with U.S. Dollars.

“**Anti-Corruption Laws**” means the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and all other similar legislation governing bribery or corruption, in each case, as applicable to the Company or its Subsidiaries from time to time.

“**Anti-Money Laundering Laws**” means any law, regulation, or rule in the United States or any other applicable jurisdiction regarding money laundering, terrorist-related activities or other money laundering predicate crimes, including, without limitation, the Bank Secrecy Act, the Beneficial Ownership Regulation and the Patriot Act.

“**Applicable Margin**” means, as of any date, with respect to Loans, L/C Borrowings, Commitment Fees and Letter of Credit Fees, the rates per annum determined by reference to the Public Debt Rating in effect on such date in accordance with the following schedule:

Level	Public Debt Rating (S&P/Moody's)	Applicable Margin For Base Rate Loans And L/C Borrowings	Applicable Margin For SOFR Loans For And Eurocurrency Loans And Letter of Credit Fee	Applicable Margin For Commitment Fee
I	≥ A/A2	0.000%	0.875%	0.070%
II	= A-/A3	0.000%	1.000%	0.090%
III	= BBB+/Baa1	0.125%	1.125%	0.100%
IV	= BBB/Baa2	0.250%	1.250%	0.125%
V	= BBB-/Baa3	0.375%	1.375%	0.175%
VI	≤ BB+/Ba1	0.625%	1.625%	0.200%

For purposes of the foregoing, (i) the Public Debt Rating in effect as of any date is that in effect (including when first announced by the applicable rating agency) at the close of business on such date, (ii) if the Public Debt Ratings established by S&P and Moody's fall within different levels, the Applicable Margin will be based on the higher rating assigned by S&P or Moody's; *provided* that if the rating differential is more than one level, the Applicable Margin will be based on a rating one level lower than the higher rating and (iii) if either S&P or Moody's shall not have in effect a Public Debt Rating (other than by reason of such rating agency ceasing to be in the business of rating corporate debt obligations), then such rating agency shall be deemed to have established a Public Debt Rating in Level VI.

If the rating system of S&P or Moody's shall change, or if both such rating agencies shall cease to be in the business of rating corporate debt obligations, the Company and the Lenders shall negotiate in good faith to amend this definition to reflect such changed rating system or the unavailability of ratings from such rating agencies and, pending the effectiveness of any such amendment, the Applicable Margin shall be determined by reference to the rating most recently in effect prior to such change or cessation.

"Applicable Time" means, with respect to any borrowings and payments in Euros, the local time in the place of settlement for Euros as may be determined by the Administrative Agent to be necessary for timely settlement on the relevant date in accordance with normal banking procedures in the place of payment.

"Application" means an application and agreement for the issuance or amendment of a Letter of Credit in a form satisfactory to the L/C Issuer.

"Approved Bank" means any financial institution that (a) is a Lender or an affiliate of a Lender or (b) is a member of the Federal Reserve System (or organized in any foreign country recognized by the United States) and whose short-term deposit rating is at least A-2, P-2, or F-2, as such rating is set forth from time to time by Moody's, S&P or Fitch, as applicable.

"Approved Fund" means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"Arrangers" means Citibank, Wells Fargo Securities LLC, BofA Securities, Inc., Deutsche Bank Securities Inc., JPMorgan Chase Bank, N.A., Mizuho Bank, Ltd. and Morgan Stanley Senior Funding, Inc., in their respective capacities as joint lead arrangers and joint bookrunners.

"Assignee Group" means two or more Eligible Assignees that are Affiliates of one another or two or more Approved Funds managed by the same investment advisor.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 9.09), and accepted by the Administrative Agent, in substantially the form of Exhibit F or any other form (including electronic documentation generated by use of an electronic platform) approved by the Administrative Agent.

"Authorized Representative" means those persons shown on the list of officers provided pursuant to Section 3.01(a)(vii) hereof or on any update of any such list provided by a Borrower to the Administrative Agent, or any further or different officers of a Borrower so named by any Authorized Representative of such Borrower in a written notice to the Administrative Agent.

"Auto-Extension Letter of Credit" is defined in Section 2.02(b)(iii) hereof.

"Available Tenor" means, as of any date of determination and with respect to any then-current Benchmark for any currency, as applicable, ~~(x) if any then-current~~ if such Benchmark is a term rate, any tenor for such Benchmark (or component thereof) that is or may be used for determining the length of an ~~Interest Period or (y) otherwise, any payment period for interest calculated with reference to such Benchmark, as applicable,~~ interest period pursuant to this Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of "Interest Period" pursuant to Section 7.03(d)(iv).

"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, rule, regulation 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).

“Base Rate” means for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate *plus* 1/2 of ~~1.00%~~ 1.00%, (b) the ~~rate of interest in effect for such day as publicly announced from time to time by Citibank as its “prime rate” and (c) the LIBOR Prime Rate in effect on such day for a Borrowing of Eurocurrency Loans in U.S. Dollars and (c) Adjusted Term SOFR on such day~~ Rate in effect on such day for a Borrowing of Eurocurrency Loans in U.S. Dollars and (c) Adjusted Term SOFR on such day with an Interest Period of one month (or if such day is not a Business Day, the immediately preceding Business Day) ~~plus 1%; provided that if the Base Rate as so determined is less than 0.0%, then the Base Rate shall be deemed to be 0.0%. The “prime rate” is a rate set by Citibank based upon various factors including Citibank’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such rate announced by Citibank shall take effect at the opening of business on the day specified in the public announcement of such change~~ 1.00%. If the Base Rate is being used as an alternate rate of interest pursuant to Section 7.03 hereof, then the Base Rate shall be the greater of clauses (a) and (b) above and shall be determined without reference to clause (c) above.

“Base Rate Loan” means a Revolving Loan bearing interest at a rate specified in Section 2.03 hereof. All Base Rate Loans shall be denominated in U.S. Dollars.

“Base Rate Term SOFR Determination Day” has the meaning specified in the definition of “Term SOFR”.

“Benchmark” means, initially, ~~(i)~~ (a) with respect to any amounts denominated in, or calculated with respect to, U.S. Dollars, ~~LIBOR and the Term SOFR Reference Rate, (ii)~~ the EURIBOR Rate and (c) with respect to Swing Line Loans denominated in Euros, €STR; provided that if a replacement of an initial or subsequent Benchmark Transition Event has occurred pursuant to Section 7.03(c) with respect to any then-current Benchmark, then “Benchmark” means, the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate. Any reference to “Benchmark” shall include, as applicable, the published component used in the calculation thereof pursuant to Section 7.03(d)(i).

“Benchmark Replacement” means, for any Available Tenor:

~~(1) For purposes of Section 7.03(c)(i), the first alternative set forth below that can be determined by the Administrative Agent:~~

~~(a) the sum of: (i) Term SOFR and (ii) 0.11448% (11.448 basis points) for an Available Tenor of one-month’s duration, 0.26161% (26.161 basis points) for an Available Tenor of three-months’ duration, 0.42826% (42.826 basis points) for an Available Tenor of six-months’ duration and 0.71513% (71.513 basis points) for an Available Tenor of twelve-months’ duration; provided, that if any Available Tenor of LIBOR does not correspond to an Available Tenor of Term SOFR, the Benchmark Replacement for such Available Tenor of LIBOR shall be the closest corresponding Available Tenor (based on tenor) for Term SOFR and if such Available Tenor of LIBOR corresponds equally to two Available Tenors of Term SOFR, the corresponding tenor of Term SOFR with the shorter duration shall be applied; or~~

~~(b) the sum of: (i) Daily Simple SOFR and (ii) the spread adjustment selected or recommended by the Relevant Governmental Body for the replacement of the tenor of LIBOR with a SOFR-based rate having approximately the same length as the interest payment period specified in clause (c) (i) of Section 7.03 (which spread adjustment, for the avoidance of doubt, shall be 0.11448% (11.448 basis points); and~~

~~(2) For purposes of Section 7.03(c)(ii) “Benchmark Replacement” means, with respect to any Benchmark Transition Event for any then-current Benchmark, the sum of: (a) the alternate benchmark rate and (b) an adjustment (which may be a positive or negative value or zero), in each case, that has been selected by the Administrative Agent and the Company as the replacement for such Available Tenor of such Benchmark giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention, including any applicable recommendations made by the Relevant Governmental Body, for determining a benchmark rate as a replacement for such Benchmark for syndicated credit facilities at such time denominated in the applicable currency in the U.S. syndicated loan market at such time and (b) the related Benchmark Replacement Adjustment;~~

~~provided that, if the such Benchmark Replacement as so determined pursuant to clause (1) or (2) above would be less than the Floor, the such Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents.~~

~~“Benchmark Replacement **Conforming Changes Adjustment**” means, with respect to any replacement of any then-current Benchmark with an Unadjusted Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Base Rate,” the definition of “Business Day,” the definition of “Interest Period,” timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of breakage provisions, the formula for calculating any successor rates identified pursuant to the definition of “Benchmark Replacement”, the formula, methodology or convention for applying the successor Floor to the successor Benchmark Replacement and other technical, administrative or operational matters) that the Administrative Agent decides (in consultation with the Company) may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents) the spread adjustment, or method for calculating or determining such spread adjustment (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Company giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for syndicated credit facilities denominated in the applicable currency at such time.~~

~~“Benchmark Replacement Date” means the earliest to occur of the following events with respect to any then-current Benchmark for any currency:~~

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

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

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

“**Benchmark Transition Event**” means, with respect to any then-current Benchmark ~~other than LIBOR~~, the occurrence of one or more of the following events: ~~a public statement or publication of information by or on behalf of the administrator of any then-current~~ with respect to such Benchmark;

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

(b) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark, ~~the Board of Governors of the~~ (or the published component used in the calculation thereof), the Federal Reserve System Board, the Federal Reserve Bank of New York, the central bank, or such equivalent financial institution, for the currency applicable to such Benchmark, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark, ~~announcing or stating that (a) such (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease on a specified date to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, all Available Tenors of such Benchmark; (or such component thereof) permanently or indefinitely;~~ provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, any Available Tenor of such Benchmark (or ~~(b) all Available Tenors of such Benchmark are or will no longer be representative and that representativeness will not be restored;~~ such component thereof); or

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

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

“Benchmark Transition Start Date” means, with respect to any Benchmark, in the case of a Benchmark Transition Event, the earlier of (a) the applicable Benchmark Replacement Date and (b) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the 90th day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than 90 days after such statement or publication, the date of such statement or publication).

“Benchmark Unavailability Period” means, with respect to any then-current Benchmark for any currency, the period (if any) (a) beginning at the time that a Benchmark Replacement Date with respect to such Benchmark has occurred if, at such time, no Benchmark Replacement has replaced such Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 7.03(d) and (b) ending at the time that a Benchmark Replacement has replaced such Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 7.03(d).

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

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

“BHC Act Affiliate” is defined in Section 9.27(b) hereof.

“Board of Directors” means, as to any Person, the board of directors or the equivalent governing body of such Person (or, if such Person is a partnership or limited liability company, the board of directors or other governing body of the general partner or manager of such Person) or any duly authorized committee thereof.

“Borrower” and **“Borrowers”** each has the meaning specified in the introductory paragraph hereto. References to **“the Borrower”** in connection with any Loan are references to the particular Borrower to which such Loan is made or to be made.

“Borrowing” means the total of Revolving Loans of a single type advanced, continued for an additional Interest Period, or converted from a different type into such type on a single date and, in the case of SOFR Loans or Eurocurrency Loans, for a single Interest Period. Borrowings of Revolving Loans are made and maintained ratably from each of the Lenders according to their Percentages. A Borrowing is **“advanced”** on the day Lenders advance funds comprising such Borrowing to the Borrower, is **“continued”** on the date a new Interest Period for the same type of Loans commences for such Borrowing, and is **“converted”** when such Borrowing is changed from one type of Loan to the other, all as requested by the Borrower pursuant to Section 2.04(a) hereof.

“Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the state where the Administrative Agent’s Office is located or in The Netherlands and:

(a) if such day relates to any interest rate settings as to a ~~Eurocurrency~~SOFR Loan ~~denominated in U.S. Dollars~~, any fundings, disbursements, settlements and payments in U.S. Dollars in respect of any such ~~Eurocurrency~~SOFR Loan, or any other dealings in U.S. Dollars to be carried out pursuant to this Agreement in respect of any such ~~Eurocurrency~~SOFR Loan, such day is also a ~~day on which dealings in deposits in U.S. Dollars are conducted by and between banks in the London interbank eurodollar market~~U.S. Government Securities Business Day; and

(b) if such day relates to any interest rate settings as to a Loan denominated in Euros, any fundings, disbursements, settlements and payments in Euro in respect of any such Loan, or any other dealings in Euro to be carried out pursuant to this Agreement in respect of any such Loan, such day is also a TARGET Day.

“Capital Lease” means, subject to Section 1.03(b), any lease of property which in accordance with GAAP is required to be accounted for as a capital lease or finance lease on the balance sheet of the applicable Person.

“Capital Stock” means:

- (a) in the case of a corporation, corporate stock or shares;
- (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (c) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and
- (d) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

“Capitalized Lease Obligation” means, for any Person, the amount of the liability shown on the balance sheet of such Person in respect of a Capital Lease determined in accordance with GAAP.

“Cash Collateralize” is defined in Section 2.02(g) hereof.

“Cash Equivalents” means any of the following:

- (a) any evidence of Indebtedness issued or directly and fully guaranteed or insured by the government or any agency or instrumentality of (i) the United States, (ii) Canada, (iii) the United Kingdom or (iv) any member nation of the European Union;
- (b) time deposits, certificates of deposit and bank notes of any Approved Bank;
- (c) corporate bonds, commercial paper, including asset-backed commercial paper, and floating or fixed rate notes issued by an Approved Bank or a corporation or special purpose vehicle (other than an Affiliate or Subsidiary of the Company) organized and existing under the laws of the United States of America, any state thereof or the District of Columbia (or any foreign country recognized by the United States) and whose short-term issuer rating is at least A-2, P-2 or F-2 or whose long-term issuer rating is at least BBB or Baa2, in each case as such rating is set forth from time to time by Moody's, S&P or Fitch, as applicable;
- (d) asset-backed securities rated AAA by Moody's, S&P or Fitch, with weighted average lives of 3 years or less (measured to the next maturity date);
- (e) repurchase agreements under which the Company or its Subsidiaries agree to purchase sovereign, government agency, supranational, and other corporate and financial fixed income securities rated by a nationally recognized statistical rating organization, and equity and convertible debt securities such as common stock, preferred stock, REITS, ADRs, GDRs, IDRs, convertible bonds, and convertible preferred stock that is listed or whose underlying equity is listed within a predefined set of countries and indices, from a financial institution or recognized securities dealer who agrees to repurchase the securities at a future date at a price equal to the original price plus an interest factor;
- (f) money market funds which invest substantially all of their assets in assets described in the preceding clauses (a) through (e);
- (g) supply chain finance funds which invest in a portfolio of buyer-confirmed trade receivable notes with the underlying credit risk insured by insurance companies with an insurance financial strength rating of at least A2 by Moody's or at least A by S&P; and

(h) instruments equivalent to those referred to in clauses (a) through (g) above denominated in Euros or any other foreign currency comparable in credit quality and tenor to those referred to above and customarily used by corporations for cash management purposes in any jurisdiction outside the United States to the extent reasonably required in connection with any business conducted by any Subsidiary organized in such jurisdiction;

provided, that except in the case of clauses (d), (e) and (g) above, the maximum maturity date of individual securities or deposits will be 3 years or less at the time of purchase or deposit.

“**CERCLA**” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§9601 *et seq.*

“**Change in Law**” means the occurrence, after the date of this Agreement (or, with respect to any Lender who becomes a Lender pursuant to Section 2.01(b) hereof, such later date on which such Lender becomes a party to this Agreement), of any of the following: (a) the adoption of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; *provided* that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

“**Change of Control**” means the occurrence of any of the following:

(a) the sale, lease or transfer, in one or a series of related transactions, of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person other than the Company or one of its Subsidiaries; or

(b) the Company becomes aware of (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) the acquisition by any Person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision), including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act), in a single transaction or in a related series of transactions, by way of acquisition, merger, amalgamation, consolidation, transfer, conveyance or other business combination or purchase of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision) of more than 50% of the total voting power of the Voting Stock of the Company, other than by virtue of the imposition of a holding company, or the reincorporation of the Company in another jurisdiction, so long as the beneficial owners of the Voting Stock of the Company immediately prior to such transaction hold a majority of the voting power of the Voting Stock of such holding company or reincorporation entity immediately thereafter.

“**Citibank**” means Citibank, N.A. and its successors.

“**Closing Date**” means the date of this Agreement or such later Business Day upon which each condition described in Section 3.01 shall be satisfied.

“**Co-Borrower**” is defined in the introductory paragraph of this Agreement.

“**Co-Sustainability Agents**” means (i) as of the Closing Date, Citibank, Wells Fargo Securities LLC and Deutsche Bank Securities Inc. and (ii) thereafter, such additional Co-Sustainability Agent as may be appointed by the Company in its discretion, so long as such additional Co-Sustainability Agent either (x) was a Lender or affiliate thereof as of the Closing Date or (y) becomes a Lender including, for the avoidance of doubt, any affiliate thereof thereafter and is reasonably acceptable to the Administrative Agent, each in their respective capacities as co-sustainability agents.

“**Code**” means the Internal Revenue Code of 1986.

“**Commitment**” means, as to any Lender, the obligation of such Lender to make Revolving Loans denominated in U.S. Dollars and/or Euros and to participate in Swing Line Loans and Letters of Credit in an aggregate Outstanding Amount at any one time outstanding not to exceed the amount set forth such Lender’s name on Schedule 1(a) under the caption “**Commitment**”, as the same may be modified from time to time pursuant to the terms of this Agreement.

“**Commitment Fee**” is defined in Section 2.13 hereof.

“**Conforming Changes**” means, with respect to either the use or administration of any Benchmark or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Base Rate” (if applicable), the definition of “Business Day,” the definition of “U.S. Government Securities Business Day,” the definition of “Interest Period” or any similar or analogous definition (or the addition of a concept of “interest period”), timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of Section 7.01 and other technical, administrative or operational matters) that the Administrative Agent decides (in consultation with the Company) may be appropriate to reflect the adoption and implementation of any such rate or to permit the use and administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of any such rate exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

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

“**Consolidated EBITDA**” means for any period, net income (or net loss) (before discontinued operations) for such period *plus*, without duplication and to the extent deducted in determining net income for such period, the sum of (a) Consolidated Interest Expense, (b) income tax expense, (c) depreciation expense, (d) amortization expense, (e) any losses or expenses from any unusual, extraordinary or otherwise non-recurring items (excluding any cash restructuring charges), (f) any non-cash losses or expenses, (g) any fees and expenses incurred in connection with (i) this Agreement, any receivables financing, the issuance or refinancing or repurchase of notes, and any other issuance of Indebtedness and (ii) any acquisitions, investments, equity issuances, asset sales or divestitures in each case that are expensed (in each case whether or not consummated), and (h) in an amount not to exceed U.S. \$50,000,000 in any fiscal quarter, cash restructuring and business optimization charges, and *minus*, without duplication and to the extent included in determining net income for such period, the sum of (i) any income tax benefits, (ii) any income or gains from any unusual, extraordinary or otherwise non-recurring items and (iii) any non-cash income or gains, in each case determined on a consolidated basis for the Company and its Subsidiaries in accordance with GAAP. For the purpose of calculating Consolidated EBITDA for any period, if during such period the Company or any Subsidiary shall have made a Material Acquisition or Material Disposition, Consolidated EBITDA for such period shall be calculated after giving pro forma effect thereto as if such Material Acquisition or Material Disposition, as the case may be, occurred on the first day of such period.

“**Consolidated Interest Expense**” means the consolidated interest expense (net of interest income for such period) of the Company and its Subsidiaries for such period determined on a consolidated basis in accordance with GAAP, including, without limitation:

(a) amortization of original issue discount;

(b) the interest component of Capitalized Lease Obligations paid, accrued and/or scheduled to be paid or accrued;

(c) net payments and receipts (if any) pursuant to interest rate hedging obligations;

(d) consolidated capitalized interest of the Company and its Subsidiaries for such period, whether paid or accrued; and

(e) the interest portion of any deferred payment obligation

but excluding, in each case, any fees, debt issuance and tender offer costs and commissions incurred in connection with this Agreement, any receivables financing, the issuance or refinancing or repurchase of notes and any other issuance of Indebtedness.

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

“Consolidated Net Tangible Assets” means Total Assets *less* goodwill and intangibles (other than intangibles arising from, or relating to, intellectual property, licenses or permits (including, but not limited to, emissions rights)) of the Company and its Subsidiaries, in each case calculated in accordance with GAAP, *provided*, that in the event that the Company or any of its Subsidiaries assumes or acquires any assets in connection with the acquisition by the Company and its Subsidiaries of another Person subsequent to the date as of which the Consolidated Net Tangible Assets is being calculated (the **“Balance Sheet Date”**) but prior to the event for which the calculation of the Consolidated Net Tangible Assets is made, then the Consolidated Net Tangible Assets shall be calculated giving pro forma effect to such assumption or acquisition of assets, as if the same had occurred on or prior to the Balance Sheet Date.

“Contingent Obligation” shall mean as to any Person, any obligation of such Person guaranteeing or intended to guarantee any Indebtedness (**“primary obligations”**) of any other Person (the **“primary obligor”**) in any manner, whether directly or indirectly, including, without limitation, any obligation of such Person, whether or not contingent, (a) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (b) to advance or supply funds (x) for the purchase or payment of any such primary obligation or (y) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (c) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (d) otherwise to assure or hold harmless the holder of such primary obligation against loss in respect thereof; *provided, however*, that the term Contingent Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Contingent Obligation shall be deemed to be an amount equal to the stated or determinable principal amount of the primary obligation in respect of which such Contingent Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as determined by such Person in good faith.

“Continuing Lenders” is defined in Section 2.09(b) hereof.

“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.

“Controlled Group” means all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with the Co-Borrower, are treated as a single employer under Section 414 of the Code.

“Covered Entity” is defined in Section 9.27(b) hereof.

“Covered Party” is defined in Section 9.27(a) hereof.

“Credit Extension” means the advancing of any Loan or the making of any L/C Credit Extension.

~~**“Daily Simple SOFR”** means, for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by the Administrative Agent in accordance with the conventions for this rate recommended by the Relevant Governmental Body for determining “Daily Simple SOFR” for syndicated business loans; provided that if the Administrative Agent decides that any such convention is not administratively feasible for the Administrative Agent, then the Administrative Agent may establish another convention in its reasonable discretion.~~

“Debtor Relief Laws” means the Bankruptcy Code of the United States, the Dutch Bankruptcy Act (*Faillissementswet*), and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, *faillissement*, or similar debtor relief Laws of the United States, The Netherlands or other applicable jurisdictions from time to time in effect.

“Default” means any event or condition the occurrence of which (a) constitutes an Event of Default or (b) would, with the passage of time or the giving of notice, or both, constitute an Event of Default.

“Defaulting Lender” means any Lender that (a) has failed to perform its obligation to fund any portion of its Loans, participations in L/C Obligations or participations in Swing Line Loans within three Business Days of the date required to be funded by it hereunder, unless such obligation is the subject of a good faith dispute, (b) has notified the Company or the Administrative Agent in writing that it does not intend to comply with any of its funding obligations under this Agreement or has made a public statement that it does not intend to comply with its funding obligations under this Agreement or generally under other agreements in which it commits to extend credit, (c) has failed, within three Business Days after written request by the Administrative Agent or the Company, to confirm in writing to the Administrative Agent and the Company that it will comply with the terms of this Agreement relating to its obligations to fund prospective Loans, participations in L/C Obligations or participations in Swing Line Loans (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Company), (d) otherwise has failed to pay over to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within three Business Days of the date when due, unless the subject of a good faith dispute, or (e) has, or has a direct or indirect parent company that has, (i) become the subject of any bankruptcy or insolvency proceeding, (ii) had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or a custodian appointed for it, (iii) taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in any such proceeding or appointment, or (iv) become the subject of a Bail-In Action; *provided* that, for the avoidance of doubt, a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in such Lender or direct or indirect parent company thereof by a Governmental Authority; *provided, further*, that if any Lender becomes the subject of a precautionary appointment of an administrator, guardian, custodian or other similar official by a Governmental Authority under or based on the law of the country where such Lender is subject to home jurisdiction supervision and applicable law requires that such appointment not be publicly disclosed, then such Lender shall only become a Defaulting Lender at the time the legal restriction on such public disclosure ceases to apply or such appointment becomes public knowledge, whichever occurs first; *provided, however*, that, in any such case, such action or appointment does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender.

“Default Right” is defined in Section 9.27(b) hereof.

“Designated Jurisdiction” means any country or territory to the extent that such country or territory itself is the subject of any comprehensive Sanction (defined, as of the Closing Date, as Crimea, Cuba, Iran, North Korea and Syria and as may be amended from time to time).

“disposed group” is defined in Section 5.11(c) hereof.

~~“Early Opt-in Effective Date” means, with respect to any Early Opt-in Election, the sixth (6th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, so long as the Administrative Agent has not received, by 5:00 p.m. on the fifth (5th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, written notice of objection to such Early Opt-in Election from Lenders comprising the Required Lenders.~~

~~“Early Opt-in Election” means the occurrence of the following:~~

~~(1) a notification by the Administrative Agent to (or the request by the Company to the Administrative Agent to notify) each of the other parties hereto that at least five currently outstanding U.S. Dollar denominated syndicated credit facilities in the U.S. syndicated loan market at such time contain (as a result of amendment or as originally executed) a SOFR-based rate (including SOFR, a term SOFR or any other rate based upon SOFR) as a benchmark rate (and such syndicated credit facilities are identified in such notice and are publicly available for review); and~~

~~(2) the joint election by the Administrative Agent and the Company to trigger a fallback from LIBOR and the provision by the Administrative Agent of written notice of such election to the Lenders.~~

“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 delegatee) having responsibility for the resolution of any EEA Financial Institution.

“Eligible Assignee” means (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund and (d) any other Person (other than a natural person) approved by (i) the Administrative Agent, the Swing Line Lenders and the L/C Issuers, and (ii) unless an Event of Default under Section 6.01(a), (j) or (k) has occurred and is continuing, the Company (each such approval not to be unreasonably withheld or delayed); *provided* that notwithstanding the foregoing, **“Eligible Assignee”** shall not include the Company or any of the Company’s Subsidiaries.

“Environmental Claim” means any investigation, notice, violation, demand, allegation, action, suit, injunction, judgment, order, consent decree, penalty, fine, lien, proceeding or claim (whether administrative, judicial or private in nature) arising (a) pursuant to, or in connection with an actual or alleged violation of, or liability under, any Environmental Law, (b) in connection with any Hazardous Material, (c) from any actual or alleged damage, injury, threat or harm to health, safety, natural resources or the environment or (d) pursuant to any agreement in which liability is assumed or imposed with respect to the foregoing.

“Environmental Law” means any current or future Law pertaining to (a) the protection of the indoor or outdoor environment, (b) the conservation, management or use of natural resources and wildlife, (c) the protection or use of surface water or groundwater, (d) the management, manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, Release, threatened Release, abatement, removal, remediation or handling of, or exposure to, any hazardous material or (e) pollution (including any Release to air, land, surface water or groundwater), and any amendment, rule, regulation, order or directive issued thereunder.

“Equity Interests” shall mean shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such equity interest, but excluding any debt securities convertible into any of the foregoing.

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

“Erroneous Payment” is defined in [Section 8.11\(a\)](#) hereof.

“Erroneous Payment Deficiency Assignment” is defined in [Section 8.11\(d\)](#) hereof.

“Erroneous Payment Impacted Class” is defined in [Section 8.11\(d\)](#) hereof.

“Erroneous Payment Return Deficiency” is defined in [Section 8.11\(d\)](#) hereof.

“ESG” is defined in [Section 2.15\(a\)](#) hereof.

“ESG Amendment” is defined in [Section 2.15\(a\)](#) hereof.

“ESG Pricing Provisions” is defined in [Section 2.15\(a\)](#) hereof.

“€STR” has the meaning specified in the definition of **“Overnight Swing Line Rate”**.

“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.

“EURIBOR” is defined in the definition of **“EURIBOR Rate”**.

“EURIBOR Rate” means, for any Interest Period with respect to a Eurocurrency Loan ~~denominated in Euros~~, the rate per annum equal to the Euro Interbank Offered Rate as administered by the European Money Markets Institute (or any other Person that takes over the administration of such rate) for a period equal in length to such Interest Period) (**“EURIBOR”**), as published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time) at approximately 11:00 a.m. (Brussels time) two TARGET Days prior to the commencement of such Interest Period; *provided* that if the published Euro Interbank Offered Rate is less than ~~zero~~[the Floor](#), then the applicable Euro Interbank Offered Rate shall be deemed to be ~~zero~~[the Floor](#).

“Euro” and **“€”** mean the single currency of the Participating Member States.

“Eurocurrency Borrowing” means, as to any Borrowing, the Eurocurrency Loans comprising such Borrowing.

“Eurocurrency Liabilities” is defined in [Section 7.04\(e\)](#) hereof.

“Eurocurrency Loan” means a Loan bearing interest at the ~~LIBOR Rate or the~~ EURIBOR Rate, ~~as applicable~~.

“Event of Default” means any event or condition identified as such in [Section 6.01](#) hereof.

“Exchange Act” means the Securities Exchange Act of 1934.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to any Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender or L/C Issuer, any U.S. federal or United Kingdom withholding Taxes imposed on amounts payable to or for the account of such Lender or L/C Issuer 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 or L/C Issuer acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 7.06) or (ii) such Lender changes its Lending Office, except in each case to the extent that, pursuant to Section 9.01(a)(ii) or (c), 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, (c) Taxes attributable to such Recipient’s failure to comply with Section 9.01(e) and (d) any withholding Taxes imposed pursuant to FATCA; provided that solely for the purpose of this clause (d), FATCA shall not include any successor or amended version that is materially more onerous to comply with.

“Existing Administrative Agent” is defined in the recitals to this Agreement.

“Existing Credit Agreement” means that certain Amended and Restated Credit Agreement dated as of June 5, 2014 (as amended, supplemented or otherwise modified prior to the date hereof), by and among the Borrowers, the Existing Administrative Agent, Bank of America, N.A., as swing line lender and L/C issuer thereunder, and the lenders party thereto (the **“Existing Lenders”**).

“Existing Lenders” is defined in the definition of “Existing Credit Agreement”.

“Existing Termination Date” is defined in Section 2.09 hereof.

“Extension Effectiveness Date” is defined in Section 2.09(b) hereof.

“Facility” is defined in the recitals to this Agreement.

“FATCA” means (a) Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version) and any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code, (b) any treaty, law or regulation enacted in any jurisdiction, or relating to an intergovernmental agreement between the United States and any other jurisdiction, with the purpose (in either case) of facilitating the implementation of clause (a) above, or (c) any agreement pursuant to the implementation of clauses (a) or (b) above with the United States Internal Revenue Service, the United States government or any governmental or taxation authority.

~~**“FCA” is defined in Section 7.03(c) hereof.**~~

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

“Fee Letters” means, the respective Fee Letters dated November 1, 2021 entered into by the Company, Citigroup Global Markets Inc. and Wells Fargo Securities, LLC and Wells Fargo Bank in connection with this Agreement.

“Fitch” means Fitch Ratings, Inc., or any successor to its rating agency business.

“Floor” means ~~the benchmark rate floor, if any, provided in this Agreement initially (as of the execution of this Agreement, the modification, amendment or renewal of this Agreement or otherwise) with respect to the initial Benchmark for each currency provided for hereunder,~~ a rate of interest equal to 0.00%.

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

“Foreign Subsidiary” means each Subsidiary of the Company which is organized under the Laws of a jurisdiction other than the United States of America or any state thereof or the District of Columbia.

“Fronting Exposure” means, at any time there is a Defaulting Lender, (a) with respect to each L/C Issuer, such Defaulting Lender’s Percentage of the total L/C Obligations outstanding in respect of Letters of Credit issued by such L/C Issuer, other than L/C Obligations as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof, and (b) with respect to each Swing Line Lender, such Defaulting Lender’s Percentage of the total Swing Line Loans of such Swing Line Lender outstanding, other than Swing Line Loans as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof.

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

“Funding Date” is defined in Section 2.01(c) hereof.

“GAAP” means generally accepted accounting principles as in effect in the United States as set forth from time to time in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board (or agencies with similar functions of comparable stature and authority within the U.S. accounting profession), which are applicable to the circumstances as of the date of determination.

“Governmental Authority” means the government of the United States 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).

“Guarantor” means each Subsidiary of the Company which is party to a Guaranty, for so long as it remains party to a Guaranty. As of the Closing Date, there are no Guarantors.

