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**SILVER CREEK CLO, LTD.  
SILVER CREEK CLO, LLC**

**NOTICE OF PROPOSED FIRST SUPPLEMENTAL INDENTURE AND ASSIGNMENT  
AGREEMENT AND REQUEST FOR CONSENT TO THE HOLDERS OF  
SUBORDINATED NOTES**

Date of Notice: June 28, 2017  
Notice Record Date: June 28, 2017

**NOTE: THIS NOTICE CONTAINS IMPORTANT INFORMATION THAT IS OF  
INTEREST TO THE REGISTERED AND BENEFICIAL OWNERS OF THE SUBJECT  
NOTES. IF APPLICABLE, ALL DEPOSITORIES, CUSTODIANS, AND OTHER  
INTERMEDIARIES RECEIVING THIS NOTICE ARE REQUESTED TO EXPEDITE  
RE-TRANSMITTAL TO BENEFICIAL OWNERS OF THE NOTES IN A TIMELY  
MANNER.**

To: The Holders of the Subordinated Notes, as of June 28, 2017, described on Schedule B hereto and to those Additional Parties listed on Schedule A hereto.

*(Classes and CUSIP numbers<sup>1</sup> are listed on Schedule B)*

Reference is made to (i) that certain Indenture dated as of July 18, 2014 (as amended, modified or supplemented from time to time, the “Indenture”) by and among Silver Creek CLO Ltd., as issuer (the “Issuer”), Silver Creek CLO, LLC, as co-issuer (the “Co-Issuer” and together with the Issuer, the “Co-Issuers”) and U.S. Bank National Association, as trustee (the “Trustee”), (ii) that certain Collateral Management Agreement dated as of July 18, 2014 (as amended, modified or supplemented from time to time, the “Collateral Management Agreement”) by and between the Issuer and 40|86 Advisors, Inc. (the “Collateral Manager”), (iii) that certain Collateral Administration Agreement dated as of July 18, 2014 (as amended, modified or supplemented from time to time, the “Collateral Administration Agreement”) by and between the Issuer, the Collateral Manager and U.S. Bank National Association, as collateral administrator, and (iv) the proposed assignment of, and amendment to, the Collateral Management Agreement and the Collateral Administration Agreement contained in the Assignment and Assumption Agreement to be entered into on or about July 20, 2017 (the “Assignment and Assumption Agreement”), between the Issuer, the Collateral Manager and CreekSource LLC (the “Successor Collateral Manager”). All capitalized terms used herein are used with the meanings given to such terms in the Indenture.

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<sup>1</sup> CUSIP numbers are included solely for the convenience of the Holders. The Trustee is not responsible for the selection or use of the CUSIP numbers, or the accuracy of any such numbers printed on the Notes or indicated in this notice.

**Notice of Proposed First Supplemental Indenture and Assignment and Assumption Agreement.**

The Trustee hereby notifies you pursuant to Section 8.2(b) of the Indenture that Holders of a Majority of the Subordinated Notes have directed the Co-Issuers to redeem the Class A Notes, the Class B Notes, the Class C Notes, the Class D Notes and the Class E Notes (collectively, the “Refinanced Notes”) from Refinancing Proceeds (the “Proposed Refinancing”) on or about July 20, 2017. In connection with the Proposed Refinancing, (i) subject to satisfaction of the conditions precedent set forth in the Indenture, the Co-Issuers propose to amend certain terms of the Indenture as set forth in the proposed first supplemental Indenture attached hereto as **Exhibit A** (the “First Supplemental Indenture” and (ii) the Collateral Manager proposes to assign its role as “Collateral Manager” under the Collateral Management Agreement and the Collateral Administration Agreement to the Successor Collateral Manager, and to amend such agreements in connection therewith, pursuant to the terms set forth in the proposed Assignment and Assumption Agreement attached hereto as **Exhibit B** (the “Assignment Agreement”).

Each Holder of Subordinated Notes is hereby requested to return a complete and executed copy of the Consent attached hereto as **Exhibit C** to the Trustee as soon as possible and, in any event, no later than 5:00p.m. ET on July 19, 2017.

**THE TRUSTEE MAKES NO STATEMENT AS TO THE RIGHTS OF THE HOLDERS OF THE SUBORDINATED NOTES IN RESPECT OF THE FIRST SUPPLEMENTAL INDENTURE OR THE ASSIGNMENT AGREEMENT, ASSUMES NO RESPONSIBILITY OR LIABILITY FOR THE CONTENTS OR SUFFICIENCY OF THE FIRST SUPPLEMENTAL INDENTURE OR THE ASSIGNMENT AGREEMENT, AND MAKES NO RECOMMENDATIONS AS TO ANY ACTION TO BE TAKEN WITH RESPECT TO THE FIRST SUPPLEMENTAL INDENTURE OR THE ASSIGNMENT AGREEMENT. HOLDERS ARE ADVISED TO CONSULT THEIR OWN LEGAL OR INVESTMENT ADVISOR.**

The First Supplemental Indenture and the Assignment Agreement will not be effective unless the Proposed Refinancing occurs and all conditions precedent under the Indenture and the Assignment Agreement have been satisfied. Recipients of this Notice should carefully consider the information contained in this Notice (including the accompanying First Supplemental Indenture) together with, as applicable, their respective legal, regulatory, tax, accounting, investment and other advisors. This Notice does not furnish legal, regulatory, tax, accounting, investment or other advice to any recipient.

This Notice is being sent to Holders of Subordinated Notes and to those Additional Parties on Schedule A by U.S. Bank National Association in its capacity as Trustee. Questions may be directed to the Trustee by contacting Brian Sheehan at U.S. Bank National Association at (617) 603-6555 or brian.sheehan@usbank.com regarding this Notice.

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

**SCHEDULE A**  
Additional Parties

**Issuer:**

Silver Creek CLO, Ltd.  
c/o MaplesFS Limited  
Boundary Hall, Cricket Square  
George Town  
Grand Cayman KY1-1102  
Cayman Islands  
Attention: The Directors  
Facsimile: +(345) 945-8066 with a copy to +(345) 949-8080  
E-mail: cayman@maplesfs.com

**Co-Issuer**

Silver Creek CLO, LLC  
c/o Puglisi & Associates  
850 Library Avenue, Suite 204  
Newark, Delaware 19711  
Attention: Donald J. Puglisi  
Facsimile: (302) 738-7210  
E-mail: dpuglisi@puglisassoc.com

**Collateral Manager**

40|86 Advisors, Inc.  
535 N. College Drive  
Carmel, Indiana 46032  
Attention: Eduardo Piedra  
Fax: (317) 817-2763

**Collateral Administrator:**

U.S. Bank National Association  
One Federal Street  
Boston, MA 02110  
Attention: Corporate Trust Services—Cedar  
Creek CLO, Ltd.  
Fax: (855) 591-1828  
Email: brian.sheehan@usbank.com

**Rating Agency:**

Moody's Investors Service, Inc.  
7 World Trade Center  
250 Greenwich Street  
New York, New York 10007  
Attn: CBO/CLO Monitoring  
E-mail: cdomonitoring@moodys.com  
Facsimile: (212) 553-0355

**Irish Stock Exchange:**

The Irish Stock Exchange plc  
Companies Announcements Office  
Via e-mail to: announcements@ise.ie  
28 Anglesea Street  
Dublin 2, Ireland

**Information Agent for posting to the  
Issuer's Website:**

SilverCreekCLO@structuredfn.com

## **Schedule B**

The Holders of the Notes\* described as:

Rule 144A Global

Regulation S Global

	CUSIP	ISIN	Common Code	CUSIP	ISIN
Subordinated Notes	82755Q AC1	US82755QAC15	108414740	G81704 AB7	USG81704AB73

	Accredited Investor	
	CUSIP	ISIN
Subordinated Notes	82755Q AB3	US82755QAB32

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\* No representation is made as to the correctness of the CUSIP, ISIN or Common Code numbers either as printed on the Notes or as contained in this notice. Such numbers are included solely for the convenience of the Holders.

**EXHIBIT A**

PROPOSED FIRST SUPPLEMENTAL INDENTURE

[see attached]

**THIS FIRST SUPPLEMENTAL INDENTURE** dated as of July 20, 2017 (this "Supplemental Indenture") to the Indenture dated as of July 18, 2014 (the "Indenture") among Silver Creek CLO, Ltd., an exempted company incorporated with limited liability under the laws of the Cayman Islands (the "Issuer"), Silver Creek CLO, LLC, a limited liability company organized under the laws of the State of Delaware (the "Co-Issuer" and, together with the Issuer, the "Co-Issuers"), and U.S. Bank National Association, as trustee under the Indenture (together with its successors in such capacity, the "Trustee"). This Supplemental Indenture is entered into by and among the Co-Issuers, the Trustee, 40|86 Advisors, Inc., as the predecessor Collateral Manager (the "Predecessor Collateral Manager"), and CreekSource LLC, as the successor Collateral Manager (the "Successor Collateral Manager"). Capitalized terms used but not otherwise defined herein shall have the respective meanings set forth in the Indenture.

**WITNESSETH:**

WHEREAS, pursuant to Section 8.2 of the Indenture, the Trustee and the Co-Issuers may enter into one or more indentures supplemental to the Indenture to modify the Indenture, subject to the consent of each Holder of each Outstanding Note of each Class materially and adversely affected thereby and certain additional conditions as set forth in the Indenture;

WHEREAS, the Co-Issuers wish to amend the Indenture as set forth in this Supplemental Indenture to effect a Refinancing of the Class A Notes, the Class B Notes, the Class C Notes, the Class D Notes and the Class E Notes (collectively, the "Refinanced Notes") through the issuance of the Class X Notes, the Class A-R Notes, the Class B-R Notes, the Class C-R Notes, the Class D-R Notes and the Class E-R Notes (collectively, the "Refinancing Notes");

WHEREAS, the Subordinated Notes will remain outstanding following the Refinancing Date (as hereinafter defined);

WHEREAS, all of the Refinanced Notes will be redeemed upon giving effect to this Supplemental Indenture, and, pursuant to the terms of this Supplemental Indenture, with respect to the purchasers of Refinancing Notes, each purchaser's payment for such Refinancing Note will confirm the purchaser's agreement to terms of this Supplemental Indenture, including the amendments to the Indenture set forth in this Supplemental Indenture, and to the execution of this Supplemental Indenture by the Co-Issuers and the Trustee;

WHEREAS, the Collateral Manager has consented to the terms of this Supplemental Indenture and the Holders of all of the Subordinated Notes have consented to and confirmed their agreement to the terms of this Supplemental Indenture, including the amendments to the Indenture set forth in this Supplemental Indenture, and to the execution of this Supplemental Indenture by the Co-Issuers and the Trustee;

WHEREAS, the conditions set forth for entry into a supplemental indenture pursuant to Sections 8.2 of the Indenture have been satisfied;

WHEREAS, the conditions set forth in Section 9.2 of the Indenture to the Optional Redemption by Refinancing to be effected from the proceeds of the issuance of the Refinancing Notes have been satisfied; and

WHEREAS, the Predecessor Collateral Manager will assign all of its rights, obligations and duties under the Collateral Management Agreement, the Indenture and each other Transaction Document to the Successor Collateral Manager in accordance with the terms of the Collateral Management Agreement, the Indenture and each other Transaction Document;

NOW, THEREFORE, in consideration of the mutual agreements herein set forth, the parties agree as follows:

1. Amendments to the Indenture. As of the date hereof, the Indenture is hereby amended to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the bold and double-underlined text (indicated textually in the same manner as the following example: **bold and double-underlined text**) as set forth on the pages of the Indenture attached as Annex A hereto. [The modifications set forth in the Indenture will be revised as the Issuer and the Collateral Manager may determine necessary to effect the Refinancing. Each of the Exhibits to the Indenture shall be amended as reasonably acceptable to the Co-Issuers and the Collateral Manager solely in order to make such form of Notes consistent with the terms of the applicable Class of Refinancing Notes, as certified to the Trustee by the Co-Issuers.]

2. Issuance of Refinancing Notes, Amendment and Restatement of Subordinated Notes and Authentication of Refinancing Notes and Subordinated Notes; Cancellation of Refinanced Notes.

(a) The Co-Issuers hereby direct the Trustee (i) to deposit in the Collection Account the proceeds of the Refinancing Notes received on the Refinancing Date, (ii) to pay the Redemption Prices of the Refinanced Notes, and (iii) to pay all accrued and unpaid Administrative Expenses (regardless of the Administrative Expense Cap) and other fees and expenses payable under the Priority of Payments (including, without limitation, the Collateral Management Fees and any amounts due to the Hedge Counterparties) in accordance with Article 9 of the Indenture and (as applicable) the Priority of Payments.

(b) The Refinancing Notes shall be issued as Rule 144A Global Notes, Regulation S Global Notes and, if applicable, Certificated Notes, substantially in forms set forth in Exhibits A-1, A-2, A-3, A-4, A-5 and A-6 to the Indenture, and the Subordinated Notes shall be amended and restated, substantially in the form set forth in Exhibit A-7 to the Indenture, and the Notes shall be executed by the Applicable Issuers and delivered to the Trustee for authentication and thereupon the same shall be authenticated and delivered to the Issuer by the Trustee upon Issuer Order and upon receipt by the Trustee of the following:

(i) Officers' Certificates of the Co-Issuers Regarding Corporate Matters. An Officer's certificate of each of the Co-Issuers (1) evidencing the authorization by Resolution of the execution and delivery of this Supplemental Indenture pursuant to Section 8.2, the Refinancing Placement Agreement and related transaction documents

and the execution, authentication and delivery of the Refinancing Notes and the amended and restated Subordinated Notes applied for by it and specifying the Stated Maturity and the principal amount of each Class of Notes to be authenticated and delivered and the Note Interest Rate of each Class of Refinancing Notes to be authenticated and delivered, and (2) certifying that (a) the attached copy of such Resolution is a true and complete copy thereof, (b) such Resolution has not been rescinded and is in full force and effect on and as of the Refinancing Date and (c) the Officers authorized to execute and deliver such documents hold the offices and have the signatures indicated thereon.

(ii) Governmental Approvals. From each of the Co-Issuers either (A) a certificate of the Applicable Issuer or other official document evidencing the due authorization, approval or consent of any governmental body or bodies, at the time having jurisdiction in the premises, together with an Opinion of Counsel of such Applicable Issuer to the effect that no other authorization, approval or consent of any governmental body is required for the valid issuance of the Refinancing Notes or the amendment and restatement of the Subordinated Notes, or (B) an Opinion of Counsel of the Applicable Issuer to the effect that no such authorization, approval or consent of any governmental body is required for the valid issuance of the Refinancing Notes or the amendment and restatement of the Subordinated Notes except as have been given (provided that the opinions delivered pursuant to Section 2(b)(iii) and (iv) below may satisfy the requirement).

(iii) U.S. Counsel Opinions. Opinions of Milbank, Tweed, Hadley & McCloy LLP, special U.S. counsel to the Co-Issuers or other counsel acceptable to the Trustee, dated the Refinancing Date, in form and substance satisfactory to the Issuer and the Trustee.

(iv) Cayman Counsel Opinion. An opinion of Maples and Calder, Cayman Islands counsel to the Issuer, or other counsel acceptable to the Trustee, dated the Refinancing Date, in form and substance satisfactory to the Issuer.

(v) Officers' Certificates of Co-Issuers Regarding Indenture. An Officer's certificate of each Co-Issuer stating that the Applicable Issuer is not in default under the Indenture (before and after giving effect to this Supplemental Indenture) and that the issuance of the Refinancing Notes applied for by it and, in the case of the Issuer, the amendment and restatement of the Subordinated Notes shall not result in a default or a breach of any of the terms, conditions or provisions of, or constitute a default under, its organizational documents, any indenture or other agreement or instrument to which it is a party or by which it is bound, or any order of any court or administrative agency entered in any Proceeding to which it is a party or by which it may be bound or to which it may be subject; that all conditions precedent provided in the Indenture (before and after giving effect to this Supplemental Indenture) and this Supplemental Indenture relating to the authentication and delivery of the Refinancing Notes applied for by it and the amendment and restatement of the Subordinated Notes have been complied with and that the authentication and delivery of the Refinancing Notes and the amended and restated Subordinated Notes is authorized or permitted under the Indenture and this Supplemental Indenture; and that all expenses due or accrued with respect to the Offering of the

Refinancing Notes or relating to actions taken on or in connection with the Refinancing Date have been paid or reserves therefor have been made. The Officer's certificate of the Issuer shall also state that all of its representations and warranties contained in the Indenture and herein are true and correct as of the Refinancing Date.

(vi) Irish Listing. If the Refinancing Notes are of a Class of Listed Notes, an Officer's certificate of the Issuer to the effect that application will be made to list such Refinancing Notes on the Irish Stock Exchange.

(vii) Rating Letters. An Officer's certificate of the Issuer to the effect that attached thereto is a true and correct copy of a letter signed by the Rating Agency and confirming that each Class of Refinancing Notes has been assigned the applicable Initial Rating and that such ratings are in effect on the Refinancing Date.

(viii) Executed Supplemental Indenture and the Refinancing Placement Agreement. Executed copies of this Supplemental Indenture and the Refinancing Purchase Agreement.

(c) Surrender and Cancellation of Refinanced Notes. On the Refinancing Date specified herein, the Trustee, as custodian of the Global Notes, shall cause all Global Notes representing the Refinanced Notes that are held by the Trustee on behalf of [Cede & Co.] to be surrendered for transfer and shall cause the Refinanced Notes to be cancelled in accordance with Section 2.10 of the Indenture.

### 3. Consent of Holders to Refinancing Notes, the Predecessor Collateral Manager and the Successor Collateral Manager.

Each Holder or beneficial owner of a Refinancing Note, by its acquisition thereof on the Refinancing Date, shall be deemed to agree to (a) the Indenture, as supplemented by this Supplemental Indenture, and the execution by the Co-Issuers and the Trustee hereof and (b) the assignment of all of the Predecessor Collateral Manager's rights, obligations and duties under the Collateral Management Agreement, the Indenture and each other Transaction Document to the Successor Collateral Manager.

Each of the Predecessor Collateral Manager and the Successor Collateral Manager agrees that upon the effectiveness of this Supplemental Indenture, the Successor Collateral Manager shall replace the Predecessor Collateral Manager as the "Collateral Manager" under the Collateral Management Agreement, the Indenture, and each other Transaction Document, and the Successor Collateral Manager agrees to undertake and perform all of the obligations of the "Collateral Manager" thereunder. All references in the Collateral Management Agreement, the Indenture and each other Transaction Document and all other related documents to the "Collateral Manager" shall hereinafter mean the Successor Collateral Manager. Notwithstanding the foregoing, nothing herein shall relieve the Predecessor Collateral Manager from any obligation, duty or liability that it had prior to the date hereof.

### 4. Governing Law.

THIS SUPPLEMENTAL INDENTURE, THE REFINANCING NOTES AND THE SUBORDINATED NOTES SHALL BE CONSTRUED IN ACCORDANCE WITH, AND GOVERNED BY, THE LAW OF THE STATE OF NEW YORK.

5. Execution in Counterparts.

This Supplemental Indenture may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument. Delivery of an executed counterpart of this Supplemental Indenture by electronic means (including email or telecopy) will be effective as delivery of a manually executed counterpart of this Supplemental Indenture.

6. Concerning the Trustee.

The recitals contained in this Supplemental Indenture shall be taken as the statements of the Co-Issuers, the Predecessor Collateral Manager and the Successor Collateral Manager, and the Trustee assumes no responsibility for their correctness. Except as provided in the Indenture, the Trustee shall not be responsible or accountable in any way whatsoever for or with respect to the validity, execution or sufficiency of this Supplemental Indenture and makes no representation with respect thereto. In entering into this Supplemental Indenture, the Trustee shall be entitled to the benefit of every provision of the Indenture relating to the conduct of or affecting the liability of or affording protection to the Trustee.

7. No Other Changes.

Except as provided herein, the Indenture shall remain unchanged and in full force and effect, and each reference to the Indenture and words of similar import in the Indenture, as amended hereby, shall be a reference to the Indenture as amended hereby and as the same may be further amended, supplemented and otherwise modified and in effect from time to time. This Supplemental Indenture may be used to create a conformed amended and restated Indenture for the convenience of administration by the parties hereto. Prior the Refinancing Date, references to the Placement Agent shall be to Goldman, Sachs & Co. and after the Refinancing Date, with respect to the Refinancing Notes, shall be to J.P. Morgan Securities LLC and references to the Offering Circular shall be to the original final offering circular as it relates to the original notes and dated July 14, 2014 and after the Refinancing Date, shall be to the offering circular prepared in connection with the Refinancing Notes.

8. Execution, Delivery and Validity.

Each of the Co-Issuers, the Predecessor Collateral Manager and the Successor Collateral Manager represents and warrants to the Trustee that this Supplemental Indenture has been duly and validly executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms.

9. Limited Recourse.

The obligations of the Co-Issuers hereunder are limited recourse obligations of the Applicable Issuer payable solely from the Collateral in accordance with the Priority of Payments.

10. Non-Petition.

Each party hereto, each Holder of the Refinancing Notes and each Holder of the Subordinated Notes agrees not to, prior to the date which is one year and one day (or if longer, any applicable preference period, plus one day) after the payment in full of all Notes, institute against, or join any other Person in instituting against, the Issuer, the Co-Issuer or any Tax Subsidiary any bankruptcy, reorganization, arrangement, insolvency, winding up, moratorium or liquidation Proceedings, or other Proceedings under Cayman Islands, U.S. federal or state bankruptcy or similar laws.

11. Binding Effect.

This Supplemental Indenture shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

12. Waiver of Jury Trial.

**THE TRUSTEE, THE HOLDERS OF REFINANCING NOTES (BY THEIR ACCEPTANCE OF REFINANCING NOTES), THE HOLDERS OF THE SUBORDINATED NOTES, EACH OF THE CO-ISSUERS, THE PREDECESSOR COLLATERAL MANAGER AND THE SUCCESSOR COLLATERAL MANAGER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES (TO THE EXTENT PERMITTED BY APPLICABLE LAW) ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS SUPPLEMENTAL INDENTURE, THE REFINANCING NOTES, THE SUBORDINATED NOTES, OR ANY OTHER RELATED DOCUMENTS, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN), OR ACTIONS OF THE TRUSTEE, THE HOLDERS, THE PREDECESSOR COLLATERAL MANAGER, THE SUCCESSOR COLLATERAL MANAGER OR EITHER OF THE CO-ISSUERS. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE TRUSTEE, THE PREDECESSOR COLLATERAL MANAGER, THE SUCCESSOR COLLATERAL MANAGER AND THE CO-ISSUERS TO ENTER INTO THIS SUPPLEMENTAL INDENTURE.**

13. Direction.

By their signatures hereto, the Issuer and the Co-Issuer hereby direct the Trustee to execute this Supplemental Indenture.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed and delivered by their respective proper and duly authorized officers as of the day and year first above written.

Executed as a Deed by:

**SILVER CREEK CLO, LTD.** as Issuer

By: \_\_\_\_\_  
Name:  
Title:

In the presence of:

Witness: \_\_\_\_\_  
Name:  
Occupation:  
Title:

**SILVER CREEK CLO, LLC**, as Co-Issuer

By: \_\_\_\_\_

Name:

Title:

**U.S. BANK NATIONAL ASSOCIATION,  
as Trustee**

By: \_\_\_\_\_  
Name:  
Title:

CONSENTED AND AGREED

**CREEKSOURCE LLC,**  
as Successor Collateral Manager

By: \_\_\_\_\_

Name:

Title:

CONSENTED AND AGREED

**40|86 ADVISORS, INC.**  
as Predecessor Collateral Manager

By: \_\_\_\_\_

Name:

Title:

**ANNEX A**

**[attached]**

MTH&M DRAFT  
06/28/17

Annex A

**SILVER CREEK CLO, LTD.**

Issuer

**SILVER CREEK CLO, LLC**

Co-Issuer

**U.S. BANK NATIONAL ASSOCIATION**

Trustee

**INDENTURE**

**Dated as of July 18, 2014**

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INDENTURE, dated as of July 18, 2014, among Silver Creek CLO, Ltd., an exempted company incorporated with limited liability under the laws of the Cayman Islands (the "Issuer"), Silver Creek CLO, LLC, a limited liability company formed under the laws of the State of Delaware (the "Co-Issuer" and, together with the Issuer, the "Co-Issuers"), and U.S. Bank National Association, a national banking association, as trustee (herein, together with its permitted successors in the trusts hereunder, the "Trustee").

## PRELIMINARY STATEMENT

The Co-Issuers are duly authorized to execute and deliver this Indenture to provide for the Notes issuable as provided in this Indenture. Except as otherwise provided herein, all covenants and agreements made by the Co-Issuers herein are for the benefit and security of the Secured Parties. The Co-Issuers are entering into this Indenture, and the Trustee is accepting the trusts created hereby, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

All things necessary to make this Indenture a valid agreement of the Co-Issuers in accordance with the agreement's terms have been done.

## GRANTING CLAUSE

I. Subject to the priorities and the exclusions, if any, specified below in this Granting Clause, the Issuer hereby Grants to the Trustee, for the benefit and security of the Secured Noteholders, any Hedge Counterparties, the Trustee, the Administrator, the Collateral Manager and the Collateral Administrator (collectively, the "Secured Parties") to the extent of such Secured Party's interest hereunder, including under the Priority of Payments, all of its right, title and interest in, to and under, in each case, whether now owned or existing, or hereafter acquired or arising, all securities, loans and investments and, in each case as defined in the UCC, accounts, chattel paper, deposit accounts, instruments, financial assets, investment property, general intangibles, letter-of-credit rights, and other supporting obligations, and other property of any type or nature in which the Issuer has an interest, including all proceeds (as defined in the UCC) with respect to the foregoing (subject to the exclusions noted below, the "Assets" or the "Collateral"). Such Grants include, but are not limited to

(a) the Collateral Obligations and Equity Securities which the Issuer causes to be delivered to the Trustee (directly or through an Intermediary or bailee) on or after the Closing Date and all payments thereon or with respect thereto,

(b) each Account and all Eligible Investments (including Cash) purchased with funds on deposit therein, and all income from the investment of funds therein,

(c) the Collateral Management Agreement, any Hedge Agreements, the Administration Agreement, the Registered Office Agreement and the Collateral Administration Agreement,

(d) any ownership interest in a Tax Subsidiary,

(e) all proceeds (as defined in the UCC) with respect to the foregoing.

Such Grants exclude (i) the bank account in the Cayman Islands in which the amounts from time to time (if any) remaining from the U.S.\$250 transaction fee paid to the Issuer in consideration of the issuance of the Notes are deposited (or any interest thereon), (ii) such funds as are attributable to the issuance and allotment of the Issuer's ordinary shares and (iii) Warehouse Accrued Interest (collectively, the "Excepted Property").

Such Grants are made in trust to secure the Secured Notes equally and ratably without prejudice, priority or distinction between any Note and any other Note by reason of difference of time of issuance or otherwise, except as expressly provided in this Indenture, and to secure, in accordance with the priorities set forth in the Priority of Payments, (A) the payment of all amounts due on the Notes in accordance with their terms, (B) the payment of all other sums payable under this Indenture to any Secured Party and (C) compliance with the provisions of this Indenture, all as provided in this Indenture (collectively, the "Secured Obligations").

II. The Trustee acknowledges such Grant, accepts the trusts hereunder in accordance with the provisions hereof, and agrees to perform the duties herein in accordance with the terms hereof.

## ARTICLE I

### DEFINITIONS

Section 1.1. Definitions. Except as otherwise specified herein or as the context may otherwise require, the following terms shall have the respective meanings set forth below for all purposes of this Indenture:

"17g-5 Information": The meaning specified in Section 14.16.

"17g-5 Website": A password-protected internet website which shall initially be located at <https://www.structuredfn.com>. Any change of the 17g-5 Website shall only occur after notice has been delivered by the Issuer to the Information Agent, the Trustee, the Collateral Administrator, the Collateral Manager, the~~each~~ Placement Agent, and the Rating Agency setting the date of change and new location of the 17g-5 Website.

"Accountants' Report": An agreed-upon procedures report of the firm or firms appointed by the Issuer pursuant to Section 10.8(a), which report (notwithstanding anything to the contrary contained or implied herein) shall not be required to be provided to or otherwise shared with any Rating Agency.

"Account Agreement": An Agreement in substantially the form of Exhibit E hereto.

"Accounts": Each of (i) the Payment Account, (ii) the Collection Account, (iii) the Ramp-Up Account, (iv) the Expense Reserve Account, (v) the Interest Reserve Account, (vi) the Custodial Account, (vii) the Unfunded Exposure Account, (viii) the Discretionary Reserve Account and (ix) each Hedge Counterparty Collateral Account (if any).

"Accredited Investor": An accredited investor as defined in Regulation D under the Securities Act.

"Act of Holders": The meaning specified in Section 14.2.

"Additional Notes": Any Notes issued pursuant to Section 2.4.

"Additional Notes Closing Date": The closing date for the issuance of any Additional Notes pursuant to Section 2.4 as set forth in an indenture supplemental to this Indenture pursuant to Section 8.2(b).

"Adjusted Collateral Principal Amount": As of any date of determination, (a) the Aggregate Principal Balance of the Collateral Obligations (excluding Deferring **SecuritiesObligations**, Defaulted Obligations, **and** Discount Obligations **and any Collateral Obligation that matures after the Stated Maturity of the Notes**), plus (b) the aggregate amount of cash plus the Aggregate Principal Balance of all other Eligible Investments purchased with or otherwise constituting Principal Proceeds held by the Issuer, but excluding any cash or other Eligible Investments then on deposit in the Unfunded Exposure Account, plus (c) for all Defaulted Obligations that have been Defaulted Obligations for less than three years and (without duplication) all Deferring **SecuritiesObligations**, the Moody's Collateral Value thereof, plus (d) with respect to each Discount Obligation, the product (expressed as a dollar amount) of (i) the purchase price of such Discount Obligation (excluding accrued interest and any syndication or upfront fees paid to the Issuer, **but including, at the discretion of the Collateral Manager, the amount of any related transaction costs (including assignment fees) paid by the Issuer to the seller of the Collateral Obligation or its agent**) expressed as a percentage of par (as of the date of purchase) multiplied by (ii) the principal balance of such Discount Obligation (as of the date of determination), **plusminus** (e) with respect to each Collateral Obligation that matures after the Stated Maturity of the Notes, the lower of (i) the Market Value of such Collateral Obligation, and (ii) the product (expressed as a dollar amount) of (A) 0.70 multiplied by (B) the outstanding principal balance of such Collateral Obligation, minus (f) the Excess Caa Adjustment Amount; provided that any Collateral Obligation that would be subject to the provisions of more than one of clauses (c) through (g) above shall, for the purposes of this definition, be treated as being subject only to the provisions of the single clause that would result in the lowest Adjusted Collateral Principal Amount for such Collateral Obligation as of such date of determination; provided, further that with respect to any Tax Subsidiary Asset held by a Tax Subsidiary, for purposes of this definition and the calculation of any Overcollateralization Ratio, such Tax Subsidiary Asset will be treated in the same manner as if it were held directly by the Issuer. For the avoidance of doubt, the value of equity warrants attached to any Collateral Obligation shall not constitute part of the Principal Balance thereof for purposes of this definition.

"Administration Agreement": An agreement between the Administrator and the Issuer relating to the various corporate management functions the Administrator will perform on behalf of the Issuer, and the provision of certain clerical, administrative and other services in the Cayman Islands, as such agreement may be amended, supplemented or varied from time to time.

"Administrative Expense Cap": An amount equal on any Payment Date (when taken together with any Administrative Expenses paid in the order of priority contained in the definition

thereof during the period since the preceding Payment Date or, in the case of the first Payment Date, the Closing Date) to the sum of (a) 0.0175% per annum (prorated for the related Interest Accrual Period on the basis of a 360-day year and the actual number of days elapsed) of the Fee Basis Amount on the Determination Date relating to the immediately preceding Payment Date (or, for purposes of calculating this clause (a) in connection with the first Payment Date, on the Closing Date) and (b) U.S.\$275,000 per annum (prorated for the related Interest Accrual Period on the basis of a 360-day year comprised of twelve 30-day months); provided that if the amount of Administrative Expenses paid pursuant to clause (A) of the Priority of Interest Proceeds (including any excess applied in accordance with this proviso) on the three immediately preceding Payment Dates or during the related Collection Periods is less than the stated Administrative Expense Cap (without regard to any excess applied in accordance with this proviso) in the aggregate for such three preceding Payment Dates, the excess may be applied to the Administrative Expense Cap with respect to the then-current Payment Date; provided, further, that in respect of each of the first three Payment Dates from the Closing Date, such excess amount shall be calculated based on the Payment Dates, if any, preceding such Payment Date.

**"Administrative Expenses"**: The fees, expenses (including indemnities as set forth below) and other amounts due or accrued with respect to any Payment Date and payable in the following order by the Issuer or the Co-Issuer: *first*, to the Trustee (including any indemnities) in each of its capacities pursuant to this Indenture and the other Transaction Documents, *second*, to the Collateral Administrator for its fees and expenses (including indemnities) under the Collateral Administration Agreement and then fees and expenses of the Bank in its other capacities under this Indenture, and then *third*, on a *pro rata* basis (including indemnities) to (a) the Independent accountants, agents (other than the Collateral Manager) and counsel of the Co-Issuers for fees and expenses; (b) the Rating Agency for fees and expenses (including surveillance fees) in connection with any rating of the Rated Notes or in connection with the rating of (or provision of credit estimates in respect of) any Collateral Obligations; (c) the Collateral Manager under this Indenture and the Collateral Management Agreement, including without limitation reasonable expenses of the Collateral Manager (including (x) actual fees incurred and paid by the Collateral Manager for its accountants, agents, counsel and administration and (y) out-of-pocket travel and other miscellaneous expenses incurred and paid by the Collateral Manager in connection with the Collateral Manager's management of the Collateral Obligations (including without limitation expenses related to the workout of Collateral Obligations), which expenses shall be allocated among the Issuer and other clients of the Collateral Manager to the extent such expenses are incurred in connection with the Collateral Manager's activities on behalf of the Issuer and such other clients) actually incurred and paid in connection with the purchase or sale of any Collateral Obligations or otherwise in connection with the performance of the Collateral Manager's obligations under this Indenture and under the Collateral Management Agreement, any other expenses actually incurred and paid in connection with the Collateral Obligations and amounts payable pursuant to the Collateral Management Agreement but excluding the Collateral Management Fees; (d) **reasonable expenses of the Support Services Provider (including (x) actual fees incurred and paid by the Support Services Provider for its accountants, agents, counsel and administration and (y) out-of-pocket travel and other miscellaneous expenses incurred and paid by the Support Services Provider in connection with its duties under the Support Services Agreement (including without limitation expenses related to the workout of Collateral Obligations), which expenses shall be allocated among the Collateral Manager**

and other clients of the Support Services Provider to the extent such expenses are incurred in connection with the Support Services Provider's activities on behalf of the Collateral Manager and such other clients) actually incurred and paid in connection with the performance of the Support Services Provider's obligations under the Support Services Agreement, any other expenses actually incurred and paid in connection with the Collateral Obligations and amounts payable pursuant to the Support Services Agreement but excluding the Collateral Management Fees; (e) the Administrator pursuant to the Administration Agreement; and (ef) any other Person in respect of any other fees or expenses permitted under this Indenture and the documents delivered pursuant to or in connection with this Indenture (including expenses incurred in connection with setting up and administering Tax Subsidiaries, capital contribution to a Tax Subsidiary necessary to pay any taxes, registered office or governmental fees owing by such Tax Subsidiary, the payment of facility rating fees, any costs to the Issuer of achieving **FATCA****Tax Account Reporting Rules** Compliance and all legal and other fees and expenses incurred in connection with the purchase or sale of any Collateral Obligations and any other expenses incurred in connection with the Collateral Obligations, including any Excepted Advances) and the Notes, including but not limited to, amounts owed to the Co-Issuer pursuant to Section 7.1, any amounts due in respect of the listing of the Notes on any stock exchange or trading system, any costs associated with producing Certificated Notes pursuant to Section 2.11; provided that (x) amounts due in respect of actions taken on or before the Closing Date shall not be payable as Administrative Expenses but shall be payable only from the Expense Reserve Account pursuant to Section 10.3(d), (y) for the avoidance of doubt, amounts that are specified as payable under the Priority of Payments that are not specifically identified therein as Administrative Expenses (including, without limitation, interest and principal in respect of the Notes and amounts owing to Hedge Counterparties) shall not constitute Administrative Expenses and (z) the Collateral Manager may direct the payment of Rating Agency fees (only out of amounts available pursuant to clause (b) of the definition of Administrative Expense Cap) other than in the order required above, if, in the Collateral Manager's commercially reasonable judgment such payments are necessary to avoid the withdrawal of any currently assigned rating on any Outstanding Class of Rated Notes; ; provided further that, for the avoidance of doubt, reasonable expenses incurred by the Issuer, the Co-Issuer, the Collateral Manager, the Trustee, the Collateral Administrator and any other person consented to by the Issuer (including reasonable attorneys' fees and expenses) in connection with an Optional Redemption or a Partial Redemption by Refinancing shall be considered Administrative Expenses.

"Administrator": MaplesFS Limited.

"Advisers Act": The Investment Advisers Act of 1940, as amended from time to time.

"Affiliate" or "Affiliated": With respect to a Person, (a) any other Person who, directly or indirectly, is in control of, or controlled by, or is under common control with, such Person or (b) any other Person who is a director, officer or employee (i) of such Person, (ii) of any subsidiary or parent company of such Person or (iii) of any Person described in clause (a) above; provided that neither the Administrator nor any special purpose entity for which it acts as share trustee or administrator shall be deemed to be an Affiliate of the Issuer or the Co-Issuer solely because the Administrator or any of its Affiliates serves as administrator or share trustee for the

Issuer or the Co-Issuer. For the purposes of this definition, control of a Person shall mean the power, direct or indirect, (x) to vote more than 50% of the securities having ordinary voting power for the election of directors of any such Person or (y) to direct or cause the direction of the management and policies of such Person whether by contract or otherwise; provided that no special purpose company to which the Collateral Manager provides investment advisory services shall be considered an Affiliate of the Collateral Manager; provided further that no entity to which the Administrator provides shares trustee and/or administration services, including the provision of directors, will be considered to be an Affiliate of the Issuer solely by reason thereof.

**"Agent Members"**: Members of, or participants in, DTC, Euroclear or Clearstream.

**"Aggregate Outstanding Amount"**: With respect to any Class or Classes of Notes as of any date, the aggregate principal amount of such Notes Outstanding on such date.

**"Aggregate Principal Balance"**: When used with respect to all or a portion of the Collateral Obligations or the Pledged Obligations, the sum of the Principal Balances of all or of such portion of the Collateral Obligations or Pledged Obligations, respectively.

**"Aggregate Ramp-Up Par Amount"**: An amount equal to U.S.\$350,000,000.

**"Aggregate Ramp-Up Par Condition"**: A condition satisfied as of the end of the Ramp-Up Period if the Issuer has purchased, or entered into binding commitments to purchase, Collateral Obligations, including Collateral Obligations acquired by the Issuer on or prior to the Closing Date under any warehouse facility or similar arrangement, having an Aggregate Principal Balance that in the aggregate equals or exceeds the Aggregate Ramp-Up Par Amount, without regard to prepayments, maturities, redemptions or sales; provided that for purposes of determining whether or not the Aggregate Ramp-Up Par Condition is satisfied, the Principal Balance of any Defaulted Obligation shall be its Moody's Collateral Value.

**"Applicable Issuer"** or **"Applicable Issuers"**: With respect to the Secured Notes of any Class, the Issuer or each of the Co-Issuers, as specified in Section 2.3 and with respect to the Subordinated Notes, the Issuer only.

**"Asset Quality Matrix"**: The following chart, which is used to determine Asset Quality **Matrix** Combination for purposes of determining compliance with the Moody's Diversity Test, the Maximum Moody's Rating Factor Test and the Minimum Floating Spread Test, as set forth in Section 7.17(f).

Minimum Weighted Average Floating Spread	Minimum Diversity Score							
	40	45	50	55	60	65	70	75
2.70%	2035	2085	2135	2185	2225	2265	2295	2325
2.80%	2120	2170	2220	2270	2310	2350	2380	2410
2.90%	2200	2250	2300	2350	2390	2430	2460	2490

<b>3.00%</b>	2270	2320	2370	2420	2460	2500	2530	2560
<b>3.10%</b>	2340	2390	2440	2490	2530	2570	2600	2630
<b>3.20%</b>	2400	2450	2500	2550	2590	2630	2660	2690
<b>3.30%</b>	2460	2510	2560	2610	2650	2690	2720	2750
<b>3.40%</b>	2495	2560	2610	2660	2700	2740	2770	2800
<b>3.50%</b>	2530	2600	2650	2700	2740	2780	2810	2840
<b>3.60%</b>	2560	2630	2680	2730	2770	2810	2850	2890
<b>3.70%</b>	2605	2660	2715	2770	2825	2875	2925	2970
<b>3.80%</b>	2635	2690	2745	2800	2855	2905	2955	3000
<b>3.90%</b>	2665	2720	2775	2830	2885	2935	2985	3025
<b>4.00%</b>	2695	2750	2805	2860	2915	2965	3015	3055
<b>4.10%</b>	2725	2780	2835	2890	2945	2995	3040	3075
<b>4.20%</b>	2755	2810	2865	2920	2975	3025	3070	3105
<b>4.30%</b>	2780	2835	2890	2945	3000	3050	3095	3130
<b>4.40%</b>	2805	2860	2915	2970	3025	3075	3120	3155
<b>4.50%</b>	2830	2885	2940	2995	3050	3100	3145	3180

#### **Maximum Moody's Weighted Average Rating Factor**

**"Assets": The meaning assigned in the Granting Clause hereof.**

**"Asset Quality Matrix Combination"**: The applicable "row/column combination" chosen by the Collateral Manager with notice to the Trustee and the Collateral Administrator (or by linear interpolation between two adjacent rows and/or two adjacent columns, as applicable, on a straight-line basis with results rounded to two decimal places).

**"Assets": The meaning assigned in the Granting Clause hereof.**

**"Assumed Reinvestment Rate"**: The then-current rate of interest being paid by the Bank on time deposits in the Bank having a scheduled maturity of the date prior to the next Payment Date (as determined on the most recent Interest Determination Date relating to an Interest Accrual Period beginning on a Payment Date or the Closing Date, as applicable).

**"Authenticating Agent"**: With respect to the Notes, the Person designated by the Trustee to authenticate such Notes on behalf of the Trustee pursuant to Section 6.14.

**"Authorized Officer"**: With respect to the Issuer or the Co-Issuer, any Officer or any other Person who is authorized to act for the Issuer or the Co-Issuer, as applicable, in matters relating to, and binding upon, the Issuer or the Co-Issuer. With respect to the Collateral Manager, any Officer, employee, member or agent of the Collateral Manager who is authorized to act for the Collateral Manager in matters relating to, and binding upon, the Collateral Manager with respect to the subject matter of the request, certificate or order in question. With respect to the Collateral Administrator, any Officer, employee or agent of the Collateral Administrator who is authorized to act for the Collateral Administrator in matters relating to, and binding upon, the Collateral Administrator with respect to the subject matter of the request or certificate in question. With respect to the Trustee or any other bank or trust company acting as trustee of an express trust or as custodian, a Trust Officer. Each party may receive and accept a certification of the authority of any other party as conclusive evidence of the authority of any person to act, and

such certification may be considered as in full force and effect until receipt by such other party of written notice to the contrary.

**"Average Life"**: On any date of determination with respect to any Collateral Obligation, the quotient obtained by dividing (i) the sum of the products of (a) the number of years (rounded to the nearest one hundredth thereof) from such date of determination to the respective dates of each successive Scheduled Distribution of principal of such Collateral Obligation and (b) the respective amounts of principal of such Scheduled Distributions by (ii) the sum of all successive Scheduled Distributions of principal on such Collateral Obligation.

**"Balance"**: On any date, with respect to Cash or Eligible Investments in any Account, the aggregate (i) current balance of Cash, demand deposits, time deposits, certificates of deposit and federal funds; (ii) principal amount of interest-bearing corporate and government securities, money market accounts and repurchase obligations; and (iii) purchase price (but not greater than the face amount) of non-interest-bearing government and corporate securities and commercial paper.

**"Bank"**: U.S. Bank National Association, a national banking association (including any organization or entity succeeding to all or substantially all of the corporate trust business of U.S. Bank National Association), in its individual capacity and not as Trustee, and any successor thereto.

**"Bankruptcy Event"**: Either (a) the entry of a decree or order by a court having competent jurisdiction adjudging the Issuer or the Co-Issuer as bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Issuer or the Co-Issuer under the Bankruptcy Law or any other applicable law, or appointing a receiver, liquidator, assignee, or sequestrator (or other similar official) of the Issuer or the Co-Issuer or of any substantial part of its property, respectively, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order unstayed and in effect for a period of 60 consecutive days; or (b) the institution by the shareholders of the Issuer or the member of the Co-Issuer of proceedings to have the Issuer or Co-Issuer, as the case may be, adjudicated as bankrupt or insolvent, or the consent by the shareholders of the Issuer or the member of the Co-Issuer to the institution of bankruptcy or insolvency proceedings against the Issuer or Co-Issuer, or the filing by the Issuer or the Co-Issuer of a petition or answer or consent seeking reorganization or relief under the Bankruptcy Law or any other similar applicable law, or the consent by the Issuer or the Co-Issuer to the filing of any such petition or to the appointment in a proceeding of a receiver, liquidator, assignee, trustee or sequestrator (or other similar official) of the Issuer or the Co-Issuer or of any substantial part of its property, respectively, or the making by the Issuer or the Co-Issuer of an assignment for the benefit of creditors, or the admission by the Issuer or the Co-Issuer in writing of its inability to pay its debts generally as they become due, or the taking of any action by the Issuer or the Co-Issuer in furtherance of any such action.

**"Bankruptcy Law"**: The federal Bankruptcy Code, Title 11 of the United States Code, as amended from time to time, Part V of the Companies Law (2013 Revision) of the Cayman Islands, as amended from time to time, the Bankruptcy Law (1997 Revision) of the Cayman

Islands, as amended from time to time, and the Foreign Bankruptcy Proceedings (International Cooperation) Rules 2008 of the Cayman Islands, as amended from time to time.

**"Bankruptcy Subordinated Class": The meaning specified in Section 5.4(f).**

**"Bankruptcy Subordination Agreement": The meaning specified in Section 5.4(f).**

**"Base Management Fee":** The meaning assigned to such term in the Collateral Management Agreement.

**"Benefit Plan Investor":** Any of (a) an employee benefit plan (as defined in Section 3(3) of ERISA) subject to Title I of ERISA, (b) a plan described in Section 4975(e)(1) of the Code to which Section 4975 of the Code applies or (c) any other entity whose underlying assets could be deemed to include plan assets by reason of an employee benefit plan's or a plan's investment in the entity within the meaning of the Plan Asset Regulation or otherwise.

**"Board of Directors":** With respect to the Issuer, the directors of the Issuer duly appointed by the shareholder of the Issuer or the board of directors of the Issuer pursuant to the current articles of association of the Issuer, and with respect to the Co-Issuer, the managers of the Co-Issuer duly appointed by the sole member of the Co-Issuer.

**"Bonds":** Either a Senior Secured Bond or a High-Yield Bond.

**"Bridge Loan":** Any obligation or debt security incurred or issued in connection with a merger, acquisition, consolidation, sale of all or substantially all of the assets of a Person, restructuring or similar transaction, which obligation or security by its terms is required to be repaid within one year of the incurrence thereof with proceeds from additional borrowings or other refinancings (other than any additional borrowing or refinancing if one or more financial institutions has provided the issuer of such obligation or security with a binding written commitment to provide the same, so long as (i) such commitment is equal to the outstanding principal amount of the Bridge Loan and (ii) such committed replacement facility has a maturity of at least one year and cannot be extended beyond such one year maturity pursuant to the terms thereof).

**"Business Day":** Any day other than (a) a Saturday or a Sunday or (b) a day on which commercial banks are authorized or required by applicable law, regulation or executive order to close in New York, New York or in the city in which the Corporate Trust Office of the Trustee is located or, for any final payment of principal, in the relevant place of presentation.

**"Caa Collateral Obligation":** A Collateral Obligation (other than a Defaulted Obligation) with an Assigned Moody's Rating of "Caa1" or lower.

**"Calculation Agent": The meaning specified in Section 7.15.**

**"Cash": Such coin or currency of the United States of America as at the time shall be legal tender for payment of all public and private debts.**

**"Cayman IGA": The intergovernmental agreement between the Cayman Islands and the United States signed on November 29, 2013, as the same may be amended from time to time.**

**"Caa Excess":** The excess, if any, of (a) the Aggregate Principal Balance of all Caa Collateral Obligations, over (b) 10.0% of the Collateral Principal Amount as of the current Determination Date; provided that in determining which of the Collateral Obligations shall be included in the Caa Excess, the Caa Collateral Obligations with the lowest Market Value expressed as a percentage of par shall be deemed to constitute such Caa Excess.

**"Calculation Agent":** The meaning specified in Section 7.15.

**"Cash":** Such coin or currency of the United States of America as at the time shall be legal tender for payment of all public and private debts.

**"Cayman FATCA Legislation": The Cayman Islands Tax Information Authority Law (2017 Revision) (as amended) together with regulations and guidance notes made pursuant to such Law (including CRS).**

**"Cayman IGA": The intergovernmental agreement between the Cayman Islands and the United States signed on November 29, 2013, as the same may be amended from time to time.**

**"Certificate of Authentication":** The meaning specified in Section 2.1.

**"Certificated Securities":** The meaning specified in Section 8-102(a)(4) of the UCC.

**"Certificated Note":** Any Notes issued in the form of a definitive, fully registered note without coupons registered in the name of the owner or nominee thereof, substantially in the form set forth in the applicable Exhibit A hereto.

**"Certifying Person":** Any beneficial owner of Notes certifying its ownership to the Trustee substantially in the form of Exhibit D.

**"Class":** In the case of (x) the Secured Notes, all of the Secured Notes having the same Note Interest Rate, Stated Maturity and designation and (y) the Subordinated Notes, all of the Subordinated Notes.

**"Class A Notes":** **The Prior to the Refinancing Date, the** Class A Senior Secured Floating Rate Notes issued pursuant to this Indenture **on the Closing Date, and, on and after the Refinancing Date, the Class A-R Notes.**

**"Class A-R Notes":** **The Class A-R Senior Secured Floating Rate Notes issued pursuant to this Indenture on the Refinancing Date** and having the characteristics specified in Section 2.3.

"Class A/B Coverage Tests": The Overcollateralization Ratio Test and the Interest Coverage Test, each as applied with respect to the Class A Notes and the Class B Notes collectively.

"Class B Notes": **The Prior to the Refinancing Date, the** Class B Senior Secured Floating Rate Notes issued pursuant to this Indenture **on the Closing Date, and, on and after the Refinancing Date, the Class B-R Notes.**

"Class B-R Notes": **The Class B-R Senior Secured Floating Rate Notes issued pursuant to this Indenture on the Refinancing Date** and having the characteristics specified in Section 2.3.

"Class C Coverage Tests": The Overcollateralization Ratio Test and the Interest Coverage Test, each as applied with respect to the Class C Notes.

"Class C Notes": **The Prior to the Refinancing Date, the** Class C Secured Deferrable Floating Rate Notes issued pursuant to this Indenture **on the Closing Date, and, on and after the Refinancing Date, the Class C-R Notes.**

"Class C-R Notes": **The Class C-R Secured Deferrable Floating Rate Notes issued pursuant to this Indenture on the Refinancing Date** and having the characteristics specified in Section 2.3.

"Class D Coverage Tests": The Overcollateralization Ratio Test and the Interest Coverage Test, each as applied with respect to the Class D Notes.

"Class D Notes": **The Prior to the Refinancing Date, the** Class D Secured Deferrable Floating Rate Notes issued pursuant to this Indenture **on the Closing Date, and, on and after the Refinancing Date, the Class D-R Notes.**

"Class D-R Notes": **The Class D-R Secured Deferrable Floating Rate Notes issued pursuant to this Indenture on the Refinancing Date** and having the characteristics specified in Section 2.3.

"Class E Coverage Test": The Overcollateralization Ratio Test as applied with respect to the Class E Notes.

"Class E Notes": **The Prior to the Refinancing Date, the** Class E Secured Deferrable Floating Rate Notes issued pursuant to this Indenture **on the Closing Date, and, on and after the Refinancing Date, the Class E-R Notes.**

"Class E-R Notes": **The Class E-R Secured Deferrable Floating Rate Notes issued pursuant to this Indenture on the Refinancing Date** and having the characteristics specified in Section 2.3.

"Class X Notes": **The Class X Senior Secured Floating Rate Notes issued pursuant to this Indenture and having the characteristics specified in Section 2.3.**

**"Class X Principal Amortization Amount": For each Payment Date beginning with the Payment Date in [ ] 20[ ] and ending with (and including) the Payment Date in [ ] 20[ ], U.S.\$[ ].**

**"Clearing Agency"**: An organization registered as a "clearing agency" pursuant to Section 17A of the Exchange Act.

**"Clearing Corporation"**: Each of (i) Clearstream, (ii) DTC, (iii) Euroclear and (iv) any entity included within the meaning of "clearing corporation" under Section 8-102(a)(5) of the UCC.

**"Clearing Corporation Security"**: Securities which are in the custody of or maintained on the books of a Clearing Corporation or a nominee subject to the control of a Clearing Corporation and, if they are Certificated Securities in registered form, properly endorsed to or registered in the name of the Clearing Corporation or such nominee.

**"Clearstream"**: Clearstream Banking, société anonyme, a corporation organized under the laws of the Duchy of Luxembourg (formerly known as Cedelbank, société anonyme).

**"Closing Date"**: July 18, 2014.

**"Closing Date Certificate"**: An Officer's certificate of the Issuer delivered under Section 3.1.

**"Code"**: The United States Internal Revenue Code of 1986, as amended from time to time.

**"Co-Issued Notes"**: The Class **X Notes, the Class** A Notes, the Class B Notes, the Class C Notes and the Class D Notes, collectively.

**"Co-Issuer"**: Silver Creek CLO, LLC, until a successor Person shall have become the Co-Issuer pursuant to the applicable provisions of this Indenture, and thereafter **"Co-Issuer"** shall mean such successor Person.

**"Co-Issuers"**: The Issuer and the Co-Issuer.

**"Collateral"**: The meaning assigned in the Granting Clause hereof.

**"Collateral Administration Agreement"**: An agreement dated as of the Closing Date among the Issuer, the Collateral Manager and the Collateral Administrator, as amended from time to time, in accordance with the terms thereof.

**"Collateral Administrator"**: The Bank, in its capacity as such under the Collateral Administration Agreement, and any successor thereto.

**"Collateral Interest Amount"**: As of any date of determination, without duplication, the aggregate amount of Interest Proceeds that has been received or that is expected to be received (other than Interest Proceeds expected to be received from Defaulted Obligations, Deferrable

SecuritiesObligations and Partial Deferrable SecuritiesObligations, but including (x) Interest Proceeds actually received from Defaulted Obligations (in accordance with the definition of Interest Proceeds) and Deferrable SecuritiesObligations and Partial Deferrable SecuritiesObligations (in accordance with the definition of Interest Proceeds) and (y) Interest Proceeds expected to be received of the type described in clause (i) of the definition of Partial Deferrable SecurityObligation, in each case during the Collection Period (and, if such Collection Period does not end on a Business Day, the next succeeding Business Day) in which such date of determination occurs (or after such Collection Period but on or prior to the related Payment Date if such Interest Proceeds would be treated as Interest Proceeds with respect to such Collection Period).

"Collateral Management Agreement": The Collateral Management Agreement, dated as of the Closing Date, between the Issuer and the Collateral Manager relating to the Notes and the Assets, as amended by the assignment and assumption agreement, dated as of the Refinancing Date, by and between the Predecessor Collateral Manager and the Successor Collateral Manager, and as further amended from time to time.

"Collateral Management Fees": The meaning assigned to such term in the Collateral Management Agreement.

"Collateral Manager": 40486 Advisors, Inc., a Delaware corporation, (a) Prior to the Refinancing Date, the Predecessor Collateral Manager, and (b) on and after the Refinancing Date, the Successor Collateral Manager until a successor Person shall have become the Collateral Manager pursuant to the provisions of the Collateral Management Agreement, and thereafter "Collateral Manager" shall mean such successor Person.

"Collateral Obligation": A debt obligation or Participation Interest that as of the date the Issuer commits to acquire it:

- (i) is a Senior Secured Loan, Second Lien Loan or a Senior Unsecured Loan;
- (ii) is U.S. Dollar denominated and is not convertible by (a) the Issuer or (b) the obligor of such Collateral Obligation into any other currency, with any payments under such Collateral Obligation to be made only in U.S. Dollars;
- (iii) is not a Defaulted Obligation or a Credit Risk Obligation;
- (iv) is not a Synthetic Security or Letter of Credit;
- (v) is not a Bridge Loan, Senior Secured Note or Bond;
- (vi) is not a lease;
- (vii) is not a Structured Finance Obligation;
- (viii) if (x) a Deferrable SecurityObligation, is not currently deferring payment of any accrued and unpaid interest which would have otherwise been due and continues to remain unpaid, or (y) a Partial Deferrable SecurityObligation, is not currently in default

with respect to the portion of the interest due thereon to be paid in Cash on each payment date with respect thereto;

(ix) provides for a fixed amount of principal payable on scheduled payment dates and/or at maturity and does not by its terms provide for earlier amortization or prepayment at a price of less than par;

(x) does not pay scheduled interest less frequently than semi-annually;

(xi) does not constitute Margin Stock;

(xii) gives rise only to payments that do not and will not subject the Issuer or the relevant Tax Subsidiary to withholding tax or other similar tax, other than (A) any taxes imposed pursuant to FATCA and (B) withholding or other similar taxes on commitment, facility, amendment, waiver, extension, consent and other similar fees, unless the related obligor is required to make "gross-up" payments that ensure that the net amount actually received by the Issuer or the relevant Tax Subsidiary (after payment of all taxes, whether imposed on such obligor or the Issuer or the relevant Tax Subsidiary) will equal the full amount that the Issuer would have received had no such taxes been imposed;

(xiii) has a Moody's Rating;

(xiv) is not a debt obligation whose repayment is subject to substantial non-credit related risk as determined by the Collateral Manager;

(xv) is not any obligation (other than a Revolving Collateral Obligation or a Delayed Drawdown Collateral Obligation) pursuant to which any future advances or payments, other than Excepted Advances, to the borrower or the obligor thereof may be required to be made by the Issuer;

(xvi) is not issued by an Obligor Domiciled in Greece or Portugal;

(xvii) will not require the Issuer, the Co-Issuer or the pool of collateral to be registered as an investment company under the Investment Company Act;

(xviii) is not subject to a tender offer, voluntary redemption, exchange offer, conversion or other similar action for a price less than its purchase price plus all accrued and unpaid interest;

(xix) is issued by a Non-Emerging Market Obligor;

(xx) is not a Zero-Coupon Security or a Step-Up Obligation;

(xxi) does not mature after the Stated Maturity of the Notes;

(xxii) either (A) is treated as indebtedness for U.S. federal income tax purposes and is not a "United States real property interest" for U.S. federal income tax purposes, (B) is not treated as indebtedness for U.S. federal income tax purposes and is issued by an

entity that is treated for U.S. federal income tax purposes as (x) a corporation that is a Tax Subsidiary or the equity interests in which are not "United States real property interests" for U.S. federal income tax purposes, it being understood that stock will not be treated as a United States real property interest if the class of such stock is regularly traded on an established securities market and the Issuer holds no more than 5% of such class at any time, all within the meaning of Section 897(c)(3) of the Code, (y) a partnership or disregarded entity for U.S. federal income tax purposes that is not engaged in a trade or business within the United States for U.S. federal income tax purposes and does not own any "United States real property interests" within the meaning of Section 897(c)(1) of the Code, or (z) a grantor trust all of the assets of which are treated as debt instruments that are in registered form for U.S. federal income tax purposes, or (C) based upon Tax Advice to the effect that the acquisition, ownership or disposition of such obligation or Participation Interest will not cause the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes or otherwise subject to U.S. federal income tax on a net income tax basis;

(xxiii) is not issued pursuant to underlying instruments governing the issuance of indebtedness having an aggregate issuance amount (whether drawn or undrawn) of less than U.S.\$150,000,000; and

(xxiv) is not (A) an Equity Security or (B) by its terms convertible into or exchangeable for an Equity Security.

**"Collateral Principal Amount"**: As of any date of determination, the sum of (a) the Aggregate Principal Balance of the Collateral Obligations, including the funded and unfunded balance on any Delayed Drawdown Collateral Obligation or Revolving Collateral Obligation, and (b) without duplication, the amounts on deposit in the Collection Account representing Principal Proceeds and the Ramp-Up Account (including Eligible Investments therein), in each case, as of such date.

**"Collateral Quality Test"**: A test satisfied if, as of any Measurement Date on which a determination is required hereunder at, or subsequent to, the end of the Ramp-Up Period, in the aggregate, the Collateral Obligations owned (or in relation to a proposed purchase of a Collateral Obligation, proposed to be owned) by the Issuer satisfy each of the tests set forth below (or, unless otherwise explicitly provided for in Section 12.2, if any such test is not satisfied, the level of compliance with such test is maintained or improved), calculated in each case as required by Section 1.2:

- (i) the Minimum Fixed Coupon Test;
- (ii) the Minimum Floating Spread Test;
- (iii) the Maximum Moody's Rating Factor Test;
- (iv) the Moody's Diversity Test;

- (v) the Moody's Minimum Weighted Average Recovery Rate Test; and
- (vi) the Weighted Average Life Test.

**"Collection Account"**: Collectively, the Interest Collection Account and the Principal Collection Account.

**"Collection Period"**: With respect to any Payment Date, the period commencing immediately following the prior Collection Period (or on the Closing Date, in the case of the Collection Period relating to the first Payment Date) and ending on the Determination Date immediately preceding such Payment Date; *provided* that (i) the final Collection Period preceding the latest Stated Maturity of any Class of Notes shall commence immediately following the prior Collection Period and end on the day preceding such Stated Maturity and (ii) the final Collection Period preceding an Optional Redemption of the Notes shall commence immediately following the prior Collection Period and end on the day preceding the Redemption Date (or, in the case of a Refinancing, end on the Redemption Date); *provided, further*, that with respect to any Payment Date and any amounts payable to the Issuer under a Hedge Agreement, the Collection Period will commence on the day after the prior Payment Date and end on such Payment Date.

**"Concentration Limitations"**: Limitations satisfied, if as of any date of determination at or subsequent to, the end of the Ramp-Up Period, in the aggregate, the Collateral Obligations owned (or in relation to a proposed purchase of a Collateral Obligation, proposed to be owned) by the Issuer satisfy the minimum, maximum and other requirements set forth below, calculated in each case as required by Section 1.2. For purposes of **calculating compliance with the Concentration Limitations, any such limitations need not be satisfied with respect to the purchase of a Collateral Obligation that is subject to a Trading Plan if such limitations are satisfied on an aggregate basis after giving effect to such purchase and all other purchases or sales subject to the same Trading Plan. For purposes of** determining whether a Concentration Limitation is satisfied or maintained or improved, both the numerator and the denominator in the related calculation will be based on the Collateral Principal Amount on the date of determination.

<b>Type of Collateral Obligation</b>	<b>Minimum (% of Collateral Principal Amount)</b>	<b>Maximum (% of Collateral Principal Amount)</b>	<b>Exceptions and Additional Requirements</b>
<i>(i) Domicile of Obligor</i>			
All countries (in the aggregate) other than the United States		20.0	
All Group Countries in the aggregate		20.0	
The United Kingdom		15.0	
All Group I Countries in the aggregate		20.0	
Any individual Group I Country		10.0	
All Group II Countries in the aggregate		10.0	

<u>Type of Collateral Obligation</u>	<u>Minimum (% of Collateral Principal Amount)</u>	<u>Maximum (% of Collateral Principal Amount)</u>	<u>Exceptions and Additional Requirements</u>
Any individual Group II Country		5.0	
All Group III Countries in the aggregate		7.5	
Any individual Group III Country		5.0	
All Tax Jurisdictions in the aggregate		7.5	
Any individual Tax Jurisdiction		3.0	
Ireland, Italy and Spain, in the aggregate		3.0	
Any of Ireland, Italy or Spain		1.5	
<i>(ii) Senior Secured Loans and Eligible Investments representing Principal Proceeds</i>	95		
<i>(iii) Senior Unsecured Loans and Second Lien Loans</i>	5		
<i>(iv) Current Pay Obligations</i>	5		
<i>(v) Fixed rate Collateral Obligations</i>	5		
<i>(vi) Participation Interests</i>	20		Moody's Counterparty Criteria must be satisfied
<i>(vii) DIP Collateral Obligations</i>	5		not more than 1% of the Collateral Principal Amount may consist of DIP Collateral Obligations issued by a single obligor
<i>(viii) Single Obligor</i>	1.5		up to four obligors, up to 2.0% of the Collateral Principal Amount, and of such obligors, up to three obligors may each constitute up to 2.5% of the Collateral Principal Amount.
			An obligor will not be considered an affiliate of another obligor solely because they are controlled by the same financial sponsor

<u>Type of Collateral Obligation</u>	<u>Minimum (% of Collateral Principal Amount)</u>	<u>Maximum (% of Collateral Principal Amount)</u>	<u>Exceptions and Additional Requirements</u>
(ix) <i>Single S&amp;P Industry Classification Group</i>		10	in up to two S&P Industry Classification groups may each constitute up to 15% of the Collateral Principal Amount
(x) <i>Rating of "Caa1" and below</i>	7.5		
(xi) <i>Interest less frequently than quarterly</i>	10		
(xii) <i>Discount Obligations</i>	10		
(xiii) <i>Cov-Lite Loans</i>		<b>50.65</b>	
(xiv) <i>Step-Down Securities, Deferrable <b>Securities Obligations</b>, Partial Deferrable <b>Securities Obligations</b></i>	5		
(xv) <i>Revolving Collateral Obligations; Delayed Drawdown Collateral Obligations</i>	10		

"Condition": The meaning specified in Section 14.17.

"Confidential Information": The meaning specified in Section 14.14(b).

"Contribution": The meaning specified in Section 11.2.

"Contributor": The meaning specified in Section 11.2.

"Controlling Class": The Class A Notes so long as any Class A Notes are Outstanding; then the Class B Notes so long as any Class B Notes are Outstanding; then the Class C Notes so long as any Class C Notes are Outstanding; then the Class D Notes so long as any Class D Notes are Outstanding; then the Class E Notes so long as any Class E Notes are Outstanding; and then the Subordinated Notes if no Secured Notes are Outstanding. **For the avoidance of doubt, the Class X Notes will not constitute the Controlling Class at any time.**

"Controlling Person": A Person (other than a Benefit Plan Investor) who has discretionary authority or control with respect to the assets of the Issuer or any Person who provides investment advice for a fee (direct or indirect) with respect to such assets or an affiliate of any such Person. For this purpose, an "affiliate" of a person includes any person, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person. "Control," with respect to a person other than an individual, means the power to exercise a controlling influence over the management or policies of such person.

"Corporate Trust Office": The designated corporate trust office of the Trustee, currently located (i) for purposes of Note transfer issues, Attn: Bondholder Services-EP-WS2N, 111

Filmore East, St. Paul, Minnesota 55107, Attention: Silver Creek CLO, Ltd. and (ii) for all other purposes, One Federal Street, Boston, MA 02110, Attention: Corporate Trust Services – Silver Creek CLO, Ltd., facsimile no.: (855) 591-1828, email: brian.sheehan@usbank.com or (iii) such other address as the Trustee may designate from time to time by notice to the Noteholders, the Collateral Manager, the Issuer and the Rating Agency, or the principal corporate trust office of any successor Trustee.

**"Cov-Lite Loan":** A **loanSenior Secured Loan** that: (a) does not contain any financial covenants; or (b) requires the underlying obligor to comply with one or more Incurrence Covenants, but does not require the underlying obligor to comply with a Maintenance Covenant; provided that a loan described in clause (a) or (b) above which contains either a cross-default provision to, or is *pari passu* with, another loan of the underlying obligor forming part of the same loan facility that requires the underlying obligor to comply with both an Incurrence Covenant and a Maintenance Covenant shall be deemed not to be a Cov-Lite Loan.

**"Coverage Tests":** The Class A/B Coverage Tests, the Class C Coverage Tests, the Class D Coverage Tests and the Class E Coverage Test.

**"CPO":** A "commodity pool operator" as such term is defined under the Commodity Exchange Act.

**"Credit Improved Obligation":** (a) So long as a Restricted Trading Period is not in effect, any Collateral Obligation that in the Collateral Manager's commercially reasonable business judgment has significantly improved in credit quality from the condition of its credit at the time of purchase by the Issuer which judgment may (but need not) be based on one or more of the following facts:

(i) such Collateral Obligation has a market price that is greater than the price that is warranted by its terms and credit characteristics, or has improved in credit quality since its acquisition by the Issuer;

(ii) the obligor of such Collateral Obligation has shown improved financial results since the published financial reports first produced after it was purchased by the Issuer;

(iii) the obligor of such Collateral Obligation since the date on which such Collateral Obligation was purchased by the Issuer has raised significant equity capital or has raised other capital that has improved the liquidity or credit standing of such obligor; or

(iv) with respect to which one or more of the following criteria applies:

(A) such Collateral Obligation has been upgraded or put on a watch list for possible upgrade by the Rating Agency since the date on which such Collateral Obligation was acquired by the Issuer;

(B) the Disposition Proceeds (excluding Disposition Proceeds that constitute Interest Proceeds) of such Collateral Obligation would be at least 101% of its purchase price;

(C) the price of such Collateral Obligation has changed during the period from the date on which it was acquired by the Issuer to the proposed sale date by a percentage either at least 0.25% more positive, or 0.25% less negative, as the case may be, than the percentage change in the average price of the applicable Eligible Loan Index over the same period;

(D) the spread over the applicable reference rate for such Collateral Obligation has been decreased in accordance with the underlying Collateral Obligation since the date of acquisition by (1) 0.25% or more (in the case of a Collateral Obligation with a spread (prior to such decrease) less than or equal to 2.00%), (2) 0.375% or more (in the case of a Collateral Obligation with a spread (prior to such decrease) greater than 2.00% but less than or equal to 4.00%) or (3) 0.50% or more (in the case of a Collateral Obligation with a spread (prior to such decrease) greater than 4.00%) due, in each case, to an improvement in the related borrower's financial ratios or financial results; or

(E) with respect to fixed-rate Collateral Obligations, there has been a decrease in the difference between its yield compared to the yield on the relevant United States Treasury security of more than 7.5% since the date of purchase; or

(F) ~~(h)~~ it has a projected cash flow interest coverage ratio (earnings before interest and taxes divided by cash interest expense as estimated by the Collateral Manager) of the underlying borrower or other obligor of such Collateral Obligation that is expected to be more than 1.15 times the current year's projected cash flow interest coverage ratio; or

(b) if a Restricted Trading Period is in effect, any Collateral Obligation:

(i) that in the Collateral Manager's commercially reasonable business judgment has significantly improved in credit quality from the condition of its credit at the time of purchase by the Issuer and with respect to which one or more of the criteria referred to in clause (a)(iv) above applies; or

(ii) that a Majority of the Controlling Class, by vote or written consent, elects to treat as a Credit Improved Obligation.

"Credit Risk Obligation": (a) So long as a Restricted Trading Period is not in effect, any Collateral Obligation that in the Collateral Manager's commercially reasonable business judgment has a significant risk of declining in credit quality and, with a lapse of time, becoming a Defaulted Obligation, or (b) if a Restricted Trading Period is in effect:

(i) as to which one or more of the following criteria applies:

(A) such Collateral Obligation has been downgraded or put on a watch list for possible downgrade by the Rating Agency since the date on which such Collateral Obligation was acquired by the Issuer;

(B) the price of such Collateral Obligation has changed during the period from the date on which it was acquired by the Issuer to the proposed sale date by a percentage either at least 0.25% more negative, or at least 0.25% less positive, as the case may be, than the percentage change in the average price of an Eligible Loan Index;

(C) the Market Value of such Collateral Obligation has decreased by at least 1.00% of the price paid by the Issuer for such Collateral Obligation;

(D) (A) the spread over the applicable reference rate for such Collateral Obligation has been increased in accordance with the underlying Collateral Obligation since the date of acquisition by (1) 0.25% or more (in the case of a Collateral Obligation with a spread (prior to such increase) less than or equal to 2.00%), (2) 0.375% or more (in the case of a Collateral Obligation with a spread (prior to such increase) greater than 2.00% but less than or equal to 4.00%) or (3) 0.50% or more (in the case of a Collateral Obligation with a spread (prior to such increase) greater than 4.00%) due, in each case, to a deterioration in the related borrower's financial ratios or financial results;

(E) such Collateral Obligation has a projected cash flow interest coverage ratio (earnings before interest and taxes divided by cash interest expense as estimated by the Collateral Manager) of the underlying borrower or other obligor of such Collateral Obligation of less than 1.00 or that is expected to be less than 0.85 times the current year's projected cash flow interest coverage ratio; or

(F) with respect to fixed-rate Collateral Obligations, an increase since the date of purchase of more than 7.5% in the difference between the yield on such Collateral Obligation and the yield on the relevant United States Treasury security; or

(ii) with respect to which a Majority of the Controlling Class, by vote or written consent, elects to treat as a Credit Risk Obligation.