“Guaranty” means a Guaranty Agreement executed after the Closing Date substantially in the form of Exhibit G.

“Hazardous Material” means (a) any **“hazardous substance”** as defined in CERCLA and (b) any material classified or regulated as **“hazardous”** or **“toxic”** or words of like import pursuant to an Environmental Law.

“Honor Date” is defined in Section 2.02(c)(i) hereof.

~~**“IBA”** is defined in Section 7.03(c) hereof.~~

~~**“Impacted Loan”** is defined in Section 7.03(a) hereof.~~

“Indebtedness” means, with respect to any Person:

(a) (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, notes, debentures or similar instruments, (iii) all reimbursement obligations of such Person in respect of drawn under letters of credit or bankers' acceptances, (iv) all obligations of such Person representing the deferred and unpaid purchase price of any property (except (1) any such balance that constitutes a trade payable or similar obligation to a trade creditor incurred in the ordinary course of business, (2) any earn-out obligations until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP and (3) liabilities accrued in the ordinary course of business), which purchase price is due more than six months after the date of placing the property in service or taking delivery thereof and title thereto, (v) all Capitalized Lease Obligations of such Person, and (v) all hedging obligations of such Person, if and to the extent that any of the foregoing indebtedness (other than letters of credit and hedging obligations) would appear as a liability on a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP;

(b) to the extent not otherwise included, any obligation of such Person to be liable for, or to pay, as obligor, guarantor or otherwise, the obligations referred to in clause (a) of another Person (other than by endorsement of negotiable instruments for collection in the ordinary course of business); and

(c) to the extent not otherwise included, Indebtedness of another Person secured by a Lien on any asset owned by such Person (whether or not such Indebtedness is assumed by such Person); *provided, however*, that the amount of such Indebtedness will be the lesser of (i) the fair market value of such asset at such date of determination and (ii) the amount of such Indebtedness of such other Person;

provided, however, that notwithstanding the foregoing, Indebtedness shall be deemed not to include (a) Contingent Obligations incurred in the ordinary course of business and not in respect of borrowed money, (b) deferred or prepaid revenues, (c) purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed obligations of the respective seller, or (d) obligations under or in respect of a Qualified Receivables Financing.

"Indemnified Taxes" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in clause (a), Other Taxes.

"Indemnitee" is defined in Section 9.12(b) hereof.

"Information" is defined in Section 9.15 hereof.

"Interest Payment Date" means (a) with respect to any Base Rate Loan, the first Business Day following the last day of each March, June, September and December, and (b) with respect to each SOFR Loan and Eurocurrency Loan, the last day of each Interest Period applicable thereto, and if such Interest Period is longer than three months, each three-month anniversary of the first day of such Interest Period.

"Interest Period" means, as to each SOFR Loan and Eurocurrency Loan, the period commencing on the date such SOFR Loan or Eurocurrency Loan is disbursed or converted to or continued as a SOFR Loan or Eurocurrency Loan and ending on the date one, three or six months thereafter, as selected by the Borrower; *provided that*:

(a) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(b) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(c) no Interest Period shall extend beyond the Termination Date.

“Investment Grade Status” exists as to any Person at any date (a) if all senior long-term unsecured debt securities of such Person outstanding at such date which had been rated by S&P or Moody’s are rated BBB- or higher by S&P or Baa3 or higher by Moody’s, as the case may be, or (b) in the event such Person does not have a rating of its long-term unsecured debt securities, if the corporate credit rating of such Person, if any exists, from S&P is BBB- or higher or the issuer rating of such Person, if any exists, from Moody’s is Baa3 or higher.

“ISP” means, with respect to any Letter of Credit, the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be in effect at the time of issuance).

“Issuer Documents” means, with respect to any Letter of Credit, the Application and any other document, agreement or instrument entered into by the L/C Issuer and the Company relating to such Letter of Credit.

“Joint Venture” means any joint venture entity, whether a company, unincorporated firm, association, partnership or any other entity which, in each case, is not a Subsidiary but in which the Company or a Subsidiary has a direct or indirect equity or similar interest.

“Judgment Currency” is defined in Section 9.20 hereof.

“KPIs” is defined in Section 2.15(a) hereof.

“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 binding and enforceable agreements with, any Governmental Authority, in each case whether or not having the force of law.

“L/C Advance” means, with respect to each Lender, such Lender’s funding of its participation in any L/C Borrowing in accordance with its Percentage. All L/C Advances shall be denominated in U.S. Dollars.

“L/C Borrowing” means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Borrowing of Revolving Loans. All L/C Borrowings shall be denominated in U.S. Dollars.

“L/C Credit Extension” means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the increase of the amount thereof.

“L/C Issuer” means Citibank and Wells Fargo Bank and any other Lender that may agree to issue Letters of Credit hereunder pursuant to an instrument in form satisfactory to the Company, such Lender and the Administrative Agent, in each case in its capacity as issuer of a Letter of Credit hereunder. An L/C Issuer may, in its discretion, arrange for one or more Letters of Credit to be issued by affiliates of such L/C Issuer, in which case the term **“L/C Issuer”** shall include any such affiliate with respect to Letters of Credit issued by such affiliate. References to **“the L/C Issuer”** in connection with any Letter of Credit are references to the particular L/C Issuer that issued or is requested to issue such Letter of Credit.

“L/C Issuer Sublimit” means, for each L/C Issuer, either (a) (i) for each of Citibank and Wells Fargo Bank, U.S. \$100,000,000 or (b) such other amount as is agreed upon in writing, with notice given to the Administrative Agent, between such L/C Issuer and the Company.

“L/C Obligations” means, as at any date of determination, the aggregate amount available to be drawn under all outstanding Letters of Credit *plus* the aggregate of all Unreimbursed Amounts, including all L/C Borrowings. For purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.04. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be “outstanding” in the amount so remaining available to be drawn.

“L/C Sublimit” means U.S. \$200,000,000, as may be reduced pursuant to the terms hereof.

“Lender” means the Persons listed on Schedule 1(a) and any other Person that shall have become a Lender hereunder pursuant to an Assignment and Assumption or other documentation contemplated hereby, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption or other documentation contemplated hereby. . Unless the context otherwise requires, references herein to a Lender or the Lenders shall include the Swing Line Lender in such capacity.

“Lending Office” means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify in writing to the Company and the Administrative Agent which office may include any Affiliate of such Lender or any such domestic or foreign branch of such Lender or such Affiliate. If the context so requires, each reference to a Lender shall include its applicable Lending Office. To the extent reasonably possible, a Lender shall designate an alternative branch or funding office with respect to its SOFR Loans or Eurocurrency Loans to reduce any liability of the Borrower to such Lender under Section 7.04 hereof, to avoid the unavailability of SOFR Loans or Eurocurrency Loans under Section 7.03 hereof or if any event gives rise to the operation of Section 7.02, in each case so long as such designation is not disadvantageous to the Lender.

“Letter of Credit” means any letter of credit issued hereunder. A Letter of Credit may be a commercial letter of credit or a standby letter of credit; *provided*, that any commercial letter of credit issued hereunder shall provide solely for cash payment upon presentation of a sight draft. Letters of Credit may be issued in Dollars or in Euros.

“Letter of Credit Expiration Date” means, with respect to any Letter of Credit issued by any L/C Issuer, the first anniversary of the Termination Date of such L/C Issuer (or, if such day is not a Business Day, the next succeeding Business Day).

“Letter of Credit Fee” is defined in Section 2.13(b) hereof.

“Leverage Increase Period” is defined in Section 5.15 hereof.

“Leverage Ratio” means, as of any date, the ratio of (a) Total Net Funded Debt as of such date to (b) Consolidated EBITDA for the period of four consecutive fiscal quarters ending on such date.

~~“LIBOR” is defined in the definition of “LIBOR Rate”.~~

"LIBOR Rate" means, (a) for any Interest Period with respect to a Eurocurrency Loan denominated in U.S. Dollars, ~~the rate per annum equal to the London Interbank Offered Rate as administered by ICE Benchmark (or any other Person that takes over the administration of such rate for a period equal in length to such Interest Period) ("LIBOR"), as published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for deposits in Dollars (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period; and (b) for any interest calculation with respect to a Base Rate Loan on any date, the rate per annum equal to such London Interbank Offered Rate, at or about 11:00 a.m., London time, determined two Business Days prior to such date for U.S. Dollar deposits with a term of one month commencing that day; provided that if the published London Interbank Offered Rate is less than zero, then the applicable London Interbank Offered Rate shall be deemed to be zero.~~

"Lien" means any mortgage, lien, security interest, pledge, charge or encumbrance of any kind in respect of any property, including the interests of a vendor or lessor under any conditional sale, Capital Lease or other title retention arrangement.

"Loan" means any Revolving Loan or Swing Line Loan.

"Loan Documents" means this Agreement, the Notes, the Issuer Documents, each Guaranty (if any), the Fee Letters and all other agreements, instruments, documents and certificates now or hereafter executed and delivered by a Loan Party to, or in favor of, the Administrative Agent or any Lender in connection with this Agreement to the extent designated as a "Loan Document" therein.

"Loan Party" means each Borrower and each Guarantor (if any).

"Long-Dated Letter of Credit" means any Letter of Credit having an expiry date later than the fifth Business Day prior to the Termination Date (but in no event later than the Letter of Credit Expiration Date).

"Material Acquisition" means any acquisition by the Company or any of its Subsidiaries of any assets of or equity interests in another Person, including any acquisition of equity interests in a joint venture or other non-wholly owned entity, for which the aggregate consideration exceeds \$50,000,000.

"Material Adverse Effect" means a material adverse change in, or material adverse effect upon (a) the operations, business, property or financial condition of the Company and its Subsidiaries taken as a whole, (b) the rights and remedies of the Administrative Agent or the Lenders under the Loan Documents, or (c) the ability of the Loan Parties to perform their payment obligations under the Loan Documents.

"Material Disposition" means any disposition by the Company or any of its Subsidiaries of any assets of or equity interests in another Person, including any disposition of equity interests in a joint venture or other non-wholly owned entity, for which the aggregate consideration exceeds \$50,000,000.

"Material Plan" is defined in Section 6.01(h) hereof.

"Maximum Leverage Ratio" is defined in Section 5.15 hereof.

"Maximum Rate" is defined in Section 9.28 hereof.

"Moody's" means Moody's Investors Service, Inc. and any successor thereto.

"Non-Extension Notice Date" is defined in Section 2.02(b)(iii) hereof.

"Non-Guarantor Subsidiary" means a Subsidiary that is not a Loan Party.

“Non-Guarantor Subsidiary Debt” is defined in Section 5.10 hereof.

“Notes” means the Revolving Notes and the Swing Line Notes.

“Notice of Borrowing” means a notice of a Borrowing which shall be substantially in the form of Exhibit B or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent), appropriately completed and signed by an Authorized Representative of the applicable Borrower.

“Notice of Continuation/Conversion” means a notice of a conversion of Loans from EurocurrencySOFR Loans to Base Rate Loans or Base Rate Loans to EurocurrencySOFR Loans, or a continuation of SOFR Loans or Eurocurrency Loans, which shall be substantially in the form of Exhibit C or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent), appropriately completed and signed by an Authorized Representative of the applicable Borrower.

“Obligations” means all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan or Letter of Credit, 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 any Loan Party of any proceeding under any Debtor Relief Law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

“OFAC” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“Other Connection Taxes” means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

“Other Taxes” means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment or participation (other than an assignment made pursuant to Section 7.06).

“Outstanding Amount” means (a) with respect to Revolving Loans on any date, the U.S. Dollar Equivalent of the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of such Revolving Loans occurring on such date, (b) with respect to Swing Line Loans on any date, the U.S. Dollar Equivalent of the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of such Swing Line Loans occurring on such date, and (c) with respect to any L/C Obligations on any date, the U.S. Dollar Equivalent of the aggregate outstanding amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements by the Company of Unreimbursed Amounts.

“Overnight Rate” means, for any day, (a) with respect to any amount denominated in U.S. Dollars, the greater of (i) the Federal Funds Rate and (ii) an overnight rate determined by the Administrative Agent, the L/C Issuer, or the Swing Line Lender, as the case may be, in accordance with banking industry rules on interbank compensation, and (b) with respect to any amount denominated in Euros, the greater of (i) the ~~rate of interest per annum at which overnight deposits in Euros, in an amount approximately equal to the amount with respect to which such rate is being determined, would be offered for such day by a branch or Affiliate of Citibank in the London interbank market to major banks in such interbank market~~ Overnight Swing Line Rate and (ii) an overnight rate determined by the Administrative Agent, the L/C Issuer or the Swing Line Lender, as the case may be, in accordance with banking industry rules on interbank compensation.

“Overnight Swing Line Rate” means, for each Swing Line Loan, the rate per annum determined as of the date such Swing Line Loan is made equal to the Euro Short Term Rate (“€STR”) as administered by the European Central Bank (or any other person which takes over the administration of that rate, the “€STR Administrator”) displayed on the European Central Bank’s website, currently at <http://www.ecb.europa.eu>, or any successor source for €STR identified as such by the €STR Administrator from time to time on the Business Day preceding the date of determination; provided, that if the Overnight Swing Line Rate is less than the Floor, such rate shall be deemed to be the Floor for purposes of this Agreement. If by 5:00 pm (local time for the €STR Administrator) on the second Business Day immediately following any day (the “€STR Determination Date”) in respect of such €STR Determination Date has not been published on the €STR Administrator’s Website and a Benchmark Replacement Date with respect to €STR has not occurred, then €STR for such €STR Determination Date will be €STR as published in respect of the first preceding Business Day for which €STR was published on the €STR Administrator’s Website; provided that €STR determined pursuant to this sentence shall be utilized for purposes of calculation of €STR for no more than three consecutive days.

“Participant” is defined in Section 9.09(c) hereof.

“Participant Register” is defined in Section 9.09(c) hereof.

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

“Patriot Act” is defined in Section 3.01(j) hereof.

“Payment Recipient” is defined in Section 8.11(a) hereof.

“PBGC” means the Pension Benefit Guaranty Corporation or any Person succeeding to any or all of its functions under ERISA.

“Percentage” means, with respect to any Lender at any time, the percentage (carried out to the ninth decimal place) of the Total Commitments represented by such Lender’s Commitment at such time, subject to Section 2.14(a)(iv). If the commitment of each Lender to make Loans and the obligation of each L/C Issuer to make L/C Credit Extensions have been terminated pursuant to Section 6.02 or Section 6.03 or if the Total Commitments have expired, then the Percentage of each Lender shall be determined based on the Percentage of such Lender most recently in effect, giving effect to any subsequent assignments.

“Periodic Term SOFR Determination Day” has the meaning specified in the definition of “Term SOFR”.

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

“**Plan**” means any employee pension benefit plan covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code that either (a) is maintained by a member of the Controlled Group for employees of a member of the Controlled Group or (b) is maintained pursuant to a collective bargaining agreement or any other arrangement under which more than one employer makes contributions and to which a member of the Controlled Group is then making or accruing an obligation to make contributions or has within the preceding five plan years made contributions.

“**Prime Rate**” means the rate of interest per annum publicly announced from time to time by the Person acting as the Administrative Agent as its prime rate in effect at its principal office in New York City. The Prime Rate is a reference rate and does not necessarily represent the lowest or best rate actually charged to any customer. The Administrative Agent or Lender may make commercial loans or other loans at rates of interest at, above or below the Prime Rate. Any change in the Prime Rate shall take effect at the opening of business on the day specified in the public announcement of such change.

“**property**” means, as to any Person, all types of real, personal, tangible, intangible or mixed property owned by such Person.

“**Public Debt Rating**” means, as of any date, the credit rating assigned by S&P or Moody’s to the senior unsecured long term debt securities of the Company without third party credit enhancement.

“**QFC**” is defined in Section 9.27(b) hereof.

“**QFC Credit Support**” is defined in Section 9.27 hereof.

“**Qualified Person**” means an institution that is both (a) a “qualified institutional buyer” within the meaning of Rule 144A under the Securities Act of 1933 and (b) both (i) a “qualified purchaser” within the meaning of Section 2(a)(51) of the Investment Company Act of 1940 and the rules promulgated thereunder and (ii) not formed for the purpose of acquiring an interest in this Agreement.

“**Qualified Receivables Financing**” means the securitization of accounts receivables and related assets of the Company and its Subsidiaries on customary market terms (including, without limitation, Standard Securitization Undertakings and a Receivables Repurchase Obligation) as determined in good faith by the Company to be in the aggregate commercially fair and reasonable to the Company and its Subsidiaries taken as a whole; *provided, however*, that the aggregate principal amount of Indebtedness under all Qualified Receivables Financings shall not exceed U.S. \$2,000,000,000 at any one time outstanding.

“**Qualifying Acquisition**” means any acquisition by the Company or any of its Subsidiaries of any assets of or equity interests in another Person, including any acquisition of equity interests in a joint venture or other non-wholly owned entity, for which the aggregate consideration (including Indebtedness assumed in connection therewith and obligations in respect of the deferred purchase price thereof) exceeds \$500,000,000.

“**Receivables Repurchase Obligation**” means any obligation of a seller of receivables in a Qualified Receivables Financing to repurchase receivables arising as a result of a breach of a representation, warranty or covenant or otherwise, including as a result of a receivable or portion thereof becoming subject to any asserted defense, dispute, offset or counterclaim of any kind as a result of any action taken by, any failure to take action by or any other event relating to the seller.

“**Recipient**” means the Administrative Agent, any Lender, the L/C Issuer or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder.

“**Register**” is defined in Section 9.09(c) hereof.

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

“**Release**” shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing or migration into the environment.

“**Relevant Governmental Body**” means (a) with respect to a Benchmark Replacement in respect of U.S. Dollars, the Board of Governors of the Federal Reserve ~~System Board~~ or the Federal Reserve Bank of New York, or a committee officially endorsed ~~or convened~~ by the ~~Board of Governors of the Federal Reserve System Board~~ or the Federal Reserve Bank of New York, or any successor thereto and (b) with respect to a Benchmark Replacement in respect of Euros, (1) the central bank for such currency or any central bank or other supervisor which is responsible for supervising either (A) such Benchmark Replacement or (B) the administrator of such Benchmark Replacement or (2) any working group or committee officially endorsed or convened by (A) the central bank for Euros, (B) any central bank or other supervisor that is responsible for supervising either (i) such Benchmark Replacement or (ii) the administrator of such Benchmark Replacement, (C) a group of those central banks or other supervisors or (D) the Financial Stability Board or any part thereof.

“**Requested Termination Date**” is defined in Section 2.09 hereof.

“**Required Currency**” is defined in Section 9.20 hereof.

“**Required Lenders**” means, as of any date of determination, Lenders whose aggregate Commitments constitute more than 50% of the Total Commitments as of such date, *provided* that if the Commitments are terminated pursuant to the terms of this Agreement, “**Required Lenders**” means, as of any date of determination, Lenders whose outstanding Loans and participating interests in Swing Line Loans and Letters of Credit constitute more than 50% of the U.S. Dollar Equivalent of the sum of the total outstanding principal amount of all Loans and participating interests in Swing Line Loans and Letters of Credit as of such date; *provided further* that the Commitment of, and the portion of the outstanding Loans and participating interests in Swing Line Loans and Letters of Credit held or deemed held by, any Defaulting Lender shall, so long as such Lender is a Defaulting Lender, be excluded for purposes of making a determination of Required Lenders.

“**Resolution Authority**” means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

“**Responsible Officer**” shall mean, with respect to any Person, any of the President, Chairman, Chief Executive Officer, Chief Operating Officer, Vice Chairman, any Executive Vice President, Chief Financial Officer, General Counsel, Chief Legal Officer, Treasurer or Assistant Treasurer of such Person, or any other person that acts as the principal executive officer, principal financial officer, principal accounting officer or treasurer of such Person. Notwithstanding the foregoing, “Responsible Officer” also means any person who has been appointed an attorney-in-fact by a resolution of the Board of Directors of the Company so long as the power of attorney granted by such resolution remains in effect.

“**Restricted Party**” is defined in Section 9.07(c) hereof.

“**Restricted Payment**” is defined in Section 5.12 hereof.

“**Revaluation Date**” means (a) with respect to any Loan, each of the following: (i) each date of a Borrowing of a Eurocurrency Loan or Swing Line Loan denominated in Euros, (ii) each date of a continuation of a Eurocurrency Loan ~~denominated in Euros~~ and (iii) each additional date as the Administrative Agent, at the request of the Required Lenders, or Citibank, in its capacity as provider of Swing Line Loans denominated in Euros, shall determine; and (b) with respect to any Letter of Credit, each of the following: (i) each date of issuance of a Letter of Credit denominated in Euros, (ii) each date of an amendment of any such Letter of Credit having the effect of increasing the amount thereof, (iii) each date of any payment by any L/C Issuer under any Letter of Credit denominated in Euros, and (iv) each additional date as the Administrative Agent, at the request of the Required Lenders or any L/C Issuer, shall determine.

“**Revolving Loan**” is defined in Section 2.01 hereof.

“Revolving Note” means a promissory note made by a Borrower in favor of a Lender evidencing Revolving Loans made by such Lender to such Borrower, substantially in the form of Exhibit D-1.

“S&P” means Standard & Poor’s Financial Services LLC and any successor thereto.

“Same Day Funds” means (a) with respect to disbursements and payments in U.S. Dollars, immediately available funds, and (b) with respect to disbursements and payments in Euros, same day or other funds as may be determined by the Administrative Agent or the Swing Line Lender, as the case may be, to be customary in the place of disbursement or payment for the settlement of international banking transactions in Euros.

“Sanction(s)” means any sanction administered or enforced by the United States Government (including without limitation, OFAC), the United Nations Security Council, the European Union or any of its member states, ~~Her~~His Majesty’s Treasury or other relevant sanctions authority.

“Sanctioned Person” means (a) any Person listed in any Sanctions-related list of designated Persons maintained by the United States (specifically, OFAC and the U.S. Department of State), or similar lists maintained by the United Nations Security Council, the European Union or any of its member states, or ~~Her~~His Majesty’s Treasury of the United Kingdom, (b) any Person located in, organized under the laws of or ordinarily resident in, a Designated Jurisdiction, (c) the government or any agency or instrumentality of such of a Designated Jurisdiction or Venezuela, or (d) any Person owned or controlled by any such Person or Persons described in clauses (a) through (c), or acting for or on behalf of any such Person or Persons described in clause (c).

“Sanctions Provisions” is defined in Section 9.07(c) hereof.

“SEC” means the Securities and Exchange Commission or any governmental agencies substituted therefor.

“Significant Subsidiary” means any Subsidiary that (a) is a Loan Party or (b) would be a “significant subsidiary” of the Company within the meaning of Rule 1-02 under Regulation S-X promulgated by the SEC (or any successor provision).

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

~~“SOFR” means, with respect to any Business Day, a rate per annum equal to the secured overnight financing rate for such Business Day published by Administrator” means~~ the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate) ~~on~~.

“SOFR Administrator’s Website” means the website of the Federal Reserve Bank of New York, currently at <http://www.newyorkfed.org> ~~or any successor source for the secured overnight financing rate identified as such by the administrator of the secured overnight financing rate~~ SOFR Administrator from time to time).

“SOFR Borrowing” means, as to any Borrowing, the SOFR Loans comprising such Borrowing.

“SOFR Loan” means a Loan that bears interest at a rate based on Adjusted Term SOFR, other than pursuant to clause (c) of the definition of “Base Rate”.

“Spot Rate” means, for a currency, the rate determined by the Administrative Agent, any L/C Issuer or the Swing Line Lender, as the case may be, to be the rate quoted by the Person acting in such capacity as the spot rate for the purchase by such Person of such currency with another currency through its principal foreign exchange trading office at approximately 11:00 a.m. on the date two Business Days prior to the date as of which the foreign exchange computation is made; *provided* that the Administrative Agent, the L/C Issuers, or the Swing Line Lender may obtain such spot rate from another financial institution designated by the Administrative Agent if the Person acting in such capacity does not have as of the date of determination a spot buying rate for any such currency, and *provided further* that the L/C Issuers or the Swing Line Lender may use such spot rate quoted on the date as of which the foreign exchange computation is made in the case of any Letter of Credit or any Swing Line Loan denominated in Euros.

“Standard Securitization Undertakings” means representations, warranties, undertakings, covenants, indemnities and guarantees of performance entered into by the Company or any Subsidiary which the Company has determined in good faith to be customary in a Qualified Receivables Financing.

“Subsidiary” means, with respect to any Person, (a) 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) to vote in the election of directors, managers or trustees thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof, (b) any partnership, joint venture or limited liability company of which (x) 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 that Person or a combination thereof, whether in the form of membership, general, special or limited partnership interests or otherwise and (y) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity, or (c) with respect to the Company, for so long as the Company or any of its Subsidiaries, individually or in the aggregate, has at least a 50% ownership interest in Lyondell Bayer Manufacturing MaasvlakteVOF, Lyondell Bayer Manufacturing MaasvlakteVOF. Unless otherwise qualified, all references to a **“Subsidiary”** or to **“Subsidiaries”** in this Agreement shall refer to a Subsidiary or Subsidiaries of the Company.

“Successor Loan Party” is defined in [Section 5.11\(b\)](#) hereof.

“Supported QFC” is defined in [Section 9.27](#) hereof.

“Sustainability Linked Loan Principles” means the Sustainability Linked Loan Principles published by the Loan Syndications & Trading Association, as updated through July 19, 2021, or, if agreed by the Company and the Co-Sustainability Agents, as most recently published by the Loan Syndications & Trading Association.

“Swing Line Borrowing” means, as to any Borrowing, the Swing Line Loans comprising such Borrowing.

“Swing Line Lender” means, individually or collectively as the context may require, (i) Wells Fargo Bank, in its capacity as provider of Swing Line Loans denominated in U.S. Dollars and (ii) Citibank, in its capacity as provider of Swing Line Loans denominated in Euros, or any successor swing line lender hereunder.

“Swing Line Loan” and **“Swing Line Loans”** each is defined in [Section 2.11\(a\)](#) hereof.

“Swing Line Loan Notice” means a notice of a Borrowing of Swing Line Loans pursuant to [Section 2.11\(b\)](#), which shall be substantially in the form of [Exhibit A](#) or such other form as approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent), appropriately completed and signed by an Authorized Representative of the applicable Borrower.

“**Swing Line Note**” means a promissory note made by a Borrower in favor of a Swing Line Lender evidencing Swing Line Loans made by such Swing Line Lender to such Borrower, substantially in the form of Exhibit D-2.

“**Swing Line Sublimit**” means (a) with respect to Swing Line Loans denominated in U.S. Dollars, U.S. \$75,000,000 and (b) with respect to Swing Line Loans denominated in Euros, U.S. \$65,000,000; *provided* that the amounts specified in clauses (a) and (b) are incremental to each other and each such amount may be modified from time to time by agreement between the Company and the applicable Swing Line Lender providing Swing Line Loans denominated in the applicable currency.

“**Syndication Agent**” means Wells Fargo Bank.

“**TARGET2**” means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilizes a single shared platform and which was launched on November 19, 2007.

“**TARGET Day**” means any day on which TARGET2 (or, if such payment system ceases to be operative, such other payment system, if any, determined by the Administrative Agent to be a suitable replacement) is open for the settlement of payments in Euro.

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

“**Term SOFR**” means,

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

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

“**Term SOFR Adjustment**” means a percentage equal to 0.10% per annum.

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

~~“Term SOFR” means, for the applicable corresponding tenor, “Reference Rate” means~~ the forward-looking term rate based on SOFR ~~that has been selected or recommended by the Relevant Governmental Body.~~

“Terminating Lender” is defined in Section 2.09 hereof.

“Termination Date” means November 23, 2026, or such earlier date on which the Commitments are terminated in whole pursuant to Section 2.10, Section 6.02 or Section 6.03 hereof, or for any Lender agreeing to extend the Termination Date pursuant to Section 2.09 hereof, such later date as shall be agreed to by such Lender pursuant to the provisions of Section 2.09 hereof.

“Termination Date Extension Request” is defined in Section 2.09 hereof.

“Total Assets” means the total consolidated assets of the Company and its Subsidiaries, as shown on the most recent balance sheet required to be delivered pursuant to Section 5.01 (or, prior to the initial delivery after the Closing Date of financial statements pursuant to Section 5.01, as shown on the most recent balance sheet included the Company’s Form 10-K or 10-Q, as applicable, filed with the SEC).

“Total Commitments” means, at any time, the aggregate amount of the Commitments at such time.

“Total Net Funded Debt” means, as of any date of determination, the sum, without duplication, of (a) Indebtedness of the type set forth in clauses (a)(i) through (iv) of the definition thereof and, to the extent it relates to Indebtedness of the foregoing types, clauses (b) and (c) of the definition thereof, of the Company and its Subsidiaries as of such date, if and to the extent such Indebtedness would appear as a liability upon the consolidated balance sheet (excluding the footnotes thereto) of the Company and its Subsidiaries prepared in accordance with GAAP, minus (b) Unrestricted Net Cash as of such date.

“Total Outstandings” means, at any time, the aggregate Outstanding Amount of all Revolving Loans, all Swing Line Loans and all L/C Obligations at such time.

“Trade Date” is defined in Section 9.09(b)(i)(B) hereof.

“type” when used in reference to any Loan, refers to whether such Loan is a Base Rate Loan ~~or~~, a SOFR Loan or a Eurocurrency Loan or otherwise as permitted hereunder.

“UCP” means, with respect to any Letter of Credit, the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce (“ICC”) Publication No. 600 (or such later version thereof as may be in effect at the time of issuance).

“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 subject to 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.

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

“Unfunded Vested Liabilities” means, for any Plan at any time, the amount (if any) by which the present value of all vested nonforfeitable accrued benefits under such Plan exceeds the fair market value of all Plan assets allocable to such benefits, all determined as of the then most recent valuation date for such Plan, but only to the extent that such excess represents a potential liability of a member of the Controlled Group to the PBGC or the Plan under Title IV of ERISA.

“Unreimbursed Amount” is defined in [Section 2.02\(c\)\(i\)](#) hereof.

“Unrestricted Net Cash” means, as of any date of determination, the sum of (a) 100% of the unrestricted cash and Cash Equivalents held in the United States by the Company and its Subsidiaries as of such date, plus (b) 95% of the unrestricted cash and Cash Equivalents held outside of the United States by the Company and its Subsidiaries as of such date, minus (c) \$300,000,000; provided, however, that in no event shall the sum of Unrestricted Net Cash be less than zero.”

“Unused Commitments” means, at any time, the difference between the Total Commitments at such time and the Total Outstandings at such time.

“U.S. Dollars” and **“U.S. \$”** each means the lawful currency of the United States of America.

“U.S. Dollar Equivalent” means, at any time, (a) with respect to any amount denominated in U.S. Dollars, such amount, and (b) with respect to any amount denominated in Euros, the equivalent amount thereof in U.S. Dollars as determined by the Administrative Agent, the L/C Issuer or the Swing Line Lender, as the case may be, at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date) for the purchase of U.S. Dollars with Euros.

“U.S. Government Securities Business Day” means [any day except for \(i\) a Saturday, \(ii\) a Sunday or \(iii\) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.](#)

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

“U.S. Special Resolution Regimes” is defined in [Section 9.27](#) hereof.

“U.S. Tax Compliance Certificate” has the meaning specified in [Section 9.01\(e\)\(ii\)\(B\)\(III\)](#).

“Voting Stock” of any Person means capital stock or other equity interests of any class or classes (however designated) having ordinary power for the election of directors or other similar governing body of such Person (including, without limitation, general partners of a partnership), other than stock or other equity interests having such power only by reason of the happening of a contingency.

“Welfare Plan” means a “welfare plan” as defined in Section 3(1) of ERISA.

“Wells Fargo Bank” means Wells Fargo Bank, National Association and its successors.

“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. ~~Interpretation~~Interpretation. The definitions of terms herein are equally applicable to both the singular and plural forms of the terms defined. 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 otherwise expressly provided herein, (a) the words “**hereof**”, “**herein**”, and “**hereunder**” and words of like import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns and (c) 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. All references to time of day herein are references to New York, New York time unless otherwise specifically provided. Where the character or amount of any asset or liability or item of income or expense is required to be determined or any consolidation or other accounting computation is required to be made for the purposes of this Agreement, it shall be done in accordance with GAAP except where such principles are inconsistent with the specific provisions of this Agreement.

Section 1.03. Accounting Terms; Change in Accounting Principles. (a) 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, after the date of this Agreement, there shall occur any change in GAAP from those used in the preparation of the financial statements referred to in Section 4.04 hereof and such change shall result in a change in the calculation or operation of any financial covenant, requirement, standard or term found in this Agreement, either the Company (by notice to the Lenders) or the Required Lenders (by notice to the Company) may require that the Lenders and the Company negotiate in good faith to amend such covenant, requirement, standard or term so as equitably to reflect such change in accounting principles, with the desired result being that the criteria for evaluating the financial condition of the Company and its Subsidiaries shall be the same as if such change had not been made. No delay by the Company or the Required Lenders in requiring such negotiation shall limit their right to so require such a negotiation at any time after such a change in accounting principles. Until any such covenant, requirement, standard or term is amended in accordance with this Section 1.03, such covenant, requirement, standard or term shall be computed and determined in accordance with GAAP in effect prior to such change in accounting principles.

(b) Notwithstanding anything to the contrary contained in Section 1.03(a) or in the definition of “Capital Lease,” any change in accounting for leases pursuant to GAAP resulting from the adoption of Financial Accounting Standards Board Accounting Standards Update No. 2016-02, Leases (Topic 842) (“FAS 842”), to the extent such adoption would require treating any lease (or similar arrangement conveying the right to use) as a capital lease or finance lease where such lease (or similar arrangement) would not have been required to be so treated under GAAP as in effect on December 31, 2015, such lease shall not be considered a capital lease or finance lease, and all calculations (including with respect to assets and liabilities associated with such lease) shall be made in accordance therewith.

Section 1.04. Letter of Credit Amounts. Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the U.S. Dollar Equivalent of the amount of such Letter of Credit available to be drawn at such time; *provided, however*, that with respect to any Letter of Credit that, by its terms or the terms of any Issuer Document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the difference of (a) the U.S. Dollar Equivalent of the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time *less* (b) the U.S. Dollar Equivalent of any amounts drawn or otherwise not available to be drawn under such Letter of Credit and not reinstated or available to be reinstated, whether by automatic increase or otherwise.

Section 1.05. ~~Exchange Rates~~~~Exchange Rates~~. (a) The Administrative Agent shall determine the Spot Rate as of each Revaluation Date to be used for calculating the U.S. Dollar Equivalent of the aggregate outstanding principal amount of Loans denominated in Euros and shall provide notice of the same to the Borrowers. The L/C Issuer shall determine the Spot Rate as of each Revaluation Date to be used for calculating the U.S. Dollar Equivalent of the L/C Obligations in respect of Letters of Credit issued by it and denominated in Euros and shall provide notice of the same to the Administrative Agent and the Company. Such Spot Rates shall become effective as of such Revaluation Date and shall be the Spot Rates employed in converting any amounts between the applicable currencies until the next applicable Revaluation Date to occur.

(b) For purposes of determining compliance with any U.S. Dollar denominated restriction on the incurrence of Indebtedness or the granting of Liens, the U.S. Dollar Equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was first committed; or if any such Indebtedness is subject to a hedge agreement with respect to the currency in which such Indebtedness is denominated covering principal, premium, if any, and interest on such Indebtedness, the amount of such Indebtedness and such interest and premium, if any, shall be determined after giving effect to all payments in respect thereof under such hedge agreement; *provided* that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. Dollar denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. Dollar denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced.

(c) Wherever in this Agreement in connection with a Borrowing, conversion, continuation or prepayment of any Loan or the issuance, amendment or extension of a Letter of Credit, an amount, such as a required minimum or multiple amount, is expressed in U.S. Dollars, but such Borrowing, Loan or Letter of Credit is denominated in Euros, such amount shall be the relevant Alternative Currency Equivalent of such Dollar amount (rounded to the nearest unit of Euros, with 0.5 of a unit being rounded upward), as determined by the Administrative Agent or the applicable L/C Issuer, as the case may be.

Section 1.06. *References to Agreements, Laws, etc.* Unless otherwise expressly provided herein, (a) references to organizational documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, supplements, modifications, extensions, restructurings, renewals, restatements, refinancings or replacements in whole or in part, but only to the extent that such amendments, supplements, modifications, extensions, restructurings, renewals, restatements, refinancings or replacements are not prohibited by the Loan Documents; and (b) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

Section 1.07. ~~Divisions~~~~Divisions~~. For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws): (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, 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 1.08. *Assignments; Amendment and Restatement*~~-~~.

In order to facilitate the amendment and restatement of the Existing Credit Agreement contemplated by this Agreement and otherwise to effectuate the desires of the Borrowers, the Existing Administrative Agent, the Administrative Agent and the Lenders:

(a) Simultaneously with the Closing Date, but immediately prior to giving effect to Section 1.08(d), the parties hereby agree that the Commitments of each of the Lenders shall be as set forth on Schedule 1(a) and the Outstanding Amounts of Loans of each Class (under and as defined in the Existing Credit Agreement) shall be reallocated as outstanding Loans hereunder in accordance with such Commitments, and the requisite assignment shall be deemed to be made in such amounts among the Lenders and from each Lender to each other Lender (and, if necessary, to Lenders from Existing Lenders who elect not to become Lenders under this Agreement or who reduce their Commitments in connection with this Agreement), with the same force and effect as if such assignments were evidenced by applicable Assignments and Assumptions (as defined in the Existing Credit Agreement) under the Existing Credit Agreement, but without the payment of any related assignment fee. All reallocations and assignments effected pursuant to Section 1.08(a) shall be reflected in the Register in accordance with Section 9.09(c).

(b) The parties hereby consent to all reallocations and assignments of Commitments and Outstanding Amounts effected pursuant to Section 1.08(a) and, subject to Section 3.01 hereof, waive any requirement for any other document or instrument, including any Assignment and Assumption (as defined in the Existing Credit Agreement) under the Existing Credit Agreement or Assignment and Assumption hereunder, necessary to give effect to any reallocation or assignment. On the Closing Date the Lenders shall make full cash settlement with each other (and with the Existing Lenders whose Commitments are being decreased) either directly or through the Administrative Agent, as the Administrative Agent may direct or approve, with respect to all assignments and reallocations in Commitments as reflected in this Section 1.08 such that after giving effect to such settlements the Outstanding Amount of each Lender's Loans equals such Lender's Percentage of the Outstanding Amount of all Loans.

(c) The Borrowers, the Existing Administrative Agent, the Administrative Agent and the Lenders hereby agree that upon the effectiveness of this Agreement, the terms and provisions of the Existing Credit Agreement which in any manner govern or evidence the obligations arising hereunder, the rights and interests of the Administrative Agent and the Lenders and any terms, conditions or matters related to any thereof, shall be and hereby are amended and restated in their entirety by the terms, conditions and provisions of this Agreement, and the terms and provisions of the Existing Credit Agreement, except as otherwise expressly provided herein, shall be superseded by this Agreement.

(d) Notwithstanding this amendment and restatement of the Existing Credit Agreement, including anything in this Section 1.08, and of any related "Loan Document" (as such term is defined in the Existing Credit Agreement and referred to herein, individually or collectively, as the "**Existing Loan Documents**"), (i) all of the indebtedness, liabilities and obligations owing by the Borrower or any other Person under the Existing Credit Agreement and other Existing Loan Documents shall continue as obligations hereunder and thereunder and (ii) this Agreement is given as a substitution of, and not as a payment of, the indebtedness, liabilities and obligations of the Borrowers under the Existing Credit Agreement or any Existing Loan Document and neither the execution and delivery of this Agreement nor the consummation of any other transaction contemplated hereunder is intended to constitute a novation of the Existing Credit Agreement or of any of the other Existing Loan Documents or any obligations thereunder. Upon the effectiveness of this Agreement, all loans outstanding and owing by the Borrowers under the Existing Credit Agreement as of the Closing Date shall constitute Loans hereunder accruing interest hereunder. The parties hereto agree that the Interest Periods for all Eurocurrency Loans outstanding under the Existing Credit Agreement on the Closing Date shall be terminated, the Borrower shall pay (on the Closing Date) all accrued interest with respect to such Loans, and the Borrower shall furnish to the Administrative Agent a Notice of Continuation/Conversion for existing Loans and a Notice of Borrowing for additional Loans as may be required in connection with the allocation of Loans among Lenders in accordance with their Commitments. The Existing Lenders agree that the transactions contemplated under this Section 1.08 shall not give rise to any obligation of the Borrower to make any payment under Section 7.01 or Section 7.04 of the Existing Credit Agreement.

Section 1.09. Rates. The Administrative Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, (a) the continuation of, administration of, submission of, calculation of or any other matter related to the Base Rate, the Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR, the EURIBOR Rate, €STR or any other Benchmark, or any component definition thereof or rates referred to in the definition thereof, or any alternative, successor or replacement rate thereto (including any Benchmark Replacement), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any Benchmark Replacement), will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, the Base Rate, the Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR, the EURIBOR Rate, €STR, such Benchmark or any other Benchmark prior to its discontinuance or unavailability, or (b) the effect, implementation or composition of any Conforming Changes. The Administrative Agent and its affiliates or other related entities may engage in transactions that affect the calculation of Base Rate or a Benchmark, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto, in each case, in a manner adverse to the Company. The Administrative Agent may select information sources or services in its reasonable discretion to ascertain the Base Rate, the Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR, the EURIBOR Rate, €STR, such Benchmark, any component definition thereof or rates referred to in the definition thereof, in each case pursuant to the terms of this Agreement, and shall have no liability to the Company, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

ARTICLE 2 THE CREDIT FACILITIES

Section 2.01. *Revolving Credit Facilities.* (a) *Revolving Loans.* Prior to the Termination Date, each Lender severally and not jointly agrees, subject to the terms and conditions hereof, to make revolving loans (each individually a “**Revolving Loan**” and, collectively, the “**Revolving Loans**”) in U.S. Dollars and/or Euros to the Borrowers from time to time in an aggregate outstanding U.S. Dollar Equivalent up to the amount of such Lender’s Commitment; *provided, however,* that after giving effect to any such Borrowing (1) the Total Outstandings shall not exceed the Total Commitments in effect at such time and (2) the aggregate Outstanding Amount of the Revolving Loans of any Lender, *plus* such Lender’s Percentage of the Outstanding Amount of all L/C Obligations, *plus* such Lender’s Percentage of the Outstanding Amount of all Swing Line Loans shall not exceed such Lender’s Commitment. Each Borrowing of Revolving Loans shall be made ratably by the Lenders in proportion to their respective Percentages. As provided in Section 2.04, and subject to the terms hereof, the applicable Borrower may elect that each Borrowing of Revolving Loans denominated in U.S. Dollars be either Base Rate Loans or ~~Eurocurrency~~SOFR Loans. All Revolving Loans denominated in Euros shall be Eurocurrency Loans. Revolving Loans may be repaid and reborrowed before the Termination Date, subject to the terms and conditions hereof. Without limitation of the foregoing, any Lender may, at its option, make any Loan available to any Borrower by causing any foreign or domestic branch or Affiliate of such Lender to make such Loan; *provided* that any exercise of such option shall not affect the obligation of such Borrower to repay such Loan in accordance with the terms of this Agreement.

(b) *Commitment Increases.* The Company shall be entitled, from time to time after the Closing Date, to request that the Total Commitments be increased to an aggregate amount not to exceed U.S. \$4,250,000,000 (such additional Commitments are referred to herein as “**Additional Commitments**”); *provided* that (i) at such time, no Default or Event of Default then exists and is continuing, (ii) any such increase shall be in a minimum U.S. Dollar Equivalent of U.S. \$25,000,000, (iii) no Lender shall be obligated to increase such Lender’s Commitment without such Lender’s written consent, which may be withheld in such Lender’s sole discretion, (iv) any Person providing any Additional Commitment shall be an Eligible Assignee (if such Person is not already a Lender) and (v) the Company and, if required, each other applicable Loan Party will have duly authorized such increase in the Total Commitments and the Administrative Agent shall have received evidence reasonably satisfactory to it of such due authorization. In connection with any such increase in the Total Commitments the parties shall execute any documents reasonably requested in connection with or to evidence such increase, including without limitation, an amendment to this Agreement.

(c) *Adjustments.* On the date (“**Funding Date**”) of any increase in the Total Commitments permitted by this Agreement (which date shall be designated by the Administrative Agent), each Lender that has an Additional Commitment shall fund to the Administrative Agent such amounts as may be required to cause each such Lender to hold its applicable Percentage of Revolving Loans based upon the Total Commitments as of such Funding Date (after giving effect to the Additional Commitments), and the Administrative Agent shall distribute the funds so received to the other Lenders in such amounts as may be required to cause each of them to hold its applicable Percentage of Revolving Loans as of such Funding Date. The Lenders receiving such amounts to be applied to SOFR Loans or Eurocurrency Loans may demand payment of breakage costs under Section 7.01 hereof as though the Borrower had elected to prepay such SOFR Loans or Eurocurrency Loans on such date, and the Borrower shall pay the amount so demanded as provided in Section 7.01. The first payment of interest and Letter of Credit Fees received by the Administrative Agent after such Funding Date shall be paid to the Lenders in amounts adjusted as necessary to reflect any adjustments of their respective Percentages as of the Funding Date. On any Funding Date, each Lender shall be deemed to have either sold or purchased, as applicable, a participating interest in Swing Line Loans, L/C Obligations and L/C Borrowings so that upon consummation of all such sales and purchases, each Lender (other than the Lender acting as the Swing Line Lender or the L/C Issuer, as the case may be) holds an undivided participating interest in each Swing Line Loan, each Letter of Credit and each L/C Borrowing equal to such Lender’s Percentage as of such Funding Date.

Section 2.02. Letters of Credit. (a) *The Letter of Credit Commitment.*

(i) Subject to the terms and conditions set forth herein, (A) each L/C Issuer agrees, in reliance upon the agreements of the Lenders set forth in this Section 2.02, (1) from time to time on any Business Day during the period from the Closing Date until the Termination Date, to issue Letters of Credit denominated in U.S. Dollars or in Euros for the account of the Company or its Subsidiaries, and to amend or extend Letters of Credit previously issued by it, in accordance with subsection (b) below, and (2) to honor drawings under the Letters of Credit; and (B) each Lender severally agrees to participate in Letters of Credit issued for the account of the Company or its Subsidiaries and any drawings thereunder; *provided* that after giving effect to any L/C Credit Extension with respect to any Letter of Credit, (w) the Total Outstandings shall not exceed the Total Commitments, (x) the aggregate Outstanding Amount of the Revolving Loans of any Lender, *plus* such Lender’s Percentage of the Outstanding Amount of all L/C Obligations, *plus* such Lender’s Percentage of the Outstanding Amount of all Swing Line Loans shall not exceed such Lender’s Commitment, (y) the Outstanding Amount of the L/C Obligations shall not exceed the L/C Sublimit and (z) the aggregate Outstanding Amount of the L/C Obligations in respect of the Letters of Credit issued by each L/C Issuer shall not exceed such L/C Issuer’s L/C Issuer Sublimit. Each request by the Company for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by the Company that the L/C Credit Extension so requested complies with the conditions set forth in the proviso to the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, the Company’s ability to obtain Letters of Credit shall be fully revolving, and accordingly the Company may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed.

(ii) The L/C Issuer shall not issue any Letter of Credit if:

(A) subject to Section 2.02(b)(iii), the expiry date of such requested Letter of Credit would occur more than twelve months after the date of issuance or last extension, unless the Required Lenders have approved such expiry date pursuant to a consent substantially in the form of Exhibit J; or

(B) the expiry date of such requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless all Lenders have approved such expiry date pursuant to a consent substantially in the form of Exhibit J.

(iii) The L/C Issuer shall not be under any obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain the L/C Issuer from issuing such Letter of Credit, or any Law applicable to the L/C Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the L/C Issuer shall prohibit, or request that the L/C Issuer refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon the L/C Issuer with respect to such Letter of Credit any restriction, reserve or capital requirement (for which the L/C Issuer is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon the L/C Issuer any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which the L/C Issuer in good faith deems material to it;

(B) the issuance of such Letter of Credit would violate one or more policies of the L/C Issuer applicable to letters of credit generally;

(C) except as otherwise agreed by the Administrative Agent and the L/C Issuer, such Letter of Credit is in an initial stated amount less than U.S. \$100,000, in the case of a commercial Letter of Credit, or U.S. \$100,000, in the case of a standby Letter of Credit;

(D) a default of any Lender's obligations to fund under Section 2.04(c) exists or any Lender is at such time a Defaulting Lender hereunder, unless the L/C Issuer has entered into satisfactory arrangements with the Company or such Lender to eliminate the L/C Issuer's Fronting Exposure with respect to such Lender;

(E) except as otherwise agreed by the Administrative Agent and the L/C Issuer, the Letter of Credit is to be denominated in a currency other than U.S. Dollars or Euros; or

(F) the L/C Issuer cannot as of the issuance date of the requested Letter of Credit issue Letters of Credit in the requested currency.

(iv) The L/C Issuer shall be under no obligation to amend any Letter of Credit if (A) the L/C Issuer would have no obligation at such time to issue such Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

(v) The L/C Issuer shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and the L/C Issuer shall have all of the benefits and immunities (A) provided to the Administrative Agent in Article 9 with respect to any acts taken or omissions suffered by the L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and Issuer Documents pertaining to such Letters of Credit as fully as if the term "**Administrative Agent**" as used in Article 9 included the L/C Issuer with respect to such acts or omissions, and (B) as additionally provided herein with respect to the L/C Issuer.

(b) *Procedures for Issuance and Amendment of Letters of Credit; Auto Extension Letters of Credit.*

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Company delivered to the L/C Issuer (with a copy to the Administrative Agent) in the form of an Application, appropriately completed and signed by an Authorized Representative of the Company. Such Application must be received by the L/C Issuer and the Administrative Agent not later than 11:00 a.m. at least two Business Days (or such later date and time as the Administrative Agent and the L/C Issuer may reasonably agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Application shall specify in form and detail satisfactory to the L/C Issuer: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount and currency thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) the purpose and nature of the requested Letter of Credit; and (H) such other matters as the L/C Issuer may reasonably require. In the case of a request for an amendment of any outstanding Letter of Credit, such Application shall specify in form and detail satisfactory to the L/C Issuer: (A) the Letter of Credit to be amended; (B) the proposed date of amendment thereof (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as the L/C Issuer may reasonably require. Additionally, the Company shall furnish to the L/C Issuer and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Issuer Documents, as the L/C Issuer or the Administrative Agent may, in its reasonable discretion, deem necessary.

(ii) Promptly after receipt of any Application, the L/C Issuer will confirm with the Administrative Agent (in writing) that the Administrative Agent has received a copy of such Application from the Company and, if not, the L/C Issuer will provide the Administrative Agent with a copy thereof. Unless the L/C Issuer has received written notice from any Lender, the Administrative Agent or the Company, in each case at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Section 3.02 shall not then be satisfied, then, subject to the terms and conditions hereof, the L/C Issuer shall, on the requested date of issuance or amendment, issue the applicable Letter of Credit for the account of the Company (or the applicable Subsidiary) or enter into the applicable amendment, as the case may be, in each case in accordance with the L/C Issuer's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the L/C Issuer a risk participation in such Letter of Credit in an amount equal to the product of such Lender's Percentage multiplied by the amount of such Letter of Credit.

(iii) If the Company so requests in any Application, the L/C Issuer may, in its sole discretion, agree to issue a Letter of Credit that has automatic extension provisions (each, an **"Auto-Extension Letter of Credit"**); *provided* that any such Auto-Extension Letter of Credit must permit the L/C Issuer to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the **"Non-Extension Notice Date"**) in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued; *provided further* that such L/C Issuer shall provide notice to the Company at least 30 days prior to such Non-Extension Notice Date if such L/C Issuer determines not to extend an Auto-Extension Letter of Credit. Unless otherwise directed by the L/C Issuer, the Company shall not be required to make a specific request to the L/C Issuer for any extension of an Auto-Extension Letter of Credit after such Auto-Extension Letter of Credit is issued. Once an Auto-Extension Letter of Credit has been issued, the Lenders shall be deemed to have authorized (but may not require) the L/C Issuer to permit the extension of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date; *provided, however*, that the L/C Issuer shall not permit any such extension if (A) the L/C Issuer has determined that it would not be permitted, or would have no obligation, at such time to issue such Letter of Credit in its revised form (as extended) under the terms hereof (by reason of the provisions of Section 2.02(b)(ii) or (iii) or otherwise), or (B) it has received written notice on or before the day that is seven Business Days before the Non-Extension Notice Date from the Administrative Agent, any Lender or the Company that one or more of the applicable conditions specified in Section 3.02 is not then satisfied and directing the L/C Issuer not to permit such extension.

(iv) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the L/C Issuer will also deliver to the Company and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(c) *Drawings and Reimbursements; Funding of Participations.*

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the L/C Issuer shall, within the period stipulated by terms and conditions of Letter of Credit, examine the drawing documents. After such examination and provided drawing documents are compliant, the L/C Issuer shall notify the Company and the Administrative Agent thereof. In the case of a drawing under a Letter of Credit denominated in Euros or any other currency (other than U.S. Dollars), the L/C Issuer shall notify the Company of the U.S. Dollar Equivalent of the amount of the drawing promptly following the determination thereof. Not later than (x) 12:30 p.m. on the date of any payment by the L/C Issuer under a Letter of Credit (each such date, an “**Honor Date**”) if the Company shall have received notice of such payment prior to 10:00 a.m. on such date or (y) if such notice has not been received by the Company prior to such time on the Honor Date, then 12:30 p.m. on the Business Day immediately following the day that the Company receive such notice, the Company shall reimburse the L/C Issuer in U.S. Dollars in an amount equal to the amount of such drawing or the U.S. Dollar Equivalent so notified to it, as applicable. If the Company fails to so reimburse the L/C Issuer by such time, such L/C Issuer shall notify the Administrative Agent, and the Administrative Agent shall promptly notify each Lender of the Honor Date, the amount of the unreimbursed drawing (expressed in U.S. Dollars in the amount of the U.S. Dollar Equivalent thereof in the case of a Letter of Credit denominated in Euros or any other currency (other than U.S. Dollars)) (the “**Unreimbursed Amount**”), and the amount of such Lender’s Percentage thereof. In such event, the Company shall be deemed to have requested a Borrowing of Base Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.05 for the principal amount of Base Rate Loans, but subject to the amount of the unutilized portion of the Total Commitments and the conditions set forth in Section 3.02 (other than the delivery of notice). Any notice given by the L/C Issuer or the Administrative Agent pursuant to this Section 2.02(c)(i) may be given by telephone if immediately confirmed in writing; *provided* that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Lender shall, upon any notice pursuant to Section 2.02(c)(i), make funds available to the Administrative Agent for the account of the L/C Issuer, in U.S. Dollars, at the Administrative Agent’s Office for U.S. Dollar-denominated payments in an amount equal to its Percentage of the Unreimbursed Amount not later than 1:00 p.m. on the Business Day specified in such notice by the Administrative Agent, whereupon each Lender that so makes funds available shall be deemed to have made a Base Rate Loan to the Company in such amount. The Administrative Agent shall remit the funds so received to the L/C Issuer in U.S. Dollars.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Borrowing of Base Rate Loans because the conditions set forth in Section 3.02 cannot be satisfied or for any other reason, the Company shall be deemed to have incurred from the L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at a rate per annum equal to the sum of 2% *plus* the Applicable Margin *plus* the Base Rate. In such event, each Lender’s payment to the Administrative Agent for the account of the L/C Issuer pursuant to Section 2.02(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.02.

(iv) Until each Lender funds its Base Rate Loan or L/C Advance pursuant to this Section 2.02(c) to reimburse the L/C Issuer for any amount drawn under any Letter of Credit, interest in respect of such Lender’s Percentage of such amount shall be solely for the account of the L/C Issuer.

(v) Each Lender's obligation to make L/C Advances to reimburse the L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section 2.02(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the L/C Issuer, the Company, any Subsidiary or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default; or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; *provided, however*, that each Lender's obligation to make Loans pursuant to this Section 2.02(c) is subject to the conditions set forth in Section 3.02 (other than delivery by the Company of notice). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the Company to reimburse the L/C Issuer for the amount of any payment made by the L/C Issuer under any Letter of Credit, together with interest as provided herein.

(vi) If any Lender fails to make available to the Administrative Agent for the account of the L/C Issuer any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.02(c) by the time specified in Section 2.02(c)(ii), the L/C Issuer shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the L/C Issuer at a rate per annum equal to the applicable Overnight Rate from time to time in effect, *plus* any administrative, processing or similar fees customarily charged by the L/C Issuer in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Loan included in the relevant Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of the L/C Issuer submitted to such Lender (through the Administrative Agent) with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

(d) *Repayment of Participations.*

(i) At any time after the L/C Issuer has made a payment under any Letter of Credit and has received from any Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.02(c), if the Administrative Agent receives for the account of the L/C Issuer any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the Company or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will distribute to such Lender its Percentage thereof in U.S. Dollars and in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of the L/C Issuer pursuant to Section 2.02(c)(i) is required to be returned under any of the circumstances described in Section 9.14 (including pursuant to any settlement entered into by the L/C Issuer in its discretion), each Lender shall pay to the Administrative Agent for the account of the L/C Issuer its Percentage thereof on demand of the Administrative Agent, *plus* interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the applicable Overnight Rate from time to time in effect. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) *Obligations Absolute.* The obligation of the Company to reimburse the L/C Issuer for each drawing under each Letter of Credit and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Loan Document;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that the Company or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the L/C Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) without limitation of the second proviso set forth in Section 2.02(f)(f) , any payment by the L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law;

(v) waiver by the L/C Issuer of any requirement that exists for the L/C Issuer's protection and not the protection of the Company or any waiver by the L/C Issuer which does not in fact materially prejudice the Company;

(vi) honor of a demand for payment presented electronically even if such Letter of Credit requires that demand be in the form of a draft;

(vii) any payment made by the L/C Issuer in respect of an otherwise complying item presented after the date specified as the expiration date of, or the date by which documents must be received under, such Letter of Credit if presentation after such date is authorized by the UCC, the ISP or the UCP, as applicable;

(viii) any adverse change in the relevant exchange rates or in the availability of the relevant currency to the Company or any Subsidiary or in the relevant currency markets generally; or

(ix) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Company or any Subsidiary.

The Company shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Company's instructions or other irregularity, the Company will immediately notify the L/C Issuer. The Company shall be conclusively deemed to have waived any such claim against the L/C Issuer and its correspondents unless such notice is given as aforesaid.

(f) *Role of L/C Issuer.* Each Lender and the Company agree that, in paying any drawing under a Letter of Credit, the L/C Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the L/C Issuer, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the L/C Issuer shall be liable for (i) any action taken or omitted in connection herewith at the request or with the approval of the Lenders or the Required Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document. The Company hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; *provided, however*, that this assumption is not intended to, and shall not, preclude the Company's pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the L/C Issuer, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the L/C Issuer shall be liable or responsible for any of the matters described in clauses (i) through (ix) of Section 2.02(e); *provided further, however*, that anything in such clauses to the contrary notwithstanding, the Company may have a claim against the L/C Issuer, and the L/C Issuer may be liable to the Company, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Company which the Company proves were caused by the L/C Issuer's willful misconduct or gross negligence in determining whether a presentation by the beneficiary under a Letter of Credit complied with the terms and conditions of such Letter of Credit or the L/C Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, the L/C Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the L/C Issuer shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason. The L/C Issuer may send a Letter of Credit or conduct any communication to or from the beneficiary via the Society for Worldwide Interbank Financial Telecommunication ("SWIFT") message or overnight courier, or any other commercially reasonable means of communicating with a beneficiary.

(g) *Cash Collateral.* (i) At any time that there shall exist a Defaulting Lender, within two Business Days after the request of the Administrative Agent, any L/C Issuer or the Swing Line Lender, the Company shall deliver to the Administrative Agent Cash Collateral in an amount sufficient to cover all Fronting Exposure (after giving effect to Section 2.14(a)(iv)) and any Cash Collateral provided by the Defaulting Lender).

(ii) Subject to receipt of request therefor in accordance with the third sentence of this paragraph (ii), on the 91st day prior to the Termination Date (or, if such day is not a Business Day, on the next preceding Business Day), the Company shall Cash Collateralize the then Outstanding Amount of all Long-Dated Letters of Credit. Thereafter, simultaneously with the issuance of any Long-Dated Letter of Credit, the Company shall Cash Collateralize the U.S. Dollar Equivalent of the face amount of such Letter of Credit. The L/C Issuer, if it desires Cash Collateral to be provided on the dates specified in the preceding provisions of this paragraph (ii), shall provide notice to such effect to the Company not later than the 120th day prior to the Termination Date (or, if no Long-Dated Letters of Credit are then outstanding from such L/C Issuer, on the first subsequent date of issuance by it of any Long-Dated Letter of Credit). If no such request is made, then the Cash Collateral contemplated by this paragraph (ii) shall be provided by the Company on the fifth Business Day prior to the Termination Date, without any requirement of request or demand therefor by any party hereto.

(iii) In addition, if the Administrative Agent notifies the Company at any time that the Outstanding Amount of all L/C Obligations at such time exceeds the L/C Sublimit then in effect, or that the Outstanding Amount of all L/C Obligations in respect of Letters of Credit issued by any L/C Issuer at such time exceeds its L/C Issuer Sublimit then in effect, then, within two Business Days after receipt of such notice, the Company shall Cash Collateralize the applicable L/C Obligations in an amount equal to the amount by which the Outstanding Amount of such L/C Obligations exceeds the L/C Sublimit or the L/C Issuer Sublimit, as the case may be; *provided* that if such excess arises as a result of an increase in the U.S. Dollar Equivalent of amounts of L/C Obligations denominated in Euros due to fluctuations in the exchange rate, then the Company shall not be obligated to Cash Collateralize such excess under this clause (iii) unless the applicable amount of outstanding L/C Obligations is 105% or more of the L/C Sublimit or the L/C Issuer Sublimit, as the case may be (but any such required Cash Collateralization shall be in the full amount of any such excess over 100% of the L/C Sublimit or the L/C Issuer Sublimit).

(iv) Sections 6.02 and Section 6.03 set forth certain additional requirements to deliver Cash Collateral hereunder. For purposes of this Section 2.02 and Section 2.14, Section 6.02 and Section 6.03, “**Cash Collateralize**” means (x) to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the L/C Issuers and the Lenders, as collateral for the L/C Obligations or obligations of the Lenders to fund participations in respect of L/C Obligations, cash or deposit account balances aggregating an amount equal to the L/C Obligations (or such lower amount as agreed by all relevant L/C Issuers), pursuant to documentation in form and substance reasonably satisfactory to the Administrative Agent and the L/C Issuers (which documents are hereby consented to by the Lenders) or (y) to provide backstop arrangements for the L/C Obligations reasonably acceptable to the L/C Issuers. Derivatives of such term have corresponding meanings. The Company hereby grants to the Administrative Agent, for the benefit of the L/C Issuers and the Lenders, a security interest in all such cash, deposit accounts and all balances therein and all proceeds of the foregoing. Cash Collateral shall be maintained in blocked, interest bearing deposit accounts at Citibank, for the benefit of the Lenders and the L/C Issuers.

(v) Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided hereunder in respect of Letters of Credit or Swing Line Loans shall be held and applied to the satisfaction of the specific L/C Obligations, Swing Line Loans, obligations to fund participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such Cash Collateral as may be provided for herein. If the Company is required to provide Cash Collateral hereunder, such Cash Collateral, together with any interest earned thereon (to the extent not applied as aforesaid), shall be returned to the Company within three Business Days after the event or condition giving rise to such requirement has been cured or waived or is otherwise no longer in existence.

So long as any Cash Collateral required by the foregoing provisions of this Section 2.02(g) shall have been provided in accordance with the terms of this Section 2.02(g) and no Default is existing as of the Termination Date, the risk participations of the Lenders in any outstanding Letters of Credit shall terminate on the Termination Date, and any Letter of Credit Fees with respect thereto shall thereafter accrue for the sole account of the L/C Issuer. Notwithstanding anything herein to the contrary, upon the termination of the risk participations of the Lenders in any outstanding Letters of Credit in accordance with the terms of this Section 2.02(g), the Administrative Agent shall deliver the Cash Collateral then held by it to each L/C Issuer (ratably according to the Outstanding Amount of each Letter of Credit issued by such L/C Issuer then outstanding), thereafter to be held by such L/C Issuer for its own exclusive benefit, and the security interest of the other Lenders in such Cash Collateral shall terminate at such time.

(h) *Applicability of ISP and UCP.* Unless otherwise expressly agreed by the L/C Issuer and the Company when a Letter of Credit is issued, (i) the rules of the ISP shall apply to each standby Letter of Credit, and (ii) the rules of the UCP shall apply to each commercial Letter of Credit. Notwithstanding the foregoing, the L/C Issuer shall not be responsible to the Company for, and the L/C Issuer's rights and remedies against the Company shall not be impaired by, any action or inaction of the L/C Issuer required or permitted under any law, order, or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including the Law or any order of a jurisdiction where the L/C Issuer or the beneficiary is located, the practice stated in the ISP or UCP, as applicable, or in the decisions, opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade - International Financial Services Association (BAFT-IFSA), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such law or practice.