**"CRS": The common reporting standard more fully described as the Standard for Automatic Exchange of Financial Account Information in Tax Matters published by the Council of the Organisation for Economic Cooperation and Development on 21 July 2014.**

"Current Pay Obligation": Any Collateral Obligation (other than a DIP Collateral Obligation) that

(a) would otherwise be a Defaulted Obligation but for the exclusion of Current Pay Obligations from the definition of Defaulted Obligation pursuant to the proviso at the end of such definition;

(b)(i) if the issuer of such Collateral Obligation is subject to a bankruptcy proceeding, the relevant court has authorized the issuer to make payments of principal and interest on such Collateral Obligation and no such payments that are due and payable are unpaid and (ii) otherwise, no other payments authorized by such relevant court are due and payable and are unpaid; and

(c) for so long as Moody's is a Rating Agency in respect of any Class of Rated Notes, such Collateral Obligation has a facility rating from Moody's of either (i) at least "Caa1" (and if "Caa1," not on watch for downgrade) and its Market Value is at least 80% of its par value or (ii) at least "Caa2" (and if "Caa2," not on watch for downgrade) and its Market Value is at least 85% of its par value (*provided* that for purposes of this definition, with respect to a Collateral Obligation already owned by the Issuer whose facility rating from Moody's is withdrawn after the Issuer's acquisition thereof, the facility rating shall be the last outstanding facility rating before the withdrawal);

provided that (x) to the extent the Principal Balance of all Collateral Obligations that would otherwise be Current Pay Obligations exceeds 5.0% in Aggregate Principal Balance of the Current Portfolio, such excess over 5.0% will constitute Defaulted Obligations; (y) in determining which of the Collateral Obligations will be included in such excess, the Collateral Obligations with the lowest Market Value expressed as a percentage will be deemed to constitute such excess; (z) each such Collateral Obligation included in such excess will be treated as a Defaulted Obligation for all purposes until such time as the aggregate principal balance of Collateral Obligations that would otherwise be Current Pay Obligations would not exceed, on a pro forma basis including such Defaulted Obligation, 5.0% in aggregate principal balance of the Current Portfolio.

**"Current Portfolio":** At any time, the portfolio of Collateral Obligations and Eligible Investments representing Principal Proceeds (determined in accordance with Section 1.2 to the extent applicable), then held by the Issuer.

**"Custodial Account":** The custodial account established pursuant to Section 10.3(b).

**"Default":** Any Event of Default or any occurrence that is, or with notice or the lapse of time or both would become, an Event of Default.

**"Defaulted Obligation":** Any Collateral Obligation included in the Assets shall constitute a "Defaulted Obligation" if:

(a) a default as to the payment of principal and/or interest has occurred and is continuing with respect to such debt obligation (without regard to any grace period applicable thereto, or waiver thereof, after the passage (in the case of a default that in the Collateral Manager's judgment, as certified to the Trustee in writing, is not due to credit-related causes) of a three Business Day grace period);

(b) a default as to the payment of principal and/or interest in excess of \$1,000,000 has occurred and is continuing on another debt obligation of the same issuer

which is senior or *pari passu* in right of payment to such debt obligation (provided that both debt obligations are full recourse obligations);

(c) the issuer or others have instituted proceedings to have the issuer adjudicated as bankrupt or insolvent or placed into receivership and such proceedings have not been stayed or dismissed or such issuer has filed for protection under Chapter 11 of the United States Bankruptcy Code;

(d) (x) such Collateral Obligation has ~~(x)~~ an S&P Rating of "CC" or below or "D" or "SD" or (y) **the Obligor on such Collateral Obligation has** a "probability of default" rating assigned by Moody's of "D" or "LD" or, in each case, had such ratings before they were withdrawn by S&P or Moody's, as applicable;

(e) such Collateral Obligation is *pari passu* or junior in right of payment as to the payment of principal and/or interest to another debt obligation of the same issuer which has (i) an S&P Rating of "CC" or below or "D" or "SD" or (ii) a "probability of default" rating assigned by Moody's of "D" or "LD", and in each case such other debt obligation remains outstanding (provided that both the Collateral Obligation and such other debt obligation are full recourse obligations of the applicable issuer);

(f) the Collateral Manager has received written notice or has knowledge that a default has occurred under the Underlying Instruments and any applicable grace period has expired such that the holders of such Collateral Obligation have accelerated the repayment of such Collateral Obligation (but only until such default is cured or waived) in the manner provided in the Underlying Instruments;

(g) the Collateral Manager has in its reasonable commercial judgment otherwise declared such debt obligation to be a "Defaulted Obligation";

(h) such Collateral Obligation is a Participation Interest with respect to which the Selling Institution has defaulted in the performance of any of its payment obligations under the Participation Interest (except to the extent such defaults were cured within the applicable grace period under the Underlying Instruments of the obligor thereof);

(i) such Collateral Obligation is a Participation Interest in a loan that would, if such loan were a Collateral Obligation, constitute a "Defaulted Obligation" (other than under this clause (i)) or with respect to which the Selling Institution has an S&P rating of "D" or "SD" or a Moody's rating of "D" or "LD" or had such rating before such rating was withdrawn;

(j) a Distressed Exchange has occurred in connection with such Collateral Obligation; or

**(jk)** such Collateral Obligation is a Deferring **Security Obligation**;

provided that a Collateral Obligation shall not constitute a Defaulted Obligation pursuant to clauses (ab) through (e) and (j) above if: (x) in the case of clauses (a),(b), (c), (d), (e) and (j),

such Collateral Obligation is a Current Pay Obligation or (y) in the case of clauses (b), (c) and (e), such Collateral Obligation is a DIP Collateral Obligation.

"Deferrable Security Obligation": A Collateral Obligation (excluding a Partial Deferrable Security Obligation) which by its terms permits the deferral or capitalization of payment of accrued, unpaid interest.

"Deferred Base Management Fee": The meaning assigned to such term in the Collateral Management Agreement.

"Deferred Base Management Fee Cap": On any Payment Date, the maximum amount of Deferred Base Management Fee that the Collateral Manager may be repaid on such Payment Date, equal to the lesser of (a) the amount designated by the Collateral Manager for payment on such Payment Date and (b) the amount available for distribution in excess of the current interest payments on the Class X Notes, the Class A Notes and the Class B Notes, or if no Class X Notes, Class A Notes and Class B Notes are Outstanding, the Controlling Class (excluding any Deferred Base Management Fee elected by the Collateral Manager to be paid on such Payment Date).

"Deferred Interest": With respect to any specified Class of Deferred Interest Notes, the meaning specified in Section 2.8(a).

"Deferred Interest Notes": The Notes specified as such in Section 2.3.

"Deferred Management Fees": The meaning assigned to such term in the Collateral Management Agreement.

"Deferred Subordinated Management Fee": The meaning assigned to such term in the Collateral Management Agreement.

"Deferring Security Obligation": A Deferrable Security Obligation that is deferring the payment of interest due thereon and has been so deferring the payment of interest due thereon (i) with respect to Collateral Obligations that have an Assigned Moody's Rating of at least "Baa3," for the shorter of two consecutive accrual periods or one year, and (ii) with respect to Collateral Obligations that have an Assigned Moody's Rating of "Ba1" or below, for the shorter of one accrual period or six consecutive months, which deferred capitalized interest has not, as of the date of determination, been paid in cash; provided that such Deferrable Security Obligation will cease to be a Deferring Security Obligation at such time as it (a) ceases to defer or capitalize the payment of interest, (b) pays in cash all accrued and unpaid interest, including all deferred amounts, and (c) commences payment of all current interest in cash.

"Delayed Drawdown Collateral Obligation": Any Asset that (a) requires the Issuer to make one or more future advances to the borrower under the underlying instruments relating thereto, (b) specifies a maximum amount that can be borrowed on one or more fixed borrowing dates, and (c) does not permit the re-borrowing of any amount previously repaid by the borrower thereunder; provided that any such Collateral Obligation will be a Delayed Drawdown Collateral

Obligation only until all commitments by the Issuer to make advances to the borrower expire or are terminated or reduced to zero.

"Deliver" or "Delivered" or "Delivery": The taking of the following steps:

(a) in the case of each Certificated Security or Instrument (other than a Clearing Corporation Security or a Certificated Security or an Instrument evidencing debt underlying a Participation Interest), (i) causing the delivery of such Certificated Security or Instrument to the Intermediary registered in the name of the Intermediary or its affiliated nominee or endorsed to the Intermediary or in blank, (ii) causing the Intermediary to continuously identify on its books and records that such Certificated Security or Instrument is credited to the relevant Account and (iii) causing the Intermediary to maintain continuous possession of such Certificated Security or Instrument;

(b) in the case of each Uncertificated Security (other than a Clearing Corporation Security), (i) causing such Uncertificated Security to be continuously registered on the books of the obligor thereof to the Intermediary and (ii) causing the Intermediary to continuously identify on its books and records that such Uncertificated Security is credited to the relevant Account;

(c) in the case of each Clearing Corporation Security, causing (i) the relevant Clearing Corporation to continuously credit such Clearing Corporation Security to the securities account of the Intermediary at such Clearing Corporation and (ii) the Intermediary to continuously identify on its books and records that such Clearing Corporation Security is credited to the relevant Account;

(d) in the case of any Financial Asset that is maintained in book-entry form on the records of any Federal Reserve Bank, causing (i) the continuous crediting of such Financial Asset to a securities account of the Intermediary at any Federal Reserve Bank and (ii) the Intermediary to continuously identify on its books and records that such Financial Asset is credited to the relevant Account;

(e) in the case of Cash, causing the deposit of such Cash with the Intermediary and causing the Intermediary to continuously identify on its books and records that such cash is credited to the relevant Account;

(f) in the case of each Financial Asset not covered by the foregoing clauses (a) through (e), causing the transfer of such Financial Asset to the Intermediary in accordance with applicable law and regulation and causing the Intermediary to continuously credit such Financial Asset to the relevant Account;

(g) in the case of each general intangible (including any Participation Interest that is not, or the debt underlying that is not, evidenced by an Instrument or Certificated Security) notifying the obligor thereunder of the Grant to the Trustee (unless no applicable law requires such notice in order to perfect the Grant to the Trustee);

(h) in the case of each Participation Interest as to which the underlying debt is represented by a Certificated Security or an Instrument, obtaining the acknowledgment of the Person in possession of such Certificated Security or Instrument (which may not be the Issuer) that it holds the portion of such Certificated Security or Instrument represented by the Participation Interest for the benefit of the Trustee; and

(i) in all cases, the filing of an appropriate Financing Statement in the appropriate filing office in accordance with the Uniform Commercial Code as in effect in any relevant jurisdiction.

**"Depository Event"**: Any time at which (a) DTC notifies the Co-Issuers that it is unwilling or unable to continue as depositary for Global Notes of any Class or Classes or ceases to be a "clearing agency" registered under the Exchange Act and (b) a successor depositary or custodian is not appointed by the Co-Issuers within 90 days after receiving such notice.

**"Designated Maturity"**: Three months; provided that with respect to the period from the First Interest Determination End Date until the first Payment Date, LIBOR will be determined by interpolating between the rate for the next shorter period of time for which rates are available and the rate for the next longer period of time for which rates are available.

**"Determination Date"**: The ~~fifth Business Day of each month in which a last day of the calendar month preceding each Quarterly~~ Payment Date ~~occurs~~, if such day is not a Business Day, the next succeeding Business Day.

**"DIP Collateral Obligation"**: Any interest in a loan or financing facility that has a public or private facility rating from Moody's and is purchased directly or by way of assignment (a) which is an obligation of (i) a debtor-in-possession as described in §1107 of the Bankruptcy Code or (ii) a trustee if appointment of such trustee has been ordered pursuant to §1104 of the Bankruptcy Code (in either such case, a "Debtor") organized under the laws of the United States or any state therein, or (b) on which the related obligor is required to pay interest on a current basis and, with respect to either clause (a) or (b) above, the terms of which have been approved by an order of the United States Bankruptcy Court, the United States District Court, or any other court of competent jurisdiction, the enforceability of which order is not subject to any pending contested matter or proceeding (as such terms are defined in the Federal Rules of Bankruptcy Procedure) and which order provides that: (i) (A) such DIP Collateral Obligation is fully secured by liens on the Debtor's otherwise unencumbered assets pursuant to §364(c)(2) of the Bankruptcy Code or (B) such DIP Collateral Obligation is secured by liens of equal or senior priority on property of the Debtor's estate that is otherwise subject to a lien pursuant to §364(d) of the Bankruptcy Code and (ii) such DIP Collateral Obligation is fully secured based upon a current valuation or appraisal report. Notwithstanding the foregoing, such a loan will not be deemed to be a DIP Collateral Obligation following the emergence of the related debtor-in-possession from bankruptcy protection under Chapter 11 of the Bankruptcy Code.

**"Discount Obligation"**: Any Collateral Obligation forming part of the Assets which was purchased (as determined without averaging prices of purchases on different dates) for less than (a) 80.0% of its principal balance, if such Collateral Obligation has (at the time of the purchase) an Assigned Moody's Rating of "B3" or higher, or (b) 85.0% of its principal balance, if such

Collateral Obligation has (at the time of the purchase) an Assigned Moody's Rating of "Caa1" or lower; *provided* that: (x) such Collateral Obligation shall cease to be a Discount Obligation at such time as the Market Value (expressed as a percentage of the par amount of such Collateral Obligation) determined for such Collateral Obligation on each day during any period of 22 Business Days since the acquisition by the Issuer of such Collateral Obligation, equals or exceeds 90.0% on each such day; *provided, further* that (y) any Collateral Obligation that would otherwise be considered a Discount Obligation, but that is purchased with the proceeds of sale of a Collateral Obligation that was not a Discount Obligation at the time of its purchase, so long as such purchased Collateral Obligation (A) is purchased or committed to be purchased within 5 Business Days of such sale, (B) is purchased at a purchase price (expressed as a percentage of the par amount of such Collateral Obligation) equal to or greater than the sale price of the sold Collateral Obligation, (C) is purchased at a purchase price (expressed as a percentage of the par amount of such Collateral Obligation) not less than 50.0%, and (D) has a Moody's Default Probability Rating equal to or greater than the Moody's Default Probability Rating of the sold Collateral Obligation, will not be considered to be a Discount Obligation; *provided* that the provisions of this clause (y) shall not apply to any such Collateral Obligation at any time on or after the acquisition by the Issuer of such Collateral Obligation if, as determined at the time of such acquisition, such application would result in more than 10% of the Aggregate Ramp-Up Par Amount consisting of Collateral Obligations to which this clause (y) has been applied since the Closing Date.

**"Discretionary Reserve Account"**: The trust account established pursuant to Section 10.3(g).

**"Disposition Proceeds"**: Proceeds received with respect to sales of Collateral Obligations, Eligible Investments and Equity Securities and the termination of any Hedge Agreement, in each case, net of reasonable out-of-pocket expenses and disposition costs in connection with such sales.

**"Distressed Exchange"**: In connection with any Collateral Obligation, a distressed exchange or other debt restructuring has occurred, as reasonably determined by the Collateral Manager, pursuant to which the issuer or obligor of such Collateral Obligation has issued to the holders of such Collateral Obligation a new security or package of securities or obligations that, in the sole judgment of the Collateral Manager, amounts to a diminished financial obligation or has the purpose of helping the issuer of such Collateral Obligation avoid default; *provided* that no Distressed Exchange shall be deemed to have occurred if the securities or obligations received by the Issuer in connection with such exchange or restructuring meet the definition of Collateral Obligation.

**"Distressed Exchange Offer"**: An offer by the issuer of a Collateral Obligation to exchange one or more of its outstanding debt obligations for a different debt obligation or to repurchase one or more of its outstanding debt obligations for cash, or any combination thereof.

**"Distribution Report"**: The meaning specified in Section 10.6(b).

"Diversity Score": A single number that indicates collateral concentration in terms of both issuer and industry concentration, calculated as set forth in Schedule 3.

"Domicile" or "Domiciled": With respect to any issuer of or obligor with respect to a Collateral Obligation: (a) except as provided in ~~elause~~clauses (b) and (c) below, its country of organization; or (b) if it is organized in a Tax Jurisdiction, each of such jurisdiction and the country in which a substantial portion of its operations are located or from which a substantial portion of its revenue is derived, in each case directly or through subsidiaries; or (c) if its payment obligations in respect of such Collateral Obligation are guaranteed by a person or entity that is organized in the United States, then the United States; *provided* that (x) in the commercially reasonable judgment of the Collateral Manager, such guarantee is enforceable in the United States and the related Collateral Obligation is supported by U.S. revenue sufficient to service such Collateral Obligation and all obligations senior to or pari passu with such Collateral Obligation and (y) such guarantee satisfies the Domicile Guarantee Criteria.

"Domicile Guarantee Criteria": (a) The guarantee is one of payment and not of collection; (b) the guarantee provides that the guarantor agrees to pay the guaranteed obligations on the date due and waives demand, notice and marshaling of assets; (c) the guarantee provides that the guarantor's right to terminate or amend the guarantee is appropriately restricted; (d) the guarantee is unconditional, irrespective of value, genuineness, validity, or enforceability of the guaranteed obligations. The guarantee provides that the guarantor waives any other circumstance or condition that would normally release a guarantor from its obligations. The guarantor also waives the right of set-off and counterclaim; (e) the guarantee provides that it reinstates if any guaranteed payment made by the primary obligor is recaptured as a result of the primary obligor's bankruptcy or insolvency; and (f) in the case of cross-border transactions, the risk of withholding tax with respect to payments by the guarantor is addressed if necessary.

"DTC": The Depository Trust Company, its nominees, and their respective successors.

"Due Date": Each date on which any payment is due on a Pledged Obligation in accordance with its terms.

"Effective Spread": ~~means, as As~~ of any date of determination (a) with respect to any floating rate Collateral Obligation that bears interest based on LIBOR, the per annum rate at which such Collateral Obligation pays interest minus LIBOR for such Collateral Obligation (in each case, as of such date) or (b) with respect to any floating rate Collateral Obligation that bears interest based on a floating rate index other than a London interbank offered rate-based index, the base rate applicable to such Collateral Obligation plus the rate at which such Collateral Obligation pays interest in excess of such base rate minus three-month LIBOR (in each case, as of such date); provided that (i) with respect to any unfunded commitment of a Delayed Drawdown Collateral Obligation or a Revolving Collateral Obligation, the Effective Spread shall be the commitment fee payable with respect to such unfunded commitment, (ii) with respect to the funded portion of a commitment under a Delayed Drawdown Collateral Obligation or a Revolving Collateral Obligation, the Effective Spread shall be the per annum rate at which it pays interest minus LIBOR for such Collateral Obligation (in each case, as of such date) or, if such funded portion bears interest based on a floating rate index other than a London interbank offered rate-based index, the Effective Spread will be the then-current base rate applicable to such funded portion

plus the rate at which such funded portion pays interest in excess of such base rate minus three-month LIBOR, (iii) with respect to any Libor Floor Obligation, the stated interest rate spread applicable to such Collateral Obligation above the applicable index with respect to such Collateral Obligation shall be deemed to be equal to the sum of (A) such stated interest rate spread over such applicable index and (B) the excess, if any, of the specified "floor" rate with respect to such Collateral Obligation over such applicable index and (iv) with respect to any Collateral Obligation that bears interest at a floating rate and is a Deferrable **Security Obligation** or a Partial Deferrable **Security Obligation** that is deferring interest on the Measurement Date, the Effective Spread will be that portion of its spread that is not being deferred.

"Eligible Cash": Cash eligible for investment.

"Eligible Investment Required Ratings": If such obligation or security (i) has both a long-term and a short-term credit rating from Moody's, such ratings are "Aa3" or higher (not on credit watch for possible downgrade) and "P-1" (not on credit watch for possible downgrade), respectively, (ii) has only a long-term credit rating from Moody's, such rating is at least equal to or higher than the current Moody's sovereign ratings of the U.S. government, and (iii) has only a short-term credit rating from Moody's, such rating is "P-1" (not on credit watch for possible downgrade).

"Eligible Investments": (a) Cash or (b) any United States dollar investment that, at the time it is Delivered to the Trustee (directly or through an intermediary or bailee), is one or more of the following obligations or securities:

(i) direct obligations of, and obligations the timely payment of principal and interest on which is fully and expressly guaranteed by, the United States of America or any agency or instrumentality of the United States of America the obligations of which are expressly backed by the full faith and credit of the United States of America, in each case which have the Eligible Investment Required Ratings;

(ii) demand and time deposits in, certificates of deposit of, trust accounts with, bankers' acceptances issued by, or federal funds sold by any depository institution or trust company incorporated under the laws of the United States of America (including the Bank) or any state thereof and subject to supervision and examination by federal and/or state banking authorities, in each case payable within 183 days of issuance, so long as the commercial paper and/or the debt obligations of such depository institution or trust company (or, in the case of the principal depository institution in a holding company system, the commercial paper or debt obligations of such holding company) at the time of such investment or contractual commitment providing for such investment have the Eligible Investment Required Ratings; and

(iii) money market funds registered and domiciled outside of the United States which funds have, at all times, credit ratings of "Aaa-mf" by Moody's;

provided that Eligible Investments purchased with funds in the Collection Account shall be held until maturity except as otherwise specifically provided herein and shall include only such obligations or securities, other than those referred to in clause (iii) above, asthat mature (or are

putable at par to the issuer thereof) no later than the earlier of 60 days and the Business Day prior to the next Payment Date (unless such Eligible Investments are issued by the Trustee in its capacity as a banking institution, in which case such Eligible Investments may mature on such Payment Date); provided, further, that none of the foregoing obligations or securities shall constitute Eligible Investments if (a) all, or substantially all, of the remaining amounts payable thereunder consist of interest and not principal payments, (b) such obligation or security is subject to withholding tax (other than any withholding tax imposed pursuant to FATCA) unless the issuer of the security is required to make "gross-up" payments that ensure that the net amount actually received by the Issuer (after payment of all taxes, whether imposed on such obligor or the Issuer) will equal the full amount that the Issuer would have received had no such taxes been imposed, (c) such obligation or security is secured by real property, (d) such obligation or security is purchased at a price greater than 100% of the principal or face amount thereof or (e) in the Collateral Manager's sole judgment, such obligation or security is subject to material non-credit related risks; provided, further, that none of the foregoing obligations or securities shall constitute Eligible Investments unless the obligation or security either (A) is treated as indebtedness for U.S. federal income tax purposes and is not a United States real property interest for U.S. federal income tax purposes, (B) is not treated as indebtedness for U.S. federal income tax purposes and is issued by an entity that is treated for U.S. federal income tax purposes as (x) a corporation the equity interests in which are not "United States real property interests" for U.S. federal income tax purposes, it being understood that stock will not be treated as a United States real property interest if the class of such stock is regularly traded on an established securities market and the Issuer holds no more than 5% of such class at any time, all within the meaning of Section 897(c)(3) of the Code, (y) a partnership or disregarded entity for U.S. federal income tax purposes that is not engaged in a trade or business within the United States for U.S. federal income tax purposes and does not own any "United States real property interests" within the meaning of Section 897(c)(1) of the Code, or (z) a grantor trust all of the assets of which are treated as debt instruments that are in registered form for U.S. federal income tax purposes, or (C) based upon Tax Advice, the acquisition, ownership or disposition of such obligation or security will not cause the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes or otherwise subject to U.S. federal income tax on a net income tax basis. Eligible Investments may include, without limitation, those investments for which the Trustee or an Affiliate of the Trustee is the obligor or depository institution, or provides services and receives compensation. Notwithstanding the foregoing clauses, Eligible Investments may only include obligations or securities that constitute cash equivalents for purposes of the rights and assets in paragraph 10(c)(8)(i)(B) of the exclusions from the definition of "covered fund" for purposes of the Volcker Rule.

"Eligible Loan Index": One of the following indices as selected by the Collateral Manager upon the acquisition of such Collateral Obligation: the Credit Suisse Leveraged Loan Indices (formerly the DLJ Leveraged Loan Index Plus), the Deutsche Bank Leveraged Loan Index, the Goldman Sachs/Loan Pricing Corporation Liquid Leveraged Loan Index, the Merrill Lynch Leveraged Loan Index, the S&P/LSTA Leveraged Loan Indices or any nationally recognized comparable replacement loan index (other than an index that is maintained by an Affiliate of the Collateral Manager); provided that the Collateral Manager may change the index applicable to a

Collateral Obligation at any time following the acquisition thereof after giving notice to Moody's, the Trustee and the Collateral Administrator.

"Entitlement Holder": The meaning specified in Section 8-102(a)(7) of the UCC.

"Entitlement Order": The meaning specified in Section 8-102(a)(8) of the UCC.

"Equity Security": Any security or debt obligation which at the time of acquisition, conversion or exchange does not satisfy the requirements of clauses (i) through (xxiii) of the definition of Collateral Obligation and is not an Eligible Investment; it being understood that Equity Securities may not be purchased by the Issuer but may be received by the Issuer (or a Tax Subsidiary) in exchange for a Collateral Obligation or a portion thereof (and may include warrants or options to acquire equity securities of the related obligor and the equity securities received by the Issuer upon exercising such warrants or options) in connection with any insolvency, bankruptcy, reorganization, debt restructuring or workout of the issuer thereof obligor thereof and that would be considered "received in lieu of debts previously contracted with respect to the loans supporting the asset-backed securities" under the Volcker Rule.

"ERISA": The United States Employee Retirement Income Security Act of 1974, as amended from time to time.

"ERISA Limited Securities": The Class E Notes and the Subordinated Notes.

"Euroclear": Euroclear Bank S.A./N.V.

"Event of Default": The meaning specified in Section 5.1.

"Excepted Advances": Customary advances made to protect or preserve rights against the borrower or obligor under a Collateral Obligation or to indemnify an agent or representative for lenders pursuant to the Underlying Instrument.

"Excepted Property": The meaning specified in the Granting Clause.

"Excess Caa Adjustment Amount": As of any date of determination, an amount equal to the excess, if any, of (a) the Aggregate Principal Balance of all Collateral Obligations included in the Caa Excess over (b) the sum of the Market Values of all Collateral Obligations included in the Caa Excess.

"Excess Weighted Average Fixed Coupon": As of any Measurement Date, a percentage equal to the product obtained by multiplying (a) the greater of zero and the excess, if any, of the Weighted Average Fixed Coupon over the Minimum Fixed Coupon by (b) the number obtained by dividing the Aggregate Principal Balance of all fixed rate Collateral Obligations (excluding any Defaulted Obligation and, to the extent of any non-cash interest, any Deferrable Security Obligation or any Partial Deferrable Security Obligation) by the Aggregate Principal Balance of all floating rate Collateral Obligations (excluding any Defaulted Obligation and, to the

extent of any non-cash interest, any Deferrable **Security Obligation** or any Partial Deferrable **Security Obligation**).

**"Excess Weighted Average Floating Spread"**: As of any Measurement Date, a percentage equal to the product obtained by multiplying (a) the greater of zero and the excess, if any, of the Weighted Average Floating Spread over the Minimum Floating Spread by (b) the number obtained by dividing the Aggregate Principal Balance of all floating rate Collateral Obligations (excluding any Defaulted Obligation and, to the extent of any non-cash interest, any Deferrable **Security Obligation** or any Partial Deferrable **Security Obligation**) by the Aggregate Principal Balance of all fixed rate Collateral Obligations (excluding any Defaulted Obligation and, to the extent of any non-cash interest, any Deferrable **Security Obligation** or any Partial Deferrable **Security Obligation**).

**"Exchange Act"**: The United States Securities Exchange Act of 1934, as amended from time to time.

**"Exchange Certificate"**: A duly executed certificate substantially in the form of Exhibit B4.

**"Expense Reserve Account"**: The trust account established pursuant to Section 10.3(d).

**"FATCA"**: Sections 1471 through 1474 of the Code ~~and, any applicable current or future regulations or official interpretations thereof, any intergovernmental agreements entered into pursuant to Section 1471(b)(1) of the Code, any intergovernmental agreement or any U.S. or non-U.S. fiscal or regulatory legislation, rules, regulations, practices or guidance notes adopted pursuant to any~~ intergovernmental agreement entered into in ~~respect thereof~~ connection with the implementation of such sections of the Code (including the Cayman IGA) ~~and any related provisions of law, court decisions, or administrative guidance.~~

**"FATCA Compliance"**: ~~Compliance with FATCA, as necessary so that no tax will be imposed or withheld thereunder in respect of payments to or for the benefit of the Issuer.~~

**"Federal Reserve Board"**: The Board of Governors of the Federal Reserve System.

**"Fee Basis Amount"**: As of any date of determination, the Collateral Principal Amount.

**"Financial Asset"**: The meaning specified in Section 8-102(a)(9) of the UCC.

**"Financial Regulator"**: The Irish Financial Services Regulatory Authority.

**"Financing Statements"**: The meaning specified in Section 9-102(a)(39) of the UCC.

**"First Interest Determination End Date"**: October 18, 2014.

**"First Lien Last Out Loan"**: A Collateral Obligation that is a Senior Secured Loan that, prior to a default with respect to such loan, is entitled to receive payments pari passu with other

Senior Secured Loans of the same obligor, but following a default becomes fully subordinated to other Senior Secured Loans of the same obligor and is not entitled to any payments until such other Senior Secured Loans are paid in full.

"Floating Rate Notes": The Secured Notes.

"GAAP": The meaning specified in Section 6.3(j).

"Global Notes": Any Regulation S Global Note, Rule 144A Global Note or Temporary Global Note.

"Global Note Procedures": In respect of any transfer or exchange as a result of which the principal amount of one or more Global Notes is increased or decreased, the following procedures: the Registrar will confirm the related instructions from the depository to (a) reduce and/or increase, as applicable, the principal amount of the applicable Global Note after giving effect to the exchange or transfer and, if applicable, (b) credit or request to be credited to the securities account specified by or on behalf of the holder of the beneficial interest in the applicable Global Note of the same Class.

"Global Rating Agency Condition": With respect to any action taken or to be taken by or on behalf of the Issuer, the satisfaction of the Moody's Rating Condition. If any Rating Agency (a) makes a public announcement or informs the Issuer, the Collateral Manager or the Trustee that (i) the Global Rating Agency Condition with respect to such Rating Agency is not required to be satisfied with respect to an action or (ii) it no longer gives such confirmations (the event described in sub-clause (i) or (ii) of this clause (a) is referred to as a "RAC Suspension Event"), or (b) no longer constitutes a Rating Agency under this Indenture, the requirement for satisfaction of the Global Rating Agency Condition with respect to that Rating Agency will not apply.

"Grant" or "Granted": To grant, bargain, sell, convey, assign, transfer, mortgage, pledge, create and grant a security interest in and right of setoff against, deposit, set over and confirm. A Grant of the Pledged Obligations, or of any other instrument, shall include all rights, powers and options (but none of the obligations) of the granting party thereunder, including, the immediate continuing right to claim for, collect, receive and receipt for principal and interest payments in respect of the Pledged Obligations, and all other Monies payable thereunder, to give and receive notices and other communications, to make waivers or other agreements, to exercise all rights and options, to bring Proceedings in the name of the granting party or otherwise, and generally to do and receive anything that the granting party is or may be entitled to do or receive thereunder or with respect thereto.

"Group Country": Any Group I Country, any Group II Country, any Group III Country, Ireland, Italy or Spain.

"Group I Country": Australia, Canada, The Netherlands and New Zealand (or such other countries as may be notified by Moody's to the Collateral Manager and the Collateral Administrator from time to time).

**"Group II Country"**: Germany, Sweden and Switzerland (or such other countries as may be notified by Moody's to the Collateral Manager and the Collateral Administrator from time to time).

**"Group III Country"**: Austria, Belgium, Denmark, Finland, France, Iceland, Liechtenstein, Luxembourg and Norway (or such other countries as may be notified by Moody's to the Collateral Manager and the Collateral Administrator from time to time).

**"Hedge Agreement"**: Any interest rate swap, floor and/or cap agreements, including, without limitation, one or more interest rate basis swap agreements but excluding asset specific hedges, between the Issuer and any Hedge Counterparty, as amended from time to time, and any replacement agreement entered into pursuant to Section 16.1.

**"Hedge Counterparty"**: Any one or more institutions entering into or guaranteeing a Hedge Agreement with the Issuer that satisfies the Required Hedge Counterparty Rating that has entered into a Hedge Agreement with the Issuer, including any permitted assignee or successor under the Hedge Agreements.

**"Hedge Counterparty Collateral Account"**: The account established pursuant to Section 10.4.

**"Hedge Counterparty Credit Support"**: As of any date of determination, any cash or cash equivalents on deposit in, or otherwise to the credit of, the Hedge Counterparty Collateral Account in an amount required to satisfy the then-current Rating Agency criteria.

**"High-Yield Bond"**: A publicly issued or privately placed debt obligation of a corporation or other entity (other than a loan, Senior Secured Bond or a Senior Secured Note).

**"Holder"**: With respect to any Note, the Person whose name appears on the Register as the registered holder of such Note.

**"IAI"**: An institutional Accredited Investor as defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D of the Securities Act.

**"IAI/QP"**: Any Person that, at the time of its acquisition, purported acquisition or proposed acquisition of Notes is both an IAI and a Qualified Purchaser.

**"Incentive Management Fee"**: The meaning assigned to such term in the Collateral Management Agreement.

**"Incentive Management Fee Threshold"**: The threshold that will be satisfied on any Payment Date with respect to the Subordinated Notes if the holders of the Subordinated Notes issued on the Closing Date have received a combined annualized internal rate of return of 12% after giving effect to all payments made or to be made on or prior to such Payment Date. The Incentive Management Fee Threshold will be computed using the "XIRR" function in Microsoft® Excel or an equivalent function in another software package and based on the respective dates of

issuance of each Class of Notes and an aggregate purchase price of 96.1790% for the Subordinated Notes.

**"Incurrence Covenant"**: A covenant by the underlying obligor under a loan to comply with one or more financial covenants only upon the occurrence of certain actions of the underlying obligor or certain events relating to the underlying obligor, including, but not limited to, a debt issuance, dividend payment, share purchase, merger, acquisition or divestiture, unless, as of any date of determination, such action was taken or such event has occurred, in each case the effect of which causes such covenant to meet the criteria of a Maintenance Covenant.

**"Indenture"**: This instrument as originally executed and, if from time to time supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof, as so supplemented or amended.

**"Independent"**: As to any Person, any other Person (including, in the case of an accountant or lawyer, a firm of accountants or lawyers, and any member thereof, or an investment bank and any member thereof) who (i) does not have and is not committed to acquire any material direct or any material indirect financial interest in such Person or in any Affiliate of such Person, and (ii) is not connected with such Person as an Officer, employee, promoter, underwriter, voting trustee, partner, director or Person performing similar functions. "Independent" when used with respect to any accountant may include an accountant who audits the books of such Person if in addition to satisfying the criteria set forth above the accountant is independent with respect to such Person within the meaning of Rule 101 of the Code of Professional Conduct of the American Institute of Certified Public Accountants.

Whenever any Independent Person's opinion or certificate is to be furnished to the Trustee, such opinion or certificate shall state that the signer has read this definition and that the signer is Independent within the meaning hereof.

Unless otherwise specifically provided, any pricing service, certified public accountant or legal counsel that is required to be Independent of another Person under this Indenture must satisfy the criteria above with respect to the Issuer and the Collateral Manager.

**"Information Agent"**: The meaning specified in Section 14.16(a).

**"Initial Rating"**: With respect to any Class of Rated Notes, the rating or ratings, if any, indicated in Section 2.3.

**"Instrument"**: The meaning specified in Section 9-102(a)(47) of the UCC.

**"Interest Accrual Period"**: The period from and including the Closing Date to but excluding the initial Payment Date, and each succeeding period from and including each Payment Date to but excluding the following Payment Date until the principal of the Secured Notes is paid or made available for payment; provided that the initial Interest Accrual Period for any interest bearing Additional Notes issued after the Closing Date in accordance with Section 2.4 shall be the

period from and including the applicable date of issuance of such Additional Notes to but excluding the first Payment Date to occur after such date.

"Interest Collection Account": The meaning specified in Section 10.2(a).

"Interest Coverage Ratio": With respect to any designated Class or Classes of Rated Notes (other than the Class E Notes, for which no Interest Coverage Ratio applies), as of the Determination Date immediately preceding the second Payment Date and each Measurement Date thereafter, the percentage derived by dividing:

(a) the difference between (i) the Collateral Interest Amount as of such date of determination minus (ii) amounts payable (or expected as of the date of determination to be payable) on the following Quarterly Payment Date as set forth in clauses (A), (B) and (C) of the Priority of Interest Proceeds; by

(b) the sum of (i) the interest due and payable on the Rated Notes of such Class or Classes, any Pari Passu Class of Rated Notes and each Priority Class of Rated Notes on such Quarterly Payment Date (excluding Deferred Interest with respect to any such Class or Classes), (ii) any Class X Principal Amortization Amount due on such Quarterly Payment Date and (iii) any Unpaid Class X Principal Amortization Amount as of such Quarterly Payment Date.

"Interest Coverage Test": A test that is satisfied with respect to any specified Class of Notes (other than the Class E Notes), if as of the Determination Date immediately preceding the second Payment Date, and each Measurement Date occurring thereafter (i) the Interest Coverage Ratio for such Class is at least equal to the applicable Required Coverage Ratio for such Class, or (ii) such Class is no longer Outstanding.

"Interest Determination Date": With respect to the (a) first Interest Accrual Period, (x) for the period from the Closing Date to but excluding the First Interest Determination End Date, the second London Banking Day preceding the Closing Date, and (y) for the remainder of the first Interest Accrual Period, the second London Banking Day preceding the First Interest Determination End Date, and (b) each Interest Accrual Period thereafter, the second London Banking Day preceding the first day of such Interest Accrual Period.

"Interest Diversion Test": A test that shall be satisfied as of each Determination Date during the Reinvestment Period if the Overcollateralization Ratio with respect to the Class E Notes as of such Measurement Date is at least equal to 106.2      %.

"Interest Proceeds": With respect to any Collection Period, Redemption Date or Determination Date, without duplication, the sum of: (a) all payments of interest and other income (other than any interest due on any Deferrable Security Obligation and any Partial Deferrable Security Obligation that has been deferred or capitalized at the time of acquisition) received by the Issuer during the related Collection Period on the Collateral Obligations and Eligible Investments, including the accrued interest received in connection with a sale thereof during the related Collection Period, less any such amount that represents Principal Financed Accrued Interest Collections or Warehouse Accrued Interest; (b) all principal and interest

payments received by the Issuer during the related Collection Period on Eligible Investments purchased with Interest Proceeds; (c) all amendment and waiver fees, late payment fees and other fees received by the Issuer during the related Collection Period, except for those in connection with (i) the lengthening of the maturity of the related Collateral Obligation or (ii) the reduction of the par of the related Collateral Obligation as determined by the Collateral Manager at its discretion (with notice to the Trustee and the Collateral Administrator); (d) any payment received with respect to any Hedge Agreement other than (i) an upfront payment received upon entering into such Hedge Agreement or (ii) a payment received as a result of the termination of any Hedge Agreement to the extent not used by the Issuer to enter into a new or replacement Hedge Agreement (for purposes of this subclause (d), any such payment received or to be received on or before 10:00 a.m. New York time on the last day of the Collection Period in respect of such Payment Date will be deemed received in respect of the preceding Collection Period and included in the calculation of Interest Proceeds received in such Collection Period); (e) any payments received as repayment for Excepted Advances which were originally advanced with Interest Proceeds; (f) all payments other than principal payments received by the Issuer during the related Collection Period on Collateral Obligations that are Defaulted Obligations solely as the result of a Moody's Rating of "LD" in relation thereto; (g) any amounts deposited in the Interest Collection Account from the Expense Reserve Account pursuant to Section 10.3 in respect of the related Determination Date; (h) any proceeds with respect to Tax Subsidiary Assets paid to the Issuer by a Tax Subsidiary that would have been characterized as "Interest Proceeds" if received directly by the Issuer; (i) commitment fees, letter of credit fees and other similar fees received by the Issuer during such Collection Period in respect of Delayed Drawdown Collateral Obligations and Revolving Collateral Obligations; (j) any amounts deposited in the Collection Account as Interest Proceeds from the Discretionary Reserve Account, at the Collateral Manager's reasonable discretion; (k) accrued interest received in connection with any Collateral Obligation to the extent such amount was purchased with Interest Proceeds; and (l) any amounts transferred to the Interest Collection Account as Interest Proceeds from the Ramp-Up Account, pursuant to Section 10.3(c); provided that, except as set forth in clause (f) above, any amounts received in respect of any Defaulted Obligation will constitute (i) Principal Proceeds (and not Interest Proceeds) until the aggregate of all recoveries in respect of such Defaulted Obligation since immediately before it became a Defaulted Obligation equals the outstanding Principal Balance (excluding any unfunded commitment on any Delayed Drawdown Collateral Obligation or Revolving Collateral Obligation) of such Collateral Obligation immediately before it became a Defaulted Obligation, and then (ii) Interest Proceeds thereafter; provided, further, that amounts that would otherwise constitute Interest Proceeds may be designated as Principal Proceeds pursuant to Section 7.17(d) with notice to the Collateral Administrator. Notwithstanding the foregoing, in the Collateral Manager's sole discretion (to be exercised on or before the related Determination Date), on any date after the first Payment Date, Interest Proceeds in any Collection Period may be deemed to be Principal Proceeds provided that such designation would not result in an interest deferral **or default** on any Class of Secured Notes. Under no circumstances shall Interest Proceeds include the Excepted Property or any interest earned thereon.

"Interest Reserve Account": The trust account established pursuant to Section 10.3(e).

"Intermediary": The entity maintaining an Account pursuant to an Account Agreement.

"Investment Company Act": The Investment Company Act of 1940, as amended from time to time.

"Investment Criteria": The criteria specified in Section 12.2.

"Investment Criteria Adjusted Balance": With respect to any Asset, the Principal Balance of such Asset; provided that for all purposes the Investment Criteria Adjusted Balance of any: (i) Deferring Security Obligation shall be the Moody's Collateral Value of such Deferring Security Obligation, (ii) Discount Obligation shall be the purchase price of such Discount Obligation, and (iii) Caa Collateral Obligation included in the Caa Excess shall be the Market Value of such Caa Collateral Obligation (as applicable); provided, further, that the Investment Criteria Adjusted Balance for any Collateral Obligation that satisfies more than one of the definitions of Deferring Security Obligation, Discount Obligation or Caa Collateral Obligation shall be the lowest amount determined pursuant to clauses (i), (ii) or (iii).

"Irish Listing Agent": Maples and Calder.

"Issuer": Silver Creek CLO, Ltd., until a successor Person shall have become the Issuer pursuant to the applicable provisions of this Indenture, and thereafter "Issuer" shall mean such successor Person.

"Issuer Only Notes": The Class E Notes and the Subordinated Notes, collectively.

"Issuer Order": (i) A written order dated and signed in the name of the Issuer or the Co-Issuer (which written order may be a standing order) by an Authorized Officer of the Issuer or the Co-Issuer, as applicable, or, to the extent permitted herein, by the Collateral Manager by an Authorized Officer thereof, on behalf of the Issuer, or; (ii) an order or request provided in an email by an Authorized Officer of the Issuer, Co-Issuer or by an Authorized Officer of the Collateral Manager on behalf of the Issuer, in each case under this clause (ii) except to the extent the Trustee requests otherwise.

"Junior Class": With respect to a particular Class of Notes, each Class of Notes that is subordinated to such Class, as indicated in Section 2.3.

"Letter of Credit": A facility whereby (i) a fronting bank ("LOC Agent Bank") issues or will issue a letter of credit ("LC") for or on behalf of a borrower pursuant to an Underlying Instrument, (ii) in the event that the LC is drawn upon and the borrower does not reimburse the LOC Agent Bank, the lender/participant is obligated to fund its portion of the facility and (iii) the LOC Agent Bank passes on (in whole or in part) the fees it receives for providing the LC to the lender/participant.

"LIBOR": (i) With respect to the Notes, the meaning set forth in Exhibit C and (ii) with respect to a Collateral Obligation (other than a Collateral Obligation that bears interest based on a floating rate index other than a London interbank offered rate-based index), the "libor" rate determined in accordance with the terms of such Collateral Obligation.

**"Libor Floor Obligation":** As of any date, a floating rate Collateral Obligation (a) for which the related Underlying Instruments allow a libor rate option, (b) that provides that such libor rate is (in effect) calculated as the greater of (i) a specified "floor" rate per annum and (ii) the London interbank offered rate for the applicable interest period for such Collateral Obligation and (c) that, as of such date, bears interest based on such libor rate option, but only if as of such date the London interbank offered rate for the applicable interest period is less than such floor rate.

**"Listed Notes":** The Notes specified as such in Section 2.3.

**"London Banking Day":** A day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in London, England.

**"Maintenance Covenant":** As of any date of determination, a covenant by the underlying obligor of a loan to comply with one or more financial covenants during each reporting period applicable to such loan, whether or not any action by, or event relating to, the underlying obligor occurs after such date of determination.

**"Majority":** With respect to any Class of Notes, the Holders of more than 50% of the Aggregate Outstanding Amount of the Notes of such Class.

**"Margin Stock":** "Margin Stock" as defined under Regulation U issued by the Federal Reserve Board, including any debt security which is by its terms convertible into "Margin Stock."

**"Market Value":** With respect to any loans or other assets, the amount (determined by the Collateral Manager) equal to the product of the principal amount thereof and the price determined in the following manner:

(a) the quote determined by any of Loan Pricing Corporation, MarkIt Partners or any other nationally recognized loan pricing service selected by the Collateral Manager; or

(b) if such quote described in clause (a) is not available,

(i) the average of the bid-side quotes determined by three broker-dealers active in the trading of such asset that are Independent (with respect to each other and the Collateral Manager); or

(ii) if only two such bids can be obtained, the lower of the bid-side quotes of such two bids; or

(iii) with respect to determining Market Value in connection with calculating the Adjusted Collateral Principal Amount only, if only one such bid can be obtained, such bid; provided that this subclause (iii) shall not apply at any time at which the Collateral Manager is not a registered investment adviser under the Advisers Act; or

(c) if such quote or bid described in clause (a) or (b) is not available, then the Market Value of such Collateral Obligation shall be the lowest of (i) 70% of the outstanding principal amount of such Collateral Obligation, (ii) the Market Value determined by the Collateral Manager exercising reasonable commercial judgment, consistent with the manner in which it

would determine the market value of an asset for purposes of other funds or accounts managed by it and (iii) the purchase price of such Collateral Obligation; provided that if the Collateral Manager is not a registered investment adviser under the Advisers Act, the Market Value of any such asset may not be determined in accordance with this clause (c) for more than 30 days; or

(d) if the Market Value of an asset is not determined in accordance with clause (a), (b) or (c) above, then the Market Value shall be deemed to be zero until such determination is made in accordance with clause (a)~~or~~, (b) or (c) above~~;~~

**provided that the Market Value of any Defaulted Obligation that has been a Defaulted Obligation for three years or more shall be deemed to be zero.**

"Maturity": With respect to any Note, the date on which the unpaid principal of such Note becomes due and payable as therein or herein provided, whether at the Stated Maturity or by acceleration, redemption or otherwise.

"Maximum Moody's Rating Factor Test": A test that will be satisfied on any date of determination if the Moody's Adjusted Weighted Average Rating Factor of the Collateral Obligations is less than or equal to the lesser of (1) the sum of (a) the number set forth in the column entitled "Maximum Moody's Weighted Average Rating Factor" in the Asset Quality Matrix Combination plus (b) the Moody's Weighted Average Recovery Adjustment and (2) 2850[3000].

"Measurement Date": (a) Any day on which the Issuer purchases or sells, or enters into a commitment to purchase or sell, a Collateral Obligation or a default of a Collateral Obligation occurs, (b) any Determination Date, (c) the date as of which the information in any Monthly Report is calculated, (d) with five Business Days prior notice, any Business Day requested by a Rating Agency then rating any Class of Outstanding Notes~~;~~ and (e) the last day of the Ramp-Up Period; provided that, in the case of (a) through (d), no "Measurement Date" shall occur prior to the last day of the Ramp-Up Period.

"Memorandum and Articles": The Issuer's Memorandum and Articles of Association, as they may be amended, revised or restated from time to time.

"Merging Entity": The meaning specified in Section 7.10.

"Minimum Denominations": The meaning specified in Section 2.3.

"Minimum Fixed Coupon Test": A test that will be satisfied on any date of determination if the Weighted Average Fixed Coupon equals or exceeds 5.50%.

"Minimum Floating Spread": The number set forth in the column entitled "Minimum Weighted Average Floating Spread" in the Asset Quality Matrix Combination.

"Minimum Floating Spread Test": The test that is satisfied on any date of determination if the Weighted Average Floating Spread equals or exceeds the Minimum Floating Spread.

"Money": The meaning specified in Section 1-201(24) of the UCC.

"Monthly Report": The meaning specified in Section 10.6(a).

"Moody's": Moody's Investors Service, Inc. and any successor thereto.

"Moody's Adjusted Weighted Average Rating Factor": As of any date of determination, a number equal to the Moody's Weighted Average Rating Factor determined in the following manner: for purposes of determining a Moody's Default Probability Rating, Moody's Rating or Moody's Derived Rating in connection with determining the Moody's Weighted Average Rating Factor for purposes of this definition, the last paragraph of the definition of each of Moody's Default Probability Rating and Moody's Derived Rating and the penultimate paragraph of the definition of Moody's Rating shall be disregarded, and instead each applicable rating on credit watch by Moody's that is on (a) positive watch will be treated as having been upgraded by one rating subcategory, (b) negative watch will be treated as having been downgraded by two rating subcategories and (c) negative outlook will be treated as having been downgraded by one rating subcategory.

"Moody's Collateral Value": As of any date of determination, with respect to any Defaulted Obligation or Deferring Security Obligation, the lesser of (i) the Moody's Recovery Amount of such Defaulted Obligation or Deferring Security Obligation as of such date and (ii) the Market Value of such Defaulted Obligation or Deferring Security Obligation as of such date.

"Moody's Counterparty Criteria": With respect to any Participation Interest proposed to be acquired by the Issuer, criteria that will be met if immediately after giving effect to such acquisition, (x) the percentage of the Collateral Principal Amount that consists in the aggregate of Participation Interests with Selling Institutions that have the same or a lower Moody's credit rating does not exceed the "Aggregate Percentage Limit" set forth below for such Moody's credit rating and (y) the percentage of the Collateral Principal Amount that consists in the aggregate of Participation Interests with any single Selling Institution that has the same or lower Moody's credit rating set forth under "Individual Percentage Limit" below or a lower credit rating does not exceed the "Individual Percentage Limit" set forth below for such Moody's credit rating:

<u>Moody's credit rating of Selling Institution<sub>5</sub> (at or below)</u>	<u>Aggregate Percentage Limit</u>	<u>Individual Percentage Limit</u>
Aaa	20.0%	20.0%
Aa1	20.0%	10.0%
Aa2	20.0%	10.0%
Aa3	15.0%	10.0%
<u>A1 and "P-1"</u>	10.0%	5.0%
<u>A2* and "P-1"</u>	5.0%	5.0%
<u>* and not on Watch for Possible Downgrade</u>		
<u>A1 or A2 but not "P-1"; Less than A2 or</u>	<u>0.0%</u>	<u>0.0%</u>

Moody's credit rating of Selling Institution, (at or below)	Aggregate Percentage Limit	Individual Percentage Limit
<u>A2 (but on Watch for Possible Downgrade) and "P-1"</u>		

provided that the Moody's Counterparty Criteria will be deemed satisfied in connection with the Issuer's acquisition of a Participation Interest from a Selling Institution that meets the criteria in the last row of the table above if the Moody's Rating Condition has been satisfied.

"Moody's Default Probability Rating": The meaning specified in Schedule 4.

"Moody's Derived Rating": The meaning specified in Schedule 4.

"Moody's Diversity Test": A test that will be satisfied on any date of determination if the Diversity Score (rounded to the nearest whole number) equals or exceeds the number set forth in the column entitled "Minimum Diversity Score" in the Asset Quality Matrix Combination.

"Moody's Effective Date Deemed Rating Confirmation": The meanings specified in Section 7.17(c).

"Moody's Industry Classification": The industry classifications set forth in Schedule 1, as such industry classifications shall be updated at the sole option of the Collateral Manager (with notice to the Collateral Administrator) if Moody's publishes revised industry classifications.

"Moody's Minimum Weighted Average Recovery Rate Test": The test that will be satisfied on any date of determination if the Moody's Weighted Average Recovery Rate equals or exceeds 48.0[ ]%.

"Moody's Ramp-Up Failure": The meaning specified in Section 7.17(d).

"Moody's Rating": The meaning specified in Schedule 4.

"Moody's Rating Condition": With respect to any action taken or to be taken by or on behalf of the Issuer, a condition that is satisfied if Moody's has confirmed in writing, including electronic messages, facsimile, press release, posting to its internet website, or other means then considered industry standard (or has declined to undertake a review of such action by such means) to the Issuer, the Trustee and the Collateral Manager that no immediate withdrawal or reduction with respect to its then-current rating by Moody's of any Class of Rated Notes will occur as a result of such action; provided that if Moody's (a) makes a public announcement or informs the Issuer, the Collateral Manager or the Trustee that (i) it believes that, under its internal policies, no rating agency confirmation from Moody's is required with respect to an action or (ii) its practice is

to not give such confirmations, or (b) it no longer constitutes a Rating Agency under this Indenture, the Moody's Rating Condition will not apply.

"Moody's Rating Factor": The meaning specified in Schedule 4.

"Moody's Recovery Amount": With respect to any Collateral Obligation, an amount equal to the product of (i) the applicable Moody's Recovery Rate and (ii) the Principal Balance of such Collateral Obligation.

"Moody's Recovery Rate": The meaning specified in Schedule 4.

"Moody's Senior Secured Loan": The meaning specified in Schedule 4.

"Moody's Weighted Average Rating Factor": The number (rounded up to the nearest whole number) determined by the following calculation:

(a) The sum of:

The principal balance of each Collateral Obligation (excluding any Current Pay Obligation and Defaulted Obligation)	X	The Moody's Rating Factor of such Collateral Obligation
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*divided by*

(b) the outstanding principal balance of all such Collateral Obligations.

"Moody's Weighted Average Recovery Adjustment": As of any date of determination, the greater of (a) zero and (b) the product of (i)(A) the Moody's Weighted Average Recovery Rate as of such date of determination *multiplied by 100 minus* (B) 48.0 and (ii) 70; provided that if the Moody's Weighted Average Recovery Rate for purposes of determining the Moody's Weighted Average Recovery Adjustment is greater than 60.0%, then such Moody's Weighted Average Recovery Rate shall equal 60.0% unless the Moody's Rating Condition is satisfied.

"Moody's Weighted Average Recovery Rate": As of any date of determination, the number, expressed as a percentage, obtained by summing the product of the Moody's Recovery Rate on such Measurement Date of each Collateral Obligation (excluding any Defaulted Obligation) and the Principal Balance of such Collateral Obligation, dividing such sum by the Aggregate Principal Balance of all such Collateral Obligations and rounding up to the first decimal place.

"Non-Call Period": The period from the Closing Date to but excluding the Quarterly Payment Date in July 2016 20.

"Non-Emerging Market Obligor": An obligor that is Domiciled in, and if Domiciled in more than one jurisdiction, each jurisdiction in which such obligor is Domiciled in, (a) the

United States of America, ~~or~~ (b) any country that has a foreign currency government bond rating of at least "Aa~~23~~" by Moody's or (c) a Tax Jurisdiction.

**"Non-Permitted ERISA Holder"**: Any Person that is or becomes the beneficial owner of an interest in any Note who has made or is deemed to have made a prohibited transaction representation or a Benefit Plan Investor, Controlling Person or Similar Law representation that is subsequently shown to be false or misleading or whose beneficial ownership otherwise results in Benefit Plan Investors owning 25% or more of the Aggregate Outstanding Amount of any Class of Issuer Only Notes.

**"Non-Permitted Holder"**: Any Person that is a (a) U.S. person that is not a QIB/QP or, solely in the case of Certificated Notes an IAI/QP, or that does not have an exemption available under the Securities Act and the Investment Company Act and that becomes the Holder or beneficial owner of a Note, (b) Non-Permitted ERISA Holder or (c) Non-Permitted Tax Holder.

**"Non-Permitted Tax Holder"**: Any Holder or beneficial owner (i) that fails to comply with its Noteholder Reporting Obligations (without regard to whether the failure to so comply was the result of a legal prohibition), (ii) if the Issuer reasonably determines that such Holder or beneficial owner's direct or indirect acquisition, holding or transfer of an interest in such Security would cause the Issuer to be unable to achieve **FATCA Tax Account Reporting Rules** Compliance or (iii) if the Issuer is required to treat such Holder or beneficial owner as a "nonparticipating FFI" or "recalcitrant account holder" of the Issuer, in each case as defined in FATCA **(or any Person of similar status under applicable Tax Account Reporting Rules)**.

**"Note Interest Amount"**: With respect to any specified Class of the Secured Notes and any Payment Date, the amount of interest for the next Interest Accrual Period payable in respect of each U.S.\$100,000 Outstanding principal amount of such Class of Notes.

**"Note Interest Rate"**: With respect to any specified Class of Secured Notes, the per annum interest rate payable on the Notes of such Class with respect to each Interest Accrual Period equal to LIBOR for such Interest Accrual Period plus the spread specified in Section 2.3 with respect to such Notes.

**"Note Payment Sequence"**: The application, in accordance with the Priority of Payments, of Interest Proceeds or Principal Proceeds, as applicable, in the following order:

- (i) to the payment of principal of the Class **AX** Notes **until such amount has and the Class A-R Notes (in each case, together with any defaulted interest) pro rata, based on the amount of principal due, until the Class X Notes and the Class A-R Notes have** been paid in full;
- (ii) to the payment of principal of the Class **BB-R** Notes **until such amount has (together with any defaulted interest) until the Class B-R Notes have** been paid in full;

(iii) to the payment of any accrued and unpaid interest (including any defaulted interest) and any Deferred Interest on the Class **CC-R** Notes until such amounts have been paid in full;

(iv) to the payment of principal of the Class **CC-R** Notes until such amount has the Class C-R Notes have been paid in full;

(v) to the payment of any accrued and unpaid interest (including any defaulted interest) and any Deferred Interest on the Class **DD-R** Notes until such amounts have been paid in full;

(vi) to the payment of principal of the Class **DD-R** Notes until such amount has the Class D-R Notes have been paid in full;

(vii) to the payment of any accrued and unpaid interest (including any defaulted interest) and any Deferred Interest on the Class **EE-R** Notes until such amounts have been paid in full; and

(viii) to the payment of principal of the Class **EE-R** Notes until such amount has the Class E-R Notes have been paid in full.

"Noteholder" or "Noteholders": With respect to any Note, the Person(s) whose name(s) appear(s) on the Register as the registered holder(s) of such Note.

"Noteholder Reporting Obligations": The meaning specified in Section 2.6(h).

"Notes": Collectively, the Notes authorized by, and authenticated and delivered under, this Indenture (as specified in Section 2.3) or any supplemental indenture (and including any Additional Notes issued hereunder pursuant to Section 2.4).

"NRSRO": Any nationally recognized statistical rating organization, other than any Rating Agency.

"Obligor": The obligor or guarantor under a loan, as the case may be.

#### **"OECD" The Organisation for Economic Co-operation and Development.**

"Offer": The meaning specified in Section 10.7(c).

"Offering": The offering of the Notes pursuant to the Offering Circular.

"Offering Circular": **The offering circular, dated July 14, 2014 relating to the Notes, including any supplements thereto. Each of the Original Offering Circular and the Refinancing Offering Circular, as the context may require.**

"Officer": With respect to the Issuer, the Co-Issuer and any corporation, any director, the Chairman of the Board of Directors, the President, any Vice President, the Secretary, an Assistant Secretary, the Treasurer or an Assistant Treasurer of such entity or any Person authorized by such

entity; with respect to any partnership, any general partner thereof or any Person authorized by such entity; with respect to a limited liability company, any member thereof or any Person authorized by such entity; and with respect to the Trustee, any Trust Officer.

"offshore transaction": The meaning specified in Regulation S.

"Operating Guidelines": The meaning specified in Section 7.8(e).

"Opinion of Counsel": A written opinion addressed to the Trustee and/or the Issuer and, if required by the terms hereof, the Rating Agency, in form and substance reasonably satisfactory to the Trustee, of a nationally or internationally recognized law firm or an attorney admitted to practice (or law firm, one or more of the partners of which are admitted to practice) before the highest court of any State of the United States or the District of Columbia (or the Cayman Islands, in the case of an opinion relating to the laws of the Cayman Islands) in the relevant jurisdiction, which attorney (or law firm) may, except as otherwise expressly provided in this Indenture, be counsel for the Issuer or the Co-Issuer, as the case may be, and which firm or attorney, as the case may be, shall be reasonably satisfactory to the Trustee. Whenever an Opinion of Counsel is required hereunder, such Opinion of Counsel may rely on opinions of other counsel who are so admitted and so satisfactory, which opinions of other counsel shall accompany such Opinion of Counsel and shall either be addressed to the Trustee, the Issuer and each, if applicable, Rating Agency or shall state that the Trustee, the Issuer and the Rating Agency shall be entitled to rely thereon.

"Optional Redemption": A redemption of the Notes in accordance with Section 9.2 or a Tax Redemption.

**"Original Offering Circular"**: The offering circular, dated July 14, 2014 relating to the Notes issued on July 18, 2014, including any supplements thereto.

**"Original Placement Agent"**: Goldman, Sachs & Co., in its capacity as placement agent under the Placement Agreement.

"Outstanding": With respect to the Notes of any specified Class, as of any date of determination, all of the Notes or all of the Notes of such Class, as the case may be, theretofore authenticated and delivered under this Indenture, except:

(i) Notes theretofore canceled by the Registrar or delivered to the Registrar for cancellation (in connection with a payment, redemption, or registration of transfer only) or registered in the Register on the date the Trustee provides notice to Holders pursuant to Section 4.1 that the Indenture has been discharged;

(ii) Notes or portions thereof for whose payment or redemption funds in the necessary amount have been theretofore irrevocably deposited with the Trustee or any Paying Agent in trust for the Holders of such Notes pursuant to Section 4.1(a)(ii); provided that if such Notes or portions thereof are to be redeemed, notice of such

redemption has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made;

(iii) Notes in exchange for or in lieu of which other Notes have been authenticated and delivered pursuant to this Indenture, unless proof satisfactory to the Trustee is presented that any such Notes are held by a Protected Purchaser;

(iv) Notes alleged to have been mutilated, defaced, destroyed, lost or stolen for which replacement Notes have been issued as provided in Section 2.7;

provided that in determining whether the Holders of the requisite Aggregate Outstanding Amount have given any request, demand, authorization, direction, notice, consent or waiver hereunder or under the Collateral Management Agreement, (I) any Notes owned by (x) the Issuer, the Co-Issuer, or any other obligor upon the Notes or any Affiliate thereof or (y) the Collateral Manager, any Affiliate of the Collateral Manager or any account or investment fund over which the Collateral Manager or any Affiliate has discretionary voting authority in connection with any vote under Sections 13(a) of the Collateral Management Agreement, shall each be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Notes a Trust Officer of Trustee has actual knowledge (or has been provided written notice of) to be so owned shall be so disregarded and (II) Notes so owned that have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Notes and that the pledgee is not the Issuer, the Co-Issuer, any other obligor upon the Notes or any Affiliate of the Issuer, the Co-Issuer, or such other obligor (or the Collateral Manager, any Affiliate of the Collateral Manager or any account or investment fund over which the Collateral Manager or any Affiliate has discretionary voting authority).

**"Overcollateralization Ratio":** With respect to any specified Class or Classes of Rated Notes as of the last day of the Ramp-Up Period or any Measurement Date thereafter, the percentage derived from: (a) the Adjusted Collateral Principal Amount *divided by* (b) the sum of (i) the Aggregate Outstanding Amounts of the Rated Notes of such Class or Classes and each Priority Class of Rated Notes **(other than the Class X Notes)**, plus (ii) Deferred Interest with respect to such Class or Classes and each Priority Class of Rated Notes.

**"Overcollateralization Ratio Test":** A test that is satisfied with respect to any Class or Classes of Rated Notes as of any Determination Date at, or subsequent to, the last day of the Ramp-Up Period, if (i) the Overcollateralization Ratio for such Class or Classes is at least equal to the applicable Required Coverage Ratio for such Class or Classes or (ii) such Class or Classes of Rated Notes is no longer Outstanding.

**"Pari Passu Class": With respect to any specified Class of Notes, each Class of Notes so indicated in Section 2.3.**

**"Partial Deferrable Security Obligation":** Any Collateral Obligation with respect to which under the related Underlying Instruments (i) a portion of the interest due thereon is required to be paid in Cash on each payment date therefor and is not permitted to be deferred or capitalized

(which portion shall at least be equal to LIBOR plus 2.50% per annum or the applicable index with respect to which interest on such Collateral Obligation is calculated (or, in the case of a fixed rate Collateral Obligation, at least equal to the forward swap rate for a designated maturity equal to the scheduled maturity of such Collateral Obligation)), and (ii) the issuer thereof or obligor thereon may defer or capitalize the remaining portion of the interest due thereon.

"Partial Redemption by Refinancing": The meaning specified in Section 9.3.

**"Partial Redemption Interest Proceeds":** (i) in connection with a Partial Redemption by Refinancing occurring on a Quarterly Payment Date, an amount equal to zero or (ii) in connection with a Partial Redemption by Refinancing occurring on a date other than a Quarterly Payment Date, the Interest Proceeds in an amount equal to the amount of accrued and unpaid interest on the Classes being refinanced but only to the extent that such Interest Proceeds would be available under the Priority of Payments to pay accrued and unpaid interest on such Classes on the next succeeding Quarterly Payment Date, taking into account scheduled distributions on the Assets that are expected to be received prior to the next Determination Date, as determined by the Collateral Manager.

"Participation Interest": A participation interest in a loan originated by a bank or financial institution that, at the time of acquisition, or the Issuer's commitment to acquire the same, satisfies each of the following criteria: (i) such participation would constitute a Collateral Obligation were it acquired directly, (ii) the Selling Institution is a lender on the loan, (iii) the aggregate participation in the loan granted by such Selling Institution to any one or more participants does not exceed the principal amount or commitment with respect to which the Selling Institution is a lender under such loan, (iv) such participation does not grant, in the aggregate, to the participant in such participation a greater interest than the Selling Institution holds in the loan or commitment that is the subject of the participation, (v) the entire purchase price for such participation is paid in full (without the benefit of financing from the Selling Institution or its affiliates) at the time of the Issuer's acquisition (or, to the extent of a participation in the unfunded commitment under a Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation, at the time of the funding of such loan), (vi) the participation provides the participant all of the economic benefit and risk of the whole or part of the loan or commitment that is the subject of the loan participation and (vii) such participation is documented under a Loan Syndications and Trading Association, Loan Market Association or similar agreement standard for loan participation transactions among institutional market participants. For the avoidance of doubt, a Participation Interest shall not include a sub-participation interest in any loan.

"Paying Agent": Any Person authorized by the Issuer to pay the principal of or interest on any Notes on behalf of the Issuer as specified in Section 7.3.

"Payment Account": The payment account of the Trustee established pursuant to Section 10.3(a).

"Payment Date": (A) The 20th day of January, April, July and October of each year (or if such day is not a Business Day, the next succeeding Business Day), commencing on the Payment Date in January 2015 and (B) each Redemption Date with respect to the Secured Notes; provided in each case that (x) following the redemption or repayment in full of the Secured

Notes, Holders of Subordinated Notes may receive payments (including in respect of an Optional Redemption of the Subordinated Notes) on any dates designated by the Collateral Manager (which dates may or may not be the dates stated above) upon five Business Days prior written notice to the Trustee and the Collateral Administrator (which notice the Trustee shall promptly forward to the Holders of the Subordinated Notes) and such dates shall thereafter constitute Payment Dates and (y) following an acceleration of the maturity of the Notes after an Event of Default, any Post-Acceleration Payment Date will be a "Payment Date."

**"PBGC"**: The United States Pension Benefit Guaranty Corporation.

**"Permitted Use"**: With respect to any Contribution received into the Discretionary Reserve Account or any amount on deposit in the Discretionary Reserve Account, any of the following uses: (i) the transfer of the applicable portion of such amount to the Collection Account for application as Interest Proceeds, (ii) the transfer of the applicable portion of such amount to the Collection Account for application as Principal Proceeds or (iii) to make payments in connection with the exercise of an option, warrant, right of conversion, pre-emptive right, rights offering, credit bid or similar right in connection with the workout or restructuring of a Collateral Obligation, in each case subject to the limitations set forth in this Indenture.

**"Person"**: An individual, corporation (including a business trust), partnership, limited liability company, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated association or government or any agency or political subdivision thereof.

**"Placement Agent"**: ~~Goldman, Sachs & Co., in its capacity as placement agent under the Each of the Original~~ Placement [\*\*Agreement\*\*](#) [\*\*Agent and the Refinancing Placement Agent, as context may require.\*\*](#)

**"Placement Agreement"**: The agreement dated as of the Closing Date between the Issuer and Goldman, Sachs & Co., as [\*\*Original\*\*](#) Placement Agent, relating to the placement of certain of the Notes, as amended from time to time.

**"Plan Asset Entity"**: Any entity whose underlying assets could be deemed to include plan assets by reason of an employee benefit plan's or a plan's investment in the entity within the meaning of the Plan Asset Regulation or otherwise.

**"Plan Asset Regulation"**: U.S. Department of Labor regulation 29 C.F.R. Section 2510.3-101 (as modified by Section 3(42) of ERISA).

**"Pledged Obligations"**: As of any date of determination, the Collateral Obligations, the Eligible Investments and any Equity Security which forms part of the Assets that have been Granted to the Trustee.

**"Post-Acceleration Payment Date"**: Any date fixed by the Trustee pursuant to Section 5.7 after the principal of the Secured Notes has been declared to be or has otherwise become immediately due and payable pursuant to Section 5.2; provided that such declaration has not been rescinded or annulled.

**"Post-Reinvestment Principal Proceeds": The meaning specified in Section 12.2.**

**"Predecessor Collateral Manager": 40|86 Advisors, Inc., a Delaware corporation.**

"Prepaid Obligation": A Collateral Obligation as to which Unscheduled Principal Payments are received after the Reinvestment Period.

"Principal Balance": Subject to Section 1.3, with respect to (a) any Pledged Obligation other than a Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation, as of any date of determination, the outstanding principal amount of such Pledged Obligation and (b) any Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation, as of any date of determination, the outstanding principal amount of such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation, plus any undrawn commitments that have not been irrevocably reduced with respect to such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation; provided that for all purposes (i) the Principal Balance of any Equity Security or Collateral Obligation that has been a Defaulted Obligation for three years or more shall be deemed to be zero, (ii) the Principal Balance of any Collateral Obligation that, at the time of its purchase by the Issuer, was subject to an Offer for a price of less than its par amount, shall be, until the expiration of such Offer in accordance with its terms, the Offer price (expressed as a dollar amount) of such Collateral Obligation, and (iii) the Principal Balance of a Deferrable **Security Obligation** or Partial Deferrable **Security Obligation** shall not include any deferred interest that has been added to principal and remains unpaid.

"Principal Collection Account": The meaning specified in Section 10.2(a).

"Principal Financed Accrued Interest Collections": With respect to: (i) any Collateral Obligation owned or purchased by the Issuer on the Closing Date, any unpaid interest on such Collateral Obligation that accrued prior to the Closing Date that was owing to the Issuer and remained unpaid as of the Closing Date less any such amount that represents Warehouse Accrued Interest and (ii) any Collateral Obligation purchased after the Closing Date, any payments made to, or other collections made by, the obligor with respect to such Collateral Obligation that is attributable to the payment of accrued interest thereon, which accrued interest was purchased with Principal Proceeds at the time such Collateral Obligation was purchased by the Issuer; provided that, in the case of this clause (ii), Principal Financed Accrued Interest Collections shall not include any amounts attributable to accrued interest purchased with Interest Proceeds deemed to be Principal Proceeds as set forth in the definition of Interest Proceeds.

"Principal Proceeds": With respect to any Collection Period, Redemption Date or Determination Date, all amounts received by the Issuer during the related Collection Period that do not constitute Interest Proceeds and any other amounts that have been designated as Principal Proceeds pursuant to the terms of the Indenture; provided that, for the avoidance of doubt, Principal Proceeds shall not include the Excepted Property.

"Priority Class": With respect to any specified Class of Notes, each Class of Notes so indicated in Section 2.3.