(i) *Conflict with Issuer Documents.* In the event of any conflict between the terms hereof and the terms of any Issuer Document, the terms hereof shall control.

(j) *Letters of Credit Issued for Subsidiaries.* Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Subsidiary, the Company shall be obligated to reimburse the L/C Issuer hereunder for any and all drawings under such Letter of Credit. The Company hereby acknowledges that the issuance of Letters of Credit for the account of Subsidiaries inures to the benefit of the Company, and that the Company's business derives substantial benefits from the businesses of such Subsidiaries.

(k) *Letter of Credit Reports.* For so long as any Letter of Credit issued by an L/C Issuer is outstanding, such L/C Issuer shall deliver to the Administrative Agent on the last Business Day of each calendar month, and on each date that an L/C Credit Extension occurs with respect to any such Letter of Credit, a report in the form of Exhibit I, appropriately completed with the information for every outstanding Letter of Credit issued by such L/C Issuer.

Section 2.03. Applicable Interest Rates. (a) *Base Rate Loans.* Subject to the provisions of clause (d) below, each Base Rate Loan shall bear interest (computed on the basis of a year of 365 or 366 days, as applicable, and the actual days elapsed) on the unpaid principal amount of such Loan from the date such Loan is advanced or created by conversion from a ~~Eurocurrency~~SOFR Loan until the Termination Date (whether by acceleration or otherwise) at a rate per annum equal to the sum of the Applicable Margin *plus* the Base Rate, payable in arrears on each Interest Payment Date and on the Termination Date (whether by acceleration or otherwise).

(b) *Eurocurrency Loans.* Subject to the provisions of clause (d) below, each Eurocurrency Loan shall bear interest during each Interest Period it is outstanding (computed on the basis of a year of 360 days and actual days elapsed) on the unpaid principal amount thereof from the date such Loan is advanced; ~~or continued or created by conversion from a Base Rate Loan~~ until the Termination Date (whether by acceleration or otherwise) at a rate per annum equal to the sum of ~~(i) the Applicable Margin plus (ii) in the case of Eurocurrency Loans denominated in U.S. Dollars, the LIBOR Rate applicable for such Interest Period and, in the case of Eurocurrency Loans denominated in Euros, the EURIBOR Rate applicable for such Interest Period, in each case,~~ payable in arrears on each Interest Payment Date and on the Termination Date (whether by acceleration or otherwise).

(c) *Swing Line Loans.* Subject to the provisions of clause (d) below, each Swing Line Loan shall bear interest (computed on the basis of (x) a year of 365 or 366 days, as applicable, and the actual days elapsed, in the case of a Swing Line Loan denominated in U.S. Dollars and (y) a year of 360 days and the actual days elapsed, in the case of a Swing Line Loan denominated in Euros) on the unpaid principal amount of such Loan from the date such Loan is advanced until the Termination Date (whether by acceleration or otherwise) at a rate per annum equal to (i) for each Swing Line Loan denominated in U.S. Dollars, the sum of (A) the Base Rate *plus* (B) the Applicable Margin for Base Rate Loans and (ii) for each Swing Line Loan denominated in Euros, the sum of (A) the ~~EURIBOR Rate (with a term equivalent to the overnight rate/same day rate or, if unavailable, the applicable Overnight Rate)~~ Overnight Swing Line Rate *plus* (B) the Applicable Margin for Eurocurrency Loans. Such interest shall be payable in arrears on the earlier to occur of (x) the date ten Business Days after such Swing Line Loan is made and (y) the Termination Date (whether by acceleration or otherwise).

(d) *SOFR Loans.* Subject to the provisions of clause (e) below, each SOFR Loan shall bear interest during each Interest Period it is outstanding (computed on the basis of a year of 360 days and actual days elapsed) on the unpaid principal amount thereof from the date such Loan is advanced, continued or created by conversion from a Base Rate Loan until the Termination Date (whether by acceleration or otherwise) at a rate per annum equal to the sum of the Applicable Margin *plus* Adjusted Term SOFR applicable for such Interest Period, payable in arrears on each Interest Payment Date and on the Termination Date (whether by acceleration or otherwise).

(e) ~~(d)~~ *Default Rate.* Any overdue principal of or interest on any Loan shall bear interest, payable on demand, for each day until paid at a rate per annum equal to 2.0% *plus* the rate otherwise applicable to such Loan as provided in this Section 2.03.

Section 2.04. Manner of Borrowing Loans and Designating Applicable Interest Rates. (a) *Notice to the Administrative Agent.* Each Borrowing of Revolving Loans, each conversion of Revolving Loans from Base Rate Loans to ~~Eurocurrency~~SOFR Loans and ~~Eurocurrency~~SOFR Loans to Base Rate Loans, and each continuation of SOFR Loans or Eurocurrency Loans shall be made upon the Borrower's irrevocable written notice to the Administrative Agent, which may be given (x) in the case of any such Borrowing, by a Notice of Borrowing or (y) in the case of any such conversion or continuation, by a Notice of Continuation/Conversion. Each such Notice of Borrowing or Notice of Continuation/Conversion, as applicable, must be received by the Administrative Agent by no later than 12:00 noon: (i) at least four Business Days before the date on which the Borrower requests the Lenders to advance a Borrowing of or continuation of Eurocurrency Loans ~~denominated in Euros~~, (ii) at least three U.S. Government Securities Business Days before the date on which the Borrower requests the Lenders to advance a Borrowing of, conversion to or continuation of ~~Eurocurrency~~SOFR Loans ~~denominated in U.S. Dollars~~ and (iii) on the date the Borrower requests the Lenders to advance a Borrowing of or conversion to Base Rate Loans. The Loans included in each Borrowing shall bear interest initially at the type of rate specified in such notice. All notices concerning the advance, continuation or conversion of a Borrowing shall specify the date of the requested advance, continuation or conversion of a Borrowing (which shall be a Business Day), the amount of the requested Borrowing to be advanced, which existing Revolving Loans are to be continued or converted, the type of Loans to comprise such new, continued or converted Borrowing and, if such Borrowing is to be comprised of SOFR Loans or Eurocurrency Loans, the ~~currency and~~ Interest Period applicable thereto. Each Borrower agrees that the Administrative Agent may rely on any notice given by any Person the Administrative Agent in good faith believes is an Authorized Representative of such Borrower without the necessity of independent investigation (the Company hereby indemnifying the Administrative Agent from any liability or loss ensuing from such reliance).

(b) *Notice to the Lenders.* The Administrative Agent shall give prompt notice to each Lender of any notice from the Borrower received pursuant to Section 2.04(a) above and, if such notice requests such Lenders to make SOFR Loans or Eurocurrency Loans, the Administrative Agent shall give notice to the Borrower and each such Lender of the interest rate applicable thereto promptly after the Administrative Agent has made such determination in accordance with the provisions of this Agreement and, if any such Borrowing is denominated in Euros, shall give notice by such means to the Borrower and such Lender of the initial U.S. Dollar Equivalent thereof.

(c) *Borrower's Failure to Notify; Automatic Continuations and Conversions; Defaults.* Except as otherwise provided herein, a SOFR Loan or Eurocurrency Loan may be continued or converted only on the last day of an Interest Period for such SOFR Loan or Eurocurrency Loan. If the Borrower fails to give proper notice of the continuation or conversion of any outstanding Borrowing of ~~Eurocurrency~~SOFR Loans ~~denominated in U.S. Dollars~~ before the last day of its then current Interest Period within the period required by Section 2.04(a) or, whether or not such notice has been given, an Event of Default has occurred and is continuing and the Administrative Agent at the request of the Required Lenders notifies the Borrower such conversions shall not be permitted, and such Borrowing is not prepaid in accordance with Section 2.07, such Borrowing shall automatically be converted into a Borrowing of Base Rate Loans. If the Borrower fails to give proper notice of the continuation of any outstanding Borrowing of Eurocurrency Loans ~~denominated in Euros~~ before the last day of its then current Interest Period within the period required by Section 2.04(a) and has not notified the Administrative Agent within the period required by Section 2.07 that it intends to prepay such Borrowing, such Borrowing shall automatically be continued as a Borrowing of Eurocurrency Loans ~~in Euros~~ with an Interest Period of one month.

(d) *Disbursement of Loans.* Not later than 2:00 p.m. on the date of any requested advance of a new Borrowing, subject to Article 3 hereof, each Lender shall make available its Loan comprising part of such Borrowing in Same Day Funds at the Administrative Agent's Office, except that if such Borrowing is denominated in Euros each Lender shall, subject to Article 3 hereof, make available its Loan comprising part of such Borrowing at such account with such financial institution as the Administrative Agent has previously specified in a notice to each such Lender, in Same Day Funds and no later than 12:00 noon London time on the date requested for such Borrowing. The Administrative Agent shall make the proceeds of each new Borrowing available to the Borrower at such account with such financial institution as the Administrative Agent has previously agreed to with the Borrower in the type of funds received by the Administrative Agent from the Lenders.

(e) *Funding by Lenders; Presumption by Administrative Agent.* Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Revolving Loans (or, in the case of any Borrowing of Base Rate Loans, prior to 2:00 p.m. on the date of such Borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with this Section 2.04 (or, in the case of a Borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by 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 Borrowing available to the Administrative Agent, then such Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in Same Day Funds 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 (1) in the case of a payment to be made by such Lender, the Overnight Rate, *plus* any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing, and (2) in the case of a payment to be made by the Borrower, the interest rate applicable to such Loan. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent. A notice of the Administrative Agent to any Lender with respect to any amount owing under this subsection (e) shall be conclusive, absent manifest error.

(f) *Obligations of Lenders Several.* The obligations of the Lenders hereunder to make Revolving Loans, to fund participations in Letters of Credit and Swing Line Loans and to make payments pursuant to Section 9.12(b) are several and not joint. The failure of any Lender to make any Loan, to fund any such participation or to make any payment under Section 9.12(b) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan, to purchase its participation or to make its payment under Section 9.12(b).

Section 2.05. Minimum Borrowing Amounts; Maximum SOFR Loans and Eurocurrency Loans. Each Borrowing of Revolving Loans denominated in U.S. Dollars shall be in an amount not less than U.S. \$5,000,000 or a larger multiple of U.S. \$1,000,000. Each Borrowing of Revolving Loans denominated in Euros shall be in an amount not less than €5,000,000 or a larger multiple of €1,000,000. Without the Administrative Agent's consent, there shall not be more than twelve (12) Borrowings of SOFR Loans and Eurocurrency Loans outstanding hereunder at any one time.

Section 2.06. Repayment of Loans. (a) The Borrowers shall repay to the Lenders on the Termination Date the aggregate principal amount of Revolving Loans, together with interest thereon, outstanding on such date.

(b) The Borrower shall repay each Swing Line Loan, together with interest thereon, on the earlier to occur of (i) the date ten Business Days after such Swing Line Loan is made and (ii) the Termination Date.

Section 2.07. ~~Prepayments~~Prepayments. (a) *Voluntary.* The Borrowers may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay the Revolving Loans in whole or in part without premium or penalty (except as set forth in Section 7.01); *provided* that (i) such notice must be in a form reasonably acceptable to the Administrative Agent and be received by the Administrative Agent no later than 11:00 a.m. (x) three Business Days prior to any date of prepayment of ~~Eurocurrency~~SOFR Loans ~~denominated in U.S. Dollars~~, (y) four Business Days prior to any date of prepayment of Eurocurrency Loans ~~denominated in Euros~~, or (z) on the date of prepayment of Base Rate Loans (or, in each case, such shorter period of time then agreed to by the Administrative Agent), (ii) any prepayment of Revolving Loans denominated in U.S. Dollars shall be in a principal amount not less than U.S. \$5,000,000, and (iii) any prepayment of Revolving Loans denominated in Euros shall be in a principal amount not less than €5,000,000 or, in each case, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment and the Loans to be prepaid. Any prepayment shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 7.01.

The Borrower may, upon notice to the Swing Line Lender (with a copy to the Administrative Agent), at any time or from time to time, voluntarily prepay Swing Line Loans in whole or in part without premium or penalty; *provided* that (i) such notice must be received by the Swing Line Lender and the Administrative Agent not later than 1:00 p.m., in the case of any Swing Line Loans denominated in U.S. Dollars, and not later than the Applicable Time specified by the Administrative Agent in the case of any Swing Line Loan denominated in Euros, on the date of the prepayment and (ii) any such prepayment shall be in a minimum U.S. Dollar Equivalent of U.S. \$100,000. Each such notice shall specify the date and amount of such prepayment.

If notice of prepayment is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein.

(b) *Mandatory.* (i) The Borrowers shall, on each date the Commitments are reduced pursuant to Section 2.10, prepay the Revolving Loans and Swing Line Loans and, if necessary, Cash Collateralize the L/C Obligations by the amount, if any, necessary to reduce the Total Outstandings to the amount to which the Total Commitments have been so reduced.

(ii) If at any time the Total Outstandings shall be in excess of the Total Commitments then in effect, the Borrowers shall, within four Business Days of the date of receipt of notice thereof from the Administrative Agent at the request of any Lender, pay the amount of such excess to the Administrative Agent for the account of the Lenders, with each such prepayment first to be applied to the Swing Line Loans then outstanding until payment in full thereof, with any remaining balance to be applied to the Revolving Loans then outstanding until payment in full thereof, with any remaining balance to be held by the Administrative Agent as Cash Collateral for the L/C Obligations, *provided* that if the U.S. Dollar Equivalent of amounts of Credit Extensions denominated in Euros has increased as a result of fluctuations in the exchange rate applicable to Euros such that the Total Outstandings exceed the Total Commitments as then in effect, then the Borrower shall not be obligated to make a prepayment under this clause (ii) unless the amount of Total Outstandings is 105% or more of the Total Commitments (but any such required prepayment shall be in the full amount of any such excess over 100% of the Total Commitments).

(iii) Unless the Borrowers otherwise direct, prepayments of Revolving Loans under this Section 2.07(b) in U.S. Dollars shall be applied first to Borrowings of Base Rate Loans until payment in full thereof with any balance applied to Borrowings of ~~Eurocurrency~~SOFR Loans ~~denominated in U.S. Dollars~~ in the order in which their Interest Periods expire and prepayments made in Euros under this Section 2.07(b) shall be applied to Borrowings in Euros in the order in which their Interest Periods expire. Each prepayment of Loans under this Section 2.07(b) shall be made by the payment of the principal amount to be prepaid and accrued interest thereon to the date of prepayment together with any amounts due the Lenders under Section 7.01 hereof. Cash Collateralization of L/C Obligations shall be made in accordance with Section 2.02(f) hereof. The Administrative Agent will promptly advise each Lender of any notice of prepayment it receives from the Borrowers.

Section 2.08. ~~Payments~~Payments. (a) *Place of Payments.* All payments to be made by any Borrower shall be made free and clear of and without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by any Borrower hereunder and the other Loan Documents, shall be made by such Borrower to the Administrative Agent by no later than 2:00 p.m. on the due date thereof at the Administrative Agent's Office (or such other location as the Administrative Agent may designate to such Borrower) or, if such payment is to be made in Euros, no later than 12:00 noon, London time, at such account with such financial institution as the Administrative Agent has previously specified in a notice to such Borrower for the benefit of the Lender or Lenders entitled thereto. Any payments received after such time shall be deemed to have been received by the Administrative Agent on the next Business Day. All such payments shall be made in Same Day Funds at the place of payment. The Administrative Agent will promptly thereafter cause to be distributed like funds relating to the payment of principal or interest on Loans ratably to the applicable Lenders and like funds relating to the payment of any other amount payable to any Lender to such Lender, in each case to be applied in accordance with the terms of this Agreement.

(b) *Funding by Borrower.* Unless the Administrative Agent shall have received notice from a Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or any L/C Issuer hereunder that such Borrower will not make such payment, the Administrative Agent may assume that such Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or such L/C Issuer, 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 such L/C Issuer, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or such L/C Issuer, in Same Day Funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the Overnight Rate. A notice given by the Administrative Agent with respect to any amount owing under this Section 2.08 shall be conclusive, absent manifest error.

(c) *Application of Payments.* Anything contained herein to the contrary notwithstanding, (x) pursuant to the exercise of remedies under Sections Section 6.02 and Section 6.03 hereof or (y) after written instruction by the Required Lenders after the occurrence and during the continuation of an Event of Default, all payments and collections received in respect of the Obligations by the Administrative Agent or any of the Lenders shall be remitted to the Administrative Agent and distributed as follows:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent) due and payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest and Letter of Credit Fees) due and payable to the Lenders and the L/C Issuers (including fees, charges and disbursements of counsel to the respective Lenders and the L/C Issuers (including fees and time charges for attorneys who may be employees of any Lender or L/C Issuer)) and amounts payable under Section 7.04, ratably among them in proportion to the respective amounts described in this clause *Second* payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit Fees and interest on the Loans, L/C Borrowings and other Obligations, ratably among the Lenders and the L/C Issuers in proportion to the respective amounts described in this clause *Third* payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans and L/C Borrowings, ratably among the Lenders and the L/C Issuers in proportion to the respective amounts described in this clause *Fourth* held by them;

Fifth, to the Administrative Agent for the ratable accounts of the L/C Issuers, to Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Company or as otherwise required by Law.

Amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause *Fifth* above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above.

(d) Notwithstanding any other provision of this Agreement, the Co-Borrower shall be solely liable in respect of Credit Extensions made to, or on behalf of, the Co-Borrower, together with all interest, costs, fees, expenses, taxes, and indemnities related to such Credit Extensions, and shall not be liable, jointly with the Company or otherwise, in respect of any Credit Extensions made to, or on behalf of, the Company, or any interest, costs, fees, expenses, taxes, and indemnities related to such Credit Extensions.

Section 2.09. Extension of Termination Date. (a) So long as no Event of Default has occurred and is continuing, the Company may request at any time and from time to time, in a notice substantially in the form attached hereto as Exhibit E or in such other form as shall be acceptable to the Administrative Agent (an “**Termination Date Extension Request**”) provided to the Administrative Agent, who shall promptly forward such notice to each of the Lenders, that the then-applicable Termination Date (the “**Existing Termination Date**”) be extended to the date that is one year after such Existing Termination Date (each such date, a “**Requested Termination Date**”); *provided* that (i) the Company may request such an extension no more than two times after the Closing Date and (ii) any Requested Termination Date shall not be later than the date that is five years after the proposed Extension Effectiveness Date. Each Lender, acting in its sole discretion, shall, not later than a date 20 days after its receipt of any Termination Date Extension Request, notify the Company and the Administrative Agent in writing of its election to extend or not to extend the Existing Termination Date with respect to its Commitment. Any Lender which shall not timely notify the Company and the Administrative Agent of its election to extend the Existing Termination Date shall be deemed not to have elected to extend the Existing Termination Date with respect to its Commitment (any Lender who timely notifies the Company and the Administrative Agent of an election not to extend or fails to timely notify the Company and the Administrative Agent of its election being referred to as a “**Terminating Lender**”). No Lender shall have any obligation to extend the Existing Termination Date without such Lender’s written consent, which may be withheld in such Lender’s sole discretion.

(b) If and only if the Required Lenders shall have agreed in writing during the 20 day period referred to in Section 2.09(a) to extend the Existing Termination Date, then (i) the Commitments of the Lenders other than Terminating Lenders (the “**Continuing Lenders**”) shall, subject to the other provisions of this Agreement, be extended to the Requested Termination Date specified in the Termination Date Extension Request from the Company, and as to such Lenders the term “Termination Date”, as used herein, shall on and after the date as of which the requested extension is effective mean such Requested Termination Date, *provided* that if such date is not a Business Day, then such Requested Termination Date shall be the next preceding Business Day and (ii) the Commitments of the Terminating Lenders shall continue until the then-applicable Existing Termination Date, and shall then terminate, and as to the Terminating Lenders, the term “Termination Date”, as used herein, shall continue to mean such Existing Termination Date. Upon the effectiveness of any extension of the Existing Termination Date pursuant to this Section 2.09, the Administrative Agent shall promptly notify (A) the Lenders and the Borrowers of such extension and (B) the Company and the Lenders of any Lender which becomes a Terminating Lender (the date as of which any such extension becomes effective being referred to herein as an “**Extension Effectiveness Date**”).

(c) As a condition precedent to any such extension of the Termination Date on any Extension Effectiveness Date, the Administrative Agent shall have received a certificate of the Company dated as of such Extension Effectiveness Date and signed by a Responsible Officer of the Company (i) certifying and attaching the resolutions adopted by the Company approving or consenting to such extension, and (ii) certifying that the conditions set forth in Section 3.02(a) and (b) shall be satisfied (with all references in such subsections to a Credit Extension being deemed to be references to such extension).

(d) In the event that the Termination Date shall have been extended for the Continuing Lenders in accordance with Section 2.09(a) above and, in connection with such extension, there are Terminating Lenders, the Company may, at its own expense and in its sole discretion and prior to the then-applicable Existing Termination Date, require any Terminating Lender to transfer and assign, without recourse (in accordance with Section 9.08) all or part of its interests, rights and obligations under this Agreement to an assignee (which assignee may be another Lender, if another Lender accepts such assignment) that shall assume such assigned obligations and that shall agree that its Commitment will expire on the Termination Date in effect for Continuing Lenders pursuant to Section 2.09(a); *provided, however*, that (i) the Company shall have received the prior written consent (which consents shall not unreasonably be withheld or delayed) of each L/C Issuer and the Swing Line Lender and, in the case of an assignee that is not a Lender, of the Administrative Agent, (ii) the assigning Lender shall have received from the Company, the Co-Borrower or such assignee full payment in immediately available funds of the principal of and interest accrued to the date of such payment on the Loans made by it hereunder to the extent that such Loans are subject to such assignment and all other amounts owed to it hereunder, and (iii) if the assigning Lender is an L/C Issuer, it shall have received cash collateral as required by Section 2.09(e) or it shall have entered into other arrangements with the Company that are satisfactory to such L/C Issuer with respect to any outstanding Letters of Credit issued by it. Any such assignee’s initial Termination Date shall be the Termination Date in effect for the Continuing Lenders at the time of such assignment. Any assignee which becomes a Lender as a result of such an assignment made pursuant to this Section 2.09(d) shall be deemed to have consented to the applicable Termination Date Extension Request and, therefore, shall not be a Terminating Lender.

(e) On the Existing Termination Date, each Borrower shall repay in full all Revolving Loans owed by it to any Terminating Lender, together with accrued interest and all other amounts then due and owing thereon.

(f) In the event that any L/C Issuer is a Terminating Lender, the provisions of Section 2.02(g) shall apply with respect to such L/C Issuer as if the Existing Termination Date were the Termination Date.

(g) Each Continuing Lender shall automatically (without any further action) and ratably acquire, on the Existing Termination Date, each Terminating Lender’s participations in Letters of Credit and Swing Line Loans, in an amount equal to such Continuing Lender’s Percentage of the amount of such participations, but only to the extent that such acquisition does not cause, with respect to any Continuing Lender, the aggregate unpaid principal amount of all Revolving Loans of such Lender, *plus* such Lender’s Percentage of the L/C Obligations then outstanding, *plus* such Lender’s Percentage of the aggregate principal amount of all Swing Line Loans then outstanding, to exceed such Continuing Lender’s Commitments as in effect at such time.

(h) If the acquisition of the Terminating Lender's participations in Letters of Credit and Swing Line Loans described in the preceding clause (g) cannot, or can only partially, be effected, the Borrower shall prepay Swing Line Loans and, if necessary, Cash Collateralize the L/C Obligations by the amount, if any, necessary to reduce the Total Outstandings to the amount to which the Total Commitments are reduced on the Existing Termination Date. The amount of Cash Collateral provided by the Borrower in accordance with this clause (h) shall reduce the Terminating Lenders' Percentage of the outstanding amount of L/C Obligations (after giving effect to any partial acquisition pursuant to the preceding clause (g)) on a pro rata basis; and on the Existing Termination Date, each Terminating Lender's Commitment to make Revolving Loans, purchase participations in Swing Line Loans, and purchase participations in L/C Obligations with respect to Letters of Credit issued after its Existing Termination Date shall terminate.

(i) Notwithstanding the foregoing, any extension of any Termination Date pursuant to this Section 2.09 and any release of a Terminating Lender's obligations in respect of outstanding L/C Obligations and Swing Line Loans shall not be effective with respect to any Lender unless:

(i) the Borrowers shall have made all payments required pursuant to clause (e) of this Section 2.09 and Section 2.07(b);

(ii) the Administrative Agent shall have received any Cash Collateral required to be paid by the Borrowers pursuant to Section 2.02(g) and Section 2.07(b); and

(iii) each L/C Issuer shall have received such cash collateral as is required to be paid by the Company pursuant to clause (f) of this Section 2.09 or shall have entered into other satisfactory arrangements with the Company with respect to any outstanding Letters of Credit issued by such L/C Issuer.

Section 2.10. Termination or Reduction of Commitments. The Company shall have the right at any time and from time to time, upon three Business Days prior written notice to the Administrative Agent (or such shorter period of time agreed to by the Administrative Agent), to terminate the Total Commitments in whole or in part, any partial termination to be (i) in an amount equal to U.S. \$5,000,000 or a larger multiple of U.S. \$1,000,000 and (ii) allocated ratably among the Lenders in proportion to their respective Percentages, *provided* that the Total Commitments may not be reduced to an amount less than the Total Outstandings after giving effect to any prepayment of the Loans made on the effective date of such reduction. The Administrative Agent shall give prompt notice to each Lender of any such termination of the Total Commitments. Any full or partial termination of the Total Commitments pursuant to this Section 2.10 may not be reinstated.

Section 2.11. *Swing Line Loans*.

(a) *The Swing Line.* Subject to the terms and conditions set forth herein, the applicable Swing Line Lender agrees in reliance upon the agreements of the Lenders set forth in this Section 2.11, to make loans in U.S. Dollars or in Euros (each such loan, a “**Swing Line Loan**” and collectively, the “**Swing Line Loans**”) to the Borrowers from time to time on any Business Day from the Closing Date until the Termination Date in an aggregate amount not to exceed at any time outstanding the amount of the applicable Swing Line Sublimit, notwithstanding the fact that such Swing Line Loans, when aggregated with the Percentage of the Outstanding Amount of all Revolving Loans and L/C Obligations of the Swing Line Lender, may exceed the amount of such Swing Line Lender’s Commitment; *provided, however*, that after giving effect to any Swing Line Loan, (i) the Total Outstandings shall not exceed the Total Commitments then in effect, (ii) the aggregate Outstanding Amount of Revolving Loans of any Lender (other than the Swing Line Lender), *plus* such Lender’s Percentage of the aggregate Outstanding Amount of L/C Obligations, *plus* such Lender’s Percentage of the aggregate Outstanding Amount of Swing Line Loans shall not exceed such Lender’s Commitment and (iii) the aggregate Outstanding Amount of Swing Line Loans shall not exceed the applicable Swing Line Sublimit; *provided, further*, that the Borrower shall not use the proceeds of any Swing Line Loan to refinance any outstanding Swing Line Loan. Within the foregoing limits, and subject to the other terms and conditions hereof, the Borrowers may borrow under this Section 2.11, prepay under Section 2.07, and reborrow under this Section 2.11. Immediately upon the making of a Swing Line Loan, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swing Line Lender a risk participation in such Swing Line Loan in an amount equal to the product of such Lender’s Percentage times the amount of such Swing Line Loan.

(b) *Borrowing Procedures.* Each Borrowing of Swing Line Loans shall be made upon the Borrower’s irrevocable notice to the applicable Swing Line Lender and the Administrative Agent. Each such notice must be received by the Swing Line Lender and the Administrative Agent not later than 2:00 p.m. in the case of any Swing Line Loans denominated in U.S. Dollars, and not later than 12:00 noon London time, in the case of any Swing Line Loan denominated in Euros, on the requested borrowing date, and shall specify (i) the amount to be borrowed, which shall be a minimum of the U.S. Dollar Equivalent of U.S. \$250,000 or such greater amount that is an integral multiple of the U.S. Dollar Equivalent of U.S. \$100,000, (ii) the currency of the Swing Line Loan to be borrowed and (iii) the requested borrowing date, which shall be a Business Day. Each such written notice must be in the form of a Swing Line Loan Notice delivered to the Swing Line Lender and the Administrative Agent, appropriately completed and signed by an Authorized Representative of the Borrower. Promptly after receipt by the Swing Line Lender of any Swing Line Loan Notice, the Swing Line Lender will confirm with the Administrative Agent that the Administrative Agent has also received such Swing Line Loan Notice and, if not, the Swing Line Lender will notify the Administrative Agent (in writing) of the contents thereof. Unless the Swing Line Lender has received notice (in writing) from the Administrative Agent (including at the request of any Lender) prior to 3:00 p.m. in the case of any Swing Line Loans denominated in U.S. Dollars, and 1:00 p.m. London time in the case of any Swing Line Loans denominated in Euros, on the date of the proposed Borrowing (1) directing the Swing Line Lender not to make such Swing Line Loan as a result of the limitations set forth in the first proviso to the first sentence of Section 2.11(a), or (2) that one or more of the applicable conditions specified in Section 3.02 is not then satisfied, then, subject to the terms and conditions hereof, the Swing Line Lender will, not later than 4:00 p.m., in the case of any Swing Line Loans denominated in U.S. Dollars, and not later than 2:00 p.m. London time in the case of any Swing Line Loan denominated in Euros, on the borrowing date specified in such Swing Line Loan Notice, make the amount of its Swing Line Loan available to the Borrower at such account with such financial institution as the Swing Line Lender, the Administrative Agent and the Borrower have previously agreed, in Same Day Funds.

(c) *Refinancing of Swing Line Loans.*

(i) The Swing Line Lender (x) at any time in its sole and absolute discretion may, and (y) if any Swing Line Loan remains outstanding after 10 Business Days shall, request, on behalf of the Borrower (which hereby irrevocably authorizes the Swing Line Lender to so request on its behalf), that each Lender make a Base Rate Loan in an amount equal to such Lender's Percentage of the U.S. Dollar Equivalent of, in the case of clause (x), all Swing Line Loans then outstanding and, in the case of clause (y), the related Swing Line Loan. Such request shall be made in a written notice in accordance with the requirements of Section 2.04, without regard to the minimum and multiples specified therein for the principal amount of Base Rate Loans, but subject to the unutilized portion of the Total Commitments and the conditions set forth in Section 3.02. The Swing Line Lender shall furnish the Borrower with a copy of such notice promptly after delivering such notice to the Administrative Agent. Each Lender shall make an amount equal to its Percentage of the amount specified in such notice available to the Administrative Agent in Same Day Funds for the account of the Swing Line Lender at the Administrative Agent's Office not later than 2:00 p.m. on the day specified in such notice, whereupon, subject to Section 2.11(c)(ii), each Lender that so makes funds available shall be deemed to have made a Revolving Loan to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the Swing Line Lender.

(ii) If for any reason any Swing Line Loan cannot be refinanced by such a Borrowing in accordance with Section 2.11(c)(i), the request for Base Rate Loans submitted by the Swing Line Lender as set forth herein shall be deemed to be a request by the Swing Line Lender that each of the Lenders fund its risk participation in the relevant Swing Line Loan and each such Lender's payment to the Administrative Agent for the account of the Swing Line Lender pursuant to Section 2.11(c)(i) shall be deemed payment in respect of such participation.

(iii) If any Lender fails to make available to the Administrative Agent for the account of the Swing Line Lender any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.11(c) by the time specified in Section 2.11(c)(i), the Swing Line Lender shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Swing Line Lender at a rate per annum equal to the applicable Overnight Rate from time to time in effect, *plus* any administrative, processing or similar fees customarily charged by the Swing Line Lender in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Revolving Loan included in the relevant Borrowing or funded participation in the relevant Swing Line Loan, as the case may be. A certificate of the Swing Line Lender submitted to any Lender (through the Administrative Agent) with respect to any amounts owing under this clause (iii) shall be conclusive absent manifest error.

(iv) Each Lender's obligation to make Revolving Loans or to purchase and fund risk participations in Swing Line Loans pursuant to this Section 2.11(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (1) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the Swing Line Lender, the Company, the Co-Borrower, any Subsidiary or any other Person for any reason whatsoever, (2) the occurrence or continuance of a Default, or (3) any other occurrence, event or condition, whether or not similar to any of the foregoing; *provided, however*, that each Lender's obligation to make Revolving Loans (as opposed to funding risk participations) pursuant to this Section 2.11(c) is subject to the conditions set forth in Section 3.02. No such funding of risk participations shall relieve or otherwise impair the obligation of the Borrower to repay Swing Line Loans, together with interest as provided herein.

(d) *Repayment of Participations.*

(i) At any time after any Lender has purchased and funded a risk participation in a Swing Line Loan, if the Swing Line Lender receives any payment on account of such Swing Line Loan, the Swing Line Lender will distribute to such Lender its Percentage thereof in the same funds as those received by the Swing Line Lender.