"Priority Hedge Termination Event": The occurrence (i) of any termination under a Hedge Agreement with respect to which the Issuer is the sole Defaulting Party or Affected Party (each as defined in the relevant Hedge Agreement), (ii) with respect to either the Issuer or the Hedge Counterparty, of any event described in Section 5(b)(i) ("Illegality") of any Hedge Agreement, or (iii) the liquidation of Assets pursuant to Article V due to an Event of Default under this Indenture.

"Priority of Interest Proceeds": The meaning specified in Section 11.1(a)(i).

"Priority of Payments": The Priority of Interest Proceeds, the Priority of Principal Proceeds, the Special Priority of Payments and the Priority of Partial Refinancing Proceeds.

"Priority of Partial Refinancing Proceeds": ~~With respect to any Partial Redemption by Refinancing that shall occur pursuant to Section 9.3, after giving effect to any payments made under the Priority of Interest Proceeds, Priority of Principal Proceeds or Special Priority of Payments on the related Redemption Date, the application of the related Refinancing Proceeds in the following order of priority: first, to pay the Redemption Price of each Class of Notes being refinanced in sequential order and then, any remaining amounts to the Collection Account as Principal Proceeds.~~ The meaning specified in Section 11.1(a)(iv).

"Priority of Principal Proceeds": The meaning specified in Section 11.1(a)(ii).

"Proceeding": Any suit in equity, action at law or other judicial or non-judicial enforcement or administrative proceeding.

"Process Agent": The meaning specified in Section 7.2.

"Proposed Portfolio": The portfolio of Collateral Obligations and Eligible Investments resulting from the proposed purchase, sale, maturity or other disposition of a Collateral Obligation or a proposed reinvestment in an additional Collateral Obligation, as the case may be.

"Protected Purchaser": The meaning specified in Section 8-303 of the UCC.

"Purchaser": Each purchaser or transferee of an interest in a Note (including any beneficial owner of a Global Note).

"QIB/QP": Any Person that, at the time of its acquisition, purported acquisition or proposed acquisition of Notes is both a Qualified Institutional Buyer and a Qualified Purchaser.

"Qualified Institutional Buyer": The meaning specified in Rule 144A under the Securities Act.

"Qualified Purchaser": The meaning specified in Section 2(a)(51) of the Investment Company Act and Rule 2a51-2 under the Investment Company Act.

**"Quarterly Payment Date": Any date satisfying clause (A) of the definition of the term "Payment Date."**

**"RAC Suspension Event"**: The meaning specified in the definition of Global Rating Agency Condition.

**"Ramp-Up Account"**: The account established pursuant to Section 10.3(c).

**"Ramp-Up Period"**: The period commencing on the Closing Date and ending upon the earlier of (a) December 1, 2014 and (b) any date selected by the Collateral Manager in its sole discretion on or after which the Aggregate Ramp-Up Par Condition has been satisfied.

**"Rated Notes"**: The Co-Issued Notes and the Class E Notes.

**"Rating Agency"**: Moody's only for so long as Notes rated by such entity on the **Closing****Refinancing** Date are Outstanding and rated by such entity.

**"Rating Confirmation Redemption"**: The meaning specified in Section 9.8.

**"Rating Confirmation Redemption Amount"**: The meaning specified in Section 9.8.

**"Rating Confirmation Redemption Date"**: The meaning specified in Section 9.8.

**"Record Date"**: As to any applicable Payment Date, the 15th day (whether or not a Business Day) prior to such Payment Date.

**"Redemption by Liquidation"**: An Optional Redemption effected through the sale of Collateral Obligations.

**"Redemption Date"**: Any **Payment Date** specified for a redemption of Notes pursuant to Article IX (other than a Special Redemption or a Rating Confirmation Redemption).

**"Redemption Price"**: When used with respect to (a) each Class of Secured Notes, an amount equal to (i) 100% of the Aggregate Outstanding Amount thereof *plus* (ii) accrued and unpaid interest thereon (including interest on any accrued and unpaid Deferred Interest with respect to such Notes) to the Redemption Date and (b) each Subordinated Note, its proportional share (based on the Aggregate Outstanding Amount of such Class) of the amount of the Interest Proceeds and Principal Proceeds available for such purposes under the Priority of Payments; *provided* that solely with respect to an Optional Redemption, any Holder of a Secured Note may in its sole discretion elect, by written notice to the Issuer, the Trustee and the Collateral Manager, to receive in full payment for the redemption of its Secured Note an amount that is less than the amount stated in clause (a), and such lesser amount shall be the Redemption Price of such Secured Note.

**"Reference Banks"**: The meaning specified in Exhibit C.

**"Refinancing"**: The meaning specified in Section 9.2(a).

**"Refinancing Date": July 20, 2017.**

**"Refinancing Notes": The Class X Notes, the Class A-R Notes, the Class B-R Notes, the Class C-R Notes, the Class D-R Notes and the Class E-R Notes.**

**"Refinancing Offering Circular": The offering circular relating to the offer and sale of the Refinancing Notes dated July [ ], 2017, including any supplements thereto.**

**"Refinancing Placement Agent": J.P. Morgan Securities LLC, in its capacity as placement agent of the Refinancing Notes under the Refinancing Placement Agreement.**

**"Refinancing Placement Agreement": The agreement dated as of July 20, 2017, by and among the Co-Issuers and the Refinancing Placement Agent related to the offering of the Refinancing Notes.**

**"Refinancing Proceeds": With respect to any Refinancing, the Cash proceeds received by the Issuer therefrom.**

**"Register" and "Registrar": The respective meanings specified in Section 2.6(a).**

**"Registered Office Agreement": The Registered Office Agreement between the Administrator and the Issuer, dated as of November 21, 2013, providing for the provision of registered office services to the Issuer, as modified, amended or supplemented from time to time.**

**"Regulation D": Regulation D, as amended, under the Securities Act.**

**"Regulation S": Regulation S, as amended, under the Securities Act.**

**"Regulation S Global Note": Any Note sold outside the United States to non-"U.S. persons" (as defined in Regulation S) in reliance on Regulation S and issued in the form of a permanent global security in definitive, fully registered form without interest coupons substantially in the form set forth in the applicable Exhibit A hereto.**

**"Reinvestable Obligation": The meaning specified in Section 12.2.**

**"Reinvestment Period": The period from and including the Closing Date to and including the earliest of (i) the **Quarterly** Payment Date in **July 2018** [ ] 20[ ], (ii) the date of the acceleration of the Maturity of any Class of the Secured Notes pursuant to Section 5.2, (iii) the end of the Collection Period related to a Redemption Date in connection with a Redemption by Liquidation and (iv) the date on which the Collateral Manager reasonably determines and notifies the Issuer, the Rating Agency, the Trustee and the Collateral Administrator that it can no longer reinvest in additional Collateral Obligations in accordance with Section 12.2 or the Collateral Management Agreement.**

**"Reinvestment Target Par Balance": **The(i) Prior to the Refinancing Date, the** Aggregate Ramp-Up Par Amount **minus** (a) any reduction in the Aggregate Outstanding Amount of the Notes through the payment of Principal Proceeds or Interest Proceeds **plus** (b) the aggregate amount of Principal Proceeds that result from the issuance of any Additional Notes**

(after giving effect to such issuance of any Additional Notes), **and (ii) on and after the Refinancing Date, \$U.S. [ ] minus (a) any reduction in the Aggregate Outstanding Amount of the Notes after the Refinancing Date (except the Class X Notes) through the payment of Principal Proceeds or Interest Proceeds plus (b) the aggregate amount of Principal Proceeds that result from the issuance of any Additional Notes (after giving effect to such issuance of any Additional Notes) after the Refinancing Date.**

**"Requesting Party":** The meaning specified in Section 14.17(a).

**"Required Coverage Ratio":** With respect to a specified Class of Rated Notes and the related Interest Coverage Test or Overcollateralization Ratio Test as the case may be, as of any date of determination, the applicable percentage indicated below opposite such specified Class:

<b>Class</b>	<b>Required Overcollateralization Ratio (%)</b>
A/B	[119.7]
C	[114.6]
D	[108.4]
E	[104.7]

  

<b>Class</b>	<b>Required Interest Coverage Ratio (%)</b>
A/B	[117.5]
C	[112.5]
D	[107.5]
<b>E</b>	<b>N/A</b>

**"Required Hedge Counterparty Rating":** With respect to any Hedge Counterparty, the current ratings required by Moody's as published from time to time, if any, or above which is not then on credit watch for possible downgrade by Moody's, except to the extent that Moody's provides written confirmation that one or more of such ratings from such Rating Agency is not required to be satisfied.

**"Reset Amendment":** The meaning specified in Section 8.2(a).

**"Resolution":** With respect to the Issuer, a duly passed resolution of the Board of Directors of the Issuer and, with respect to the Co-Issuer, an action in writing by **either** the sole member **or a manager** of the Co-Issuer.

**"Restricted Trading Period":** Each day during which (a) (i) the Moody's rating of the Class **X Notes, the Class** A Notes or the Class B Notes is one or more subcategories below its Initial Rating thereof, (ii) the Moody's rating of any of the Class C Notes, the Class D Notes or the Class E Notes (in each case then Outstanding) is two or more subcategories below its Initial Ratings thereof or (iii) the Moody's rating of any Class has been withdrawn and not reinstated and (b) after giving effect to any sale of the relevant Collateral Obligations, the sum of (I) the Aggregate Principal Balance of the Collateral Obligations (excluding Defaulted Obligations that have been Defaulted Obligations for less than three years and the Collateral Obligation being sold), (II) the aggregate of the Market Values of all Defaulted Obligations that have been

Defaulted Obligations for less than three years, and (III) Eligible Investments constituting Principal Proceeds (including, without duplication, the anticipated net proceeds of such sale) shall be less than the Reinvestment Target Par Balance; *provided* that such period shall not be a Restricted Trading Period upon the direction of a Majority of the Controlling Class, which direction by the Majority of the Controlling Class shall remain in effect until the earlier of (A) a subsequent direction by a Majority of the Controlling Class to declare the beginning of a Restricted Trading Period or (B) a further downgrade or withdrawal of any Class of Notes that notwithstanding such direction would cause the conditions set forth in clause (a) to be true.

**"Reuters Screen"**: The rates for deposits in dollars which appear on the Reuters Screen LIBOR 01 Page (or such other page that may replace that page on such service for the purpose of displaying comparable rates) on the Bloomberg Financial Markets Commodities News as of 11:00 a.m., London time, on the Interest Determination Date.

**"Revolving Collateral Obligation"**: Any Asset (other than a Delayed Drawdown Collateral Obligation) that is a loan (including, without limitation, revolving loans, including funded and unfunded portions of revolving credit lines and letter of credit facilities **(excluding pre-funded or synthetic letter of credit facilities)**, unfunded commitments under specific facilities and other similar loans and investments) that by its terms may require one or more future advances to be made to the borrower by the Issuer; *provided* that any such Collateral Obligation shall be a Revolving Collateral Obligation only until all commitments to make advances to the borrower expire or are terminated or irrevocably reduced to zero.

**"Rule 17g-5"**: The meaning specified in Section 14.16.

**"Rule 144A"**: Rule 144A, as amended, under the Securities Act.

**"Rule 144A Global Note"**: Any Notes sold in reliance on Rule 144A and issued in the form of a permanent global security in definitive, fully registered form without interest coupons substantially in the form set forth in the applicable Exhibit A hereto.

**"Rule 144A Information"**: The meaning specified in Section 7.14.

**"S&P"**: ~~Standard & Poor's Rating Services, a Standard & Poor's Financial Services LLC~~  
**S&P Global Ratings, a S&P Global** business, and any successor or successors thereto.

**"S&P Industry Classifications"**: The meaning specified in Schedule 2 to this Indenture.

**"S&P Rating"**: The S&P Rating of any Collateral Obligation (excluding Current Pay Obligations whose issuer has made a Distressed Exchange Offer), will be determined as follows:

- (i) with respect to a Collateral Obligation that is not a DIP Collateral Obligation (a) if there is an issuer credit rating of the issuer of such Collateral Obligation by S&P as published by S&P, or the guarantor which unconditionally and irrevocably guarantees such Collateral Obligation then the S&P Rating shall be such rating (regardless of whether there is a published rating by S&P on the Collateral Obligations of such issuer held by the Issuer) or (b) if there is no issuer credit rating of the issuer by S&P but (i) if there is a senior unsecured rating on any

obligation or security of the issuer, the S&P Rating of such Collateral Obligation shall equal such rating; (ii) if there is a senior secured rating on any obligation or security of the issuer, then the S&P Rating of such Collateral Obligation shall be one subcategory below such rating; and (iii) if there is a subordinated rating on any obligation or security of the issuer, then the S&P Rating of such Collateral Obligation shall be one subcategory above such rating if such rating is higher than "BB+", and shall be two subcategories above such rating if such rating is "BB+" or lower;

(ii) with respect to any Collateral Obligation that is a DIP Collateral Obligation, the S&P Rating thereof shall be the credit rating assigned to such issue by S&P;

(iii) if there is not a rating by S&P of the issuer or on an obligation of the issuer, then the S&P Rating will be the S&P equivalent of the Moody's Default Probability Rating of such obligation or issuer.

"Sale": The meaning specified in Section 5.17(a).

"Sale Proceeds": All proceeds (excluding accrued interest, if any) received with respect to Assets as a result of sales of such Assets less any reasonable expenses incurred by the Collateral Manager, the Trustee or the Collateral Administrator (other than amounts payable as Administrative Expenses) in connection with such sales.

"Scheduled Distribution": With respect to any Pledged Obligation, for each Due Date, the scheduled payment of principal and/or interest due on such Due Date with respect to such Pledged Obligation, determined in accordance with the assumptions specified in Section 1.3.

"Second Lien Loan": Any assignment of or Participation Interest in or other interest in **(a) a First Lien Last Out Loan, or (b)** a loan that **(ai)** is not (and that by its terms is not permitted to become) subordinate in right of payment to any other obligation of the obligor of the loan other than a Senior Secured Loan with respect to the liquidation of such obligor or the collateral for such loan and **(bii)** is secured by a valid second priority perfected security interest or lien to or on specified collateral securing the obligor's obligations under the loan, which security interest or lien is not subordinate to the security interest or lien securing any other debt for borrowed money other than a Senior Secured Loan on such specified collateral.

"Secured Noteholder": A Holder of a Secured Note.

"Secured Notes": The Notes (other than the Subordinated Notes).

"Secured Parties": The meaning specified in the Granting Clause.

"Securities": The Notes.

"Securities Act": The United States Securities Act of 1933, as amended from time to time.

"Securities Intermediary": The meaning specified in Section 8-102(a)(14) of the UCC.

**"Selling Institution"**: The entity obligated to make payments to the Issuer under the terms of a Participation Interest.

**"Senior Secured Bond"**: A debt security (that is not a loan) that is (a) issued by a corporation, limited liability company, partnership or trust and (b) secured by a valid first priority perfected security interest on specified collateral.

**"Senior Secured Loan"**: Any assignment of, Participation Interest in or other interest in a loan that (a) is secured by a first priority perfected security interest or lien on specified collateral (subject to customary exemptions for permitted liens, including, without limitation, any tax liens), (b) has the most senior pre-petition priority (including *pari passu* with other obligations of the obligor) in any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings and (c) by its terms is not permitted to become subordinate in right of payment to any other obligation of the obligor thereof.

**"Senior Secured Note"**: Any assignment of or Participation Interest in or other interest in a senior secured note issued pursuant to an indenture or equivalent document by a corporation, partnership, limited liability company, trust or other person that is secured by a first or second priority perfected security interest or lien in or on specified collateral securing the issuer's obligations under such note.

**"Senior Unsecured Loan"**: Any assignment of or Participation Interest in or other interest in an Unsecured Loan that is not subordinated to any other unsecured indebtedness of the obligor.

**"Similar Laws"**: Local, state, federal or non-U.S. laws that are substantially similar to the fiduciary responsibility provisions of ERISA and Section 4975 of the Code.

**"Special Priority of Payments"**: The meaning specified in Section 11.1(a)(iii).

**"Special Redemption"**: The meaning specified in Section 9.7.

**"Special Redemption Amount"**: The meaning specified in Section 9.7.

**"Special Redemption Date"**: The meaning specified in Section 9.7.

**"Standby Directed Investment"**: The meaning specified in Section 10.5.

**"Stated Maturity"**: With respect to any security, the maturity date specified in such security or applicable Underlying Instrument; and with respect to the Notes of any Class, the date specified as such in Section 2.3.

**"Step-Down Obligation"**: Any Collateral Obligation (other than a Libor Floor Obligation) the Underlying Instruments of which contractually mandate decreases in coupon payments or spread over time (in each case other than decreases that are conditioned upon an improvement in the creditworthiness of the obligor or changes in a pricing grid or based on improvements in financial ratios or other similar coupon or spread-reset features); provided that a Collateral

Obligation providing for payment of a constant rate of interest at all times after the date of acquisition by the Issuer shall not constitute a Step-Down Obligation.

**"Step-Up Obligation"**: Any Collateral Obligation which provides for an increase, in the case of a Collateral Obligation which bears interest at a fixed rate, in the per annum interest rate on such Collateral Obligation or, in the case of a Collateral Obligation which bears interest at a floating rate, in the spread over that applicable index or benchmark rate, solely as a function of the passage of time; provided that a Collateral Obligation providing for payment of a constant rate of interest at all times after the date of acquisition by the Issuer shall not constitute a Step-Up Obligation.

**"Structured Finance Obligation"**: Any obligation of a special purpose vehicle secured directly by, referenced to, or representing ownership of, a pool of receivables or other assets, including collateralized debt obligations and mortgage-backed securities.

**"Subordinated Management Fee"**: The meaning assigned to such term in the Collateral Management Agreement.

**"Subordinated Notes"**: The Subordinated Notes issued pursuant to this Indenture and having the characteristics specified in Section 2.3.

**"Substitute Obligation"**: The meaning specified in Section 12.2.

**"Successor Collateral Manager"**: CreekSource LLC, a Delaware series limited liability company.

**"Successor Entity"**: The meaning specified in Section 7.10(a).

**"Supermajority"**: With respect to any Class of Notes, the Holders of at least 66-2/3% of the Aggregate Outstanding Amount of the Notes of such Class.

**"Supplemental Indenture"**: That certain First Supplemental Indenture made and entered into as of July 20, 2017, by and among the Co-Issuers, the Trustee, the Predecessor Collateral Manager and the Successor Collateral Manager.

**"Support Services Agreement"**: The Support Services Agreement, dated as of [ ] , 2017, between the Support Services Provider and the Collateral Manager, as amended from time to time.

**"Support Services Provider"**: 40|86 Advisors, Inc., a Delaware corporation, until a successor Person shall have become the Support Services Provider pursuant to the provisions of the Support Services Agreement, and thereafter "Support Services Provider" shall mean such successor Person.

**"Synthetic Security"**: A security or swap transaction, other than a Participation Interest, that has payments associated with either payments of interest and/or principal on a reference obligation or the credit performance of a reference obligation.

"Tax": Any present or future tax, levy, impost, duty, charge, assessment, deduction, withholding or fee of any nature (including interest, penalties and additions thereto) that is imposed by any government or other taxing authority other than a stamp, registration, documentation or similar tax.

**"Tax Account Reporting Rules": FATCA, and any other laws, intergovernmental agreements, administrative guidance or official interpretations, adopted or entered into on, before or after the Refinancing Date, by one or more governments providing for the collection of financial account information and the automatic exchange of such information between or among governments for purposes of improving tax compliance, including but not limited to the Cayman FATCA Legislation, and any laws, intergovernmental agreements or other guidance adopted pursuant to the global standard for automatic exchange of financial account information issued by the OECD.**

**"Tax Account Reporting Rules Compliance": Compliance with the Tax Account Reporting Rules as necessary to avoid (a) fines, penalties, or other sanctions imposed on the Issuer, a Tax Subsidiary, or any of their directors, or (b) the withholding or imposition of tax from or in respect of payments to or for the benefit of the Issuer or a Tax Subsidiary.**

"Tax Advice": Written advice from tax counsel of nationally recognized standing in the United States experienced in transactions of the type being addressed that (i) is based on knowledge by the person giving the advice of all relevant facts and circumstances of the Issuer and transaction (which are described in the advice or in a written description referred to in the advice which may be provided by the Issuer or Collateral Manager) and (ii) is intended by the person rendering the advice to be relied upon by the Issuer in determining whether to enter into the transaction.

"Tax Event": An event that shall occur when (a) any portion of any payment (other than a commitment fee, synthetic letter of credit fee, or similar fee) due from any obligor under any Collateral Obligation becoming properly subject to the imposition of U.S. or foreign withholding tax, which withholding tax is not compensated for by a "gross-up" provision under the terms of such Collateral Obligation, (b) any jurisdiction's properly imposing net income, profits or similar tax on the Issuer, (c) any portion of any payment due under a Hedge Agreement by the Issuer becoming properly subject to the imposition of U.S. or foreign withholding tax, which withholding tax is compensated for by a "gross-up" provision under the terms of the Hedge Agreement or (d) any portion of any payment due under a Hedge Agreement by a Hedge Counterparty becoming properly subject to the imposition of U.S. or foreign withholding tax, which withholding tax is not compensated for by a "gross-up" provision under the terms of the Hedge Agreement; *provided* that the total amount of (i) the tax or taxes imposed on the Issuer as described in clause (b) of this definition, (ii) the total amount withheld from payments to the Issuer which is not compensated for by a "gross-up" provision as described in clauses (a) and (d) of this definition and (iii) the total amount of any tax "gross-up" payments that are required to be made by the Issuer as described in clause (c) of this definition is determined to be in excess of 5.0% of the aggregate interest due and payable on the Collateral Obligations during the Collection Period.

"Tax Jurisdiction": (a) oneOne of the jurisdictions of the Bahamas, Bermuda, the British Virgin Islands, the Cayman Islands, the Channel Islands, Jersey, Singapore, the Netherlands, Antilles, St. Maarten, Curaçao or the U.S. Virgin Islands so long as each such jurisdiction is rated at least "Aa2" by Moody's, and (b) upon satisfaction of the Global Rating Agency Condition with respect to the treatment of another jurisdiction as a Tax Jurisdiction, such other jurisdiction.

"Tax Redemption": The meaning specified in Section 9.4.

"Tax Reserve Account": Any segregated non-interest bearing account established at the direction of the Issuer in the name of the relevant Holder, no funds of which are to be released except at the written direction of the Issuer.

"Tax Subsidiary": An entity classified at all times as a corporation for U.S. federal income tax purposes, 100% of the equity interests in which are owned directly or indirectly by the Issuer.

"Tax Subsidiary Asset": Any obligation or security received in the workout or restructuring of a Collateral Obligation, the acquisition (including the manner of acquisition), ownership, enforcement or disposition of which would cause the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to tax on a net income basis in any jurisdiction outside its jurisdiction of incorporation, and any assets, income and proceeds received in respect thereof.

"Temporary Global Notes": Any Note sold outside the United States to non-"U.S. persons" (as defined in Regulation S) in reliance on Regulation S and issued in the form of a temporary global security in definitive, fully registered form without interest coupons substantially in the form set forth in the applicable Exhibit A hereto.

"Trading Plan": Any trading plan identified to the Trustee and the Collateral Administrator in writing (a) pursuant to which the Collateral Manager believes that all trades contemplated thereby will be entered into within 10 Business Days, (b) specifying certain (i) amounts received or expected to be received as Principal Proceeds, (ii) Collateral Obligations related to such Principal Proceeds and (iii) Collateral Obligations acquired or intended to be acquired with such Principal Proceeds, (c) which plan the Collateral Manager believes can be executed according to its terms and (d) as to which the Aggregate Principal Balance of Collateral Obligations to be acquired pursuant to such Trading Plan represents no more than 5% of the Collateral Principal Amount; provided that (x) in no event shall there be more than one Trading Plan outstanding at a time; (y) no Trading Plan will begin before and end after the same Determination Date; and (z) for purposes of determining whether or not such Collateral Obligations satisfy the definition of "Discount Obligation", no such calculation or evaluation may be made using the weighted average price of any Collateral Obligation or any group of Collateral Obligations. The time period for each Trading Plan will be measured from the earliest trade date to the latest trade date of trades included in such Trading Plan.

"Transaction Documents": The Indenture, the Placement Agreement, the Collateral Management Agreement, the Collateral Administration Agreement, the Support Services

**Agreement, the** Administration Agreement **and**, the Account Agreement **and the Refinancing Placement Agreement.**

**"Transaction Party"**: Each of the Issuer, the Co-Issuer, **the****each** Placement Agent, the Collateral Administrator, the Trustee, the note registrar of the Issuer, the Administrator **and**, the Collateral Manager **and the Support Services Provider.**

**"Transfer Agent"**: The Person or Persons, which may be the Issuer, authorized by the Issuer to exchange or register the transfer of Notes.

**"Transfer Certificate"**: A duly executed certificate substantially in the form of the applicable Exhibit B.

**"Trust Officer"**: When used with respect to the Bank, any officer within the Corporate Trust Office (or any successor group of the Bank) including any vice president, assistant vice president or officer of the Bank customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred at the Corporate Trust Office because of such person's knowledge of and familiarity with the particular subject and in each case having direct responsibility for the administration of this transaction.

**"Trustee"**: As defined in the first sentence of this Indenture.

**"UCC"**: The Uniform Commercial Code, as in effect from time to time in the State of New York.

**"Uncertificated Security"**: The meaning specified in Section 8-102(a)(18) of the UCC.

**"Underlying Instrument"**: The indenture or other agreement pursuant to which a Pledged Obligation has been issued or created and each other agreement that governs the terms of or secures the obligations represented by such Pledged Obligation or of which the holders of such Pledged Obligation are the beneficiaries.

**"Unfunded Exposure Account"**: The trust account established pursuant to **Section 10.3(f).**

**"Unpaid Class X Principal Amortization Amount"**: **For any Payment Date, the aggregate amount of all or any portion of the Class X Principal Amortization Amount for any prior Payment Dates that were not paid on such prior Payment Dates.**

**"Unregistered Securities"**: The meaning specified in Section 5.17(c).

**"Unsaleable Asset"**: (a) Any Defaulted Obligation, Equity Security, obligation received in connection with an Offer, in a restructuring or plan of reorganization with respect to the obligor, or other exchange or any other security or debt obligation that is part of the Assets, in respect of which the Issuer has not received a payment in cash during the preceding 12 months or (b) any asset, claim or other property identified in a certificate of the Collateral Manager as having a Market Value of less than \$1,000, in each case with respect to which the Collateral Manager

certifies to the Trustee that (x) it has made commercially reasonable efforts to dispose of such **Collateral ObligationAsset** for at least 90 days and (y) in its commercially reasonable judgment such **Collateral ObligationAsset** is not expected to be saleable for the foreseeable future.

**"Unscheduled Principal Payments"**: All Principal Proceeds received in respect of Collateral Obligations from optional or nonscheduled mandatory redemptions or amortizations, exchange offers, tender offers or other payments made at the option of the issuer thereof or that are otherwise not scheduled to be made.

**"Unsecured Loan"**: Any assignment of or other interest in an unsecured loan that is not subordinated to any other unsecured indebtedness of the obligor.

**"U.S. Dollar"** or **"\$"**: A dollar or other equivalent unit in such coin or currency of the United States of America as at the time shall be legal tender for all debts, public and private.

**"U.S. Person"**: The meaning specified in Section 7701(a)(30) of the Code.

**"U.S. person"**: The meaning specified in Regulation S.

**"U.S. Risk Retention Rules": The federal interagency credit risk retention rules, codified at 17 C.F.R. Part 246.**

**"Volcker Rule"**: Section 13 of the Bank Holding Company Act of 1956, as amended, and any applicable implementing regulations.

**"Warehouse Accrued Interest"**: The amount specified by the Collateral Manager of all or a portion of the interest that accrued on Collateral Obligations that were purchased prior to the Closing Date, which interest has not been received by the Issuer as of the Closing Date, in an amount that will not exceed the Warehouse Accrued Interest Cap (as defined in the Closing Date Certificate).

**"Weighted Average Fixed Coupon"**: As of any Measurement Date, an amount equal to the number, expressed as a percentage, obtained by dividing:

(a) the sum of (i) in the case of each fixed rate Collateral Obligation (excluding any Deferrable **Security Obligation** and any Partial Deferrable **Security Obligation** to the extent of any non-cash interest), the product of (1) the stated interest coupon on such Collateral Obligation and (2) the Principal Balance of such Collateral Obligation (excluding the unfunded portion of any Delayed Drawdown Collateral Obligation or Revolving Collateral Obligation); plus (ii) to the extent that the amount obtained in clause (a) is insufficient to satisfy the Minimum Fixed Coupon Test, the Excess Weighted Average Floating Spread (if any); by

(b) an amount equal to the lesser of (i) the product of (A) the Aggregate Ramp-Up Par Amount and (B) a fraction, the numerator of which is equal to the Aggregate Principal Balance of fixed rate Collateral Obligations and the denominator of which is equal to the Aggregate Principal Balance of all Collateral Obligations as of such Measurement Date (in each case excluding (1) any Deferrable **Security Obligation** or Partial Deferrable

**Security Obligation** to the extent of any **non-cash** interest, and (2) the unfunded portion of any Delayed Drawdown Collateral Obligation or Revolving Collateral Obligation that is a fixed rate Collateral Obligation) and (ii) the Aggregate Principal Balance of the fixed rate Collateral Obligations as of such Measurement Date (excluding (1) any Deferrable **Security Obligation** or Partial Deferrable **Security Obligation** to the extent of any **non-cash** interest, and (2) the unfunded portion of any Delayed Drawdown Collateral Obligation or Revolving Collateral Obligation that is a fixed rate Collateral Obligation);

provided that in the case of each of the foregoing clauses (a) and (b), in calculating the Weighted Average Fixed Coupon in respect of any Step-Down Obligation, the coupon of such Collateral Obligation shall be the lowest permissible coupon pursuant to the Underlying Instruments of the Obligor of such Step-Down Obligation.

**"Weighted Average Floating Spread"**: As of any Measurement Date, a fraction (expressed as a percentage) obtained by (a) multiplying the Principal Balance of each floating rate Collateral Obligation (including the unfunded portions of all Delayed Drawdown Collateral Obligations and Revolving Collateral Obligations) held by the Issuer as of such Measurement Date by its Effective Spread, (b) summing the amounts determined pursuant to clause (a), (c) dividing the sum determined pursuant to clause (b) by the Aggregate Principal Balance of all floating rate Collateral Obligations (including the unfunded portions of all Delayed Drawdown Collateral Obligations and Revolving Collateral Obligations), and (d) if the result obtained in clause (c) is less than the minimum percentage necessary to pass the Minimum Floating Spread Test, adding to such sum the amount of the Excess Weighted Average Fixed Coupon, if any, as of such Measurement Date; provided that (x) Defaulted Obligations shall not be included in the calculation of the Weighted Average Floating Spread; (y) in respect of any Step-Down Obligation, the Effective Spread of such Collateral Obligation shall be the lowest permissible Effective Spread pursuant to the Underlying Instruments of the Obligor of such Step-Down Obligation; and (z) in respect of any Deferrable **Security Obligation** and any Partial Deferrable **Security Obligation**, any non-cash interest shall be excluded.

**"Weighted Average Life"**: As of any Measurement Date, with respect to each Collateral Obligation (other than any Defaulted Obligations) the number of years following such date obtained by (a) summing the products obtained by multiplying (i) the Average Life at such time of each such Collateral Obligation by (ii) the Principal Balance of such Collateral Obligation and (b) dividing such sum by the Aggregate Principal Balance at such time of all Collateral Obligations (excluding any Defaulted Obligation).

**"Weighted Average Life Test"**: A test satisfied on any date of determination if the Weighted Average Life of all Collateral Obligations as of such date is less than or equal to the number of years (rounded to the nearest one hundredth thereof) during the period from such date of determination to July 20, 2022 as listed in the table below.

<u>As of any date of determination occurring during the period below</u>	<u>Weighted Average Life (in years)</u>
<u>From and including the Refinancing Date to and including the first Quarterly Payment Date after the</u>	<u>8.00</u>

<u>As of any date of determination occurring during the period below</u>	<u>Weighted Average Life (in years)</u>
<b>Refinancing Date</b>	
<u>From but excluding the first Quarterly Payment Date after the Refinancing Date to and including the second Quarterly Payment Date after the Refinancing Date</u>	<u>7.75</u>
<u>From but excluding the second Quarterly Payment Date after the Refinancing Date to and including the third Quarterly Payment Date after the Refinancing Date</u>	<u>7.50</u>
<u>From but excluding the third Quarterly Payment Date after the Refinancing Date to and including the fourth Quarterly Payment Date after the Refinancing Date</u>	<u>7.25</u>
<u>From but excluding the fourth Quarterly Payment Date after the Refinancing Date to and including the fifth Quarterly Payment Date after the Refinancing Date</u>	<u>7.00</u>
<u>From but excluding the fifth Quarterly Payment Date after the Refinancing Date to and including the sixth Quarterly Payment Date after the Refinancing Date</u>	<u>6.75</u>
<u>From but excluding the sixth Quarterly Payment Date after the Refinancing Date to and including the seventh Quarterly Payment Date after the Refinancing Date</u>	<u>6.50</u>
<u>From but excluding the seventh Quarterly Payment Date after the Refinancing Date to and including the eighth Quarterly Payment Date after the Refinancing Date</u>	<u>6.25</u>
<u>From but excluding the eighth Quarterly Payment Date after the Refinancing Date to and including the ninth Quarterly Payment Date after the Refinancing Date</u>	<u>6.00</u>
<u>From but excluding the ninth Quarterly Payment Date after the Refinancing Date to and including the tenth Quarterly Payment Date after the Refinancing Date</u>	<u>5.75</u>
<u>From but excluding the tenth Quarterly Payment Date after the Refinancing Date to and including the eleventh Quarterly Payment Date after the Refinancing Date</u>	<u>5.50</u>
<u>From but excluding the eleventh Quarterly Payment Date after the Refinancing Date to and including the twelfth Quarterly Payment Date after the Refinancing Date</u>	<u>5.25</u>
<u>From but excluding the twelfth Quarterly Payment Date after the Refinancing Date to and including the thirteenth Quarterly Payment Date after the Refinancing Date</u>	<u>5.00</u>
<b>From but excluding the thirteenth Quarterly Payment</b>	<b>4.75</b>

<u>As of any date of determination occurring during the period below</u>	<u>Weighted Average Life (in years)</u>
<u>Date after the Refinancing Date to and including the fourteenth Quarterly Payment Date after the Refinancing Date</u>	
<u>From but excluding the fourteenth Quarterly Payment Date after the Refinancing Date to and including the fifteenth Quarterly Payment Date after the Refinancing Date</u>	<u>4.50</u>
<u>From but excluding the fifteenth Quarterly Payment Date after the Refinancing Date to and including the sixteenth Quarterly Payment Date after the Refinancing Date</u>	<u>4.25</u>
<u>From but excluding the sixteenth Quarterly Payment Date after the Refinancing Date to and including the seventeenth Quarterly Payment Date after the Refinancing Date</u>	<u>4.00</u>
<u>From but excluding the seventeenth Quarterly Payment Date after the Refinancing Date to and including the eighteenth Quarterly Payment Date after the Refinancing Date</u>	<u>3.75</u>
<u>From but excluding the eighteenth Quarterly Payment Date after the Refinancing Date to and including the nineteenth Quarterly Payment Date after the Refinancing Date</u>	<u>3.50</u>
<u>From but excluding the nineteenth Quarterly Payment Date after the Refinancing Date to and including the twentieth Quarterly Payment Date after the Refinancing Date</u>	<u>3.25</u>
<u>From but excluding the twentieth Quarterly Payment Date after the Refinancing Date to and including the twenty-first Quarterly Payment Date after the Refinancing Date</u>	<u>3.00</u>
<u>From but excluding the twenty-first Quarterly Payment Date after the Refinancing Date to and including the twenty-second Quarterly Payment Date after the Refinancing Date</u>	<u>2.75</u>
<u>From but excluding the twenty-second Quarterly Payment Date after the Refinancing Date to and including the twenty-third Quarterly Payment Date after the Refinancing Date</u>	<u>2.50</u>
<u>From but excluding the twenty-third Quarterly</u>	<u>2.25</u>

<u>As of any date of determination occurring during the period below</u>	<u>Weighted Average Life (in years)</u>
<u>Payment Date after the Refinancing Date to and including the twenty-fourth Quarterly Payment Date after the Refinancing Date</u>	
<u>From but excluding the twenty-fourth Quarterly Payment Date after the Refinancing Date to and including the twenty-fifth Quarterly Payment Date after the Refinancing Date</u>	<u>2.00</u>
<u>From but excluding the twenty-fifth Quarterly Payment Date after the Refinancing Date to and including the twenty-sixth Quarterly Payment Date after the Refinancing Date</u>	<u>1.75</u>
<u>From but excluding the twenty-sixth Quarterly Payment Date after the Refinancing Date to and including the twenty-seventh Quarterly Payment Date after the Refinancing Date</u>	<u>1.50</u>
<u>From but excluding the twenty-seventh Quarterly Payment Date after the Refinancing Date to and including the twenty-eighth Quarterly Payment Date after the Refinancing Date</u>	<u>1.25</u>
<u>From but excluding the twenty-eighth Quarterly Payment Date after the Refinancing Date to and including the twenty-ninth Quarterly Payment Date after the Refinancing Date</u>	<u>1.00</u>
<u>From but excluding the twenty-ninth Quarterly Payment Date after the Refinancing Date to and including the thirtieth Quarterly Payment Date after the Refinancing Date</u>	<u>0.75</u>
<u>From but excluding the thirtieth Quarterly Payment Date after the Refinancing Date to and including the thirtieth-first Quarterly Payment Date after the Refinancing Date</u>	<u>0.50</u>
<u>From but excluding the thirtieth-first Quarterly Payment Date after the Refinancing Date to and including the thirtieth-second Quarterly Payment Date after the Refinancing Date</u>	<u>0.25</u>
<u>On any date after the thirtieth-second Quarterly Payment Date after the Refinancing Date</u>	<u>0.00</u>

"Zero-Coupon Security": Any Collateral Obligation that at the time of purchase does not by its terms provide for the payment of cash interest; provided that if, after such purchase such Collateral Obligation provides for the payment of cash interest, it will cease to be a Zero-Coupon Security.

### Section 1.2. Rules of Construction.

Except as otherwise specified herein or as the context may otherwise require, terms defined in Section 1.1 are equally applicable both to the singular and plural forms of such terms and to the masculine, feminine and neuter genders of such terms. The word "including" shall mean "including without limitation." All references in this Indenture to designated "Articles," "Sections," "Subsections" and other subdivisions are to the designated articles, sections, subsections and other subdivisions of this Indenture. The words "herein," "hereof," "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular article, section, subsection or other subdivision.

### Section 1.3. Assumptions as to Pledged Obligations.

Unless otherwise specified, the assumptions described below shall be applied in connection with all calculations required to be made pursuant to this Indenture with respect to Scheduled Distributions on any Pledged Obligation, or any payments on any other assets included in the Assets, with respect to the sale of and reinvestment in Collateral Obligations, and with respect to the income that can be earned on Scheduled Distributions on such Pledged Obligations and on any other amounts that may be received for deposit in the Collection Account.

(a) All calculations with respect to Scheduled Distributions on the Pledged Obligations securing the Notes shall be made on the basis of information as to the terms of each such Pledged Obligation and upon report of payments, if any, received on such Pledged Obligation that are furnished by or on behalf of the issuer of such Pledged Obligation and, to the extent they are not manifestly in error, such information or report may be conclusively relied upon in making such calculations.

(b) For purposes of calculating the Coverage Tests and the Interest Diversion Test, except as otherwise specified in the Coverage Tests and the Interest Diversion Test, such calculations shall not include scheduled interest and principal payments on Defaulted Obligations unless or until such payments are actually made.

(c) For each Collection Period and as of any date of determination, the Scheduled Distribution on any Pledged Obligation (other than a Defaulted Obligation, which, except as otherwise provided herein, shall be assumed to have a Scheduled Distribution of zero) shall be the sum of (i) the total amount of payments and collections to be received during such Collection Period in respect of such Pledged Obligation (including the proceeds of the sale of such Pledged Obligation received and, in the case of sales which have not yet settled, to be received during the Collection Period and not reinvested in additional Collateral Obligations or Eligible Investments or retained in the Collection Account for subsequent reinvestment pursuant to Section 12.2) that, if paid as scheduled, shall be available in the Collection Account at the end of

the Collection Period and (ii) any such amounts received by the Issuer in prior Collection Periods that were not disbursed on a previous Payment Date.

(d) Each Scheduled Distribution receivable with respect to a Pledged Obligation shall be assumed to be received on the applicable Due Date, and each such Scheduled Distribution shall be assumed to be immediately deposited in the Collection Account to earn interest at the Assumed Reinvestment Rate. All such funds shall be assumed to continue to earn interest until the date on which they are required to be available in the Collection Account for application, in accordance with the terms hereof, to payments of principal of or interest on the Notes or other amounts payable pursuant to this Indenture. For the avoidance of doubt, all amounts calculated pursuant to this Section 1.3(d) are estimates and may differ from the actual amounts available to make distributions hereunder, and no party shall have any obligation to make any payment hereunder due to the assumed amounts calculated under this Section 1.3(d) being greater than the actual amounts available. For purposes of the applicable determinations required by Section 10.6(b)(iv), Article XII and the definition of Interest Coverage Ratio, the expected interest on Secured Notes and floating rate Collateral Obligations shall be calculated using the then current interest rates applicable thereto.

(e) References in the Priority of Payments to calculations made on a "pro forma basis" shall mean such calculations after giving effect to all payments, in accordance with the Priority of Payments described herein, that precede (in priority of payment) or include the clause in which such calculation is made.

(f) For the purposes of calculating the Moody's Weighted Average Rating Factor, any Collateral Obligation that is a Defaulted Obligation shall be excluded.

(g) Except as otherwise provided herein, Defaulted Obligations shall not be included in the calculation of the Collateral Quality Test.

(h) For purposes of calculating all Concentration Limitations, in both the numerator and the denominator of any component of the Concentration Limitations, Defaulted Obligations shall be treated as having a principal balance equal to zero.

(i) Any reference to LIBOR applicable to any **Secured** Note as of any Measurement Date during the first Interest Accrual Period shall mean LIBOR for the relevant portion of the first Interest Accrual Period as determined on the preceding Interest Determination Date.

(j) For purposes of calculating compliance with the Investment Criteria, upon the direction of the Collateral Manager by notice to the Trustee and the Collateral Administrator, any Eligible Investment representing Principal Proceeds received upon the maturity, redemption, sale or other disposition of Collateral Obligations shall be deemed to have the characteristics of such Collateral Obligations until reinvested in additional Collateral Obligations. Such calculations shall be based upon the principal amount of such Collateral Obligations, except in the case of Defaulted Obligations and Credit Risk Obligations, in which case the calculations shall be based

upon the Principal Proceeds received on the disposition or sale of such Defaulted Obligations or Credit Risk Obligations.

(k) For purposes of calculating the Sale Proceeds of a Collateral Obligation in sale transactions, Sale Proceeds shall include any Principal Financed Accrued Interest Collections received in respect of such sale.

(l) For purposes of calculating clause (iii) and (vi) of compliance with the definition of Concentration Limitations, without duplication, the amounts on deposit in the Collection Account, the Ramp-Up Account and the Unfunded Exposure Account (including Eligible Investments therein) representing Principal Proceeds shall each be deemed to be a floating rate Collateral Obligation that is a Senior Secured Loan.

(m) Any future anticipated tax liabilities of a Tax Subsidiary related to Tax Subsidiary Asset held at such Tax Subsidiary will be excluded from the calculation of the Weighted Average Floating Spread (which exclusion, for the avoidance of doubt, may result in such Tax Subsidiary having a negative interest rate spread for purposes of such calculation) and the Interest Coverage Ratio.

(n) Notwithstanding any other provision of this Indenture to the contrary, all monetary calculations under this Indenture shall be in U.S. Dollars.

(o) Unless otherwise specified, any reference to the fee payable under Section 11.1 to an amount calculated with respect to a period at per annum rate shall be computed on the basis of a 360-day year of twelve 30-day months. Any fees applicable to periods shorter than or longer than a calendar quarter shall be prorated to the actual number of days within such period.

(p) Unless otherwise specified, test calculations that evaluate to a percentage shall be rounded to the nearest ten-thousandth and test calculations that evaluate to a number shall be rounded to the nearest one-hundredth.

(q) Unless otherwise specifically provided herein, all calculations required to be made and all reports which are to be prepared pursuant to this Indenture shall be made on the basis of the trade date unless the Issuer or the Collateral Manager on behalf of the Issuer notifies the Trustee in writing, on or prior to the Determination Date, that such calculations shall be made on the basis of the settlement date.

(r) Determination of the purchase price of a Collateral Obligation shall be made independently each time such Collateral Obligation is purchased by the Issuer and pledged to the Trustee, without giving effect to whether the Issuer has previously purchased such Collateral Obligation (or an obligation of the related borrower or issuer).

(s) When used with respect to payments on the Subordinated Notes, the term "principal amount" shall mean amounts distributable to Holders of such Subordinated Notes from Principal Proceeds, and the term "interest" shall mean Interest Proceeds distributable to Holders of such Subordinated Notes in accordance with the Priority of Payments.

## ARTICLE II

### THE NOTES

Section 2.1. Forms Generally. (a) The Notes and the Trustee's or Authenticating Agent's certificate of authentication thereon (the "Certificate of Authentication") shall be in substantially the forms required by this Article, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon, as may be consistent herewith, determined by the Authorized Officers of the Applicable Issuers executing such Notes as evidenced by their execution of such Notes. Any portion of the text of any Note may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Note.

Section 2.2. Forms of Notes. (a) The forms of the Notes, including the forms of Certificated Notes, Regulation S Global Notes, Temporary Global Notes and Rule 144A Global Notes, shall be as set forth in the applicable part of Exhibit A hereto.

(b) Regulation S Global Notes, Rule 144A Global Notes and Certificated Notes. (i) Except as provided below, the Co-Issued Notes sold to persons who are not U.S. persons in offshore transactions in reliance on Regulation S shall be issued initially in the form of one or more Temporary Global Notes per Class in the applicable form of Exhibit A and shall be deposited with the Trustee as custodian for, and registered in the name of a nominee of, DTC for the respective accounts of Euroclear and Clearstream, duly executed by the Co-Issuers and authenticated by the Trustee as hereinafter provided. The Issuer Only Notes sold to persons who are (x) not U.S. persons in offshore transactions in reliance on Regulation S and (y) not Benefit Plan Investors or Controlling Persons shall be issued in the form of one or more Regulation S Global Notes per Class substantially in the applicable form of Exhibit A and shall be deposited with the Trustee as custodian for, and registered in the name of a nominee of, DTC for the respective accounts of Euroclear and Clearstream, duly executed by the Applicable Issuers and authenticated by the Trustee as hereinafter provided. On or after the 40th day after the later of the Closing Date and the commencement of the offering of the Notes (the "Restricted Period"), interests in Temporary Global Notes will be exchangeable for interests in Regulation S Global Notes upon certification that the beneficial interests in such Temporary Global Notes are owned by persons who are not U.S. persons. Upon the exchange of a Temporary Global Note for a Regulation S Global Note, the Regulation S Global Note will be deposited with the Trustee as custodian for DTC and registered in the name of a nominee of DTC for the account of Euroclear and Clearstream. A beneficial interest in a Temporary Global Note will not be transferable to a person that takes delivery in the form of an interest in a Rule 144A Global Note or Certificated Note during the Restricted Period. Any Notes sold to Persons that (A) are not U.S. persons and that so elect and notify the Issuer or (B) in the case of ERISA Limited Securities, are Benefit Plan Investors or Controlling Persons purchasing after the Closing Date (unless purchased from the Issuer on the Refinancing Date) shall be issued in the form of Certificated Notes, duly executed by the Applicable Issuers and authenticated by the Trustee as hereinafter provided.

(ii) Except as provided below, Notes of each Class sold to persons that are QIB/QPs shall each be issued initially in the form of one or more Rule 144A Global Notes per Class substantially in the applicable form of Exhibit A which shall be deposited with the Trustee as custodian for, and registered in the name of a nominee of, DTC, duly executed by the Applicable Issuers and authenticated by the Trustee as hereinafter provided. Any Notes sold to persons that are (A) IAI/QPs, (B) QIB/QPs that so elect and notify the Issuer or (C) in the case of ERISA Limited Securities, Benefit Plan Investors or Controlling Persons purchasing after the Closing Date (unless purchased from the Issuer on the Refinancing Date), shall be issued in the form of Certificated Notes, duly executed by the Applicable Issuers and authenticated by the Trustee as hereinafter provided.

(iii) The Aggregate Outstanding Amount of the Regulation S Global Notes and the Rule 144A Global Notes may from time to time be increased or decreased by adjustments made on the records of the Trustee or DTC or its nominee, as the case may be, as hereinafter provided.

(c) Book Entry Provisions. This Section 2.2(c) shall apply only to Global Notes deposited with or on behalf of DTC.

Agent Members and owners of beneficial interests in Global Notes shall have no rights under this Indenture with respect to any Global Notes held by the Trustee, as custodian for DTC and DTC may be treated by the Co-Issuers, the Trustee, and any agent of the Co-Issuers or the Trustee as the absolute owner of such Note for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Co-Issuers, the Trustee, or any agent of the Co-Issuers or the Trustee, from giving effect to any written certification, proxy or other authorization furnished by DTC or impair, as between DTC and its Agent Members, the operation of customary practices governing the exercise of the rights of a Holder of any Note.

(d) Certificated Securities. Except as provided in Sections 2.5, 2.6 and 2.11, owners of beneficial interests in Global Notes shall not be entitled to receive Certificated Notes.

Section 2.3. Authorized Amount; Stated Maturity; Denominations. The Aggregate Outstanding Amount of the Notes that may be authenticated and delivered under this Indenture is limited to U.S.\$362,500,000 [ ] Aggregate Outstanding Amount of Notes (except for Additional Notes issued pursuant to Section 2.4 and Notes issued pursuant to supplemental indentures in accordance with Article VIII).

Such Notes shall be divided into the Classes, having the designations, original principal amounts and other characteristics as follows:

**Notes**

Class Designation	X	A-A-R	BB-R	CC-R	DD-R	EE-R	Subordinated Notes
Original Principal Amount	\$[ <u>      </u> ]	\$ <u>236,250,000</u>	\$ <u>31,500,000</u>	\$ <u>16,100,000</u>	\$ <u>20,650,000</u>	\$ <u>15,400,000</u>	\$42,600,000
Stated Maturity (Payment Date in)	[ <u>      </u> ] 20[ <u>      </u> ]	July 2026[ <u>      </u> ]	July 2026[ <u>      </u> ]	July 2026[ <u>      </u> ]	July 2026[ <u>      </u> ]	July 2026[ <u>      </u> ]	July 2026[ <u>      </u> ] 20[ <u>      </u> ]
Index	LIBOR	LIBOR	LIBOR	LIBOR	LIBOR	LIBOR	N/A
Spread	[ <u>      </u> ]%	<u>1.49</u> [ <u>      </u> ]%	<u>1.90</u> [ <u>      </u> ]%	<u>2.80</u> [ <u>      </u> ]%	<u>3.65</u> [ <u>      </u> ]%	<u>5.15</u> [ <u>      </u> ]%	N/A
Initial Rating(s):							
Moody's	[Aaa](sf)	[Aaa](sf)	[Aa2](sf)	[A2](sf)	[Baa3](sf)	[Ba3](sf)	N/A
Ranking:							
Priority Classes**	None	None	A-X, A-R	A-X, B-A-R, B-R	A-X, B-A-R, C-B-R, C-R	A-X, B-A-R, C-B-R, D-C-R, D-R	A-X, B-A-R, C-B-R, D-C-R, E-D-R, E-R
Junior Classes	B-R, C-R, D-R, E-R, Subordinated Notes	BB-R, CC-R, DD-R, EE-R, Subordinated Notes	CC-R, DD-R, EE-R, Subordinated Notes	DD-R, EE-R, Subordinated Notes	EE-R, Subordinated Notes	Subordinated Notes	None
Pari Passu Class(es)	A-R	X	None	None	None	None	None
Listed Notes	No	Yes	Yes	Yes	Yes	Yes	Yes
Minimum Denominations (U.S.\$) (Integral Multiples)	[ <u>500,000</u> ] ( <u>1.00</u> )	500,000 (1.00)	500,000 (1.00)	500,000 (1.00)	500,000 (1.00)	500,000 (1.00)	500,000 (1.00)
Deferred Interest Notes	No	No	No	Yes	Yes	Yes	N/A
ERISA Limited Securities	No	No	No	No	No	Yes**	Yes**
Applicable Issuer(s)	Co-Issuers	Co-Issuers	Co-Issuers	Co-Issuers	Co-Issuers	Issuer	Issuer

\* In accordance with the definition of LIBOR as provided in Schedule C, LIBOR will be calculated by reference to the Designated Maturity.

\*\* ERISA Limited Securities will be available to Benefit Plan Investors and Controlling Person, subject to certain conditions provided herein.

The Notes shall be issued in the minimum denominations set forth above (the "Minimum Denominations").

Section 2.4. Additional Notes. (a) At any time within the Reinvestment Period, subject to the written approval of the Collateral Manager, a Majority of the Controlling Class and a Majority of the Subordinated Notes, the Applicable Issuers may, pursuant to a supplemental indenture in accordance with Section 8.1 hereof, issue Additional Notes of each Class (other than Class X Notes) (on a *pro rata* basis with respect to each Class of Notes, except that a larger proportion of Subordinated Notes may be issued) up to an aggregate maximum amount of Additional Notes not to exceed 100% of the original principal amount of each such Class of Notes; provided that (i) the Applicable Issuers shall comply with the requirements of Sections 2.6, 3.2, and 8.1, (ii) unless only additional Subordinated Notes are being issued, the Moody's Rating Condition has been satisfied, (iii) the proceeds of any Additional Notes (net of fees and expenses incurred in connection with such issuance) shall be treated as Principal Proceeds or used to purchase additional Collateral Obligations, (iv) in the case of any additional issuance of Secured Notes, the Overcollateralization Ratio Test with respect to the Class E Notes is satisfied before giving effect to such issuance and such Overcollateralization Ratio Test is maintained or improved after giving effect to such issuance,

(v) an opinion of tax counsel of nationally recognized standing in the United States experienced in such matters shall be delivered to the Trustee, in form and substance satisfactory to the Collateral Manager, to the effect that (A) such additional issuance will not (x) result in the Issuer becoming subject to U.S. federal income taxation with respect to its net income, (y) result in the Issuer being treated as being engaged in a trade or business within the United States for U.S. federal income tax purposes, or (z) have a material adverse effect on the tax treatment of the Issuer or the tax consequences to the Holders of any Class of Notes Outstanding at the time of such issuance, as described in the Offering Circular under the heading "Certain Income Tax Considerations—United States Federal Income Taxation," and (B) any Additional Notes will have the same U.S. federal income tax equity or debt characterization as any Outstanding Class of Secured Notes that are pari passu with such Additional Notes and, (vi) the Additional Notes shall will be issued with a separate CUSIP number unless the Notes of any Class and such additional Notes of the same Class are fungible for U.S. federal income tax purposes and (vii) the Additional Notes will be issued in a manner that allows will allow the Issuer to accurately provide the tax information that this Indenture requires the Issuer and the Trustee to provide or cause to be provided to the Holders and beneficial owners of interests in Notes described in Treasury regulations section 1.1275-3(b)(1)(i).

(b) The terms and conditions of the Additional Notes of each Class issued pursuant to this Section 2.4 shall be identical to those of the initial previously issued Notes of that Class (except that the interest due on the Additional Notes that are Secured Notes shall accrue from the issue date of such Additional Notes and the interest rate and price of such Additional Notes need not be identical to those of the initial previously issued Notes of that Class); provided that the interest rate of any such Additional Notes will not be greater than the interest rate on the applicable previously issued Class of Secured Notes. Interest on the Additional Notes that are Secured Notes shall be payable commencing on the first Payment Date following the issue date of such Additional Notes (if issued prior to the applicable Record Date). The Additional Notes shall rank *pari passu* in all respects with the initial previously issued Notes of that Class.

(c) The Issuer shall provide notice to all Holders of any Class of which Additional Notes will be issued at least 15 days before such issuance and, to the extent reasonably practicable, such Holders will be given the opportunity to purchase such Additional Notes as are necessary to preserve their *pro rata* holdings.

Section 2.5. Execution, Authentication, Delivery and Dating. The Notes shall be executed on behalf of each of the Applicable Issuers by one of their respective Authorized Officers. The signature of such Authorized Officer on the Notes may be manual or facsimile.

Notes bearing the manual or facsimile signatures of individuals who were at any time the Authorized Officers of the Issuer or the Co-Issuer, as applicable, shall bind the Issuer and the Co-Issuer, notwithstanding the fact that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Notes or did not hold such offices at the date of issuance of such Notes.

At any time and from time to time after the execution and delivery of this Indenture, the Issuer and the Co-Issuer may deliver Notes executed by the Applicable Issuers to the Trustee or the Authenticating Agent for authentication and the Trustee or the Authenticating Agent, upon Issuer Order (which Issuer Order shall be deemed to have been provided upon the delivery of an executed Note to the Trustee), shall authenticate and deliver such Notes as provided in this Indenture and not otherwise.

Each Note authenticated and delivered by the Trustee or the Authenticating Agent upon Issuer Order on the Closing Date shall be dated as of the Closing Date. All other Notes that are authenticated after the Closing Date for any other purpose under this Indenture shall be dated the date of their authentication.

Notes issued upon transfer, exchange or replacement of other Notes shall be issued in Minimum Denominations reflecting the original Aggregate Outstanding Amount of the Notes so transferred, exchanged or replaced, but shall represent only the current Outstanding principal amount of the Notes so transferred, exchanged or replaced. In the event that any Note is divided into more than one Note in accordance with this Article II, the original principal amount of such Note shall be proportionately divided among the Notes delivered in exchange therefor and shall be deemed to be the original Aggregate Outstanding Amount (or original aggregate face amount, as applicable) of such subsequently issued Notes.

No Note shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose, unless there appears on such Note a Certificate of Authentication, substantially in the form provided for herein, executed by the Trustee or by the Authenticating Agent by the manual signature of one of their authorized signatories, and such certificate upon any Note shall be conclusive evidence, and the only evidence, that such Note has been duly authenticated and delivered hereunder.

**Section 2.6. Registration, Registration of Transfer and Exchange.** (a) The Issuer shall cause to be kept a register (the "Register") at the Corporate Trust Office in which, subject to such reasonable regulations as it may prescribe, the Issuer shall provide for the registration of Notes and the registration of transfers of Notes. The Trustee is hereby initially appointed "Registrar" for the purpose of maintaining the Register and registering Notes and transfers of such Notes with respect to the Register maintained in the United States as herein provided. Upon any resignation or removal of the Registrar, the Issuer shall promptly appoint a successor.

If a Person other than the Trustee is appointed by the Issuer as Registrar, the Issuer shall give the Trustee prompt written notice of the appointment of a Registrar and of the location, and any change in the location, of the Register, and the Trustee shall have the right to inspect the Register at all reasonable times and to obtain copies thereof and the Trustee shall have the right to rely upon a certificate executed on behalf of the Registrar by an Officer thereof as to the names and addresses of the Holders of the Notes and the principal or face amounts and numbers of such Notes.

The Issuer and the Collateral Manager may obtain a complete list of holders (and, except to the extent that such persons have asked in writing (which may be in the form attached

as Exhibit D hereto) delivered to the Trustee to treat their identities as confidential, Certifying Persons) at any time upon five Business Days' prior written notice to the Trustee. At the expense of the Issuer and the direction of the Issuer or the Collateral Manager, the Trustee will request a list of participants holding interests in the Notes from one or more book-entry depositories and provide such list to the Issuer or Collateral Manager, respectively.

Subject to this Section 2.6, upon surrender for registration of transfer of any Notes at the office or agency of the Co-Issuers to be maintained as provided in Section 7.2, the Applicable Issuers shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Notes of any Minimum Denomination and of a like aggregate principal or face amount. At any time, the Refinancing Placement Agent may request a copy of the Register from the Registrar and the Registrar shall provide a copy of the Register to the extent such information is available to the Trustee.

At the option of the Holder, Notes may be exchanged for Notes of like terms, in any Minimum Denominations and of like aggregate principal or face amount, upon surrender of the Notes to be exchanged at such office or agency. Whenever any Note is surrendered for exchange, the Applicable Issuers shall execute, and the Trustee shall authenticate and deliver, the Notes that the Holder making the exchange is entitled to receive.

All Notes issued and authenticated upon any registration of transfer or exchange of Notes shall be the valid obligations of the Issuer and, solely in the case of the Co-Issued Notes, the Co-Issuer, evidencing the same debt (to the extent they evidence debt), and entitled to the same benefits under this Indenture as the Notes surrendered upon such registration of transfer or exchange.

Every Note presented or surrendered for registration of transfer or exchange shall be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Registrar duly executed by the Holder thereof or his attorney duly authorized in writing.

No service charge shall be made to a Holder for any registration of transfer or exchange of Notes, but the Trustee may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith. The Trustee shall be permitted to request such evidence reasonably satisfactory to it documenting the identity and/or signature of the transferor and the transferee.

(b) No Note may be sold or transferred (including, without limitation, by pledge or hypothecation) unless such sale or transfer is exempt from the registration requirements of the Securities Act, is exempt from the registration requirements under applicable state securities laws and will not cause either of the Co-Issuers to become subject to the requirement that it register as an investment company under the Investment Company Act.

(c) (i) No sale or transfer of an interest in any ERISA Limited Securities to a proposed transferee that has represented that it is a Benefit Plan Investor or a Controlling Person will be effective, and the Trustee, the Registrar and the Issuer will not recognize any such sale or transfer, if such sale or transfer would result in Benefit Plan Investors holding 25% or more of the Aggregate Outstanding Amount of the Class of ERISA

Limited Securities being sold or transferred determined in accordance with the Plan Asset Regulation and this Indenture and assuming, for this purpose, that all of the representations made (or, in the case of Global Notes, deemed to be made) by Holders of such Notes are true. For purposes of such calculations, (x) the investment by a Plan Asset Entity shall be treated as plan assets for purposes of calculating the 25% threshold under Section 3(42) of ERISA only to the extent of the percentage of its equity interests held by Benefit Plan Investors and (y) any ERISA Limited Securities held by a Controlling Person shall be excluded and treated as not being Outstanding.

(ii) No transfer of a beneficial interest in a Note will be effective, and the Trustee and the Applicable Issuer will not recognize any such transfer, if the transferee's acquisition, holding and disposition of such interest would constitute or result in a prohibited transaction under Section 406 of ERISA or Section 4975 of the Code (or in a violation of any Similar Laws or other applicable law), unless an exemption is available and all conditions have been satisfied.

(d) The Trustee shall not be responsible for ascertaining whether any transfer complies with, or for otherwise monitoring or determining compliance with, the requirements or terms of the Securities Act, applicable state securities laws, ERISA, the Code or the Investment Company Act; except that if a Transfer Certificate is specifically required by the terms of this Section 2.6 to be provided to the Trustee by a prospective transferor or transferee, the Trustee shall be under a duty to receive and examine the same to determine whether it conforms substantially on its face to the applicable requirements of this Section 2.6. Notwithstanding the foregoing, the Trustee, relying solely on representations made or deemed to have been made, as applicable, by Holders of ERISA Limited Securities, shall not permit any transfer of ERISA Limited Securities if such transfer would result in Benefit Plan Investors holding 25% or more of the Aggregate Outstanding Amount of the Class of ERISA Limited Securities being sold or transferred, as calculated pursuant to the Plan Asset Regulation.

(e) For so long as any of the Notes are Outstanding, the Issuer shall not issue or permit the transfer of any shares of the Issuer to U.S. Persons and the Co-Issuer shall not issue or permit the transfer of any interests of the Co-Issuer to U.S. Persons.

(f) So long as a Global Note remains Outstanding and is held by or on behalf of DTC, transfers of such Global Note, in whole or in part, shall only be made in accordance with Section 2.2(b) and this Section 2.6(f).

(i) Subject to clauses (ii) and (iii) of this Section 2.6(f), transfers of a Global Note shall be limited to transfers of such Global Note in whole, but not in part, to nominees of DTC or to a successor of DTC or such successor's nominee.

(ii) Transfer and Exchange of Rule 144A Global Note to Regulation S Global Note. If a holder of a beneficial interest in a Rule 144A Global Note wishes at any time to exchange its interest in such Rule 144A Global Note for an interest in the corresponding Regulation S Global Note, or to transfer its interest in such Rule 144A Global Note to a Person who wishes to take delivery thereof in the form of an interest in the corresponding Regulation S Global Note, such holder (*provided* that such holder or, in the case of a

transfer, the transferee is not a U.S. person and is acquiring such interest in an offshore transaction) may, subject to the immediately succeeding sentence and the rules and procedures of DTC, exchange or transfer, or cause the exchange or transfer of, such interest for an equivalent beneficial interest in the corresponding Regulation S Global Note. Upon receipt by the Registrar of (A) instructions given in accordance with DTC's procedures from an Agent Member directing the Registrar to credit or cause to be credited a beneficial interest in the corresponding Regulation S Global Note, but not less than the Minimum Denomination applicable to such holder's Notes, in an amount equal to the beneficial interest in the Rule 144A Global Note to be exchanged or transferred, (B) a written order given in accordance with DTC's procedures containing information regarding the participant account of DTC and the Euroclear or Clearstream account to be credited with such increase and (C) a Transfer Certificate, then the Registrar will implement the Global Note Procedures with respect to the applicable Global Note.

(iii) Transfer and Exchange of Regulation S Global Note to Rule 144A Global Note. If a holder of a beneficial interest in a Regulation S Global Note deposited with DTC wishes at any time to exchange its interest in such Regulation S Global Note for an interest in the corresponding Rule 144A Global Note or to transfer its interest in such Regulation S Global Note to a Person who wishes to take delivery thereof in the form of an interest in the corresponding Rule 144A Global Note, such holder may, subject to the immediately succeeding sentence and the rules and procedures of Euroclear, Clearstream and/or DTC, as the case may be, exchange or transfer, or cause the exchange or transfer of, such interest for an equivalent beneficial interest in the corresponding Rule 144A Global Note. Upon receipt by the Registrar of (A) instructions from Euroclear, Clearstream and/or DTC, as the case may be, directing the Registrar to cause to be credited a beneficial interest in the corresponding Rule 144A Global Note in an amount equal to the beneficial interest in such Regulation S Global Note, but not less than the Minimum Denomination applicable to such holder's Notes to be exchanged or transferred, such instructions to contain information regarding the participant account with DTC to be credited with such increase and (B) a Transfer Certificate, then the Registrar will implement the Global Note Procedures with respect to the applicable Global Note.

(iv) Transfer and Exchange of Certificated Notes to Certificated Notes. If a holder of a Certificated Note wishes at any time to exchange its interest in such Certificated Note for a Certificated Note of the same Class or to transfer such Certificated Note to a Person who wishes to take delivery in the form of a Certificated Note of the same Class, such holder may exchange or transfer its interest upon delivery of the documents set forth in the following sentence. Upon receipt by the Registrar of (A) a Holder's Certificated Note properly endorsed for assignment to the transferee, and (B) a Transfer Certificate, the Registrar shall cancel such Certificated Note, record the transfer in the Register and upon execution by the Applicable Issuers and authentication and delivery by the Trustee, deliver one or more Certificated Notes bearing the same designation as the Certificated Note endorsed for transfer, registered in the names specified in the assignment described in clause (A) above, in principal amounts designated by the transferee (the aggregate of such principal amounts being equal to the Aggregate

Outstanding Amount of the Certificated Note surrendered by the transferor), and in Minimum Denominations.

(v) Transfer and Exchange of Regulation S Global Note or Rule 144A Global Note to Certificated Notes. If a holder of a beneficial interest in a Regulation S Global Note or a Rule 144A Global Note wishes at any time to exchange its interest in such Regulation S Global Note or Rule 144A Global Note for a Certificated Note of the same Class, or to transfer its interest in such Regulation S Global Note or Rule 144A Global Note to a Person who wishes to take delivery thereof in the form of a Certificated Note of the same Class, such holder may, subject to the immediately succeeding sentence and the rules and procedures of Euroclear, Clearstream and/or DTC, as the case may be, exchange or transfer, or cause the exchange or transfer of, such interest for a Certificated Note. Upon receipt by the Registrar of (A) Transfer Certificates and (B) appropriate instructions from DTC, if required, the Registrar will (1) approve the instructions at DTC to reduce, or cause to be reduced, the applicable Regulation S Global Note or Rule 144A Global Note by the Aggregate Outstanding Amount of the beneficial interest in the applicable Regulation S Global Note or Rule 144A Global Note to be transferred or exchanged, (2) record the transfer in the Register and (3) upon execution by the Issuer and authentication and delivery by the Trustee, deliver one or more Certificated Notes, registered in the names specified in the instructions described in the Transfer Certificate, in principal amounts designated by the transferee (the aggregate of such principal amounts being equal to the Aggregate Outstanding Amount of the interest in the Regulation S Global Note or Rule 144A Global Note transferred by the transferor), and in authorized Minimum Denominations.

(vi) Transfer of Certificated Notes to Regulation S Global Note or Rule 144A Global Note. If a Holder of a Certificated Note wishes at any time to exchange its interest in such Note for a beneficial interest in a Regulation S Global Note or Rule 144A Global Note of the same Class or to transfer such Certificated Note to a Person who wishes to take delivery thereof in the form of a beneficial interest in a Regulation S Global Note or Rule 144A Global Note of the same Class, such Holder may, subject to the immediately succeeding sentence and the rules and procedures of Euroclear, Clearstream and/or DTC, as the case may be, exchange or transfer, or cause the exchange or transfer of, such Certificated Note for a beneficial interest in a Regulation S Global Note or Rule 144A Global Note of the same Class. Upon receipt by the Registrar of (A) such Holder's Certificated Note properly endorsed for assignment to the transferee, (B) a Transfer Certificate, (C) instructions given in accordance with Euroclear, Clearstream or DTC's procedures, as the case may be, from an Agent Member to instruct DTC to cause to be credited a beneficial interest in the Regulation S Global Note or Rule 144A Global Note of the same Class, as applicable, in an amount equal to the Certificated Note to be transferred or exchanged and (D) a written order given in accordance with DTC's procedures containing information regarding the participant's account at DTC and/or Euroclear or Clearstream to be credited with such increase, the Registrar shall (1) cancel such Certificated Note, (2) record the transfer in the Register and (3) implement the Global Note Procedures with respect to the applicable Global Note.

(vii) Other Exchanges. In the event that a Global Note is exchanged for Certificated Notes pursuant to Section 2.11, such Certificated Notes may be exchanged for one another only in accordance with such procedures as are substantially consistent with the provisions above (including certification requirements intended to insure that such transfers are made only to pursuant to exemptions from the registration requirements of the Securities Act and the Investment Company Act) and as may be from time to time adopted by the Co-Issuers and the Trustee.

(g) If Notes are issued upon the transfer, exchange or replacement of Notes bearing the applicable legends set forth in the applicable part of Exhibit A hereto, and if a request is made to remove such applicable legend on such Notes, the Notes so issued shall bear such applicable legend, or such applicable legend shall not be removed, as the case may be, unless there is delivered to the Trustee and the Applicable Issuers such satisfactory evidence, which may include an Opinion of Counsel acceptable to them, as may be reasonably required by the Applicable Issuers (and which shall by its terms permit reliance by the Trustee), to the effect that neither such applicable legend nor the restrictions on transfer set forth therein are required to ensure that transfers thereof comply with the provisions of the Securities Act, the Investment Company Act, ERISA or the Code. Upon provision of such satisfactory evidence, the Trustee or its Authenticating Agent, at the written direction of the Applicable Issuers shall, after due execution by the Applicable Issuers authenticate and deliver Notes that do not bear such applicable legend.

(h) Each Purchaser of an interest in a Global Note will be deemed to have represented and agreed as follows:

(i) In the case of a Regulation S Global Note, it is not a "U.S. person" as defined in Regulation S and is acquiring the Notes in an offshore transaction (as defined in Regulation S) in reliance on the exemption from registration provided by Regulation S.

(ii) In the case of a Rule 144A Global Note, (A) it is both (1) a "qualified institutional buyer" (as defined under Rule 144A under the Securities Act) that is not a broker-dealer which owns and invests on a discretionary basis less than U.S.\$25,000,000 in securities of issuers that are not affiliated persons of the dealer and is not a plan referred to in paragraph (a)(1)(i)(D) or (a)(1)(i)(E) of Rule 144A or a trust fund referred to in paragraph (a)(1)(i)(F) of Rule 144A that holds the assets of such a plan, if investment decisions with respect to the plan are made by beneficiaries of the plan and (2) a "qualified purchaser" for purposes of Section 3(c)(7) of the Investment Company Act or an entity owned exclusively by "qualified purchasers," (B) it is acquiring its interest in such Notes for its own account or an account, all of the holders of which are Qualified Institutional Buyers and Qualified Purchasers for which it exercises sole investment discretion; (C) if it would be an investment company but for the exclusions from the Investment Company Act provided by Section 3(c)(1) or Section 3(c)(7) thereof, (1) all of the beneficial owners of its outstanding securities (other than short-term paper) that acquired such securities on or before April 30, 1996 ("pre-amendment beneficial owners") have consented to its treatment as a "qualified purchaser" and (2) all of the pre-amendment beneficial owners of a company that would be an investment company but for the exclusions from the Investment Company Act provided by Section 3(c)(1) or Section 3(c)(7) thereof and that

directly or indirectly owned any of its outstanding securities (other than short-term paper) have consented to its treatment as a "qualified purchaser"; and (D) it is acquiring such Notes for investment and not for sale in connection with any distribution thereof and was not formed solely for the purpose of investing in such Notes and is not a partnership, common trust fund, special trust or pension, profit sharing or other retirement trust fund or plan in which partners, beneficiaries or participants, as applicable, may designate the particular investments to be made, and it agrees that it will not hold such Notes for the benefit of any other person and will be the sole beneficial owner thereof for all purposes and that, in accordance with the provisions therefor in the Indenture, it will not sell participation interests in such Notes or enter into any other arrangement pursuant to which any other person will be entitled to a beneficial interest in the distributions on such Notes and further all Notes purchased directly or indirectly by it constitute an investment of no more than 40% of its assets.

(iii) In connection with the purchase of such Notes: (A) none of the Transaction Parties or any of their respective affiliates is acting as a fiduciary or financial or investment advisor for it; (B) it is not relying (for purposes of making any investment decision or otherwise) upon any advice, counsel or representations (whether written or oral) of the Transaction Parties or any of their respective affiliates, and it has read and understands the Offering Circular; (C) it has consulted with its own legal, regulatory, tax, business, investment, financial and accounting advisors to the extent it has deemed necessary and has made its own investment decisions (including decisions regarding the suitability of any transaction pursuant to the Indenture) based upon its own judgment and upon any advice from such advisors as it has deemed necessary and not upon any view expressed by the Transaction Parties or any of their respective affiliates; (D) it has had access to such financial and other information concerning the Transaction Parties, the Notes and the Collateral as it deemed necessary or appropriate in order to make an informed investment decision with respect to its purchase of Notes, including an opportunity to ask questions of and request information from the Co-Issuers and the Collateral Manager; (E) it (and each account for which it is acting) will hold at least the Minimum Denomination of such Notes; (F) it is a sophisticated investor and is purchasing the Notes with a full understanding of all of the terms, conditions and risks thereof, including the risk of loss of all or a substantial portion of its investment, and is capable of and willing to assume those risks; and (G) if it is not a U.S. person, it is not acquiring any Note as part of a plan to reduce, avoid or evade U.S. federal income tax (provided that none of the representations under subclauses (A) through (C) is made with respect to the Collateral Manager, by any Affiliate of the Collateral Manager or any account for which the Collateral Manager or its Affiliates act as an investment advisor).

(iv) It understands that such Notes are being offered only in a transaction not involving any public offering in the United States within the meaning of the Securities Act, such Notes have not been and will not be registered under the Securities Act, and, if in the future it decides to offer, resell, pledge or otherwise transfer such Notes, such Notes may be offered, resold, pledged or otherwise transferred only in accordance with the provisions of the Indenture and the legend on such Notes. It acknowledges that no representation has been made as to the availability of any exemption under the Securities Act or any state securities laws for resale of such Notes. It understands that neither of the Co-Issuers has

been registered under the Investment Company Act in reliance on an exemption from registration thereunder.

(v) It understands that the Issuer has the right under the Indenture to compel any Non-Permitted Holder to sell its interest in the Securities or may sell such interest in the Securities on behalf of such Non-Permitted Holder.

(vi) It will provide notice to each person to whom it proposes to transfer any interest in the Notes of the transfer restrictions in Section 2.6 of the Indenture and the exhibits referenced therein and the representations set forth in the Indenture. It understands and agrees that any purported transfer of Notes to a Person that does not comply with the transfer restrictions set forth in the Indenture or that would have the effect of causing either of the Co-Issuers or the pool of collateral to be required to register as an investment company under the Investment Company Act shall be null and void ab initio.

(vii) It agrees for the benefit of all beneficial owners and Holders of each Class of Notes, that it shall not, prior to the date which is one year (or if longer, any applicable preference period then in effect) *plus* one day after the payment in full of all Notes, institute against, or join any other Person in instituting against, the Issuer, the Co-Issuer or any Tax Subsidiary any bankruptcy, reorganization, arrangement, insolvency, winding-up, moratorium or liquidation proceedings, or other proceedings under Cayman Islands, U.S. federal or state bankruptcy or similar laws. The Purchaser agrees and acknowledges that the covenant set forth in the preceding sentence is a material inducement for each Holder and beneficial owner of the Securities to acquire such Securities and for the Issuer, the Co-Issuer and the Collateral Manager to enter into each Transaction Document to which it is a party and is an essential term of the Indenture and the Securities. The Purchaser agrees that it is subject to the Bankruptcy Subordination Agreement. Nothing in this paragraph shall preclude, or be deemed to stop, the Trustee (i) from taking any action prior to the expiration of the aforementioned period in (A) any case or Proceeding voluntarily filed or commenced by the Issuer or the Co-Issuer or (B) any involuntary insolvency Proceeding filed or commenced by a Person other than the Trustee, or (ii) from commencing against the Issuer or the Co-Issuer or any of its properties any legal action which is not a bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation Proceeding.

(viii) It understands that the Issuer and the Collateral Manager will have the right to obtain a complete list of holders (and, except to the extent that such persons have asked in writing delivered to the Trustee to treat their identities as confidential, Certifying Persons) at any time upon five Business Days' prior written notice to the Trustee. At the expense of the Issuer and the direction of the Issuer or the Collateral Manager, the Trustee will request a list of participants holding interests in the Notes from one or more book-entry depositories and provide such list to the Issuer or Collateral Manager, respectively.

(ix) It has not acquired its interest in the Notes pursuant to an invitation to the public in the Cayman Islands.

(x) In the case of Issuer Only Notes, if it is a bank organized outside the United States, it represents that (A) it is acquiring such Notes as a capital markets investment and will not for any purpose treat the assets of the Issuer as loans acquired in its banking business, and (B) it is not acquiring such Notes as part of a plan having as one of its principal purposes the avoidance of U.S. withholding taxes.

(xi) It agrees (A) except as prohibited by applicable law, to obtain and provide the Issuer and the Trustee (including their agents and representatives) with information or documentation, and to update or correct such information or documentation, as may be necessary or helpful (in the sole determination of the Issuer or the Trustee or their agents or representatives, as applicable) to achieve **FATCATax Account Reporting Rules** Compliance (the obligations undertaken pursuant to this clause (A), the "Noteholder Reporting Obligations"), (B) that the Issuer and/or the Trustee may (1) provide such information and documentation and any other information concerning its investment in the Securities to the Cayman Islands Tax Information Authority, the U.S. Internal Revenue Service and any other relevant tax authority, and (2) take such other steps as they deem necessary or helpful to achieve **FATCATax Account Reporting Rules** Compliance, including withholding on "passthru payments" (as defined in the Code), and (C) that if it fails for any reason (without regard to whether the failure was due to a legal prohibition) to provide any such information or documentation described in clause (A), such information or documentation is not accurate or complete, the Issuer otherwise reasonably determines that such purchaser's or subsequent transferee's direct or indirect acquisition, holding or transfer of an interest in such Security would cause the Issuer to be unable to achieve Tax Account Reporting Rules Compliance, or such Purchaser is or becomes a Non-Permitted **Tax** Holder, the Issuer shall have the right, in addition to withholding on passthru payments, to (x) compel it to sell its interest in such Security, (y) sell such interest on its behalf, and/or (z) assign to such Security a separate CUSIP or CUSIPs and, in the case of this subclause (z), to deposit payments on such Securities into a Tax Reserve Account, which amounts shall be released to the Holder of such Notes at such time that the Issuer determines that the Holder of such Securities complies with its Noteholder Reporting Obligations and is not a Non-Permitted Tax Holder, or released to pay costs related to such noncompliance (including taxes imposed by FATCA), in which case amounts so paid shall be treated for all purposes under the Indenture as if they had been paid directly to the Holder of such Notes. Any such sale will be conducted in accordance with the procedures set forth in the Indenture. Moreover, each such Purchaser of Notes or interests therein will agree, or be deemed to agree, to indemnify the Issuer, the Trustee and other beneficial owners of Notes for all damages, costs and expenses that result from the failure of such person to comply with its Noteholder Reporting Obligations. This indemnification will continue even after the person ceases to have an ownership interest in the Securities.

(xii) It agrees to provide upon request certification acceptable to the Issuer or, in the case of the Co-Issued Notes, the Co-Issuers to permit the Issuer or the Co-Issuers, as applicable, to (A) make payments to it without, or at a reduced rate of, withholding and (B) qualify for a reduced rate of withholding in any jurisdiction from or through which the Issuer receives payments on its assets. It has read the summary of the U.S. federal income

tax considerations contained in the Offering Circular as it relates to the Notes, and it represents that it will treat the Notes for U.S. tax purposes in a manner consistent with the treatment of such Notes by the Issuer described therein and will take no action inconsistent with such treatment unless otherwise required by a relevant taxing authority, it being understood that this paragraph shall not prevent a **holderHolder or beneficial owner** of Class E Notes from making a protective "qualified electing fund" election or filing protective information returns.

(xiii) In the case of Subordinated Notes, it agrees to provide the Issuer (or its agents or authorized representatives) and Trustee (A) any information as is necessary (in the sole determination of the Issuer or the Trustee, as applicable) for the Issuer and the Trustee to comply with U.S. tax information reporting requirements relating to its adjusted basis in the Subordinated Notes, and (B) any additional information that the Issuer, Trustee or their agents request in connection with any 1099 reporting requirements, and update any such information provided in clause (A) or (B) promptly upon learning that any such information previously provided has become obsolete or incorrect or is otherwise required. It acknowledges that the Issuer or Trustee may provide such information and any other information concerning its investment in the Subordinated Notes to the U.S. Internal Revenue Service.

(xiv) It understands and acknowledges that failure to provide the Issuer (or its agents or authorized representatives), the Trustee or any Paying Agent with the properly completed and signed applicable tax certifications (generally, in the case of U.S. federal income tax, an Internal Revenue Service Form W-9 (or applicable successor form) in the case of a U.S. Person or the applicable Internal Revenue Service Form W-8 (or applicable successor form) in the case of a Person that is not a U.S. Person) or the failure to meet its Noteholder Reporting Obligations (without regard to whether the failure was due to a legal prohibition) may result in withholding from payments in respect of such Note, including U.S. federal withholding or back-up withholding.

(xv) On each day it holds such Notes, its acquisition, holding and disposition of the Notes (or any interest therein) will not constitute or result in a prohibited transaction under Section 406 of ERISA or Section 4975 of the Code (or in a violation of any substantially similar non-U.S., federal, state, local or other applicable law, and will not subject the Co-Issuers or the Collateral Manager to any laws, rules or regulations applicable to it solely as a result of the investment in the Co-Issuers by it) unless an exemption is available and all conditions have been satisfied. It understands that the representations made in this clause (xv) will be deemed made on each day from the date of its acquisition through and including the date it disposes of such Notes.

(xvi) In the case of Issuer Only Notes, for so long as it holds a beneficial interest in such Global Notes, it is not a Benefit Plan Investor or a Controlling Person unless it purchased such Notes on the Closing Date **or the Refinancing Date from the Issuer**. It understands that an interest in any Issuer Only Note may not at any time be held by or on behalf of a Benefit Plan Investor or a Controlling Person (other than Purchasers on the Closing Date **or the Refinancing Date purchasing from the Issuer**) in the form of an interest in a Global Note. It understands that the representations made in this clause will

be deemed to be made on each day from the date of its acquisition through and including the date on which it disposes of such Notes.

(i) Each Person who becomes an owner of a Certificated Note or an ERISA Limited Security on the Closing Date **or the Refinancing Date** shall be required to make certain representations and agreements set forth in a subscription agreement with the Issuer. Subject to Section 2.2(b)(ii), an IAI who is also a QIB/QP may acquire an interest in a Rule 144A Global Note. No U.S. person may at any time acquire an interest in a Regulation S Global Note.

(j) Any purported transfer of a Note not in accordance with this Section 2.6 shall be null and void and shall not be given effect for any purpose whatsoever.

(k) To the extent required by the Issuer, as determined by the Issuer or the Collateral Manager on behalf of the Issuer, the Issuer may, upon written notice to the Trustee, impose additional transfer restrictions on the **Subordinated** Notes to comply with the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 and other similar laws or regulations, including, without limitation, requiring each transferee of a **Subordinated** Note to make representations to the Issuer in connection with such compliance.

(l) The Trustee and the Issuer shall be entitled to conclusively rely on any transfer certificate delivered pursuant to this Section 2.6 and shall be able to presume conclusively the continuing accuracy thereof, in each case without further inquiry or investigation.

**Section 2.7. Mutilated, Defaced, Destroyed, Lost or Stolen Note.** If (a) any mutilated or defaced Note is surrendered to a Transfer Agent, or if there shall be delivered to the Applicable Issuers, the Trustee and the relevant Transfer Agent evidence to their reasonable satisfaction of the destruction, loss or theft of any Note, and (b) there is delivered to the Applicable Issuers, the Trustee and such Transfer Agent, and any agent of the Applicable Issuers, the Trustee and such Transfer Agent, such security or indemnity as may be reasonably required by them to save each of them harmless, then, in the absence of notice to the Applicable Issuers, the Trustee or such Transfer Agent that such Note has been acquired by a Protected Purchaser, the Applicable Issuers shall execute and, upon Issuer Order (which Issuer Order shall be deemed to have been provided upon the delivery of an executed Note to the Trustee), the Trustee shall authenticate and deliver, in lieu of any such mutilated, defaced, destroyed, lost or stolen Note, a new Note, of like tenor (including the same date of issuance) and equal principal or face amount, registered in the same manner, dated the date of its authentication, bearing interest from the date to which interest has been paid on the mutilated, defaced, destroyed, lost or stolen Note and bearing a number not contemporaneously outstanding.

If, after delivery of such new Note, a Protected Purchaser of the predecessor Note presents for payment, transfer or exchange such predecessor Note, the Applicable Issuers, the Transfer Agent and the Trustee shall be entitled to recover such new Note from the Person to whom it was delivered or any Person taking therefrom, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the Applicable Issuers, the Trustee and the Transfer Agent in connection therewith.

In case any such mutilated, defaced, destroyed, lost or stolen Note has become due and payable, the Applicable Issuers in their discretion may, instead of issuing a new Note pay such Note without requiring surrender thereof except that any mutilated or defaced Note shall be surrendered.

Upon the issuance of any new Note under this Section 2.7, the Applicable Issuers, the Trustee or the applicable Transfer Agent may require the payment by the Holder thereof of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Every new Note issued pursuant to this Section 2.7 in lieu of any mutilated, defaced, destroyed, lost or stolen Note shall constitute an original additional contractual obligation of the Applicable Issuers and such new Note shall be entitled, subject to the second paragraph of this Section 2.7, to all the benefits of this Indenture equally and proportionately with any and all other Notes of the same Class duly issued hereunder.

The provisions of this Section 2.7 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, defaced, destroyed, lost or stolen Notes.

Section 2.8. Payment of Principal and Interest and Other Amounts; Principal and Interest Rights Preserved. (a) Each Class of Secured Notes shall accrue interest during each Interest Accrual Period (or, for the first Interest Accrual Period, the related portion thereof) at the applicable Note Interest Rate and such interest shall be payable in arrears on each Payment Date on the Aggregate Outstanding Amount thereof on the first day of the related Interest Accrual Period (after giving effect to payments of principal thereof on such date). Payment of interest on each Class of Notes shall be subordinated to the payments of interest on the related Priority Classes. So long as any Priority Class is Outstanding with respect to any Class of Deferred Interest Notes, any payment of interest due on such Class of Deferred Interest Notes which is not available to be paid in accordance with the Priority of Payments on any Payment Date, if such interest is not paid in order to satisfy the Coverage Tests ("Deferred Interest" with respect thereto), shall not be considered "due and payable" for the purposes of Section 5.1(a) (and the failure to pay such interest shall not be an Event of Default) until the earliest of the Payment Date (i) on which such interest is available to be paid in accordance with the Priority of Payments, (ii) which is a Redemption Date with respect to such Class of Deferred Interest Notes, and (iii) which is the Stated Maturity of such Class of Deferred Interest Notes. Deferred Interest on any Class of Deferred Interest Notes shall not be added to the principal balance of such Class. Interest shall cease to accrue on each Secured Note, or in the case of a partial repayment, on such repaid part, from the date of repayment or the respective Stated Maturity unless payment of principal is improperly withheld or unless default is otherwise made with respect to such payments of principal. To the extent lawful and enforceable, (x) interest on Deferred Interest with respect to any Class of Deferred Interest Notes shall accrue at the Note Interest Rate for such Class until paid as provided herein and (y) interest on the interest on the Class A Notes, or if no the Class A Notes are Outstanding, and the Class B Notes, or if no Class X Notes, Class A Notes or Class B Notes are Outstanding, the Notes of the Controlling

Class that is not paid when due shall accrue at the Note Interest Rate for such Class until paid as provided herein.

Interest on the Subordinated Notes that is not available to be paid on a Payment Date in accordance with the Priority of Payments shall not be payable on such Payment Date or any date thereafter and shall not be considered "due and payable" for purposes of Section 5.1(a) (and the failure to pay such interest shall not be an Event of Default).

(b) Each Class of Secured Notes matures at par and is due and payable on the Payment Date which is the Stated Maturity for such Class, unless the unpaid-principal of such Note has been previously repaid or becomes due and payable at an earlier date by acceleration, redemption or otherwise. Notwithstanding the foregoing, the payment of principal of each Class of Notes may only occur (other than amounts constituting Deferred Interest thereon which shall be payable pursuant to the Priority of Interest Proceeds) after principal and interest on each Class of Notes that constitutes a Priority Class with respect to such Class has been paid in full and is subordinated to the payment on each Payment Date of the principal and interest due and payable on such Priority Classes, and other amounts in accordance with the Priority of Payments, and any payment of principal of any Class of Secured Notes which is not paid, in accordance with the Priority of Payments, on any Payment Date (other than the Payment Date which is the Stated Maturity of such Class or any Redemption Date), shall not be considered "due and payable" for purposes of Section 5.1(a) until the Payment Date on which such principal may be paid in accordance with the Priority of Payments or all of the Priority Classes with respect to such Class have been paid in full.

Each Subordinated Note will mature on the Payment Date which is the Stated Maturity for the Subordinated Notes and the principal amount, if any, will be due and payable on such Payment Date unless such Note is redeemed or repaid. Prior to the Stated Maturity, principal shall be paid on each Subordinated Note as provided in the Priority of Payments. Any payment of principal amounts on Subordinated Notes (x) may only occur after each Priority Class is no longer Outstanding, (y) is subordinated to the payment on each Payment Date of the principal and interest due and payable on each Priority Class and other amounts in accordance with the Priority of Payments and (z) that is not paid, in accordance with the Priority of Payments, on any Payment Date prior to the Stated Maturity shall not be considered "due and payable."

(c) Principal payments on the Notes shall be made in accordance with the Priority of Payments and Section 9.1.

(d) As a condition to the payment on any Note, without the imposition of withholding tax or back-up withholding, the Trustee and any Paying Agent shall require certification acceptable to it to enable the Issuer, the Co-Issuer, the Trustee and any Paying Agent to determine their duties and liabilities with respect to any taxes or other charges that they may be required to deduct or withhold from payments in respect of such Note under any present or future law or regulation of the United States and any other applicable jurisdiction, or any present or future law or regulation of any political subdivision thereof or taxing authority therein or to comply with any reporting or other requirements under any such law or regulation.

(e) Payments in respect of any Note shall be made by the Trustee or by a Paying Agent in United States dollars to DTC or its designee with respect to a Global Note and to the Holder or its nominee with respect to a Certificated Note, by wire transfer, as directed by the Holder, in immediately available funds to a United States dollar account, as the case may be, maintained by DTC or its nominee with respect to a Global Note, and to the Holder or its designee with respect to a Certificated Note, provided that in the case of a Certificated Note, the Holder thereof shall have provided written wiring instructions to the Trustee or the applicable Paying Agent, on or before the related Record Date; and provided, further, that if appropriate instructions for any such wire transfer are not received by the related Record Date, then such payment shall be made by check drawn on a U.S. bank mailed to the address of the Holder specified in the Register. Upon final payment due on the Maturity of a Note, the Holder thereof shall present and surrender such Note at the Corporate Trust Office of the Trustee on or prior to such Maturity; provided, however, that if the Trustee and the Applicable Issuers shall have been furnished such security or indemnity as may be required by them to save each of them harmless and an undertaking thereafter to surrender such certificate, then, in the absence of notice to the Applicable Issuers or the Trustee that the applicable Note has been acquired by a Protected Purchaser, such final payment shall be made without presentation or surrender. Neither the Co-Issuers, the Trustee, the Collateral Manager, nor any Paying Agent shall have any responsibility or liability for any aspects of the records maintained by DTC, Euroclear, Clearstream or any of the Agent Members relating to or for payments made thereby on account of beneficial interests in a Global Note. In the case where any final payment is to be made on any Note (other than on the Stated Maturity thereof), the Trustee, in the name and at the expense of the Applicable Issuers shall, not more than 30 nor less than 10 days prior to the date on which such payment is to be made, provide to Holders a notice which shall specify the date on which such payment shall be made, the amount of such payment per U.S.\$100,000 original principal amount of Secured Notes or original principal amount of Subordinated Notes and the place where Certificated Notes may be surrendered.

(f) Payments to each Holder of a Class of Notes shall be made in the proportion that the Aggregate Outstanding Amount of the Notes of such Class registered in the name of each such Holder on the applicable Record Date bears to the Aggregate Outstanding Amount of all Notes of such Class on such Record Date.

(g) Interest accrued with respect to the Floating Rate Notes shall be calculated on the basis of the actual number of days elapsed in the applicable Interest Accrual Period (or, for the first Interest Accrual Period, the related portion thereof) divided by 360.

(h) All reductions in the principal amount of a Note (or one or more predecessor Notes) effected by payments of installments of principal made on any Payment Date or(including any Redemption Date) shall be binding upon all future Holders of such Note and of any Note issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof, whether or not such payment is noted on such Note.

(i) Notwithstanding any other provision of this Indenture or any other document to which they may be a party, the obligations of the Issuer and Co-Issuer under the Notes and this Indenture are limited recourse obligations of the Issuer and Co-Issuer, as applicable, payable solely from the Assets and following realization of the Assets, and application

of the proceeds thereof in accordance with this Indenture, all obligations of and any claims against the Co-Issuers hereunder or in connection herewith after such realization shall be extinguished and shall not thereafter revive. No recourse shall be had against any Officer, director, member, manager, employee, shareholder or incorporator of either the Co-Issuers, the Collateral Manager or their respective Affiliates, successors or assigns for any amounts payable under the Notes or this Indenture. It is understood that, except as otherwise provided in this Indenture, the foregoing provisions of this paragraph (i) shall not (x) prevent recourse to the Assets for the sums due or to become due under any security, instrument or agreement which is part of the Assets or (y) constitute a waiver, release or discharge of any indebtedness or obligation evidenced by the Notes or secured by this Indenture until such Assets have been realized. It is further understood that the foregoing provisions of this paragraph (i) shall not limit the right of any Person to name the Issuer or the Co-Issuer as a party defendant in any Proceeding or in the exercise of any other remedy under the Notes or this Indenture, so long as no judgment in the nature of a deficiency judgment or seeking personal liability shall be asked for or (if obtained) enforced against any such Person or entity.

(j) Subject to the foregoing provisions of this Section 2.8, each Note delivered under this Indenture and upon registration of transfer of or in exchange for or in lieu of any other Note shall carry the rights of unpaid interest and principal (or other applicable amount) that were carried by such other Note.

Section 2.9. Persons Deemed Owners. The Issuer, the Co-Issuer, the Trustee, and any agent of the Co-Issuers or the Trustee may shall treat as the owner of such Note the Person in whose name any Note is registered on the Register on the applicable Record Date for the purpose of receiving payments of principal of and interest on such Note and on any other date for all other purposes whatsoever (whether or not such Note is overdue), and neither the Issuer, the Co-Issuers nor the Trustee nor any agent of the Issuer, the Co-Issuers or the Trustee shall be affected by notice to the contrary.

Section 2.10. Surrender of Notes; Cancellation. (a) Notwithstanding anything herein to the contrary, no Note may be surrendered (including any surrender in connection with any abandonment) except for payment, registration of transfer, exchange or redemption in accordance with Article IX, or for replacement in connection with any Note that is deemed lost or stolen.

(b) All Notes that are surrendered for payment, registration of transfer, exchange or redemption, or deemed lost or stolen, shall be promptly cancelled by the Trustee and may not be reissued or resold; *provided* that, in the event an anticipated Optional Redemption or Partial Redemption by Refinancing does not occur, Notes that are delivered in connection with such anticipated redemption shall be returned by the Trustee to the Person surrendering the same. Any such Notes shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee. No Notes shall be authenticated in lieu of or in exchange for any Notes canceled as provided in this Section 2.10, except as expressly permitted by this Indenture. All canceled Notes held by the Trustee shall be destroyed by the Trustee in accordance with its standard policy, unless the Co-Issuers shall direct by an Issuer Order received prior to destruction that they be returned to it.

Section 2.11. DTC Ceases to Be Depository. (a) A Global Note deposited with DTC pursuant to Section 2.2 shall be transferred in the form of a corresponding Certificated Note to the beneficial owners thereof only if such transfer complies with Section 2.6 and either (i) DTC notifies the Co-Issuers that it is unwilling or unable to continue as depository for such Global Note or (ii) at any time DTC ceases to be a Clearing Agency registered under the Exchange Act and, in each case, a successor depository is not appointed by the Co-Issuers within 90 days after such notice. In addition, the owner of a beneficial interest in a Global Note shall be entitled to receive a Certificated Note in exchange for such interest if an Event of Default has occurred and is continuing.

(b) Any Global Note that is transferable in the form of a Certificated Note to the beneficial owners thereof pursuant to this Section 2.11 shall be surrendered by DTC to the Trustee's designated office located in the United States to be so transferred, in whole or from time to time in part, without charge, and the Applicable Issuers shall execute and the Trustee shall authenticate and deliver, upon such transfer of each portion of such Global Note, an equal Aggregate Outstanding Amount of definitive physical certificates (pursuant to the instructions of DTC) in authorized Minimum Denominations. Any Certificated Note delivered in exchange for an interest in a Global Note shall, except as otherwise provided by Section 2.6(g), bear the legends set forth in the applicable Exhibit A and shall be subject to the transfer restrictions referred to in such legends.

(c) Subject to the provisions of paragraph (b) of this Section 2.11, the Holder of a Global Note may grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action which a Holder is entitled to take under this Indenture or the Notes.

(d) In the event of the occurrence of either of the events specified in subclauses (i) and (ii) of subsection (a) of this Section 2.11, the Co-Issuers shall promptly make available to the Trustee a reasonable supply of Certificated Notes in definitive, fully registered form without interest coupons.

In the event that Certificated Notes are not so issued by the Issuer to such beneficial owners of interests in Global Notes as required by Section 2.11(a), the Issuer expressly acknowledges that the beneficial owners shall be entitled to pursue any remedy that the Holder of a Global Note would be entitled to pursue in accordance with Article V of this Indenture (but only to the extent of such beneficial owner's interest in the Global Note) as if Certificated Notes had been issued. Neither the Trustee nor the Registrar shall be liable for any delay in the delivery of directions from the Depository and may conclusively rely on, and shall be fully protected in relying on, such direction as to the names of beneficial owners in whose names such Certificated Notes shall be registered or as to delivery instructions for such Certificated Notes.

Section 2.12. Notes Beneficially Owned by Non-Permitted Holders.

(a) Notwithstanding anything to the contrary elsewhere in this Indenture, any transfer of a beneficial interest in any Note to a U.S. person that is not a QIB/QP or an IAI/QP and, in each case, that is not made pursuant to an applicable exemption under the Securities Act and the Investment Company Act shall be null and void and any such purported transfer of which the

Issuer, the Co-Issuer or the Trustee shall have notice may be disregarded by the Issuer, the Co-Issuer and the Trustee for all purposes.

(b) If any Non-Permitted Holder shall become the beneficial owner of any Note, the Issuer shall, promptly after discovery that such person is a Non-Permitted Holder by the Issuer, the Co-Issuer or the Trustee (and notice to the Issuer by the Trustee if a Trust Officer of the Trustee obtains actual knowledge or by the Co-Issuer if it makes the discovery), send notice to such Non-Permitted Holder demanding that such Non-Permitted Holder transfer its interest in the Notes held by such person to a Person that is not a Non-Permitted Holder within 30 days of the date of such notice. If such Non-Permitted Holder fails to so transfer such Notes, the Issuer shall have the right, without further notice to the Non-Permitted Holder, to sell such Notes or interest in such Notes to a purchaser selected by the Issuer that is a not a Non-Permitted Holder on such terms as the Issuer may choose. The Issuer, or the Collateral Manager (on its own or acting through an investment bank selected by the Collateral Manager at the Issuer's expense) acting on behalf of the Issuer, may select the purchaser by soliciting one or more bids from one or more brokers or other market professionals that regularly deal in securities similar to the Notes, and selling such Notes to the highest such bidder. However, the Issuer may select a purchaser by any other means determined by it in its sole discretion. The Holder of each Note, the Non-Permitted Holder and each other Person in the chain of title from the Holder to the Non-Permitted Holder, by its acceptance of an interest in the Notes, agrees to cooperate with the Issuer, the Collateral Manager and the Trustee to effect such transfers. The proceeds of such sale, net of any commissions, expenses and taxes due in connection with such sale shall be remitted to the Non-Permitted Holder. The terms and conditions of any sale under this subsection shall be determined in the sole discretion of the Issuer, and the Issuer shall not be liable to any Person having an interest in the Notes sold as a result of any such sale or the exercise of such discretion.

(c) Notwithstanding anything to the contrary elsewhere in this Indenture, any transfer of a beneficial interest in any Note to a Person who has made or is deemed to have made an ERISA-related representation required by Section 2.6 that is subsequently shown to be false or misleading shall be null and void and any such purported transfer of which the Issuer, the Co-Issuer or the Trustee shall have notice may be disregarded by the Issuer, the Co-Issuer and the Trustee for all purposes.

Section 2.13. Tax Certification; Deduction or Withholding from Payments on Notes; No Gross Up. (a) Each Holder and beneficial owner of a Note, by acceptance of such Note or an interest in such Note, shall be deemed to understand and acknowledge that failure to provide the Issuer, the Trustee or any Paying Agent with the properly completed and signed applicable tax certifications (generally, in the case of U.S. federal income tax, an Internal Revenue Service Form W-9 (or applicable successor form) in the case of a U.S. Person or the applicable Internal Revenue Service Form W-8 (or applicable successor form) in the case of a Person that is not a U.S. Person) or the failure to meet its Noteholder Reporting Obligations may result in withholding from payments in respect of such Note, including U.S. federal withholding or back-up withholding.

(b) If a Holder is or becomes a Non-Permitted Tax Holder (including by failing to comply with its Noteholder Reporting Obligations), the Issuer shall have the right, in addition to withholding on passthru payments and compelling such Holder to sell its interest in the Notes

or selling such interest on behalf of such Holder in accordance with the procedures specified in Section 2.12(b), to assign to such Notes a separate CUSIP or CUSIPs and to deposit payments on such Notes into a Tax Reserve Account which amounts shall be either (x) released to the Holder of such Notes at such time that the Issuer determines that the Holder of such Notes complies with its Noteholder Reporting Obligations and is not otherwise a Non-Permitted Tax Holder or (y) released to pay costs related to such noncompliance (including Taxes imposed by FATCA) in which case amounts so paid shall be treated for all purposes under this Indenture as if they had been paid directly to the Holder of such Notes.

(c) Each Purchaser of a Subordinated Note, by acceptance of such Note or an interest in such Note, shall be required or deemed to agree to provide the Issuer and the Trustee (i) any information as is necessary (in the sole determination of the Issuer or the Trustee, as applicable) for the Issuer and the Trustee to comply with U.S. tax information reporting requirements relating to such Purchaser's adjusted basis in the Subordinated Notes, and (ii) any additional information that the Issuer, Trustee or their agents request in connection with any 1099 reporting requirements, and update any such information provided in clause (i) or (ii) promptly upon learning that any such information previously provided has become obsolete or incorrect or is otherwise required. Each such purchaser and beneficial owner of a Subordinated Note shall be required or deemed to acknowledge that the Issuer or the Trustee may provide such information and any other information concerning its investment in the Subordinated Notes to the U.S. Internal Revenue Service.

(d) If the Issuer is required to deduct or withhold tax from, or with respect to, payments to any Holder of the Notes for any Tax, then the Trustee or other Paying Agent, as applicable, shall deduct, or withhold, the amount required to be deducted or withheld and remit to the relevant authority such amount. Without limiting the generality of the foregoing, the Issuer may withhold any amount that it determines is required to be withheld from any amounts otherwise distributable to any holder of a Note. The Issuer shall not be obligated to pay any additional amounts to the Holders or beneficial owners of the Notes as a result of any withholding or deduction for, or on account of, any Tax imposed on payments in respect of the Notes. The amount of any withholding tax or deduction with respect to any Holder shall be treated as cash distributed to such Holder at the time it is withheld or deducted by the Trustee or Paying Agent and remitted to the appropriate taxing authority.

## ARTICLE III

### CONDITIONS PRECEDENT

#### Section 3.1. Conditions to Issuance of Notes on Closing Date.

(a) The Notes to be issued on the Closing Date shall be executed by the Applicable Issuers and delivered to the Trustee for authentication and thereupon the same shall be authenticated and delivered by the Trustee upon Issuer Order and upon receipt by the Trustee of the following:

(i) Officers' Certificates of the Co-Issuers Regarding Corporate Matters. An Officer's certificate of each of the Co-Issuers (A) evidencing the authorization by Resolution of the execution and delivery of this Indenture, the Placement Agreement, and, in the case of the Issuer, the Collateral Management Agreement, the Collateral

Administration Agreement, any Hedge Agreements and related transaction documents and in each case the execution, authentication and delivery of the Notes applied for by it and specifying the principal amount of each Class of Notes to be authenticated and delivered and (B) certifying that (1) the attached copy of the Resolution is a true, complete and correct copy thereof, (2) such resolutions have not been amended, modified, rescinded or revoked and are in full force and effect on and as of the Closing Date and (3) the Officers authorized to execute and deliver such documents hold the offices and have the signatures indicated thereon.

(ii) Governmental Approvals. From each of the Co-Issuers either (A) a certificate of the Applicable Issuer or other official document evidencing the due authorization, approval or consent of any governmental body or bodies, at the time having jurisdiction in the premises, together with an Opinion of Counsel of such Applicable Issuer to the effect that no other authorization, approval or consent of any governmental body is required for the performance by it of its obligations under the Transaction Documents, or (B) an Opinion of Counsel of the Applicable Issuer to the effect that no such authorization, approval or consent of any governmental body is required for the performance by it of its obligations under the Transaction Documents except as have been given (provided that the opinions delivered pursuant to Section 3.1(a)(iii) and Section 3.1(a)(iv) may satisfy the requirement).

(iii) U.S. Counsel Opinions. Opinions of Cleary Gottlieb Steen & Hamilton LLP, special U.S. counsel to the Co-Issuers, and K&L Gates LLP, special U.S. counsel to the Collateral Manager and special U.S. tax counsel to the Issuer, in each case dated the Closing Date, in form and substance satisfactory to the Issuer.

(iv) Cayman Counsel Opinion. An opinion of Maples and Calder, Cayman Islands counsel to the Issuer, dated the Closing Date, in form and substance satisfactory to the Issuer.

(v) Officers' Certificates of Co-Issuers Regarding Indenture. An Officer's certificate of each of the Co-Issuers stating that the Applicable Issuer is not in default under this Indenture and that the issuance of the Notes applied for by it shall not result in a default or a breach of any of the terms, conditions or provisions of, or constitute a default under, its organizational documents, any indenture or other agreement or instrument to which it is a party or by which it is bound, or any order of any court or administrative agency entered in any Proceeding to which it is a party or by which it may be bound or to which it may be subject; that all conditions precedent provided in this Indenture relating to the authentication and delivery of the Notes applied for by it have been complied with; and that all expenses due or accrued with respect to the Offering or relating to actions taken on or in connection with the Closing Date have been paid or reserves therefor have been made. The Officer's certificate of the Issuer shall also state that all of its representations and warranties contained herein are true and correct as of the Closing Date.

(vi) Hedge Agreements. Executed copies of any Hedge Agreement entered into by the Issuer, if any.

(vii) Collateral Management, Collateral Administration, Placement, Account and Administration Agreements. An executed counterpart of the Collateral Management Agreement, the Collateral Administration Agreement, the Placement Agreement, the Account Agreement and the Administration Agreement.

(viii) Certificate of the Collateral Manager. An Officer's certificate of the Collateral Manager, dated as of the Closing Date, to the effect that, to the best knowledge of the Collateral Manager:

(A) the Issuer has purchased or entered into binding agreements to purchase Collateral Obligations with an aggregate par amount of at least U.S.\$240,000,000 as of the Closing Date.

(B) each such Collateral Obligation satisfies the requirements of the definition of Collateral Obligation.

(ix) Grant of Collateral Obligations. The Grant pursuant to the Granting Clause of this Indenture of all of the Issuer's right, title and interest in and to the Collateral Obligations on the Closing Date and Delivery of such Collateral Obligations (including any promissory note and all other Underlying Instruments related thereto to the extent received by the Issuer) as contemplated by Section 3.3.

(x) Certificate of the Issuer Regarding Assets. A certificate of an Authorized Officer of the Issuer, dated as of the Closing Date, to the effect that, in the case of each Collateral Obligation pledged to the Trustee for inclusion in the Assets on the Closing Date:

(A) the Issuer is the owner of such Collateral Obligation free and clear of any liens, claims or encumbrances of any nature whatsoever except for (i) those which are being released on the Closing Date and (ii) those Granted pursuant to this Indenture;

(B) the Issuer has acquired its ownership in such Collateral Obligation in good faith without notice of any adverse claim (as such term is defined in Section 8-102(a)(1) of the UCC), except as described in paragraph (A) above;

(C) the Issuer has not assigned, pledged or otherwise encumbered any interest in such Collateral Obligation (or, if any such interest has been assigned, pledged or otherwise encumbered, it has been released or is being released on the Closing Date) other than interests Granted pursuant to this Indenture;

(D) the Issuer has full right to Grant a security interest in and assign and pledge such Collateral Obligation to the Trustee;

(E) based on the certificate of the Collateral Manager delivered pursuant to Section 3.1(a)(viii), each Collateral Obligation included in the Assets satisfies the requirements of the definition of Collateral Obligation; and

(F) upon Grant by the Issuer, the Trustee has a first priority perfected security interest in the Collateral Obligations and other Assets, except as permitted by this Indenture.

(xi) Rating Letters. A letter signed by the Rating Agency (or a press release) evidencing that each Class of Rated Notes has been assigned the applicable Initial Rating and that such ratings are in effect on the Closing Date.

(xii) Accounts. Evidence of the establishment of each of the Accounts.

(xiii) Other Documents. Such other documents as the Trustee may reasonably require; provided that nothing in this clause (xiii) shall imply or impose a duty on the part of the Trustee to require any other documents.

(b) In connection with the execution by the Applicable Issuers of the Notes to be issued on the Closing Date, the Trustee shall deliver to the Applicable Issuers an opinion of Nixon Peabody LLP, counsel to the Trustee, dated the Closing Date, in form and substance satisfactory to the Applicable Issuers.

Section 3.2. Conditions to Issuance of Additional Notes. (a) Additional Notes to be issued on an Additional Notes Closing Date pursuant to Section 2.4 may be executed by the Applicable Issuers and delivered to the Trustee for authentication and thereupon the same shall be authenticated and delivered to the Issuer by the Trustee upon Issuer Order, upon compliance with clauses (ix) and (x) of Section 3.1(a) (with all references therein to the Closing Date being deemed to be the applicable Additional Notes Closing Date) and upon receipt by the Trustee of the following:

(i) Officers' Certificates of the Co-Issuers Regarding Corporate Matters. An Officer's certificate of each of the Co-Issuers (1) evidencing the authorization by Resolution of the execution and delivery of a supplemental indenture pursuant to Section 8.2(b) and the execution, authentication and delivery of the Additional Notes applied for by it and specifying the principal amount of each Class of such Additional Notes to be authenticated and delivered, and (2) certifying that (a) the attached copy of such Resolution is a true and complete copy thereof, (b) such resolutions have not been rescinded and are in full force and effect on and as of the Additional Notes Closing Date and (c) the Officers authorized to execute and deliver such documents hold the offices and have the signatures indicated thereon.

(ii) Governmental Approvals. From each of the Co-Issuers either (A) a certificate of the Applicable Issuer or other official document evidencing the due authorization, approval or consent of any governmental body or bodies, at the time having jurisdiction in the premises, together with an Opinion of Counsel of such Applicable Issuer to the effect that no other authorization, approval or consent of any governmental body is

required for the valid issuance of such Additional Notes, or (B) an Opinion of Counsel of the Applicable Issuer to the effect that no such authorization, approval or consent of any governmental body is required for the valid issuance of such Additional Notes except as have been given (provided that the opinions delivered pursuant to Section 3.2(iii) and Section 3.2(iv) may satisfy the requirement).

(iii) U.S. Counsel Opinions. Opinions of special U.S. counsel to the Co-Issuers dated the Additional Notes Closing Date, in form and substance satisfactory to the Issuer and the Trustee.

(iv) Cayman Counsel Opinion. An opinion of Cayman Islands counsel to the Issuer dated the Additional Notes Closing Date, in form and substance satisfactory to the Issuer.

(v) Officers' Certificates of Co-Issuers Regarding Indenture. An Officer's certificate of each Co-Issuer stating that the Applicable Issuer is not in default under this Indenture and that the issuance of the Additional Notes applied for by it shall not result in a default or a breach of any of the terms, conditions or provisions of, or constitute a default under, its organizational documents, any indenture or other agreement or instrument to which it is a party or by which it is bound, or any order of any court or administrative agency entered in any Proceeding to which it is a party or by which it may be bound or to which it may be subject; that all conditions precedent provided in this Indenture and the supplemental indenture pursuant to Section 8.2(b) relating to the authentication and delivery of the Additional Notes applied for have been complied with and that the authentication and delivery of the Additional Notes is authorized or permitted under this Indenture and the supplemental indenture entered into in connection with such Additional Notes; and that all expenses due or accrued with respect to the Offering of the Additional Notes or relating to actions taken on or in connection with the Additional Notes Closing Date have been paid or reserved. The Officer's certificate of the Issuer shall also state that all of its representations and warranties contained herein are true and correct as of the Additional Notes Closing Date.

(vi) Irish Listing. If the Additional Notes are of a Class of Listed Notes, an Officer's certificate of the Issuer to the effect that application will be made to list such Additional Notes on the Irish Stock Exchange.

(vii) Other Documents. Such other documents as the Trustee may reasonably require; provided that nothing in this clause (viii) shall imply or impose a duty on the Trustee to so require any other documents.

The Issuer will provide to the Trustee notice of any issuance of Additional Notes at least two Business Days prior to the 15<sup>th</sup> day prior to the related Additional Notes Closing Date. The Trustee shall provide to the Holders notice of such issuance of Additional Notes as soon as reasonably practicable but in no case less than 15 days prior to the Additional Notes Closing Date. On or prior to any Additional Notes Closing Date, the Trustee shall provide to the Holders copies

of any supplemental indentures executed as part of such issuance pursuant to the requirements of Section 8.1.

Section 3.3. Delivery of Collateral Obligations and Eligible Investments.

(a) Except as otherwise provided in this Indenture, the Trustee shall hold all Collateral Obligations purchased in accordance with this Indenture in the relevant Account established and maintained pursuant to Article X, as to which in each case the Trustee shall have entered into an Account Agreement, providing, *inter alia*, that the establishment and maintenance of such Account will be governed by the law of a jurisdiction satisfactory to the Issuer and the Trustee.

(b) Each time that the Collateral Manager on behalf of the Issuer directs or causes the acquisition of any Collateral Obligation, Eligible Investment or other investment, the Collateral Manager (on behalf of the Issuer) shall, if the Collateral Obligation, Eligible Investment or other investment is required to be, but has not already been, transferred to the relevant Account, cause the Collateral Obligation, Eligible Investment or other investment to be Delivered. The security interest of the Trustee in the funds or other property used in connection with the acquisition shall, immediately and without further action on the part of the Trustee, be released. The security interest of the Trustee shall come into existence and continue in the Collateral Obligation, Eligible Investment or other investment so acquired, including all interests of the Issuer in any contracts related to and proceeds of such Collateral Obligation, Eligible Investment or other investment.

## ARTICLE IV

### SATISFACTION AND DISCHARGE

Section 4.1. Satisfaction and Discharge of Indenture. This Indenture shall be discharged and shall cease to be of further effect except as to (i) rights of registration of transfer and exchange, (ii) substitution of mutilated, defaced, destroyed, lost or stolen Notes, (iii) rights of Holders to receive payments of principal thereof and interest thereon, (iv) the rights, protections, indemnities and immunities of the Trustee and the specific obligations set forth below hereunder, (v) the rights, obligations and immunities of the Collateral Manager hereunder and under the Collateral Management Agreement, (vi) the rights, protections, indemnities and immunities of the Collateral Administrator hereunder and under the Collateral Administration Agreement and (vii) the rights of Holders as beneficiaries hereof with respect to the property deposited with the Trustee and payable to all or any of them (and the Trustee, on demand of and at the expense of the Issuer, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture) when:

(a) (x) either:

(i) all Notes theretofore authenticated and delivered to Holders, other than (A) Notes which have been mutilated, defaced, destroyed, lost or stolen and which have been replaced or paid as provided in Section 2.7 and (B) Notes for whose payment Money has theretofore irrevocably been deposited in trust and thereafter repaid to the Issuer or

discharged from such trust, as provided in Section 7.3, have been delivered to the Trustee for cancellation; or

(ii) all Notes not theretofore delivered to the Trustee for cancellation (A) have become due and payable, or (B) shall become due and payable at their Stated Maturity within one year, or (C) are to be called for redemption pursuant to Article IX under an arrangement satisfactory to the Trustee for the giving of notice of redemption by the Applicable Issuers pursuant to Section 9.5 and either (1) the Issuer has irrevocably deposited or caused to be deposited with the Trustee, in trust for such purpose, Cash or non-callable direct obligations of the United States of America; provided that the obligations are entitled to the full faith and credit of the United States of America or are debt obligations which are rated "Aaa" by Moody's, in an amount sufficient, as recalculated in an Accountants' Report by a firm of Independent certified public accountants which are nationally recognized, to pay and discharge the entire indebtedness on such Notes not theretofore delivered to the Trustee for cancellation, for principal and interest to the date of such deposit (in the case of Notes which have become due and payable), or to the respective Stated Maturity or the respective Redemption Date, as the case may be, and shall have Granted to the Trustee a valid perfected security interest in such Eligible Investment that is of first priority or free of any adverse claim, as applicable, and shall have furnished an Opinion of Counsel with respect thereto or (2) in the event all of the Assets are liquidated following the satisfaction of the conditions specified in Section 5.5(a), the Issuer shall have paid or caused to be paid all proceeds of such liquidation of the Assets in accordance with the Priority of Payments; or

(y) (i) there are no Pledged Obligations that remain subject to the lien of this Indenture, (ii) all Hedge Agreements have been terminated and any termination payments have been received or paid and (iii) all funds on deposit in the Accounts have been distributed in accordance with the terms of this Indenture (including the Priority of Payments) or have otherwise been irrevocably deposited in trust with the Trustee for such purpose; and

(b) the Issuer has paid or caused to be paid all other sums then due and payable hereunder (including any amounts then due and payable pursuant to the Hedge Agreements, the Collateral Administration Agreement and the Collateral Management Agreement without regard to the Administrative Expense Cap) by the Issuer and no other amounts are scheduled to be due and payable by the Issuer (it being understood that the requirements of this clause (b) may be deemed satisfied as set forth in upon the final distribution of all proceeds by the Trustee as contemplated by Section 5.7); and

(c) the Co-Issuers have delivered to the Trustee Officer's certificates stating, and the Trustee has received an Opinion of Counsel to the effect, that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture have been complied with  
satisfied or deemed satisfied upon the final distribution of all proceeds by the Trustee as contemplated by Section 5.7.

Notwithstanding the satisfaction and discharge of this Indenture, the rights and obligations of the Co-Issuers, the Trustee, the Collateral Manager and, if applicable, the Holders,

as the case may be, under Sections 2.8, 4.2, 5.4(d), 5.4(f), 5.9, 5.18, 6.1, 6.3, 6.6, 6.7, 7.1, 7.3, 13.1 and 14.15 shall survive.

Section 4.2. Application of Trust Money. All Monies deposited with the Trustee pursuant to Section 4.1 shall be held in trust and applied by it in accordance with the provisions of the Notes and this Indenture, including, without limitation, the Priority of Payments, to the payment of principal and interest (or other amounts with respect to the Subordinated Notes), either directly or through any Paying Agent, as the Trustee may determine; and such Money shall be held in a segregated account satisfying the requirements of Section 10.5(b) identified as being held in trust for the benefit of the Secured Parties.

Section 4.3. Repayment of Monies Held by Paying Agent. In connection with the satisfaction and discharge of this Indenture with respect to the Notes, all Monies then held by any Paying Agent other than the Trustee under the provisions of this Indenture shall, upon demand of the Co-Issuers, be paid to the Trustee to be held and applied pursuant to Section 7.3 hereof and in accordance with the Priority of Payments and thereupon such Paying Agent shall be released from all further liability with respect to such Monies.

## ARTICLE V

### REMEDIES

Section 5.1. Events of Default. "Event of Default," wherever used herein, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) a default in the payment, when due and payable, of (i) any interest on any Class X Note, any Class A Note or any Class B Note or, if there are no Class X Notes, Class A Notes or Class B Notes Outstanding, the Notes of the Controlling Class (other than the Subordinated Notes) and the continuation of any such default for three Business Days, or (ii) any principal, interest, or Deferred Interest on, or any Redemption Price in respect of, any Secured Note at its Stated Maturity or any Redemption Date; provided that, in the case of a default in payment resulting solely from an administrative error or omission by the Trustee, any Paying Agent or the Registrar, such default continues for a period of five or more Business Days after the Trustee receives written notice or a Trust Officer has actual knowledge of the occurrence of such administrative error or omission;

(b) the failure on any Payment Date to disburse amounts in excess of U.S.\$1,000 available in the Payment Account in accordance with the Priority of Payments and continuation of such failure for a period of 10 Business Days (provided that if such failure results solely from an administrative error or omission by the Trustee, such default continues for a period of 10 or more Business Days after the Trustee receives written notice or a Trust Officer has actual knowledge of such administrative error or omission);

(c) either of the Co-Issuers or the Assets becomes an investment company required to be registered under the Investment Company Act and such requirement has not been eliminated after a period of 45 days;

(d) except as otherwise provided in this Section 5.1, a default, in the performance, or breach, of any other covenant or other agreement of the Issuer or the Co-Issuer in this Indenture which has a material adverse effect on any Holder (it being understood, without limiting the generality of the foregoing, that any failure to meet any Concentration Limitation, Collateral Quality Test, Coverage Test or Interest Diversion Test is not an Event of Default), or the failure of any representation or warranty of the Issuer or the Co-Issuer made in this Indenture or in any certificate or other writing delivered pursuant hereto or in connection herewith to be correct in all material respects when the same shall have been made, and the continuation of such default, breach or failure for a period of 30 days after either notice (i) to the Applicable Issuers and the Collateral Manager by registered or certified mail or overnight courier, by the Trustee, the Applicable Issuers or the Collateral Manager, or (ii) to the Applicable Issuers, the Collateral Manager and the Trustee by a Majority of the Controlling Class, in each case specifying such default, breach or failure and requiring it to be remedied and stating that such notice is a "Notice of Default" hereunder;

(e) on any Measurement Date, the failure of the quotient of (i) the sum of (A) the Aggregate Principal Balance of all Pledged Obligations (excluding Defaulted Obligations), plus (B) the aggregate of the Market Values of all Defaulted Obligations, divided by (ii) the Aggregate Outstanding Amount of the Class A Notes, to equal or exceed 102%; or

(f) the occurrence of a Bankruptcy Event.

Upon obtaining knowledge of the occurrence of an Event of Default, each of (i) the Co-Issuers, (ii) the Trustee and (iii) the Collateral Manager shall notify each other in writing and the Trustee shall provide the notices of Default required under Section 6.2.

**Section 5.2. Acceleration of Maturity; Rescission and Annulment.** (a) If an Event of Default occurs and is continuing (other than a Bankruptcy Event), the Trustee may, and shall, upon the written direction of a Majority of the Controlling Class, by notice to the Applicable Issuers and the Rating Agency, declare the principal of all the Secured Notes to be immediately due and payable, and upon any such declaration such principal, together with all accrued and unpaid interest thereon, and other amounts payable hereunder, shall become immediately due and payable and the Reinvestment Period shall terminate. If a Bankruptcy Event occurs, all unpaid principal, together with all accrued and unpaid interest thereon, of all the Secured Notes, and all other amounts payable hereunder, shall automatically become due and payable without any declaration or other act on the part of the Trustee or any Noteholder.

(b) At any time after such a declaration of acceleration of maturity has been made and before a judgment or decree for payment of the Money due has been obtained by the Trustee as hereinafter provided in this Article V, a Majority of the Controlling Class by written notice to the Issuer and the Trustee, may rescind and annul such declaration and its consequences if:

(i) The Issuer or the Co-Issuer has paid or deposited with the Trustee a sum sufficient to pay in accordance with the Priority of Payments:

(A) all unpaid installments of interest and principal then due on the Secured Notes (other than as a result of such acceleration);

(B) to the extent that the payment of such interest is lawful, interest upon any Deferred Interest at the applicable Note Interest Rates; and

(C) all unpaid taxes and Administrative Expenses of the Co-Issuers and other sums paid, incurred or advanced by the Trustee hereunder and any other amounts then payable by the Co-Issuers hereunder prior to such Administrative Expenses; and

(ii) if the Trustee has determined that all Events of Default, other than the nonpayment of the interest on or principal of the Secured Notes that have become due solely as a result of an acceleration of the Secured Notes, have (A) been cured, and a Majority of the Controlling Class by written notice to the Trustee has agreed with such determination (which agreement shall not be unreasonably withheld), or (B) been waived as provided in Section 5.14.

No such rescission shall affect any subsequent Default or impair any right consequent thereon. Any Hedge Agreement in effect upon such declaration of an acceleration must remain in effect until liquidation of the Assets has begun and such declaration is no longer capable of being rescinded or annulled; provided that the Issuer shall nevertheless be entitled to designate an early termination date under and in accordance with the terms of such Hedge Agreement.

**Section 5.3. Collection of Indebtedness and Suits for Enforcement by Trustee.**

The Applicable Issuers covenant that if a default shall occur in respect of the payment of any principal of or interest when due and payable on any Secured Note, the Applicable Issuers shall, upon demand of the Trustee, pay to the Trustee, for the benefit of the Holder of such Secured Note, the whole amount, if any, then due and payable on such Secured Note for principal and interest with interest upon the overdue principal, at the applicable Note Interest Rate, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee and its agents and counsel.

If the Issuer or the Co-Issuer fails to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, may, and shall upon written direction of a Majority of the Controlling Class (subject to the Trustee's rights hereunder, including Section 6.1(c)(iv)), institute a Proceeding for the collection of the sums so due and unpaid, may prosecute such Proceeding to judgment or final decree, and may enforce the same against the Applicable Issuers or any other obligor upon the Secured Notes and collect the Monies adjudged or decreed to be payable in the manner provided by law out of the Assets.

If an Event of Default occurs and is continuing, the Trustee may, and shall upon written direction of the Majority of the Controlling Class (subject to the Trustee's rights hereunder, including Section 6.1(c)(iv)), proceed to protect and enforce its rights and the rights of the Secured Parties by such appropriate Proceedings as the Trustee shall deem most effectual (if no such direction is received by the Trustee) or as the Trustee may be directed by the Majority of the Controlling Class, to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in this Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy or legal or equitable right vested in the Trustee by this Indenture or by law.

Subject to the provisions of Section 5.4(d), in case there shall be pending Proceedings relative to the Issuer or the Co-Issuer or any other obligor upon the Secured Notes under the Bankruptcy Law or any other applicable bankruptcy, insolvency or other similar law, or in case a receiver, assignee or trustee in bankruptcy or reorganization, liquidator, sequestrator or similar official shall have been appointed for or taken possession of the Issuer, the Co-Issuer or their respective property or such other obligor or its property, or in case of any other comparable Proceedings relative to the Issuer, the Co-Issuer or other obligor upon the Secured Notes, or the creditors or property of the Issuer, the Co-Issuer or such other obligor, the Trustee, regardless of whether the principal of any Secured Notes shall then be due and payable as therein expressed or by declaration or otherwise and regardless of whether the Trustee shall have made any demand pursuant to the provisions of this Section 5.3, shall be entitled and empowered, by intervention in such Proceedings or otherwise:

(a) to file and prove a claim or claims for the whole amount of principal and interest owing and unpaid in respect of the Secured Notes, as applicable, and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for reasonable compensation to the Trustee and each predecessor Trustee, and their respective agents, attorneys and counsel, and for reimbursement of all reasonable expenses and liabilities incurred, and all advances made, by the Trustee and each predecessor Trustee, except as a result of negligence or bad faith) and of the Secured Noteholders or Holders allowed in any Proceedings relative to the Issuer, the Co-Issuer or other obligor upon the Secured Notes or to the creditors or property of the Issuer, the Co-Issuer or such other obligor;

(b) unless prohibited by applicable law and regulations, to vote on behalf of the Secured Noteholders upon the direction of such Holders, in any election of a trustee or a standby trustee in arrangement, reorganization, liquidation or other bankruptcy or insolvency Proceedings or person performing similar functions in comparable Proceedings; and

(c) to collect and receive any Monies or other property payable to or deliverable on any such claims, and to distribute all amounts received with respect to the claims of the Noteholders and of the Trustee on their behalf; and any trustee, receiver or liquidator, custodian or other similar official is hereby authorized by each of the Secured Noteholders to make payments to the Trustee, and, in the event that the Trustee shall consent to the making of payments directly to the Secured Noteholders to pay to the Trustee such amounts as shall be sufficient to cover reasonable compensation to the Trustee, each predecessor Trustee and their respective agents, attorneys and counsel, and all other reasonable expenses and liabilities incurred,

and all advances made, by the Trustee and each predecessor Trustee except as a result of negligence or bad faith.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or vote for or accept or adopt on behalf of any Secured Noteholder, any plan of reorganization, arrangement, adjustment or composition affecting the Secured Notes or any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Secured Noteholder in any such Proceeding except, as aforesaid, to vote for the election of a trustee in bankruptcy or similar person.

In any Proceedings brought by the Trustee on behalf of the Holders of the Secured Notes (and any such Proceedings involving the interpretation of any provision of this Indenture to which the Trustee shall be a party), the Trustee shall be held to represent all the Holders of the Secured Notes.

Notwithstanding anything in this Section 5.3 to the contrary, the Trustee may not sell or liquidate the Assets or institute Proceedings in furtherance thereof pursuant to this Section 5.3 except according to the provisions specified in Section 5.5(a).

**Section 5.4. Remedies.** (a) If an Event of Default shall have occurred and be continuing, and the Secured Notes have been declared due and payable and such declaration and its consequences have not been rescinded and annulled, the Co-Issuers agree that the Trustee may, and shall, upon written direction of a Majority of the Controlling Class (subject to the Trustee's rights hereunder, including Section 6.1(c)(iv)), to the extent permitted by applicable law, exercise one or more of the following rights, privileges and remedies:

- (i) institute Proceedings for the collection of all amounts then payable on the Secured Notes or otherwise payable under this Indenture, whether by declaration or otherwise, enforce any judgment obtained, and collect from the Assets any Monies adjudged due;
- (ii) sell or cause the sale of all or a portion of the Assets or rights or interests therein, at one or more public or private sales called and conducted in any manner permitted by law and in accordance with Section 5.17;
- (iii) institute Proceedings from time to time for the complete or partial foreclosure of this Indenture with respect to the Assets;
- (iv) exercise any remedies of a secured party under the UCC and take any other appropriate action to protect and enforce the rights and remedies of the Trustee and the Holders of the Secured Notes hereunder (including, without limitation, exercising all rights of the Trustee under the Account Agreement); and
- (v) exercise any other rights and remedies that may be available at law or in equity;

provided, however, that the Trustee may not sell or liquidate the Assets or institute Proceedings in furtherance thereof pursuant to this Section 5.4 except according to the provisions specified in Section 5.5(a).

The Trustee may, but need not, obtain (at the expense of the Co-Issuers) and rely upon an opinion of an Independent investment banking firm of national reputation, or other appropriate advisor concerning the matter, which may (but need not) be the~~either~~ Placement Agent, as to the feasibility of any action proposed to be taken in accordance with this Section 5.4 and as to the sufficiency of the proceeds and other amounts receivable with respect to the Assets to make the required payments of principal of and interest on the Secured Notes, which opinion shall be conclusive evidence as to such feasibility or sufficiency and the cost of which shall be commercially reasonable.

(b) If an Event of Default as described in Section 5.1(d) hereof shall have occurred and be continuing the Trustee may, and at the written direction of the Holders of not less than 25% of the Aggregate Outstanding Amount of the Controlling Class (subject to the Trustee's rights hereunder, including Section 6.1(c)(iv)), shall, institute a Proceeding solely to compel performance of the covenant or agreement or to cure the representation or warranty, the breach of which gave rise to the Event of Default under such Section, and enforce any equitable decree or order arising from such Proceeding.

(c) Upon any sale, whether made under the power of sale hereby given or by virtue of judicial Proceedings, any Secured Party may bid for and purchase the Assets or any part thereof and, upon compliance with the terms of sale, may hold, retain, possess or dispose of such property in its or their own absolute right without accountability; and any purchaser at any such sale of Assets may, in paying the purchase Money, deliver to the Trustee for cancellation any of the Notes in lieu of Cash equal to the amount which shall, upon distribution of the net proceeds of such sale, be payable on the Notes so delivered by such Holder (taking into account the Class of such Notes, the Priority of Payments and Article XIII). Said Notes, in case the amounts payable thereon shall be less than the amount due thereon, shall be returned to the Holders thereof after proper notation has been made thereon to show partial payment.

Upon any sale, whether made under the power of sale hereby given or by virtue of judicial Proceedings, the receipt of the Trustee, or of the Officer making a sale under judicial Proceedings, shall be a sufficient discharge to the purchaser or purchasers at any sale for its or their purchase Money, and such purchaser or purchasers shall not be obliged to see to the application thereof.

Any such sale, whether under any power of sale hereby given or by virtue of judicial Proceedings, shall bind the Co-Issuers, the Trustee and the Holders of the Secured Notes, shall operate to divest all right, title and interest whatsoever, either at law or in equity, of each of them in and to the property sold, and shall be a perpetual bar, both at law and in equity, against each of them and their successors and assigns, and against any and all Persons claiming through or under them.

(d) Notwithstanding any other provision of this Indenture, neither any Holder of the Notes nor the Trustee nor any other Secured Party may, prior to the date which is one year

(or if longer, any applicable preference period) plus one day after the payment in full of all Notes, institute against, or join any other Person in instituting against, the Issuer, the Co-Issuer or any Tax Subsidiary any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation Proceedings, or other Proceedings under Cayman Islands, U.S. federal or State bankruptcy or similar laws. Nothing in this Section 5.4 shall preclude, or be deemed to stop, the Trustee (i) from taking any action prior to the expiration of the aforementioned period in (A) any case or Proceeding voluntarily filed or commenced by the Issuer or the Co-Issuer or (B) any involuntary insolvency Proceeding filed or commenced by a Person other than the Trustee, or (ii) from commencing against the Issuer or the Co-Issuer or any of its properties any legal action which is not a bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation Proceeding.

(e) The Issuer or the Co-Issuer, as applicable, shall, so long as any Notes remain Outstanding and for a year and a day thereafter, and subject to the proviso below, timely file an answer and any other appropriate pleading objecting to (i) the institution of any proceeding to have the Issuer or the Co-Issuer, as the case may be, adjudicated as bankrupt or insolvent, or (ii) the filing of any petition seeking relief, reorganization, arrangement, adjustment or composition of or in respect of the Issuer or the Co-Issuer, as the case may be, under any bankruptcy law or any other applicable law; provided that the obligations set forth in clauses (i) and (ii) above shall be subject to the availability of funds therefor under the Priority of Payments. The reasonable fees, costs, charges and expenses incurred by the Issuer or Co-Issuer (including reasonable attorneys' fees and expenses) in connection with taking any such action shall be paid as Administrative Expenses.

(f) In the event one or more Holders or beneficial owners of Notes cause the filing of a petition in bankruptcy against the Issuer, the Co-Issuer or any Tax Subsidiary in violation of the prohibition in Section 5.4(d), each such Holder or beneficial owner will be deemed to acknowledge and agree that (A) any claim that such Holder or beneficial owner has against the Issuer, the Co-Issuer or any Tax Subsidiary or with respect to any Collateral (including any proceeds thereof) shall, notwithstanding anything to the contrary in the Priority of Payments, be fully subordinate in right of payment to the claims of each Holder and beneficial owner of any Secured Note that does not seek to cause any such filing, with such subordination being effective until each Secured Note held by each Holder or beneficial owner of any Secured Note that does not seek to cause any such filing is paid in full in accordance with the Priority of Payments (after giving effect to such subordination), (B) it will promptly return or cause all amounts received by it following the filing of such petition to be returned to the Issuer, the Co-Issuer or the relevant Tax Subsidiary, as the case may be, and (C) it will take all necessary action to give effect to the Bankruptcy Subordination Agreement. The terms described in the immediately preceding sentence constitute the "Bankruptcy Subordination Agreement" and any Class of Secured Notes of any Holder or beneficial owner who becomes subject to such subordination will be referred to as the "Bankruptcy Subordinated Class." The Bankruptcy Subordination Agreement will constitute a "subordination agreement" within the meaning of Section 510(a) of the U.S. Bankruptcy Code (Title 11 of the United States Code, as amended from time to time (or any successor statute)). Nothing in this Section 5.4(f) shall preclude, or be deemed to stop, the Trustee (i) from taking any action prior to the expiration of the

aforementioned period in (A) any case or Proceeding voluntarily filed or commenced by the Issuer or the Co-Issuer or (B) any involuntary insolvency Proceeding filed or commenced by a Person other than the Trustee, or (ii) from commencing against the Issuer or the Co-Issuer or any of its properties any legal action which is not a bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation Proceeding.

Any Holder or beneficial owner of a Note, any Tax Subsidiary or either Co-Issuer may seek and obtain specific performance (including injunctive relief) of the restrictions in Section 5.4(d) and this Section 5.4(f), including in any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under Cayman Islands law, United States federal or state bankruptcy law or similar laws.

Section 5.5. Optional Preservation of Assets. (a) Notwithstanding anything to the contrary herein, if an Event of Default shall have occurred and be continuing, the Trustee shall retain the Assets securing the Secured Notes intact (except as otherwise expressly permitted or required by Sections 7.16, 10.8 and 12.1), collect and cause the collection of the proceeds thereof and make and apply all payments and deposits and maintain all accounts in respect of the Assets and the Notes in accordance with the Priority of Payments and the provisions of Article X, Article XII and Article XIII unless:

(i) the Trustee, pursuant to Section 5.5(c), determines that the anticipated proceeds of a sale or liquidation of all or any portion of the Assets (after deducting the reasonable expenses of such sale or liquidation) would be sufficient to discharge in full the amounts then due (or, in the case of interest, accrued) and unpaid on the Secured Notes for principal and interest (including accrued and unpaid Deferred Interest) and all amounts payable prior to payment of principal on such Secured Notes (including amounts due and owing as Administrative Expenses (without regard to the Administrative Expense Cap) and amounts payable to any Hedge Counterparty upon liquidation of all or any portion of the Assets) and a Majority of the Controlling Class agrees with such determination;

(ii) in the case of an Event of Default specified in Section 5.1(a), Section 5.1(e) or Section 5.1(f), (A) as long as any Class A Notes are Outstanding, a Majority of the Class A Notes, or (B) if no Class A Notes are Outstanding, a Supermajority of each Class of Secured Notes (voting separately by Class), directs the sale and liquidation of all or any portion of the Assets (regardless of whether another Event of Default has occurred prior to, contemporaneously with or subsequent to such Event of Default); or

(iii) in the case of an Event of Default, other than an Event of Default specified in Section 5.1(a), Section 5.1(e) or Section 5.1(f), a Majority of the Class A Notes (as long as any Class A Notes are Outstanding) and a Supermajority of each other Class of Secured Notes, other than the Class X Notes, (voting separately by Class), directs the sale and liquidation of all or any portion of the Assets.

The Trustee shall give written notice of the retention of the Assets to the Issuer with a copy to the Co-Issuer and the Collateral Manager. So long as such Event of Default is

continuing, any such retention pursuant to this Section 5.5(a) may be rescinded at any time when the conditions specified in clause (i), (ii) or (iii) exist.

In the event a liquidation of all or any portion of the Assets is commenced in accordance with this Section 5.5, all unpaid principal, together with all accrued and unpaid interest thereon, of all the Secured Notes, and other amounts payable under the Indenture, shall automatically become due and payable without any declaration or other act on the part of the Trustee or any Noteholder.

(b) Nothing contained in Section 5.5(a) shall be construed to require the Trustee to sell the Assets securing the Secured Notes if the conditions set forth in Section 5.5(a) are not satisfied. Nothing contained in Section 5.5(a) shall be construed to require the Trustee to preserve the Assets securing the Notes if prohibited by applicable law.

(c) In determining whether the condition specified in Section 5.5(a)(i) exists, the Trustee shall, with the written consent of the Majority of the Controlling Class, request bid prices with respect to each security contained in the Assets from two nationally recognized dealers at the time making a market in such securities (as identified by the Collateral Manager to the Trustee in writing) and shall compute the anticipated proceeds of sale or liquidation on the basis of the lower of such bid prices for each such security. If the Trustee is unable to obtain any bids, the condition specified in Section 5.5(a)(i) shall be deemed to not exist. For the purposes of making the determinations required pursuant to Section 5.5(a)(i), the Trustee shall apply the standards set forth in Section 6.3(c)(i) or (ii). In addition, for the purposes of determining issues relating to the execution of a sale or liquidation of all or any portion of the Assets and the execution of a sale or other liquidation thereof in connection with a determination whether the condition specified in Section 5.5(a)(i) exists, the Trustee may retain (at the Co-Issuers' expense and for a commercially reasonable fee) and conclusively rely without limitation on an opinion of an Independent investment banking firm of national reputation or other appropriate advisor concerning the matter.

Upon request by the Collateral Manager or a Majority of the Controlling Class, but not more frequently than once in any calendar month during which the Trustee retains the Assets pursuant to Section 5.5(a), the Trustee shall make the determinations required by Section 5.5(a)(i) and, no later than 10 days after such determination is made, deliver to the Controlling Class and the Collateral Manager a report stating the results of such determination.

**Section 5.6. Trustee May Enforce Claims without Possession of Notes.** All rights of action and claims under this Indenture or under any of the Secured Notes may be prosecuted and enforced by the Trustee without the possession of any of the Secured Notes or the production thereof in any trial or other Proceeding relating thereto, and any such action or Proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall be applied as set forth in Section 5.7.

**Section 5.7. Application of Money Collected.** Any Money collected by the Trustee (after payment of costs of collection, liquidation and enforcement) with respect to the Notes pursuant to this Article V and any Money that may then be held or thereafter received by the Trustee with respect to the Notes hereunder shall be applied, in accordance with the Priority

of Payments, on each Payment Date and, after an acceleration of maturity of the Notes pursuant to Section 5.2 (which has not been rescinded or annulled), each date or dates fixed by the Trustee as a Post-Acceleration Payment Date. Upon the final distribution of all proceeds of any liquidation effected hereunder, the provisions of Sections 4.1(a) and (b) shall be deemed satisfied for the purposes of discharging this Indenture pursuant to Article IV.