(ii) If any payment received by the Swing Line Lender in respect of principal or interest on any Swing Line Loan is required to be returned by the Swing Line Lender under any of the circumstances described in Section 9.14 (including pursuant to any settlement entered into by the Swing Line Lender in its discretion), each Lender shall pay to the Swing Line Lender its Percentage thereof on demand of the Administrative Agent, *plus* interest thereon from the date of such demand to the date such amount is returned, at a rate per annum equal to the applicable Overnight Rate. The Administrative Agent will make such demand upon the request of the Swing Line Lender. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) *Interest for Account of Swing Line Lender.* The Swing Line Lender shall be responsible for invoicing the Borrower for interest on the Swing Line Loans. Until each Lender funds its Base Rate Loan or risk participation pursuant to this Section 2.11 to refinance such Lender's Percentage of any Swing Line Loan, interest in respect of such Percentage shall be solely for the account of the Swing Line Lender.

(f) *Payments Directly to Swing Line Lender.* The Borrower shall make all payments of principal and interest in respect of the Swing Line Loans directly to the Swing Line Lender.

Section 2.12. Evidence of Indebtedness. (a) The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and by the Administrative Agent in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrowers and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of any Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Note, which shall evidence such Lender's Loans to such Borrower in addition to such accounts or records. Each Lender may attach schedules to such Note and endorse thereon the date, type (if applicable), amount and maturity of such Loans and payments with respect thereto.

(b) In addition to the accounts and records referred to in Section 2.12(a), each Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Lender of participations in Letters of Credit and Swing Line Loans. In the event of any conflict between the accounts and records maintained by the Administrative Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

Section 2.13. ~~Fees~~Fees. (a) *Commitment Fee.* The Company shall pay to the Administrative Agent, for the ratable account of the Lenders according to their Percentages, a commitment fee at the rate per annum equal to the Applicable Margin on the actual daily Unused Commitments (the “**Commitment Fee**”). Such Commitment Fee shall be payable quarterly in arrears on the first Business Day following the last day of each March, June, September, and December in each year (commencing on the first such date occurring after the date hereof) and on the Termination Date, unless the Total Commitments are terminated in whole on an earlier date, in which event the Commitment Fee for the period to the date of such termination in whole shall be paid on the date of such termination.

(b) *Letter of Credit Fees.* The Company shall pay to the Administrative Agent, for the account of each Lender in accordance with its Percentage, a Letter of Credit fee (the “**Letter of Credit Fee**”) for each Letter of Credit at a rate per annum equal to the Applicable Margin then in effect for SOFR Loans and Eurocurrency Loans applied to the U.S. Dollar Equivalent of the daily amount available to be drawn under such Letter of Credit; *provided, however*, any Letter of Credit Fees otherwise payable for the account of a Defaulting Lender with respect to any Letter of Credit as to which such Defaulting Lender has not provided Cash Collateral satisfactory to the L/C Issuer shall be payable, to the maximum extent permitted by applicable Law, to the other Lenders in accordance with the upward adjustments in their respective Percentages allocable to such Letter of Credit pursuant to Section 2.14(a) (iv), with the balance of such fee, if any, payable to the L/C Issuer for its own account. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.04. Letter of Credit Fees shall be (i) due and payable quarterly in arrears on the first Business Day following the last day of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Termination Date, on the Letter of Credit Expiration Date (or, if earlier, the latest expiry date of any Letter of Credit issued hereunder) and thereafter on demand and (ii) computed on a quarterly basis in arrears. If there is any change in the Applicable Margin during any quarter, the daily amount available to be drawn under each Letter of Credit shall be computed and multiplied by the Applicable Margin separately for each period during such quarter that such Applicable Margin was in effect.

(c) *Fronting Fee and Documentary and Processing Charges Payable to L/C Issuer.* The Company shall pay directly to the L/C Issuer for its own account a fronting fee with respect to each Letter of Credit, at the rate of 0.125% per annum computed on the U.S. Dollar Equivalent of the daily amount available to be drawn under such Letter of Credit on a quarterly basis in arrears. Such fronting fee shall be due and payable quarterly in arrears on the first Business Day following the last day of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Termination Date, on the Letter of Credit Expiration Date (or, if earlier, the latest expiry date of any Letter of Credit issued hereunder) and thereafter on demand. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.04. In addition, the Company shall pay directly to each L/C Issuer for its own account the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of such L/C Issuer relating to letters of credit as from time to time in effect with respect to Letters of Credit issued by such L/C Issuer hereunder. Such customary fees and standard costs and charges are due and payable within 10 Business Days after demand and are nonrefundable.

(d) *Basis of Computation.* All fees payable pursuant to this Section 2.13 shall be computed on the basis of a year of 360 days and the actual number of days elapsed.

Section 2.14. ~~Defaulting Lenders~~.

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

(i) *Waivers and Amendments.* That Defaulting Lender’s right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in Section 9.10.

(ii) *Reallocation of Payments.* Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of that Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to ARTICLE 6 or otherwise, and including any amounts made available to the Administrative Agent by that Defaulting Lender pursuant to Section 9.13), shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by that Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by that Defaulting Lender to any L/C Issuer or Swing Line Lender hereunder; *third*, if so determined by the Administrative Agent or requested by any L/C Issuer or Swing Line Lender, to be held as Cash Collateral for future funding obligations of that Defaulting Lender with respect to any participation in any Swing Line Loan or Letter of Credit; *fourth*, as the Company may request (so long as no Default exists), to the funding of any Loan in respect of which that Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Company, to be held in a non-interest bearing deposit account and released in order to satisfy obligations of that Defaulting Lender to fund Loans under this Agreement; *sixth*, to the payment of any amounts owing to the Lenders, any L/C Issuer or Swing Line Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, L/C Issuer or Swing Line Lender against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default exists, to the payment of any amounts owing to the Company as a result of any judgment of a court of competent jurisdiction obtained by the Company against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to that Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *provided* that if (x) such payment is a payment of the principal amount of any Loans or L/C Borrowings in respect of which that Defaulting Lender was obligated to but has not fully funded its appropriate share and (y) such Loans or L/C Borrowings were made at a time when the conditions set forth in Section 3.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Borrowings owed to, all non-Defaulting Lenders participating therein on a pro rata basis prior to being applied to the payment of any Loans of, or L/C Borrowings owed to, that Defaulting Lender. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.14(a)(ii) shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) *Certain Fees.* That Defaulting Lender (x) shall not be entitled to receive any Commitment Fee pursuant to Section 2.13 for any period during which that Lender is a Defaulting Lender (and the Company shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender) and (y) shall be limited in its right to receive Letter of Credit Fees as provided in Section 2.13(b).

(iv) *Reallocation of Applicable Percentages to Reduce Fronting Exposure.* During any period in which there is a Defaulting Lender, for purposes of computing the amount of the obligation of each non-Defaulting Lender to acquire, refinance or fund participations in Letters of Credit or Swing Line Loans pursuant to Sections Section 2.02 and Section 2.11, the "**Percentage**" of each non-Defaulting Lender shall be computed without giving effect to the Commitment of that Defaulting Lender; *provided*, that, (i) each such reallocation shall be given effect only if, at the date the applicable Lender becomes a Defaulting Lender, no Default exists; (ii) the aggregate obligation of each non-Defaulting Lender to acquire, refinance or fund participations in Letters of Credit and Swing Line Loans shall not exceed the positive difference, if any, of (1) the Commitment of that non-Defaulting Lender *minus* (2) the aggregate Outstanding Amount of the Revolving Loans of that Lender and (iii) after giving effect thereto, the aggregate Outstanding Amount of the Revolving Loans of any Lender, *plus* such Lender's Percentage of the Outstanding Amount of all L/C Obligations, *plus* such Lender's Percentage of the Outstanding Amount of all Swing Line Loans shall not exceed such Lender's Commitment.

(b) *Defaulting Lender Cure.* If the Company, the Administrative Agent and the L/C Issuers agree in writing in their sole discretion that a Defaulting Lender should no longer be deemed to be a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Revolving Loans and funded and unfunded participations in Letters of Credit and Swing Line Loans to be held on a pro rata basis by the Lenders in accordance with their applicable Percentages (without giving effect to Section 2.14(a)(iv)), whereupon that Lender will cease to be a Defaulting Lender; *provided* that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Company while that Lender was a Defaulting Lender; and *provided, further*, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

Section 2.15. Sustainability Adjustments~~-.~~

(a) *ESG Amendment.* After the Closing Date, the Company, in consultation with the Co-Sustainability Agents, shall be entitled to establish specified key performance indicators (“**KPIs**”) with respect to certain environmental, social and governance (“**ESG**”) targets of the Company and its Subsidiaries with such KPIs and ESG targets being reasonably aligned with the Sustainability Linked Loan Principles. The Co-Sustainability Agents and the Company may amend this Agreement (such amendment, the “**ESG Amendment**”), solely for the purpose of incorporating the KPIs and other related provisions (the “**ESG Pricing Provisions**”) into this Agreement, with the consent of the Administrative Agent, the Borrower and Lenders constituting the Required Lenders. In the event that Required Lenders do not consent to any such ESG Amendment, an alternative ESG Amendment may be proposed and effectuated, subject to the consents required pursuant to the immediately preceding sentence. Upon the effectiveness of any such ESG Amendment, based on the Company's performance against the KPIs, certain adjustments (increase, decrease or no adjustment) to the otherwise applicable Commitment Fee, Applicable Margin for SOFR Loans, Eurocurrency Loans and Letter of Credit Fee, and Applicable Margin for Base Rate Loans and L/C Borrowings will be made; *provided* that the amount of such adjustments shall not exceed (i) in the case of the Commitment Fee, an increase and/or decrease of 0.01% and (ii) in the case of the Applicable Margin for SOFR Loans, Eurocurrency Loans and Letter of Credit Fee and Applicable Margin for Base Rate Loans and L/C Borrowings, an increase and/or decrease of 0.05%, and the adjustments to the Applicable Margin for Base Rate Loans and L/C Borrowings shall be the same amount, in basis points, as the adjustments to the Applicable Margin for SOFR Loans, Eurocurrency Loans and Letter of Credit Fee; *provided* that in no event shall the Applicable Margin for Base Rate Loans and L/C Borrowings be less than zero. The pricing adjustments pursuant to the KPIs will require, among other things, reporting and validation of the measurement of the KPIs in a manner that is aligned with the Sustainability Linked Loan Principles and is to be agreed between the Company and the Co-Sustainability Agents (all acting reasonably). The ESG Amendment will not impose any requirement on any Co-Sustainability Agent to assess, monitor, report and/or validate the KPIs. Following the effectiveness of the ESG Amendment:

(i) any modification to the ESG Pricing Provisions which has the effect of increasing or reducing the Commitment Fee, Applicable Margin for SOFR Loans, Eurocurrency Loans and Letter of Credit Fee and Applicable Margin for Base Rate Loans and L/C Borrowings to a level not otherwise permitted by this Section 2.15(a) shall be subject to the consent of all Lenders; and

(ii) any other modification to the ESG Pricing Provisions (other than as provided for in Section 2.15(a)(i) above) shall be subject only to the consent of the Required Lenders.

(b) *Co-Sustainability Agents.* The Co-Sustainability Agents will assist the Company in (i) determining the ESG Pricing Provisions in connection with any ESG Amendment and (ii) preparing informational materials focused on ESG to be used in connection with the ESG Amendment. It is understood and agreed that the use of the term “agent” herein or in any other Loan Documents (or any other similar term) with reference to any Co-Sustainability Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead such term is used as a matter of custom, and is intended to create or reflect only an administrative relationship between contracting parties.

(c) *Conflicting Provisions.* This Section shall supersede any provisions in Section 9.10 to the contrary.

ARTICLE 3 CONDITIONS PRECEDENT

Section 3.01. ~~Effectiveness~~**Effectiveness.** The effectiveness of the Commitments of the Lenders to make any Credit Extensions hereunder shall be subject to the following conditions precedent:

(a) the Administrative Agent shall have received the following, each dated the Closing Date (or, in the case of certificates of governmental officials, a recent date before the Closing Date) and each in form and substance reasonably satisfactory to the Administrative Agent:

(i) executed counterparts of this Agreement;

(ii) a Note duly executed by each Borrower in favor of each Lender that shall have requested a Note at least two Business Days prior to the Closing Date;

(iii) copies of each Loan Party’s articles of incorporation and bylaws (or comparable organizational documents) and any amendments thereto, certified in each instance by its Secretary, Assistant Secretary or other Responsible Officer;

(iv) copies of resolutions of each Loan Party’s Board of Directors (or similar governing body) authorizing the execution, delivery and performance of this Agreement and the other Loan Documents to which it is a party and the consummation of the transactions contemplated hereby and thereby, together with incumbency certificates and specimen signatures of the persons authorized to execute such documents on each Borrower’s behalf, all certified in each instance by its Secretary, Assistant Secretary or other Responsible Officer;

(v) copies of certificates of good standing, or the nearest equivalent in the relevant jurisdiction, for each Loan Party (dated no earlier than 45 days prior to the date hereof) from the office of the secretary of state or other appropriate governmental department or agency of the jurisdiction of its incorporation or organization and of each U.S. state in which it is qualified to do business as a foreign corporation or organization;

(vi) a certificate signed by a Responsible Officer of the Company certifying that the conditions specified in Sections Section 3.02(a) and (b) are satisfied on the Closing Date;

(vii) a list of the Authorized Representatives of each Borrower, certified by a Responsible Officer;

(viii) favorable written opinion(s) of counsel to each Loan Party in form and substance reasonably satisfactory to the Administrative Agent;

(b) the Administrative Agent shall have received evidence that the Borrowers shall have paid the fees contemplated by the Fee Letters and the expenses then required to be paid or reimbursed by the Company hereunder to the extent invoiced at least three Business Days prior to the Closing Date; and

(c) to the extent requested by it in writing to the Company not less than ten (10) Business Days prior to the Closing Date, each Lender shall have received at least two (2) days prior to the Closing Date (i) all documentation and other information required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “**Patriot Act**”), including the information described in Section 9.19, and (ii) to the extent any Borrower qualifies as a “legal entity customer” under the Beneficial Ownership Regulation, a Beneficial Ownership Certification in relation to such Borrower.

Section 3.02. All Credit Extensions. The obligation of each Lender to make any Credit Extension shall be subject to the conditions precedent that, at the time of each such Credit Extension:

(a) each of the representations and warranties set forth herein and in the other Loan Documents (other than the representations and warranties set forth in Sections Section 4.05, Section 4.06 and Section 4.18 for all Credit Extensions made after the Closing Date) shall be true and correct in all material respects (except that any representation and warranty that is qualified by materiality shall to the extent so qualified be true and correct in all respects) as of said time, except to the extent the same expressly relate to an earlier date with respect to which such representations and warranties shall be true and correct in all material respects (except that any representation and warranty that is qualified by materiality shall to the extent so qualified be true and correct in all respects) as of such earlier date;

(b) no Default shall have occurred and be continuing or would occur as a result of such Credit Extension; and

(c) (i) in the case of a Borrowing, the Administrative Agent (or the Swing Line Lender) shall have received the notice required by Section 2.04 (or Section 2.11) hereof, (ii) in the case of the issuance of any Letter of Credit, the L/C Issuer shall have received a duly completed Application together with any fees called for by Section 2.13 hereof, and (iii) in the case of an extension or increase in the amount of a Letter of Credit, a written request therefor in a form acceptable to the L/C Issuer together with fees called for by Section 2.13 hereof.

Each request for a Credit Extension shall be deemed to be a representation and warranty by the Borrower on the date of such Credit Extension as to the facts specified in subsections (a) and (b) of this Section.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES

The Company and the Co-Borrower (as to itself) represent and warrant to each Lender and the Administrative Agent that:

Section 4.01. Organization and Qualification. The Company and each of its Significant Subsidiaries (a) is duly organized, validly existing and in good standing (or, in each case, the foreign equivalent, if applicable) under the Laws of the jurisdiction of its organization, (b) has the power and authority to transact the business in which it is engaged and proposes to engage and (c) is duly qualified and in good standing (or, in each case, the foreign equivalent, if applicable) in each jurisdiction where the ownership, leasing or operation of property or the conduct of its business requires such qualification, except where the failure to be so qualified and in good standing could not reasonably be expected to have a Material Adverse Effect.

Section 4.02. Authority and Enforceability. Each Borrower has all requisite power and authority to execute and deliver this Agreement and the other Loan Documents to which it is a party, to make the borrowings herein provided for and to perform all of its obligations hereunder and under the other Loan Documents to which it is a party. The Loan Documents executed and delivered by each Loan Party have been duly authorized, executed and delivered by such Person and constitute legal, valid and binding obligations of such Person enforceable against it in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance or similar Laws affecting creditors' rights generally and general principles of equity (regardless of whether the application of such principles is considered in a proceeding in equity or at Law); and this Agreement and the other Loan Documents do not, nor does the performance or observance thereof by any Loan Party, (a) contravene or constitute a default under any provision of the organizational documents (e.g., charter, articles of incorporation or by laws, articles of association or operating agreement, partnership agreement or other similar document) of the Company or any Subsidiary, (b) contravene or constitute a default under any provision of Law or any judgment, injunction, order or decree binding upon the Company or any Subsidiary or any covenant, indenture or agreement of or affecting the Company or any Subsidiary or any of its property, in each case where such contravention or default, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect or (c) result in the creation or imposition of any Lien prohibited by this Agreement on any property of the Company or any Subsidiary.

Section 4.03. ~~Approvals~~Approvals. No authorization, consent, license or exemption from, or filing or registration with, any Governmental Authority is or will be necessary for the valid execution, delivery or performance by any Loan Party of any Loan Document, except for such approvals (a) which have been obtained prior to the Closing Date and remain in full force and effect or (b) the absence of which would not reasonably be expected to have a Material Adverse Effect.

Section 4.04. Financial Reports~~-~~.

(a) The audited consolidated financial statements of the Company and its Subsidiaries as of December 31, 2020 heretofore furnished to the Lenders fairly present, in all material respects, the consolidated financial condition of the Company and its Subsidiaries as of such date and the consolidated results of their operations and cash flows for the periods then ended in conformity with GAAP applied on a consistent basis throughout the respective periods covered thereby except as noted therein.

(b) The consolidated financial statements of the Company and its Subsidiaries as of the end of the fiscal quarters ended March 30, 2021, June 30, 2021 and September 30, 2021, in each case, fairly present, in all material respects, the consolidated financial condition of the Company and its Subsidiaries as of such dates and the consolidated results of their operations and cash flows for the periods then ended, subject to the absence of footnotes and normal year-end adjustments.

Section 4.05. No Material Adverse Change. Since December 31, 2020, there has been no event or circumstance which, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect.

Section 4.06. ~~Litigation and Other Controversies~~Litigation and Other Controversies. Except as disclosed in the Company's most recent Form 10-K or Form 10-Q filed with the SEC on or prior to the Closing Date, there is no litigation, arbitration or governmental proceeding pending or, to the knowledge of the Company threatened in writing against the Company or any of its Subsidiaries that (a) purports to adversely affect the legality, validity or enforceability of this Agreement or any other Loan Document (other than such litigation that the Administrative Agent and the Arrangers have reasonably determined to be frivolous) or (b) would reasonably be expected to have a Material Adverse Effect.

Section 4.07. True and Complete Disclosure. All information furnished by or on behalf of the Company in writing to the Administrative Agent or any Lender for purposes of or in connection with this Agreement is true and accurate in all material respects and not incomplete by omitting to state any material fact necessary to make such information (taken as a whole) not materially misleading in light of the circumstances under which such information was provided; *provided* that to the extent any such information was based upon or constitutes a forecast or projection, the Company represents only that it acted in good faith and utilized assumptions believed by it to be reasonable at the time made.

Section 4.08. Use of Proceeds; Margin Stock. (a) All proceeds of Loans shall be used by the Borrowers for working capital, capital expenditures and other lawful corporate purposes, ~~including the repayment of Indebtedness~~. No Borrower is engaged or will engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulations U issued by the Board of Governors of the Federal Reserve System) or extending credit for purposes of purchasing or carrying margin stock, and no part of the proceeds of any Loan or other extension of credit hereunder will be used by the Borrowers to purchase or carry any margin stock.

Section 4.09. Taxes~~Taxes~~. All material Tax returns required to be filed by the Company or any Subsidiary in any jurisdiction have been filed, and all Taxes which are shown to be due and payable in such returns, have been paid except to the extent that the Company or such Subsidiary is contesting the same in good faith. Adequate provisions in accordance with GAAP for Taxes on the books of the Company and its Subsidiaries have been made for all open years, and for the current fiscal period.

Section 4.10. ERISA~~ERISA~~. Each member of the Controlled Group has fulfilled its obligations under the minimum funding standards of, and is in compliance in all material respects with, ERISA and the Code to the extent applicable to it and, other than a liability for premiums under Section 4007 of ERISA, does not owe any liability to the PBGC or a Plan under Title IV of ERISA, except any such matters as could not reasonably be expected, in the aggregate, to have a Material Adverse Effect. As of the date hereof, no member of the Controlled Group has any contingent liabilities with respect to any post-retirement benefits under a Welfare Plan, other than liability for continuation coverage described in article 6 of Title I of ERISA except such liabilities as could not reasonably be expected, in the aggregate, to have a Material Adverse Effect.

Section 4.11. Significant Subsidiaries~~Significant Subsidiaries~~. Schedule 4.11 correctly sets forth, as of the Closing Date, each Significant Subsidiary of the Company, its jurisdiction of organization and the percentage ownership owned by the Company (directly and indirectly) in each class of capital stock or other equity interests of each Significant Subsidiary.

Section 4.12. Compliance with Laws. The Company and each of its Significant Subsidiaries is in compliance in all material respects with all applicable statutes, regulations and orders of, and all applicable restrictions imposed by, any Governmental Authority, or any subdivision thereof, in respect of the conduct of their businesses and the ownership of their property, except (x) such noncompliances as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect or (y) in such instance in which the requirement to comply therewith is being contested in good faith.

Section 4.13. Environmental Matters~~Environmental Matters~~. Except as disclosed in the Company's most recent Form 10-K or Form 10-Q filed with the SEC on or prior to the Closing Date or for any matters that could not reasonably be expected to have a Material Adverse Effect, (a) the Company and each of its Subsidiaries is in compliance with all applicable Environmental Laws and the requirements of any permits issued under such Environmental Laws and (b) there are no pending or, to the knowledge of the Company, threatened Environmental Claims or liabilities relating to Environmental Laws, including any such claims or liabilities under CERCLA relating to the disposal of Hazardous Materials, against the Company or any of its Subsidiaries or any real property, including leaseholds, owned or operated by the Company or any of its Subsidiaries.

Section 4.14. Investment Company~~Investment Company~~. No Loan Party is required to be registered as an investment company under the U.S. Investment Company Act of 1940, as amended.

Section 4.15. Intellectual Property~~Intellectual Property~~. The Company and each of its Subsidiaries owns all the patents, trademarks, permits, service marks, trade names, copyrights, franchises and formulas, or rights with respect to the foregoing, or has obtained licenses of all other rights of whatever nature necessary for the present conduct of its businesses, in each case without any known conflict with the rights of others which, or the failure to obtain which, as the case may be, would reasonably be expected to have a Material Adverse Effect.

Section 4.16. Good Title~~Good Title~~. The Company and its Subsidiaries have good and marketable title, or valid leasehold interests, to their material assets necessary in the ordinary conduct of their business, except to the extent that the failure to have such title or interests would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, subject to no Liens other than Liens permitted by Section 5.09.

Section 4.17. OFAC~~OFAC~~. No Borrower, nor any of its Subsidiaries, nor, to the knowledge of the Chief Executive Officer, Chief Compliance Officer or General Counsel of either Borrower, any director, officer or employee of either Borrower or any of its Subsidiaries, is an individual or entity that is a Sanctioned Person.

Section 4.18. Taxpayer Identification Number; Other Identifying Information. (a) The true and correct U.S. taxpayer identification number of the Co-Borrower is set forth on Schedule 9.07, and (b) the true and correct unique identification number of the Company that has been issued by its jurisdiction of organization and the name of such jurisdiction of organization are set forth on Schedule 9.07.

Section 4.19. Anti-Corruption Laws; Anti-Money Laundering Laws. The Company and its Subsidiaries have conducted their businesses in material compliance with applicable Anti-Corruption Laws and Anti-Money Laundering Laws, and the Company has instituted and maintains policies and procedures designed to promote and achieve compliance with such Anti-Corruption Laws and Anti-Money Laundering Laws.

Section 4.20. Affected Financial Institutions. No Loan Party is an Affected Financial Institution.

Section 4.21. Covered Entity~~Covered Entity~~. No Loan Party is a Covered Entity.

ARTICLE 5 COVENANTS

The Company covenants and agrees that, so long as any Commitment remains in effect and until all Obligations are paid in full (other than contingent indemnification obligations and other contingent obligations not then due and payable and as to which no claim has been made):

Section 5.01. Information Covenants~~Information Covenants~~. The Company will furnish to the Administrative Agent for transmission to each Lender:

(a) *Quarterly Statements.* Within 60 days (or such earlier date on which the Company is required to make any public filing of such information) after the close of each of the first three quarterly accounting periods in each fiscal year of the Company, a consolidated balance sheet as of the end of such quarterly accounting period and the related consolidated statements of income and retained earnings and of cash flows for such quarterly accounting period and for the elapsed portion of the then-current fiscal year ended with the last day of such quarterly accounting period, in each case setting forth comparative figures for the related periods in the prior fiscal year, all of which shall be in reasonable detail, prepared by the Company in accordance with GAAP, and certified by the chief financial officer or other officer of the Company acceptable to the Administrative Agent that they fairly present in all material respects in accordance with GAAP the financial condition of the Company and its Subsidiaries as of the dates indicated and the results of their operations and changes in their cash flows for the periods indicated, subject to normal year end audit adjustments and the absence of footnotes.

(b) *Annual Statements.* Within 90 days (or such earlier date on which the Company is required to make any public filing of such information) after the close of each fiscal year of the Company, a consolidated balance sheet as of the last day of the fiscal year then ended and the related consolidated statements of income and retained earnings and of cash flows for the fiscal year then ended, and accompanying notes thereto, each in reasonable detail showing in comparative form the figures for the previous fiscal year, accompanied by an opinion without material qualification (including as to “going concern” or like qualification) of a firm of independent public accountants of recognized national standing to the effect that the consolidated financial statements have been prepared in accordance with GAAP and present fairly in accordance with GAAP the consolidated financial condition of the Company and its Subsidiaries as of the close of such fiscal year and the results of their operations and cash flows for the fiscal year then ended and that an examination of such accounts in connection with such financial statements has been made in accordance with generally accepted auditing standards.

(c) Notwithstanding the foregoing, the obligations to deliver financial statements pursuant to Section 5.01(a) or (b) will be satisfied with respect to financial information of the Company by furnishing the Company’s Form 10-K or 10-Q, as applicable, filed with the SEC; *provided* that, with respect to each of clauses (A) and (B), to the extent such information is in lieu of information required to be provided under Section 5.01(b), all such materials to be reported on without material qualification (including any “going concern” or like qualification) by an independent registered public accounting firm of nationally recognized standing. Documents required to be delivered pursuant to Section 5.01(a) or (b) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Company (or any direct or indirect parent of the Company) posts such documents on the Company’s website on the Internet; or (ii) on which such documents are posted on the Company’s behalf on DebtDomain or another website identified in the notice provided pursuant to the next succeeding paragraph of this Section 5.01, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); *provided* that, the Company shall notify (which may be by facsimile or electronic mail) the Administrative Agent of the posting of any such documents. Each Lender shall be solely responsible for timely accessing posted documents and maintaining its copies of such documents.

(d) *Officer’s Certificates.* Within ten days of the delivery of the financial statements provided for in Section 5.01(a) and (b), a certificate of the chief financial officer or other officer of the Company acceptable to Administrative Agent (x) stating that no Default exists as of the date of such certificate or, if a Default exists, a detailed description of the Default and all actions the Company is taking with respect to such Default and (y) showing compliance with the covenant set forth in Section 5.15 hereof.

(e) *Notice of Default or Litigation.* Promptly, and in any event within five Business Days after any Responsible Officer obtains knowledge thereof, notice of (i) the occurrence of any event which constitutes a Default, which notice shall specify the nature thereof, the period of existence thereof and what action the Company is taking with respect thereto, and (ii) the commencement of any litigation, labor controversy, arbitration, governmental proceeding or investigation pending against the Company or any of its Subsidiaries which would reasonably be expected to have a Material Adverse Effect.

(f) *Other Reports and Filings.* Promptly, copies of all financial information, proxy materials and other material information, certificates, reports, statements and completed forms, if any, which the Company or any of its Subsidiaries (x) has filed with the SEC or any comparable agency outside of the United States or (y) has furnished to the shareholders or other security holders of the Company or any of its Subsidiaries that is a public issuer. Any items required to be delivered pursuant to this Section need not to be separately delivered to the Administrative Agent if such items are publicly available through the SEC.

(g) *Other Information.* From time to time, such other information or documents (financial or otherwise) relating to the Company and its Subsidiaries as the Administrative Agent, at the request of any Lender, may reasonably request, including for purposes of compliance with applicable “know your customer” and anti-money laundering rules and regulations, including the Patriot Act and the Beneficial Ownership Regulation.

Section 5.02. ~~Inspections~~Inspections. The Company will, and will cause each of its Significant Subsidiaries to, permit officers, representatives and agents of the Administrative Agent or any Lender to visit and inspect any property of the Company or such Subsidiary subject to any applicable restrictions or limitations on access to any facility or information that is classified or restricted by contract or by law, regulation or governmental guidelines and in accordance with any applicable safety procedures, and to examine the books of account of the Company or such Subsidiary and discuss the affairs, finances and accounts of the Company or such Subsidiary with its officers and (only during the continuance of an Event of Default) its independent accountants, all at such reasonable times upon reasonable advance notice as the Administrative Agent or any Lender may request; *provided, however*, that prior to the occurrence and continuance of an Event of Default, such visitations and inspections shall be no more frequent than once per fiscal year and shall be at the sole cost and expense of the Administrative Agent or such Lender.

Section 5.03. *Maintenance of Property, Insurance, Etc.* The Company will, and will cause each of its Significant Subsidiaries to, (i) keep its material property, plant and equipment necessary in the operation of its business in good repair, working order and condition, normal wear and tear excepted, and shall from time to time make all needful and proper repairs, renewals, replacements, extensions, additions, betterments and improvements thereto so that at all times such property, plant and equipment are reasonably preserved and maintained except if the failure to do so would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect and (ii) to the extent available on commercially reasonable terms, maintain in full force and effect with financially sound and reputable insurance companies insurance which provides substantially the same (or greater) coverage of such types and in such amounts (after giving effect to any self-insurance (including captive subsidiary insurance)) reasonable and customary for similarly situated Persons of similar size engaged in the same or similar business as the Company and its Subsidiaries and against such risks for operating plant and equipment of the kinds customarily insured against by Persons of similar size engaged in the same or similar industry, and shall furnish to the Administrative Agent upon request reasonably detailed information as to the insurance so carried.

Section 5.04. *Preservation of Existence, Etc.* The Company will, and will cause each of its Significant Subsidiaries to, do or cause to be done, all things necessary to preserve and keep in full force and effect its existence and, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect, its franchises, authority to do business, licenses, patents, trademarks, copyrights and other proprietary rights; *provided, however*, that nothing in this Section 5.04 shall prevent, to the extent permitted by Section 5.11, the dissolution or liquidation of any Significant Subsidiary (other than the Co-Borrower), the merger or consolidation between or among the Significant Subsidiaries or any other transaction not expressly prohibited hereunder.

Section 5.05. *Compliance with Laws.* The Company will, and will cause each Significant Subsidiary to, comply in all material respects with the requirements of all Laws applicable to its property or business operations, except in such instance where (x) any failure to comply therewith, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect or (y) the requirement to comply therewith is being contested in good faith.

Section 5.06. ~~ERISA~~ERISA. The Company will promptly notify the Administrative Agent of: (a) the occurrence of any reportable event (as defined in ERISA) with respect to a Plan provided such occurrence would reasonably be expected to have a Material Adverse Effect, (b) receipt of any notice from the PBGC of its intention to seek termination of any Plan or appointment of a trustee therefor provided such termination or appointment would reasonably be expected to have a Material Adverse Effect, (c) its intention to terminate or withdraw from any Plan for which the reporting requirements are not waived provided such termination or withdrawal would reasonably be expected to have a Material Adverse Effect, and (d) the occurrence of any event with respect to any Plan which would result in the incurrence by the Company or any of its Subsidiaries of any material liability, fine or penalty, or any increase in the contingent liability of the Company or any of its Subsidiaries with respect to any post-retirement Welfare Plan benefit provided such liability, fine or penalty or increase in contingent liability would reasonably be expected to have a Material Adverse Effect.