Section 5.8. Limitation on Suits. No Holder of any Note shall have any right to institute any Proceedings, judicial or otherwise, with respect to this Indenture or the Notes, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless:

(a) such Holder has previously given to the Trustee written notice of an Event of Default;

(b) the Holders of not less than 25% of the then Aggregate Outstanding Amount of the Notes of the Controlling Class shall have made written request to the Trustee to institute Proceedings in its own name as Trustee hereunder and such Holder or Holders have provided the Trustee security or indemnity reasonably satisfactory to the Trustee against the costs, expenses (including reasonable attorneys' fees and expenses) and liabilities to be incurred in compliance with such request;

(c) the Trustee, for 30 days after its receipt of such notice, request and provision of such indemnity, has failed to institute any such Proceeding; and

(d) no direction inconsistent with such written request has been given to the Trustee during such 30 day period by a Majority of the Controlling Class;

it being understood and intended that no one or more Holders of Notes shall have any right in any manner whatsoever by virtue of, or by availing of, any provision of this Indenture or the Notes to affect, disturb or prejudice the rights of any other Holders of Notes of the same Class or to obtain or to seek to obtain priority or preference over any other Holders of the Notes of the same Class or to enforce any right under this Indenture or the Notes, except in the manner herein provided and for the equal and ratable benefit of all the Holders of Notes of the same Class subject to and in accordance with Section 13.1 and the Priority of Payments.

In the event the Trustee shall receive conflicting or inconsistent requests and indemnity from two or more groups of Holders of the Controlling Class, each representing less than a Majority of the Controlling Class, pursuant to this Section 5.8, the Trustee shall act in accordance with the request specified by the group of Holders with the greatest percentage of the Aggregate Outstanding Amount of the Controlling Class, notwithstanding any other provisions of this Indenture. If the groups represent the same percentage, the Trustee in its sole discretion may determine what action, if any, shall be taken.

Section 5.9. Unconditional Rights of Secured Noteholders to Receive Principal and Interest. Subject to Sections 2.8(i), 2.13, 5.13, 6.15 and 13.1, but notwithstanding any other provision in this Indenture, the Holder of any Secured Note shall have the right, which is absolute and unconditional, to receive payment of the principal of and interest on such Secured Note as such principal and interest becomes due and payable in

accordance with the Priority of Payments and Section 13.1, and, subject to the provisions of Section 5.8, to institute Proceedings for the enforcement of any such payment, and such right shall not be impaired without the consent of such Holder. Holders of Secured Notes ranking junior to Notes still Outstanding shall have no right to institute proceedings for the enforcement of any such payment until such time as no Secured Note ranking senior to such Secured Note remains Outstanding, which right shall be subject to the provisions of Section 5.8, and shall not be impaired without the consent of any such Holder.

**Section 5.10. Restoration of Rights and Remedies.** If the Trustee or any Noteholder has instituted any Proceeding to enforce any right or remedy under this Indenture and such Proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Noteholder, then and in every such case the Co-Issuers, the Trustee and the Noteholder shall, subject to any determination in such Proceeding, be restored severally and respectively to their former positions hereunder, and thereafter all rights and remedies of the Trustee and the Noteholder shall continue as though no such Proceeding had been instituted.

**Section 5.11. Rights and Remedies Cumulative.** No right or remedy herein conferred upon or reserved to the Trustee or to the Noteholders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

**Section 5.12. Delay or Omission Not Waiver.** No delay or omission of the Trustee or any Secured Noteholder to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein or of a subsequent Event of Default. Every right and remedy given by this Article V or by law to the Trustee or to the Secured Noteholders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Secured Noteholders.

**Section 5.13. Control by Majority of Controlling Class.** Notwithstanding any other provision of this Indenture, a Majority of the Controlling Class shall have the right following the occurrence, and during the continuance of, an Event of Default to cause the institution of and direct the time, method and place of conducting any Proceeding for any remedy available to the Trustee, and to direct the exercise of any trust, right, remedy or power conferred upon the Trustee; provided that:

(a) such direction shall not conflict with any rule of law or with any express provision of this Indenture;

(b) the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction; provided, however, that subject to Section 6.1, the Trustee

need not take any action that it determines might involve it in liability or expense (unless the Trustee has received the indemnity as set forth in (c) below);

(c) the Trustee shall have been provided with security or indemnity reasonably satisfactory to it with respect to such direction; and

(d) notwithstanding the foregoing, any direction to the Trustee to undertake a Sale of the Assets shall be by the Holders of Notes secured thereby representing the requisite percentage of the Aggregate Outstanding Amount of Notes specified in Section 5.5.

**Section 5.14. Waiver of Past Defaults.** Prior to the time a judgment or decree for payment of the Money due has been obtained by the Trustee, as provided in this Article V, a Majority of the Controlling Class may on behalf of the Holders of all the Notes waive any past Default and its consequences, except a Default:

(a) in the payment of the principal of any Secured Note (which may be waived with the consent of each Holder of such Secured Note);

(b) in the payment of interest on the Class A Notes and the Class B Notes or, if there are no Class A Notes or Class B Notes Outstanding, the Notes of the Controlling Class (which may be waived with the consent of the Holders of 100% of the Class A Notes and the Class B Notes or the Notes of the Controlling Class, as applicable); or

(c) in respect of a covenant or provision hereof that under Section 8.2 cannot be modified or amended without the waiver or consent of the Holder of each Outstanding Note materially and adversely affected thereby (which may be waived with the consent of each such Holder).

In the case of any such waiver, the Co-Issuers, the Trustee and the Holders of the Notes shall be restored to their former positions and rights hereunder, respectively, but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereto. The Trustee shall promptly give written notice of any such waiver to Moody's, the Collateral Manager and each Holder.

Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture, but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereto.

**Section 5.15. Undertaking for Costs.** All parties to this Indenture agree, and each Holder of any Note by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee, Collateral Administrator or Collateral Manager for any action taken, or omitted by it as Trustee, Collateral Administrator or Collateral Manager, as applicable, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits

and good faith of the claims or defenses made by such party litigant; but the provisions of this Section 5.15 shall not apply to any suit instituted by the Trustee, to any suit instituted by any Noteholder, or group of Noteholders, holding in the aggregate more than 10% in Aggregate Outstanding Amount of the Controlling Class, or to any suit instituted by any Noteholder for the enforcement of the payment of the principal of or interest on any Note on or after the applicable Stated Maturity (or, in the case of redemption, on or after the applicable Redemption Date).

**Section 5.16. Waiver of Stay or Extension Laws.** The Co-Issuers covenant (to the extent that they may lawfully do so) that they shall not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law or any valuation, appraisement, redemption or marshalling law or rights, in each case wherever enacted, now or at any time hereafter in force, which may affect the covenants, the performance of or any remedies under this Indenture; and the Co-Issuers (to the extent that they may lawfully do so) hereby expressly waive all benefit or advantage of any such law or rights, and covenant that they shall not hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law had been enacted or rights created.

**Section 5.17. Sale of Assets.** (a) The power to effect any sale (a "Sale") of all or any portion of the Assets pursuant to Sections 5.4 and 5.5 shall not be exhausted by any one or more Sales as to any portion of such Assets remaining unsold, but shall continue unimpaired until the entire Assets shall have been sold or all amounts secured by the Assets shall have been paid. The Trustee may upon notice provided as soon as reasonably practicable to the Noteholders, and shall, upon direction of the Holders of Notes representing the requisite percentage of the Aggregate Outstanding Amount of Notes having the power to direct such Sale, from time to time postpone any Sale by public announcement made at the time and place of such Sale pursuant to Section 5.5. The Trustee hereby expressly waives its rights to any amount fixed by law as compensation for any Sale; provided that the Trustee and the Collateral Manager shall be authorized to deduct the reasonable costs, charges and expenses incurred by it in connection with such Sale from the proceeds thereof notwithstanding the provisions of Section 6.7.

(b) The Trustee may bid for and acquire any portion of the Assets in connection with a public Sale thereof, and may pay all or part of the purchase price by crediting against amounts owing on the Secured Notes or other amounts secured by the Assets, all or part of the net proceeds of such Sale after deducting the reasonable costs, charges and expenses incurred by the Trustee in connection with such Sale notwithstanding the provisions of Section 6.7. The Secured Notes need not be produced in order to complete any such Sale, or in order for the net proceeds of such Sale to be credited against amounts owing on the Notes. The Trustee may hold, lease, operate, manage or otherwise deal with any property so acquired in any manner permitted by law in accordance with this Indenture.

(c) If any portion of the Assets consists of securities issued without registration under the Securities Act ("Unregistered Securities"), the Collateral Manager may seek an Opinion of Counsel, or, if no such Opinion of Counsel can be obtained and with the written consent of a Majority of the Controlling Class, seek a no action position from the Securities and

Exchange Commission or any other relevant federal or State regulatory authorities, regarding the legality of a public or private Sale of such Unregistered Securities.

(d) The Trustee shall execute and deliver an appropriate instrument of conveyance transferring its interest in any portion of the Assets in connection with a Sale thereof. In addition, the Trustee is hereby irrevocably appointed the agent and attorney in fact of the Issuer to transfer and convey its interest in any portion of the Assets in connection with a Sale thereof, and to take all action necessary to effect such Sale. No purchaser or transferee at such a sale shall be bound to ascertain the Trustee's authority, to inquire into the satisfaction of any conditions precedent or see to the application of any Monies.

(e) The Trustee shall provide notice as soon as reasonably practicable of any public Sale to the Holders of Notes, and the Holders shall be permitted to participate in any such public Sale to the extent such Holders meet any applicable eligibility requirements with respect to such Sale.

Section 5.18. Action on the Notes. The Trustee's right to seek and recover judgment on the Notes or under this Indenture shall not be affected by the seeking or obtaining of or application for any other relief under or with respect to this Indenture. Neither the lien of this Indenture nor any rights or remedies of the Trustee or the Noteholders shall be impaired by the recovery of any judgment by the Trustee against the Issuer or by the levy of any execution under such judgment upon any portion of the Assets or upon any of the assets of the Issuer or the Co-Issuer.

## ARTICLE VI

### THE TRUSTEE

Section 6.1. Certain Duties and Responsibilities. (a) Except during the continuance of an Event of Default known to the Trustee:

(i) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; provided, however, that in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they substantially conform on their face to the requirements of this Indenture and shall promptly, but in any event within three Business Days in the case of an Officer's certificate furnished by the Collateral Manager, notify the party delivering the same if such certificate or opinion does not conform. If a corrected form shall not have been delivered to the

Trustee within 15 days after such notice from the Trustee, the Trustee shall so notify the Noteholders.

(b) In case an Event of Default known to the Trustee has occurred and is continuing, the Trustee shall, prior to the receipt of directions, if any, from a Majority of the Controlling Class, exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) this subsection shall not be construed to limit the effect of subsection (a) of this Section 6.1;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Trust Officer, unless it shall be proven that the Trustee was negligent in ascertaining the pertinent facts;

(iii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Issuer or the Co-Issuer or the Collateral Manager in accordance with this Indenture and/or a Majority (or such other percentage as may be required by the terms hereof) of the Controlling Class (or other Class if required or permitted by the terms hereof), relating to the time, method and place of conducting any Proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture;

(iv) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers contemplated hereunder, if it shall have reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not reasonably assured to it unless such risk or liability relates to the performance of its ordinary services, including mailing of notices under Article V, under this Indenture (and it is hereby expressly acknowledged and agreed, without implied limitation, that the enforcement or exercise of rights and remedies under Article V, and/or the commencement of or participation in any legal proceeding does not constitute "ordinary services"); and

(v) in no event shall the Trustee be liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including but not limited to lost profits) even if the Trustee has been advised of the likelihood of such damages and regardless of the form of such action.

(d) For all purposes under this Indenture, the Trustee shall not be deemed to have notice or knowledge of any Default or Event of Default described in Sections 5.1(c), (d), (e), or (f) or any other matter unless a Trust Officer assigned to and working in the Corporate Trust

Office has actual knowledge thereof or unless written notice of any event which is in fact such an Event of Default or Default or other matter, as the case may be, is received by the Trustee at the Corporate Trust Office, and such notice references the Notes generally, the Issuer, the Co-Issuer, the Assets or this Indenture. For purposes of determining the Trustee's responsibility and liability hereunder, whenever reference is made in this Indenture to such an Event of Default or a Default, such reference shall be construed to refer only to such an Event of Default or Default of which the Trustee is deemed to have notice as described in this Section 6.1.

(e) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section 6.1.

(f) The Trustee shall, upon reasonable (but no less than three Business Days') prior written notice to the Trustee, permit any representative of a Holder of a Note, during the Trustee's normal business hours, to examine all books of account, records, reports and other papers of the Trustee (other than items protected by attorney-client privilege or documents delivered to the Trustee by the Independent account appointed pursuant to Section 10.8) relating to the Notes, to make copies and extracts therefrom (the reasonable out-of-pocket expenses incurred in making any such copies or extracts to be reimbursed to the Trustee by such Holder) and to discuss the Trustee's actions, as such actions relate to the Trustee's duties with respect to the Notes, with the Trustee's Officers and employees responsible for carrying out the Trustee's duties with respect to the Notes.

**Section 6.2. Notice of Default.** As soon as reasonably practicable (and in no event later than two Business Days) after the occurrence of any Default actually known to a Trust Officer of the Trustee or after any declaration of acceleration has been made or delivered to the Trustee pursuant to Section 5.2, the Trustee shall give notice to the Co-Issuers, the Collateral Manager, DTC, the Rating Agency, each Hedge Counterparty, each Paying Agent, all Holders, and the Irish Stock Exchange, for so long as any Class of Notes is listed on the Irish Stock Exchange and so long as the guidelines of such exchange so require, of all Defaults hereunder actually known to the Trust Officer of the Trustee, unless such Default shall have been cured or waived.

**Section 6.3. Certain Rights of Trustee.** Except as otherwise provided in Section 6.1:

(a) the Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, note or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) any direction of the Issuer or the Co-Issuer mentioned herein shall be sufficiently evidenced by an Issuer Order;

(c) whenever in the administration of this Indenture the Trustee shall (i) deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the

absence of bad faith on its part, rely upon an Officer's certificate or Issuer Order, or (ii) be required to determine the value of any Assets or funds hereunder or the cash flows projected to be received therefrom, the Trustee may, in the absence of bad faith on its part, rely on reports of nationally recognized accountants (which may or may not be the Independent accountants appointed by the Issuer pursuant to Section 10.8), investment bankers or other Persons qualified to provide the information required to make such determination, including nationally recognized dealers in securities of the type being valued and securities quotation services;

(d) as a condition to the taking or omitting of any action by it hereunder, the Trustee may consult with counsel and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in reliance thereon;

(e) the Trustee shall be under no obligation to exercise, enforce or to honor any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders pursuant to this Indenture, unless such Holders shall have provided to the Trustee security or indemnity reasonably satisfactory to it against the costs, expenses (including reasonable attorneys' fees and expenses) and liabilities which might reasonably be incurred by it in compliance with such request or direction;

(f) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, note or other paper or document, but the Trustee, in its discretion, may, and upon the written direction of a Majority of the Controlling Class or of a Rating Agency shall, make such further inquiry or investigation into such facts or matters as it may see fit or as it shall be directed, and the Trustee shall be entitled, on reasonable prior notice to the Co-Issuers and the Collateral Manager, to examine the books and records relating to the Notes and the Assets, personally or by agent or attorney, during the Co-Issuers' or the Collateral Manager's normal business hours; provided that the Trustee shall, and shall cause its agents to, hold in confidence all such information, except (i) to the extent disclosure may be required by law or by any regulatory, administrative or governmental authority and (ii) to the extent that the Trustee, in its sole judgment, may determine that such disclosure is consistent with its obligations hereunder; provided, further, that the Trustee may disclose on a confidential basis any such information to its agents, attorneys and auditors in connection with the performance of its responsibilities hereunder;

(g) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys; provided that the Trustee shall not be responsible for any misconduct or negligence on the part of any non-Affiliated agent or non-Affiliated attorney appointed with due care by it hereunder;

(h) the Trustee shall not be liable for any action it takes or omits to take in good faith that it reasonably believes to be authorized or within its rights or powers hereunder, including any actions at the direction of the Collateral Manager;

(i) nothing herein shall be construed to impose an obligation on the part of the Trustee to recalculate, evaluate, verify or independently determine the accuracy of any report,

certificate or information received from the Issuer, Collateral Administrator or Collateral Manager;

(j) to the extent any defined term hereunder, or any calculation required to be made or determined by the Trustee hereunder, is dependent upon or defined by reference to generally accepted accounting principles (as in effect in the United States) ("GAAP"), the Trustee shall be entitled to request and receive (and conclusively rely upon) instruction from the Issuer or, at the expense of the Issuer, from a firm of nationally recognized accountants (which may or may not be the Independent accountants appointed by the Issuer pursuant to Section 10.8) as to the application of GAAP in such connection, in any instance;

(k) to the extent permitted by applicable law, the Trustee shall not be required to give any bond or surety in respect of the execution of this Indenture or otherwise;

(l) the Trustee shall not be deemed to have notice or knowledge of any matter unless a Trust Officer has actual knowledge thereof or unless written notice thereof is received by the Trustee at the Corporate Trust Office and such notice references the Notes generally, the Issuer, the Co-Issuer or this Indenture;

(m) the permissive rights of the Trustee to take or refrain from taking any actions enumerated in this Indenture shall not be construed as a duty;

(n) the Trustee shall not be responsible for delays or failures in performance resulting from acts beyond its control;

(o) in making or disposing of any investment permitted by this Indenture, the Trustee is authorized to deal with itself (in its individual capacity) or with any one or more of its Affiliates, whether it or such Affiliate is acting as a subagent of the Trustee or for any third person or dealing as principal for its own account. If otherwise qualified, obligations of the Bank or any of its Affiliates shall qualify as Eligible Investments hereunder;

(p) the Trustee or its Affiliates are permitted to receive additional compensation that could be deemed to be in the Trustee's economic self-interest for (i) serving as investment adviser, administrator, shareholder, servicing agent, custodian or sub-custodian with respect to certain of the Eligible Investments, (ii) using Affiliates to effect transactions in certain Eligible Investments and (iii) effecting transactions in certain Eligible Investments. Such compensation is not payable or reimbursable under Section 6.7;

(q) to help fight the funding of terrorism and money laundering activities, the Trustee shall obtain, verify, and record information that identifies individuals or entities that establish a relationship or open an account with the Trustee. The Trustee shall ask for the name, address, tax identification number and other information that will allow the Trustee to identify the individual or entity who is establishing the relationship or opening the account. The Trustee may also ask for formation documents such as articles of incorporation, an offering memorandum, or other identifying documents to be provided;

(r) the Trustee shall not be liable for the actions or omissions of the Collateral Manager, the Issuer, the Co-Issuer, any Paying Agent (other than the Trustee), any Authenticating Agent (other than the Trustee), any non-Affiliated custodian, clearing agency, common depository, Euroclear or Clearstream Luxembourg and without limiting the foregoing, the Trustee shall not be under any obligation to monitor, evaluate or verify compliance by the Collateral Manager with the terms hereof or the Collateral Management Agreement, or to verify or independently determine the accuracy of information received by it from the Collateral Manager (or from any selling institution, agent bank, trustee or similar source) with respect to the Collateral;

(s) neither the Trustee nor the Collateral Administrator shall have any obligation to determine if: (a) a Collateral Obligation meets the criteria specified in the definition thereof, or (b) the conditions specified in the definition of Deliver have been complied with;

(t) the Collateral Administrator shall have the same rights, privileges and indemnities afforded to the Trustee in this Article VI; provided that such rights, immunities and indemnities shall be in addition to, and not in limitation of, any rights, immunities and indemnities provided in the Collateral Administration Agreement;

(u) in the event that the Bank is also acting in the capacity of Paying Agent, Transfer Agent, registrar, custodian, Calculation Agent or securities intermediary, the rights, protections, immunities and indemnities afforded to the Trustee pursuant to this Article VI shall also be afforded to the Bank acting in such capacities; and

(v) the Trustee shall not be responsible for delays or failures in performance resulting from acts beyond its control. Such acts include but are not limited to acts of God, strikes, lockouts, riots and acts of war.

**Section 6.4. Not Responsible for Recitals or Issuance of Notes.** The recitals contained herein and in the Notes, other than the Certificate of Authentication thereon, shall be taken as the statements of the Applicable Issuers; and the Trustee assumes no responsibility for their correctness. The Trustee makes no representation as to the validity or sufficiency of this Indenture (except as may be made with respect to the validity of the Trustee's obligations hereunder), the Assets or the Notes. The Trustee shall not be accountable for the use or application by the Co-Issuers of the Notes or the proceeds thereof or any Money paid to the Co-Issuers pursuant to the provisions hereof.

**Section 6.5. May Hold Notes.** The Trustee, any Paying Agent, Registrar or any other agent of the Co-Issuers, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with the Co-Issuers or any of their Affiliates with the same rights it would have if it were not Trustee, Paying Agent, Registrar or such other agent.

**Section 6.6. Money Held in Trust.** Money held by the Trustee hereunder shall be held in trust to the extent required herein. The Trustee shall be under no liability for interest on any Money received by it hereunder, except in its capacity as the Bank to the extent of income or other gain on investments which are deposits in or certificates of deposit of the Bank

in its commercial capacity and income or other gain actually received by the Trustee on Eligible Investments.

Section 6.7. Compensation and Reimbursement. (a) Subject to the Priority of Payments, the Issuer agrees:

(i) to pay the Trustee on each Quarterly Payment Date reasonable compensation as set forth in a separate fee schedule dated on or near the Closing Date between the Trustee and the Issuer for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(ii) except as otherwise expressly provided herein, to reimburse the Trustee in a timely manner upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including, without limitation, expenses incurred in connection with compliance with the Code (including FATCATax Account Reporting Rules Compliance), securities transaction charges and the reasonable compensation and expenses and disbursements of its agents and legal counsel and of any accounting firm or investment banking firm employed by the Trustee pursuant to Sections 5.4, 5.5, 10.7 or any other term of this Indenture, except any such expense, disbursement or advance as may be attributable to its negligence, willful misconduct or bad faith) but with respect to securities transaction charges, only to the extent any such charges have not been waived during a Collection Period due to the Trustee's receipt of a payment from a financial institution with respect to certain Eligible Investments, as specified by the Collateral Manager in writing;

(iii) to indemnify the Trustee and its Officers, directors, employees and agents for, and to hold them harmless against, any loss, liability or expense incurred without negligence, willful misconduct or bad faith on their part, and arising out of or in connection with the acceptance or administration of this Indenture and the transactions contemplated thereby, including the costs and expenses of defending themselves (including reasonable attorney's fees and costs) against any claim or liability in connection with the exercise or performance of any of their powers or duties hereunder and under any other transaction document related hereto; and

(iv) to pay the Trustee reasonable additional compensation together with its expenses (including reasonable counsel fees) for any collection action taken pursuant to Section 6.13 or the exercise or enforcement of remedies pursuant to Article V.

(b) The Trustee shall receive amounts pursuant to this Section 6.7 in accordance with the Priority of Payments but only to the extent that funds are available for the payment thereof. Subject to Section 6.9, the Trustee shall continue to serve as Trustee under this Indenture notwithstanding the fact that the Trustee shall not have received amounts due it hereunder; provided that nothing herein shall impair or affect the Trustee's rights under Section 6.9. No direction by the Noteholders shall affect the right of the Trustee to collect amounts owed to it under this Indenture. If on any date when a fee or expense shall be payable to the Trustee pursuant to this Indenture insufficient funds are available for the payment thereof, any

portion of a fee not so paid shall be deferred and payable on such later date on which a fee shall be payable and sufficient funds are available therefor. The Issuer's obligations under this Section 6.7 shall survive the termination of the Indenture and the resignation or removal of the Trustee pursuant to Section 6.9.

(c) The Trustee hereby agrees not to cause the filing of a petition in bankruptcy against the Issuer, the Co-Issuer or any Tax Subsidiary for the non-payment to the Trustee of any amounts provided by this Section 6.7 until at least one year (or if longer, the applicable preference period then in effect) plus one day after the payment in full of all Notes issued under this Indenture.

(d) To the extent that the entity acting as Trustee is acting as Registrar, Calculation Agent, Paying Agent, Authenticating Agent, Securities Intermediary or Intermediary, the rights, privileges, immunities and indemnities set forth in this Article VI shall also apply to it acting in each such capacity.

**Section 6.8. Corporate Trustee Required; Eligibility.** There shall at all times be a Trustee hereunder which shall be an organization or entity organized and doing business under the laws of the United States of America or of any state thereof, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least U.S.\$200,000,000, subject to supervision or examination by federal or state authority, having a long-term debt rating of at least "Baa1" by Moody's and having an office within the United States. If such organization or entity publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section 6.8, the combined capital and surplus of such organization or entity shall be deemed to be its combined capital and surplus as set forth in its most recent published report of condition. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 6.8, it shall resign immediately in the manner and with the effect hereinafter specified in this Article VI.

**Section 6.9. Resignation and Removal; Appointment of Successor.** (a) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article VI shall become effective until the acceptance of appointment by the successor Trustee under Section 6.10.

(b) The Trustee may resign at any time by giving written notice thereof to the Co-Issuers, the Collateral Manager, the Holders of the Notes and the Rating Agency not less than 60 days prior to such resignation. Upon receiving such notice of resignation, the Co-Issuers shall promptly appoint a successor trustee or trustees satisfying the requirements of Section 6.8 by written instrument, in duplicate, executed by an Authorized Officer of the Issuer and an Authorized Officer of the Co-Issuer, one copy of which shall be delivered to the Trustee so resigning and one copy to the successor Trustee or Trustees, together with a copy to each Holder and the Collateral Manager; provided that the Issuer shall provide prior written notice to the Rating Agency of any such appointment; provided, further, that the Issuer shall not appoint such successor trustee or trustees without the consent of a Majority of the Secured Notes of each Class (**other than the Class X Notes**) voting as a single class (or, at any time when an Event of Default shall have occurred and be continuing or when a successor Trustee has been appointed pursuant

to Section 6.9(e), by an Act of a Majority of the Controlling Class) unless (i) the Issuer gives ten days' prior written notice to the Holders of such amendment and (ii) a Majority of the Secured Notes of each Class (**other than the Class X Notes**) voting as a single class (or, at any time when an Event of Default shall have occurred and be continuing or when a successor Trustee has been appointed pursuant to Section 6.9(e), a Majority of the Controlling Class) do not provide written notice to the Issuer objecting to such appointment (the failure of any such Majority to provide such notice to the Issuer within ten days of receipt of notice of such appointment from the Issuer being conclusively deemed to constitute hereunder consent to such appointment and approval of such successor trustee or trustees). If no successor Trustee shall have been appointed and an instrument of acceptance by a successor Trustee shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee or any Holder, on behalf of himself and all others similarly situated, may petition any court of competent jurisdiction for the appointment of a successor Trustee satisfying the requirements of Section 6.8.

(c) The Trustee may be removed at any time by Act of a Majority of each Class of Secured Notes (**other than the Class X Notes**) voting separately or, at any time when an Event of Default shall have occurred and be continuing by an Act of a Majority of the Controlling Class, delivered to the Trustee and to the Co-Issuers.

(d) If at any time:

(i) the Trustee shall cease to be eligible under Section 6.8 and shall fail to resign after written request therefor by the Co-Issuers or a Majority of the Controlling Class; or

(ii) the Trustee shall become incapable of acting or shall be adjudged as bankrupt or insolvent or a receiver or liquidator of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation;

then, in any such case (subject to Section 6.9(a)), (A) the Co-Issuers, by Issuer Order, may remove the Trustee, or (B) subject to Section 5.15, any Holder may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(e) If the Trustee shall be removed or become incapable of acting, or if a vacancy shall occur in the office of the Trustee for any reason (other than resignation), the Co-Issuers, by Issuer Order, shall promptly appoint a successor Trustee. If the Co-Issuers shall fail to appoint a successor Trustee within 30 days after such removal or incapability or the occurrence of such vacancy, a successor Trustee may be appointed by a Majority of the Controlling Class by written instrument delivered to the Issuer and the retiring Trustee. The successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee and supersede any successor Trustee proposed by the Co-Issuers. If no successor Trustee shall have been so appointed by the Co-Issuers or a Majority of the Controlling Class and shall have accepted appointment in the manner hereinafter provided, subject to Section

5.15, the retiring Trustee may, or any Holder may, on behalf of itself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee.

(f) The Co-Issuers shall give prompt notice of each resignation and each removal of the Trustee and each appointment of a successor Trustee by mailing written notice of such event by first class mail, postage prepaid, to the Collateral Manager, to the Holders of the Notes and to the Rating Agency. Each notice shall include the name of the successor Trustee and the address of its Corporate Trust Office. If the Co-Issuers fail to provide such notice within ten days after acceptance of appointment by the successor Trustee, the successor Trustee shall cause such notice to be given at the expense of the Co-Issuers.

(g) Any resignation or removal of the Trustee under this Section 6.9 shall be an effective resignation or removal of the Bank in all capacities under this Indenture and as Collateral Administrator under the Collateral Administration Agreement.

Section 6.10. Acceptance of Appointment by Successor. Every successor Trustee appointed hereunder shall meet the requirements of Section 6.8 and shall execute, acknowledge and deliver to the Co-Issuers and the retiring Trustee an instrument accepting such appointment. Upon delivery of the required instruments, the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts, duties and obligations of the retiring Trustee; but, on request of the Co-Issuers or a Majority of any Class of Secured Notes or the successor Trustee, such retiring Trustee shall, upon payment of its charges then unpaid, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee, and shall duly assign, transfer and deliver to such successor Trustee all property and Money held by such retiring Trustee hereunder. Upon request of any such successor Trustee, the Co-Issuers shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts.

Section 6.11. Merger, Conversion, Consolidation or Succession to Business of Trustee. Any organization or entity into which the Trustee may be merged or converted or with which it may be consolidated, or any organization or entity resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any organization or entity succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such organization or entity shall be otherwise qualified and eligible under this Article VI, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any of the Notes has been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Notes so authenticated with the same effect as if such successor Trustee had itself authenticated such Notes.

Section 6.12. Co-Trustees. At any time or times, for the purpose of meeting the legal requirements of any jurisdiction in which any part of the Assets may at the time be located, the Co-Issuers and the Trustee shall have power to appoint one or more Persons that meets the requirements of Section 6.8 to act as co-trustee, jointly with the Trustee, of all or any

part of the Assets, with the power to file such proofs of claim and take such other actions pursuant to Section 5.6 and to make such claims and enforce such rights of action on behalf of the Holders, as such Holders themselves may have the right to do, subject to the other provisions of this Section 6.12. The Issuer shall give notice of the appointment of a co-trustee to the Rating Agency.

The Co-Issuers shall join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to appoint a co-trustee. If the Co-Issuers do not join in such appointment within 15 days after the receipt by them of a request to do so, the Trustee shall have the power to make such appointment.

Should any written instrument from the Co-Issuers be required by any co-trustee so appointed, more fully confirming to such co-trustee such property, title, right or power, any and all such instruments shall, on request, be executed, acknowledged and delivered by the Co-Issuers. The Co-Issuers agree to pay (but only from and to the extent of the Assets), to the extent funds are available therefor under the Priority of Payments, any reasonable fees and expenses in connection with such appointment.

Every co-trustee shall, to the extent permitted by law, but to such extent only, be appointed subject to the following terms:

(a) the Notes shall be authenticated and delivered and all rights, powers, duties and obligations hereunder in respect of the custody of securities, Cash and other personal property held by, or required to be deposited or pledged with, the Trustee hereunder, shall be exercised solely by the Trustee;

(b) the rights, powers, duties and obligations hereby conferred or imposed upon the Trustee in respect of any property covered by the appointment of a co-trustee shall be conferred or imposed upon and exercised or performed by the Trustee or by the Trustee and such co-trustee jointly as shall be provided in the instrument appointing such co-trustee;

(c) the Trustee at any time, by an instrument in writing executed by it, with the concurrence of the Co-Issuers evidenced by an Issuer Order, may accept the resignation of or remove any co-trustee appointed under this Section 6.12, and in case an Event of Default has occurred and is continuing, the Trustee shall have the power to accept the resignation of, or remove, any such co-trustee without the concurrence of the Co-Issuers. A successor to any co-trustee so resigned or removed may be appointed in the manner provided in this Section 6.12;

(d) no co-trustee hereunder shall be personally liable by reason of any act or omission of the Trustee hereunder;

(e) the Trustee shall not be liable by reason of any act or omission of a co-trustee; and

(f) any Act of Holders delivered to the Trustee shall be deemed to have been delivered to each co-trustee.

Section 6.13. Certain Duties of Trustee Related to Delayed Payment of Proceeds. In the event that in any month the Trustee shall not have received a payment with respect to any Pledged Obligation on its Due Date, (a) the Trustee shall promptly notify the Issuer and the Collateral Manager in writing and (b) unless within three Business Days (or the end of the applicable grace period for such payment, if longer) after such notice such payment shall have been received by the Trustee, or the Issuer, in its absolute discretion (but only to the extent permitted by Section 10.2(a)), shall have made provision for such payment satisfactory to the Trustee in accordance with Section 10.2(a), the Trustee shall request the issuer of such Pledged Obligation, the trustee under the related Underlying Instrument or paying agent designated by either of them, as the case may be, to make such payment as soon as practicable after such request but in no event later than three Business Days after the date of such request. In the event that such payment is not made within such time period, the Trustee, subject to the provisions of clause (iv) of Section 6.1(c), shall take such action as the Collateral Manager shall direct in writing. Any such action shall be without prejudice to any right to claim a Default or Event of Default under this Indenture. Notwithstanding any other provision hereof, the Trustee shall deliver to the Issuer or its designee any payment with respect to any Pledged Obligation or any additional Collateral Obligation received after the Due Date thereof to the extent the Issuer previously made provisions for such payment satisfactory to the Trustee in accordance with this Section 6.13 and such payment shall not be deemed part of the Assets.

Section 6.14. Authenticating Agents. Upon the request of the Co-Issuers, the Trustee shall, and if the Trustee so chooses the Trustee may, appoint one or more Authenticating Agents with power to act on its behalf and subject to its direction in the authentication of Notes in connection with issuance, transfers and exchanges under Sections 2.4, 2.5, 2.6, 2.7 and 8.5, as fully to all intents and purposes as though each such Authenticating Agent had been expressly authorized by such Sections to authenticate such Notes. For all purposes of this Indenture, the authentication of Notes by an Authenticating Agent pursuant to this Section 6.14 shall be deemed to be the authentication of Notes by the Trustee.

Any corporation into which any Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, consolidation or conversion to which any Authenticating Agent shall be a party, or any corporation succeeding to the corporate trust business of any Authenticating Agent, shall be the successor of such Authenticating Agent hereunder, without the execution or filing of any further act on the part of the parties hereto or such Authenticating Agent or such successor corporation.

Any Authenticating Agent may at any time resign by giving written notice of resignation to the Trustee and the Issuer. The Trustee may at any time terminate the agency of any Authenticating Agent by giving written notice of termination to such Authenticating Agent and the Co-Issuers. Upon receiving such notice of resignation or upon such a termination, the Trustee shall, upon the written request of the Issuer, promptly appoint a successor Authenticating Agent and shall give written notice of such appointment to the Co-Issuers.

Unless the Authenticating Agent is also the same entity as the Trustee, the Issuer agrees to pay to each Authenticating Agent from time to time reasonable compensation for its services, and reimbursement for its reasonable expenses relating thereto as an Administrative

Expense. The provisions of Sections 2.9, 6.4 and 6.5 shall be applicable to any Authenticating Agent.

**Section 6.15. Withholding.** If any withholding tax is imposed on the Issuer's payment (or allocations of income) under the Notes to any Holder, such tax shall reduce the amount otherwise distributable to such Holder. The Trustee or any Paying Agent is hereby authorized and directed to retain from amounts otherwise distributable to any Holder sufficient funds for the payment of any tax that is legally owed by the Issuer (but such authorization shall not prevent the Trustee or such Paying Agent from contesting any such tax in appropriate proceedings and withholding payment of such tax, if permitted by law, pending the outcome of such proceedings). The amount of any withholding tax imposed with respect to any Holder shall be treated as cash distributed to such Holder at the time it is withheld by the Trustee or any Paying Agent and remitted to the appropriate taxing authority. If there is a possibility that withholding tax is payable with respect to a distribution and the Trustee or any Paying Agent has not received documentation from such Holder showing an exemption from withholding, the Trustee or such Paying Agent shall withhold such amounts in accordance with this Section 6.15. If any Holder wishes to apply for a refund of any such withholding tax, the Trustee or such Paying Agent shall reasonably cooperate with such Holder in making such claim so long as such Holder agrees to reimburse the Trustee or such Paying Agent for any out-of-pocket expenses incurred. Nothing herein shall impose an obligation on the part of the Trustee or any Paying Agent to determine the amount of any tax or withholding obligation on the part of the Issuer or in respect of the Notes.

**Section 6.16. Representative for Secured Noteholders Only; Agent for each Hedge Counterparty and the Holders of the Subordinated Notes.** With respect to the security interest created hereunder, the delivery of any Asset to the Trustee is to the Trustee as representative of the Secured Noteholders and agent for each other Secured Party and the Holders of the Subordinated Notes. In furtherance of the foregoing, the possession by the Trustee of any Asset, the endorsement to or registration in the name of the Trustee of any Asset are all undertaken by the Trustee in its capacity as representative of the Secured Noteholders and agent for each other Secured Party and the Holders of the Subordinated Notes.

**Section 6.17. Representations and Warranties of the Bank.** The Bank hereby represents and warrants as follows:

(a) Organization. The Bank has been duly organized and is validly existing as a national banking association under the laws of the United States and has the power to conduct its business and affairs as a trustee.

(b) Authorization; Binding Obligations. The Bank has the corporate power and authority to perform the duties and obligations of trustee under this Indenture. The Bank has taken all necessary corporate action to authorize the execution, delivery and performance of this Indenture, and all of the documents required to be executed by the Bank pursuant hereto. Upon execution and delivery by the Bank, this Indenture shall constitute the legal, valid and binding obligation of the Bank enforceable against the Bank in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, liquidation and similar laws affecting the rights of creditors, and subject to equitable principles including

without limitation concepts of materiality, reasonableness, good faith and fair dealing (whether enforcement is sought in a legal or equitable Proceeding), and except that certain of such obligations may be enforceable solely against the Assets.

(c) Eligibility. The Bank is eligible under Section 6.8 to serve as Trustee hereunder.

(d) No Conflict. Neither the execution, delivery and performance of this Indenture, nor the consummation of the transactions contemplated by this Indenture, is prohibited by, or requires the Bank to obtain any consent, authorization, approval or registration with any United States federal agency or other governmental body under any United States federal regulation or law having jurisdiction over the banking or trust powers of the Bank.

Section 6.18. Communication with Rating Agency. Any written communication, including any confirmation, from a Rating Agency provided for or required to be obtained by the Trustee hereunder shall be sufficient in each case when such communication or confirmation is received by the Trustee, including by electronic message, facsimile, press release, posting to the applicable Rating Agency's website, or other means then considered industry standard. For the avoidance of doubt, no written communication given by Moody's under this Section 6.18 shall be deemed to satisfy the Moody's Rating Condition unless such communication is provided by Moody's specifically in satisfaction of the Moody's Rating Condition.

## ARTICLE VII

### COVENANTS

Section 7.1. Payment of Principal and Interest. The Applicable Issuers shall duly and punctually pay the principal of and interest on the Secured Notes, in accordance with the terms of such Notes and this Indenture pursuant to the Priority of Payments. The Issuer shall, to the extent legally permitted and to the extent funds are available pursuant to the Priority of Payments, duly and punctually pay all required distributions on the Subordinated Notes, in accordance with such Notes and this Indenture.

The Issuer shall, subject to the Priority of Payments, reimburse the Co-Issuer for any amounts paid by the Co-Issuer pursuant to the terms of the Notes or this Indenture. The Co-Issuer shall not reimburse the Issuer for any amounts paid by the Issuer pursuant to the terms of the Notes or this Indenture.

Amounts properly withheld under the Code or other applicable law by any Person from a payment to any Holder shall be considered as having been paid by the Applicable Issuers to such Holder for all purposes of this Indenture.

Section 7.2. Maintenance of Office or Agency. The Co-Issuers hereby appoint the Trustee as a Paying Agent for payments on the Notes. Notes may be surrendered for

registration of transfer or exchange at the Corporate Trust Office of the Trustee or its agent designated for purposes of surrender, transfer or exchange.

The Co-Issuers hereby appoint National Corporate Research, LtdCogency Global Inc., at 10 East 40<sup>th</sup> Street, 10<sup>th</sup> Floor, New York, NY 10016, as agent upon whom process or demands may be served in any action arising out of or based on this Indenture or the transactions contemplated hereby (the "Process Agent").

The Co-Issuers may at any time and from time to time vary or terminate the appointment of any such agent or appoint any additional agents for any or all of such purposes; provided, however, that the Co-Issuers shall maintain in the Borough of Manhattan, The City of New York, a Process Agent and, subject to any laws or regulations applicable thereto, an office or agency outside of the United States where Notes may be presented and surrendered for payment; provided, further, that no paying agent shall be appointed in a jurisdiction which subjects payments on the Notes to withholding tax in excess of any withholding tax that was imposed on such payments immediately before the appointment. The Co-Issuers hereby appoint the Irish Listing Agent with respect to the Listed Notes and will maintain an Irish Listing Agent so long as any Notes are listed on the Irish Stock Exchange. In the event that the Irish Listing Agent is replaced at any time during such period, notice of the appointment of any replacement shall be provided to the Irish Stock Exchange as promptly as practicable after such appointment. The Co-Issuers shall give written notice as soon as reasonably practicable to the Trustee, the Holders, and the Rating Agency of the appointment or termination of any Process Agent.

If at any time the Co-Issuers shall fail to maintain a Process Agent in the Borough of Manhattan, The City of New York, or an office outside the United States, or shall fail to furnish the Trustee with the address thereof, presentations and surrenders may be made (subject to the limitations described in the preceding paragraph) at and notices and demands may be served on the Co-Issuers, and Notes may be presented and surrendered for payment to the appropriate Paying Agent at its main office, and the Co-Issuers hereby appoint the same as their agent to receive such respective presentations, surrenders, notices and demands.

**Section 7.3. Money for Note Payments to Be Held in Trust.** All payments of amounts due and payable with respect to any Notes that are to be made from amounts withdrawn from the Payment Account shall be made on behalf of the Applicable Issuers by the Trustee or a Paying Agent with respect to payments on the Notes.

When the Applicable Issuers shall have a Paying Agent that is not also the Registrar, they shall furnish, or cause the Registrar to furnish, no later than the fifth calendar day after each Record Date a list, if necessary, in such form as such Paying Agent may reasonably request, of the names and addresses of the Holders and of the certificate numbers of individual Notes held by each such Holder.

Whenever the Applicable Issuers shall have a Paying Agent other than the Trustee, they shall, on or before the Business Day next preceding each Payment Date or (other than a Redemption Date, as the case may be, in connection with a Partial Redemption by Refinancing occurring on a date other than a Quarterly Payment Date) direct the Trustee to deposit on such Payment Date with such Paying Agent, if necessary, an aggregate sum sufficient

to pay the amounts then becoming due (to the extent funds are then available for such purpose in the Payment Account), such sum to be held in trust for the benefit of the Persons entitled thereto and (unless such Paying Agent is the Trustee) the Co-Issuers shall promptly notify the Trustee of its action or failure so to act. Any Monies deposited with a Paying Agent (other than the Trustee) in excess of an amount sufficient to pay the amounts then becoming due on the Notes with respect to which such deposit was made shall be paid over by such Paying Agent to the Trustee for application in accordance with Article X.

The initial Paying Agent shall be as set forth in Section 7.2. Any additional or successor Paying Agents shall be appointed by Issuer Order with written notice thereof to the Trustee; provided, however, that so long as the Notes of any Class are rated by a Rating Agency, with respect to any additional or successor Paying Agent, either (i) such Paying Agent has a long-term debt rating of "A1" or higher by Moody's or a short-term debt rating of "P-1" by Moody's or (ii) the Global Rating Agency Condition is satisfied. In the case of clause (i), if such Paying Agent ceases to have a long-term debt rating of "A1" or higher by Moody's or a short-term debt rating of "P-1" by Moody's, the Co-Issuers shall promptly remove such Paying Agent and appoint a successor Paying Agent. The Co-Issuers shall not appoint any Paying Agent that is not, at the time of such appointment, a depository institution or trust company subject to supervision and examination by federal and/or state and/or national banking authorities. The Co-Issuers shall cause each Paying Agent other than the Trustee to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee and if the Trustee acts as Paying Agent, it hereby so agrees, subject to the provisions of this Section 7.3, that such Paying Agent shall:

(a) allocate all sums received for payment to the Holders of Notes for which it acts as Paying Agent on each Payment Date and(including) any Redemption Date) among such Holders in the proportion specified in the applicable Distribution Report or report pertaining to such Redemption Date to the extent permitted by applicable law;

(b) hold all sums held by it for the payment of amounts due with respect to the Notes in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein provided and pay such sums to such Persons as herein provided;

(c) if such Paying Agent is not the Trustee, immediately resign as a Paying Agent and forthwith pay to the Trustee all sums held by it in trust for the payment of Notes if at any time it ceases to meet the standards set forth above required to be met by a Paying Agent at the time of its appointment;

(d) if such Paying Agent is not the Trustee, immediately give the Trustee notice of any Default by the Issuer or the Co-Issuer (or any other obligor upon the Notes) in the making of any payment required to be made; and

(e) if such Paying Agent is not the Trustee, during the continuance of any such Default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

The Co-Issuers may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or by Issuer Order direct any Paying Agent to pay, to the Trustee all sums held in trust by the Co-Issuers or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Co-Issuers or such Paying Agent; and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such Money.

Except as otherwise required by applicable law, any Money deposited with the Trustee or any Paying Agent in trust for any payment on any Note and remaining unclaimed for two years after such amount has become due and payable shall be paid to the Applicable Issuers; and the Holder of such Note shall thereafter, as an unsecured general creditor, look only to the Applicable Issuers for payment of such amounts (but only to the extent of the amounts so paid to the Applicable Issuers) and all liability of the Trustee or such Paying Agent with respect to such trust Money shall thereupon cease. The Trustee or such Paying Agent, before being required to make any such release of payment, may, but shall not be required to, adopt and employ, at the expense of the Applicable Issuers any reasonable means of notification of such release of payment, including, but not limited to, mailing notice of such release to Holders whose Notes have been called but have not been surrendered for redemption or whose right to or interest in Monies due and payable but not claimed is determinable from the records of any Paying Agent, at the last address of record of each such Holder.

**Section 7.4. Existence of Co-Issuers.** (a) The Issuer and the Co-Issuer shall, to the maximum extent permitted by applicable law, maintain in full force and effect their existence and rights as companies incorporated or organized under the laws of the Cayman Islands and the State of Delaware, respectively, and shall obtain and preserve their qualification to do business as foreign corporations in each jurisdiction in which such qualifications are or shall be necessary to protect the validity and enforceability of this Indenture, the Notes or any of the Assets; provided, however, that the Issuer shall be entitled to change its jurisdiction of incorporation from the Cayman Islands to any other jurisdiction reasonably selected by the Issuer so long as (i) the Issuer has received a legal opinion (upon which the Trustee may conclusively rely) to the effect that such change is not disadvantageous in any material respect to the Holders, (ii) written notice of such change shall have been given by the Issuer to the Trustee (which shall provide notice to the Holders), the Collateral Manager, and the Rating Agency and (iii) on or prior to the 15th Business Day following receipt of such notice the Trustee shall not have received written notice from a Majority of the Controlling Class objecting to such change; and provided, further, that the Issuer shall be entitled to take any action required by this Indenture within the United States notwithstanding any provision of this Indenture requiring the Issuer to take such action outside of the United States so long as prior to taking any such action the Issuer receives Tax Advice to the effect that it is not necessary to take such action outside of the United States or any political subdivision thereof in order to prevent the Issuer from becoming subject to United States Federal, state or local income taxes on a net income basis to which the Issuer would not otherwise be subject.

(b) The Issuer and the Co-Issuer shall ensure that all corporate or other formalities regarding their respective existences (including, to the extent required by law, holding regular board of directors' and shareholders', or other similar, meetings) are followed. Neither the

Issuer nor the Co-Issuer shall take any action, or conduct its affairs in a manner, that is likely to result in its separate existence being ignored or in its assets and liabilities being substantively consolidated with any other Person in a bankruptcy, reorganization, winding up or other insolvency proceeding. Without limiting the foregoing, (i) the Issuer shall not have any subsidiaries (other than the Co-Issuer and any Tax Subsidiary), (ii) the Co-Issuer shall not have any subsidiaries and (iii) except to the extent contemplated in the Administration Agreement, the Registered Office Agreement or the Issuer's amended and restated declaration of trust dated as of the Closing Date, the Issuer and the Co-Issuer shall not (A) have any employees (other than their respective directors), (B) except as contemplated by the Collateral Management Agreement, the Memorandum and Articles, the Administration Agreement or the Registered Office Agreement, engage in any transaction with any shareholder that would constitute a conflict of interest or (C) pay dividends other than in accordance with the terms of this Indenture and the Memorandum and Articles.

(c) With respect to any Tax Subsidiary:

(i) the Issuer shall not permit such Tax Subsidiary to incur any indebtedness;

(ii) the constitutive documents of such Tax Subsidiary shall provide that (A) recourse with respect to the costs, expenses or other liabilities of such Tax Subsidiary shall be solely to the assets of such Tax Subsidiary and no creditor of such Tax Subsidiary shall have any recourse whatsoever to the Issuer or its assets except to the extent otherwise required under applicable law, (B) the activities and business purposes of such Tax Subsidiary shall be limited to holding securities or obligations in accordance with Section 12.1 and activities reasonably incidental thereto (including holding interests in other Tax Subsidiaries), (C) such Tax Subsidiary will not create, incur, assume or permit to exist any lien (other than a lien arising by operation of law), charge or other encumbrance on any of its assets, or sell, transfer, exchange or otherwise dispose of any of its assets, or assign or sell any income or revenues or rights in respect thereof, (D) such Tax Subsidiary will be subject to the limitations on powers set forth in the organizational documents of the Issuer, (E) if such Tax Subsidiary is a foreign corporation for U.S. Federal income tax purposes, such Tax Subsidiary shall file a USU.S. federal income tax return reporting all effectively connected income, if any, arising as a result of owning the permitted assets of such Tax Subsidiary, (F) after paying Taxes and expenses payable by such Tax Subsidiary or setting aside adequate reserves for the payment of such Taxes and expenses, such Tax Subsidiary will distribute 100% of the Cash proceeds of the assets acquired by it (net of such Taxes, expenses and reserves), (G) such Tax Subsidiary will not form or own any subsidiary or any interest in any other entity other than interests in another Tax Subsidiary or securities or obligations held in accordance with Section 12.1 that would otherwise be required to be sold by the Issuer pursuant to Section 12.1, (H) such Tax Subsidiary will not acquire or hold title to any real property or a controlling interest in any entity that owns real property and (I) such Tax Subsidiary shall not institute against the Issuer or the Co-Issuer any proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law, or a petition for its winding-up or liquidation, until the payment in full of all Notes

and the expiration of a period equal to one year (or, if longer, the applicable preference period then in effect) *plus* one day, following such payment in full;

(iii) the constitutive documents of such Tax Subsidiary shall provide that such Tax Subsidiary will (A) maintain books and records separate from any other Person, (B) maintain its accounts separate from those of any other Person, (C) not commingle its assets with those of any other Person, (D) conduct its own business in its own name, (E) maintain separate financial statements (if any), (F) pay its own liabilities out of its own funds; provided that the Issuer may pay expenses of such Tax Subsidiary to the extent that collections on the assets held by such Tax Subsidiary are insufficient for such purpose, (G) observe all corporate formalities and other formalities in its by-laws and its certificate of incorporation, (H) maintain an arm's length relationship with its Affiliates, (I) not have any employees, (J) not guarantee or become obligated for the debts of any other person (other than the Issuer) or hold out its credit as being available to satisfy the obligations of others (other than the Issuer), (K) not acquire obligations or securities of the Issuer, (L) allocate fairly and reasonably any overhead for shared office space, (M) use separate stationery, invoices and checks, (N) not pledge its assets for the benefit of any other Person or make any loans or advance to any Person, (O) hold itself out as a separate Person, (P) correct any known misunderstanding regarding its separate identity and (Q) maintain adequate capital in light of its contemplated business operations;

(iv) the constitutive documents of such Tax Subsidiary shall provide that the business of such Tax Subsidiary shall be managed by or under the direction of a board of at least one director (or, if such Tax Subsidiary is a limited liability company that does not have a board of directors, a manager whose vote is required for the initiation of any bankruptcy or other insolvency proceeding) and that at least one such director (or manager) shall be a person who is not at the time of appointment and for the five years prior thereto has not been (A) a direct or indirect legal or beneficial owner of the Collateral Manager, such Tax Subsidiary or any of their respective Affiliates (excluding *de minimis* ownership), (B) a creditor, supplier, officer, manager, or contractor of the Collateral Manager, such Tax Subsidiary or any of their respective Affiliates or (C) a person who controls (whether directly, indirectly or otherwise) the Collateral Manager, such Tax Subsidiary or any of their respective Affiliates or any creditor, supplier, officer, manager or contractor of the Collateral Manager, such Tax Subsidiary or any of their respective Affiliates;

(v) the constitutive documents of such Tax Subsidiary shall provide that, so long as the Tax Subsidiary is owned by the Issuer, upon the occurrence of the earliest of the date on which the Aggregate Outstanding Amount of each Class of Secured Notes is to be paid in full or the date of any voluntary or involuntary dissolution, liquidation or winding-up of the Issuer or the Co-Issuer, (x) the Issuer shall sell or otherwise dispose of all of its equity interests in such Tax Subsidiary within a reasonable time or (y) such Tax Subsidiary shall (A) sell or otherwise dispose of all of its property or, to the extent such Tax Subsidiary is unable to sell or otherwise dispose of such property within a reasonable time, distribute such property in kind to its stockholders, (B) make provision for the filing

of a tax return and any action required in connection with winding up such Tax Subsidiary, (C) liquidate and (D) distribute the proceeds of liquidation to its stockholders; and

(vi) at the request of the Collateral Manager, the Issuer will cause any Tax Subsidiary to enter into a separate management agreement with the Collateral Manager which agreement shall be substantially in the form of the Collateral Management Agreement. Notice of any such separate management agreement and a copy of such agreement shall be provided to the Rating Agency.

(d) Notwithstanding any other provision of this Indenture, the Co-Issuers and the Trustee agree, for the benefit of all Holders, not to institute against any Tax Subsidiary any proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law, or a petition for its winding-up or liquidation (other than, in the case of the Issuer, a winding-up or liquidation of a Tax Subsidiary that no longer holds any assets), until the payment in full of all Notes and the expiration of a period equal to one year (or, if longer, the applicable preference period then in effect) *plus* one day, following such payment in full.

**Section 7.5. Protection of Assets.** (a) The Issuer, or the Collateral Manager on behalf and at the expense of the Issuer, shall cause the taking of such action by the Issuer (or by the Collateral Manager if within the Collateral Manager's control under the Collateral Management Agreement) as is reasonably necessary in order to perfect and maintain the perfection and priority of the security interest of the Trustee in the Assets. The Issuer shall from time to time prepare or cause to be prepared, execute, deliver and file all such supplements and amendments hereto and all such Financing Statements, continuation statements, instruments of further assurance and other instruments, and shall take such other action as may be necessary or advisable or desirable to secure the rights and remedies of the Trustee for the benefit of the Secured Noteholders hereunder and to:

(i) Grant more effectively all or any portion of the Issuer's right, title and interest in, to and under the Assets;

(ii) maintain, preserve and perfect any Grant made or to be made by this Indenture including, without limitation, the first priority nature of the lien or carry out more effectively the purposes hereof;

(iii) perfect, publish notice of or protect the validity of any Grant made or to be made by this Indenture (including, without limitation, any and all actions necessary or desirable as a result of changes in law or regulations);

(iv) enforce any of the Pledged Obligations or other instruments or property included in the Assets;

(v) preserve and defend title to the Assets and the rights therein of the Secured Parties in the Assets against the claims of all Persons and parties; or

| (vi) if required to avoid or reduce the withholding, deduction, or imposition of United States income or withholding tax, and if reasonably able to do so, deliver or cause to be delivered the applicable tax form (**including a W-8BEN-E**) and other properly completed and executed documentation, agreements, and certifications to each issuer, counterparty, paying agent, and/or to any applicable taxing authority or other governmental authority as necessary to permit the Issuer to receive payments without withholding or deduction or at a reduced rate of withholding or deduction and to otherwise pay or cause to be paid any and all taxes levied or assessed upon all or any part of the Assets.

The Issuer hereby designates the Trustee as its agent and attorney in fact to prepare and file or record any Financing Statement (other than the Financing Statement delivered on the Closing Date), continuation statement and all other instruments, and take all other actions, required pursuant to this Section 7.5; provided that such appointment shall not impose upon the Trustee any of the Issuer's or the Collateral Manager's obligations under this Section 7.5. In connection therewith, the Trustee shall be entitled to rely on an Opinion of Counsel delivered in accordance with Section 7.6 as to the need to file, the dates by which such filings are required to be made and the jurisdiction in which such filings are to be made and the form and content of such filings. The Issuer further authorizes and in connection with the Closing Date shall cause the filing of a Financing Statement that names the Issuer as debtor and the Trustee, on behalf of the Secured Parties, as secured party and that describes the collateral as "all assets in which the debtor now or hereafter has rights."

(b) The Trustee shall not, except in accordance with Article V and Sections 10.7 and 12.1, as applicable, permit the removal of any portion of the Assets or transfer any such Assets from the Account to which it is credited, or cause or permit any change in the Delivery of any Assets, if, after giving effect thereto, the jurisdiction governing the perfection of the Trustee's security interest in such Assets is different from the jurisdiction governing the perfection at the time of delivery of the most recent Opinion of Counsel pursuant to Section 7.6 (or, if no Opinion of Counsel has yet been delivered pursuant to Section 7.6, the Opinion of Counsel delivered at the Closing Date pursuant to Section 3.1(a)(iii)) unless the Trustee shall have received an Opinion of Counsel to the effect that the lien and security interest created by this Indenture with respect to such property and the priority thereof shall continue to be maintained after giving effect to such action or actions.

(c) The Issuer shall register this Indenture in the Register of Mortgages and Charges at the Issuer's registered office in the Cayman Islands.

Section 7.6. Opinions as to Assets. For so long as any Secured Notes are Outstanding, no later than the March 31<sup>st</sup> that precedes the fifth anniversary of the Closing Date (and every five years thereafter), the Issuer shall furnish to the Trustee and, for so long as Moody's is a Rating Agency in respect of any Class of Rated Notes, Moody's, an Opinion of Counsel stating that, in the opinion of such counsel, as of the date of such opinion, the lien and security interest created by this Indenture with respect to the Assets remains a valid and perfected lien or the equivalent under applicable law and stating that no further action (other

than as specified in such opinion) needs to be taken under current law to ensure the continued effectiveness and perfection of such lien over the next year.

Section 7.7. Performance of Obligations. (a) The Co-Issuers, each as to itself, shall not take any action, and shall use their commercially reasonable efforts not to permit any action to be taken by others, that would release any Person from any of such Person's covenants or obligations under any instrument included in the Assets, except in the case of pricing amendments, ordinary course waivers/amendments, and enforcement action taken with respect to any Defaulted Obligation in accordance with the provisions hereof and actions by the Collateral Manager under the Collateral Management Agreement and in conformity with this Indenture or as otherwise required hereby.

(b) The Applicable Issuers may, with the prior written consent of a Majority of each Class of Secured Notes, other than the Class X Notes, (except in the case of the Collateral Management Agreement and the Collateral Administration Agreement, in which case no consent shall be required), contract with other Persons, including the Collateral Manager, the Trustee and the Collateral Administrator for the performance of actions and obligations to be performed by the Applicable Issuers hereunder and under the Collateral Management Agreement by such Persons. Notwithstanding any such arrangement, the Applicable Issuers shall remain primarily liable with respect thereto. In the event of such contract, the performance of such actions and obligations by such Persons shall be deemed to be performance of such actions and obligations by the Applicable Issuers; and the Applicable Issuers shall punctually perform, and use their commercially reasonable efforts to cause the Collateral Manager, the Trustee, the Collateral Administrator and such other Person to perform, all of their obligations and agreements contained in the Collateral Management Agreement, this Indenture, the Collateral Administration Agreement or any such other agreement.

(c) If the Co-Issuers receive a notice from a Rating Agency stating that they are not in compliance with Rule 17g-5, the Co-Issuers shall promptly take any action directed by such Rating Agency in such notice or shall take such other action as mutually agreed between the Co-Issuers and such Rating Agency.

Section 7.8. Negative Covenants. (a) The Issuer shall not and, with respect to clauses (i), (ii), (iii), (iv), (vi), (vii), (viii), (ix) and (x) the Co-Issuer shall not, in each case from and after the Closing Date, except as expressly permitted by this Indenture:

(i) sell, transfer, exchange or otherwise dispose of, or pledge, mortgage, hypothecate or otherwise encumber (or permit such to occur or suffer such to exist), any part of the Assets;

(ii) claim any credit on, make any deduction from, or dispute the enforceability of payment of the principal or interest payable (or any other amount) in respect of the Notes (other than amounts withheld in accordance with the Code or any applicable laws of the Cayman Islands or other applicable jurisdiction) or assert any claim against any present or future Holder of Notes, by reason of the payment of any taxes levied or assessed upon any part of the Assets, other than as described in Section 2.12;

|(iii) (A) incur or assume or guarantee any indebtedness, other than the Notes and this Indenture and the transactions contemplated hereby (**including a Refinancing**), or (B)(1) issue any additional class of securities (except as permitted in Section 2.4, Section 9.2 or Section 9.3) or (2) issue any additional shares;

(iv) (A) permit the validity or effectiveness of this Indenture or any Grant hereunder to be impaired, or permit the lien of this Indenture to be amended, hypothecated, subordinated, terminated or discharged, or permit any Person to be released from any covenants or obligations with respect to this Indenture or the Notes, (B) permit any lien, charge, adverse claim, security interest, mortgage or other encumbrance (other than the lien of this Indenture) to be created on or extend to or otherwise arise upon or burden any part of the Assets, any interest therein or the proceeds thereof, or (C) except as permitted by this Indenture, take any action that would permit the lien of this Indenture not to constitute a valid first priority security interest in the Assets;

(v) amend the Collateral Management Agreement except pursuant to the terms thereof;

(vi) dissolve or liquidate in whole or in part, except as permitted hereunder or required by applicable law;

(vii) pay any distributions other than in accordance with the Priority of Payments;

(viii) permit the formation of any subsidiaries (other than the Co-Issuer or any Tax Subsidiary);

(ix) conduct business under any name other than its own;

(x) except to the extent contemplated in the Administration Agreement, the Registered Office Agreement or the Issuer's declaration of trust, have any employees (other than directors to the extent they are employees);

(xi) sell, transfer, exchange or otherwise dispose of Assets, or enter into an agreement or commitment to do so or enter into or engage in any business with respect to any part of the Assets, except as expressly permitted by this Indenture or the Collateral Management Agreement;

(xii) elect to be **taxable** for U.S. federal income tax purposes as other than a foreign corporation without the unanimous consent of all Holders;

(xiii) establish a branch, agency, office or place of business in the United States, or take any action or engage in any activity (directly or through any other agent) which would subject it to United States federal, state, or local tax;

(xiv) solicit, advertise or publish **that** the **Issuer's****Issuer has the** ability to enter into credit derivatives;

(xv) register as or become subject to regulatory supervision or other legal requirements under the laws of any country or political subdivision thereof as a bank, insurance company or finance company;

(xvi) knowingly take any action that would reasonably be expected to cause it to be treated as a bank, insurance company or finance company for purposes of (i) any tax, securities law or other filing or submission made to any governmental authority, (ii) any application made to a rating agency or (iii) qualification for any exemption from tax, securities law or any other legal requirements; and

(xvii) hold itself out to the public as a bank, insurance company or finance company.

(b) The Co-Issuer shall not invest any of its assets in "securities" as such term is defined in the Investment Company Act, and shall keep all of its assets in Cash.

(c) So long as any Notes are Outstanding, the Co-Issuer shall not elect to be ~~taxable-treated~~ as other than a disregarded entity for U.S. federal ~~income, state or local~~ tax purposes ~~as other than a disregarded entity~~ without the unanimous consent of all Holders.

(d) Notwithstanding anything to the contrary contained herein, the Issuer shall not, and shall use its commercially reasonable efforts to ensure that the Collateral Manager acting on the Issuer's behalf does not, acquire or own any asset, conduct any activity or take any action unless the acquisition or ownership of such asset, the conduct of such activity or the taking of such action, as the case may be, would not cause the Issuer to be engaged, or deemed to be engaged, in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to United States federal income tax on a net income basis or income tax on a net income basis in any other jurisdiction.

(e) In furtherance and not in limitation of Section 7.8(d), notwithstanding anything to the contrary contained herein, the Issuer shall comply with all of the provisions set forth in Schedule A to the Collateral Management Agreement (the "Operating Guidelines"), unless, with respect to a particular transaction, the Issuer, the Collateral Manager and the Trustee shall have received Tax Advice to the effect that, under the relevant facts and circumstances with respect to such transaction, taking into account the Issuer's failure to comply with one or more of such provisions and assuming compliance with this Indenture and all other provisions in the Operating Guidelines, the Issuer's contemplated activities will not cause the Issuer to be engaged, or deemed to be engaged, in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to United States federal income tax on a net basis. The Operating Guidelines may be waived, amended, eliminated, modified or supplemented (without execution of an amendment to the Collateral Management Agreement) if the Issuer, the Collateral Manager and the Trustee shall have received Tax Advice to the effect that, assuming compliance with this Indenture and taking into account the Issuer's compliance with such amended provisions or supplemental provisions or the Issuer's failure to comply with such provisions proposed to be waived, amended, eliminated, modified or supplemented, as the case may be, the Issuer's contemplated activities ~~shall~~will not (A) result in the Issuer becoming subject to United States federal income taxation with respect to its net

income, (B) result in the Issuer being treated as being engaged in a trade or business within the United States for U.S. federal income tax purposes or (C) have a material adverse effect on the tax treatment of the Issuer or the tax consequences to the holders of any Class of Notes Outstanding at the time of issuance, as described in the Offering Circular under the heading "Certain Income Tax Considerations—United States Federal Income Taxation." For the avoidance of doubt, in the event Tax Advice has been obtained in accordance with the terms hereof, no consent of any Holder or Global Rating Agency Condition shall be required in order to comply with this Section 7.8(e) in connection with the waiver, amendment, elimination, modification or supplementation of any provision of the Operating Guidelines contemplated by such Tax Advice.

(f) The Issuer and the Co-Issuer shall not be party to any agreements (including Hedge Agreements) that require future payment by the Issuer without including customary "non-petition" and "limited recourse" provisions therein (and shall not amend or eliminate such provisions in any agreement to which it is party), except for any agreements related to the purchase and sale of any Collateral Obligations or Eligible Investments which contain customary (as determined by the Collateral Manager in its sole discretion) purchase or sale terms or which are documented using customary (as determined by the Collateral Manager in its sole discretion) loan trading documentation.

(g) The Issuer shall not acquire or hold any Certificated Securities in bearer form (other than securities not required to be in registered form under Section 163(f)(2)(A) of the Code) in a manner that does not satisfy the requirements of United States Treasury Regulations Section 1.165-12(c).

(h) The Co-Issuer shall not fail to maintain an independent manager under its limited liability company agreement.

Section 7.9. Statement as to Compliance. On or before July 18 in each calendar year, commencing in 2015, or immediately if there has been a Default under this Indenture and prior to the issuance of any Additional Notes pursuant to Section 2.4, the Issuer shall deliver to the Trustee, the Collateral Manager and the Administrator (to be forwarded, at the cost of the Issuer, by the Trustee to each Noteholder making a written request therefor and the Rating Agency) an Officer's certificate of the Issuer stating that, having made reasonable inquiries of the Collateral Manager, and to the best of the knowledge, information and belief of the Issuer, there did not exist, as at a date not more than five days prior to the date of the certificate, nor had there existed at any time prior thereto since the date of the last certificate (if any), any Default hereunder or, if such Default did then exist or had existed, specifying the same and the nature and status thereof, including actions undertaken to remedy the same, and that the Issuer has complied with all of its obligations under this Indenture or, if such is not the case, specifying those obligations with which it has not complied.

Section 7.10. Co-Issuers May Consolidate, etc., Only on Certain Terms. Neither the Issuer nor the Co-Issuer (the "Merging Entity") shall consolidate or merge with or into any other Person or transfer or convey all or substantially all of its assets to any Person,

unless permitted by Cayman Islands law (in the case of the Issuer) or United States and Delaware law (in the case of the Co-Issuer) and unless:

(a) the Merging Entity shall be the surviving corporation, or the Person (if other than the Merging Entity) formed by such consolidation or into which the Merging Entity is merged or to which all or substantially all of the assets of the Merging Entity are transferred (the "Successor Entity") (A) if the Merging Entity is the Issuer, shall be a company incorporated and existing under the laws of the Cayman Islands or such other jurisdiction approved by a Majority of the Controlling Class; provided that no such approval shall be required in connection with any such transaction undertaken solely to effect a change in the jurisdiction of incorporation pursuant to Section 7.4, and (B) in any case shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee and each Holder, the due and punctual payment of the principal of and interest on all Secured Notes issued by the Merging Entity and the performance and observance of every covenant of this Indenture on its part to be performed or observed, all as provided herein;

(b) the Trustee shall have received notice of such consolidation or merger and shall have distributed copies of such notice to the Rating Agency as soon as reasonably practicable and in any case no less than five days prior to such merger or consolidation, and the Trustee shall have received written confirmation from the Rating Agency that its ratings issued with respect to the Rated Notes then rated by such Rating Agency shall not be reduced or withdrawn as a result of the consummation of such transaction;

(c) if the Merging Entity is not the surviving corporation, the Successor Entity shall have agreed with the Trustee (i) to observe the same legal requirements for the recognition of such formed or surviving corporation as a legal entity separate and apart from any of its Affiliates as are applicable to the Merging Entity with respect to its Affiliates and (ii) not to consolidate or merge with or into any other Person or transfer or convey the Assets or all or substantially all of its assets to any other Person except in accordance with the provisions of this Section 7.10;

(d) if the Merging Entity is not the surviving corporation, the Successor Entity shall have delivered to the Trustee, and the Rating Agency, an Officer's certificate and an Opinion of Counsel each stating that such Person shall be duly organized, validly existing and in good standing in the jurisdiction in which such Person is organized; that such Person has sufficient power and authority to assume the obligations set forth in subsection (a) above and to execute and deliver an indenture supplemental hereto for the purpose of assuming such obligations; that such Person has duly authorized the execution, delivery and performance of an indenture supplemental hereto for the purpose of assuming such obligations and that such supplemental indenture is a valid, legal and binding obligation of such Person, enforceable in accordance with its terms, subject only to bankruptcy, reorganization, insolvency, moratorium and other laws affecting the enforcement of creditors' rights generally and to general principles of equity (regardless of whether such enforceability is considered in a Proceeding in equity or at law); if the Merging Entity is the Issuer, that, immediately following the event which causes such Successor Entity to become the successor to the Issuer, (i) such Successor Entity has title, free and clear of any lien, security interest or charge, other than the lien and security interest of this Indenture, to the Assets securing all of the Secured Notes, and (ii) the Trustee continues to have a valid

perfected first priority security interest in the Assets securing all of the Secured Notes; and in each case as to such other matters as the Trustee or any Noteholder may reasonably require; provided that nothing in this clause shall imply or impose a duty on the Trustee to require such other documents;

(e) immediately after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing;

(f) the Merging Entity shall have delivered notice to the Rating Agency, and the Merging Entity shall have delivered to the Trustee and each Noteholder an Officer's certificate and an Opinion of Counsel each stating that such consolidation, merger, transfer or conveyance and such supplemental indenture comply with this Article VII and that all conditions in this Article VII relating to such transaction have been complied with and that such transaction will not (1) result in the Merging Entity and Successor Entity becoming subject to United States federal income taxation with respect to their net income, (2) result in the Merging Entity and Successor Entity being treated as being engaged in a trade or business within the United States for U.S. federal income tax purposes or (3) have a material adverse effect on the tax treatment of the Issuer or the tax consequences to the holders of any Class of Notes Outstanding at the time of issuance, as described in the Offering Circular under the heading "Certain Income Tax Considerations—United States Federal Income Taxation," unless the Holders agree by unanimous consent that no adverse tax consequences will result therefrom to the Merging Entity, Successor Entity or Holders of the Notes (as compared to the tax consequences of not effecting the transaction);

(g) the Merging Entity shall have delivered to the Trustee an Opinion of Counsel stating that after giving effect to such transaction, neither of the Co-Issuers (or, if applicable, the Successor Entity) will be required to register as an investment company under the Investment Company Act; and

(h) after giving effect to such transaction, the outstanding stock (other than the Subordinated Notes) of the Merging Entity (or, if applicable, the Successor Entity) will not be beneficially owned within the meaning of the Investment Company Act by any U.S. Person.

Section 7.11. Successor Substituted. Upon any consolidation or merger, or transfer or conveyance of all or substantially all of the assets of the Issuer or the Co-Issuer, in accordance with Section 7.10 in which the Merging Entity is not the surviving corporation, the Successor Entity shall succeed to, and be substituted for, and may exercise every right and power of, and shall be bound by each obligation and covenant of, the Merging Entity under this Indenture with the same effect as if such Person had been named as the Issuer or the Co-Issuer, as the case may be, herein. In the event of any such consolidation, merger, transfer or conveyance, the Person named as the "Issuer" or the "Co-Issuer" in the first paragraph of this Indenture or any successor which shall theretofore have become such in the manner prescribed in this Article VII may be dissolved, wound up and liquidated at any time thereafter, and such Person thereafter shall be released from its liabilities as obligor and maker on all the Notes and from its obligations under this Indenture.

Section 7.12. No Other Business. From and after the Closing Date, the Issuer shall not engage in any business or activity other than issuing and selling the Notes pursuant to this Indenture and acquiring, owning, holding, selling, lending, exchanging, redeeming, pledging, contracting for the management of and otherwise dealing with Collateral Obligations and the other Assets in connection therewith and entering into Hedge Agreements, the Collateral Administration Agreement, the Account Agreement, the Collateral Management Agreement, the **Placement Agreement, the Refinancing** Placement Agreement and other agreements specifically contemplated by this Indenture and shall not engage in any activity that would cause the Issuer to be subject to U.S. federal or state income tax on a net income basis, and the Co-Issuer shall not engage in any business or activity other than issuing and selling the Notes to be issued by it pursuant to this Indenture and, with respect to the Issuer and the Co-Issuer, such other activities which are necessary, suitable or convenient to accomplish the foregoing or are incidental thereto or connected therewith or ancillary thereto. The Issuer and the Co-Issuer may not amend, or permit the amendment of, the Memorandum and Articles of the Issuer and the Certificate of Formation and Limited Liability Company Agreement of the Co-Issuer, respectively, unless the Moody's Rating Condition has been satisfied with respect to such amendment.

Section 7.13. Annual Rating Review. So long as any Class of Rated Notes remains Outstanding, on or before July 18 in each year, commencing in 2015, the Applicable Issuers shall obtain and pay for an annual review of the rating of each such Class of Notes from the Rating Agency. The Applicable Issuers shall promptly notify the Trustee and the Collateral Manager in writing (and the Trustee shall promptly provide the Holders with a copy of such notice) if at any time the rating of any such Class has been, or is known shall be, changed or withdrawn.

Section 7.14. Reporting. At any time when the Co-Issuers are not subject to Section 13 or 15(d) of the Exchange Act and are not exempt from reporting pursuant to Rule 12g3-2(b) under the Exchange Act, upon the request of a Holder or Certifying Person of a Note, the Co-Issuers shall promptly furnish or cause to be furnished "Rule 144A Information" to such Holder or Certifying Person, to a prospective purchaser of such Note designated by such Holder or beneficial owner, or to the Trustee for delivery to such Holder or Certifying Person or a prospective purchaser designated by such Holder or Certifying Person, as the case may be, in order to permit compliance by such Holder or Certifying Person of such Note with Rule 144A under the Securities Act in connection with the resale of such Note by such Holder or Certifying Person of such Note, respectively. "Rule 144A Information" shall be such information as is specified pursuant to Rule 144A(d)(4) under the Securities Act (or any successor provision thereto).

Section 7.15. Calculation Agent. (a) The Issuer hereby agrees that for so long as any Secured Notes remain Outstanding there shall at all times be an agent appointed (which does not control or is not controlled or under common control with the Issuer or its Affiliates or the Collateral Manager or its Affiliates) to calculate LIBOR in respect of each Interest Accrual Period (or, for the first Interest Accrual Period, the related portion thereof) in accordance with the terms of Exhibit C hereto (the "Calculation Agent"). The Issuer hereby appoints the Collateral Administrator as Calculation Agent. The Calculation Agent may be removed by the

Issuer or the Collateral Manager, on behalf of the Issuer, at any time. If the Calculation Agent is unable or unwilling to act as such or is removed by the Issuer or the Collateral Manager, on behalf of the Issuer, shall promptly appoint a replacement Calculation Agent which does not control or is not controlled by or under common control with the Issuer or its Affiliates or the Collateral Manager or its Affiliates. The Calculation Agent may not resign its duties without a successor having been duly appointed. In addition, for so long as any Notes are listed on the Irish Stock Exchange and the guidelines of such exchange so require, notice of the appointment of any replacement Calculation Agent shall be provided to the Irish Stock Exchange.

(b) The Calculation Agent shall be required to agree (and the Collateral Administrator as Calculation Agent does hereby agree) that, as soon as practicable after 11:00 a.m. London time on each Interest Determination Date, but in no event later than 11:00 a.m. New York time on the London Banking Day immediately following each Interest Determination Date, the Calculation Agent shall calculate the Note Interest Rate for each Class of Floating Rate Notes for the next Interest Accrual Period (or, for the first Interest Accrual Period, the related portion thereof) and the Note Interest Amount for each Class of Secured Notes (in each case, rounded to the nearest cent, with half a cent being rounded upward) for the next Interest Accrual Period, on the related Payment Date. At such time the Calculation Agent shall communicate such rates and amounts to the Co-Issuers, the Trustee, each Paying Agent, the Collateral Manager, Euroclear and Clearstream. The Calculation Agent shall also specify to the Co-Issuers the quotations upon which the foregoing rates and amounts are based, and in any event the Calculation Agent shall notify the Co-Issuers before 5:00 p.m. (New York time) on every Interest Determination Date if it has not determined and is not in the process of determining any such Note Interest Rate or Note Interest Amount together with its reasons therefor. The Calculation Agent's determination of the foregoing rates and amounts for any Interest Accrual Period shall (in the absence of manifest error) be final and binding upon all parties.

**Section 7.16. Certain Tax Matters.** (a) The Issuer shall treat the Secured Notes as debt and intends to treat the Subordinated Notes as equity for U.S. federal income tax purposes, except as otherwise required by applicable law.

(b) No later than July 31 of each calendar year, the Issuer shall (or shall cause its Independent accountants to) provide to each beneficial owner of Subordinated Notes and, upon request, any beneficial owner of Class E Notes (i) all information that a U.S. shareholder making a "qualified electing fund" election (as defined in the Code) is required to obtain for U.S. federal income tax purposes and (ii) a "PFIC Annual Information Statement" as described in Treasury Regulation section 1.1295-1 (or any successor Treasury Regulation), including all representations and statements required by such statement, and will take any other reasonable steps necessary to facilitate such election **(or protective election)** by, and any reporting requirements of, such beneficial owners. Upon request by the Independent accountants, the Registrar shall provide to the Independent accountants information contained in the Register and requested by the Independent accountants to comply with this Section 7.16.

(c) The Issuer has not and will not elect to be treated other than as a corporation for U.S. federal, state or local income or franchise tax purposes and shall make any

election necessary to avoid classification as a partnership or disregarded entity for U.S. federal, state or local tax purposes.

(d) The Issuer shall not file, or cause to be filed, any income or franchise tax return in any state of the United States unless it shall have obtained an Opinion of Counsel prior to such filing that, under the laws of such jurisdiction, the Issuer is required to file such income or franchise tax return.

(e) The Issuer will provide, upon request of a Holder of Subordinated Notes, any information that such Holder reasonably requests to assist such Holder with regard to any filing requirements the Holder may have as a result of the controlled foreign corporation rules under the Code.

(f) The Issuer shall not (i) become the owner of any asset (A) that is treated as an equity interest in an entity that is treated as a partnership or other fiscally transparent entity for U.S. federal income tax purposes if such entity is at any time engaged in a trade or business within the United States for U.S. federal income tax purposes or owns, or will own, any "United States real property interests" within the meaning of Section 897(c)(1) of the Code or (B) the gain from the disposition of which would be subject to U.S. federal income or withholding tax under section 897 or section 1445, respectively, of the Code or (C) if the ownership or disposition of such asset would cause the Issuer to be engaged in a trade or business within the United States for U.S. federal income tax purposes or (ii) engage in any activity that would cause the Issuer to be subject to U.S. federal income tax on a net income basis; provided, however, that the Issuer may form a Tax Subsidiary and cause such Tax Subsidiary to become the owner of an Equity Security if the acquisition, ownership and disposition of such Equity Security would not cause any income or gain of the Issuer to be treated as income or gain that is effectively connected with the conduct of a trade or business of the Issuer within the United States for U.S. federal income tax purposes (other than as a result of a change in law after the acquisition of such Equity Security).

(g) The Issuer (or the Collateral Manager acting on behalf of the Issuer) will take such reasonable actions, consistent with law and its obligations under this Indenture, as are necessary to achieve **FATCA Tax Account Reporting Rules** Compliance, including appointing any agent or representative to perform due diligence, withholding or reporting obligations of the Issuer pursuant to FATCA, and any other action that the Issuer would be permitted to take under this Indenture in furtherance of **FATCA Tax Account Reporting Rules** Compliance. The Issuer shall provide any certification or documentation (including **the applicable** IRS Form W-8BEN-E, or any successor form) to any payor (as defined in FATCA) from time to time as provided by law to minimize U.S. withholding tax or backup withholding tax.

(h) The Co-Issuer has not and will not elect to be treated as other than a disregarded entity for U.S. federal, state or local tax purposes.

(i) It is the intention of the parties hereto and, by its acceptance of a Note, each Holder and each beneficial owner of a Note shall be deemed to have agreed, not to treat any income generated by such Note as derived in connection with the Issuer's active conduct of a

banking, financing, insurance, or other similar business for purposes of Section 954(h)(2) of the Code.

(j) Upon the Trustee's receipt of a request from a Holder or beneficial owner, delivered in accordance with the notice procedures of Section 14.3, for the information described in United States Treasury Regulations Section 1.1275-3(b)(i) that is applicable to such Holder or beneficial owner, the Trustee shall forward such request to the Issuer and the Issuer shall cause its Independent accountants or the Trustee to provide promptly to such requesting Holder or beneficial owner all such information. Any issuance of Additional Notes shall be accomplished in a manner that allows the Independent accountants of the Issuer to accurately calculate original issue discount income to Holders of the Additional Notes.

(k) Prior to the time that the Issuer would acquire or receive a Tax Subsidiary Asset, the Issuer either will (i) sell the right to receive such Tax Subsidiary Asset, or the Collateral Obligation that is the subject of the workout or restructuring, or (ii) contribute the right to receive such Tax Subsidiary Asset, or the Collateral Obligation that is the subject of the workout or restructuring to a Tax Subsidiary.

(l) Notwithstanding Section 7.16(k), the Issuer shall not acquire any Collateral Obligation if a restructuring, workout or modification of such Collateral Obligation is in process and if such restructuring, workout or modification could reasonably result in the Issuer being treated as engaged in a trade or business in the United States or subject to U.S. federal tax on a net income basis.

(m) Upon written request at any time, the Trustee and the Registrar shall provide to the Issuer, the Collateral Manager, the either Placement Agent or any agent thereof any information regarding the Holders of the Notes and payments on the Notes that is reasonably available to the Trustee or the Registrar, as the case may be, and may be necessary for compliance with FATCAthe Tax Account Reporting Rules.

#### Section 7.17. Ramp-Up Period; Purchase of Additional Collateral Obligations.

(a) The Issuer shall use its commercially reasonable efforts to satisfy the Aggregate Ramp-Up Par Condition by the end of the Ramp-Up Period.

(b) During the Ramp-Up Period, the Issuer shall use the following funds to purchase additional Collateral Obligations in the following order: (i) to pay for the principal portion of any Collateral Obligation from, *first*, any amounts on deposit in the Ramp-Up Account, and *second*, any Principal Proceeds on deposit in the Collection Account and (ii) to pay for accrued interest on any such Collateral Obligation from, any amounts on deposit in the Ramp-Up Account. In addition, the Issuer shall use its commercially reasonable efforts to acquire such Collateral Obligations that shall satisfy, as of the end of the Ramp-Up Period, the Collateral Quality Test and the Overcollateralization Ratio Tests.

(c) Within 30 Business Days after the end of the Ramp-Up Period (but in any event, prior to the Determination Date relating to the first Payment Date), (i) the Issuer shall provide, or (at the Issuer's expense) cause the Collateral Manager or the Collateral Administrator to provide, the following documents: (A) to the Rating Agency a report identifying the Collateral

Obligations; and (B) to the Collateral Manager and the Trustee, an Accountants' Report (1) comparing the issuer name, country of domicile, industry, coupon/spread, maturity date, principal balance, Moody's Default Probability Rating, Moody's Rating and S&P Rating with respect to each Collateral Obligation by reference to such sources as shall be specified therein, (2) performing agreed upon procedures as of the end of the Ramp-Up Period including recalculation of the Overcollateralization Ratio Tests, the Collateral Quality Test, and the Concentration Limitations, (3) containing a comparison of the Aggregate Principal Balance that indicates whether the Aggregate Principal Balance equals or exceeds the Aggregate Ramp-Up Par Amount in satisfaction of the Aggregate Ramp-Up Par Condition, and (4) specifying the procedures performed at the request of the Issuer relating to the Accountants' Report, and (ii) the Issuer shall cause the Collateral Administrator to compile and make available to Moody's a report (the "Moody's Effective Date Report"), determined as of the end of the Ramp-Up Period, containing (A) the information required in a Monthly Report and (B) a calculation of the Aggregate Principal Balance that indicates whether the Aggregate Principal Balance equals or exceeds the Aggregate Ramp-Up Par Amount in satisfaction of the Aggregate Ramp-Up Par Condition. If (x) the Issuer causes the Collateral Administrator to make available to Moody's the Moody's Effective Date Report and such Moody's Effective Date Report confirms that each of the Overcollateralization Ratio Tests, the Collateral Quality Test, the Concentration Limitations and the Aggregate Ramp-Up Par Condition is satisfied, and (y) the Issuer provides an Accountants' Report to the Collateral Manager and the Trustee indicating that the requirements prescribed by Sections 7.17(c)(i)(B)(2) and (3) have been satisfied, then a written confirmation from Moody's of its Initial Rating of the Rated Notes that it rated shall be deemed to have been provided (a "Moody's Effective Date Deemed Rating Confirmation"). For the avoidance of doubt, the Moody's Effective Date Report shall not include or refer to the Accountants' Report.

(d) If, by the Determination Date relating to the first Payment Date, (1) there has occurred no Moody's Effective Date Deemed Rating Confirmation and (2) Moody's has not provided written confirmation of its Initial Ratings of each Class of the Rated Notes (a "Moody's Ramp-Up Failure"), then the Collateral Manager, on behalf of the Issuer, shall instruct the Trustee in writing to transfer amounts from the Interest Collection Account to the Principal Collection Account (and with such funds the Issuer shall purchase additional Collateral Obligations) in an amount sufficient to obtain from the Rating Agency a confirmation of its Initial Ratings of each Class of the Rated Notes (provided that the amount of such transfer would not result in a default in the payment of interest with respect to the Class A Notes or the Class B Notes); provided that, in the alternative, the Collateral Manager on behalf of the Issuer may take such other action, including but not limited to, a Rating Confirmation Redemption and/or transferring amounts from the Interest Collection Account to the Principal Collection Account as Principal Proceeds (for use in a Rating Confirmation Redemption), sufficient to obtain from the Rating Agency a confirmation of its Initial Ratings of each Class of the Rated Notes.

(e) The failure of the Issuer to satisfy the requirements of this Section 7.17 shall not constitute an Event of Default unless such failure would otherwise constitute an Event of Default under Section 5.1(d) hereof and the Issuer, or the Collateral Manager acting on behalf of the Issuer, has acted in bad faith. Of the proceeds of the issuance of the Notes which are not applied to pay for the purchase of Collateral Obligations purchased by the Issuer on or before the Closing Date (including, without limitation, repayment of any amounts borrowed by the Issuer in

connection with the purchase of Collateral Obligations prior to the Closing Date) or to pay or reserve for applicable fees and expenses, the amount designated in the Closing Date Certificate shall be deposited in the Ramp-Up Account on the Closing Date. At the written direction of the Issuer (or the Collateral Manager on behalf of the Issuer), the Trustee shall apply amounts held in the Ramp-Up Account to purchase additional Collateral Obligations during the Ramp-Up Period as described in clause (b) above. If at the end of the Ramp-Up Period, any amounts on deposit in the Ramp-Up Account have not been applied to purchase Collateral Obligations, such amounts shall be applied as described in Section 10.3(c).

(f) Asset Quality Matrix. On or prior to the last day of the Ramp-Up Period, the Collateral Manager shall determine which Asset Quality Matrix Combination shall apply on and after the last day of the Ramp-Up Period to the Collateral Obligations for purposes of determining compliance with the Moody's Diversity Test, the Maximum Moody's Rating Factor Test and the Minimum Floating Spread Test, and if such Asset Quality Matrix Combination differs from the Asset Quality Matrix Combination chosen to apply as of the Closing Date, the Collateral Manager shall so notify the Trustee and the Collateral Administrator. Thereafter, at any time on written notice of two Business Days to the Trustee, the Collateral Administrator and the Rating Agency, the Collateral Manager may elect a different Asset Quality Matrix Combination to apply to the Collateral Obligations; provided that if: (i) the Collateral Obligations are currently in compliance with the Asset Quality Matrix Combination then applicable to the Collateral Obligations, the Collateral Obligations comply with the Asset Quality Matrix Combination to which the Collateral Manager desires to change; or (ii) the Collateral Obligations are not currently in compliance with the Asset Quality Matrix Combination then applicable to the Collateral Obligations or and would not be in compliance with any other Asset Quality Matrix Combination, the Collateral Obligations need not comply with the Asset Quality Matrix Combination to which the Collateral Manager desires to change so long as the degree of compliance of such Collateral Obligations with each of the Minimum Floating Spread Test, the Moody's Diversity Test, and Maximum Moody's Rating Factor Test not in compliance would be maintained or improved if the Asset Quality Matrix Combination to which the Collateral Manager desires to change is used. If the Collateral Manager does not notify the Trustee and the Collateral Administrator that it will alter the Asset Quality Matrix Combination chosen on the last day of the Ramp-Up Period in the manner set forth above, the Asset Quality Matrix Combination chosen on the last day of the Ramp-Up Period shall continue to apply.

Section 7.18. Representations Relating to Security Interests in the Assets. (a) The Issuer hereby represents and warrants that, as of the Closing Date (which representations and warranties shall survive the execution of this Indenture and be deemed to be repeated on each date on which an Asset is Granted to the Trustee hereunder), with respect to the Assets:

(i) The Issuer owns such Asset free and clear of any lien, claim or encumbrance of any person, other than such as are created under, or permitted by, this Indenture.

(ii) Other than the security interest Granted to the Trustee pursuant to this Indenture, except as permitted by this Indenture, the Issuer has not pledged, assigned, sold, granted a security interest in, or otherwise conveyed any of the Assets. The Issuer

has not authorized the filing of and is not aware of any Financing Statements against the Issuer that include a description of collateral covering the Assets other than any Financing Statement relating to the security interest granted to the Trustee hereunder or that has been terminated; the Issuer is not aware of any judgment, PBGC liens or tax lien filings against the Issuer.

(iii) All Assets constitute Cash, accounts (as defined in Article 9 of the UCC), Instruments, general intangibles (as defined in Article 9 of the UCC), Uncertificated Securities (as defined in Article 8 of the UCC), Certificated Securities or security entitlements to financial assets resulting from the crediting of financial assets to a "securities account" (as defined in Article 8 of the UCC).

(iv) All Accounts constitute "securities accounts" under Article 8 of the UCC.

(v) This Indenture creates a valid and continuing security interest (as defined in Article 1 of the UCC) in such Assets in favor of the Trustee, for the benefit and security of the Secured Parties, which security interest is prior to all other liens, claims and encumbrances (except as permitted otherwise in this Indenture), and is enforceable as such against creditors of and purchasers from the Issuer.

(vi) The Issuer has caused or will have caused, within ten days after the Closing Date, the filing of all appropriate Financing Statements in the proper office in the appropriate jurisdictions under applicable law in order to perfect the security interest in the Instruments granted to the Trustee, for the benefit and security of the Secured Parties.

(vii) None of the Instruments that constitute or evidence the Assets has any marks or notations indicating that they have been pledged, assigned or otherwise conveyed to any Person other than the Trustee, for the benefit of the Secured Parties.

(viii) The Issuer has received all consents and approvals required by the terms of the Assets to the pledge hereunder to the Trustee of its interest and rights in the Assets.

(ix) All Assets other than the Accounts have been credited to one or more Accounts (other than any "general intangibles" within the meaning of the applicable Uniform Commercial Code and any Certificated Security or Instrument evidencing debt underlying a Participation Interest).

(x) (A) The Issuer has delivered to the Trustee a fully executed Account Agreement pursuant to which the Intermediary has agreed to comply with all instructions originated by the Trustee relating to the Accounts without further consent by the Issuer or (B) the Issuer has taken all steps necessary to cause the Intermediary to identify in its records the Trustee as the person having a security entitlement against the Intermediary with respect to financial assets credited to the Accounts.

(xi) The Accounts are not in the name of any Person other than the Trustee. The Issuer has not consented to the Intermediary to comply with the Entitlement Order of any Person other than the Trustee.

(b) The Issuer agrees to notify the Rating Agency, with a copy to the Collateral Manager, promptly if it becomes aware of the breach of any of the representations and warranties contained in this Section 7.19 and shall not waive any of the representations and warranties in this Section 7.19 or any breach thereof.

Section 7.19. Acknowledgement of Collateral Manager Standard of Care. The Co-Issuers acknowledge that they shall be responsible for their own compliance with the covenants set forth in this Article VII and that, to the extent the Co-Issuers have engaged the Collateral Manager to take certain actions on their behalf in order to comply with such covenants, the Collateral Manager shall only be required to perform such actions in accordance with the standard of care set forth in Section 2 of the Collateral Management Agreement (or the corresponding provision of any portfolio management agreement entered into as a result of 40186 Advisor's, Inc. CreekSource LLC no longer being the Collateral Manager). The Co-Issuers further acknowledge and agree that the Collateral Manager shall have no obligation to take any action to cure any breach of a covenant set forth in this Article VII until such time as an Authorized Officer of the Collateral Manager has actual knowledge of such breach.

Section 7.20. Maintenance of Listing. So long as any Listed Notes remain Outstanding, the Co-Issuers shall use all reasonable efforts to maintain the listing of such Notes on the Irish Stock Exchange.

Section 7.21. Section 3(c)(7) Procedures. In addition to the notices required to be given under Section 10.5, the Collateral Manager on behalf of the Issuer shall take the following actions to ensure compliance with the requirements of Section 3(c)(7) of the Investment Company Act (provided that such procedures and disclosures may be revised by the Issuer to be consistent with generally accepted practice for compliance with the requirements of Section 3(c)(7) of the Investment Company Act):

(a) The Issuer shall, or shall cause its agent to request of DTC, and cooperate with DTC to ensure, that (i) DTC's security description and delivery order include a "3(c)(7) marker" and that DTC's reference directory contains an accurate description of the restrictions on the holding and transfer of the Notes due to the Issuer's reliance on the exemption to registration provided by Section 3(c)(7) of the Investment Company Act, (ii) DTC send to its participants in connection with the initial offering of the Notes, a notice that the Issuer is relying on Section 3(c)(7) and (iii) DTC's reference directory include each class of Notes (and the applicable CUSIP numbers for the Notes) in the listing of 3(c)(7) issues together with an attached description of the limitations as to the distribution, purchase, sale and holding of the Notes.

(b) The Issuer shall, or shall cause its agent to, (i) ensure that all CUSIP numbers identifying the Rule 144A Global Notes shall have a "fixed field" attached thereto that contains "3c7" and "144A" indicators and (ii) take steps to cause the Refinancing Placement

Agent to require that all "confirms" of trades of such Notes contain CUSIP numbers with such "fixed field" identifiers.

(c) The Issuer shall, or shall cause its agent to, cause the Bloomberg screen or screens containing information about the Notes to include the following language: (i) the bottom of "Security Description" page describing the Notes shall state: "144A/3c7 'ok,'" (ii) the "Security Description" page shall have an indicator stating "PRVT PLACEMENT," and (iii) the "Comments" page shall state that "These Securities are being offered in the United States to Persons who are both (x) qualified institutional buyers (as defined in Rule 144A under the Securities Act) and (y) qualified purchasers (as defined under Section 3(c)(7) under the Investment Company Act of 1940)." The Issuer shall use commercially reasonable efforts to cause any other third-party vendor screens containing information about the Notes to include substantially similar language to clauses (i) through (iii) above.

## ARTICLE VIII

### SUPPLEMENTAL INDENTURES

Section 8.1. Supplemental Indentures without Consent of Holders of Notes. Without the consent of any Holders or any Hedge Counterparty, the Co-Issuers, when authorized by Resolutions, at any time and from time to time, may enter into one or more indentures supplemental hereto in form satisfactory to the Trustee for any of the following purposes:

- (i) to evidence the succession of another Person to the Issuer or the Co-Issuer and the assumption by any such successor Person of the covenants of the Issuer or the Co-Issuer herein and in the Notes;
- (ii) to add to the covenants of the Co-Issuers or the Trustee for the benefit of the Secured Parties or to surrender any right or power herein conferred upon the Co-Issuers;
- (iii) to convey, transfer, assign, mortgage or pledge any property to or with the Trustee for the benefit of the Secured Parties;
- (iv) to evidence and provide for the acceptance of appointment hereunder by a successor trustee and to add to or change any of the provisions of this Indenture as shall be necessary to facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to the requirements of Sections 6.9, 6.10 and 6.12;
- (v) to correct or amplify the description of any property at any time subject to the lien of this Indenture, or to better assure, convey and confirm unto the Trustee any property subject or required to be subjected to the lien of this Indenture (including, without limitation, any and all actions necessary or desirable as a result of changes in law or regulations, whether pursuant to Section 7.5 or otherwise) or to subject to the lien of this Indenture any additional property;

(vi) to modify the restrictions on and procedures for resales and other transfers of Notes to reflect any changes in applicable law or regulation (or the interpretation thereof) or to enable the Co-Issuers to rely upon any exemption from registration under the Securities Act or the Investment Company Act or to remove restrictions on resale and transfer to the extent not required thereunder;

(vii) to make such changes (including the removal and appointment of any listing agent in Ireland) as shall be necessary or advisable in order for the Listed Notes to be listed or de-listed on an exchange, including the Irish Stock Exchange;

(viii) at any time within the Reinvestment Period, to make such changes as are necessary to permit the Applicable Issuers to issue Additional Notes of any one or more existing Classes **(other than the Class X Notes)**; provided that any such additional issuance of Notes shall be issued in accordance with Section 2.4;

(ix) to correct any inconsistency or cure any ambiguity, omission or errors in this Indenture or to conform the provisions of this Indenture to the Offering Circular;

(x) with the prior written consent of a Majority of the Controlling Class, to amend, modify, enter into or accommodate the execution of any Hedge Agreement in accordance with Article XVI;

(xi) to take any action advisable, necessary or helpful to prevent ~~the~~ either of the Co-Issuers, any Tax Subsidiary or the Holders of any Class of Notes from becoming subject to (or to otherwise minimize) withholding or other taxes (other than taxes with respect to the Issuer otherwise permitted under this Indenture), fees or assessments, including by achieving **FATCA Tax Account Reporting Rules** Compliance, or to reduce the risk that the Issuer may be treated as engaged in a trade or business within the United States or otherwise subject to United States federal, state or local income tax on a net income basis;

(xii) to modify the procedures herein relating to compliance with Rule 17g-5 of the Exchange Act;

(xiii) to effect a Refinancing in accordance with Section 9.2 or Section 9.3; provided that no amendment or modification under this clause (xiii) may modify the definitions of Redemption Price or Non-Call Period;

(xiv) to amend, modify or otherwise accommodate changes to Section 7.13 relating to the administrative procedures for reaffirmation of ratings on the Notes;

(xv) to change the name of the Issuer or the Co-Issuer in connection with the change in name or identity of the Collateral Manager or as otherwise required pursuant to a contractual obligation or to avoid the use of a trade name or trademark in respect of which the Issuer or the Co-Issuer does not have a license;

(xvi) to accommodate the settlement of the Notes in book-entry form through the facilities of DTC or otherwise; **or**

(xvii) to authorize the appointment of any listing agent, transfer agent, paying agent or additional registrar for any Class of Notes required or advisable in connection with the listing of any Class of Notes on the Irish Stock Exchange or any other stock exchange, and otherwise to amend the Indenture to incorporate any changes required or requested by any governmental authority, stock exchange authority, listing agent, transfer agent, paying agent or additional registrar for any Class of Notes in connection herewith; **;**

**(xviii) to make modifications determined by the Collateral Manager to be necessary or appropriate in order to effect a Refinancing or issuance of Additional Notes in compliance with the U.S. Risk Retention Rules;**

**(xix) to (A) make any amendment or modification to this Indenture or any other Transaction Document, (B) enter into or accommodate the execution of any other agreement or (C) take any other action determined by the Collateral Manager to be necessary or appropriate, in each case, in order to comply with any changes or regulatory guidance relating to the U.S. Risk Retention Rules; or**

**(xx) to take any action necessary or advisable to implement the Bankruptcy Subordination Agreement, including to: (A) issue new certificates in exchange for the Securities of a Bankruptcy Subordinated Class or to divide a Bankruptcy Subordinated Class into one or more sub-classes of Securities, in each case with new identifiers (including CUSIPs, ISINs and Common Codes, as applicable); provided that any certificate or sub-class of Securities of a Bankruptcy Subordinated Class issued pursuant to this clause will be issued on identical terms (other than with respect to payment rights being modified pursuant to the Bankruptcy Subordination Agreement) with the existing Securities of such Class and (B) provide for procedures under which beneficial owners of Securities of such Bankruptcy Subordinated Class that are subject to the Bankruptcy Subordination Agreement will receive an interest in such new certificate or sub-class.**

**For the avoidance of doubt, Reset Amendments are not subject to any Noteholder consent requirements that would otherwise apply to supplemental indentures described above in this Section 8.1 or elsewhere herein.**

The Trustee shall join in the execution of any such supplemental indenture and to make any further appropriate agreements and stipulations which may be therein contained, but the Trustee shall not be obligated to enter into any such supplemental indenture which affects the Trustee's own rights, duties, liabilities or immunities under this Indenture or otherwise, except to the extent required by law.

At the cost of the Co-Issuers, for so long as any Notes shall remain Outstanding, not later than 15 Business Days prior to the execution of any proposed supplemental indenture, the Trustee shall deliver to the Collateral Manager, the Collateral Administrator, the Noteholders, and the Rating Agency a copy of such supplemental indenture. **Following such delivery by the**

Trustee, if any changes are made to such supplemental indenture other than to correct typographical errors or to adjust formatting, then, at the cost of the Co-Issuers, for so long as any Notes shall remain Outstanding, not later than 5 Business Days prior to the execution of such proposed supplemental indenture (provided that the execution of such proposed supplemental indenture shall not in any case occur earlier than the date 15 Business Days after the initial distribution of such proposed supplemental indenture pursuant to this Section 8.1), the Trustee shall deliver to the Noteholders, the Collateral Manager, the Collateral Administrator, any Hedge Counterparty and the Rating Agency a copy of such supplemental indenture as revised, indicating the changes that were made.

At the cost of the Co-Issuers, the Trustee shall provide to the Holders, and the Rating Agency a copy of the executed supplemental indenture after its execution. Any failure of the Trustee to publish or deliver such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

No supplemental indenture pursuant to this Section 8.1 may become effective if the interests of any Class would be materially and adversely affected thereby unless a Majority of such Class consents to such supplemental indenture.

No supplemental indenture, or other modification or amendment of this Indenture, may become effective unless such supplemental indenture or other modification or amendment will not, in the reasonable judgment of the Issuer in consultation with legal counsel experienced in such matters, as certified by the Issuer to the Trustee (upon which certification the Trustee may conclusively rely), (A) result in the Issuer becoming engaged in a trade or business within the United States or otherwise subject to U.S. federal income taxation with respect to its net income, or (B) have a material adverse effect on the tax treatment of the Issuer or the tax consequences to the Holder of any Class of Notes Outstanding at the time of such supplement, modification or amendment of this Indenture, as described in the Offering Circular under the heading "Certain Income Tax Considerations – United States Federal Income Taxation".

A supplemental indenture entered into for any purpose other than the purposes provided for in this Section 8.1 shall require the consent of the Holders of Notes as required in Section 8.2.

Section 8.2. Supplemental Indentures with Consent of Holders of Notes.

(a) With the consent of a Majority of the Controlling Class and a Majority of each Class of Notes (other than the Class X Notes) materially and adversely affected thereby, the Trustee and the Co-Issuers may enter into a supplemental indenture to add any provisions to, or change in any manner or eliminate any of the provisions of, this Indenture or modify in any manner the rights of the Holders of the Notes of such Class under this Indenture; provided, however, that, no such supplemental indenture pursuant to this Section 8.2(a) shall, without the consent of each Holder of each Outstanding Note of each Class (including, for the avoidance of doubt, the Class X Notes) materially and adversely affected thereby:

(i) change the Stated Maturity of the principal of or the due date of any installment of interest on any Note, reduce the principal amount thereof or (except as otherwise provided below) the rate of interest thereon or the Redemption Price with

respect to any Note, or change the earliest date on which Notes of any Class may be redeemed, change the provisions of this Indenture relating to the application of proceeds of any Assets to the payment of principal of or interest on Secured Notes, application of proceeds of any distributions on the Subordinated Notes or change any place where, or the coin or currency in which, Notes or the principal thereof or interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the applicable Redemption Date); provided that any supplemental indenture that would have the effect of reducing the rate of interest payable on a Class or any Classes of Notes will only require the consent of the Holders of such Class or Classes of Notes;

- (ii) change the percentage of the Aggregate Outstanding Amount of Holders of Notes of each Class whose consent is required under this Indenture, including for the authorization of any such supplemental indenture, exercise of remedies under this Indenture or for any waiver of compliance with certain provisions of this Indenture or certain defaults hereunder or their consequences;
- (iii) impair or adversely affect the Assets except as otherwise permitted in this Indenture;
- (iv) except as otherwise expressly permitted by this Indenture, permit the creation of any lien ranking prior to or on a parity with the lien of this Indenture with respect to any part of the Assets or terminate such lien on any property at any time subject hereto or deprive any Secured Noteholder of the security afforded by the lien of this Indenture;
- (v) modify any of the provisions of this Indenture with respect to supplemental indentures, except to increase the percentage of Outstanding Notes the consent of the Holders of which is required for any such action or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of each Class Outstanding and affected thereby;
- (vi) modify the definitions of the terms Outstanding, Class, Controlling Class, Majority or Supermajority;
- (vii) modify the Priority of Payments;
- (viii) modify any of the provisions of this Indenture in such a manner as to directly affect the calculation of the amount of any payment of interest or principal on any Secured Note, or any amount available for distribution to the Subordinated Notes or to affect the rights of the Holders of any Class to the benefit of any provisions for the redemption of such Class;
- (ix) amend any of the provisions of this Indenture relating to the institution of proceedings for certain events of bankruptcy, insolvency, receivership or reorganization of the Co-Issuers;

(x) modify the restrictions on and procedures for resales and other transfers of Notes (except as set forth in Section 8.1(vi));

(xi) (A) result in the Issuer becoming subject to U.S. federal income taxation with respect to its net income, (B) result in the Issuer being treated as being engaged in a trade or business within the United States for U.S. federal income tax purposes, or (C) have a material adverse effect on the tax treatment of the Issuer or the tax consequences to the Holder of any Class of Notes Outstanding at the time of modification of the Indenture, as described in the Offering Circular under the heading "Certain Income Tax Considerations – United States Federal Income Taxation"; or

(xii) modify the definitions of Redemption Price or Non-Call Period.

Notwithstanding the foregoing, a supplemental indenture may not modify (i) the definition of the term Weighted Average Life Test without the prior written consent of a Majority of each Class of Notes, other than the Class X Notes, (voting separately by Class) or (ii) the terms of the Investment Criteria that are applicable to reinvestment that occurs after the end of the Reinvestment Period without the prior written consent of a Majority of the Controlling Class.

**For the avoidance of doubt, Reset Amendments are not subject to any Noteholder consent requirements that would otherwise apply to supplemental indentures described above in this Section 8.2(a) or elsewhere herein.**

**With respect to any supplemental indenture which, by its terms, (x) provides for an Optional Redemption by Refinancing, of all, but not less than all, Classes of the Secured Notes in whole, but not in part, and (y) is consented to by the Holders of at least 80% of the Aggregate Outstanding Amount of the Subordinated Notes, notwithstanding anything to the contrary contained or implied elsewhere in this Indenture, the Collateral Manager may, without regard to any other Noteholder consent requirement specified in this Article VIII or elsewhere herein, cause such supplemental indenture to also (a) effect an extension of the end of the Reinvestment Period, (b) establish a non-call period for the replacement securities or loans issued to replace such Secured Notes or prohibit a future refinancing of such replacement securities, (c) modify the Weighted Average Life Test, (d) provide for a stated maturity of such replacement securities or loans that is later than the Stated Maturity of the Secured Notes, (e) effect an extension of the Stated Maturity of the Subordinated Notes, and/or (f) make any other supplements or amendments to the Indenture that would otherwise be subject to the Noteholder consent rights of this Article VIII (a "Reset Amendment").**

(b) Not later than 15 Business Days prior to the execution of any proposed supplemental indenture pursuant to the above provision, the Trustee, at the expense of the Co-Issuers, shall provide to the Noteholders, the Collateral Manager, the Collateral Administrator, any Hedge Counterparty and the Rating Agency a copy of such proposed supplemental indenture and shall request any required consent from the applicable holders of Notes to be given within 15 Business Days. Any consent given to a proposed supplemental indenture by the holder of any Notes shall be irrevocable and binding on all future holders or beneficial owners of that Note, irrespective of the execution date of the supplemental indenture.

**Following such delivery by the Trustee, if any changes are made to such supplemental indenture other than to correct typographical errors or to adjust formatting, then, at the cost of the Co-Issuers, for so long as any Notes shall remain Outstanding, not later than 5 Business Days prior to the execution of such proposed supplemental indenture (provided that the execution of such proposed supplemental indenture shall not in any case occur earlier than the date 15 Business Days after the initial distribution of such proposed supplemental indenture pursuant to this Section 8.2(b)), the Trustee shall deliver to the Noteholders, the Collateral Manager, the Collateral Administrator, any Hedge Counterparty and the Rating Agency a copy of such supplemental indenture as revised, indicating the changes that were made.**

(c) It shall not be necessary for any Act of Holders under this Section 8.2 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act or consent shall approve the substance thereof, so long as the Holders have received a copy of the language to be included in any proposed supplemental indenture.

(d) The Issuer shall not enter into any supplemental indenture pursuant to this Section 8.2 if any Hedge Counterparty (in its reasonable judgment) would be materially and adversely affected by such supplemental indenture and notifies the Issuer and the Trustee thereof without the prior written consent of such Hedge Counterparty.

(e) Promptly after the execution by the Co-Issuers and the Trustee of any supplemental indenture pursuant to this Section 8.2, the Trustee, at the expense of the Co-Issuers, shall deliver to the Holders, the Collateral Manager, and the Rating Agency (so long as any Rated Notes are Outstanding and are rated by such Agency) a copy thereof. Any failure of the Trustee to deliver a copy of any supplemental indenture as provided herein, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

(f) The Trustee may conclusively rely on an Opinion of Counsel (which may be supported as to factual (including financial and capital markets) matters by any relevant certificates and other documents necessary or advisable in the judgment of counsel delivering the opinion and which opinion may be to the effect that all conditions to the supplemental indenture have been satisfied) or an Officer's certificate of the Collateral Manager as to whether the interests of any Class of Notes would be materially and adversely affected by the modifications set forth in a supplemental indenture under Section 8.1 or Section 8.2 unless a Majority of a Class of Notes has provided written notice to the Trustee within 15 Business Days after delivery of the related notice that the Holders of such Class of Notes would be materially and adversely affected by the modifications set forth in such supplemental indenture (it being understood that if a Majority of a Class of Notes does not provide such notice within the timeframe set forth above the Holders of such Class of Notes shall be deemed to have consented to such supplemental indenture). It being expressly understood and agreed that the Trustee shall have no obligation to make any determination as to the satisfaction of the requirements related to any supplemental indenture under Section 8.1 or Section 8.2 which may form the basis of such Opinion of Counsel or certificate. Such determination shall be conclusive and binding on all present and future holders of Notes. The Trustee shall not be liable for any such determination made in good faith and in reliance upon an Opinion of Counsel delivered to the Trustee. For the avoidance of doubt, the

Global Rating Agency Condition is not required to be satisfied in connection with the execution or effectiveness of any supplemental indenture.

Section 8.3. Execution of Supplemental Indentures. In executing or accepting the additional trusts created by any supplemental indenture permitted by this Article VIII or the modifications thereby of the trusts created by this Indenture, the Trustee and the Issuer shall be entitled to receive, and (subject to Sections 6.1 and 6.3) shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Indenture and that all conditions precedent thereto have been satisfied. The Trustee may, but shall not be obligated to, enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise. The Collateral Manager shall not be bound to follow any amendment or supplement to this Indenture unless it has received written notice of such amendment or supplement and a copy of the amendment or supplement from the Issuer or the Trustee prior to the execution thereof in accordance with the notice requirements of Section 8.1 and Section 8.2. Notwithstanding anything in this Indenture to the contrary, the Issuer agrees that it shall not permit to become effective any amendment or supplement to this Indenture which would (i) increase the duties or liabilities of, reduce or eliminate any right or privilege of (including as a result of an effect on the amount or the priority of any fees or other amounts payable to the Collateral Manager), or adversely change the economic consequences to, the Collateral Manager, (ii) directly or indirectly modify the restrictions on the purchases or sales of Collateral Obligations under Article XII or the Investment Criteria, or constitute an amendment under Section 8.2(xi), (iii) expand or restrict the Collateral Manager's discretion or (iv) adversely affect the Collateral Manager, unless the Collateral Manager shall have consented in advance thereto in writing, such consent to not be unreasonably withheld or delayed; provided that the Collateral Manager may withhold its consent in its sole discretion if such amendment or supplement affects the amount, timing or priority of payment of the Collateral Manager's fees or increases or adds to the obligations of the Collateral Manager, and the Issuer shall not enter into any such amendment or supplement unless the Collateral Manager shall have given its prior written consent. For so long as any Notes are listed on the Irish Stock Exchange, the Issuer shall notify the Irish Stock Exchange of any material modification to this Indenture.

Section 8.4. Effect of Supplemental Indentures. Upon the execution of any supplemental indenture under this Article VIII, this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and every Holder of Notes theretofore and thereafter authenticated and delivered hereunder shall be bound thereby.

Section 8.5. Reference in Notes to Supplemental Indentures. Notes authenticated and delivered after the execution of any supplemental indenture pursuant to this Article VIII may, and if required by the Issuer shall, bear a notice in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Applicable Issuers shall so determine, new Notes, so modified as to conform in the opinion of the Trustee and the Co-Issuers to any such supplemental indenture, may be prepared and executed by the Applicable Issuers and authenticated and delivered by the Trustee in exchange for Outstanding Notes.

## ARTICLE IX

### REDEMPTION OF NOTES

Section 9.1. Mandatory Redemption. If a Coverage Test is not met on any Determination Date on which such Coverage Test is applicable, the Issuer shall apply available amounts in the Payment Account on the related Payment Date to make payments as required pursuant to the Priority of Payments to achieve compliance with such Coverage Test.

Section 9.2. Optional Redemption (a) TheSubject to the proviso in the next succeeding sentence, all (but not less than all) Classes of the Secured Notes shall be redeemed by the Co-Issuers or the Issuer, as the case may be, in whole but not in part, at the applicable Redemption Prices on any Payment Date on or Business Day after the end of the Non-Call Period at the written direction of a Majority of the Subordinated Notes delivered to the Issuer, the Trustee and the Collateral Manager as required under Section 9.5. A Majority of the Subordinated Notes may direct that an Optional Redemption occur by directing the Collateral Manager to either (i) liquidate a sufficient amount of the Assets (a "Redemption by Liquidation") to fully redeem all Classes of Secured Notes, or (ii) negotiate and obtain on behalf of the Issuer (x) one or more loans or other financing arrangements to be made to the Issuer, and/or (y) the issuance of replacement notes ("Replacement Notes") by the Issuer (each, a "Refinancing"), the proceeds of which shall be used to fully redeem one or more all Classes of Secured Notes designated by a Majority of the Subordinated Notes (an "Optional Redemption by Refinancing"); provided that, no Optional Redemption by Refinancing may be effected without the written consent of the Collateral Manager if the Collateral Manager provides written notice to the Issuer, the Co-Issuer and the Trustee (who shall forward such notice to the holders of the Subordinated Notes promptly upon receipt) that the Collateral Manager has determined that as a result of such Optional Redemption by Refinancing, any of the Collateral Manager, its Affiliates, the Issuer or the Co-Issuer would not, without further action on its part, be in compliance with the U.S. Risk Retention Rules.

The Issuer shall deposit, or cause to be deposited, the funds required for an Optional Redemption on or prior to the Redemption Date.

(b) Upon receipt of a notice of a Redemption by Liquidation, the Collateral Manager shall, in its sole discretion, direct the sale of all or part of the Collateral Obligations and other Assets in accordance with the procedures set forth in Section 9.2(c). The Liquidation Proceeds and all other funds available for such redemption in the Collection Account and the Payment Account shall be at least sufficient to pay the Redemption Price on all of the Secured Notes and to pay all accrued and unpaid Administrative Expenses (regardless of the Administrative Expense Cap) and other fees and expenses payable under the Priority of Payments (including, without limitation, the Collateral Management Fees and any amounts due to the Hedge Counterparties) (the "Secured Note Redemption Amount"). If such Liquidation Proceeds and all other funds available for such purpose in the Collection Account and the Payment Account would not be at least equal to the Secured Note Redemption Amount, the Secured Notes may not be redeemed. The Collateral Manager, in its sole discretion, may effect the sale of all or any part of

the Collateral Obligations or other Assets through the direct sale of such Collateral Obligations or other Assets or by participation or other arrangement.

(c) Notwithstanding anything to the contrary set forth herein, the Secured Notes shall not be redeemed pursuant to a Redemption by Liquidation unless (i) at least seven Business Days before the scheduled Redemption Date the Collateral Manager shall have furnished to the Trustee evidence, in form satisfactory to the Trustee, that the Collateral Manager on behalf of the Issuer has entered into a binding agreement or agreements with a financial or other institution or institutions whose short-term unsecured debt obligations (other than such obligations whose rating is based on the credit of a person other than such institution) are rated, or guaranteed by a Person whose short-term unsecured debt obligations are rated, at least "P-1" by Moody's to purchase (which purchase may be through a participation), not later than the Business Day immediately preceding the scheduled Redemption Date in immediately available funds, all or part of the Collateral Obligations and/or any Hedge Agreements at a purchase price that, together with all other available funds, will at least equal the Secured Note Redemption Amount, or (ii) prior to selling any Collateral Obligations and/or Eligible Investments, the Collateral Manager shall certify to the Trustee in an Officer's certificate upon which the Trustee can conclusively rely that, in its judgment (which may be based on the Issuer having entered into an agreement to sell such Assets to another special purpose entity that has priced but has not yet closed its securities offering), the aggregate sum of (A) any expected proceeds from Hedge Agreements and the sale of Eligible Investments, (B) any Refinancing ~~proceeds~~Proceeds and (C) for each Collateral Obligation, the product of its Principal Balance and its Market Value, shall exceed the Secured Note Redemption Amount. Any certification delivered by the Collateral Manager pursuant to this Section 9.2(c) shall include (1) the prices of, and expected proceeds from, the sale (directly or by participation or other arrangement) of any Collateral Obligations, Eligible Investments and/or Hedge Agreements and (2) all calculations required by this Section 9.2(c).

(d) Upon receipt of notice of an Optional Redemption by Refinancing, the Collateral Manager may obtain a Refinancing on behalf of the Issuer only if (i) the Refinancing Proceeds and all other available funds will be at least equal to the Secured Note Redemption Amount, (ii) the Refinancing Proceeds and other available funds are used to the extent necessary to make such redemption, and (iii) the agreements relating to such Refinancing contain limited recourse and non-petition provisions equivalent (*mutatis mutandis*) to those contained in Section 5.4(d) and (f).

In the event that a Refinancing is obtained meeting the requirements specified above as certified by the Collateral Manager, the Co-Issuers and the Trustee (as directed by the Issuer) shall amend this Indenture pursuant to Article VIII to the extent necessary to reflect the terms of the Refinancing and no consent for such amendments shall be required from the Holders of Notes.

(e) The Subordinated Notes may be redeemed, in whole but not in part, on any Payment DateBusiness Day on or after the redemption or repayment of the Secured Notes in full, at the written direction of a Majority of the Subordinated Notes (with a copy to the Collateral Manager).

(f) The Holders of the Subordinated Notes shall not have any cause of action against any of the Co-Issuers, the Collateral Manager or the Trustee for any failure to effect an Optional Redemption.

Section 9.3. Partial Redemption by Refinancing. Upon written direction of a Majority of the Subordinated Notes as required under Section 9.5 delivered to the Issuer, the Trustee and the Collateral Manager not later than 30 days (or such shorter time as the Issuer, the Trustee and the Collateral Manager find reasonably acceptable, but in no event less than 12 Business Days prior to the proposed Redemption Date) prior to the proposed Redemption Date, the Issuer shall redeem one or more (but not all) Classes of Secured Notes at the applicable Redemption Prices on any Payment Date on or Business Day after the end of the Non-Call Period from Refinancing Proceeds, Partial Redemption Interest Proceeds and other available amounts in accordance with the Priority of Partial Refinancing Proceeds (any such redemption, a "Partial Redemption by Refinancing"); provided that any such, no Partial Redemption by Refinancing may be effected without the written consent of the Collateral Manager if the Collateral Manager provides written notice to the Issuer, the Co-Issuer and the Trustee (who shall forward such notice to the holders of the Subordinated Notes promptly upon receipt) that the Collateral Manager has determined that as a result of such Partial Redemption by Refinancing, any of the Collateral Manager, its Affiliates, the Issuer or the Co-Issuer would not, without further action on its part, be in compliance with the U.S. Risk Retention Rules; provided, further, that any such redemption shall require a redemption in whole of each such Class of Secured Notes to be redeemed; provided, further, that the terms of such Refinancing and any financial institutions acting as lenders thereunder or purchasers thereof must be acceptable to a Majority of the Subordinated Notes and to the Collateral Manager and otherwise satisfies the conditions described below.

The Issuer shall obtain a Refinancing in connection with a Partial Redemption by Refinancing only upon certification from the Collateral Manager that (i) the Global Rating Agency Condition is satisfied with respect to any Secured Notes that are not subject to such Partial Redemption by Refinancing, (ii) the Refinancing Proceeds (together with any Partial Redemption Interest Proceeds available(as determined) in accordance with the Priority of Paymentsdefinition thereof available to pay the accrued interest portion of the applicable Redemption Price) are at least equal the amount required to pay the Redemption Price of each Class of Secured Notes to be redeemed, (iii) the Aggregate Outstanding Amount of the Replacement Notes (if any) issued by the Issuer and loans or other financing arrangements entered into by the Issuer under such Refinancing is equal to the Aggregate Outstanding Amount of the Secured Notes to be redeemed with the proceeds of such Refinancing, (iv) the stated maturity of any Replacement Notes, loans or other financing arrangements under such Refinancing is the same as the Stated Maturity of the Class or Classes of Secured Notes subject to such Partial Redemption by Refinancing, (v) the Refinancing Proceeds (to the extent necessary) are used to redeem each Class or Classes of Secured Notes subject to such Partial Redemption by Refinancing, (vi) the agreements relating to the Refinancing contain limited recourse and non-petition provisions equivalent (*mutatis mutandis*) to those contained in Section 5.4(d) and (f), (vii) no obligations of the Issuer issued in connection with such Refinancing are senior in priority pursuant to the Priority of Payments to the corresponding Class of Secured Notes being refinanced; (viii) the holders of obligations of the Issuer under such Refinancing do not have

greater rights under this Indenture than the holders of any Class of Secured Notes subject to such Partial Redemption by Refinancing and (ix) any Replacement Notes and loans or other financing arrangements have the same or a lower rate of interest as the Secured Notes subject to such Partial Redemption by Refinancing. The expenses in connection with any Partial Redemption by Refinancing will be Administrative Expenses payable in accordance with the Priority of Partial Refinancing Proceeds and must be paid on the Redemption Date from the proceeds from such Partial Redemption by Refinancing and any other available amounts.

Section 9.4. Redemption Following a Tax Event. The Secured Notes shall be redeemed by the Co-Issuers, in whole but not in part, on any Quarterly Payment Date on or after the occurrence of a Tax Event (a "Tax Redemption") at the written direction of a Majority of the Subordinated Notes delivered to the Issuer, the Trustee and the Collateral Manager as required under Section 9.5. A Tax Redemption shall be effected through a Redemption by Liquidation to fully redeem all Classes of Secured Notes in accordance with the procedures set forth in Section 9.2(b), Section 9.2(c) and Section 9.5. The funds available for a Tax Redemption of the Notes shall include all Principal Proceeds, Interest Proceeds, Liquidation Proceeds and all other available funds in the Collection Account and the Payment Account. Each Class of Notes shall be redeemed at the applicable Redemption Price for such Class in accordance with the Priority of Payments.

Section 9.5. Redemption Procedures. (a) The Holders of the Subordinated Notes shall provide written direction of an Optional Redemption or a Partial Redemption by Refinancing set forth herein to the Issuer, the Trustee and the Collateral Manager not later than 30 days prior to the Payment Date (or such shorter period as agreed to by the Trustee and the Collateral Manager, but in no event less than 12 Business Days prior to such PaymentRedemption Date) on which such redemption is to be made (which date shall be designated in such notice) and a notice of redemption shall be given by the Trustee not later than ten Business Days prior to the applicable Redemption Date, to each Holder of Secured Notes to be redeemed, and the Rating Agency. In addition, for so long as any Notes are listed on the Irish Stock Exchange and so long as the guidelines of such exchange so require, notice of an Optional Redemption, (including a Tax Redemption) or a Partial Redemption by Refinancing or a Tax Redemption to the Holders of such Notes shall also be provided to the Irish Stock Exchange.

(b) All notices of redemption delivered to Holders pursuant to Section 9.5(a) shall state:

- (i) the applicable Redemption Date;
- (ii) the Redemption Price of the Notes to be redeemed;
- (iii) in the case of an Optional Redemption, that all of the Secured Notes are to be redeemed in full and that interest on such Secured Notes shall cease to accrue on the PaymentRedemption Date specified in the notice;

(iv) in the case of a Partial Redemption by Refinancing, the Class or Classes of Secured Notes to be redeemed in full and that interest on such Secured Notes shall cease to accrue on the PaymentRedemption Date specified in the notice;

(v) the place or places where Certificated Notes are to be surrendered for payment of the Redemption Price, which shall be the office or agency of the Co-Issuers to be maintained as provided in Section 7.2; and

(vi) whether the Subordinated Notes are to be redeemed in full on such Redemption Date and, if so, the place or places where the Certificated Notes are to be surrendered for payment of the Redemption Price, which shall be the office or agency of the Co-Issuers to be maintained as provided in Section 7.2 for purposes of surrender.

The Applicable Issuers shall have the option to withdraw any such notice of redemption up to and including the later of (a) the day which the Collateral Manager is required to deliver to the Trustee the sale agreement or agreements or certifications as described in Section 9.2(d) and Sections~~Section~~ 12.1(b) and (f), and (b) the day on which the holders of Notes are notified of such redemption in accordance herewith. Any withdrawal of such notice of redemption shall be made by written notice to the Trustee and the Collateral Manager and shall be made by the Applicable Issuers if (i) the Collateral Manager has notified the Co-Issuers that it is unable to deliver the sale agreement or agreements or certifications described in Section 9.2(d) and Sections~~Section~~ 12.1(b) and (f), in form satisfactory to the Trustee, or is unable to obtain the applicable Refinancing on behalf of the Issuer, (ii) the Issuer receives written direction from a Majority of the Subordinated Notes to withdraw such notice of redemption on or prior to the eight Business Day prior to the proposed Redemption Date or (iii) on the day before the Redemption Date, the Issuer has insufficient funds to redeem all Secured Notes to be redeemed.

If the Co-Issuers so withdraw any notice of redemption or are otherwise unable to complete any redemption of the Notes, the Sale Proceeds received from the sale of any Collateral Obligations and other Assets sold pursuant to Section 9.2 may, at the Collateral Manager's sole discretion, be reinvested in accordance with the Investment Criteria.

Any Holder of Notes, the Collateral Manager or any of the Collateral Manager's Affiliates or accounts managed by the Collateral Manager or its Affiliates or over which any such parties exercise discretionary voting authority shall have the right, subject to the same terms and conditions afforded to other bidders, to bid on Assets to be sold as part of an Optional Redemption.

Notice of redemption shall be given by the Co-Issuers (so long as the Co-Issuers have received notice thereof) or, upon an Issuer Order, by the Trustee in the name and at the expense of the Co-Issuers. Failure to give notice of redemption, or any defect therein, to any Holder of any Note selected for redemption shall not impair or affect the validity of the redemption of any other Notes.

Section 9.6. Notes Payable on Redemption Date. (a) Notice of redemption pursuant to Section 9.5 having been given as aforesaid, the Notes to be redeemed shall, on the Redemption Date, subject to Section 9.2(c) in the case of an Optional Redemption and Section

9.3 in the case of a Partial Redemption by Refinancing, and the right to withdraw any notice of redemption pursuant to Section 9.5(b), become due and payable at the Redemption Price therein specified, and from and after the Redemption Date (unless the Issuer shall default in the payment of the Redemption Price and accrued interest) all such Secured Notes shall cease to bear interest on the Redemption Date. Upon final payment on a Note to be so redeemed, the Holder shall present and surrender such Note at the place specified in the notice of redemption on or prior to such Redemption Date; provided, however, that if there is delivered to the Co-Issuers and the Trustee such security or indemnity as may be required by any of them to save such party harmless and an undertaking thereafter to surrender such Note, then, in the absence of notice to the Co-Issuers or the Trustee that the applicable Note has been acquired by a Protected Purchaser, such final payment shall be made without presentation or surrender. Payments of interest on Secured Notes so to be redeemed whose Stated Maturity is on or prior to the Redemption Date shall be payable to the Holders of such Secured Notes, or one or more predecessor Notes, registered as such at the close of business on the relevant Record Date according to the terms and provisions of Section 2.8(e).

(b) If any Secured Note called for redemption shall not be paid on the Redemption Date, the principal thereof shall, until paid, bear interest from the Redemption Date at the applicable Note Interest Rate for each successive Interest Accrual Period (or, for the first Interest Accrual Period, the related portion thereof) the Secured Note remains Outstanding; provided that the reason for such non-payment is not the fault of such Noteholder.

(c) Notwithstanding anything to the contrary set forth herein, the proceeds from a Partial Redemption by Refinancing shall not constitute Interest Proceeds or Principal Proceeds but shall be applied directly on the related Redemption Date to redeem each Class of Secured Notes subject to such redemption by Refinancing under the Priority of Partial Refinancing Proceeds; provided that to the extent such Refinancing Proceeds are not applied to redeem such Class(es) of Secured Notes or to pay expenses in connection with such Refinancing, such Refinancing Proceeds shall be treated as Principal Proceeds.

**Section 9.7. Special Redemption.** Funds in the Collection Account shall be applied to make principal payments on the Secured Notes in accordance with the Priority of Payments on any Payment Date after the Non-Call Period if the Collateral Manager at its sole discretion notifies the Trustee that it has been unable, for a period of at least 30 consecutive Business Days, to identify additional Collateral Obligations that are deemed appropriate by the Collateral Manager in its sole discretion and would meet the Investment Criteria in sufficient amounts to permit the investment or reinvestment of all or a portion of the funds then in the Collection Account that are to be invested in additional Collateral Obligations (a "Special Redemption"). On the first Payment Date following the Collection Period in which such notice is given (a "Special Redemption Date"), the amount in the Principal Collection Account (such amount, the "Special Redemption Amount") representing Principal Proceeds which the Collateral Manager has determined cannot be reinvested in additional Collateral Obligations shall be applied in accordance with the Priority of Principal Proceeds.

Notice of payments pursuant to this Section 9.7 shall be given by the Trustee not less than three Business Days prior to the applicable Special Redemption Date to each Holder of Secured Notes affected thereby and to the Rating Agency. In addition, for so long as any Notes

are listed on the Irish Stock Exchange and so long as the guidelines of such exchange so require, notice of Special Redemption to the Holders of such Notes shall also be provided to the Irish Stock Exchange.

Section 9.8. Rating Confirmation Redemption. Funds in the Collection Account shall be applied to make principal payments on the Rated Notes in accordance with the Priority of Payments on any Payment Date after the Ramp-Up Period if the Collateral Manager notifies the Trustee that a redemption (a "Rating Confirmation Redemption") is required pursuant to Section 7.17 in order to obtain from the Rating Agency, following the end of the Ramp-Up Period, a confirmation of its Initial Ratings of each Class of the Rated Notes (unless a Moody's Effective Date Deemed Rating Confirmation has occurred). On the first Payment Date following the Collection Period in which such notice is given (a "Rating Confirmation Redemption Date"), the amount in the Collection Account (such amount, the "Rating Confirmation Redemption Amount") representing Interest Proceeds and Principal Proceeds that the Collateral Manager has designated to redeem the Rated Notes in order to obtain from the Rating Agency confirmation of its Initial Ratings of each Class of the Rated Notes (unless a Moody's Effective Date Deemed Rating Confirmation has occurred) shall be applied in accordance with the Priority of Principal Proceeds. Any such confirmation from Moody's shall only be required if any Class A Notes are then Outstanding.

## ARTICLE X

### ACCOUNTS, ACCOUNTINGS AND RELEASES

Section 10.1. Collection of Money. Except as otherwise expressly provided herein, the Trustee may demand payment or delivery of, and shall receive and collect, directly and without intervention or assistance of any fiscal agent or other intermediary, all Money and other property payable to or receivable by the Trustee pursuant to this Indenture, including all payments due on the Pledged Obligations, in accordance with the terms and conditions of such Pledged Obligations. The Trustee shall segregate and hold all such Money and property received by it in trust for the Holders of the Notes and shall apply it as provided in this Indenture.

Section 10.2. Collection Accounts. (a) The Trustee shall, on or prior to the Closing Date, establish at the Intermediary two segregated non-interest bearing trust accounts, each held in the name of the Trustee for the benefit of the Secured Parties, one of which shall be designated the "Interest Collection Account" and the other of which shall be designated the "Principal Collection Account," each of which shall be maintained by the Issuer with the Intermediary in accordance with the Account Agreement. The Trustee shall from time to time deposit into the Interest Collection Account, in addition to the deposits required pursuant to Section 10.5(a), immediately upon receipt thereof (i) any funds in the Interest Reserve Account deemed by the Collateral Manager in its sole discretion to be Interest Proceeds pursuant to Section 10.3(e) and (ii) all Interest Proceeds (unless simultaneously reinvested in additional Collateral Obligations in accordance with Article XII) received by the Trustee. The Trustee shall deposit immediately upon receipt thereof all other amounts remitted to the Collection Account into the Principal Collection Account, including in addition to the deposits required pursuant to Section 10.5(a), (i) any funds in the Interest Reserve Account deemed by the

Collateral Manager in its sole discretion to be Principal Proceeds pursuant to Section 10.3(e), (ii) all Principal Proceeds (unless simultaneously reinvested in additional Collateral Obligations in accordance with Article XII or in Eligible Investments) received by the Trustee, and (iii) all other funds received by the Trustee. All Monies deposited from time to time in the Collection Account pursuant to this Indenture shall be held by the Trustee as part of the Assets and shall be applied to the purposes herein provided. Notwithstanding anything to the contrary in this Indenture, immediately upon receipt by the Trustee of any Warehouse Accrued Interest (as identified by the Collateral Manager), the Trustee will pay any such amounts in accordance with the payment instructions given by the Collateral Manager. Any such amounts constitute Excepted Property, are not Assets and are not subject to the Priority of Payments. Subject to Section 10.2(d), amounts in the Collection Account shall be reinvested pursuant to Section 10.5(a).

(b) The Trustee, within one Business Day after receipt of any distribution or other proceeds in respect of the Assets which are not Cash, shall so notify or cause the Issuer to be notified and the Issuer shall use its commercially reasonable efforts to, within five Business Days of receipt of such notice from the Trustee (or as soon as practicable thereafter), sell such distribution or other proceeds for Cash in an arm's length transaction to a Person which is not the Collateral Manager or an Affiliate of the Issuer or the Collateral Manager and deposit the proceeds thereof in the Collection Account; provided, however, that the Issuer (i) need not sell such distributions or other proceeds if it delivers an Officer's certificate to the Trustee certifying that such distributions or other proceeds constitute Collateral Obligations or Eligible Investments or (ii) may otherwise retain such distribution or other proceeds for up to two years from the date of receipt thereof if it delivers an Officer's certificate to the Trustee certifying that (x) it shall sell such distribution within such two-year period and (y) retaining such distribution is not otherwise prohibited by this Indenture.

(c) At any time when reinvestment is permitted pursuant to Article XII, the Collateral Manager, on behalf of the Issuer, by Issuer Order, may direct the Trustee to, and upon receipt of such Issuer Order, the Trustee shall, withdraw funds on deposit in the Principal Collection Account representing Principal Proceeds (including any funds attributable to the Issuer's receipt of Principal Financed Accrued Interest Collections) and purchase Collateral Obligations or exercise any warrant held as Assets, in each case, in accordance with the requirements of Article XII and such Issuer Order. At any time, the Collateral Manager, on behalf of the Issuer, by Issuer Order, may direct the Trustee to, and upon receipt of such Issuer Order the Trustee shall, withdraw funds on deposit in the Principal Collection Account (including any funds attributable to the Issuer's receipt of Principal Financed Accrued Interest Collections) and deposit such funds in the Unfunded Exposure Account to meet funding requirements related to any Delayed Drawdown Collateral Obligations or Revolving Collateral Obligations held as Assets.

(d) The Collateral Manager on behalf of the Issuer may by Issuer Order direct the Trustee to, and upon receipt of such Issuer Order the Trustee shall, pay from amounts on deposit in the Collection Account on any Business Day (and, with respect to (ii) only, from amounts on deposit in the Expense Reserve Account) during any Interest Accrual Period (i) any amount required to exercise a warrant held in the Assets or right to acquire securities in

accordance with the requirements of Article XII and such Issuer Order and (ii) from Interest Proceeds only, any Administrative Expenses (paid in the order of priority set forth in the definition thereof); provided that the payment of Administrative Expenses payable to the Trustee or to the Bank in any capacity shall not require such direction by Issuer Order (but shall require a direction by the Collateral Manager), and provided, further that the aggregate Administrative Expenses paid pursuant to this Section 10.2(d) during any Collection Period shall not exceed the Administrative Expense Cap for the related Payment Date.

(e) The Trustee shall transfer to the Payment Account as applicable, from the Collection Account, for application pursuant to the Priority of Payments, on or not later than the Business Day preceding each Payment Date, the amount set forth to be so transferred in the Distribution Report for such Payment Date.

(f) The Collateral Manager on behalf of the Issuer may by Issuer Order direct the Trustee to, and upon receipt of such Issuer Order the Trustee shall, transfer from amounts on deposit in the Interest Collection Account on any Business Day during any Interest Accrual Period to the Principal Collection Account, amounts necessary for application pursuant to Section 7.17(d).

Section 10.3. Payment Account; Custodial Account; Ramp-Up Account; Expense Reserve Account; Interest Reserve Account; Unfunded Exposure Account; Hedge Counterparty Collateral Account; Discretionary Reserve Account

(a) Payment Account. The Trustee shall, on or prior to the Closing Date, establish at the Intermediary a segregated non-interest bearing trust account which shall be held in the name of the Trustee for the benefit of the Secured Parties, which shall be designated as the Payment Account, which shall be maintained by the Issuer with the Intermediary in accordance with the Account Agreement. Except as provided in the Priority of Payments, the only permitted withdrawal from or application of funds on deposit in, or otherwise to the credit of, the Payment Account shall be to pay amounts due and payable on the Notes in accordance with their terms and the provisions of this Indenture and to pay Administrative Expenses and other amounts specified herein, each in accordance with the Priority of Payments. The Co-Issuers shall not have any legal, equitable or beneficial interest in the Payment Account other than in accordance with the Priority of Payments. Funds in the Payment Account shall not be invested.

(b) Custodial Account. The Trustee shall, on or prior to the Closing Date, establish at the Intermediary a segregated non-interest bearing trust account which shall be held in the name of the Trustee as Entitlement Holder in trust for the benefit of the Secured Parties, which shall be designated as the Custodial Account, which shall be maintained by the Issuer with the Intermediary in accordance with the Account Agreement. The only permitted withdrawals from the Custodial Account shall be in accordance with the provisions of this Indenture. The Co-Issuers shall not have any legal, equitable or beneficial interest in the Custodial Account other than in accordance with the Priority of Payments.

(c) Ramp-Up Account. The Trustee shall, on or prior to the Closing Date, establish at the Intermediary a single, segregated non-interest bearing trust account held in the name of the Trustee for the benefit of the Secured Parties, and shall be designated as the

Ramp-Up Account, which shall be maintained by the Issuer with the Intermediary in accordance with the Account Agreement. On the Closing Date, the Issuer hereby directs the Trustee to deposit into the Ramp-Up Account the amounts designated on the Closing Date Certificate. The Issuer hereby directs the Trustee to apply amounts held in the Ramp-Up Account, as directed by the Collateral Manager, on the Closing Date to the payment of obligations of the Issuer under the agreements related to the acquisition of Collateral Obligations prior to the Closing Date. In connection with any purchase of an additional Collateral Obligation, the Trustee shall apply amounts held in the Ramp-Up Account as provided by Section 7.17(b). Upon the occurrence of an Event of Default (and excluding any proceeds that shall be used to settle binding commitments entered into prior to that date), the Trustee shall deposit any remaining amounts in the Ramp-Up Account into the Principal Collection Account as Principal Proceeds. On the first day after the end of the Ramp-Up Period, the Trustee shall transfer any funds remaining in the Ramp-Up Account to the Principal Collection Account as Principal Proceeds; *provided* that if the Aggregate Ramp-Up Par Amount has been satisfied and the Collateral Manager so directs, the Trustee will transfer an amount up to \$1,000,000 of such funds (excluding any proceeds that will be used to settle binding commitments entered into prior to that date) to the Interest Collection Account as Interest Proceeds on such date. Any income earned on amounts deposited in the Ramp-Up Account shall be deposited in the Collection Account as Interest Proceeds.

(d) Expense Reserve Account. The Trustee shall, on or prior to the Closing Date, establish at the Intermediary a segregated non-interest bearing trust account which shall be held in the name of the Trustee for the benefit of the Secured Parties, which shall be designated as the Expense Reserve Account, which shall be maintained by the Issuer with the Intermediary in accordance with the Account Agreement. On the Closing Date, the Issuer hereby directs the Trustee to deposit into the Expense Reserve Account the amounts designated on the Closing Date Certificate. The Trustee shall apply funds from the Expense Reserve Account, in the amounts and as directed in writing by the Collateral Manager, to pay (x) amounts due in respect of actions taken on or before the Closing Date and (y) subject to the Administrative Expense Cap, Administrative Expenses in the order of priority contained in the definition thereof. Any income earned on amounts on deposit in the Expense Reserve Account shall be deposited in the Interest Collection Account as Interest Proceeds as it is paid. By the Determination Date relating to the third Payment Date following the Closing Date, all funds in the Expense Reserve Account (after deducting any expenses paid on such Determination Date) shall be deposited in the Collection Account as Interest Proceeds and/or Principal Proceeds (in the respective amounts directed by the Collateral Manager in its sole discretion).

(e) Interest Reserve Account. The Trustee shall, on or prior to the Closing Date, establish at the Intermediary a segregated non-interest bearing trust account which shall be held in the name of the Trustee for the benefit of the Secured Parties, which shall be designated as the Interest Reserve Account, which shall be maintained by the Issuer with the Intermediary in accordance with the Account Agreement. On the Closing Date, the Issuer hereby directs the Trustee to deposit into the Interest Reserve Account the amounts designated on the Closing Date Certificate. On any date prior to the Determination Date relating to the first Payment Date, the Issuer, at the direction of the Collateral Manager, by Issuer Order, may direct that all or any portion of funds in the Interest Reserve Account be deposited in the Collection Account as Interest Proceeds and/or Principal Proceeds (in the respective amounts directed by the Collateral

Manager in its sole discretion) as long as, after giving effect to such deposits, the Collateral Manager determines (as certified in such Issuer Order) that the Issuer shall have sufficient funds in the Collection Account to pay Administrative Expenses pursuant to clause (A), the Base Management Fee pursuant to clause (B) and any amounts on the Secured Notes pursuant to clauses (D), (E), (G), (H), (J), (K), (M) and (N) of the Priority of Interest Proceeds on the first Payment Date. Any income earned on amounts deposited in the Interest Reserve Account shall be deposited in the Interest Collection Account as Interest Proceeds as it is paid.