Section 5.07. *Payment of Taxes.* The Company will, and will cause each of its Subsidiaries to, pay and discharge, all Taxes imposed upon it or any of its property, before becoming delinquent and before any penalties accrue thereon, unless and to the extent that (i) the same are being contested in good faith and by proper proceedings and as to which appropriate reserves are provided therefor in accordance with GAAP or (ii) the failure to pay or discharge the same would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 5.08. *Books and Records.* The Company will, and will cause each of its Subsidiaries to, maintain proper books of record and account, which reflect all material financial transactions and matters involving the assets and business of the Company or such Subsidiary, as the case may be (it being understood and agreed that certain foreign Subsidiaries maintain individual books and records in conformity with generally accepted accounting principles in their respective countries of organization and that such maintenance shall not constitute a breach of the representations, warranties or covenants hereunder).

Section 5.09. *Secured Debt*~~*Secured Debt*~~. The Company will not, nor will it permit any Subsidiary to, create, incur, assume or suffer to exist any Lien securing Indebtedness for borrowed money or any guarantee thereof upon any of their property or assets, whether such property is owned at the date of this Agreement or hereafter acquired, except for:

- (a) Liens existing on the Closing Date;
- (b) Liens of or upon any property acquired, leased, constructed or improved by, or of or upon any shares of Capital Stock or Indebtedness acquired by, the Company or any Subsidiary after the date of this Agreement (i) to secure the payment of all or any part of the purchase price of such property, shares of Capital Stock or Indebtedness upon the acquisition thereof by the Company or any Subsidiary, or (ii) to secure any Indebtedness issued, assumed or guaranteed by the Company or any Subsidiary prior to, at the time of, or within one year after (1) in the case of property, the later of the acquisition, lease, completion of construction (including any improvements on existing property) or commencement of commercial operation of such property or (2) in the case of shares of Capital Stock or Indebtedness, the acquisition of such shares of Capital Stock or Indebtedness, which Indebtedness is issued, assumed or guaranteed for the purpose of financing or refinancing all or any part of the purchase price of such property, shares of Capital Stock or Indebtedness and, in the case of property, the cost of construction thereof or improvements thereon;
- (c) Liens of or upon any property, shares of Capital Stock or Indebtedness existing at the time of acquisition thereof by the Company or any Subsidiary;
- (d) Liens of or upon any property of a Person existing at the time such Person is merged with or into or consolidated with the Company or any Subsidiary or existing at the time of a sale or transfer of the properties of a Person as an entirety or substantially as an entirety to the Company or any Subsidiary;
- (e) Liens of or upon (x) any property of, or shares of Capital Stock or Indebtedness of, a Person existing at the time such Person becomes a Subsidiary or (y) any shares of Capital Stock or Indebtedness of a Joint Venture;
- (f) Liens to secure Indebtedness of any Subsidiary to the Company or to another Subsidiary;
- (g) Liens in favor of the United States of America or any State thereof, or any department, agency or instrumentality or political subdivision of the United States of America or any State thereof, or in favor of any other country or political subdivision, to secure partial, progress, advance or other payments pursuant to any contract or statute or to secure any Indebtedness incurred or guaranteed for the purpose of financing or refinancing all or any part of the purchase price of the property, shares of Capital Stock or Indebtedness subject to such Liens, or the cost of constructing or improving the property subject to such Liens (including, without limitation, Liens incurred in connection with pollution control, industrial revenue or similar financings);

(h) any extension, renewal or replacement (or successive extensions, renewals or replacements) in whole or in part of any Lien existing at the date of this Agreement or any Lien referred to in the foregoing clauses (a) through (g), inclusive, but only to the extent that the principal amount of Indebtedness secured thereby does not exceed the principal amount of Indebtedness so secured at the time of such extension, renewal or replacement, and that such extension, renewal or replacement is limited to all or a part of the property (*plus* improvements and construction on such property), shares of Capital Stock or Indebtedness which was subject to the Lien so extended, renewed or replaced;

(i) Liens on accounts receivables and related assets of the Company and its Subsidiaries pursuant to a Qualified Receivables Financing; and

(j) Liens not permitted by clauses (a) through (i), so long as, at the time of incurrence of such Liens, after giving effect thereto and to the release of any Liens which are concurrently being released, the aggregate principal amount of Indebtedness secured thereby *plus* the aggregate principal amount (without duplication) of all Non-Guarantor Subsidiary Debt (other than Non-Guarantor Subsidiary Debt described in clauses (a) through (h) of Section 5.10) does not exceed 15% of Consolidated Net Tangible Assets, as shown on the most recent balance sheet delivered pursuant to Section 5.01(a) or (b) (or, prior to the initial delivery after the Closing Date of financial statements pursuant to Section 5.01, as shown on the most recent balance sheet included the Company's Form 10-K or 10-Q, as applicable, filed with the SEC).

Section 5.10. Restrictions on Subsidiary Debt. The Company will not permit any of its Non-Guarantor Subsidiaries to create, assume, incur, issue, or guarantee any Indebtedness for borrowed money (any such indebtedness of a Non-Guarantor Subsidiary, "**Non-Guarantor Subsidiary Debt**"), except for:

(a) Indebtedness of a Person existing at the time such Person is merged into or consolidated with any Subsidiary or at the time of a sale, lease or other disposition of the properties and assets of such Person (or a division thereof) as an entirety or substantially as an entirety to any Subsidiary and is assumed by such Subsidiary; *provided* that any Indebtedness was not incurred in contemplation thereof and is not guaranteed by any other Subsidiary;

(b) Indebtedness of a Person existing at the time such Person becomes a Subsidiary; *provided* that any Indebtedness was not incurred in contemplation thereof;

(c) Indebtedness owed to the Company or any other Subsidiary;

(d) Indebtedness of such Subsidiary secured by Liens on assets of such Subsidiary permitted under any of clauses (b) and (g) of Section 5.09;

(e) Indebtedness outstanding on the date of this Agreement or any extension, renewal, replacement or refunding of any Indebtedness existing on the date of this Agreement or referred to in clauses (a), (b), (c) or (d) of this Section 5.10; but only to the extent that the principal amount of the Indebtedness does not exceed the principal amount of Indebtedness *plus* all accrued interest thereon and any premiums, fees or expenses payable in connection with any such extension, renewal, replacement or refunding, so secured at the time of such extension, renewal, replacement or refunding;

(f) Indebtedness in respect of a Qualified Receivables Financing;

(g) Indebtedness of LYB International Finance B.V., or any other financing subsidiary with a similar structure and composition as LYB International Finance B.V., formed for the purpose of issuing debt securities;

(h) Indebtedness of Foreign Subsidiaries in an aggregate principal amount not to exceed U.S. \$200,000,000 at any one time outstanding; and

(i) other Non-Guarantor Subsidiary Debt, so long as, at the time of incurrence of such Indebtedness, after giving effect thereto and to the retirement of any Indebtedness which is concurrently being retired, the aggregate principal amount of all such other Non-Guarantor Subsidiary Debt *plus* the aggregate principal amount (without duplication) of all Indebtedness secured by Liens (not including any such Indebtedness secured by Liens described in clauses (a) through (i) of Section 5.09) does not exceed 15% of Consolidated Net Tangible Assets as shown on the most recent balance sheet delivered pursuant to Section 5.01(a) or (b) (or, prior to the initial delivery after the Closing Date of financial statements pursuant to Section 5.01, as shown on the most recent balance sheet included the Company's Form 10-K or 10-Q, as applicable, filed with the SEC).

Section 5.11. Consolidation, Merger, Sale of Assets, Etc.

(a) The Company will not consolidate or merge with or into any other corporation, or lease, sell or transfer all or substantially all of its property and assets, unless:

(i) the corporation formed by such consolidation or into which the Company is merged, or the party which acquires by lease, sale or transfer all or substantially all of the Company's property and assets is a corporation organized and validly existing under the laws of the United States, any state in the United States and the District of Columbia, Canada, any province of Canada or any state which was a member of the European Union on December 31, 2003 (other than Greece);

(ii) the corporation formed by such consolidation or into which the Company is merged, or the party which acquires by lease, sale or transfer all or substantially all of the Company's property and assets, agrees to pay the principal of, and any premium and interest on, the Loans and other Obligations and perform and observe all covenants and conditions of the Company under the Loan Documents; and

(iii) immediately after giving effect to such transaction and treating Indebtedness for borrowed money which becomes the Company's obligation or an obligation of a Subsidiary as a result of such transaction as having been incurred by the Company or such Subsidiary at the time of such transaction, no Default has occurred and is continuing.

(b) No Loan Party will, and the Company will not permit any such Loan Party to, consolidate, amalgamate or merge with or into or wind up into (whether or not such Loan Party is the surviving Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets in one or more related transactions to, any Person; provided that the foregoing shall be permitted with respect to any Loan Party (other than the Company) so long as either (i) such Loan Party is the surviving Person or the Person formed by or surviving any such consolidation, amalgamation or merger (if other than such Loan Party) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made is a corporation, partnership or limited liability company organized and validly existing under the laws of the United States, any state in the United States, the District of Columbia Canada, any province of Canada or any state which was a member of the European Union on December 31, 2003 (other than Greece) (such Loan Party or such Person, as the case may be, being herein called the "**Successor Loan Party**") and the Successor Loan Party (if other than such Loan Party) expressly assumes all the obligations of such Loan Party pursuant to documents or instruments in form required by this Agreement, or (ii) such sale or disposition or consolidation, amalgamation or merger is a disposition of such Loan Party such that it will no longer be a Subsidiary and is not in violation of this Agreement. Notwithstanding the foregoing, any such Loan Party (other than the Company or the Co-Borrower) may consolidate, amalgamate or merge with or into or wind up into, or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets to any other Loan Party.

(c) Notwithstanding and without compliance with Section 5.11(a) or (b), the Company and the other Loan Parties shall be permitted to sell, assign, transfer, lease, convey or otherwise dispose of, in one or more related transactions, assets constituting the Capital Stock or all or part of the assets of any Subsidiary, division or line of business or group of such Subsidiaries, divisions or lines of business (“**disposed group**”) if such disposed group (i) generated less than 40% of Consolidated EBITDA in (A) the most recently completed four quarters of the Company and (B) each of the last three completed fiscal years of the Company, in each case for which financial statements have been delivered pursuant to this Agreement or have been deemed to be delivered pursuant to Section 5.01(c) by filing of the Company’s Form 10-K or 10-Q, as applicable, with the SEC and (ii) has total assets with a value that is less than 40% of the total value of the consolidated assets of the Company and its Subsidiaries, as determined in accordance with GAAP as of the last date of the latest period for which financial statements have been delivered pursuant to this Agreement or have been deemed to be delivered pursuant to Section 5.01(c) by filing of the Company’s Form 10-K or 10-Q, as applicable, with the SEC; *provided* that such disposition otherwise complies with this Agreement. Any such disposition described in this Section 5.11(c) shall also not be deemed a Change of Control pursuant to clause (a) of the definition thereof.

Section 5.12. Dividends and Certain Other Restricted Payments. After the occurrence and during the continuation of any Default, (a) the Company will not declare or pay any dividends on or make any other distributions in respect of any class or series of Capital Stock of the Company (other than a dividend payable solely in Capital Stock) and (b) the Company will not, nor will permit any of its Subsidiaries to, directly or indirectly purchase, redeem, or otherwise acquire or retire any of the Capital Stock of the Company or any warrants, options, or similar instruments to acquire the same (a “**Restricted Payment**”); *provided, however*, that the foregoing shall not operate to prevent the making of dividends or distributions within 60 days of their declaration by the Company, if at the declaration date, such payment was permitted by the foregoing.

Section 5.13. ~~Burdensome Agreements~~Burdensome Agreements. The Company will not, nor will it permit any Significant Subsidiary to, enter into or permit to exist any Contractual Obligation (other than this Agreement or any other Loan Document) that limits the ability of any Non-Guarantor Subsidiary to pay dividends or make distributions in respect of its Capital Stock to any Loan Party; *provided* that the foregoing shall not apply to Contractual Obligations which:

(i) (x) exist on the Closing Date and (y) to the extent Contractual Obligations permitted by clause (x) are set forth in an agreement evidencing Indebtedness, are set forth in any agreement evidencing any permitted renewal, extension or refinancing of such Indebtedness so long as such renewal, extension or refinancing does not expand the scope of such Contractual Obligation;

(ii) represent Indebtedness of a Loan Party containing limitations no more restrictive than those set forth in this Agreement;

(iii) are binding on a Subsidiary at the time such Subsidiary first becomes a Subsidiary or a Non-Guarantor Subsidiary, so long as such Contractual Obligations were not entered into solely in contemplation of such Person becoming a Subsidiary or a Non-Guarantor Subsidiary and as amended or modified; *provided, however*, that any such amendment or modification is no less favorable to the Company in any material respect as determined by the Board of Directors of the Company in their reasonable and good faith judgment than the provisions prior to such amendment or modification;

(iv) customary limitations or restrictions in any acquisition agreement with respect to a Person subject to any disposition by the Company or any Subsidiary, which limitations or restrictions are not applicable to any other Person (other than its Subsidiaries);

(v) represent Indebtedness of a Non-Guarantor Subsidiary which is permitted hereunder;

(vi) are customary provisions in joint venture agreements and other similar agreements applicable to Joint Ventures permitted hereunder and applicable solely to such Joint Venture entered into in the ordinary course of business;

(vii) are customary restrictions on leases, subleases, licenses or asset sale agreements otherwise permitted hereby so long as such restrictions relate to the assets subject thereto;

(viii) comprise restrictions imposed by any agreement relating to secured Indebtedness permitted hereunder to the extent that such restrictions apply only to the property or assets securing such Indebtedness;

(ix) are customary provisions restricting subletting or assignment of any lease governing a leasehold interest of the Company or any Subsidiary;

(x) are customary provisions restricting assignment of any agreement entered into in the ordinary course of business;

(xi) are restrictions arising in connection with any Qualified Receivables Financing;

(xii) are restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;

(xiii) are restrictions that would not reasonably be expected to materially adversely affect the cash position of the Loan Parties taken as a whole; and

(xiv) are customary restrictions in construction loans, purchase money obligations, Capital Leases, security agreements or Liens securing Indebtedness of the Company or a Subsidiary to the extent such restrictions restrict the transfer of the property subject to such Capital Leases or security agreements or Liens.

For purposes of determining compliance with this covenant, the priority of any preferred stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on common stock shall not be deemed a restriction on the ability to make distributions on Capital Stock.

Section 5.14. Transactions with Affiliates. The Company will not, and will not permit any of its Significant Subsidiaries to, enter into any material transaction or material arrangement with any Affiliate (including, without limitation, the purchase from, sale to or exchange of property with, or the rendering of any service by or for, any Affiliate, but excluding (a) any transaction or arrangement with the Company or a Subsidiary and (b) any Restricted Payment permitted by Section 5.12), except upon fair and reasonable terms which taken as a whole are substantially no less favorable to the Company or such Subsidiary than would be obtained in a comparable arm's-length transaction with a Person other than an Affiliate (or, if in the good faith judgment of the Company's Board of Directors, no comparable transaction is available with which to compare any such transaction, such transaction is otherwise fair to the Company or such Subsidiary from a financial point of view); *provided* that the foregoing shall not restrict any of the following transactions or arrangements:

(a) any transaction or arrangement arising in the ordinary course of business;

(b) the payment of reasonable and customary fees and reimbursement of expenses paid to, and indemnity provided on behalf of, officers, directors, managers, employees or consultants of the Company or any Subsidiary or any direct or indirect parent entity of the Company;

(c) payments or loans (or cancellation of loans) to officers, directors, employees or consultants which are approved by a majority of the Board of Directors of the Company in good faith;

(d) any transaction or arrangement with a Joint Venture or any direct or indirect equity holder in any Subsidiary or Joint Venture, in each case consistent with past practice or industry norm;

(e) any transaction effected as part of a Qualified Receivables Financing; and

(f) the issuance of Capital Stock of the Company to any Person and any contribution to the capital of the Company.

Section 5.15. Maximum Leverage Ratio. The Company will not, as of the last day of each fiscal quarter of the Company (commencing with the fiscal quarter ending December 31, 2021), permit the Leverage Ratio to be greater than the applicable level set forth below adjacent to such fiscal quarter (the level at each applicable test date, the “**Maximum Leverage Ratio**”):

Fiscal Quarter Ending:	Maximum Leverage Ratio
December 31, 2021	4.50 to 1.00
March 31, 2022	4.00 to 1.00
June 30, 2022 and thereafter	3.50 to 1.00

; *provided* that if a Qualifying Acquisition is consummated at any time after March 31, 2022, the Company may elect to increase the Maximum Leverage Ratio for each of the six fiscal quarters ending thereafter (commencing with the fiscal quarter during which such Qualifying Acquisition is consummated) to the levels set forth in the table below (each such period of six fiscal quarters during which the Maximum Leverage Ratio is so increased, a “**Leverage Increase Period**”); *provided, further* that (i) the Company shall provide notice in writing to the Administrative Agent of its election to implement such Leverage Increase Period and a description of such Qualifying Acquisition (regarding the name of the Person or assets being acquired, the purchase price and the pro forma Leverage Ratio immediately after giving effect thereto) and (ii) after the end of any Leverage Increase Period, the Company may elect to implement a new Leverage Increase Period in connection with a subsequent Qualifying Acquisition so long as one fiscal quarter has elapsed since the end of the most recent Leverage Increase Period:

Fiscal Quarters Ending After Date of Consummation of Qualifying Acquisition:	Maximum Leverage Ratio
First and second fiscal quarters ending thereafter	4.25 to 1.00
Third and fourth fiscal quarters ending thereafter	4.00 to 1.00
Fifth and sixth fiscal quarters ending thereafter	3.75 to 1.00

Section 5.16. ~~Sanctions~~Sanctions. No Borrower will, nor will it permit any of its Subsidiaries to, directly or indirectly, use the proceeds of any Credit Extension, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other individual or entity, to fund any activities of or business with any Sanctioned Person or in any Designated Jurisdiction, that at the time of such funding would result in a violation of Sanctions by any Party to this Agreement.

Section 5.17. Anti-Corruption Laws; Anti-Money Laundering Laws. The Company will maintain in effect and enforce policies and procedures reasonably designed to promote compliance by the Company and its Subsidiaries with applicable Anti-Corruption and Anti Money Laundering Laws, rules and regulations. The Company will not, nor will the Company permit any of its Subsidiaries to, use the proceeds of any Credit Extension (including any indirect use intended by the Company or such Subsidiary) for any purpose which would result in a violation by the Company or such Subsidiary of any Anti-Corruption Law or Anti-Money Laundering Law.

ARTICLE 6 EVENTS OF DEFAULTS AND REMEDIES

Section 6.01. Events of Default. Any one or more of the following shall constitute an “**Event of Default**” hereunder:

(a) default in the payment when due (whether at the stated maturity thereof or at any other time provided for in this Agreement) of (i) all or any part of the principal of or (ii) interest on any Loan or any other Obligation payable hereunder or under any other Loan Document which in the case of clause (ii) is not paid within five Business Days;

(b) default in the observance or performance of any covenant set forth in Sections Section 5.01(e), Section 5.04 (solely with respect to the Company) or Section 5.09 through Section 5.16 hereof;

(c) default in the observance or performance of any other provision hereof or of any other Loan Document which is not remedied within 30 days after the earlier of (i) the date on which such failure shall first become known to any Responsible Officer or (ii) written notice thereof is given to the Company by the Administrative Agent;

(d) any representation or warranty made by any Loan Party herein or in any other Loan Document, or in any statement or certificate furnished by it pursuant hereto or thereto, or in connection with any Loan or Letter of Credit made or issued hereunder, proves incorrect in any material respect as of the date of the issuance or making thereof;

(e) any of the Loan Documents shall for any reason not be or shall cease to be in full force and effect or is declared to be null and void, or any Loan Party shall so assert in writing;

(f) (i) any default shall occur under any Indebtedness of the Company or any of its Subsidiaries aggregating in excess of U.S. \$150,000,000, or under any indenture, agreement or other instrument under which the same may be issued, and as a result of such default, the holders of such Indebtedness have accelerated the maturity of such Indebtedness, or (ii) any such Indebtedness shall not be paid when due (whether by demand, lapse of time, acceleration or otherwise) after expiry of any applicable grace period;

(g) any judgment or court order for the payment of money shall be rendered against the Company or any of its Significant Subsidiaries, or against any of its property, in an aggregate amount in excess of U.S. \$150,000,000 (except to the extent fully (excluding any deductibles or self-insured retention) covered by insurance pursuant to which the insurer has been notified of the judgment or court order and has not disputed the claim made for payment of the amount of the payment to be made under such judgment or court order), and which remains undischarged, unvacated, unbonded or unstayed for a period of 60 days;

(h) any member of the Controlled Group shall fail to pay when due an amount or amounts aggregating in excess of U.S. \$150,000,000 which it shall have become liable to pay to the PBGC or to a Plan under Title IV of ERISA; or notice of intent to terminate a Plan or Plans having aggregate Unfunded Vested Liabilities in excess of U.S. \$150,000,000 (collectively, a “**Material Plan**”) shall be filed under Title IV of ERISA by the Company or any of its Subsidiaries, or any other member of the Controlled Group, any plan administrator or any combination of the foregoing; or the PBGC shall institute proceedings under Title IV of ERISA to terminate or to cause a trustee to be appointed to administer any Material Plan or a proceeding shall be instituted by a fiduciary of any Material Plan against the Company or any of its Subsidiaries, or any member of the Controlled Group, to enforce Section 515 or 4219(c)(5) of ERISA and such proceeding shall not have been dismissed within 30 days thereafter; or a condition shall exist by reason of which the PBGC would be entitled to obtain a decree adjudicating that any Material Plan must be terminated;

(i) any Change of Control shall occur;

(j) the Company or any of its Significant Subsidiaries shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator or custodian or the like of itself or of all or a substantial part of its property under any Debtor Relief Law, (ii) become unable, admit in writing its inability or fail to pay its debts generally as they become due, (iii) make a general assignment for the benefit of creditors, (iv) be adjudicated as bankrupt or insolvent under any Debtor Relief Law, (v) commence a voluntary case under any Debtor Relief Law or file a voluntary petition or answer seeking reorganization, an arrangement with creditors or an order for relief or seeking to take advantage of any Debtor Relief Law or file an answer admitting the material allegations of a petition filed against it in any proceeding under any Debtor Relief Law, or action shall be taken by it for the purpose of effecting any of the foregoing, or (vi) if without the application, approval or consent of the Company or any of its Significant Subsidiaries, a proceeding shall be instituted in any court of competent jurisdiction, under any Debtor Relief Law, seeking in respect of the Company or any of its Significant Subsidiaries an order for relief or an adjudication in bankruptcy, reorganization, dissolution, winding up, liquidation, a composition or arrangement with creditors, a readjustment of debts, the appointment of a trustee, receiver, liquidator or custodian or the like of the Company or any of its Significant Subsidiaries or of all or any substantial part of its assets, or other like relief in respect thereof under any Debtor Relief Law, and, if such proceeding is being contested by the Company or any of its Significant Subsidiaries in good faith, the same shall (A) result in the entry of an order for relief or any such adjudication or appointment or (B) continue undismissed for any period of 60 consecutive days; or

(k) a custodian, receiver, interim receiver, receiver and manager, trustee, examiner, liquidator or similar official shall be appointed for the Company or any of its Significant Subsidiaries, or any substantial part of any of its property, or a proceeding described in Section 6.01(j)(v) shall be instituted against the Company or any of its Significant Subsidiaries, and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of 60 days.

Section 6.02. Non-Bankruptcy Defaults~~Non-Bankruptcy Defaults~~. When any Event of Default other than those described in subsection (j) or (k) of Section 6.01 hereof has occurred and is continuing, the Administrative Agent shall, by written notice to the Company: (a) if so directed by or with the consent of the Required Lenders, terminate the Commitments and any obligation of the L/C Issuers to make L/C Credit Extensions and all other obligations of the Lenders hereunder, which shall thereupon immediately terminate; (b) if so directed by the Required Lenders, declare the principal of and the accrued interest on all outstanding Loans to be forthwith due and payable and thereupon all outstanding Loans, including both principal and interest thereon, shall be and become immediately due and payable together with all other amounts payable under the Loan Documents without further demand, presentment, protest or notice of any kind; and (c) if so directed by the Required Lenders, demand that the Company immediately Cash Collateralize the aggregate amount of L/C Obligations then outstanding, and the Company agrees to immediately provide such Cash Collateral. The Administrative Agent, after giving notice to the Company pursuant to Section 6.01(c) or this Section 6.02, shall also promptly send a copy of such notice to the other Lenders, but the failure to do so shall not impair or annul the effect of such notice.

Section 6.03. Bankruptcy Defaults~~Bankruptcy Defaults~~. When any Event of Default described in subsections (j) or (k) of Section 6.01 hereof has occurred and is continuing, then all outstanding Loans shall immediately and automatically become due and payable together with all other amounts payable under the Loan Documents without presentment, demand, protest or notice of any kind which are hereby waived by the Borrowers, the obligation of the Lenders to extend further credit pursuant to any of the terms hereof shall immediately and automatically terminate, the Commitments shall immediately and automatically terminate, the obligation to issue Letters of Credit shall immediately and automatically terminate, and the Company shall immediately Cash Collateralize the aggregate amount of L/C Obligations then outstanding.

Section 6.04. Notice of Default. The Administrative Agent shall give notice to the Company under Section 6.01(c) hereof promptly upon being requested to do so by any Lender and shall thereupon notify all the Lenders thereof.

ARTICLE 7
CHANGE IN CIRCUMSTANCES AND CONTINGENCIES

Section 7.01. Funding Loss Indemnity. If any Lender shall incur any loss, cost or expense (including, without limitation, any loss of profit, and any loss, cost or expense incurred by reason of the liquidation or re-employment of deposits or other funds acquired by such Lender to fund or maintain any [SOFR Loan or](#) Eurocurrency Loan or the relending or reinvesting of such deposits or amounts paid or prepaid to such Lender or by reason of breakage of interest rate swap agreements or the liquidation of other hedging contracts or agreements) as a result of:

- (a) any payment, prepayment or conversion of a [SOFR Loan or](#) Eurocurrency Loan on a date other than the last day of its Interest Period,
- (b) any failure (because of a failure to meet the conditions of [Section 3.02](#) or otherwise) by a Borrower to borrow, prepay or continue a [SOFR Loan or](#) Eurocurrency Loan, or to convert a Base Rate Loan into a [SOFR Loan or](#) Eurocurrency Loan, on the date specified in a notice given pursuant to [Section 2.04](#) or [Section 2.07](#) hereof, or
- (c) any failure by a Borrower to make any payment of principal on any [SOFR Loan or](#) Eurocurrency Loan when due (whether by acceleration or otherwise), then, upon the demand of such Lender, the Borrower shall pay to such Lender such amount as will reimburse such Lender for such loss, cost or expense. If any Lender makes such a claim for compensation, it shall provide to the Borrower, with a copy to the Administrative Agent, a certificate setting forth the amount of such loss, cost or expense in reasonable detail (including an explanation of the basis for and the computation of such loss, cost or expense) and the amounts shown on such certificate shall be conclusive absent manifest error.

Unless otherwise agreed to by any Lender, for purposes of calculating amounts payable by the Borrower to such Lender under this [Section 7.01](#), such Lender shall be deemed to have funded each Eurocurrency Loan made by it at rate equal to the ~~LIBOR Rate or the~~ EURIBOR Rate, ~~as applicable,~~ for such Loan by a matching deposit or other borrowing in the [applicable](#) offshore interbank market for such currency for a comparable amount and for a comparable period, whether or not such Eurocurrency Loan was in fact so funded.

Section 7.02. ~~Illegality~~Hegality. If any Lender reasonably determines that any 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 any Benchmark, or to determine or charge interest rates based upon any Benchmark, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, U.S. Dollars or Euros in any applicable interbank market, then, such Lender shall promptly notify the Borrowers and the Administrative Agent thereof and (i) any obligation of such Lender to make or continue SOFR Loans or Eurocurrency Loans in the affected currency or currencies or, in the case of ~~Eurocurrency~~SOFR Loans ~~in U.S. Dollars~~, to convert Base Rate Loans to ~~Eurocurrency~~SOFR Loans, shall be suspended, and (ii) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the ~~LIBOR Rate~~Term SOFR component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the ~~LIBOR Rate~~Term SOFR component of the Base Rate, in each case until such Lender notifies the Administrative Agent and the Company that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (x) the Borrowers shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, if such Loans are denominated in U.S. Dollars, convert all such ~~Eurocurrency~~SOFR Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the ~~LIBOR Rate~~Term SOFR component of the Base Rate), either on the last day of the Interest Period thereof, if such Lender may lawfully continue to maintain such SOFR Loans or Eurocurrency Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such SOFR Loans or Eurocurrency Loans, and (y) if such notice asserts the illegality of such Lender determining or charging interest rates based upon ~~the LIBOR Rate~~Term SOFR, the Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the ~~LIBOR Rate~~Term SOFR 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 LIBOR Rate~~Term SOFR. Upon any such prepayment or conversion, the Borrowers shall also pay accrued interest on the amount of Loans so prepaid or converted.

Section 7.03. Inability to Determine Rates. With respect to any SOFR Loan, Eurocurrency Loan or Swing Line Loan, subject to Section 7.03(d) below, if:

(a) the Administrative Agent determines (which determination shall be conclusive and binding absent manifest error) that if Adjusted Term SOFR, the EURIBOR Rate or the Overnight Swing Line Rate is utilized in any calculations hereunder or under any other Loan Document with respect to any Obligations, interest, fees, commissions or other amounts, “Adjusted Term SOFR”, “EURIBOR Rate” or “Overnight Swing Line Rate”, as applicable, cannot be determined pursuant to the definition thereof (x) with respect to Swing Line Loans, at any time or (y) with respect to SOFR Loans or Eurocurrency Loans, on or prior to the first day of any Interest Period;

(b) ~~(a) If in connection with respect to any request for a Eurocurrency Loan or any request therefor or a conversion to or thereto or a continuation thereof (i), the Administrative Agent reasonably determines that (A) deposits (whether in U.S. Dollars or Euros) are not being offered to banks in the applicable offshore interbank market for such currency for the applicable, amount and/or Interest Period of such Eurocurrency Loan or (B) adequate and reasonable means do not exist for determining the Benchmark for any requested Interest Period with respect to a proposed Eurocurrency Loan (in each case with respect to this clause (i), “Impacted Loans”); or (ii), and the Required Lenders have provided notice of such determination to the Administrative Agent; or~~

(c) the Required Lenders ~~reasonably~~ determine that for any reason ~~the Benchmark for any requested Interest Period with respect to a proposed Eurocurrency Loan (whether in U.S. Dollars or Euros)~~ in connection with any request for such Loan or a conversion thereto or a continuation thereof that if Adjusted Term SOFR or if the EURIBOR Rate is utilized in any calculations hereunder or under any other Loan Document with respect to any Obligations, interest, fees, commissions or other amounts, Adjusted Term SOFR or the EURIBOR Rate, as applicable, does not adequately and fairly reflect the cost to such Lenders of ~~funding such Eurocurrency Loan, making or maintaining such Loan during the applicable Interest Period, and the Required Lenders have provided notice of such determination to the Administrative Agent, then, in each case,~~ the Administrative Agent will promptly so notify the Company and each applicable Lender. ~~Thereafter, (x) the~~ Upon notice thereof by the Administrative Agent to the Company, any obligation of the Lenders to make ~~or maintain~~ SOFR Loans, Eurocurrency Loans ~~in the affected currency or currencies~~ or Swing Line Loans, as applicable, in each such currency, and any right of the Company to convert any Loan in each such currency (if applicable) to or continue any Loan as a SOFR Loan, a Eurocurrency Loan or a Swing Line Loan, as applicable, in each such currency, shall be suspended (to the extent of the affected Loans or, in the case of SOFR Loans or Eurocurrency Loans ~~or, the affected~~ Interest Periods) ~~and (y) in the event of a determination described in the preceding sentence with respect to the LIBOR Rate component of the Base Rate, the utilization of the LIBOR Rate component in determining the Base Rate shall be suspended, in each case until the Administrative Agent (upon with respect to clause (b) or (c), at the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, (A) the Company (on behalf of the relevant Borrowers) may revoke any pending request for a Borrowing~~ borrowing of, conversion to or continuation of SOFR Loans, Eurocurrency Loans ~~in the or Swing Line Loans in each such~~ affected currency ~~or currencies~~ (to the extent of the affected Loans or, in the case of SOFR Loans or Eurocurrency Loans, the affected Interest Periods) or, failing that, (I) in the case of any request for an affected SOFR Borrowing, the Company will be deemed to have converted any such request into a request for a Borrowing of or conversion to Base Rate Loans in the amount specified therein; and (II) in the case of any request for an affected Eurocurrency Borrowing or Swing Line Borrowing, then such request shall be ineffective and (B) (I) any outstanding affected SOFR Loans will be deemed to have been converted into Base Rate Loans at the end of the applicable Interest Period and (II) any outstanding affected Eurocurrency Loans, at the Company's election, shall either (1) be converted into Base Rate Loans denominated in Dollars (in an amount equal to the U.S. Dollar Equivalent) immediately or at the end of the applicable Interest Period or (2) be prepaid in full immediately or at the end of the applicable Interest Period; provided that if no election is made by the Company by the date that is the earlier of (x) three Business Days after receipt by the Company of such notice or (y) the last day of the current Interest Period, the Company shall be deemed to have elected clause (1) above. Upon any such prepayment or conversion, the Company shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 7.01. Subject to Section 7.03(d), if the Administrative Agent determines (which determination shall be conclusive and binding absent manifest error) that "Adjusted Term SOFR" cannot be determined pursuant to the definition thereof on any given day, the interest rate on Base Rate Loans shall be determined by the Administrative Agent without reference to clause (c) of the definition of "Base Rate" until the Administrative Agent revokes such determination.