(f) Unfunded Exposure Account. Upon the purchase of any Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation by written notice to the Trustee, funds in an amount equal to the undrawn portion of such obligation shall be withdrawn first from the Ramp-Up Account and, if necessary, from the Principal Collection Account and deposited by the Trustee in a segregated non-interest bearing trust account which shall be held in the name of the Trustee for the benefit of the Secured Parties, which shall be designated as the Unfunded Exposure Account, which shall be maintained by the Issuer with the Intermediary in accordance with the Account Agreement. On the Closing Date, the Issuer hereby directs the Trustee to deposit into the Unfunded Exposure Account the amounts designated on the Closing Date Certificate. Upon initial purchase of any such obligations, funds deposited in the Unfunded Exposure Account in respect of any Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation will be treated as part of the purchase price therefor. Earnings from all such investments will be deposited in the Interest Collection Account as Interest Proceeds.

The Issuer shall at all times maintain sufficient funds on deposit in the Unfunded Exposure Account such that the sum of the amount of funds on deposit in the Unfunded Exposure Account shall be equal to or greater than the sum of the unfunded funding obligations under all such Revolving Collateral Obligations and Delayed Drawdown Collateral Obligations then included in the Assets. Funds shall be deposited in the Unfunded Exposure Account upon the purchase of any Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation as directed by the Collateral Manager on behalf of the Issuer. In the event of any shortfall in the Unfunded Exposure Account, the Collateral Manager (on behalf of the Issuer) may direct the Trustee to, and the Trustee thereafter shall, transfer funds in an amount equal to such shortfall from the Principal Collection Account to the Unfunded Exposure Account.

Any funds in the Unfunded Exposure Account (other than earnings from Eligible Investments therein) will be available solely to cover any drawdowns on the Revolving Collateral Obligations and Delayed Drawdown Collateral Obligations; provided that any excess of (A) the amounts on deposit in the Unfunded Exposure Account over (B) the sum of the unfunded funding obligations under all Revolving Collateral Obligations and Delayed Drawdown Collateral Obligations may be transferred by the Trustee (at the written direction of the Collateral Manager on behalf of the Issuer) from time to time as Principal Proceeds to the Principal Collection Account.

(g) Discretionary Reserve Account. The Trustee shall, on or prior to the Closing Date, establish at the Intermediary a segregated non-interest bearing trust account which shall be held in the name of the Trustee for the benefit of the Secured Parties, which shall be designated as the Discretionary Reserve Account, which shall be maintained by the Issuer with the Intermediary in accordance with the Account Agreement. Each Contribution accepted by the

Collateral Manager shall be deposited in the Discretionary Reserve Account. Amounts on deposit in the Discretionary Reserve Account may be withdrawn at the written direction of the Collateral Manager for a Permitted Use, at the Collateral Manager's reasonable discretion. Any income earned on amounts deposited in the Discretionary Reserve Account shall be deposited in the Discretionary Reserve Account.

Section 10.4. Hedge Counterparty Collateral Account. If and to the extent that any Hedge Agreement requires the Hedge Counterparty to post collateral with respect to such Hedge Agreement, the Issuer shall (at the direction of the Collateral Manager), on or prior to the date such Hedge Agreement is entered into, direct the Trustee to establish in the name of the Trustee a segregated, non interest bearing trust account which shall be designated as a Hedge Counterparty Collateral Account (each, a "Hedge Counterparty Collateral Account"). The Trustee (as directed in writing by the Collateral Manager on behalf of the Issuer) shall deposit into each Hedge Counterparty Collateral Account all collateral required to be posted by a Hedge Counterparty and all other funds and property required by the terms of any Hedge Agreement to be deposited into the Hedge Counterparty Collateral Account, in accordance with the terms of the related Hedge Agreement. The only permitted withdrawals from or application of funds or property on deposit in the Hedge Counterparty Collateral Account shall be in accordance with the written instructions of the Collateral Manager.

Section 10.5. Reinvestment of Funds in Accounts; Reports by Trustee. (a) By Issuer Order (which may be in the form of standing instructions), the Issuer (or the Collateral Manager on behalf of the Issuer) shall at all times direct the Trustee to, and, upon receipt of such Issuer Order, the Trustee shall, invest all funds on deposit in the Collection Account, the Ramp-Up Account, the Expense Reserve Account, the Interest Reserve Account, the Unfunded Exposure Account, the Discretionary Reserve Account and the Hedge Counterparty Collateral Account as so directed in Eligible Investments having Stated Maturities no later than the Business Day preceding the next Payment Date (or such shorter maturities expressly provided herein) except that Eligible Investments in the Unfunded Exposure Account must have a maturity no later than the next Business Day. If prior to the occurrence of an Event of Default, the Issuer shall not have given any such investment directions, the Trustee shall seek instructions from the Collateral Manager within three Business Days after transfer of any funds to such accounts. If the Trustee does not thereafter receive written instructions from the Collateral Manager within five Business Days after transfer of such funds to such accounts, it shall invest and reinvest the funds held in such accounts, as fully as practicable, in an investment vehicle (which shall be an Eligible Investment) designated as such by the Collateral Manager to the Trustee in writing on or before the Closing Date, (such investment, until and as it may be changed from time to time as hereinafter provided, the "Standby Directed Investment"), until investment instruction as provided in the preceding sentence is received by the Trustee ~~or, if the Trustee from time to time receives a standing written instruction from the Collateral Manager expressly stating that it is changing the Standby Directed Investment under this paragraph, the Standby Designated Investment may thereby be changed to an Eligible Investment of the type described in clause (vii) of the definition of Eligible Investments maturing no later than the Business Day immediately preceding the next Payment Date (or such shorter maturities expressly provided herein) as designated in such instruction.~~

After an Event of Default, the Trustee shall invest and reinvest such Monies as fully as

practicable in ~~investments of the type set forth in clause (vii) of the definition of Eligible Investments maturing not later than the earlier of (i) 30 days after the date of such investment (unless putable at par to the issuer thereof) or (ii) the Business Day immediately preceding the next Payment Date (or such shorter maturities expressly provided herein)~~ the Standby Directed Investment or such other investment as a Majority of the Controlling Class so directs the Trustee in writing. Except to the extent expressly provided otherwise herein, all interest and other income from such investments shall be deposited in the Interest Collection Account, any gain realized from such investments shall be credited to the Principal Collection Account upon receipt, and any loss resulting from such investments shall be charged to the Principal Collection Account. The Trustee shall not in any way be held liable by reason of any insufficiency of such accounts which results from any loss relating to any such investment; provided that the foregoing shall not relieve the Bank of its obligations under any security or obligation issued by the Bank or any Affiliate thereof.

(b) The Trustee agrees to give the Issuer immediate notice if the Trustee becomes aware that any Account or any funds on deposit in any Account, or otherwise to the credit of an Account, shall become subject to any writ, order, judgment, warrant of attachment, execution or similar process. All Accounts shall remain at all times with the Trustee or a financial institution (x) having a long-term debt rating of at least equal to "A1" or "P-1" by Moody's and having combined capital and surplus of at least U.S.\$200,000,000 and (y)(i) that is a federal or state-chartered depository institution or in segregated trust accounts with the corporate trust department of a federal or state-chartered deposit institution subject to regulations regarding fiduciary funds on deposit similar to Title 12 of the Code of Federal Regulation Section 9.10(b) and (ii) if Cash is being held in such account, having a long-term debt rating of at least equal to "A2" and a short-term debt rating of "P-1" by Moody's. If such institution's ratings fall below the ratings set forth in clauses (x) or (y), the assets held in such account will be moved to another institution that satisfies such ratings within 30 calendar days.

For all U.S. federal tax reporting purposes, all income earned on the funds invested and allocable to the Accounts is legally owned by the Issuer. The Issuer is required to provide to the Bank, in its capacity as Trustee (i) an IRS Form W-9 or appropriate IRS Form W-8BEN-E no later than the date hereof, and (ii) any other or additional IRS forms (or updated versions of any previously submitted IRS forms) or other documentation at such time or times required by applicable law or upon the reasonable request of the Trustee as may be necessary (a) to reduce or eliminate the imposition of U.S. withholding taxes and (b) to permit the Trustee to fulfill its tax reporting obligations under applicable law with respect to the Accounts or any amounts allocable to the Accounts that are paid to the Issuer. The Issuer is further required to report to the Trustee comparable information upon any change in the legal or beneficial ownership of the income allocable to the Accounts. For the avoidance of doubt, no funds shall be invested with respect to such Accounts absent the Trustee having first received (x) instructions with respect to the investment of such funds, and (y) the forms and other documentation required by this paragraph.

(c) The Trustee shall supply, in a timely fashion, to the Co-Issuers, the Collateral Manager, and the Rating Agency any information regularly maintained by the Trustee

that the Co-Issuers, the Rating Agency or the Collateral Manager may from time to time request in writing with respect to the Pledged Obligations, the Accounts and the other Assets and provide any other requested information reasonably available to the Trustee by reason of its acting as Trustee hereunder and required to be provided by Section 10.6 or to permit the Collateral Manager to perform its obligations under the Collateral Management Agreement. The Trustee shall promptly forward to the Collateral Manager copies of notices and other writings received by it from the issuer of any Collateral Obligation or from any Clearing Agency with respect to any Collateral Obligation which notices or writings advise the holders of such security of any rights that the holders might have with respect thereto (including, without limitation, requests to vote with respect to amendments or waivers and notices of prepayments and redemptions) as well as all periodic financial reports, and other communications received from such issuer and Clearing Agencies with respect to such issuer.

Section 10.6. Accountings.

(a) Monthly. Not later than (1) the Business Day preceding each Quarterly Payment Date and (2) the tenth Business Day of each calendar month, in which a Quarterly Payment Date does not occur, in each case, commencing in [October 2014], the Issuer shall compile and make available (or cause to be compiled and made available) (including, at the election of the Issuer, via appropriate electronic means acceptable to each recipient) a monthly report (each a "Monthly Report"), determined as of the last day of the prior calendar month (or, with respect to any Monthly Report delivered in a month in which a Quarterly Payment Date occurs, the related Determination Date) to the Rating Agency, the Trustee, the Collateral Manager, the each Placement Agent, the Irish Stock Exchange (so long as any Notes are listed on the Irish Stock Exchange), any Holder and, upon request, a Certifying Person. The Monthly Report shall contain the following information with respect to the Collateral Obligations and Eligible Investments included in the Assets (based, in part, on information provided by the Collateral Manager):

- (i) Aggregate Principal Balance of Collateral Obligations and Eligible Investments representing Principal Proceeds.
- (ii) Adjusted Collateral Principal Amount of Collateral Obligations.
- (iii) Collateral Principal Amount of Collateral Obligations.
- (iv) A list of Collateral Obligations, including, with respect to each such Collateral Obligation, the following detailed information:
  - (A) The obligor thereon (including the issuer ticker, if any);
  - (B) The CUSIP or security identifier thereof;
  - (C) The Principal Balance thereof (other than any accrued interest that was purchased with Principal Proceeds (but noting any capitalized interest));

- (D) The percentage of the aggregate Collateral Principal Amount represented by such Collateral Obligation;
- (E) The related interest rate or spread (indicating whether such spread is inclusive of any applicable Libor floor rate);
- (F) The stated maturity thereof;
- (G) The related Moody's Industry Classification;
- (H) The related S&P Industry Classification;
  - (I) Whether such Collateral Obligation was acquired from or sold to, as applicable, the Collateral Manager, an Affiliate of the Collateral Manager or an account managed by any such parties or with respect to which any such parties exercise discretionary voting authority;
  - (J) The Moody's Rating, unless such rating is based on a credit estimate unpublished by Moody's (and, in the event of a downgrade or withdrawal of the applicable Moody's Rating, the prior rating and the date such Moody's Rating was changed);
  - (K) The Moody's Default Probability Rating;
  - (L) The S&P Rating, unless such rating is based on a credit estimate unpublished by S&P or such rating is a confidential rating or a private rating by S&P;
  - (M) The country of Domicile;
  - (N) An indication as to whether each such Collateral Obligation is (1) a Defaulted Obligation, (2) a Senior Secured Loan, Second Lien Loan or Senior Unsecured Loan, (3) a floating rate Collateral Obligation, (4) a Participation Interest (indicating the related Selling Institution and its ratings by the Rating Agency), (5) a Current Pay Obligation, (6) a DIP Collateral Obligation, (7) a Discount Obligation (including its purchase price and purchase yield in the case of a fixed rate Collateral Obligation), (8) a Cov-Lite Loan, (9) a Deferrable **Security Obligation**, or (10) a First Lien Last Out Loan;
  - (O) The Moody's Recovery Rate; and
  - (P) Whether such Collateral Obligation is a Libor Floor Obligation and the specified "floor" rate per annum related thereto as specified by the Collateral Manager.
- (v) For each of the limitations and tests specified in the definitions of Concentration Limitations and Collateral Quality Test, (1) the result, (2) the related

minimum or maximum test level and (3) a determination as to whether such result satisfies the related test.

- (vi) The Moody's Weighted Average Rating Factor.
- (vii) The Moody's Weighted Average Recovery Rate.
- (viii) The Diversity Score.
- (ix) The calculation of each of the following:
  - (A) From and after the Determination Date immediately preceding the second **Quarterly** Payment Date, each Interest Coverage Ratio (and setting forth each related Required Coverage Ratio);
  - (B) Each Overcollateralization Ratio (and setting forth each related Required Coverage Ratio); and
  - (C) The Interest Diversion Test (and setting forth the required test level).
- (x) For each Account, a schedule showing the beginning balance, each credit or debit specifying the nature, source and amount, and the ending balance.
- (xi) A schedule showing for each of the following the beginning balance, the amount of Interest Proceeds received from the date of determination of the immediately preceding Monthly Report, and the ending balance for the current Measurement Date:
  - (A) Interest Proceeds from Collateral Obligations; and
  - (B) Interest Proceeds from Eligible Investments.
- (xii) A list of all Eligible Investments held during such calendar month.
- (xiii) Purchases, prepayments and sales:
  - (A) The (1) identity, (2) Principal Balance (other than any accrued interest that was purchased with Principal Proceeds (but noting any capitalized interest)), (3) Principal Proceeds and Interest Proceeds received, (4) excess of the amounts in clause (3) over clause (2), and (5) date for (X) each Collateral Obligation that was released for sale or disposition pursuant to Section 12.1 since the date of determination of the immediately preceding Monthly Report and (Y) for each prepayment or redemption of a Collateral Obligation, and in the case of (X), whether such Collateral Obligation was a Credit Risk Obligation or a Credit Improved Obligation, whether the sale of such Collateral Obligation was a discretionary sale and whether such sale of a Collateral Obligation was to an the Collateral Manager, an Affiliate of the Collateral

Manager or an account managed by any such parties or with respect to which any such parties exercises discretionary voting authority; and

(B) The (1) identity, (2) Principal Balance (other than any accrued interest that was purchased with Principal Proceeds (but noting any capitalized interest)), (3) Principal Proceeds and Interest Proceeds expended to acquire and (4) excess of the amounts in clause (3) over clause (2) of each Collateral Obligation acquired pursuant to Section 12.2 since the date of determination of the immediately preceding Monthly Report and whether such Collateral Obligation was obtained through a purchase from an the Collateral Manager, Affiliate of the Collateral Manager or an account managed by any such parties or with respect to which any such parties exercises discretionary voting authority.

(xiv) The identity of each Defaulted Obligation, the Moody's Collateral Value and the Market Value of each such Defaulted Obligation and date of default thereof.

(xv) The identity of each Collateral Obligation with an Assigned Moody's Rating of "Caa1" or below and the Market Value of each such Collateral Obligation.

(xvi) The identity of each Deferring **Security Obligation**, the Moody's Collateral Value and the Market Value of each Deferring **Security Obligation**, and the date on which interest was last paid in full in Cash thereon.

(xvii) For any Collateral Obligation, whether the rating of such Collateral Obligation has been upgraded, downgraded or put on credit watch by any Rating Agency since the date of determination of the immediately preceding Monthly Report and such old and new rating or the implication of such credit watch.

(xviii) For each Collateral Obligation purchased pursuant to Section 12.2(b), on a dedicated page of the Monthly Report, the stated maturity of each Substitute Obligation and the stated maturity of each Reinvestable Obligation.

(xix) The identity of each Current Pay Obligation, the Market Value of each such Current Pay Obligation, the percentage of the Collateral Principal Amount comprised of Current Pay Obligations, the portfolio limitation for Current Pay Obligations expressed as a percentage of the Collateral Principal Amount and whether such limitation is satisfied.

(xx) The Market Value of each Collateral Obligation for which a Market Value was required to be calculated pursuant to the terms of the Indenture.

(xxi) The identity of any Tax Subsidiary and the identity of each Collateral Obligation, Equity Security or Defaulted Obligation, if any, held by such Tax Subsidiary.

(xxii) The amount of Cash, if any, held in any Tax Subsidiary.

(xxiii) The identity of any ~~first lien, last out obligation~~**First Lien Last Out Loan**.

(xxiv) With respect to a Deferrable **Security Obligation** or Partial Deferrable **Security Obligation**, that portion of deferred or capitalized interest that remains unpaid and is included in the calculation of the Principal Balance of such Deferrable **Security Obligation** or Partial Deferrable **Security Obligation**.

(xxv) Such other information as the Trustee, any Hedge Counterparty, any Rating Agency or the Collateral Manager may reasonably request.

(xxvi) The identity of each Collateral Obligation that the Issuer has committed to purchase or sell but which has not settled as of the date of such Monthly Report and the settlement date of such purchase or sale.

(xxvii) The calculation of the ratio set forth in Section 5.1(e) as of the last Determination Date.

**(xxviii) A description of each Trading Plan, including, with respect to each such Trading Plan, the following detailed information (in each case, based on information provided by the Collateral Manager to the Trustee and the Collateral Administrator):**

**(A) The date such Trading Plan commenced and (if applicable) the date such Trading Plan terminated;**

**(B) The composition of such Trading Plan; and**

**(C) The identity of each Collateral Obligation subject to such Trading Plan.**

Upon receipt of each Monthly Report, the Trustee shall, if the Trustee is not the same Person as the Collateral Administrator, compare the information contained in such Monthly Report to the information contained in its records with respect to the Assets and shall, within three Business Days after receipt of such Monthly Report, notify the Issuer, the Collateral Administrator, the Collateral Manager, and the Rating Agency if the information contained in the Monthly Report does not conform to the information maintained by the Trustee with respect to the Assets. In the event that any discrepancy exists, the Trustee and the Issuer, or the Collateral Manager on behalf of the Issuer, shall attempt to resolve the discrepancy. If such discrepancy cannot be promptly resolved, the Trustee shall within five Business Days request the Independent accountants appointed by the Issuer pursuant to Section 10.8 to perform agreed-upon procedures on such Monthly Report and the Trustee's records to assist the Trustee in determining the cause of such discrepancy. If the discrepancy results in the discovery of an error in the Monthly Report or the Trustee's records, the Monthly Report or the Trustee's records shall be revised accordingly and, as so revised, shall be utilized in making all calculations pursuant to this Indenture and notice

of any error in the Monthly Report shall be sent as soon as practicable by the Issuer to all recipients of such report.

(b) Payment Date Accounting. The Issuer shall render (or cause to be rendered) a report (each a "Distribution Report"), determined as of the close of business on each Determination Date, and shall make available such Distribution Report (including, at the election of the Issuer, via appropriate electronic means acceptable to each recipient) to the Trustee, the Collateral Manager, the each Placement Agent and the Rating Agency, each Holder and, upon written request, Certifying Person not later than the Business Day preceding the related Quarterly Payment Date. The Distribution Report shall contain the following information (based, in part, on information provided by the Collateral Manager):

(i) the information listed in clause (ix) of Section 10.6(a);

(ii) (a) with respect to each Class of Secured Notes, the Aggregate Outstanding Amount of such Class at the beginning of the Interest Accrual Period, such amount as a percentage of the original Aggregate Outstanding Amount of such Class, the amount of principal payments to be made on such Class on the next Quarterly Payment Date, the amount of any Deferred Interest on each such Class of Deferred Interest Notes, and the Aggregate Outstanding Amount of such Class after giving effect to the principal payments, if any, on the next Quarterly Payment Date and such amount as a percentage of the original Aggregate Outstanding Amount of such Class and (b) with respect to the Subordinated Notes, the Aggregate Outstanding Amount of such Class at the beginning of the Interest Accrual Period and such amount as a percentage of the original Aggregate Outstanding Amount of the Subordinated Notes, the amount of any Redemption Price on such Class being paid on the next Quarterly Payment Date, and the Aggregate Outstanding Amount of such Class after giving effect to such payments, if any, on the next Quarterly Payment Date and such amount as a percentage of the original Aggregate Outstanding Amount of such Class;

(iii) the Note Interest Rate and accrued interest for each applicable Class of Secured Notes for such Quarterly Payment Date;

(iv) the amounts payable pursuant to each clause of the Priority of Payments on the related Quarterly Payment Date;

(v) for the Collection Account:

(A) the Balance on deposit in the Collection Account at the end of the related Collection Period (or, with respect to the Interest Collection Account, the next Business Day);

(B) the amounts payable from the Collection Account to the Payment Account, in order to make payments pursuant to the Priority of Payments on the next Quarterly Payment Date (net of amounts which the

Collateral Manager intends to re-invest in additional Collateral Obligations pursuant to Article XII); and

(C) the Balance remaining in the Collection Account immediately after all payments and deposits to be made on such Quarterly Payment Date; and

(vi) such other information as the Trustee, any Hedge Counterparty or the Collateral Manager may reasonably request.

Each Distribution Report shall constitute instructions to the Trustee to withdraw funds from the Payment Account and pay or transfer such amounts set forth in such Distribution Report in the manner specified and in accordance with the priorities established in the Priority of Payments only if such report has been signed or is accompanied by an Issuer Order signed by an Authorized Officer of the Issuer or the Collateral Manager (which signature may be transmitted electronically).

(c) Interest Rate Notice. The Collateral Administrator shall make available to each Holder of Floating Rate Notes, as soon as reasonably practicable but in any case no later than the sixth Business Day after each Quarterly Payment Date, a notice setting forth the Note Interest Rate for such Notes for the Interest Accrual Period preceding the next Quarterly Payment Date. The Collateral Administrator shall also make available to the Issuer and each Holder of Notes, as soon as reasonably practicable but in any case no later than the sixth Business Day after each Interest Determination Date, a notice setting forth LIBOR for the Interest Accrual Period (or, for the first Interest Accrual Period, the related portion thereof) following such Interest Determination Date.

(d) Failure to Provide Accounting. If the Trustee shall not have received any accounting provided for in this Section 10.6 on the first Business Day after the date on which such accounting is due to the Trustee, the Issuer shall use all reasonable efforts to cause such accounting to be made by the applicable Quarterly Payment Date. To the extent the Issuer is required to provide any information or reports pursuant to this Section 10.6 as a result of the failure to provide such information or reports, the Issuer (with the assistance of the Collateral Manager) shall be entitled to retain an Independent certified public accountant in connection therewith.

(e) Required Content of Certain Reports. Each Monthly Report and each Distribution Report sent to any Holder or beneficial owner of an interest in a Note shall contain, or be accompanied by, the following notices:

The Notes may be beneficially owned only by Persons that (a)(i) are not U.S. persons (within the meaning of Regulation S under the United States Securities Act of 1933, as amended) and are purchasing their beneficial interest in an offshore transaction or (ii) are either (A)(1) qualified institutional buyers ("Qualified Institutional Buyers") within the meaning of Rule 144A and (2) qualified purchasers (as defined in Section 2(a)(51) of the Investment Company Act) ("Qualified Purchasers"), or (B) in the case of Certificated Notes only, (1) institutional accredited investors meeting the requirements of Rule

501(a)(1), (2), (3) or (7) under the Securities Act ("AIIs") and (2) Qualified Purchasers and (b) can make the representations set forth in Section 2.6 or the appropriate Exhibit to the Indenture. Beneficial ownership interests in the Rule 144A Global Notes may be transferred only to a Person that is both a Qualified Institutional Buyer and a Qualified Purchaser and that can make the representations referred to in clause (b) of the preceding sentence. The Issuer has the right to compel any beneficial owner of an interest in Rule 144A Global~~the~~ Notes that does not meet the qualifications set forth in such clauses to sell its interest in such Notes, or may sell such interest on behalf of such owner, pursuant to Section 2.12 of the Indenture.

This report is subject to the confidentiality provisions set forth in Section 14.14 of the Indenture.

(f) Placement Agent Information. The Issuer and ~~the~~either Placement Agent, or any successor to ~~the~~either Placement Agent, may post the information contained in a Monthly Report or Distribution Report to a password-protected internet site accessible only to the Holders of the Notes, the Trustee and the Collateral Manager.

(g) Availability of Reports. The Monthly Reports and Distribution Reports shall be made available to the Persons entitled to such reports via the Trustee's website. The Trustee's website shall initially be located at <http://www.usbank.com/abs>. The Trustee shall provide Intex Solutions, Inc. with access to the Trustee's website. Persons who are unable to use the above distribution option are entitled to have a paper copy mailed to them via first class mail by calling the Trustee's customer service desk. The Trustee shall have the right to change the method by which such reports are distributed in order to make such distribution more convenient and/or more accessible to the Persons entitled to such reports, and the Trustee shall provide timely notification (in any event, not less than 30 days) to all such Persons. As a condition to access to the Trustee's internet website, the Trustee may require registration and the acceptance of a disclaimer. The Trustee shall not be liable for the information it is directed or required to disseminate in accordance with the Indenture. The Trustee shall be entitled to rely on but shall not be responsible for the content or accuracy of any information provided in the information set forth in the Monthly Report and the Distribution Report and may affix thereto any disclaimer it deems appropriate in its reasonable discretion. Upon written request of any Holder, the Trustee shall also provide such Holder copies of reports produced pursuant to this Indenture and the Collateral Management Agreement. For the avoidance of doubt, ~~the~~each Placement Agent shall be entitled to receive or have access to the Monthly Reports and Distribution Reports.

(h) Irish Stock Exchange. So long as any Class of Notes is listed on the Irish Stock Exchange, the Trustee shall inform the Irish Stock Exchange if the ratings assigned to the Rated Notes are reduced or withdrawn.

Section 10.7. Release of ~~Securities~~Assets. (a) The Issuer may, by Issuer Order executed by an Authorized Officer of the Collateral Manager, delivered to the Trustee no later than the settlement date for any sale of a security~~an~~ Asset certifying that the sale of such security~~Asset~~ is being made in accordance with Section 12.1 and such sale complies with all applicable requirements of Section 12.1, direct the Trustee to release or cause to be released such security~~Asset~~ from the lien of this Indenture and, upon receipt of such Issuer Order, the

Trustee shall deliver any such **securityAsset**, if in physical form, duly endorsed to the broker or purchaser designated in such Issuer Order or, if such **securityAsset** is a Clearing Corporation Security, cause an appropriate transfer thereof to be made, in each case against receipt of the sales price therefor as specified by the Collateral Manager in such Issuer Order; provided, however, that the Trustee may deliver any such **securityAsset** in physical form for examination in accordance with street delivery custom; provided, further that, notwithstanding the foregoing, the Issuer shall not direct the Trustee to release any **securityAsset** pursuant to this Section 10.7(a) following an acceleration of the Notes under Section 5.2 that has not been rescinded or annulled unless the liquidation of the Assets has begun or the Trustee has exercised any remedies of a Secured Party pursuant to Section 5.4(a)(iv) at the direction of a Majority of the Controlling Class.

(b) If no Event of Default has occurred and is continuing and subject to Article XII hereof, the Trustee shall upon an Issuer Order (i) deliver any Pledged Obligation, and release or cause to be released such **securityAsset** from the lien of this Indenture, which is set for any mandatory call or redemption or payment in full to the appropriate Paying Agent on or before the date set for such call, redemption or payment, in each case against receipt of the call or redemption price or payment in full thereof and (ii) provide notice thereof to the Collateral Manager.

(c) Upon receiving actual notice of any Offer (as defined below) or any request for a waiver, consent, amendment or other modification with respect to any Collateral Obligation, the Trustee on behalf of the Issuer shall promptly notify the Collateral Manager of any Collateral Obligation that is subject to a tender offer, voluntary redemption, exchange offer, conversion or other similar action (an "Offer") or such request. Unless the Notes have been accelerated following an Event of Default, the Collateral Manager shall have the exclusive right to direct in writing (upon which the Trustee may conclusively rely) (x) the Trustee to accept or participate in or decline or refuse to participate in such Offer and, in the case of acceptance or participation, to release from the lien of this Indenture such Collateral Obligation in accordance with the terms of the Offer against receipt of payment therefor, or (y) the Issuer or the Trustee to agree to or otherwise act with respect to such consent, waiver, amendment or modification. If the Notes have been accelerated following an Event of Default, the Majority of the Controlling Class shall have the exclusive right to direct in writing (upon which the Trustee may conclusively rely) (x) the Trustee to accept or participate in or decline or refuse to participate in such Offer and, in the case of acceptance or participation, to release from the lien of this Indenture such Collateral Obligation in accordance with the terms of the Offer against receipt of payment therefor, or (y) the Issuer or the Trustee to agree to or otherwise act with respect to such consent, waiver, amendment or modification.

(d) As provided in Section 10.2(a), the Trustee shall deposit any proceeds received by it from the disposition of a Pledged Obligation in the applicable account under the Collection Account, unless simultaneously applied to the purchase of additional Collateral Obligations or Eligible Investments as permitted under and in accordance with the requirements of this Article X and Article XII.

(e) The Trustee shall, upon receipt of an Issuer Order at such time as there are no Secured Notes Outstanding and all obligations of the Co-Issuers hereunder have been satisfied, release any remaining Assets from the lien of this Indenture.

(f) Upon receipt by the Trustee of an Issuer Order from an Authorized Officer of the Issuer or an Authorized Officer of the Collateral Manager certifying that the transfer of any **Collateral Obligation with respect to which the Issuer will or may receive a** Tax Subsidiary Asset is being made in accordance with Section 12.1 and that all applicable requirements of Section 7.4 have been or shall be satisfied, the Trustee shall release such **Tax Subsidiary** Asset and shall deliver such **Tax Subsidiary** Asset as specified in such Issuer Order.

(g) The Trustee shall, upon receipt of an Issuer Order, release any Unsaleable Assets sold, distributed or disposed of pursuant to Section 12.1(j).

(h) The Trustee will distribute (promptly upon identification thereof by the Collateral Manager) any Warehouse Accrued Interest received into the Interest Collection Account in accordance with Section 10.2(a).

(i) Any security, Collateral Obligation or amounts that are released pursuant to Section 10.7(a), (b), (c), (e), (f), (g) or (h) shall be released from the lien of this Indenture.

**Section 10.8. Reports by Independent Accountants.** (a) Prior to the delivery of any agreed upon procedure reports of accountants required to be prepared pursuant to the terms hereof, the Issuer (or the Collateral Manager on behalf of the Issuer) shall appoint one or more firms of Independent certified public accountants of recognized international reputation for purposes of performing agreed upon procedures required by this Indenture, which may be the firm of Independent certified public accountants that performs accounting services for the Issuer or the Collateral Manager. The Issuer (or the Collateral Manager on behalf of the Issuer) may remove any firm of Independent certified public accountants at any time without the consent of any Holder of Notes. Upon any resignation by such firm or removal of such firm by the Issuer, the Issuer (or the Collateral Manager on behalf of the Issuer) shall promptly appoint by Issuer Order delivered to the Trustee a successor thereto that shall also be a firm of Independent certified public accountants of recognized international reputation, which may be a firm of Independent certified public accountants that performs accounting services for the Issuer or the Collateral Manager. If the Issuer shall fail to appoint a successor to a firm of Independent certified public accountants which has resigned within 30 days after such resignation, the Issuer shall promptly notify the Trustee of such failure in writing. If the Issuer shall not have appointed a successor within ten days thereafter, the Trustee shall promptly notify the Collateral Manager, who shall appoint a successor firm of Independent certified public accountants of recognized international reputation. The fees of such Independent certified public accountants and its successor shall be payable by the Issuer as an Administrative Expense.

In the event such firm requires the Bank, in any of its capacities including but not limited to Trustee or Collateral Administrator, to agree to or acknowledge the procedures performed by such firm, or sign any other agreement in connection therewith or as a condition to receipt of any of the certificates, reports or instructions provided for in this Indenture, the Issuer hereby directs the Bank to so agree; it being understood that the Bank shall deliver such letter of

agreement or other agreement in conclusive reliance on the foregoing direction and the Bank shall make no inquiry or investigation as to, and shall have no obligation in respect of, the sufficiency, validity, or correctness of such procedures. Without limiting the generality of the foregoing, any such agreement or acknowledgement by the Bank (in any such capacity) may include, among other things, (i) acknowledgement that the Issuer has agreed that the procedures to be performed by the Independent accountants are sufficient for relevant purposes, (ii) releases by the Bank (as Trustee on behalf of itself and/or the Holders or in any other capacity) of any claims, liabilities, and expenses arising out of or relating to such Independent accountant's engagement, agreed-upon procedures or any report issued by such Independent accountants under any such engagement and acknowledgement of other limitations of liability in favor of the Independent certified public accountants, and (iii) restrictions or prohibitions on the disclosure of any such certificates, reports or other information or documents provided to it by such firm of Independent accountants (including to the Holders). Notwithstanding the foregoing, in no event shall the Bank, including in its capacity as Trustee or Collateral Administrator, be required to execute any agreement in respect of the Independent accountants that it reasonably determines may subject it to risk of expenses or liability for which it is not adequately indemnified or otherwise adversely affects it. The Bank, in each of its capacities, shall not disclose to any party other than the Issuer and the Collateral Manager any information or documents provided to it by such firm of Independent accountants.

(b) Upon the written request of the Trustee, or any Holder of a Subordinated Note, the Issuer shall cause the firm of Independent certified public accountants appointed pursuant to Section 10.8(a) to provide any Holder of Notes with all of the information required to be provided by the Issuer or pursuant to Section 7.16 or assist the Issuer in the preparation thereof.

**Section 10.9. Reports to Rating Agency.** In addition to the information and reports specifically required to be provided to the Rating Agency pursuant to the terms of this Indenture, the Issuer shall provide to the Rating Agency all information or reports delivered to the Trustee hereunder (with the exception of any Accountants' Report), and, subject to any confidentiality requirements, such additional information as a Rating Agency may from time to time reasonably request (including, with respect to credit estimates, notification to Moody's of any material modification that would result in substantial changes to the terms of any loan document relating to a Collateral Obligation or any release of collateral thereunder not permitted by such loan documentation and will provide a copy of such modification documentation within 30 Business Days following receipt of such documentation). The Issuer shall notify Moody's of any termination, modification or amendment to the Collateral Management Agreement, the Collateral Administration Agreement, the Account Agreement or any other agreement to which it is party in connection with any such agreement or this Indenture and shall notify Moody's of any material breach by any party to any such agreement of which it has actual knowledge.

**Section 10.10. Procedures Relating to the Establishment of Accounts Controlled by the Trustee.** Notwithstanding anything else contained herein, the Trustee is hereby directed, with respect to each of the Accounts, to enter into the Account Agreement with the Securities

Intermediary. The Trustee shall have the right to open such subaccounts of any such account as it deems necessary or appropriate for convenience of administration.

## ARTICLE XI

### APPLICATION OF MONIES

#### Section 11.1. Disbursements of Monies from Payment Account.

(a) Notwithstanding any other provision in this Indenture, any Transaction Document to which it may be a party or the Notes, but subject to the other subsections of this Section 11.1~~and~~, Section 13.1 **and the Bankruptcy Subordination Agreement**, on each Payment Date, the Trustee shall disburse amounts transferred, if any, from the Collection Account to the Payment Account pursuant to Section 10.2 in accordance with the following priorities; provided that, except with respect to a Post-Acceleration Payment Date, Redemption Date or the Stated Maturity (x) amounts transferred, if any, from the Interest Collection Account shall be applied solely in accordance with the Priority of Interest Proceeds; and (y) amounts transferred, if any, from the Principal Collection Account shall be applied solely in accordance with the Priority of Principal Proceeds.

(i) On each Payment Date (other than a Post-Acceleration Payment Date, Redemption Date (except for a Redemption Date in connection with a Partial Redemption by Refinancing that occurs on a Quarterly Payment Date) or the Stated Maturity), Interest Proceeds on deposit in the Collection Account, to the extent received on or before the related Determination Date (or if such Determination Date is not a Business Day, the next succeeding Business Day) and that are transferred into the Payment Account, and, in the case of any Hedge Agreements, payments received on or before such Payment Date, shall be applied in the following order of priority (the "Priority of Interest Proceeds"):

(A) (1) *first*, to the payment of taxes and governmental fees (including registered office and annual return fees) owing by the Issuer or the Co-Issuer, if any, and (2) *second*, to the payment of the accrued and unpaid Administrative Expenses (in the order set forth in the definition of such term); provided that amounts paid or deposited pursuant to clause (2) and any Administrative Expenses paid from the Expense Reserve Account or from the Collection Account pursuant to Section 10.2(d)(ii) since the immediately preceding Payment Date may not be permitted to exceed, in the aggregate, the Administrative Expense Cap for such Payment Date;

(B) to the payment of the accrued and unpaid Base Management Fee to the Collateral Manager, except to the extent that the Collateral Manager elects to treat such current Base Management Fee as Deferred Base Management Fees, plus any unpaid Deferred Base Management Fee that has been deferred with respect to prior Payment Dates which the Collateral Manager elects to have paid on such Payment Date (together with any interest due thereon, calculated in accordance with the Collateral Management Agreement); provided that the amount of Deferred Base Management Fees paid

pursuant to this clause (B) on any Payment Date may not exceed the Deferred Base Management Fee Cap for such Payment Date;

(C) to the payment on a *pro rata* basis of the following amounts based on the respective amounts due on such Payment Date (1) any amounts due to a Hedge Counterparty under a Hedge Agreement other than amounts due as a result of the termination (or partial termination) of such Hedge Agreement and (2) any amounts due to a Hedge Counterparty under a Hedge Agreement pursuant to an early termination (or partial termination) of such Hedge Agreement as a result of a Priority Hedge Termination Event;

(D) to the payment of (i)(a) accrued and unpaid interest on the Class AX Notes (including any defaulted interest), if any), (b) the Class X Principal Amortization Amount due on such Payment Date and (c) any Unpaid Class X Principal Amortization Amount as of such Payment Date and (ii) accrued and unpaid interest on the Class A-R Notes (including defaulted interest, if any), pro rata, allocated according to the amounts due to the Class X Notes and the Class A-R Notes;

(E) to the payment of accrued and unpaid interest on the Class BB-R Notes (including any defaulted interest, if any);

(F) if either of the Class A/B Coverage Tests is not satisfied on the related Determination Date, to make payments in accordance with the Note Payment Sequence to the extent necessary to cause both Class A/B Coverage Tests to be met as of the related Determination Date on a *pro forma* basis after giving effect to any payments made through this clause (F);

(G) to the payment of accrued and unpaid interest (other than any excluding any Deferred Interest but including interest on Deferred Interest) on the Class EC-R Notes;

(H) to the payment of any Deferred Interest on the Class C Notes;

(H) if either of the Class C Coverage Tests is not satisfied on the related Determination Date, to make payments in accordance with the Note Payment Sequence to the extent necessary to cause both Class C Coverage Tests to be met as of the related Determination Date on a *pro forma* basis after giving effect to any payments made through this clause (H);

(I) (J) to the payment of accrued and unpaid interest (other than any Deferred Interest) on the Class DC-R Notes;

(J) (K) to the payment of accrued and unpaid interest (excluding any Deferred Interest but including interest on Deferred Interest) on the Class DD-R Notes;

**(K)** ~~(L)~~ if either of the Class D Coverage Tests is not satisfied on the related Determination Date, to make payments in accordance with the Note Payment Sequence to the extent necessary to cause both Class D Coverage Tests to be met as of the related Determination Date on a *pro forma* basis after giving effect to any payments made through this clause (LK);

**(L)** ~~(M)~~ to the payment of ~~accrued and unpaid interest (other than~~ any Deferred Interest) on the Class **ED-R** Notes;

**(M)** ~~(N)~~ to the payment of **accrued and unpaid interest (excluding** any Deferred Interest **but including interest on Deferred Interest)** on the Class **EE-R** Notes;

**(N)** ~~(O)~~ if the Class E Overcollateralization Test is not satisfied on the related Determination Date, to make payments in accordance with the Note Payment Sequence to the extent necessary to cause the Class E Overcollateralization Test to be met as of the related Determination Date on a *pro forma* basis after giving effect to any payments made through this clause (ON);

**(O)** to the payment of any Deferred Interest on the Class **E-R** Notes;

(P) during the Reinvestment Period, if the Interest Diversion Test is not satisfied on the related Determination Date, for deposit to the Collection Account as Principal Proceeds the lesser of (i) 50% of the remaining Interest Proceeds after application of Interest Proceeds pursuant to clauses (A) through (O) above and (ii) the amount necessary to cause the Interest Diversion Test to be satisfied as of such Determination Date on a *pro forma* basis after giving effect to any payments made through this clause (P);

(Q) to the payment of (1) *first*, any Administrative Expenses not paid pursuant to clause (A)(2) above due to the limitations contained therein (in the priority stated in the definition thereof); and (2) *second, pro rata* based on amounts due, any amounts due to any Hedge Counterparty under any Hedge Agreement not otherwise paid pursuant to clause (C) above;

(R) if, with respect to any Payment Date following the end of the Ramp-Up Period, a Moody's Ramp-Up Failure has occurred and is continuing, an amount equal to the Rating Confirmation Redemption Amount (if any) for distribution under the Priority of Principal Proceeds on such Payment Date;

(S) to the payment of the accrued and unpaid Subordinated Management Fee to the Collateral Manager (less any portion thereof waived or deferred at the election of the Collateral Manager pursuant to the Collateral Management Agreement) *plus* any unpaid Deferred Subordinated Management Fee (together with any interest due thereon, calculated in accordance with the Collateral Management Agreement) that has been deferred with respect to prior

Payment Dates which the Collateral Manager elects to have paid on such Payment Date;

(T) to the Holders of the Subordinated Notes in an amount necessary (taking into account all payments made to the Holders of the Subordinated Notes on prior Payment Dates) to cause the Incentive Management Fee Threshold to be met;

(U) to the payment of any accrued and unpaid Incentive Management Fee to the Collateral Manager; and

(V) any remaining Interest Proceeds to the Holders of the Subordinated Notes.

(ii) On each Payment Date (other than a Post-Acceleration Payment Date, Redemption Date (except for a Redemption Date in connection with a Partial Redemption by Refinancing that occurs on a Quarterly Payment Date, in which case, distributions pursuant to the below Priority of Principal Proceeds shall be made after application of the Priority of Partial Refinancing Proceeds on such date) or the Stated Maturity), Principal Proceeds (except for any Principal Proceeds that shall be used to settle binding commitments entered into prior to the related Determination Date for the purchase of Collateral Obligations in accordance with this Indenture) on deposit in the Collection Account that are received on or before the related Determination Date and that are transferred to the Payment Account shall, and, in the case of any Hedge Agreements, payments received on or before such Payment Date, shall be applied in the following order of priority (the "Priority of Principal Proceeds"):

(A) to pay, in accordance with the Priority of Interest Proceeds (1) first, to the amounts referred to in clauses (A) through (F), (2) then, to the extent the Class C Notes are the Controlling Class, the amounts referred to in clauses (G) and (H), (3) then, to the amounts referred to in clause (I), (4) then, to the extent the Class D Notes are the Controlling Class, the amounts referred to in clauses (J) and (K), (5) then, to the amounts referred to in clause (L), (6) then, to the extent the Class E Notes are the Controlling Class, the amounts referred to in clauses (M) and (N) and (7) then, to the amounts referred to in clause (O), but, in each case, (a) only to the extent not paid in full thereunder, and (b) subject to any applicable cap set forth therein;

(A) to pay the amounts referred to in clauses (A) through (E) of Priority of Interest Proceeds (and in the same manner and order of priority stated therein), but only to the extent not paid in full thereunder;

(B) to pay the amounts referred to in clause (F) of Priority of Interest Proceeds but only to the extent not paid in full thereunder and to the extent necessary to cause the Class A/B Coverage Tests to be satisfied as of

the related Determination Date on a pro forma basis after giving effect to any payments made through this clause (B);

(C) to pay the amounts referred to in clause (H) of Priority of Interest Proceeds but only to the extent not paid in full thereunder and to the extent necessary to cause the Class C Coverage Tests to be satisfied as of the related Determination Date on a pro forma basis after giving effect to any payments made through this clause (C);

(D) to pay the amounts referred to in clause (K) of Priority of Interest Proceeds but only to the extent not paid in full thereunder and to the extent necessary to cause the Class D Coverage Tests to be satisfied as of the related Determination Date on a pro forma basis after giving effect to any payments made through this clause (D);

(E) to pay the amounts referred to in clause (N) of Priority of Interest Proceeds but only to the extent not paid in full thereunder and to the extent necessary to cause the Class E Overcollateralization Test to be satisfied as of the related Determination Date on a pro forma basis after giving effect to any payments made through this clause (E);

(F) if the Class C-R Notes are or would become the Controlling Class on such Payment Date, to pay the amounts referred to in clause (G) of Priority of Interest Proceeds to the extent not paid in full thereunder, only to the extent that such payment would not cause a Coverage Test failure on a pro forma basis after giving effect to any payments made through this clause (F);

(G) if the Class C-R Notes are or would become the Controlling Class on such Payment Date, to pay the amounts referred to in clause (I) of Priority of Interest Proceeds to the extent not paid in full thereunder, only to the extent that such payment would not cause a Coverage Test failure on a pro forma basis after giving effect to any payments made through this clause (G);

(H) if the Class D-R Notes are or would become the Controlling Class on such Payment Date, to pay the amounts referred to in clause (J) of Priority of Interest Proceeds to the extent not paid in full thereunder, only to the extent that such payment would not cause a Coverage Test failure on a pro forma basis after giving effect to any payments made through this clause (H);

(I) if the Class D-R Notes are or would become the Controlling Class on such Payment Date, to pay the amounts referred to in clause (L) of Priority of Interest Proceeds to the extent not paid in full thereunder, only to the extent that such payment would not cause a Coverage Test failure on a

pro forma basis after giving effect to any payments made through this clause (I);

(J) if the Class E-R Notes are or would become the Controlling Class on such Payment Date, to pay the amounts referred to in clause (M) of Priority of Interest Proceeds to the extent not paid in full thereunder, only to the extent that such payment would not cause a Coverage Test failure on a pro forma basis after giving effect to any payments made through this clause (J);

(K) if the Class E-R Notes are or would become the Controlling Class on such Payment Date, to pay the amounts referred to in clause (O) of Priority of Interest Proceeds to the extent not paid in full thereunder, only to the extent that such payment would not cause a Coverage Test failure on a pro forma basis after giving effect to any payments made through this clause (K);

(B)-(L) if such Payment Date is a Special Redemption Date or a Rating Confirmation Redemption Date, to the payment of the Special Redemption Amount or the Rating Confirmation Redemption Amount, as the case may be (without duplication of any payments received by any Class of Secured Notes pursuant to the Priority of Interest Proceeds or under ~~clause~~ clauses (A) through (K) above), in each case in accordance with the Note Payment Sequence;

(M) (E)-(1) during the Reinvestment Period, at the sole discretion of the Collateral Manager, to the Collection Account as Principal Proceeds to invest in Eligible Investments and/or to the purchase of additional Collateral Obligations and (2) after the Reinvestment Period, as designated by the Collateral Manager in the case of proceeds of Reinvestable Obligations Post-Reinvestment Principal Proceeds, to the Collection Account as Principal Proceeds to invest in Eligible Investments and/or to the purchase of additional Collateral Obligations;

(N) (D) after the Reinvestment Period, to make payments in accordance with the Note Payment Sequence after taking into account payments made pursuant to the Priority of Interest Proceeds and clauses (A), through (B) and (E)-(M) above;

(O) (E) after the Reinvestment Period, to the payment of the Administrative Expenses of the Co-Issuers (in the order of priority set forth in the definition thereof) but only to the extent not previously paid in full under clauses (A) and (Q) of the Priority of Interest Proceeds and under clause (A) above;

(P) (F) after the Reinvestment Period, to the payment on a *pro rata* basis based on amounts due, of any amounts due to any Hedge Counterparty under

any Hedge Agreement not previously paid in full under clauses (C) and (Q) of the Priority of Interest Proceeds and under clause (A) above;

**(Q) (G)** after the Reinvestment Period, to the payment of the accrued and unpaid Subordinated Management Fee to the Collateral Manager (less any portion thereof waived or deferred at the election of the Collateral Manager pursuant to the Collateral Management Agreement) *plus* any unpaid Deferred Subordinated Management Fee (together with any interest due thereon, calculated in accordance with the Collateral Management Agreement) that has been deferred with respect to prior Payment Dates which the Collateral Manager elects to have paid on such Payment Date, to the extent not previously paid in full under clause (S) of the Priority of Interest Proceeds;

**(R) (H)** after the Reinvestment Period, to the Holders of the Subordinated Notes in an amount necessary (taking into account all payments made to the Holders of the Subordinated Notes on prior Payment Dates and after giving effect to the payments under clause (T) of the Priority of Interest Proceeds on such Payment Date) to cause the Incentive Management Fee Threshold to be met;

**(S) (I)** after the Reinvestment Period, to the payment of any accrued and unpaid Incentive Management Fee to the Collateral Manager; and

**(T) (J) after the Reinvestment Period,** any remaining Principal Proceeds will be paid to the Holders of the Subordinated Notes.

(iii) On each Post-Acceleration Payment Date, Redemption Date **(other than a Redemption Date in connection with a Partial Redemption by Refinancing)** or on the Stated Maturity, all Interest Proceeds on deposit in the Collection Account, to the extent received on or before the related Determination Date (or if such Determination Date is not a with respect to a Redemption Date, the Business Day, the next succeeding Business Day immediately preceding such Redemption Date) and that are transferred into the Payment Account, and, in the case of any Hedge Agreements, payments received on or before such Payment Date, and all Principal Proceeds on deposit in the Collection Account that are received on or before the related Determination Date **(or with respect to a Redemption Date, the Business Day immediately preceding such Redemption Date)** and that are transferred to the Payment Account shall be applied, (except for any Principal Proceeds that shall be used to settle binding commitments entered into prior to the Determination Date **(or with respect to a Redemption Date, the Business Day immediately preceding such Redemption Date)** for the purchase of Collateral Obligations in accordance with this Indenture), **shall be applied** in the following order of priority (the "Special Priority of Payments"):

(A) to pay all amounts under clauses (A) through (C)(1) of the Priority of Interest Proceeds in the priority and subject to the limitations stated therein;

(B) to the payment of any amounts due to a Hedge Counterparty under any Hedge Agreement pursuant to an early termination (or partial termination) of such Hedge Agreement as a result of a Priority Hedge Termination Event;

(C) to the payment of accrued and unpaid interest on the Class **AX** Notes and the Class A-R Notes (in each case, including any defaulted interest), if any, pro rata based upon amounts due, until such amount has been paid in full;

(D) to the payment of principal on of the Class **AX** Notes until such amount has and the Class A-R Notes, pro rata based upon the amount of principal due, until the Class X Notes and the Class A-R Notes have been paid in full;

(E) to the payment of accrued and unpaid interest on the Class **BB-R** Notes (including any defaulted interest, if any) until such amount has been paid in full;

(F) to the payment of principal on of the Class **BB-R** Notes until such amount has the Class B-R Notes have been paid in full;

(G) to the payment *first*, of accrued and unpaid interest (excluding Deferred Interest but including interest on Deferred Interest) on, and *then*, any Deferred Interest on the Class **CC-R** Notes until such amounts have been paid in full;

(H) to the payment of principal of the Class **CC-R** Notes until such amount has the Class C-R Notes have been paid in full;

(I) to the payment *first*, of accrued and unpaid interest (excluding Deferred Interest but including interest on Deferred Interest) on, and *then*, any Deferred Interest on the Class **DD-R** Notes until such amounts have been paid in full;

(J) to the payment of principal of the Class **DD-R** Notes until such amount has the Class D-R Notes have been paid in full;

(K) to the payment *first*, of accrued and unpaid interest (excluding Deferred Interest but including interest on Deferred Interest) on, and *then*, any Deferred Interest on the Class **EE-R** Notes until such amounts have been paid in full;

(L) to the payment of principal of the Class **EE-R** Notes until such amount has the Class E-R Notes have been paid in full;

(M) to the payment of (1) *first*, any Administrative Expenses not paid pursuant to clause (A) above due to the Administrative Expense Cap (in the

priority stated in the definition thereof) and (2) *second*, pro rata based on amounts due, any amounts due to any Hedge Counterparty under any Hedge Agreement pursuant to an early termination (or partial termination) of such Hedge Agreement not otherwise paid pursuant to clause (B) above;

(N) if the Subordinated Notes are to be redeemed on a Redemption Date, to fund a reasonable reserve for unpaid Administrative Expenses (as determined by the Collateral Manager with approval from the Trustee in their respective sole discretion);

(O) to the payment of the accrued and unpaid Subordinated Management Fee to the Collateral Manager (less any portion thereof waived or deferred at the election of the Collateral Manager pursuant to the Collateral Management Agreement) *plus* any unpaid Deferred Subordinated Management Fee (together with any interest due thereon, calculated in accordance with the Collateral Management Agreement) that has been deferred with respect to prior Payment Dates which the Collateral Manager elects to have paid on such Payment Date;

(P) to the Holders of the Subordinated Notes in an amount necessary (taking into account all payments made to the Holders of the Subordinated Notes on prior Payment Dates) to cause the Incentive Management Fee Threshold to be met;

(Q) to the payment of any accrued and unpaid Incentive Management Fee to the Collateral Manager; and

(R) any remaining Interest Proceeds and Principal Proceeds to the Holders of the Subordinated Notes.

**(iv) On each Redemption Date in connection with a Partial Redemption by Refinancing, after giving effect to any payments made under the Priority of Interest Proceeds if the related Redemption Date is a Quarterly Payment Date, the application of (i) the related Refinancing Proceeds, (ii) with respect to clause (A) below only, the Partial Redemption Interest Proceeds and (iii) other available amounts in the following order of priority ("Priority of Partial Refinancing Proceeds"):**

**(A) to pay the Redemption Price of each Class of Notes being refinanced in order of priority (beginning with the most senior class Outstanding);**

**(B) to pay Administrative Expenses incurred in connection with such Partial Redemption by Refinancing; and**

**(C) any remaining amounts to the Collection Account as Principal Proceeds.**

(b) If on any **Quarterly** Payment Date the amount available in the Payment Account is insufficient to make the full amount of the disbursements required by the Distribution Report, the Trustee shall make the disbursements called for in the order and according to the priority set forth under the Priority of Payments to the extent funds are available therefor.

(c) Provided that no Event of Default has occurred and is continuing, the Collateral Manager, on behalf of the Issuer, may direct the Trustee to disburse Interest Proceeds in the Collection Account or the Expense Reserve Account, from time to time on dates other than Payment Dates for payment of the **Administrative Expenses** described in Sections 11.1(a)(i), (ii) and (iii) (subject to the Administrative Expense Cap).

(d) In the event that the Hedge Counterparty defaults in the payment of its obligations to the Issuer under any Hedge Agreement on the date on which any payment is due thereunder, the Trustee shall make a demand on such Hedge Counterparty, or any guarantor, if applicable, demanding payment by 12:30 p.m., New York time, on such date. The Trustee shall give notice as soon as reasonably practicable to the Holders of Notes, the Collateral Manager and the Rating Agency if such Hedge Counterparty continues to fail to perform its obligations for two Business Days following a demand made by the Trustee on such Hedge Counterparty, and shall take such action with respect to such continuing failure as may be directed to be taken pursuant to Section 5.13.

**Section 11.2. Contributions.** At any time during the Reinvestment Period, any Person may make a contribution of Cash (a "Contribution" and such Person, a "Contributor") to the Issuer in an amount no less than \$2,000,000. The Collateral Manager, on behalf of the Issuer, may accept or reject any Contribution in its sole discretion and shall notify the Trustee of any such acceptance; *provided* that not more than three Contributions may be accepted. Each accepted Contribution shall be deposited in the Discretionary Reserve Account and may be withdrawn at the written direction of the Collateral Manager for a Permitted Use, at the Collateral Manager's reasonable discretion. No Contribution or portion thereof shall be returned to the Contributor at any time.

## ARTICLE XII

### SALE OF COLLATERAL OBLIGATIONS; PURCHASE OF ADDITIONAL COLLATERAL OBLIGATIONS

**Section 12.1. Sales of Collateral Obligations.** Subject to the satisfaction of the conditions specified in Section 12.3 and *provided* that (i) in the case of a sale under paragraph (b), (e) or (f) of this Section 12.1, no acceleration of the maturity of the Notes under Section 5.2 has occurred and is continuing and (ii) in the case of a sale under paragraph (a), (c), (d), (g), (h) or (j) of this Section 12.1, the Trustee has not commenced liquidation of the Assets pursuant to Section 5.5, the Collateral Manager on behalf of the Issuer may in writing direct the Trustee to sell and the Trustee (on behalf of the Issuer) shall sell in the manner directed by the Collateral Manager any Collateral Obligation or Equity Security if, as certified by the Collateral Manager,

to the best of its knowledge, such sale meets the requirements of any one of paragraphs (a) through (h) or (j) of this Section 12.1. For purposes of this Section 12.1, the Sale Proceeds of a Collateral Obligation sold by the Issuer shall include any Principal Financed Accrued Interest Collections received in respect of such sale.

(a) Credit Risk Obligations. The Collateral Manager may direct the Trustee to sell any Credit Risk Obligation at any time during or after the Reinvestment Period without restriction.

(b) Credit Improved Obligations. The Collateral Manager may direct the Trustee to sell any Credit Improved Obligation either:

(i) at any time if (A) the Sale Proceeds from such sale are at least equal to the Investment Criteria Adjusted Balance of such Credit Improved Obligation, or (B) after giving effect to such sale, the Aggregate Principal Balance of the Collateral Obligations (excluding the Collateral ObligationsObligation being sold) and Eligible Investments constituting Principal Proceeds (including, without duplication, the anticipated net proceeds of such sale) will be greater than the Reinvestment Target Par Balance; or

(ii) during the Reinvestment Period if the Collateral Manager reasonably believes prior to such sale that either (A) after giving effect to such sale and subsequent reinvestment, the Aggregate Principal Balance of the Collateral Obligations and Eligible Investments constituting Principal Proceeds will be greater than the Reinvestment Target Par Balance, or (B) it will be able to enter into binding commitments to reinvest all or a portion of the proceeds of such sale, in compliance with the Investment Criteria (including, for the avoidance of doubt, that the Aggregate Principal Balance of the Collateral Obligations and Eligible Investments constituting Principal Proceeds will be maintained or improved prior to giving effect to such sale), in one or more additional Collateral Obligations with an Aggregate Principal Balance at least equal to the Investment Criteria Adjusted Balance of such Credit Improved Obligation within 30 Business Days of such sale.

(c) Defaulted Obligations. The Collateral Manager may direct the Trustee to sell any Defaulted Obligation at any time during or after the Reinvestment Period without restriction.

(d) Equity Securities. The Collateral Manager may direct the Trustee to sell any Equity Security at any time during or after the Reinvestment Period without restriction; *provided* that the Collateral Manager shall use commercially reasonable efforts to dispose of any Equity Security within three years of receipt of such Equity Security by the Issuer.

(e) Optional Redemption. After the Issuer has notified the Trustee of a Redemption by Liquidation, the Collateral Manager shall direct the Trustee to sell (which sale may be through participation or other arrangement) all or a portion of the Collateral Obligations if the requirements of Article IX (including the certification requirements of Section 9.2(c)) are

satisfied. If any such sale is made through participation, the Issuer shall use reasonable efforts to cause such participations to be converted to assignments within six months of the sale.

(f) Discretionary Sales. During the Reinvestment Period, the Collateral Manager may direct the Trustee to sell any Collateral Obligation at any time if (i) after giving effect to such sale, the Aggregate Principal Balance of all Collateral Obligations sold pursuant to this Section 12.1(f) during the preceding period of twelve calendar months is not greater than 25% of the Collateral Principal Amount as of the beginning of such twelve calendar month period (or, for the first twelve calendar months after the Closing Date, during the period commencing on the Closing Date); provided that for the purpose of determining the percentage of Collateral Obligations sold during any such period, the amount of any Collateral Obligations sold shall be reduced to the extent of any purchases of Collateral Obligations of the same obligor (which are *pari passu* or senior to such sold Collateral Obligation) occurring within 20 Business Days of such sale (determined based upon the date of any relevant trade confirmation or commitment letter) so long as any such Collateral Obligation was sold with the intention of purchasing a Collateral Obligation of the same obligor (which would be *pari passu* or senior to such sold Collateral Obligation), (ii) the Class C Overcollateralization Test is satisfied on the date the Issuer commits to such sale, and (iii) either:

(A) (1) the Sale Proceeds from such sale are at least equal to the Investment Criteria Adjusted Balance of such Collateral Obligation, or (2) after giving effect to such sale, the sum of (I) the Aggregate Principal Balance of the Collateral Obligations (excluding Defaulted Obligations that have been Defaulted Obligations for less than three years and the Collateral Obligations being sold), plus (II) the aggregate of the Market Values of all Defaulted Obligations that have been Defaulted Obligations for less than three years, plus (III) without duplication, Eligible Investments constituting Principal Proceeds (including, without duplication, the anticipated net proceeds of such proposed sale) shall be greater than the Reinvestment Target Par Balance; or

(B) the Collateral Manager reasonably believes prior to such sale that it will be able to enter into binding commitments to reinvest all or a portion of the proceeds of such sale, in compliance with the Investment Criteria, in one or more additional Collateral Obligations with an Aggregate Principal Balance at least equal to the Investment Criteria Adjusted Balance of such Collateral Obligation within 30 Business Days of such sale.

(g) Mandatory Sales. The Collateral Manager shall use commercially reasonable efforts to sell each Equity Security, Collateral Obligation and any other security held by the Issuer that constitutes Margin Stock not later than 45 days after the later of (x) the date of the Issuer's acquisition thereof and (y) the date such Equity Security, Collateral Obligation or other security held by the Issuer became Margin Stock.

(h) Notwithstanding anything contained herein to the contrary, the Issuer may cause any Collateral Obligation with respect to which it will or may receive a Tax Subsidiary Asset (or the Issuer's interest in such Collateral Obligation) to be transferred to a Tax Subsidiary in exchange for an interest in such Tax Subsidiary. In connection with the incorporation of, or

transfer of any security or obligation to, any Tax Subsidiary, the Issuer shall not be required to satisfy the Global Rating Condition; provided that, prior to the incorporation of any Tax Subsidiary, the Collateral Manager will, on behalf of the Issuer, provide written notice thereof to the Rating Agency. The Issuer shall not be required to continue to hold in a Tax Subsidiary (and may instead hold directly) a security or obligation that ceases to be considered a Tax Subsidiary Asset, as determined by the Collateral Manager based on Tax Advice to the effect that the Issuer can transfer such security or obligation from the Tax Subsidiary to the Issuer and can hold such security or obligation directly without causing the Issuer to be treated as engaged in a trade or business in the United States for U.S. federal income tax purposes.

(i) Notwithstanding the restrictions in Section 12.1, the Collateral Manager will no later than the Determination Date for the Stated Maturity, on behalf of the Issuer, direct the Trustee to sell (and the Trustee shall sell in the manner specified) for settlement in immediately available funds no later than two Business Days before the Stated Maturity any Collateral Obligations scheduled to mature after the Stated Maturity of the Notes and cause the liquidation of all assets held at each Tax Subsidiary and distribution of any proceeds thereof to the Issuer.

(j) Unsaleable Assets. Notwithstanding the restrictions in this Section 12.1, after the Reinvestment Period (without regard to whether an Event of Default has occurred), at the direction of the Collateral Manager, the Trustee, at the expense of the Issuer, will conduct an auction of Unsaleable Assets in accordance with the below auction procedures. Promptly after receipt of such direction, the Trustee will provide notice (in such form as is prepared by the Collateral Manager) to the Holders of an auction, setting forth in reasonable detail a description of each Unsaleable Asset and the following auction procedures:

(i) Any Holder may submit a written bid to purchase one or more Unsaleable Assets no later than the date specified in the auction notice (which shall be at least 15 Business Days after the date of such notice).

(ii) Each bid must include an offer to purchase for a specified amount of cash on a proposed settlement date no later than 20 Business Days after the date of the auction notice.

(iii) If no Holder submits such a bid, unless delivery in kind is not legally or commercially practicable and subject to any transfer restrictions (including minimum denominations), the Trustee will provide notice thereof to each Holder and offer to deliver (at no cost) a pro rata portion of each unsold Unsaleable Asset to the Holders of the Class with the highest priority that provide delivery instructions to the Trustee on or before the date specified in such notice. To the extent that minimum denominations do not permit a pro rata distribution, the Trustee will distribute the Unsaleable Assets on a pro rata basis to the extent possible and the Trustee will select by lottery the Holder to whom the remaining amount will be delivered. The Trustee shall use commercially reasonable efforts to effect delivery of such interests.

(iv) If no such Holder provides delivery instructions to the Trustee, the Trustee will promptly notify the Collateral Manager and offer to deliver (at no cost) the Unsaleable Asset to the Collateral Manager. If the Collateral Manager declines such offer, the

Trustee will take such action as directed by the Collateral Manager (on behalf of the Issuer) to dispose of the Unsaleable Asset, which may be by donation to a charity, abandonment or other means.

Section 12.2. Purchase of Additional Collateral Obligations. On any date during the Reinvestment Period, the Collateral Manager, on behalf of the Issuer, may, but shall not be required to, direct the Trustee to invest Principal Proceeds (and accrued interest received with respect to any Collateral Obligation to the extent used to pay for accrued interest on additional Collateral Obligations) in additional Collateral Obligations. After the Reinvestment Period, unless an Event of Default has occurred and is continuing, the Collateral Manager may, but will not be required to, direct the Trustee to reinvest ~~up to 50% of~~<sup>(i)</sup> Unscheduled Principal Payments received in respect of any Prepaid Obligation and/or <sup>(ii)</sup> Sale Proceeds of Credit Risk Obligations (such Collateral Obligations, "Reinvestable Obligations") in additional Collateral Obligations (each, a "Substitute Obligation") as long as the Issuer's commitment to reinvest such Unscheduled Principal Payments or Sale Proceeds (collectively, "Post-Reinvestment Principal Proceeds") occurs no later than 90 days after the Issuer's receipt thereof. The Trustee shall invest proceeds pursuant to this Section 12.2 if and only if, as certified by the Collateral Manager, each of the conditions specified in this Section 12.2 and Section 12.3 is met.

Investment Criteria. No Collateral Obligation may be purchased unless each of the following conditions are satisfied as of the date ~~it~~the Collateral Manager commits on behalf of the Issuer to make such purchase or on the date of such purchase, in each case after giving effect to such purchase and all other sales or purchases previously or simultaneously committed to but which have not settled; provided that the conditions set forth in clause (a) below (other than subclause (a)(i)) need only be satisfied with respect to purchases of Collateral Obligations occurring after the end of the Ramp-Up Period; provided, further, that the conditions set forth in clause (b) below need only be satisfied with respect to purchases of Collateral Obligations occurring after the end of the Reinvestment Period;~~; provided, further, that for purposes of calculating compliance with the Investment Criteria, any such criteria need not be satisfied with respect to the purchase of a Collateral Obligation that is subject to a Trading Plan if such limitations are satisfied on an aggregate basis after giving effect to such purchase and all other purchases or sales subject to the same Trading Plan:~~

- (a) Except as provided below, during and after the Reinvestment Period:
  - (i) such obligation is a Collateral Obligation;
  - (ii) (A) each Coverage Test will be satisfied, or if not satisfied, such Coverage Test will be maintained or improved, and (B) if each Coverage Test is not satisfied, the Principal Proceeds received in respect of any Defaulted Obligation or the proceeds of any sale of a Defaulted Obligation pursuant to this Indenture will not be reinvested in additional Collateral Obligations;
  - (iii) (A) in the case of additional Collateral Obligations purchased with the proceeds from the sale of a Collateral Obligation pursuant to Section 12.1(a) or Section 12.1(c) hereof, after giving effect to such purchase, either (1) the Aggregate Principal

Balance of all additional Collateral Obligations purchased with the proceeds from such sale shall at least equal the Sale Proceeds from such sale, (2) the Aggregate Principal Balance of the Collateral Obligations shall be maintained or increased, or (3) the sum of (I) the Aggregate Principal Balance of the Collateral Obligations (excluding Defaulted Obligations that have been Defaulted Obligations for less than three years and Collateral Obligations being sold but including, without duplication the Collateral Obligations being purchased and the anticipated cash proceeds, if any, of such sale that are not applied to the purchase of such additional Collateral Obligations), plus (II) the aggregate of the Market Values of all Defaulted Obligations that have been Defaulted Obligations for less than three years shall be greater than the Reinvestment Target Par Balance, and (B) in the case of any other purchase of additional Collateral Obligations, after giving effect to such purchase, either (1) the Aggregate Principal Balance of the Collateral Obligations shall be maintained or increased, or (2) the sum of (I) the Aggregate Principal Balance of the Collateral Obligations (excluding Defaulted Obligations that have been Defaulted Obligations for less than three years and Collateral Obligations being sold but including, without duplication the Collateral Obligations being purchased and the anticipated cash proceeds, if any, of such sale that are not applied to the purchase of such additional Collateral Obligations), plus (II) the aggregate of the Market Values of all Defaulted Obligations that have been Defaulted Obligations for less than three years shall be greater than the Reinvestment Target Par Balance; and

(iv) either (A) each requirement or test, as the case may be, of the Concentration Limitations and the Collateral Quality Test shall be satisfied or (B) if any such requirement or test was not satisfied immediately prior to such reinvestment, the level of compliance with such requirement or test shall be maintained or improved after giving effect to the reinvestment; and

(v) during the Reinvestment Period only, either (A) the Weighted Average Life Test will be satisfied, or (B) if the Weighted Average Life Test was not satisfied immediately prior to such reinvestment, the number of years until the stated maturity of the additional Collateral Obligation must be less than the number of years (rounded to the nearest one hundredth thereof) from the date of the proposed acquisition to July 20, 2022; and

(b) after the Reinvestment Period only, the following additional requirements will apply:

(i) the Aggregate Principal Balance of the Substitute Obligations equals or exceeds the amount of the proceeds of the Reinvestable Obligations Post-Reinvestment Principal Proceeds being invested;

(ii) (A) the stated maturity of the Substitute Obligations is not later than the stated maturity of the Reinvestable Obligations, (B) the Weighted Average Life Test was in compliance as of the last day of the Reinvestment Period and (C) (for the avoidance of doubt, without giving effect to any Trading Plans) and (B) the Weighted Average Life Test (measured before receipt of the proceeds of Reinvestable

Obligations and after the reinvestment of such proceeds) is satisfied or, if not satisfied, maintained or improved;

(iii) the weighted average Moody's Default Probability Rating of the Substitute Obligations is equal to or better than the weighted average Moody's Default Probability Rating of the Reinvestable Obligations;

(iv) the Maximum Moody's Rating Factor Test and clause (x) of the Concentration Limitations are both satisfied after giving effect to the investment in the Substitute Obligations;

(v) the Class E Overcollateralization Test is satisfied prior to and after giving effect to the investment in the Substitute Obligations; and

(vi) a Restricted Trading Period is not then in effect.

(c) Purchase Following Sale of Credit Improved Obligations and Discretionary Sales. Following the sale of any Credit Improved Obligation pursuant to Section 12.1(b)(ii) or any discretionary sale of a Collateral Obligation pursuant to Section 12.1(f)(iii)(B) during the Reinvestment Period, the Collateral Manager shall use its reasonable efforts to purchase additional Collateral Obligations pursuant to this Section 12.2 within 30 Business Days after the settlement date of such sale.

(d) Investment in Eligible Investments. Cash on deposit in any Account may be invested at any time in Eligible Investments in accordance with Article X.

(e) Post Reinvestment Period Settlement Obligations. The Issuer shall be prohibited from purchasing a Collateral Obligation during the Reinvestment Period if such purchase would settle after the end of the Reinvestment Period (any such Collateral Obligation, a "Post Reinvestment Period Settlement Obligation"); provided that, notwithstanding the foregoing, the Issuer may, prior to the end of the Reinvestment Period, commit to purchase such Post Reinvestment Period Settlement Obligations and, after the end of the Reinvestment Period, settle the purchase of such Post Reinvestment Period Settlement Obligations, if (a) in the reasonable determination of the Collateral Manager, the purchase of each Post Reinvestment Period Settlement Obligation is expected to settle no later than seven Business Days after the date that the Issuer commits to purchase it, and (b) the sum of (i) the amount of funds in the Principal Collection Account as of the date that the Issuer commits to the purchase of each Post Reinvestment Period Settlement Obligation plus (ii) the expected aggregate sale proceeds from all Collateral Obligations with respect to which the Issuer has entered into written trade tickets or other written binding commitments to sell, which sales are also not expected to settle prior to the end of the Reinvestment Period but, in the reasonable determination of the Collateral Manager, are expected to settle no later than seven Business Days after the date that the Issuer commits to such purchases, is equal to or greater than the principal amount of all Post Reinvestment Period Settlement Obligations intended to be so purchased (the "Reinvestment Period Settlement Condition"). If the Issuer has entered into a written trade ticket or other written binding commitment to purchase a Post Reinvestment Period Settlement Obligation and the Reinvestment Period Settlement Condition is satisfied, such Post Reinvestment Period Settlement Obligation

shall be treated as having been purchased by the Issuer prior to the end of the Reinvestment Period for purposes of the Investment Criteria, and Principal Proceeds received after the end of the Reinvestment Period may be applied to the payment of the purchase price of such Post Reinvestment Period Settlement Obligation.