(d) ~~(b) [Reserved]~~ Benchmark Replacement Setting.

(i) *Benchmark Replacement.* Notwithstanding anything to the contrary herein or in any other Loan Document, upon the occurrence of a Benchmark Transition Event with respect to any Benchmark, the Administrative Agent and the Company may amend this Agreement to replace such Benchmark with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the Administrative Agent has posted such proposed amendment to all affected Lenders and the Company so long as the Administrative Agent has not received, by such time, written notice of objection to such amendment from Lenders comprising the Required Lenders. No replacement of a Benchmark with a Benchmark Replacement pursuant to this Section 7.03(d)(i) will occur prior to the applicable Benchmark Transition Start Date.

(c) On March 5, 2021 the Financial Conduct Authority (“FCA”), the regulatory supervisor of LIBOR’s administrator (“IBA”), announced in a public statement the future cessation or loss of representativeness of overnight/Spot-Next, 1-month, 3-month, 6-month and 12-month LIBOR tenor settings. Notwithstanding anything to the contrary in this Agreement or any other Loan Documents:

(i) Replacing LIBOR. On the earlier of (i) the date that all Available Tenors of LIBOR have either permanently or indefinitely ceased to be provided by IBA or have been announced by the FCA pursuant to public statement or publication of information to be no longer representative and (ii) the Early Opt-in Effective Date, if the then-current Benchmark is LIBOR, the Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any setting of such Benchmark on such day and all subsequent settings without any amendment to, or further action or consent of any other party to this Agreement or any other Loan Document. If the Benchmark Replacement is Daily Simple SOFR, all interest payments will be payable on a monthly basis:

(ii) Replacing Other and Future Benchmarks. Upon the occurrence of a Benchmark Transition Event, the Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any such Benchmark setting at or after 5:00 p.m. on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders. At any time that the administrator of any then-current Benchmark has permanently or indefinitely ceased to provide such Benchmark or such Benchmark has been announced by the regulatory supervisor for the administrator or the administrator of such Benchmark pursuant to public statement or publication of information to be no longer representative of the underlying market and economic reality that such Benchmark is intended to measure and that representativeness and will not be restored, (i) with respect to amounts denominated in U.S. Dollars, the Company may revoke any request for a borrowing of, conversion to or continuation of Loans to be made, converted or continued that would bear interest by reference to such Benchmark until the Company’s receipt of notice from the Administrative Agent that a Benchmark Replacement has replaced such Benchmark, and, failing that, the Company will be deemed to have converted any such request into a request for a borrowing of or conversion to Base Rate Loans and (ii) with respect to amounts denominated in any currency other than U.S. Dollars, the obligation of the Lenders to make or maintain Loans referencing such Benchmark in the affected currency shall be suspended (to the extent of the affected amounts or Interest Periods (as applicable)) and any outstanding loans in such currency shall immediately or, in the case of a term rate at the end of the applicable Interest Period, be prepaid in full. During the period referenced in the foregoing sentence, if a component of the Base Rate is based upon the Benchmark, such component will not be used in any determination of the Base Rate:

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

(iii) ~~(iv)~~ Notices; Standards for Decisions and Determinations. The Administrative Agent will promptly notify the Company and the Lenders of (i) the implementation of any Benchmark Replacement and (ii) the effectiveness of any ~~Benchmark Replacement~~ Conforming Changes. ~~For the avoidance of doubt, any notice required to be delivered by the in connection with the use, administration, adoption or implementation of a Benchmark Replacement. The~~ Administrative Agent ~~as set forth in this Section 7.03(c)~~ may be provided, at the option of the Administrative Agent (in its sole discretion), in one or more notices and may be delivered together with, or as part of, any amendment which implements any Benchmark Replacement or ~~Benchmark Replacement Conforming Changes~~ will notify the Company of (x) the removal or reinstatement of any tenor of a Benchmark pursuant to Section 7.03(d)(iv) and (y) the commencement of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 7.03(ed), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party ~~hereto to this Agreement or any other Loan Document~~, except, in each case, as expressly required pursuant to this Section 7.03(ed).

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

~~(vi) Disclaimer. The Administrative Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, (i) the administration, submission or any other matter related to the London interbank offered rate or EURIBOR or with respect to any alternative or successor rate thereto, or replacement rate thereof (including, without limitation any Benchmark Replacement implemented hereunder); (ii) the composition or characteristics of any such Benchmark Replacement, including whether it is similar to, or produces the same value or economic equivalence to LIBOR, EURIBOR or any other Benchmark or have the same volume or liquidity as did LIBOR, EURIBOR or any other Benchmark; (iii) any actions or use of its discretion or other decisions or determinations made with respect to any matters covered by this Section 7.03(c) including, without limitation, whether or not a Benchmark Transition Event has occurred, the removal or lack thereof of unavailable or non-representative tenors, the implementation or lack thereof of any Benchmark Replacement Conforming Changes, the delivery or non-delivery of any notices required by Section 7.03(c)(iv) or otherwise in accordance herewith; and (iv) the effect of any of the foregoing provisions of this Section 7.03(c).~~

(v) Benchmark Unavailability Period. Upon the Company's receipt of notice of the commencement of a Benchmark Unavailability Period with respect to a given Benchmark, (i) the Company (on behalf of the relevant Borrowers) may revoke any pending request for a SOFR Borrowing of, conversion to or continuation of SOFR Loans, a Eurocurrency Borrowing of, conversion to or continuation of Eurocurrency Loans, or a Swing Line Borrowing of Swing Line Loans, in each case, to be made, converted or continued during any Benchmark Unavailability Period denominated in the applicable currency and, failing that, (A) in the case of any request for any affected SOFR Borrowing, if applicable, the Company will be deemed to have converted any such request into a request for a Base Rate Borrowing or conversion to Base Rate Loans in the amount specified therein and (B) in the case of any request for any affected Eurocurrency Borrowing or Swing Line Borrowing, then such request shall be ineffective and (ii)(A) any outstanding affected SOFR Loans, if applicable, will be deemed to have been converted into Base Rate Loans at the end of the applicable Interest Period and (B) any outstanding affected Eurocurrency Loans, at the Company's election, shall either (I) be converted into Base Rate Loans denominated in Dollars (in an amount equal to the U.S. Dollar Equivalent) immediately or at the end of the applicable Interest Period or (II) be prepaid in full immediately or at the end of the applicable Interest Period; provided that, with respect to any Eurocurrency Loan, if no election is made by the Company by the earlier of (x) the date that is three Business Days after receipt by the Company of such notice and (y) the last day of the current Interest Period for the applicable Eurocurrency Loan, the Company shall be deemed to have elected clause (I) above. Upon any such prepayment or conversion, the Company shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 7.01. During a Benchmark Unavailability Period with respect to any Benchmark or at any time that a tenor for any then-current Benchmark is not an Available Tenor, the component of Base Rate based upon the then-current Benchmark that is the subject of such Benchmark Unavailability Period or such tenor for such Benchmark, as applicable, will not be used in any determination of Base Rate.

Section 7.04. Increased Costs; Reserves On Eurocurrency Loans. (a) *Increased Costs Generally.* If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement contemplated by Section 7.04(e), other than as set forth in clause (iii) below) or the L/C Issuer;

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender or L/C Issuer ~~or the London interbank market~~ any other condition, cost or expense (other than Taxes) affecting this Agreement or SOFR Loans, Eurocurrency Loans or Swing Line Loans, as applicable, made by such Lender or any Letter of Credit or participation therein; and the result of any of the foregoing shall be to increase the cost to such Lender of making, converting to, continuing or maintaining any SOFR Loan, Eurocurrency Loan or Swing Line Loan, as applicable (or, in the case of any Change in Law with respect to Taxes, any Loan), or of maintaining its obligation to make any such Loan, or to increase the cost to such Lender or L/C Issuer of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or L/C Issuer hereunder (whether of principal, interest or any other amount), then, upon request of such Lender or L/C Issuer, the Company will pay to such Lender or L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or L/C Issuer, as the case may be, for such additional costs incurred or reduction suffered.

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

(c) *Certificates for Reimbursement.* Each Lender will promptly notify the Borrowers and the Administrative Agent of any event of which it has knowledge, occurring after the date hereof, which will entitle such Lender to compensation pursuant to this Section. A certificate of a Lender or L/C Issuer setting forth the amount or amounts necessary to compensate such Lender or L/C Issuer or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to the Company shall be conclusive absent manifest error. The Company shall pay such Lender or L/C Issuer, as the case may be, the amount shown as due on any such certificate within 15 days after receipt thereof.

(d) *Delay in Requests.* Failure or delay on the part of any Lender or L/C Issuer to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender's or L/C Issuer's right to demand such compensation, *provided* that the Company shall not be required to compensate a Lender or L/C Issuer pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than 90 days prior to the date that such Lender or L/C Issuer, as the case may be, notifies the Company of the Change in Law giving rise to such increased costs or reductions and of such Lender's or L/C Issuer's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 90-day period referred to above shall be extended to include the period of retroactive effect thereof).

(e) *Additional Reserve Requirements.* 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 Eurocurrency funds or deposits (currently known as "**Eurocurrency Liabilities**"), additional interest on the unpaid principal amount of each Eurocurrency Loan and each Swing Line 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), 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 Eurocurrency Loans or Swing Line 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), 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 15 days' prior notice (with a copy to the Administrative Agent) of such additional interest or costs from such Lender. If a Lender fails to give notice 15 days prior to the relevant interest payment date, such additional interest or costs shall be due and payable 15 days from receipt of such notice.

(f) Notwithstanding any other provision of this Agreement, no Lender or L/C Issuer shall demand compensation pursuant to this Section 7.04 if it shall not at the time be the general policy or practice of such Lender or L/C Issuer to demand such compensation in similar circumstances.

Section 7.05. ~~Mitigation Obligations~~Mitigation—Obligations. If any Lender requests compensation under Section 7.04, or if a Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 9.01, then such Lender shall (at the request of the Borrower) use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or Affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 7.04 or Section 9.01, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be materially disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment, provided, that such Lender or such L/C Issuer is generally seeking compensation from similarly situated borrowers under similar credit facilities (to the extent such Lender or such L/C Issuer has the right under such similar credit facilities to do so).

Section 7.06. Substitution of Lenders. Upon the receipt by the Company of (a) a claim from any Lender for compensation under Section 7.04 or Section 9.01 hereof, (b) notice by any Lender to the Company of any illegality pursuant to Section 7.02 hereof or (c) in the event any Lender is a Defaulting Lender (any such Lender referred to in clause (a), (b) or (c) above being hereinafter referred to as an “**Affected Lender**”), the Company may, in addition to any other rights the Company may have hereunder or under applicable Law, require, at its expense, any such Affected Lender to assign, at par *plus* accrued interest and fees, without recourse, all of its interest, rights, and obligations hereunder (including all of its Commitments and the Loans and participation interests in Letters of Credit and other amounts at any time owing to it hereunder and the other Loan Documents) to a bank or other institutional lender specified by the Company, *provided* that (i) such assignment shall not conflict with or violate any Law, (ii) if the assignment is to a Person other than a Lender, the Company shall have received the written consent of the Administrative Agent, the Swing Line Lender and the L/C Issuers, which consents shall not be unreasonably withheld or delayed, to such assignment, (iii) the Company shall have paid to the Affected Lender all monies (together with amounts due such Affected Lender under Section 7.01 hereof as if the Loans owing to it were prepaid rather than assigned) other than principal owing to it hereunder, (iv) the assignment is entered into in accordance with the other requirements of Section 9.01 hereof, (v) the assignee shall have paid to the Affected Lender the principal amount of all outstanding Loans made by such Affected Lender and (vi) in the case of any such assignment resulting from a claim for compensation under Section 7.04 or payments required to be made pursuant to Section 9.01, such assignment will result in a reduction in such compensation or payments thereafter. At any time that Investment Grade Status exists as to the Company, the Company may elect to terminate this Agreement as to an Affected Lender (including any Commitments, Loans and L/C Obligations that have been participated); *provided* that (i) the Company notifies such Lender through the Administrative Agent of such election at least three Business Days before the effective date of such termination, (ii) the Borrower repays or prepays the principal amount of all outstanding Loans made by such Lender *plus* any accrued but unpaid interest thereon and the accrued but unpaid fees in respect of such Lender’s Commitment hereunder *plus* all other amounts payable by such Borrower to such Lender hereunder, not later than the effective date of such termination and (iii) if at the effective date of such termination, any L/C Obligations or Swing Line Loans are outstanding, the conditions specified in Section 2.04 would be satisfied (after giving effect to such termination) as if the related Letters of Credit issued or the related Swing Line Loans made on such date. Upon satisfaction of the foregoing conditions, the Commitment of such Lender shall terminate on the effective date specified in such notice, its participation in any outstanding L/C Obligations or Swing Line Loans shall terminate on such effective date and the participations of the other Lenders therein shall be redetermined as of such date as if such Letters of Credit had been issued or such Swing Line Loans had been made on such date.

ARTICLE 8 THE AGENTS

Section 8.01. Appointment and Authority. Each of the Lenders and the L/C Issuers hereby irrevocably appoints Citibank to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and L/C Issuers, and neither the Company nor any other Loan Party shall have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term “agent” herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead such term is used as a matter of custom, and is intended to create or reflect only an administrative relationship between contracting parties.

Section 8.02. ~~Rights as a Lender~~*Rights as a Lender*. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the terms “**Lender**” and “**Lenders**” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Company or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

Section 8.03. ~~Exculpatory Provisions~~*Exculpatory Provisions*. The Administrative Agent and each Co-Sustainability Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent and each Co-Sustainability Agent:

- (a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;
- (b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), *provided* that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable Law; and
- (c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Company or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent, a Co-Sustainability Agent or any of their respective Affiliates in any capacity.

The Administrative Agent and each Co-Sustainability Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Section 9.10 and Section 6.02) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent by the Company, a Lender or an L/C Issuer.

The Administrative Agent and each Co-Sustainability Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article 3 or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent or the Co-Sustainability Agents.

Section 8.04. *Reliance by Agents.* The Administrative Agent and each Co-Sustainability Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent and each Co-Sustainability Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal, or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the L/C Issuer, the Administrative Agent may presume that such condition is satisfactory to such Lender or the L/C Issuer unless the Administrative Agent shall have received notice to the contrary from such Lender or the L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent and each Co-Sustainability Agent may consult with legal counsel (who may be counsel for the Company), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Section 8.05. *Delegation of Duties.* The Administrative Agent and each Co-Sustainability Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent or such Co-Sustainability Agent. The Administrative Agent, any Co-Sustainability Agent and any such sub-agent thereof may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent, each Co-Sustainability Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent and Co-Sustainability Agent. Neither the Administrative Agent nor any Co-Sustainability Agent shall be responsible for the negligence or misconduct of any sub-agents except to the extent that the Administrative Agent or such Co-Sustainability Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

Section 8.06. Resignation of Administrative Agent. The Administrative Agent may at any time give notice of its resignation to the Lenders, the L/C Issuers and the Company. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, with the consent of the Company (*provided* that during the existence of a Default, such consent shall not be required), to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may on behalf of the Lenders and the L/C Issuers, appoint a successor Administrative Agent meeting the qualifications set forth above; *provided* that if the Administrative Agent shall notify the Company and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (1) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents and (2) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and the L/C Issuers directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this Section. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent, and the retiring Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Company to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Company and such successor. After the retiring Administrative Agent's resignation hereunder and under the other Loan Documents, the provisions of this ARTICLE 8 and Section 9.12 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

Any resignation by Citibank as Administrative Agent pursuant to this Section shall also constitute its resignation as L/C Issuer and the Swing Line Lender. If Citibank resigns as L/C Issuer, it shall retain all the rights, powers, privileges and duties of the L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.02(c)). If Citibank resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.02(c).

Section 8.07. Non-Reliance on Administrative Agent, Co-Sustainability Agents and Other Lenders. Each Lender and L/C Issuer acknowledges that it has, independently and without reliance upon the Administrative Agent, any Co-Sustainability Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and L/C Issuer also acknowledges that it will, independently and without reliance upon the Administrative Agent, any Co-Sustainability Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

Section 8.08. No Other Duties, Etc~~No Other Duties, Etc~~. Anything herein to the contrary notwithstanding, none of the Syndication Agents, Documentation Agents, bookrunners or Arrangers listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or an L/C Issuer hereunder.

Section 8.09. Release of Guarantors. The Lenders and L/C Issuers irrevocably authorize the Administrative Agent, at its option and in its discretion, to release any Guarantor from its obligations under its Guaranty (a) if such Person ceases to be a Subsidiary as a result of a transaction permitted hereunder or (b) upon request of the Company, so long as immediately after giving effect to such release contemplated by this clause (b) (and, at the option of the Company, any substantially simultaneous delivery to the Administrative Agent of one or more additional Guaranties), the Company shall be in compliance with Section 5.10, and the Administrative Agent hereby agrees to execute such documents and take such actions as may be necessary or reasonably requested by the Company to effect and evidence such release. Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release any Guarantor from its obligations under the Guaranty pursuant to this Section 8.09.

Section 8.10. Certain ERISA Matters.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Company or any other obligor, 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 Company or any other obligor, that the Administrative Agent is not a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related to hereto or thereto).

Section 8.11. Erroneous Payments.

(a) If the Administrative Agent notifies a Lender or L/C Issuer, or any Person who has received funds on behalf of a Lender or L/C Issuer such Lender or L/C Issuer (any such Lender, L/C Issuer or other recipient, a “**Payment Recipient**”) that the Administrative Agent has determined in its sole discretion (whether or not after receipt of any notice under immediately succeeding clause (b)) that any funds received by such Payment Recipient from the Administrative Agent or any of its Affiliates were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Lender, L/C Issuer or other Payment Recipient on its behalf) (any such funds, whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an “**Erroneous Payment**”) and demands the return of such Erroneous Payment (or a portion thereof), such Erroneous Payment shall at all times remain the property of the Administrative Agent and shall be segregated by the Payment Recipient and held in trust for the benefit of the Administrative Agent, and such Lender or L/C Issuer shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than two Business Days thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the Administrative Agent in same day funds at the greater of the Overnight Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect. A notice of the Administrative Agent to any Payment Recipient under this clause (a) shall be conclusive, absent manifest error.

(b) Without limiting immediately preceding clause (a), each Lender or L/C Issuer, or any Person who has received funds on behalf of a Lender or L/C Issuer such Lender or L/C Issuer, hereby further agrees that if it receives a payment, prepayment or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise) from the Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates), or (z) that such Lender or L/C Issuer, or other such recipient, otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part) in each case:

(i) (A) in the case of immediately preceding clauses (x) or (y), an error shall be presumed to have been made (absent written confirmation from the Administrative Agent to the contrary) or (B) an error has been made (in the case of immediately preceding clause (z)), in each case, with respect to such payment, prepayment or repayment; and

(ii) such Lender or L/C Issuer shall (and shall cause any other recipient that receives funds on its respective behalf to) promptly (and, in all events, within one Business Day of its knowledge of such error) notify the Administrative Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying the Administrative Agent pursuant to this Section 8.11(b).

(c) Each Lender or L/C Issuer hereby authorizes the Administrative Agent to set off, net and apply any and all amounts at any time owing to such Lender or L/C Issuer under any Loan Document, or otherwise payable or distributable by the Administrative Agent to such Lender or L/C Issuer from any source, against any amount due to the Administrative Agent under immediately preceding clause (a) or under the indemnification provisions of this Agreement.

(d) In the event that an Erroneous Payment (or portion thereof) is not recovered by the Administrative Agent for any reason, after demand therefor by the Administrative Agent in accordance with immediately preceding clause (a), from any Lender or L/C Issuer that has received such Erroneous Payment (or portion thereof) (and/or from any Payment Recipient who received such Erroneous Payment (or portion thereof) on its respective behalf) (such unrecovered amount, an “**Erroneous Payment Return Deficiency**”), upon the Administrative Agent’s notice to such Lender or L/C Issuer at any time, (i) such Lender or L/C Issuer shall be deemed to have assigned its Loans (but not its Commitments) of the relevant Class with respect to which such Erroneous Payment was made (the “**Erroneous Payment Impacted Class**”) in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as the Administrative Agent may specify) (such assignment of the Loans (but not Commitments) of the Erroneous Payment Impacted Class, the “**Erroneous Payment Deficiency Assignment**”) at par plus any accrued and unpaid interest (with the assignment fee to be waived by the Administrative Agent in such instance), and is hereby (together with the Borrower) deemed to execute and deliver an Assignment and Assumption (or, to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an election platform as to which the Administrative Agent and such parties are participants) with respect to such Erroneous Payment Deficiency Assignment, and such Lender or L/C Issuer shall deliver any Notes evidencing such Loans to the Borrower or the Administrative Agent, (ii) the Administrative Agent as the assignee Lender shall be deemed to acquire the Erroneous Payment Deficiency Assignment, (iii) upon such deemed acquisition, the Administrative Agent as the assignee Lender shall become a Lender or L/C Issuer, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment and the assigning Lender or assigning L/C Issuer shall cease to be a Lender or L/C Issuer, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment, excluding, for the avoidance of doubt, its obligations under the indemnification provisions of this Agreement and its applicable Commitments which shall survive as to such assigning Lender or assigning L/C Issuer and (iv) the Administrative Agent may reflect in the Register its ownership interest in the Loans subject to the Erroneous Payment Deficiency Assignment. The Administrative Agent may, in its discretion, sell any Loans acquired pursuant to an Erroneous Payment Deficiency Assignment and upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Lender or L/C Issuer shall be reduced by the net proceeds of the sale of such Loan (or portion thereof), and the Administrative Agent shall retain all other rights, remedies and claims against such Lender or L/C Issuer (and/or against any recipient that receives funds on its respective behalf). For the avoidance of doubt, no Erroneous Payment Deficiency Assignment will reduce the Commitments of any Lender or L/C Issuer and such Commitments shall remain available in accordance with the terms of this Agreement. In addition, each party hereto agrees that, except to the extent that the Administrative Agent has sold a Loan (or portion thereof) acquired pursuant to an Erroneous Payment Deficiency Assignment, and irrespective of whether the Administrative Agent may be equitably subrogated, the Administrative Agent shall be contractually subrogated to all the rights and interests of the applicable Lender, L/C Issuer under the Loan Documents with respect to each Erroneous Payment Return Deficiency.

(e) The parties hereto agree that an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower or any other Loan Party except to the extent such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Administrative Agent from the Borrower or any other Loan Party for the purpose of making such Erroneous Payment; for the avoidance of doubt, this Section 8.11 shall not be interpreted to increase (or accelerate the due date for), or have the effect of increasing (or accelerating the due date for), the Obligations of the Borrower relative to the amount (and/or timing for payment) of the Obligations that would have been payable had such Erroneous Payment not been made by the Administrative Agent.

(f) To the extent permitted by applicable law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payment received, including without limitation waiver of any defense based on “discharge for value” or any similar doctrine

(g) Each party's obligations, agreements and waivers under this Section 8.11 shall survive the resignation or replacement of the Administrative Agent, any transfer of rights or obligations by, or the replacement of, a Lender or L/C Issuer, the termination of the Commitments and/or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Loan Document.

ARTICLE 9 MISCELLANEOUS

Section 9.01. Taxes.

(a) *Payments Free of Taxes; Obligations to Withhold; Payments on Account of Taxes.* (i) Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable Laws. If any applicable Laws require the deduction or withholding of any Tax from any such payment by the Administrative Agent or a Loan Party, then the Administrative Agent or such Loan Party shall be entitled to make such deduction or withholding.

(ii) If any Loan Party or the Administrative Agent shall be required to withhold or deduct any Taxes from any payment, then (A) such Loan Party or the Administrative Agent shall withhold or make such deductions as are determined by such Loan Party or the Administrative Agent to be required, (B) such Loan Party or the Administrative Agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Loan Party shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 9.01) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(b) *Payment of Other Taxes by the Loan Parties.* Without limiting the provisions of subsection (a) above, the Loan Parties shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable Law or, at the option of the Administrative Agent, timely reimburse it for the payment of any Other Taxes.

(c) *Tax Indemnifications.* (i) Each of the Loan Parties shall, and does hereby, jointly and severally indemnify each Recipient, and shall make payment in respect thereof within 15 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 9.01) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender or the L/C Issuer (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender or the L/C Issuer, shall be conclusive absent manifest error.

(ii) Each Lender and the L/C Issuer shall, and does hereby, severally indemnify, and shall make payment in respect thereof within 10 days after demand therefor, (x) the Administrative Agent against any Indemnified Taxes attributable to such Lender or the L/C Issuer (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (y) the Administrative Agent and the Loan Parties, as applicable, against any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.09(d) relating to the maintenance of a Participant Register and (z) the Administrative Agent and the Loan Parties, as applicable, against any Excluded Taxes attributable to such Lender or the L/C Issuer, in each case, that are payable or paid by the Administrative Agent or a Loan Party in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender and the L/C Issuer hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender or the L/C Issuer, as the case may be, under this Agreement or any other Loan Document, or otherwise payable by the Administrative Agent to the Lender or the L/C Issuer from any other source, against any amount due to the Administrative Agent under this clause (ii).

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

(e) *Status of Lenders.* (i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by applicable Law or reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Sections Section 9.01(e)(ii)(A), Section 9.01(e)(ii)(B) and Section 9.01(e)(ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender; *provided, however*, that the Lender shall not be entitled to any increased amounts under Section 9.01(a) or to indemnification under Section 9.01(c)(i) Section 9.01(c) (i) if it fails to complete, execute and submit such documentation on the basis of material unreimbursed costs or expenses or material prejudice to the legal or commercial position of the Lender unless it is the general policy or practice of the Lender to do so in similar circumstances.

(ii) Without limiting the generality of the foregoing, with respect to the Co-Borrower,

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of IRS Form W-9 (or successor form) certifying that such Lender is exempt from U.S. Federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

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

(II) executed copies of IRS Form W-8ECI (or successor form);

(III) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit H-1 to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” related to the Borrower as described in Section 881(c)(3)(C) of the Code (a “U.S. Tax Compliance Certificate”) and (y) executed copies of IRS Form W-8BEN or W-8BEN-E (or successor form); or

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

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

(D) if a payment made to a Lender under 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 and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment.

(iii) Each Lender agrees that if any form or certification it previously delivered pursuant to this Section 9.01 expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(f) *Treatment of Certain Refunds.* Unless required by applicable Laws, at no time shall the Administrative Agent have any obligation to file for or otherwise pursue on behalf of a Lender or the L/C Issuer, or have any obligation to pay to any Lender or the L/C Issuer, any refund of Taxes withheld or deducted from funds paid for the account of such Lender or the L/C Issuer, as the case may be. If any Recipient determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified by any Loan Party or with respect to which any Loan Party has paid additional amounts pursuant to this Section 9.01, it shall pay to the Loan Party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Loan Party under this Section 9.01 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes imposed with regard to such refunds) incurred by such Recipient, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), *provided* that the Loan Party, upon the request of the Recipient, agrees to repay the amount paid over to the Loan Party (*plus* any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Recipient in the event the Recipient is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this subsection, in no event will the applicable Recipient be required to pay any amount to the Loan Party pursuant to this subsection the payment of which would place the Recipient in a less favorable net after-Tax position than such Recipient would have been in if the Tax subject to indemnification had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts giving rise to such refund had never been paid. This subsection shall not be construed to require any Recipient to make available its tax returns (or any other information relating to its taxes that it deems confidential) to any Loan Party or any other Person.

(g) The Administrative Agent shall provide the Borrowers the following correct, complete and duly executed documents, as applicable: an IRS Form W-9, IRS Form W-8BEN or W-8BEN-E (or any successor form) establishing an exemption from U.S. federal withholding Tax, or IRS Form W-8ECI (or any successor forms). The Administrative Agent shall also provide any other documentation reasonably requested by the Borrower from time to time as will permit any payments under the Loan Documents to be made without withholding or at a reduced rate of withholding ("Additional Documentation"), *provided* that the Administrative Agent shall not be required to provide such Additional Documentation if in the Administrative Agent's reasonable judgment the completion, execution or submission of such Additional Documentation would subject the Administrative Agent to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of the Administrative Agent; *provided, however*, that the Lender shall not be entitled to any increased amounts under Section 9.01(a) or to indemnification under Section 9.01(c)(i) if it fails to complete, execute and submit such documentation on the basis of material unreimbursed costs or expenses or material prejudice to the legal or commercial position of the Lender unless it is the general policy or practice of the Lender to do so in similar circumstances. The Administrative Agent agrees that if any form or certification it previously delivered pursuant to this Section 9.01(g) expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower in writing of its legal inability to do so.

(h) *Survival.* Each party's obligations under this Section 9.01 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender or the L/C Issuer, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

Section 9.02. No Waiver, Cumulative Remedies. No delay or failure on the part of the Administrative Agent or any Lender or on the part of the holder or holders of any of the Obligations in the exercise of any power or right under any Loan Document shall operate as a waiver thereof or as an acquiescence in any default, nor shall any single or partial exercise of any power or right preclude any other or further exercise thereof or the exercise of any other power or right. The rights and remedies hereunder of the Administrative Agent, the Lenders and of the holder or holders of any of the Obligations are cumulative to, and not exclusive of, any rights or remedies which any of them would otherwise have.

Section 9.03. Non-Business Days~~Non-Business Days~~. If any payment hereunder becomes due and payable on a day which is not a Business Day, the due date of such payment shall be extended to the next succeeding Business Day on which date such payment shall be due and payable. In the case of any payment of principal falling due on a day which is not a Business Day, interest on such principal amount shall continue to accrue during such extension at the rate per annum then in effect, which accrued amount shall be due and payable on the next scheduled date for the payment of interest.

Section 9.04. Survival of Representations. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

Section 9.05. Survival of Indemnities. All indemnities and other provisions relative to reimbursement to the Lenders of amounts sufficient to protect the yield of the Lenders with respect to the Loans and Letters of Credit, including, but not limited to, Sections Section 7.01, Section 7.04, Section 9.04 and Section 9.12 hereof, shall survive the termination of this Agreement and the other Loan Documents and the payment of the Obligations.

Section 9.06. Sharing of Payments. Each Lender under each Facility agrees with each other Lender under such Facility that if such former Lender shall receive any payment on account of principal or interest, whether by set off or application of deposit balances or otherwise, on any of the Loans or the participations in L/C Obligations under such Facility in excess of its ratable share of payments on all such Obligations then outstanding to the Lenders under such Facility, then such Lender shall purchase for cash at face value, but without recourse, ratably from each of such other Lenders such amount of the Loans or L/C Obligations, or participations or subparticipation, as applicable, therein, held by each such other Lender (or interest therein) as shall be necessary to cause such Lender to share such excess payment ratably with all such other Lenders; *provided, however*, that if any such purchase is made by any Lender, and if such excess payment or part thereof is thereafter recovered from such purchasing Lender, the related purchases from the other Lenders shall be rescinded ratably and the purchase price restored as to the portion of such excess payment so recovered, but without interest. For purposes of this Section, (i) amounts recovered by the L/C Issuer in respect of L/C Borrowings in which Lenders have made L/C Advances shall be treated as amounts owed to or recovered by the L/C Issuer as a Lender hereunder and (ii) amounts recovered by the Swing Line Lender in respect of Swing Line Loans shall be applied to such Swing Line Loans (and, in accordance with Section 2.11(d), any funded participations therein). The provisions of this Section shall not be construed to apply to (x) any payment made by or on behalf of any Loan Party 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 as provided in Section 2.08), (y) the application of Cash Collateral provided for in Section 2.02, or (z) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in L/C Obligations or Swing Line Loans to any assignee or participant, other than an assignment to the Company or any Subsidiary or Affiliate thereof (as to which the provisions of this Section shall apply).

Section 9.07. Notices; Effectiveness; Electronic Communication. (a) *Notices Generally.* Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Company, the Administrative Agent, any Co-Sustainability Agent, any L/C Issuer or the Swing Line Lender, to the address, telecopier number, electronic mail address or telephone number specified for such Person on Schedule 9.07; and

(ii) if to any other Lender, to the address, telecopier number, electronic mail address or telephone number specified in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) *Electronic Communications.* Notices and other communications to the Lenders and the L/C Issuers hereunder may be delivered or furnished by electronic communication (including e mail, FpML messaging, and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, *provided* that the foregoing shall not apply to notices to any Lender or L/C Issuer pursuant to ARTICLE 2 if such Lender or L/C Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Section by electronic communication. The Administrative Agent or the Company may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, *provided* that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "**return receipt requested**" function, as available, return e-mail or other written acknowledgement), *provided* that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) *Internet.* In no event shall the Administrative Agent or any of its Related Parties (collectively, the "**Agent Parties**") have any liability to the Company, any Lender, any L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Company's or the Administrative Agent's transmission of materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; *provided, however*, that in no event shall any Agent Party have any liability to the Company, any Lender, any L/C Issuer or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

(d) *Change of Address, Etc.* Each of the Company, the Administrative Agent, the L/C Issuers and the Swing Line Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the Company, the Administrative Agent, the L/C Issuers and the Swing Line Lender. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, telecopier number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender.

(e) *Reliance by Administrative Agent, Co-Sustainability Agents, L/C Issuers and Lenders.* The Administrative Agent, the Co-Sustainability Agents, the L/C Issuers and the Lenders shall be entitled to rely and act upon any notices (including telephonic notices) purportedly given by or on behalf of the Company or any other Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Company shall indemnify the Administrative Agent, each Co-Sustainability Agent, each L/C Issuer, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Company or any other Borrower. All telephonic notices to and other telephonic communications with the Administrative Agent or any Co-Sustainability Agent may be recorded by the Administrative Agent or such Co-Sustainability Agent, and each of the parties hereto hereby consents to such recording.

Section 9.08. Counterparts; Electronic Execution. (a) *Counterparts.* This Agreement may be executed in any number of counterparts, and by the different parties hereto on separate counterpart signature pages, and all such counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or in electronic (e.g., “pdf” or “tif”) format shall be effective as delivery of a manually executed counterpart of this Agreement.

(b) *Electronic Execution of Loan Documents.* The words “execution,” “signed,” “signature,” and words of like import in this Agreement and the other Loan Documents including any Assignment and Assumption shall be deemed to include electronic signatures or electronic records, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any Applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

Section 9.09. Successors and Assigns. (a) *Successors and Assigns Generally.* The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that no Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section, or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the L/C Issuers and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) *Assignments by Lenders.* Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans (including for purposes of this subsection (b)), participations in L/C Obligations and in Swing Line Loans) at the time owing to it); *provided* that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and the Loans at the time owing to it or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection Section 9.09(b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "**Trade Date**" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than U.S. \$5,000,000 or a larger multiple of U.S. \$1,000,000, unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Company otherwise consents (each such consent not to be unreasonably withheld or delayed); *provided, however*, that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single Eligible Assignee (or to an Eligible Assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met;

(ii) *Proportionate Amounts.* Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned, except that this clause (ii) shall not apply to the Swing Line Lender's rights and obligations in respect of Swing Line Loans;

(iii) *Required Consents.* No consent shall be required for any assignment except to the extent required by subsection Section 9.09(b)(i)(B) of this Section and, in addition:

(A) the consent of the Company (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default under Section 6.01(a), (j) or (k) has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; *provided* that the Company shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within ten (10) Business Days after having received notice thereof;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments to a Person that is not a Lender, an Affiliate of a Lender or an Approved Fund; and

(C) the consent of each L/C Issuer and the Swing Line Lender (each such consent not to be unreasonably withheld or delayed) shall be required for any assignment.

(iv) *Assignment and Assumption.* The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of U.S. \$3,500; *provided, however*, that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) *No Assignment to Certain Persons.* No such assignment shall be made to (i) any Person that fails to represent that it is a Qualified Person, (ii) the Company or any of the Company's Affiliates or Subsidiaries, (iii) a natural person or (iv) a Defaulting Lender.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of ~~Sections~~ Section 7.04 and Section 9.12 with respect to facts and circumstances occurring prior to the effective date of such assignment. Upon request of the assignee Lender, the Borrowers (at their own expense) shall execute and deliver a Note to the assignee Lender. The assignee Lender shall, prior to the first date on which interest or fees are payable hereunder for its account, deliver to the Borrowers and the Administrative Agent any certification, forms or other documentation in accordance with Section 9.01. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection 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 subsection (c) of this Section.

(c) *Register.* The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrowers, shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it (or the equivalent thereof in electronic form) and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"), and shall promptly record in the Register all assignments it receives in conformity with Section 9.09(a) hereof. The entries in the Register shall be conclusive absent manifest error, and the Borrowers, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrowers and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) *Participations.* Any Lender may at any time, without the consent of, or notice to, any of Borrower, Administrative Agent, L/C Issuer or the Swing Line Lender, sell participations to any Person (other than (i) a natural person, (ii) the Company or any of the Company's Affiliates or Subsidiaries or (iii) a Person that fails to represent that it is a Qualified Person) (each, a "**Participant**") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations and/or Swing Line Loans) owing to it); *provided* that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrowers, the Administrative Agent, the Lenders and the L/C Issuers shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement.

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 or waiver described in the first proviso to Section 9.10 that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of ~~Sections~~ Section 7.01, Section 7.04 and Section 9.01 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section (it being understood that the documentation required under Section 9.01(e) shall be delivered to the Lender who sells the participation); *provided* that such Participant (A) agrees to be subject to the provisions of Sections 7.05 and Section 7.06 as if it were an assignee under paragraph (a) of this Section and (B) shall not be entitled to receive any greater payment under ~~Sections~~ Section 7.04 or Section 9.01, with respect to any participation, than the Lender from whom it acquired the applicable participation would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 7.05 with respect to any Participant. To the extent permitted by Law, each Participant also shall be entitled to the benefits of Section 9.13 as though it were a Lender, *provided* that such Participant agrees to be subject to Section 9.06 as though it were a Lender.

Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "**Participant Register**"); *provided* that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) except to the extent that such disclosure is necessary to establish that such commitment, loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) *Certain Pledges.* Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or other central bank having jurisdiction over such Lender; *provided* that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(f) *Electronic Execution of Assignments.* The words "execution," "signed," "signature," and words of like import or related to any document to be signed in connection with this Agreement and the transactions contemplated hereby (including without limitation Assignment and Assumptions, amendments or other Notices of Borrowing, Notices of Continuation/Conversion, Swing Line Loan Notices, waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, 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; *provided* that notwithstanding anything contained herein to the contrary, the Administrative Agent is under no obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by the Administrative Agent pursuant to procedures approved by it.

(g) *Resignation as L/C Issuer or Swing Line Lender after Assignment.* Notwithstanding anything to the contrary contained herein, if at any time Citibank or any other Lender which is at the time an L/C Issuer assigns all of its Commitment and Revolving Loans pursuant to subsection (b) above, it may, (i) upon 30 days' notice to the Company and the Lenders, resign as L/C Issuer and/or (ii) in the case of Citibank, upon 30 days' notice to the Company, resign as Swing Line Lender. In the event of any such resignation of the Swing Line Lender, the Company shall be entitled to appoint from among the Lenders a successor Swing Line Lender hereunder; *provided, however*, that no failure by the Company to appoint any such successor shall affect the resignation of Citibank as Swing Line Lender. If any Lender resigns as L/C Issuer, it shall retain all the rights, powers, privileges and duties of the L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts). If Citibank resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.11(c). Upon the appointment of a successor Swing Line Lender, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Swing Line Lender.

Section 9.10. ~~Amendments~~Amendments. Subject to Section 2.15 and Section 7.03(cd), any provision of this Agreement or the other Loan Documents may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by (a) the Company, (b) the Required Lenders (or the Administrative Agent with the signed written consent of the Required Lenders), and (c) if the rights or duties of the Administrative Agent, any Co-Sustainability Agent, any L/C Issuer or the Swing Line Lender are affected thereby, the Administrative Agent, such Co-Sustainability Agent, such L/C Issuer and the Swing Line Lender, as the case may be; *provided that*:

(i) no amendment or waiver pursuant to this Section 9.10 shall (A) increase or extend any Commitment of any Lender without the consent of such Lender, (B) other than as permitted by Section 2.09 or Section 2.15, reduce the amount of, or postpone the date for any scheduled payment of any principal of or interest on, any Loan or L/C Borrowing or of any fee payable hereunder without the consent of each Lender directly affected thereby, *provided* that each of the Fee Letters may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto, or (C) change the application of payments set forth in Section 2.08 hereof, or change or waive any provision of Section 9.06 to the extent it alters the pro rata nature of disbursements by or payments to the Lenders, required by Section 9.06 without the consent of each Lender adversely affected thereby; and

(ii) no amendment or waiver pursuant to this Section 9.10 shall, unless signed by each Lender, (A) change the definition of Required Lenders, (B) change the provisions of this Section 9.10 or (C) release either Borrower from its Obligations under this Agreement.

Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended, or the maturity of any of its Loans may not be extended, the rate of interest on any of its Loans may not be reduced and the principal amount of any of its Loans may not be forgiven, in each case without the consent of such Defaulting Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender more adversely than other affected Lenders shall require the consent of such Defaulting Lender.

If any Lender (i) does not consent, by the date specified by the Borrowers, to a proposed amendment, waiver, consent or release with respect to any Loan Document that requires the consent of each Lender or each Lender adversely affected thereby that has been approved by the Required Lenders, (ii) is a Terminating Lender or (iii) is a Defaulting Lender, the Company may replace such non-consenting Lender, Terminating Lender or Defaulting Lender in accordance with Section 2.09 or Section 7.06; *provided* that, with respect to a replacement pursuant to clause (i) above, such amendment, waiver, consent or release can be effected as a result of the assignment contemplated by such Section (together with all other such assignments required by the Company to be made pursuant to this paragraph).

Section 9.11. ~~Headings~~**Headings.** Section headings used in this Agreement are for reference only and shall not affect the construction of this Agreement.

Section 9.12. Expenses; Indemnity; Damage Waiver. (a) *Costs and Expenses.* The Company shall pay (i) all reasonable and documented out of pocket expenses incurred by the Administrative Agent, the Co-Sustainability Agents and their respective Affiliates (but limited, in the case of legal fees and expenses, to the reasonable and properly documented fees, charges and disbursements of one counsel for the Administrative Agent, the Co-Sustainability Agents and the Arrangers taken as a whole), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable and documented out of pocket expenses incurred by the L/C Issuer in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out of pocket expenses incurred by the Administrative Agent, any Co-Sustainability Agents, any Lender (other than a Defaulting Lender) or any L/C Issuer in connection with the enforcement or protection of its rights (1) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (2) in connection with the Loans made or Letters of Credit issued hereunder, including all such out of pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) *Indemnification by the Company.* The Company shall indemnify the Administrative Agent (and any sub-agent thereof), each Co-Sustainability Agent, each Lender and each L/C Issuer, and each Related Party of any of the foregoing Persons (each such Person being called an “**Indemnatee**”) against, and hold each Indemnatee harmless from, any and all losses, claims, damages, liabilities and related expenses (including, but limited in the case of legal fees and expenses, to the reasonable and properly documented fees, charges and disbursements of one counsel to the Indemnitees taken as a whole and, if necessary, one firm of local counsel in each appropriate jurisdiction, and, in the case of an actual or perceived conflict of interest, one additional counsel to each group of affected Indemnitees similarly situated taken as a whole), incurred by any Indemnatee or asserted against any Indemnatee by any third party or by the Company or any other Loan Party arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder, the consummation of the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or Release of Hazardous Materials on or from any property, including leaseholds, owned or operated by the Company or any of its Subsidiaries, or any Environmental Claim or liability under any Environmental Law, in each case to the extent related in any way to the Company or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Company or any of its equity holders, Affiliates, creditors or any other third Person, and regardless of whether any Indemnatee is a party thereto, IN ALL CASES, WHETHER OR NOT CAUSED BY OR ARISING, IN WHOLE OR IN PART, OUT OF THE COMPARATIVE, CONTRIBUTORY OR SOLE NEGLIGENCE OF THE INDEMNITEE; *provided* that such indemnity shall not, as to any Indemnatee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the bad faith, gross negligence or willful misconduct of such Indemnatee or (y) result from a claim brought by the Company or any of its Affiliates against an Indemnatee for material breach of such Indemnatee’s obligations hereunder or under any other Loan Document, if the Company or such Affiliate has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. This Section 9.12(b) shall not apply with respect to Taxes other than Taxes that represent losses, claims, damages, liabilities and related expenses arising from any non-Tax claim, excluding Taxes for which the Indemnatee has been indemnified under Section 9.01.

(c) *Reimbursement by Lenders.* To the extent that the Company for any reason fails to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof), any L/C Issuer, the Swing Line Lender or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), such L/C Issuer, the Swing Line Lender or such Related Party, as the case may be, such Lender’s applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, *provided* that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent), such L/C Issuer or the Swing Line Lender in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) or such L/C Issuer or the Swing Line Lender, in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.04(e).

(d) *Waiver of Consequential Damages, Etc.* To the fullest extent permitted by applicable Law, each Borrower and the Administrative Agent (and any sub-agent thereof), each Co-Sustainability Agent, each Lender and each L/C Issuer, and each Related Party of any of the foregoing Persons (each such Person being called a “**Protected Person**”) shall not assert, and hereby waives, any claim on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof; *provided* that nothing contained in this sentence shall limit the Company’s indemnity and reimbursement obligations to the extent such special, indirect, consequential or punitive damages are included in any third party claim in connection with which such Protected Person is entitled to indemnification hereunder. No Protected Person shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Protected Person 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 other than for direct or actual damages resulting from the bad faith, gross negligence or willful misconduct of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(e) *Payments.* All amounts due under this Section shall be payable not later than ten (10) Business Days after demand therefor; *provided, however,* that each Indemnitee shall promptly refund any amount received by it pursuant to this Section to the extent that there is a final judicial or arbitral determination that such Indemnitee was not entitled to indemnification rights with respect to such payment pursuant to the express terms of this Section 9.12.

(f) *Survival.* The agreements in this Section shall survive the resignation of the Administrative Agent, any L/C Issuer and the Swing Line Lender, the replacement of any Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all the other Obligations.

Section 9.13. ~~Setoff~~Setoff. In addition to any rights now or hereafter granted under applicable Law and not by way of limitation of any such rights, upon the occurrence and during the continuance of any Event of Default, each Lender or any Affiliate of such Lender is hereby authorized by the Company and each other Loan Party at any time or from time to time, without notice to the Company or such other Loan Party or to any other Person, any such notice being hereby expressly waived, to set off and to appropriate and to apply any and all deposits (general or special, including, but not limited to, indebtedness evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts, and in whatever currency denominated) and any other indebtedness at any time held or owing by that Lender or an Affiliate of such Lender to or for the credit or the account of the Company or such other Loan Party, whether or not matured, against and on account of the Obligations of the Company or such other Loan Party to such Lender under the Loan Documents, including, but not limited to, all claims of any nature or description arising out of or connected with the Loan Documents, irrespective of whether or not (a) such Lender shall have made any demand hereunder or (b) the principal of or the interest on the Loans and other amounts due hereunder shall have become due and payable pursuant to Article 6 and although said obligations and liabilities, or any of them, may be contingent or unmatured; *provided*, that in the event that any Defaulting Lender shall exercise any such right of set off, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.14 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. Each Lender agrees to promptly notify the Borrowers and the Administrative Agent after any such setoff and application made by such Lender; *provided* that the failure to give such notice shall not affect the validity of such setoff and application.

Section 9.14. *Payments Set Aside.* To the extent that any payment by or on behalf of any Loan Party is made to the Administrative Agent, any L/C Issuer or any Lender, or the Administrative Agent, the L/C Issuer or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, such L/C Issuer or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and L/C Issuer severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, *plus* interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the applicable Overnight Rate from time to time in effect. The obligations of the Lenders and the L/C Issuers under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

Section 9.15. *Treatment of Certain Information; Confidentiality.* Each of the Administrative Agent, the Lenders and the L/C Issuers agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, advisors, third party service providers and representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable Laws or regulations or by any subpoena or similar legal process, *provided* that the Company is given written notice prior to any such disclosure to the extent not legally prohibited so that the Company may seek a protective order or other appropriate remedy, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap, derivative or credit insurance transaction relating to the Company and its obligations, (g) with the prior written consent of the Company, (h) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender, any L/C Issuer or any of their respective Affiliates on a nonconfidential basis from a source other than the Company or a Subsidiary or (i) to any rating agency in connection with rating the Company or its Subsidiaries or the credit facilities provided hereunder, the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers or other market identifiers with respect to the credit facilities provided hereunder. In addition, the Administrative Agent, the Co-Sustainability Agents, the Lenders and the L/C Issuers may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Administrative Agent, any Co-Sustainability Agent or any Lender or L/C Issuer in connection with the administration of this Agreement, the other Loan Documents, and the Commitments.

For purposes of this Section, "**Information**" means all information received from the Company or any Subsidiary relating to the Company or any Subsidiary or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or any L/C Issuer on a nonconfidential basis prior to disclosure by the Company or any Subsidiary.

Each of the Administrative Agent, the Lenders and the L/C Issuers acknowledges that (a) the Information may include material non-public information concerning the Company or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Law, including United States Federal and state securities Laws.

Section 9.16. ~~Entire Agreement~~Entire Agreement. The Loan Documents constitute the entire understanding of the parties thereto with respect to the subject matter thereof and any prior agreements, whether written or oral, with respect thereto are superseded hereby.

Section 9.17. Severability of Provisions. Any provision of any Loan Document which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction. All rights, remedies and powers provided in this Agreement and the other Loan Documents may be exercised only to the extent that the exercise thereof does not violate any applicable mandatory provisions of Law, and all the provisions of this Agreement and other Loan Documents are intended to be subject to all applicable mandatory provisions of Law which may be controlling and to be limited to the extent necessary so that they will not render this Agreement or the other Loan Documents invalid or unenforceable. Without limiting the foregoing provisions of this Section 9.17, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, any L/C Issuer or the Swing Line Lender, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

Section 9.18. ~~Construction~~Construction. The parties acknowledge and agree that the Loan Documents shall not be construed more favorably in favor of any party hereto based upon which party drafted the same, it being acknowledged that all parties hereto contributed substantially to the negotiation of the Loan Documents.

Section 9.19. USA Patriot Act; Beneficial Ownership Regulation. Each Lender that is subject to the Patriot Act and the Beneficial Ownership Regulation and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies each Loan Party that pursuant to the requirements of the Patriot Act and the Beneficial Ownership Regulation it is required to obtain, verify and record information that identifies such Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify such Loan Party in accordance with the Patriot Act and the Beneficial Ownership Regulation. Each Loan Party shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable “know your customer” and anti-money laundering rules and regulations, including the Patriot Act and the Beneficial Ownership Regulation, and the Borrowers confirm that they are acting on their own account and not on behalf of a third party.

Section 9.20. ~~Judgment Currency~~Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan Document in U.S. Dollars or Euros (the “**Required Currency**”) into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the Required Currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of the Borrower in respect of any such sum due from it to the Administrative Agent or the Lenders hereunder or under the other Loan Documents shall, notwithstanding any judgment in a currency (the “**Judgment Currency**”) other than the Required Currency be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in the Judgment Currency the Administrative Agent may in accordance with normal banking procedures purchase the Required Currency with the Judgment Currency. If the amount of the Required Currency so purchased is less than the sum originally due to the Administrative Agent from a Borrower in the Required Currency, the Company agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such obligation was owing against such loss. If the amount of the Required Currency so purchased is greater than the sum originally due to the Administrative Agent in such currency, the Administrative Agent or such other Person agrees to return the amount of any excess (net of any other unpaid amounts owed by the Loan Parties under the Loan Documents) to the Company (or to any other Person who may be entitled thereto under applicable Law).

Section 9.21. Governing Law; Jurisdiction; Etc. (a) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) *SUBMISSION TO JURISDICTION.* EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE COURTS 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 OR ANY OTHER LOAN DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT, ANY LENDER OR ANY L/C ISSUER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST THE COMPANY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) *WAIVER OF VENUE.* EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (b) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) *SERVICE OF PROCESS.* EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN Section 9.07(a). NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

Section 9.22. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (a) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (b) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 9.23. No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each Loan Party acknowledges and agrees that: (a) (i) the arranging and other services regarding this Agreement provided by the Administrative Agent, the Arrangers and the Lenders are arm's-length commercial transactions between the Company and its Subsidiaries, on the one hand, and the Administrative Agent, the Arrangers and the Lenders on the other hand, (ii) such Loan Party has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) such Loan Party is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (b) (i) each of the Administrative Agent, the Arrangers and the Lenders has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Company or any of its Subsidiaries, or any other Person and (ii) neither the Administrative Agent, the Arrangers nor the Lenders have any obligation to the Company or any of its Subsidiaries with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (c) the Administrative Agent, the Arrangers and the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Company and its Subsidiaries, and none of the Administrative Agent, the Arrangers nor the Lenders have any obligation to disclose any of such interests to the Company or its Subsidiaries. To the fullest extent permitted by Law, each Loan Party hereby waives and releases any claims that it may have against the Administrative Agent, the Arrangers and the Lenders with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

Section 9.24. ~~Qualified Person~~ Qualified Person. Each Lender listed on the signature pages hereof, by the execution and delivery of this Agreement, represents and warrants to the Borrowers that it is a Qualified Person.

Section 9.25. Agent for Services Of Process. The Company agrees that promptly following request by the Administrative Agent it will appoint and maintain an agent reasonably satisfactory to the Administrative Agent to receive service of process in New York City.

Section 9.26. Acknowledgement 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 Lender that is an 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 Lender 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 9.27. Acknowledgement Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for any agreement or instrument that is a QFC (such support, “**QFC Credit Support**”, and each such QFC, a “**Supported QFC**”), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the “**U.S. Special Resolution Regimes**”) in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

(a) In the event a Covered Entity that is party to a Supported QFC (each, a “**Covered Party**”) becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the 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. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(b) As used in this Section 9.27, the following terms have the following meanings:

“**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.

“**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).

“**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.

“**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).

Section 9.28. Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts that are treated as interest on such Loan under applicable law (collectively, “**charges**”), shall exceed the maximum lawful rate (the “**Maximum Rate**”) that may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all charges payable in respect thereof, shall be limited to the Maximum Rate. To the extent lawful, the interest and charges that would have been paid in respect of such Loan but were not paid as a result of the operation of this Section 9.28 shall be cumulated and the interest and charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the amount collectible at the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Rate for each day to the date of repayment, shall have been received by such Lender. Any amount collected by such Lender that exceeds the maximum amount collectible at the Maximum Rate shall be applied to the reduction of the principal balance of such Loan or refunded to the Borrower so that at no time shall the interest and charges paid or payable in respect of such Loan exceed the maximum amount collectible at the Maximum Rate.

Section 9.29. German Sanctions Limitations. In relation to each Party that notifies the Administrative Agent to this effect or that is a German resident (Inländer) within the meaning of Section 2 Paragraph 15 of the German Foreign Trade Act (Außenwirtschaftsgesetz - AWG) or that falls under Article 11 of Council Regulation (EC) No. 2271/1996 (EU Blocking Statute) (each a “**Restricted Party**”), Sections 4.17 and 5.16 (the “**Sanctions Provisions**”) shall only apply to or be for the benefit of any Restricted Party if and to the extent that the Sanctions Provisions, their application or exercise of rights thereunder do not result in any violation of, conflict with or liability under Section 7 of the German Foreign Trade Regulations (Außenwirtschaftsverordnung – AWV), Article 5 of Council Regulation (EC) No. 2271/1996 (EU Blocking Statute) or any similar anti-boycott law, statute or regulation applicable to the respective Restricted Party.

Section 9.30. Attorney’s Authority and Dutch Law. If any Borrower incorporated under the laws of the Netherlands, is represented by an attorney in connection with the signing and/or execution of this Agreement or any other agreement, deed or document referred to in or made pursuant to this Agreement, it is hereby expressly acknowledged and accepted by the other parties to this Agreement that the existence and extent of the attorney’s authority and the effects of the attorney’s exercise or purported exercise of their authority shall be governed by the laws of the Netherlands.

ARTICLE 10 COMPANY GUARANTY

Section 10.01. ~~The Guaranty~~~~The Guaranty~~. The Company hereby unconditionally and absolutely guarantees the full and punctual payment (whether at stated maturity, upon acceleration or otherwise) of the principal of and interest on each Loan made to the Co-Borrower pursuant to this Agreement, and the full and punctual payment of all other amounts payable by the Co-Borrower under this Agreement. Upon failure by the Co-Borrower to pay punctually any such amount, the Company shall forthwith on demand pay the amount not so paid at the place and in the manner specified in this Agreement. The Company agrees that this guaranty is a continuing guaranty of payment and performance and not of collection.

Section 10.02. ~~Guaranty Unconditional~~~~Guaranty Unconditional~~. The obligations of the Company hereunder shall be unconditional and absolute and, without limiting the generality of the foregoing, shall not be released, discharged or otherwise affected by:

- (a) any extension, renewal, settlement, compromise, waiver or release in respect of any obligation of the Co-Borrower under any Loan Document, by operation of law or otherwise;
- (b) any modification or amendment of or supplement to this Agreement or any Note;

(c) any change in the corporate existence, structure or ownership of the Co-Borrower, or any insolvency, bankruptcy, reorganization or other similar proceeding affecting the Co-Borrower or its assets or any resulting release or discharge of any obligation of the Co-Borrower contained in any Loan Document;

(d) the existence of any claim, set off or other rights which the Company may have at any time against the Co-Borrower, the Administrative Agent, any Lender or any other Person, whether in connection herewith or any unrelated transactions; *provided* that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim;

(e) any invalidity or unenforceability relating to or against the Co-Borrower for any reason of any Loan Document, or any provision of applicable law or regulation purporting to prohibit the payment by the Co-Borrower of the principal of or interest on any Loan or any other amount payable by it under this Agreement; or

(f) any other act or omission to act or delay of any kind by the Co-Borrower, the Administrative Agent, any Lender or any other Person or any other circumstance whatsoever which might, but for the provisions of this paragraph, constitute a legal or equitable discharge of or defense to the Company's obligations hereunder.

Section 10.03. *Discharge Only Upon Payment in Full; Reinstatement in Certain Circumstances.* The Company's obligations hereunder shall remain in full force and effect until the Commitments shall have terminated and the principal of and interest on the Loans, the L/C Obligations and all other amounts payable by the Company and the Co-Borrower under this Agreement shall have been paid in full. If at any time any payment of the principal of or interest on any Loan or any other amount payable by the Co-Borrower under this Agreement is rescinded or must be otherwise restored or returned upon the insolvency, bankruptcy or reorganization of the Co-Borrower or otherwise, the Company's obligations hereunder with respect to such payment shall be reinstated at such time as though such payment had been due but not made at such time.

Section 10.04. ~~Waiver by the Company~~*Waiver by the Company*. The Company irrevocably waives acceptance hereof, presentment, demand, protest and any notice not provided for herein, as well as any requirement that at any time any action be taken by any Person against the Co-Borrower or any other Person.

Section 10.05. ~~Subrogation~~*Subrogation*. Upon making any payment with respect to the Co-Borrower hereunder, the Company shall be subrogated to the rights of the payee against the Co-Borrower with respect to such payment; *provided* that the Company shall not enforce any payment by way of subrogation unless all amounts of principal of and interest on the Loans to the Co-Borrower and all other amounts payable by the Co-Borrower under this Agreement have been paid in full.

Section 10.06. *Stay of Acceleration.* If acceleration of the time for payment of any amount payable by the Co-Borrower under this Agreement or its Notes is stayed upon insolvency, bankruptcy or reorganization of the Co-Borrower, all such amounts otherwise subject to acceleration under the terms of this Agreement shall nonetheless be payable by the Company hereunder forthwith on demand by the Administrative Agent made at the request of the Required Lenders.

[Signature Pages Follow]

EXHIBIT B

FORM OF NOTICE OF BORROWING

Date: _____, _____

To: Citibank, N.A., as Administrative Agent for the Lenders party to the Second Amended and Restated Credit Agreement, dated as of November 23, 2021 (as extended, renewed, amended or restated from time to time, the “**Credit Agreement**”), among LYONDELLBASELL INDUSTRIES N.V., a *naamloze vennootschap* (a public limited liability company) formed under the laws of The Netherlands (the “**Company**”), LYB AMERICAS FINANCE COMPANY LLC, a Delaware limited liability company (the “**Co-Borrower**”), the various institutions from time to time party thereto as Lenders and L/C Issuers and CITIBANK, N.A., as Administrative Agent.

Ladies and Gentlemen:

The undersigned refers to the Credit Agreement, the terms defined therein being used herein as therein defined, and hereby gives you irrevocable notice, pursuant to Section 2.04 of the Credit Agreement, of the Borrowing specified below:

1. The Borrower is [the Company] [the Co-Borrower].
2. The Business Day of the proposed Borrowing is _____, 20____.
3. The aggregate amount and currency of the proposed Borrowing is _____.
4. The Borrowing is to be comprised of _____.
[Specify the type of Loans to comprise such Borrowing.]
5. If applicable: The duration of the Interest Period for the [Eurocurrency Loans] [SOFR Loans] included in the Borrowing shall be ____ month(s).

Each of the conditions specified in Section 3.02(a) and (b) of the Credit Agreement shall be satisfied on and as of the date of the Borrowing requested hereby

[NAME OF BORROWER]

By:

Name:

Title:

EXHIBIT C

FORM OF NOTICE OF CONTINUATION/CONVERSION

Date: _____, ____

To: Citibank, N.A., as Administrative Agent for the Lenders party to the Second Amended and Restated Credit Agreement, dated as of November 23, 2021 (as extended, renewed, amended or restated from time to time, the “**Credit Agreement**”), among LYONDELLBASELL INDUSTRIES N.V., a *naamloze vennootschap* (a public limited liability company) formed under the laws of The Netherlands (the “**Company**”), LYB AMERICAS FINANCE COMPANY LLC, a Delaware limited liability company (the “**Co-Borrower**”), the various institutions from time to time party thereto as Lenders and L/C Issuers and CITIBANK, N.A., as Administrative Agent.

Ladies and Gentlemen:

The undersigned refers to the Credit Agreement, the terms defined therein being used herein as therein defined, and hereby gives you irrevocable notice, pursuant to Section 2.04 of the Credit Agreement, of the conversion/continuation of the Revolving Loans specified herein, that:

1. The Borrower is [the Company] [the Co-Borrower].
2. The Business Day of the proposed [conversion] [continuation] is _____, 20____.
3. The aggregate amount and currency of the Revolving Loans to be converted/continued is _____.
4. The Revolving Loans are to be converted into/continued as _____.
[Specify the type of Loans to comprise such Borrowing.]
5. If applicable: The duration of the Interest Period for the [Eurocurrency Loans] [SOFR Loans] included in the Borrowing shall be ____ month(s).

IN WITNESS WHEREOF, the undersigned has caused this Notice of Continuation/Conversion to be executed and delivered as of the date first above written

[NAME OF BORROWER]

By:

Name:

Title:

CERTIFICATION

I, Peter Vanacker, certify that:

1. I have reviewed this quarterly report on Form 10-Q of LyondellBasell Industries N.V.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

August 4, 2023

/s/ Peter Vanacker
Peter Vanacker
Chief Executive Officer
(Principal Executive Officer)

CERTIFICATION

I, Michael C. McMurray, certify that:

1. I have reviewed this quarterly report on Form 10-Q of LyondellBasell Industries N.V.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

August 4, 2023

/s/ Michael C. McMurray
 Michael C. McMurray
 Executive Vice President and
 Chief Financial Officer
 (Principal Financial Officer)

CERTIFICATIONS PURSUANT TO 18 U.S.C. SECTION 1350

In connection with the Quarterly Report of LyondellBasell Industries N.V. (the Company) on Form 10-Q for the period ended June 30, 2023, as filed with the U.S. Securities and Exchange Commission on the date hereof (the Report), each of the undersigned hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to their knowledge:

- (1) The Report fully complies with the requirements of Sections 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

August 4, 2023

/s/ Peter Vanacker

Peter Vanacker

Chief Executive Officer

(Principal Executive Officer)

/s/ Michael C. McMurray

Michael C. McMurray

Executive Vice President and

Chief Financial Officer

(Principal Financial Officer)