Not later than the Business Day immediately preceding the end of the Reinvestment Period, the Collateral Manager will shall deliver to the Trustee a schedule of Collateral Obligations purchased by the Issuer with respect to which purchases the trade date has occurred but the settlement date has not yet occurred and shall certify to the Trustee that sufficient Principal Proceeds are available (including for this purpose, cash on deposit in the Principal Collection Account as well as any Principal Proceeds that will be received by the Issuer from the sale of Collateral Obligations for which the trade date has already occurred but the settlement date has not yet occurred) to effect the settlement of such Collateral Obligations.

Section 12.3. Conditions Applicable to All Sale and Purchase Transactions.

(a) Any transaction effected under this Article XII or in connection with the acquisition of additional Collateral Obligations during the Ramp-Up Period shall be conducted on an arm's length basis and in compliance with the Operating Guidelines and, if effected with the Collateral Manager or a Person Affiliated with the Collateral Manager, shall be effected in accordance with the requirements of Section [6] of the Collateral Management Agreement on terms no less favorable to the Issuer than would be the case if such Person were not so Affiliated, provided that the Trustee shall have no responsibility to oversee compliance with this clause (a) by the other parties.

(b) Upon any acquisition of a Collateral Obligation pursuant to this Article XII, all of the Issuer's right, title and interest to the Pledged Obligation or Pledged Obligations shall be Granted to the Trustee pursuant to this Indenture, such Pledged Obligations shall be Delivered to the Trustee.

(c) Notwithstanding anything contained in this Article XII to the contrary, the Issuer shall have the right to effect any sale of any Pledged Obligation or purchase of any Collateral Obligation (provided that in the case of a purchase of a Collateral Obligation, such purchase complies with the applicable requirements of Section [6] of the Collateral Management Agreement and the Operating Guidelines and Section 7.8(e) of this Indenture) (x) that has been separately consented to by Noteholders evidencing at least 75% of the Aggregate Outstanding Amount of each Class of Notes, and (y) of which the Trustee and the Rating Agency has been notified.

Section 12.4. Restriction on Amendments and Modifications.

(a) The Issuer may not consent to any amendment or modification to a Collateral Obligation that extends the stated maturity of such Collateral Obligation to a date that is after the Stated Maturity of the Notes.

(b) Subject to Section 12.4(a), the Issuer may not consent to any amendment or modification to a Collateral Obligation that extends the stated maturity of such

~~Collateral Obligation unless the amended or modified Collateral Obligation would be eligible for purchase in accordance with the Investment Criteria.~~

## ARTICLE XIII

### NOTEHOLDERS' RELATIONS

Section 13.1. Subordination; Non-Petition. (a) Anything in this Indenture or the Notes to the contrary notwithstanding, but subject to the Bankruptcy Subordination Agreement, the Holders of each Class of Notes that constitute a Junior Class agree for the benefit of the Holders of the Notes of each Priority Class with respect to such Junior Class that such Junior Class shall be subordinate and junior to the Notes of each such Priority Class to the extent and in the manner set forth in Article XI of this Indenture. On any Post-Acceleration Payment Date or on the Stated Maturity, all accrued and unpaid interest on and outstanding principal of each Priority Class shall be paid pursuant to the Special Priority of Payments in full in Cash or, to the extent 100% of Holders of the Controlling Class and a Majority of each other Class of Secured Notes consents, other than in Cash, before any further payment or distribution is made on account of any Junior Class with respect thereto, to the extent and in the manner provided in the Special Priority of Payments.

(b) On or after a Post-Acceleration Payment Date or on the Stated Maturity, in the event that notwithstanding the provisions of this Indenture, any Holder of Notes of any Junior Class shall have received any payment or distribution in respect of such Notes contrary to the provisions of this Indenture, then, unless and until all accrued and unpaid interest on and outstanding principal of each Priority Class with respect thereto shall have been paid in full in Cash or, to the extent a provided in Section 13.1(a), other than in Cash in accordance with this Indenture, such payment or distribution shall be received and held in trust for the benefit of, and shall forthwith be paid over and delivered to, the Trustee, which shall pay and deliver the same to the Holders of the applicable Priority Class(es) in accordance with this Indenture; provided, however, that if any such payment or distribution is made other than in Cash, it shall be held by the Trustee as part of the Assets and subject in all respects to the provisions of this Indenture, including this Section 13.1.

(c) Each Holder of Notes of any Junior Class agrees with all Holders of the applicable Priority Classes that such Holder of Junior Class Notes shall not demand, accept, or receive any payment or distribution in respect of such Notes in violation of the provisions of this Indenture including, without limitation, this Section 13.1; provided, however, that after all accrued and unpaid interest on and outstanding principal of a Priority Class has been paid in full, the Holders of the related Junior Class or Classes shall be fully subrogated to the rights of the Holders of such Priority Class. Nothing in this Section 13.1 shall affect the obligation of the Issuer to pay Holders of any Junior Class of Notes.

(d) The Holders of each Class of Notes agree, for the benefit of all Holders of each Class of Notes, not to cause the filing of a petition in bankruptcy against the Issuer, the Co-Issuer or any Tax Subsidiary until the payment in full of the Notes and not before one year (or, if longer, the applicable preference period then in effect) plus one day after such payment.

The restrictions set forth in this Section 13.1(d) are a material inducement for each Holder

and beneficial owner of the Notes to acquire such Notes and for the Issuer, the Co-Issuer and the Collateral Manager to enter into this Indenture (in the case of the Issuer and the Co-Issuer) and the other applicable transaction documents and are an essential term of this Indenture. Any Holder or beneficial owner of a Note, the Collateral Manager or either of the Co-Issuers may seek and obtain specific performance of such restrictions (including injunctive relief), including, without limitation, in any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under Cayman Islands law, United States federal or state bankruptcy law or similar laws.

(e) By its acceptance of an interest in the Notes, each Holder and beneficial owner of any Note acknowledges and agrees to the restrictions set forth in Section 5.4(d) and (f), including the Bankruptcy Subordination Agreement. Nothing in this Section 13.1(e) shall preclude, or be deemed to stop, the Trustee (i) from taking any action prior to the expiration of the aforementioned period in (A) any case or Proceeding voluntarily filed or commenced by the Issuer or the Co-Issuer or (B) any involuntary insolvency Proceeding filed or commenced by a Person other than the Trustee, or (ii) from commencing against the Issuer or the Co-Issuer or any of its properties any legal action which is not a bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation Proceeding.

Section 13.2. Standard of Conduct. In exercising any of its or their voting rights, rights to direct and consent or any other rights as a Holder under this Indenture, a Holder or Holders shall not have any obligation or duty to any Person or to consider or take into account the interests of any Person and shall not be liable to any Person for any action taken by it or them or at its or their direction or any failure by it or them to act or to direct that an action be taken, without regard to whether such action or inaction benefits or adversely affects any Holder, the Issuer, or any other Person, except for any liability to which such Holder may be subject to the extent the same results from such Holder's taking or directing an action, or failing to take or direct an action, in bad faith or in violation of the express terms of this Indenture.

## ARTICLE XIV

### MISCELLANEOUS

Section 14.1. Form of Documents Delivered to Trustee. In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an Officer of the Issuer, the Co-Issuer or the Collateral Manager may, and where required by the Issuer or Co-Issuer shall, be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such Officer knows, or should know that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any such certificate

of an Officer of the Issuer, Co-Issuer or the Collateral Manager or Opinion of Counsel may, and where required by the Issuer or Co-Issuer shall, be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, the Issuer, the Co-Issuer, the Collateral Manager or any other Person, stating that the information with respect to such factual matters is in the possession of the Issuer, the Co-Issuer, the Collateral Manager or such other Person, unless such Officer of the Issuer, Co-Issuer or the Collateral Manager or such counsel knows that the certificate or opinion or representations with respect to such matters are erroneous. Any Opinion of Counsel may also be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an Officer of the Issuer, the Co-Issuer or the Collateral Manager, stating that the information with respect to such matters is in the possession of the Issuer, the Co-Issuer or the Collateral Manager, unless such counsel knows that the certificate or opinion or representations with respect to such matters are erroneous.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

Whenever in this Indenture it is provided that the absence of the occurrence and continuation of a Default or Event of Default is a condition precedent to the taking of any action by the Trustee at the request or direction of either Co-Issuer, then notwithstanding that the satisfaction of such condition is a condition precedent to such Co-Issuer's right to make such request or direction, the Trustee shall be protected in acting in accordance with such request or direction if it does not have knowledge of the occurrence and continuation of such Default or Event of Default as provided in Section 6.1(d).

**Section 14.2. Acts of Holders.** (a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee, and, where it is hereby expressly required, to the Issuer. Such instrument or instruments (and the action or actions embodied therein and evidenced thereby) are herein sometimes referred to as the "Act of Holders" signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and conclusive in favor of the Trustee and the Co-Issuers, if made in the manner provided in this Section 14.2.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved in any manner which the Trustee deems sufficient.

(c) The principal amount or face amount, as the case may be, and registered numbers of Notes held by any Person, and the date of his holding the same, shall be proved by the Register.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other action by the Holder of any Notes shall bind the Holder (and any transferee thereof) of such Note and of every Note issued upon the registration thereof or in exchange therefor or in lieu

thereof, in respect of anything done, omitted or suffered to be done by the Trustee or the Co-Issuers in reliance thereon, whether or not notation of such action is made upon such Note.

Section 14.3. Notices, etc., to Trustee, the Co-Issuers, the Collateral Administrator, the Collateral Manager, the Hedge Counterparty, the Paying Agent, the Administrator and the Rating Agency. (a) Any request, demand, authorization, direction, order, notice, consent, waiver or Act of Noteholders or other documents provided or permitted by this Indenture to be made upon, given or furnished to, or filed with any of the parties included below and will be sufficient for every purpose hereunder if in writing and made, given, furnished or filed to and mailed, by certified mail, return receipt requested, hand delivered, sent by overnight courier service guaranteeing next day delivery or by facsimile in legible form or by email at the following address (or, any other address provided in writing by the relevant party):

- (i) the Trustee or Collateral Administrator at its Corporate Trust Office;
- (ii) the Co-Issuers at c/o MaplesFS Limited, P.O. Box 1093, Boundary Hall, Cricket Square, Grand Cayman, KY1-1102, Cayman Islands, Attention: The Directors, or to the Co-Issuer addressed to it at c/o Puglisi & Associates, 850 Library Avenue, Suite 204, Newark, Delaware 19711;
- (iii) the Collateral Manager at c/o 40|86 Advisors, Inc., 535 N. College Drive, Carmel, Indiana 46032, Attention: Eduardo Piedra, facsimile no.: (317) 817-2763;
- (iv) a Hedge Counterparty at the address specified in the relevant Hedge Agreement;
- (v) the Administrator at MaplesFS Limited, PO Box 1093, Boundary Hall, Cricket Square, Grand Cayman, KY1-1102, Cayman Islands;
- (vi) the Irish Stock Exchange, c/o Maples and Calder as listing agent, at 75 St. Stephen's Green, Dublin 2, Ireland, telephone no.: +353-1-619-2000, facsimile no.: +353-1-619-2001, email: dublindebtlisting@maplesandcalder.com.

(b) The parties hereto agree that all Information provided to the Rating Agency, or any of its respective officers, directors or employees, to be given or provided to such Rating Agency pursuant to, in connection with or related, directly or indirectly, to this Indenture, the Collateral Management Agreement, the Collateral Administration Agreement, any transaction document relating hereto, the Assets or the Notes, shall be in each case furnished directly to the Rating Agency in accordance with, and subject to, the provisions of Section 14.16 hereof and Section 2A of the Collateral Administration Agreement and following confirmation that such information has been posted to the 17g-5 website, by email to cdomonitoring@moodys.com.

(c) In the event that any provision in this Indenture calls for any notice or document to be delivered simultaneously to the Trustee and any other person or entity, the Trustee's receipt of such notice or document shall entitle the Trustee to assume that such notice or document was delivered to such other person or entity unless otherwise expressly specified herein.

(d) Notwithstanding any provision to the contrary contained herein or in any agreement or document related thereto, any report, statement or other information required to be provided by the Issuer (except information required to be provided to the Irish Stock Exchange) or the Trustee may be provided by providing access to a website containing such information.

Section 14.4. Notices to Holders; Waiver. Except as otherwise expressly provided herein, where this Indenture provides for notice to Holders of any event,

(a) such notice shall be sufficiently given to Holders if in writing and mailed, first class postage prepaid, to each Holder affected by such event, at the address of such Holder as it appears in the Register or, as applicable, in accordance with the procedures at DTC, as soon as reasonably practicable but in any case not earlier than the earliest date and not later than the latest date, prescribed for the giving of such notice;

(b) for so long as any Notes are listed on the Irish Stock Exchange and the guidelines of the Irish Stock Exchange so require, notices to the Holders of such Notes shall also be provided to the Irish Stock Exchange; and

(c) such notice shall be in the English language.

Such notices shall be deemed to have been given on the date of such mailing.

The Trustee shall deliver to the Holders any information or notice relating to this Indenture requested to be so delivered by at least 25% of the Holders of any Class of Notes (by Aggregate Outstanding Amount), at the expense of the Issuer.

The Trustee shall deliver to any Holder of Notes or any Person that has certified to the Trustee in a writing substantially in the form of Exhibit D to this Indenture that it is the owner of a beneficial interest in a Global Note, any information or notice requested to be so delivered by a Holder or a Person that has made such certification that is reasonably available to the Trustee and all related costs will be borne by the requesting Holder or Person.

Neither the failure to mail any notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. In case by reason of the suspension of regular mail service as a result of a strike, work stoppage or similar activity or by reason of any other cause it shall be impracticable to give such notice by mail of any event to Holders when such notice is required to be given pursuant to any provision of this Indenture, then such notification to Holders as shall be made with the approval of the Trustee shall constitute a sufficient notification to such Holders for every purpose hereunder.

Where this Indenture provides for notice in any manner, such notice may be waived in writing by any Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 14.5. Effect of Headings and Table of Contents. The Article and Section headings herein (including those used in cross-references herein) and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 14.6. Successors and Assigns. All covenants and agreements in this Indenture by the Co-Issuers shall bind their respective successors and assigns, whether so expressed or not.

Section 14.7. Separability. Except to the extent prohibited by applicable law, in case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 14.8. Benefits of Indenture. Nothing in this Indenture or in the Notes, expressed or implied, shall give to any Person, (other than the parties hereto and their successors hereunder, the Collateral Manager, the Holders of the Notes, the Collateral Administrator and (to the extent provided herein) the Administrator (solely in its capacity as such) and the other Secured Parties) any benefit or any legal or equitable right, remedy or claim under this Indenture, and each Holder shall be an express third party beneficiary for purposes of the right of specific performance described in Sections 5.4(f) and 13.1(d).

Section 14.9. Reserved.

Section 14.10. Governing Law. THIS INDENTURE AND EACH NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

Section 14.11. Submission to Jurisdiction. The Co-Issuers hereby irrevocably submit to the exclusive jurisdiction of any New York State or federal court sitting in the Borough of Manhattan in The City of New York in any action or Proceeding arising out of or relating to the Notes or this Indenture, and the Co-Issuers hereby irrevocably agree that all claims in respect of such action or Proceeding may be heard and determined in such New York State or federal court. The Co-Issuers hereby irrevocably waive, to the fullest extent that they may legally do so, the defense of an inconvenient forum to the maintenance of such action or Proceeding. The Co-Issuers irrevocably consent to the service of any and all process in any action or Proceeding by the mailing or delivery of copies of such process to the Process Agent. The Co-Issuers agree 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.

Section 14.12. Counterparts. This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument. Delivery of an executed counterpart by electronic means (including email) will be effective as delivery of a manually executed counterpart.

Section 14.13. Acts of Issuer. Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or performed by the Issuer shall be effective if given or performed by the Issuer or by the Collateral Manager on the Issuer's behalf.

Section 14.14. Confidential Information. (a) The Trustee, the Collateral Administrator and each Holder of Notes shall maintain the confidentiality of all Confidential Information in accordance with procedures adopted by the Issuer (after consultation with the Co-Issuers) or such Holder in good faith to protect Confidential Information of third parties delivered to such Person; provided that such Person may deliver or disclose Confidential Information to: (i) such Person's directors, trustees, officers, employees, agents, accountants, auditors, attorneys and affiliates who agree to hold confidential the Confidential Information substantially in accordance with the terms of this Section 14.14 and to the extent such disclosure is reasonably required for the administration of this Indenture, the matters contemplated hereby or the investment represented by the Notes; (ii) such Person's financial advisors and other professional advisors who agree to hold confidential the Confidential Information substantially in accordance with the terms of this Section 14.14 and to the extent such disclosure is reasonably required for the administration of this Indenture, the matters contemplated hereby or the investment represented by the Notes; (iii) any other Holder; (iv) any Person of the type that would be, to such Person's knowledge, permitted to acquire Notes in accordance with the requirements of Section 2.6 hereof to which such Person sells or offers to sell any such Note or any part thereof; (v) any other Person from which such former Person offers to purchase any security of the Co-Issuers; (vi) any Federal or state or other regulatory, governmental or judicial authority having jurisdiction over such Person; (vii) the National Association of Insurance Commissioners or any similar organization, or any nationally recognized rating agency that requires access to information about the investment portfolio of such Person, reinsurers and liquidity and credit providers, in each case, that agree to hold confidential the Confidential Information substantially in accordance with this Section 14.14; (viii) Moody's; (ix) any other Person with the written consent of the Co-Issuers and the Collateral Manager; (x) any other disclosure that is permitted or required under this Indenture or the Collateral Administration Agreement; or (xi) any other Person to which such delivery or disclosure may be necessary or appropriate in the reasonable judgment of the Person making such delivery or disclosure (A) to effect compliance with any law, rule, regulation or order applicable to such Person, (B) in response to any subpoena or other legal process (unless prohibited by applicable law, rule, order or decree or other requirement having the force of law), (C) in connection with any litigation to which such Person is a party (unless prohibited by applicable law, rule, order or decree or other requirement having the force of law) or (D) if an Event of Default has occurred and is continuing, to the extent such Person may reasonably determine such delivery and disclosure to be necessary or appropriate in the enforcement or for the protection of the rights and remedies under the Notes or this Indenture; and provided, further, however, that delivery to Holders by the Trustee or the Collateral Administrator of any report or information required by the terms of this Indenture to be provided to Holders shall not be a violation of this Section 14.14. Each Holder of Notes agrees, except as set forth in clauses (iv), (v), (vi), (vii) and (x) above, that it shall use the Confidential Information for the sole purpose of making an investment in the Notes or administering its investment in the Notes; and that the Trustee and the Collateral Administrator shall neither be required nor authorized to

disclose to Holders any Confidential Information in violation of this Section 14.14. In the event of any required disclosure of the Confidential Information by such Holder, such Holder agrees to use reasonable efforts to protect the confidentiality of the Confidential Information. Each Holder of a Note, by its acceptance of a Note shall be deemed to have agreed to be bound by and to be entitled to the benefits of this Section 14.14. Notwithstanding the foregoing, the Trustee, the Collateral Administrator, the Holders and beneficial owners of the Notes (and each of their respective employees, representatives or other agents) may disclose to any and all Persons, without limitation of any kind, the U.S. federal, state and local income tax treatment of the Issuer and the transactions contemplated by this Indenture and all materials of any kind (including opinions or other tax analyses) that are provided to them relating to such U.S. federal, state and local income tax treatment.

(b) For the purposes of this Section 14.14, "Confidential Information" means information delivered to the Trustee, the Collateral Administrator or any Holder of Notes by or on behalf of the Co-Issuers in connection with and relating to the transactions contemplated by or otherwise pursuant to this Indenture; provided that such term does not include information that: (i) was publicly known or otherwise known to the Trustee, the Collateral Administrator or such Holder prior to the time of such disclosure; (ii) subsequently becomes publicly known through no act or omission by the Trustee, the Collateral Administrator, any Holder or any person acting on behalf of the Trustee, the Collateral Administrator or any Holder; (iii) otherwise is known or becomes known to the Trustee, the Collateral Administrator or any Holder other than (x) through disclosure by the Co-Issuers or (y) to the knowledge of the Trustee, the Collateral Administrator or a Holder, as the case may be, in each case after reasonable inquiry, as a result of the breach of a fiduciary duty to the Co-Issuers or a contractual duty to the Co-Issuers; or (iv) is allowed to be treated as non-confidential by consent of the Co-Issuers.

(c) Notwithstanding the foregoing, the Trustee and the Collateral Administrator may disclose Confidential Information to the extent disclosure may be required by law or by any regulatory or governmental authority and the Trustee and the Collateral Administrator may disclose on a confidential basis any Confidential Information to its agents, attorneys and auditors in connection with the performance of its responsibilities hereunder. Notwithstanding the foregoing, the Collateral Manager and its Affiliates may disclose any information permitted or required to be disclosed under the Collateral Management Agreement and summary data regarding the composition and performance of the Assets for marketing purposes.

**Section 14.15. Liability of Co-Issuers.** Notwithstanding any other terms of this Indenture, the Notes or any other agreement entered into between, *inter alia*, the Co-Issuers or otherwise, neither of the Co-Issuers shall have any liability whatsoever to the other of the Co-Issuers under this Indenture, the Notes, any such agreement or otherwise and, without prejudice to the generality of the foregoing, neither of the Co-Issuers shall be entitled to take any action to enforce, or bring any action or Proceeding, in respect of this Indenture, the Notes, any such agreement or otherwise against the other of the Co-Issuers. In particular, neither of the Co-Issuers shall be entitled to petition or take any other steps for the winding up or bankruptcy of the other of the Co-Issuers or shall have any claim in respect to any assets of the other of the Co-Issuers.

Section 14.16. 17g-5 Information. (a) The Co-Issuers shall comply with their obligations under Rule 17g-5 promulgated under the Exchange Act ("Rule 17g-5"), by their or their agent's posting on the 17g-5 Website, no later than the time such information is provided to the Rating Agency, all information that the Co-Issuers or other parties on their behalf, including the Trustee and the Collateral Manager, provide to the Rating Agency for the purposes of determining the initial credit rating of the Rated Notes or undertaking credit rating surveillance of the Rated Notes (the "17g-5 Information"); provided, however, that no party other than the Issuer, the Trustee or the Collateral Manager may provide information to the Rating Agency on the Co-Issuers' behalf without the prior written consent of the Collateral Manager. At all times while any Rated Notes are rated by any Rating Agency or any other NRSRO, the Co-Issuers shall engage a third-party to post 17g-5 Information to the 17g-5 Website. On the Closing Date, the Issuer shall engage the Collateral Administrator (in such capacity, the "Information Agent"), to post 17g-5 Information it receives from the Issuer, the Trustee or the Collateral Manager to the 17g-5 Website in accordance with Section 2A of the Collateral Administration Agreement.

(b) To the extent any of the Co-Issuers, the Trustee or the Collateral Manager are engaged in oral communications with any Rating Agency, for the purposes of determining the initial credit rating of the Notes or undertaking credit rating surveillance of the Notes, the party communicating with such Rating Agency shall cause such oral communication to either be (x) recorded and an audio file containing the recording to be promptly delivered to the Information Agent for posting to the 17g-5 Website or (y) summarized in writing and the summary to be promptly delivered to the Information Agent for posting to the 17g-5 Website.

(c) Notwithstanding the requirements herein, the Trustee shall have no obligation to engage in or respond to any oral communications, for the purposes of determining the initial credit rating of the Notes or undertaking credit rating surveillance of the Notes, with any Rating Agency or any of their respective officers, directors or employees.

(d) The Trustee shall not be responsible for maintaining the Issuer's Website, posting any 17g-5 Information to the Issuer's Website or assuring that the Issuer's Website complies with the requirements of this Indenture, Rule 17g-5, or any other law or regulation. In no event shall the Trustee be deemed to make any representation in respect of the content of the Issuer's Website or compliance of the Issuer's Website with this Indenture, Rule 17g-5, or any other law or regulation.

(e) The Trustee shall not be responsible for maintaining the Issuer's Website, posting any 17g-5 Information to the Issuer's Website or assuring that the Issuer's Website complies with the requirements of this Indenture, Rule 17g-5, or any other law or regulation. In no event shall the Trustee be deemed to make any representation in respect of the content of the Issuer's Website or compliance of the Issuer's Website with this Indenture, Rule 17g-5, or any other law or regulation.

(f) The Trustee shall not be responsible or liable for the dissemination of any identification numbers or passwords for the Issuer's Website, including by the Co-Issuers, the Rating Agency, the NRSROs, any of their agents or any other party. The Trustee shall not be liable for the use of any information posted on the Issuer's Website, whether by the Co-Issuers,

the Rating Agency, the NRSROs or any other third party that may gain access to the Issuer's Website or the information posted thereon.

(g) Notwithstanding anything herein to the contrary, the maintenance by the Trustee of the website described in Section 10.6(g) shall not be deemed as compliance by or on behalf of the Issuer with Rule 17g-5 or any other law or regulation related thereto.

(h) Notwithstanding anything to the contrary in this Indenture, a breach of this Section 14.16 shall not constitute a Default or Event of Default.

(i) For the avoidance of doubt, no report of the Independent Accountants (including, without limitation, any Accountants' Report) shall be required to be provided to, or shall otherwise be shared with, any Rating Agency.

**Section 14.17. Rating Agency Conditions.** (a) Notwithstanding the terms of the Collateral Management Agreement, any Hedge Agreement or other provisions of this Indenture, if any action under the Collateral Management Agreement, any Hedge Agreement or this Indenture requires satisfaction of the Moody's Rating Condition or the Global Rating Agency Condition (each, a "Condition") as a condition precedent to such action, if the party (the "Requesting Party") required to obtain satisfaction of such Condition has made a request to any Rating Agency for satisfaction of such Condition and, within 10 Business Days of the request for satisfaction of such Condition being posted to the 17g-5 Website, such Rating Agency has not replied to such request or has responded in a manner that indicates that such Rating Agency is neither reviewing such request nor waiving the requirement for satisfaction of such Condition, then such Requesting Party shall be required to confirm that the applicable Rating Agency has received the request, and, if it has, promptly (but in no event later than one Business Day after such confirmation) request satisfaction of such Condition again.

(b) Any request for satisfaction of any Condition made by the Issuer, Co-Issuer or Trustee, as applicable, pursuant to this Indenture, shall be made in writing, which writing shall contain a cover page indicating the nature of the request for satisfaction of such Condition, and shall contain all back-up material necessary for the Rating Agency to process such request. Such written request for satisfaction of such Condition shall be provided in electronic format to the Information Agent for posting on the 17g-5 Website in accordance with Section 14.16 hereof and Section 2A of the Collateral Administration Agreement, and after receiving actual knowledge of such posting (which may be in the form of an automatic email notification of posting delivered by the 17g-5 Website to such party), the Issuer, Co-Issuer or Trustee, as applicable, shall send the request for satisfaction of such Condition to the Rating Agency in accordance with the delivery instructions set forth in Section 14.3(b).

(c) Notwithstanding anything to the contrary in this Indenture, a breach of this Section 14.17 shall not constitute a Default or an Event of Default.

**Section 14.18. Waiver of Jury Trial.** THE TRUSTEE, EACH NOTEHOLDER AND EACH OF THE CO-ISSUERS EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES (TO THE EXTENT PERMITTED BY APPLICABLE LAW) ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY

LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS INDENTURE, THE NOTES OR ANY OTHER RELATED DOCUMENTS, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN), OR ACTIONS OF THE TRUSTEE, A NOTEHOLDER OR EITHER OF THE CO-ISSUERS. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE TRUSTEE AND THE CO-ISSUERS TO ENTER INTO THIS INDENTURE.

Section 14.19. Escheat. In the absence of a written request from the Co-Issuers to return unclaimed funds to the Co-Issuers, the Trustee may from time to time following the final Payment Date with respect to the Securities deliver all unclaimed funds to or as directed by applicable escheat authorities, as determined by the Trustee in its sole discretion, in accordance with the customary practices and procedures of the Trustee. Any unclaimed funds held by the Trustee pursuant to this Section 14.19 shall be held uninvested and without any liability for interest.

Section 14.20. Records. For the term of the Notes, copies of the Memorandum and Articles of Association of the Issuer, the Certificate of Formation and Limited Liability Company Agreement of the Co-Issuer, this Indenture and, subject to Section 6.1(f), any related transaction document in the possession of the Trustee shall be available for inspection by the Holders of the Notes in electronic form at the office of the Trustee upon prior written request and during normal business hours of the Trustee.

Section 14.21. RAC Suspension Event Approval. If (i) the Issuer desires to take any action under this Indenture, (ii) the Global Rating Agency Condition is required to be satisfied in connection with such action (determined without regard to whether a RAC Suspension Event has occurred with respect to any Rating Agency on the date of such action), and (iii) a RAC Suspension Event has occurred with respect to any Rating Agency on the date of such action, the Issuer may not take such action unless it obtains the prior approval of a Majority of the Controlling Class.

## ARTICLE XV

### ASSIGNMENT OF COLLATERAL MANAGEMENT AGREEMENT

Section 15.1. Assignment of Collateral Management Agreement. (a) The Issuer hereby acknowledges that its Grant pursuant to the first Granting Clause hereof includes all of the Issuer's estate, right, title and interest in, to and under the Collateral Management Agreement, including (i) the right to give all notices, consents and releases thereunder, (ii) the right to give all notices of termination and to take any legal action upon the breach of an obligation of the Collateral Manager thereunder, including the commencement, conduct and consummation of Proceedings at law or in equity, (iii) the right to receive all notices, accountings, consents, releases and statements thereunder and (iv) the right to do any and all other things whatsoever that the Issuer is or may be entitled to do thereunder; provided, however, that except as otherwise expressly set forth in this Indenture, the Trustee shall not have the authority to exercise any of the rights set forth in (i) through (iv) above or that may otherwise arise as a result of the Grant until the occurrence of an Event of Default hereunder

and such authority shall terminate at such time, if any, as such Event of Default is cured or waived.

(b) From and after the occurrence and continuance of an Event of Default, the Collateral Manager shall continue to perform and be bound by the provisions of the Collateral Management Agreement and this Indenture. The Trustee shall be entitled to rely and be protected in relying upon all actions and omissions to act of the Collateral Manager thereafter as fully as if no Event of Default had occurred.

(c) The assignment made hereby is executed as collateral security, and the execution and delivery hereby shall not in any way impair or diminish the obligations of the Issuer under the provisions of the Collateral Management Agreement, or increase, impair or alter the rights and obligations of the Collateral Manager under the Collateral Management Agreement, nor shall any of the obligations contained in the Collateral Management Agreement be imposed on the Trustee.

(d) Upon the retirement of the Notes, the payment of all amounts required to be paid pursuant to the Priority of Payments and the release of the Assets from the lien of this Indenture, this assignment and all rights herein assigned to the Trustee for the benefit of the Noteholders shall cease and terminate and all the estate, right, title and interest of the Trustee in, to and under the Collateral Management Agreement shall revert to the Issuer and no further instrument or act shall be necessary to evidence such termination and reversion.

(e) The Issuer represents that the Issuer has not executed any other assignment of the Collateral Management Agreement.

(f) The Trustee shall have no obligations under the Collateral Management Agreement, but will forward any notices required to be given or received under the Collateral Management Agreement to the required addresses.

(g) The Issuer agrees that this assignment is irrevocable, and that it shall not take any action which is inconsistent with this assignment or make any other assignment inconsistent herewith. The Issuer shall, from time to time upon the request of the Trustee, execute all instruments of further assurance and all such supplemental instruments with respect to this assignment as the Trustee may reasonably specify.

## ARTICLE XVI

### HEDGE AGREEMENTS

Section 16.1. Hedge Agreements. (a) The Issuer may enter into Hedge Agreements with the consent of a Majority of the Controlling Class from time to time on and after the Closing Date solely for the purpose of managing interest rate and other risks in connection with the Issuer's issuance of, and making payments on, the Notes; *provided* that (A) the Issuer shall not enter into any Hedge Agreement unless either (1) entering into the Hedge Agreement would not cause the Issuer to be considered a "commodity pool" under the Commodity Exchange Act, (2) if the Issuer would be considered a commodity pool, the

Collateral Manager would be the CPO, the Collateral Manager would be eligible for an exemption from registration as a CPO and all requirements of that exemption would be satisfied or (3) if the Issuer would be considered a commodity pool, the Collateral Manager would be the CPO and the Collateral Manager, at all material times, would be a registered CPO as required under the Commodity Exchange Act and (B) the Issuer (or the Collateral Manager on behalf of the Issuer) will not enter into any Hedge Agreement unless such Hedge Agreement is an interest rate or foreign exchange derivative and the terms of such derivative relate to ~~the~~ one or more Collateral Obligations and reduce the interest rate or foreign exchange risks related to such Collateral Obligations. The Issuer shall promptly provide notice of entry into any Hedge Agreement to the Trustee. Notwithstanding anything to the contrary contained in this Indenture, the Issuer (or the Collateral Manager on behalf of the Issuer) shall not enter into any Hedge Agreement unless the Global Rating Agency Condition has been satisfied with respect thereto. The Issuer shall provide a copy of each Hedge Agreement to the Rating Agency.

Each Hedge Agreement shall contain appropriate limited recourse and non-petition provisions equivalent (*mutatis mutandis*) to those contained in Section 2.8(i) and Section 5.4(d) and (f). Each Hedge Counterparty shall be required to have, at the time that any Hedge Agreement to which it is a party is entered into, the Required Hedge Counterparty Ratings unless the ~~applicable~~Global Rating Agency Condition is satisfied or credit support is provided as set forth in the Hedge Agreement. Payments with respect to Hedge Agreements shall be subject to Article XI. Each Hedge Agreement shall contain an acknowledgement by the Hedge Counterparty that the obligations of the Issuer to the Hedge Counterparty under the relevant Hedge Agreement shall be payable in accordance with Article XI of the Indenture

(b) In the event of any early termination of a Hedge Agreement with respect to which the Hedge Counterparty is the sole "defaulting party" or "affected party" (each as defined in the Hedge Agreements), (i) any termination payment paid by the Hedge Counterparty to the Issuer may be paid to a replacement Hedge Counterparty at the direction of the Collateral Manager and (ii) any payment received from a replacement Hedge Counterparty may be paid to the replaced Hedge Counterparty at the direction of the Collateral Manager under the terminated Hedge Agreement.

(c) The Issuer (or the Collateral Manager on its behalf) shall, upon receiving written notice of the exposure calculated under a credit support annex to any Hedge Agreement, if applicable, make a demand to the relevant Hedge Counterparty and its credit support provider, if applicable, for securities having a value under such credit support annex equal to the required credit support amount.

(d) Each Hedge Agreement will contain requirements for collateralization or ~~replacement of are~~ require that the Hedge Counterparty ~~that~~ satisfy criteria of the Rating Agency ~~criteria~~ in effect at the time of execution of the Hedge Agreement and permit termination of the Hedge Agreement if such requirements are not satisfied.

(e) The Issuer shall not terminate or amend any Hedge Agreement or agreement to provide Hedge Counterparty Credit Support unless the Moody's Rating Condition has been satisfied with respect to such termination or amendment. Any collateral received from a

Hedge Counterparty under a Hedge Agreement shall be deposited in the Hedge Counterparty Collateral Account.

(f) If a Hedge Counterparty has defaulted in the payment when due of its obligations to the Issuer under the Hedge Agreement, the Collateral Manager shall make a demand on the Hedge Counterparty (or its guarantor under the Hedge Agreement), demanding payment by the close of business on such date (or by such time on the next succeeding Business Day if such knowledge is obtained after 11:30 a.m., New York time).

(g) Each Hedge Agreement shall provide that it may not be terminated due to the occurrence of an Event of Default until liquidation of the Collateral has commenced.

[Signature page follows]

IN WITNESS WHEREOF, we have set our hands as of the day and year first written above.

EXECUTED AS A DEED BY

SILVER CREEK CLO, LTD., as Issuer

By: \_\_\_\_\_  
Name:  
Title:

In the presence of:

\_\_\_\_\_  
Witness:  
Name:  
Title:

SILVER CREEK CLO, LLC, as Co-Issuer

By: \_\_\_\_\_  
Name:  
Title:

U.S. BANK NATIONAL ASSOCIATION., as  
Trustee

By: \_\_\_\_\_  
Name:  
Title:

## SCHEDULE 1

### MOODY'S INDUSTRY CLASSIFICATION GROUP LIST

- 1 Aerospace & Defense
- 2 Automotive
- 3 Banking, Finance, Insurance & Real Estate
- 4 Beverage, Food & Tobacco
- 5 Capital Equipment
- 6 Chemicals, Plastics & Rubber
- 7 Construction & Building
- 8 Consumer goods: Durable
- 9 Consumer goods: Non-durable
- 10 Containers, Packaging & Glass
- 11 Energy: Electricity
- 12 Energy: Oil & Gas
- 13 Environmental Industries
- 14 Forest Products & Paper
- 15 Healthcare & Pharmaceuticals
- 16 High Tech Industries
- 17 Hotel, Gaming & Leisure
- 18 Media: Advertising, Printing & Publishing
- 19 Media: Broadcasting & Subscription
- 20 Media: Diversified & Production
- 21 Metals & Mining
- 22 Retail
- 23 Services: Business
- 24 Services: Consumer
- 25 Sovereign & Public Finance
- 26 Telecommunications
- 27 Transportation: Cargo
- 28 Transportation: Consumer
- 29 Utilities: Electric
- 30 Utilities: Oil & Gas
- 31 Utilities: Water
- 32 Wholesale

SCHEDULE 2  
S&P INDUSTRY CLASSIFICATIONS

**CASH**

Asset Code	Asset Description
0	Zero Default Risk

**CORPORATE OBLIGATIONS**

Asset Code	Asset Description	LOCA L	REGIONAL L	GLOBA L
1	Aerospace & Defense		X	
2	Air transport			X
3	Automotive			X
4	Beverage & Tobacco		X	
5	Radio & Television		X	
7	Building & Development	X		
8	Business equipment & services		X	
9	Cable & satellite television		X	
10	Chemicals & plastics			X
11	Clothing/textiles		X	
12	Conglomerates			X
13	Containers & glass products		X	
14	Cosmetics/toiletries	X		
15	Drugs			X
16	Ecological services & equipment		X	
17	Electronics/electrical			X
18	Equipment leasing		X	
19	Farming/agriculture	X		
20	Financial Intermediaries			X
21	Food/drug retailers	X		
22	Food products		X	
23	Food service		X	
24	Forest products			X
25	Health care		X	
26	Home furnishings	X		
27	Lodging & casinos		X	
28	Industrial equipment		X	
30	Leisure goods/activities/movies	X		
31	Nonferrous metals/minerals			X
32	Oil & gas			X
33	Publishing	X		
34	Rail industries		X	
35	Retailers (except food & drug)	X		

Asset Code	Asset Description	LOCA L	REGIONAL L	GLOBA L
36	Steel			X
37	Surface transport	X		
38	Telecommunications			X
39	Utilities		X	
40	Mortgage REITs			X
41	Equity REITs and REOCs			X
43	Life Insurance			X
44	Health Insurance			X
45	Property & Casualty Insurance			X
46	Diversified Insurance			X

### COLLATERALIZED DEBT OBLIGATIONS

Asset Code	Asset Description
50	CDO of corporate and emerging market corporate
50A	CDO of SF
50B	CDO other

### STRUCTURED OBLIGATIONS

Asset Code	Asset Description
51	ABS Consumer
52	ABS Commercial
53	CMBS diversified (conduit and credit-tenant-lease); CMBS (large loan, single borrower, and single property); commercial real estate interests; commercial real estate loans
56	RMBS, home equity loans, home equity lines of credit, tax lien, and manufactured housing
59	U.S./Sovereign agency - explicitly guaranteed
60	SF third-party guaranteed
62	FFELP student loan containing over 70% FFELP loans

### OTHER

Asset Code	Asset Description
SOV	Sovereign
NCC	Uncorrelated (Corporate)
NCA	Uncorrelated (ABS)

**SOV** – use this asset code to specify Sovereign Obligations. In addition, you must specify the country code, Local Currency Sovereign Rating, and Foreign Currency Sovereign Rating.

**NCC** – used to specify uncorrelated assets with corporate default probabilities.

**NCA** – used to specify uncorrelated assets with ABS default probabilities.

## SCHEDULE 3

### DIVERSITY SCORE CALCULATION

The Diversity Score is calculated as follows:

(a) An "Issuer Par Amount" is calculated for each issuer of a Collateral Obligation, and is equal to the Aggregate Principal Balance of all the Collateral Obligations issued by that issuer and all affiliates.

(b) An "Average Par Amount" is calculated by summing the Issuer Par Amounts for all issuers, and dividing by the number of issuers.

(c) An "Equivalent Unit Score" is calculated for each issuer, and is equal to the lesser of (x) one and (y) the Issuer Par Amount for such issuer divided by the Average Par Amount.

(d) An "Aggregate Industry Equivalent Unit Score" is then calculated for each of the Moody's industry classification groups, shown on Schedule 1, and is equal to the sum of the Equivalent Unit Scores for each issuer in such industry classification group.

(e) An "Industry Diversity Score" is then established for each Moody's industry classification group, shown on Schedule 1, by reference to the following table for the related Aggregate Industry Equivalent Unit Score; provided that if any Aggregate Industry Equivalent Unit Score falls between any two such scores, the applicable Industry Diversity Score shall be the lower of the two Industry Diversity Scores:

Aggregate Industry Equivalent Unit Score	Industry Diversity Score						
0.0000	0.0000	5.0500	2.7000	10.1500	4.0200	15.2500	4.5300
0.0500	0.1000	5.1500	2.7333	10.2500	4.0300	15.3500	4.5400
0.1500	0.2000	5.2500	2.7667	10.3500	4.0400	15.4500	4.5500
0.2500	0.3000	5.3500	2.8000	10.4500	4.0500	15.5500	4.5600
0.3500	0.4000	5.4500	2.8333	10.5500	4.0600	15.6500	4.5700
0.4500	0.5000	5.5500	2.8667	10.6500	4.0700	15.7500	4.5800
0.5500	0.6000	5.6500	2.9000	10.7500	4.0800	15.8500	4.5900
0.6500	0.7000	5.7500	2.9333	10.8500	4.0900	15.9500	4.6000
0.7500	0.8000	5.8500	2.9667	10.9500	4.1000	16.0500	4.6100
0.8500	0.9000	5.9500	3.0000	11.0500	4.1100	16.1500	4.6200
0.9500	1.0000	6.0500	3.0250	11.1500	4.1200	16.2500	4.6300
1.0500	1.0500	6.1500	3.0500	11.2500	4.1300	16.3500	4.6400
1.1500	1.1000	6.2500	3.0750	11.3500	4.1400	16.4500	4.6500
1.2500	1.1500	6.3500	3.1000	11.4500	4.1500	16.5500	4.6600
1.3500	1.2000	6.4500	3.1250	11.5500	4.1600	16.6500	4.6700
1.4500	1.2500	6.5500	3.1500	11.6500	4.1700	16.7500	4.6800
1.5500	1.3000	6.6500	3.1750	11.7500	4.1800	16.8500	4.6900
1.6500	1.3500	6.7500	3.2000	11.8500	4.1900	16.9500	4.7000
1.7500	1.4000	6.8500	3.2250	11.9500	4.2000	17.0500	4.7100
1.8500	1.4500	6.9500	3.2500	12.0500	4.2100	17.1500	4.7200
1.9500	1.5000	7.0500	3.2750	12.1500	4.2200	17.2500	4.7300
2.0500	1.5500	7.1500	3.3000	12.2500	4.2300	17.3500	4.7400
2.1500	1.6000	7.2500	3.3250	12.3500	4.2400	17.4500	4.7500
2.2500	1.6500	7.3500	3.3500	12.4500	4.2500	17.5500	4.7600
2.3500	1.7000	7.4500	3.3750	12.5500	4.2600	17.6500	4.7700
2.4500	1.7500	7.5500	3.4000	12.6500	4.2700	17.7500	4.7800
2.5500	1.8000	7.6500	3.4250	12.7500	4.2800	17.8500	4.7900

Aggregate Industry Equivalent Unit Score	Industry Diversity Score						
2.6500	1.8500	7.7500	3.4500	12.8500	4.2900	17.9500	4.8000
2.7500	1.9000	7.8500	3.4750	12.9500	4.3000	18.0500	4.8100
2.8500	1.9500	7.9500	3.5000	13.0500	4.3100	18.1500	4.8200
2.9500	2.0000	8.0500	3.5250	13.1500	4.3200	18.2500	4.8300
3.0500	2.0333	8.1500	3.5500	13.2500	4.3300	18.3500	4.8400
3.1500	2.0667	8.2500	3.5750	13.3500	4.3400	18.4500	4.8500
3.2500	2.1000	8.3500	3.6000	13.4500	4.3500	18.5500	4.8600
3.3500	2.1333	8.4500	3.6250	13.5500	4.3600	18.6500	4.8700
3.4500	2.1667	8.5500	3.6500	13.6500	4.3700	18.7500	4.8800
3.5500	2.2000	8.6500	3.6750	13.7500	4.3800	18.8500	4.8900
3.6500	2.2333	8.7500	3.7000	13.8500	4.3900	18.9500	4.9000
3.7500	2.2667	8.8500	3.7250	13.9500	4.4000	19.0500	4.9100
3.8500	2.3000	8.9500	3.7500	14.0500	4.4100	19.1500	4.9200
3.9500	2.3333	9.0500	3.7750	14.1500	4.4200	19.2500	4.9300
4.0500	2.3667	9.1500	3.8000	14.2500	4.4300	19.3500	4.9400
4.1500	2.4000	9.2500	3.8250	14.3500	4.4400	19.4500	4.9500
4.2500	2.4333	9.3500	3.8500	14.4500	4.4500	19.5500	4.9600
4.3500	2.4667	9.4500	3.8750	14.5500	4.4600	19.6500	4.9700
4.4500	2.5000	9.5500	3.9000	14.6500	4.4700	19.7500	4.9800
4.5500	2.5333	9.6500	3.9250	14.7500	4.4800	19.8500	4.9900
4.6500	2.5667	9.7500	3.9500	14.8500	4.4900	19.9500	5.0000
4.7500	2.6000	9.8500	3.9750	14.9500	4.5000		
4.8500	2.6333	9.9500	4.0000	15.0500	4.5100		
4.9500	2.6667	10.0500	4.0100	15.1500	4.5200		

(f) The Diversity Score is then calculated by summing each of the Industry Diversity Scores for each Moody's industry classification group shown on Schedule 1.

For purposes of calculating the Diversity Score, affiliated issuers in the same Industry are deemed to be a single issuer except as otherwise agreed to by Moody's and collateralized loan obligations shall not be included.

## SCHEDULE 4

### Moody's Rating Definitions

**"Assigned Moody's Rating":** The monitored publicly available rating, the monitored estimated rating or the unpublished monitored rating expressly assigned to a debt obligation (or facility) by Moody's that addresses the full amount of the principal and interest promised; *provided* that so long as the Issuer (or the Collateral Manager on its behalf) applies for a new estimated rating, or renewal of a rating estimate, in a timely manner and provides the information required to obtain such estimate or renewal, as applicable, then pending receipt of such estimate or renewal, as applicable, (A) in the case of a request for a new estimated rating, (i) for a period of 90 days, such debt obligation will have an Assigned Moody's Rating of "B3" for purposes of this definition if the Collateral Manager certifies to the Trustee that the Collateral Manager believes that such estimated rating will be at least "B3" and (ii) thereafter, in the Collateral Manager's sole discretion either (1) such debt obligation will be deemed not to have an Assigned Moody's Rating or (2) such debt obligation will have an Assigned Moody's Rating of "Caa3", (B) in the case of an annual request for a renewal of a rating estimate, the Issuer, for a period of 30 days after the later of (x) the application for such renewal or (y) 12 months, as long as such rating estimate or a renewal therefor has been issued or provided by Moody's in each case within the 15 month period preceding the date on which the Assigned Moody's Rating is being determined, will continue using the previous estimated rating assigned by Moody's with respect to such debt obligation until such time as Moody's renews such estimated rating or assigns a new estimated rating for such debt obligation; *provided* that if such rating estimate has been issued or provided by Moody's for a period (x) longer than 13 months but not beyond 15 months, the Assigned Moody's Rating will be one subcategory lower than such rating estimate and (y) beyond 15 months, the Assigned Moody's Rating will be deemed to be "Caa3"; and (C) in the case of a request for a renewal of a rating estimate following a material deterioration in the creditworthiness of the obligor or a specified amendment, the Issuer will continue using the previous estimated rating assigned by Moody's until such time as (x) Moody's renews such estimated rating or assigns a new estimated rating for such debt obligation or (y) the criteria specified in clause (A) in connection with an annual request for a renewal of a rating estimate becomes applicable in respect of such debt obligation.

**"CFR":** With respect to an obligor of a Collateral Obligation, if it has a corporate family rating by Moody's, then such corporate family rating; *provided* if it does not have a corporate family rating by Moody's but any entity in its corporate family does have a corporate family rating, then the CFR is such corporate family rating.

**"Moody's Default Probability Rating":** With respect to any Collateral Obligation, as of any date of determination, the rating as determined in accordance with the following, in the following order of priority (*provided* that, with respect to the Collateral Obligation generally, if at any time Moody's or any successor to it ceases to provide rating services, references to rating categories of Moody's shall be deemed instead to be references to the equivalent categories of any other nationally recognized investment rating agency selected by the Issuer (with written notice to the Trustee and the Collateral Administrator), as of the most recent date on which such other

rating agency and Moody's published ratings for the type of security in respect of which such alternative rating agency is used):

- (a) with respect to an Collateral Obligation, if the obligor of such Collateral Obligation has a CFR, then such CFR;
- (b) if the preceding clause does not apply and the obligor thereunder has one or more senior unsecured obligations with an Assigned Moody's Rating (other than any estimated rating), then such rating on any such obligation as selected by the Collateral Manager in its sole discretion;
- (c) if the preceding clauses do not apply and the obligor thereunder has one or more senior secured obligations with an Assigned Moody's Rating (other than any estimated rating), then one subcategory lower than the Assigned Moody's Rating on any such senior secured obligation as selected by the Collateral Manager in its sole discretion;
- (d) if the preceding clauses do not apply and a rating estimate has been assigned by Moody's to such Collateral Obligation upon the request of the Issuer or the Collateral Manager (or an Affiliate), then such rating estimate as long as such rating estimate or a renewal therefor has been issued or provided by Moody's in each case within the 15 month period preceding the date on which the Moody's Default Probability Rating is being determined; *provided* that if such rating estimate has been issued or provided by Moody's for a period (x) longer than 13 months but not beyond 15 months, the Moody's Default Probability Rating will be one subcategory lower than such rating estimate and (y) beyond 15 months, the Moody's Default Probability Rating will be deemed to be "Caa3";
- (e) with respect to a DIP Collateral Obligation, the rating that is one rating subcategory below its Assigned Moody's Rating;
- (f) if the preceding clauses do not apply, at the election of the Collateral Manager, the Moody's Derived Rating; and
- (g) if the preceding clauses do not apply, the Collateral Obligation will be deemed to have a Moody's Default Probability Rating of "Caa3".

Notwithstanding the foregoing, for purposes of the Moody's Default Probability Rating used for purposes of determining the Moody's Rating Factor of an Collateral Obligation, if the Moody's rating or ratings used to determine the Moody's Default Probability Rating are on watch for downgrade or upgrade by Moody's, such rating or ratings will be adjusted down two subcategories (if on "credit watch negative") or up one subcategory (if on watch for upgrade) and down one subcategory (if "negative outlook"), in each case without duplication of any adjustments made pursuant to the last sentence of the definition of Moody's Derived Rating.

**"Moody's Derived Rating":** With respect to an Collateral Obligation whose Moody's Rating or Moody's Default Probability Rating is determined as the Moody's Derived Rating, the rating as determined in accordance with the following, in the following order of priority:

(a)(i) if such Collateral Obligation has a rating by S&P (and is not a DIP Collateral Obligation), then by adjusting such S&P rating by the number of rating subcategories pursuant to the table below:

Type of Collateral Obligation	S&P Rating (Public and Monitored)	Collateral Obligation Rated by S&P	Number of Subcategories Relative to Moody's Equivalent of S&P Rating
Not Structured Finance Obligation	$\geq$ "BBB-"	Not a Loan or Participation in a Loan	-1
Not Structured Finance Obligation	$\leq$ "BB+"	Not a Loan or Participation in a Loan	-2
Not Structured Finance Obligation		Loan or Participation in a Loan	-2

(ii) if the preceding subclause (i) does not apply (and such Collateral Obligation is not a DIP Collateral Obligation), and another security or obligation of the obligor has a public and monitored rating by S&P (a "parallel security"), then the rating of such parallel security will, at the election of the Collateral Manager, be determined in accordance with the table set forth in subclause (a)(i) above, and the Moody's Derived Rating for purposes of clauses (a)(iv) and (b)(v) of the definition of Moody's Rating and clause (f) of the definition of Moody's Default Probability Rating (as applicable) of such Collateral Obligation in accordance with the methodology set forth in the following table (for such purposes treating the parallel security as if it were rated by Moody's at the rating determined pursuant to this subclause (a)(ii)):

Obligation Category of Rated Obligation	Rating of Rated Obligation	Number of Subcategories Relative to Rated Obligation Rating
Senior secured obligation	greater than or equal to B2	-1
Senior secured obligation	less than B2	-2
Subordinated obligation	greater than or equal to B3	+1
Subordinated obligation	less than B3	0

or

(iii) if such Collateral Obligation is a DIP Collateral Obligation, no Moody's Derived Rating may be determined based on a rating by S&P or any other rating agency;

*provided* that the Aggregate Principal Balance of the Collateral Obligations that may have a Moody's Derived Rating that is derived from an S&P rating as set forth in subclauses (i) or (ii) of this clause (a) may not exceed 10% of the Aggregate Percentage Limit; or

(b) if the preceding clause (a) does not apply and neither such Collateral Obligation nor any other security or obligation of the obligor thereunder is rated by Moody's or S&P, and if

Moody's has been requested by the Issuer, the Collateral Manager or such obligor to assign a rating or rating estimate and a recovery rate to such Collateral Obligation but such rating or rating estimate has not been received (or has been received prior to receipt of a related recovery rate from Moody's requested at or about the same time), then, pending receipt of such estimate (or receipt of such recovery rate), the Moody's Derived Rating of such Collateral Obligation for purposes of the definitions of Moody's Rating or Moody's Default Probability Rating shall be (x) "B3" if the Collateral Manager certifies to the Trustee and the Collateral Administrator that the Collateral Manager believes that such estimate is expected to be at least "B3" and if the Aggregate Principal Balance of Collateral Obligations whose Moody's Derived Rating is determined pursuant to this subclause (x) of this clause (b) does not exceed 5% of the Aggregate Percentage Limit; (unless such estimated rating has been received but the recovery rate by Moody's has been requested but not received, in which case such percent limitation shall not apply) or (y) otherwise, "Caa3;" or

For purposes of calculating a Moody's Derived Rating, each applicable rating on credit watch by Moody's with positive or negative implication at the time of calculation will be treated as having been upgraded or downgraded by one rating subcategory, as the case may be.

**"Moody's Rating"**: With respect to any Collateral Obligation, as of any date of determination, the rating determined as follows:

- (a) with respect to a Moody's Senior Secured Loan:
  - (i) if it has an Assigned Moody's Rating (other than any estimated rating), such Assigned Moody's Rating;
  - (ii) if the preceding clause does not apply and the obligor thereunder has a CFR, then one subcategory higher than such CFR;
  - (iii) if the preceding clauses do not apply and the obligor thereunder has one or more senior unsecured obligations with an Assigned Moody's Rating (other than any estimated rating), then two subcategories higher than the Assigned Moody's Rating on any such obligation as selected by the Collateral Manager in its sole discretion;
  - (iv) if the preceding clauses do not apply, at the election of the Collateral Manager, the Moody's Derived Rating; and
  - (v) if the preceding clauses do not apply, the Collateral Obligation will be deemed to have a Moody's Rating of "Caa3"; and
- (b) with respect to a Collateral Obligation other than a Moody's Senior Secured Loan:
  - (i) if it has an Assigned Moody's Rating (other than any estimated rating), such Assigned Moody's Rating;
  - (ii) if the preceding clause does not apply and the obligor thereunder has one or more senior unsecured obligations with an Assigned Moody's Rating (other than any estimated rating),

then the Assigned Moody's Rating on any such obligation as selected by the Collateral Manager in its sole discretion;

(iii) if the preceding clauses do not apply and the obligor thereunder has a CFR, then one subcategory lower than such CFR;

(iv) if the preceding clauses do not apply and the obligor thereunder has one or more subordinated debt obligations with an Assigned Moody's Rating (other than any estimated rating), then one subcategory higher than the Assigned Moody's Rating on any such obligation as selected by the Collateral Manager in its sole discretion;

(v) if the preceding clauses do not apply, at the election of the Collateral Manager, the Moody's Derived Rating; and

(vi) if the preceding clauses do not apply, the Collateral Obligation will be deemed to have a Moody's Rating of "Caa3."

**"Moody's Rating Factor":** With respect to any Collateral Obligation, is the number set forth in the table below opposite the Moody's Default Probability Rating of such Collateral Obligation:

<b>Moody's Default Probability Rating</b>	<b>Moody's Rating Factor</b>	<b>Moody's Default Probability Rating</b>	<b>Moody's Rating Factor</b>
"Aaa"	1	"Ba1"	940
"Aa1"	10	"Ba2"	1350
"Aa2"	20	"Ba3"	1766
"Aa3"	40	"B1"	2220
"A1"	70	"B2"	2720
"A2"	120	"B3"	3490
"A3"	180	"Caa1"	4770
"Baa1"	260	"Caa2"	6500
"Baa2"	360	"Caa3"	8070
"Baa3"	610	"Ca" or lower	10000

**"Moody's Recovery Rate":** With respect to any Collateral Obligation as of any date of determination, the recovery rate determined in accordance with the following, in the following order of priority:

(a) if the Collateral Obligation has been specifically assigned a recovery rate by Moody's (for example, in connection with the assignment by Moody's of a rating estimate), such recovery rate;

(b) if the preceding clause does not apply to the Collateral Obligation (except with respect to a DIP Collateral Obligation), the rate determined pursuant to the table below (under Columns 1 or 2) based on the number of rating subcategories difference between its Moody's Rating and its Moody's Default Probability Rating (for purposes of clarification, if the Moody's

Rating is higher than the Moody's Default Probability Rating, the rating subcategories difference will be positive and if it is lower, negative):

<b>Column 1</b>	<b>Column 2*</b>	<b>Column 3</b>
<b>Number of Moody's Ratings Subcategories Difference Between the Moody's Rating and the Moody's Default Probability Rating</b>	<b>Moody's Senior Secured Loans</b>	<b>Second Lien Loans**</b>
+2 or more	60%	55%
+1	50%	45%
0	45%	35%
-1	40%	25%
-2	30%	15%
-3 or less	20%	5%

\* if such Collateral Obligation does not have both a CFR and an Assigned Moody's Rating, the recovery rate in Column 3 will apply.

\*\* includes First Lien Last Out Loans.

(c) if no recovery rate has been specifically assigned with respect to a loan pursuant to clause (a) or (b) above and the loan is a DIP Collateral Obligation (other than a DIP Collateral Obligation which has been specifically assigned a recovery rate by Moody's), 50%.

"Moody's Senior Secured Loan": A Loan (or a Participation Interest therein):

(i) that is not (and cannot by its terms become) subordinate in right of payment to indebtedness of the obligor for borrowed money;

(ii) that is secured by a valid first priority perfected security interest or lien in, to or on specified collateral securing the obligor's obligations under such loan, which security interest or lien is subject to customary liens;

(iii) with respect to which the value of the collateral securing such loan, together with other pledged assets and other attributes of the obligor (including, without limitation, its general financial condition, ability to generate cash flow available for debt service and other demands for that cash flow), is adequate (in the reasonable business judgment of the Collateral Manager, which judgment shall not be called into question as a result of subsequent events) to repay such loan in accordance with its terms; and

(iv) is not a First Lien Last Out Loan.

**EXHIBIT B**

PROPOSED ASSIGNMENT AGREEMENT

[see attached]

## ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT (this “Assignment”), dated as of [July 20], 2017, is entered into between 40|86 Advisors, Inc., a corporation organized under the laws of the State of Delaware (the “Existing Collateral Manager”), and CreekSource LLC, a limited liability company organized under the laws of the State of Delaware (the “Successor Collateral Manager”).

### RECITALS

**WHEREAS**, the Existing Collateral Manager, Silver Creek CLO, Ltd. (the “Issuer”) and U.S. Bank National Association, as collateral administrator (the “Collateral Administrator”), have entered into a Collateral Administration Agreement, dated as of July 18, 2014 (as amended, restated, modified or supplemented through the date hereof, the “Collateral Administration Agreement”);

**WHEREAS**, the Existing Collateral Manager and the Issuer have entered into a Collateral Management Agreement, dated as of July 18, 2014 (as amended, restated, modified or supplemented through the date hereof, the “Collateral Management Agreement” and, together with the Collateral Administration Agreement, the “Agreements”); and

**WHEREAS**, the Existing Collateral Manager wishes to assign all of its rights and obligations under the Agreements to the Successor Collateral Manager, pursuant to the terms and conditions set forth herein, and the Successor Collateral Manager has agreed to assume such rights and obligations under the Agreements.

### AGREEMENT

1. **Definitions**. Capitalized terms not otherwise defined in this Assignment shall have the meanings set forth in the Indenture, dated as of July 18, 2014, by and among the Issuer, Silver Creek CLO, LLC, and U.S. Bank National Association, as trustee (the “Trustee”), as amended by the First Supplemental Indenture, dated as of [July 20], 2017, and as further amended or restated from time to time (the “Indenture”).

2. **Assignment and Assumption**.

(a) Pursuant to Section 15 of the Collateral Management Agreement and Section 13 of the Collateral Administration Agreement and subject to the terms and conditions set forth herein, the Existing Collateral Manager hereby assigns to the Successor Collateral Manager, and the Successor Collateral Manager hereby assumes, all of the Existing Collateral Manager’s rights, powers, duties and obligations as Collateral Manager under the Agreements and the other Transaction Documents effective as of the Assignment Date (as defined below).

(b) The Successor Collateral Manager hereby accepts the assignment of such rights, powers, duties and obligations as Collateral Manager under the Agreements and the other Transaction Documents (including, for the avoidance of doubt, any previously existing side-letter agreements between the Existing Collateral Manager and the holders of the Subordinated Notes), upon the terms and conditions set forth therein, with like effect as if originally named as

the Collateral Manager under the Agreements and such other Transaction Documents and side-letter agreements; provided, however, that the Successor Collateral Manager shall not be liable for any actions taken or omitted to be taken by the Existing Collateral Manager or otherwise, prior to the effectiveness of the assignment on the Assignment Date.

(c) On the Assignment Date, the Existing Collateral Manager shall cease to have any rights, powers, duties or obligations as Collateral Manager under the Agreements and authorizes the Successor Collateral Manager to execute such other documents necessary to assign all interests and rights of the Existing Collateral Manager under the Agreements and the other Transaction Documents to the Successor Collateral Manager.

(d) The Successor Collateral Manager hereby provides to the Issuer each of the representations and warranties set forth in Section 16(b) of the Collateral Management Agreement (as amended by Section 3(a) below) and to the Issuer and the Collateral Administrator each of the representations and warranties set forth in Section 16(b) of the Collateral Administration Agreement (as amended by Section 3(b) below).

### 3. Certain Amendments.

(a) Subject to the conditions to effectiveness set forth in Section 4 hereof, the Collateral Management Agreement is hereby amended as follows:

(i) All references to the term “Notes” and “Subordinated Notes” in the Collateral Management Agreement shall have the meanings assigned thereto in the Indenture;

(ii) Each reference to “K&L Gates LLP” in the Collateral Management Agreement is hereby replaced with the words “Arnold & Porter Kaye Scholer LLP, or Milbank, Tweed, Hadley & McCloy LLP”;

(iii) The definitions of the terms “Warehouse Account Agreement” and “Warehouse Credit Agreement” in Section 1 of the Collateral Management Agreement are hereby deleted.

(iv) The definition of the term “Collateral Manager Affiliates” in Section 1 of the Collateral Management Agreement is hereby amended and restated as follows:

“Collateral Manager Affiliates” means the Collateral Manager, its Affiliates (including the Support Services Provider) and their respective members, managers, directors, officers, stockholders, partners, employees and agents.

(v) The definition of the term “Collateral Manager Securities” in Section 1 of the Collateral Management Agreement is hereby amended and restated as follows:

**“Collateral Manager Securities”** means any Notes held by the Collateral Manager or any affiliate of the Collateral Manager (including the Support Services Provider) and any Notes over which the Collateral Manager or any affiliate of the Collateral Manager (including the Support Services Provider) has discretionary voting authority.

(vi) Section 2(k) of the Collateral Management Agreement is hereby amended by adding the following text at the end thereof: “The Issuer acknowledges that the Collateral Manager has entered into the Support Services Agreement, dated as of [ ], 2017, pursuant to which the Collateral Manager has engaged the Support Services Provider to provide to it various administrative, advisory and support functions, as set forth therein, relating to the Collateral Manager’s performance of its obligations and duties under the Collateral Management Agreement; provided that the Successor Collateral Manager shall retain ultimate responsibility for the selection, purchase and sale of the Collateral Obligations and shall not delegate such duties to the Support Services Provider or any other person but may rely upon recommendations of the Support Services Provider’s research department in making such decisions. The Issuer acknowledges and consents to such arrangement with the Support Services Provider.”

(vii) Section 8(a) of the Collateral Management Agreement is hereby amended by (i) replacing the words “0.15% per annum” in clause (i) thereof with the words “[ ]% per annum” and (ii) replacing the words “0.35% per annum” in clause (ii) thereof with the words “[ ]% per annum”.

(viii) Section 10(a) of the Collateral Management Agreement is hereby amended by replacing the words “Sections 0” with the words “Sections 2”; and adding the word “second” immediately before the word “preceding” in the second to the last sentence thereof.

(ix) Section 13(a) of the Collateral Management Agreement is hereby amended and restated in its entirety as follows:

“(a) This Agreement may be terminated, and the Collateral Manager may be removed for “cause” (as such term is defined in Section 13(b) below):

(i) with respect to any “cause” event other than that described in Section 13(b)(iii) below, by the Issuer or the Trustee (at the direction of a Supermajority of either (x) the Controlling Class of Notes or (y) the Subordinated Notes (excluding in each such calculation any such Notes that are Collateral Manager Securities)) upon ten days’ prior written notice to the Collateral Manager; or

(ii) in the case of an event described in Section 13(b)(iii) below, by the Issuer or the Trustee (at the direction of the Issuer or a Supermajority of the Controlling Class (excluding in such calculation any such Notes that are Collateral Manager Securities)) upon ten days' prior written notice to the Collateral Manager.”

(x) Section 14(b) of the Collateral Management Agreement is hereby amended by replacing the last sentence thereof with the following sentence: “The provisions of Sections 2(j), 6(b), 6(c), 10, 14, 22, 23 and 30 survive any termination of this Agreement.”

(xi) Section 15 of the Collateral Management Agreement is hereby amended by replacing the words “Section 0” with the words “Section 2”.

(xii) Section 16(b) of the Collateral Management Agreement is hereby amended as follows:

(1) Clause (i) thereof is amended by replacing the word “corporation” with the words “limited liability company”;

(2) Clause (ii) thereof is amended by replacing the words “the Closing Date” with “July [20], 2017.”

(3) Clause (ii) thereof is amended and restated as follows:

“Pursuant to a SEC No-Action Letter (American Bar Association, Business Law Section, pub. avail. Jan. 18, 2012), the Collateral Manager has relied on the Form ADV of 40|86 Advisors, Inc. to effect its registration as an investment adviser under the Advisers Act as a “relying adviser.” In the event that the SEC or its staff determines that the Collateral Manager is not entitled to rely on the registration of 40|86 Advisors, Inc., and that the Collateral Manager must be separately registered, the Collateral Manager shall promptly undertake to register itself.”;

(4) Clause (vii) thereof is amended and restated as follows:

“The sections contained in the Final Offering Circular, dated as of July [ ], 2017, with respect to the Notes (the “Final Offering Circular”) comprising the “Refinancing Collateral Manager Information” (as such term is defined in the Final Offering Circular) as of the date thereof do not and as of July [20], 2017 will not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.”;

(xiii) Section 17(b) of the Collateral Management Agreement is hereby amended by replacing the words “40|86 Advisors, Inc.” with the words “CreekSource LLC”.

(xiv) Section 22 of the Collateral Management Agreement is hereby amended by inserting a new clause (e) immediately following clause (d) to read in its entirety as follows:

“The Issuer acknowledges and agrees that the Collateral Manager from time to time may be organized in series pursuant to Section 18-215 of the Delaware Limited Liability Company Act and that it has entered into this Agreement for and on behalf of itself and not for or on behalf of any of its series. Accordingly, the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to the Collateral Manager shall be enforceable against the assets of the Collateral Manager generally, and not against the assets of any series of the Collateral Manager or against any officer, director, manager or member of the Collateral Manager or any series thereof.”

(xv) Section 31 of the Collateral Management Agreement is hereby deleted.

(b) Subject to the conditions to effectiveness set forth in Section 4 hereof, the Collateral Administration Agreement is hereby amended as follows:

(i) All references to the term “Notes”, “Secured Notes” and “Subordinated Notes” in the Collateral Administration Agreement shall have the meanings assigned thereto in the Indenture;

(ii) Section 16(b)(i) thereof is hereby amended by replacing the word “corporation” with the words “limited liability company” and Section 16(b)(ii) thereof is hereby amended by replacing the words “the articles of organization or by-laws” with “limited liability company operating agreement”.

(c) Notwithstanding the foregoing amendments, such amendments shall not be considered to have occurred solely for purposes of interpreting the terms of the Collateral Management Agreement (including all representations and indemnifications therein) as they apply to the Issuer and the Existing Collateral Manager after the Assignment Date.

4. Conditions to Effectiveness. This Assignment shall become effective upon the date on which each of the following conditions shall have been satisfied (the “Assignment Date”):

(a) this Assignment shall have been executed and delivered by each party hereto;

(b) the Trustee shall have received from the Successor Collateral Manager an executed counterpart of the Collateral Management Agreement naming the Successor Collateral Manager as Collateral Manager; and

(c) the satisfaction of the conditions specified in Sections 15 and 18 of the Collateral Management Agreement and Section 12 of the Collateral Administration Agreement.

5. Ratification. This Assignment constitutes an amendment to the Agreements. After the execution and delivery of this Assignment, all references to any Agreement in any document shall be deemed to refer to such Agreement as amended by this Assignment, unless the context otherwise requires. Except as amended above, the Agreements are hereby ratified in all respects. Except as set forth above, the execution, delivery and effectiveness of this Assignment shall not operate as an amendment or waiver of any right, power or remedy of the parties hereto under the Agreements, nor constitute an amendment or waiver of any provision of the Agreements. This Assignment shall not constitute a course of dealing among the parties hereto at variance with the Agreements such as to require further notice by the Successor Collateral Manager to require strict compliance with the terms of the Agreements in the future, as amended by this Assignment, except as expressly set forth herein. The Successor Collateral Manager reserves the right to, and does in fact, require strict compliance with all terms and provisions of the Agreements, as amended herein.

6. Miscellaneous. This Assignment may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same agreement. **THIS ASSIGNMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.**

7. The Issuer hereby directs the Collateral Administrator to acknowledge and accept this Assignment and acknowledges and agrees that the Collateral Administrator will be fully protected in relying upon the foregoing direction.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Assignment to be duly executed by their respective officers hereunto duly authorized as of the day and year first above written.

**40|86 ADVISORS, INC.**, as Existing  
Collateral Manager

By: \_\_\_\_\_  
Name:  
Title:

**CREEKSOURCE LLC**, as Successor  
Collateral Manager

By: \_\_\_\_\_  
Name:  
Title:

**ACKNOWLEDGED AND ACCEPTED:**

**SILVER CREEK CLO, LTD.**, as Issuer

By: \_\_\_\_\_  
Name:  
Title:

**U.S. BANK NATIONAL  
ASSOCIATION**, as Collateral  
Administrator

By: \_\_\_\_\_  
Name:  
Title:

## EXHIBIT C

### CONSENT TO FIRST SUPPLEMENTAL INDENTURE, ASSIGNMENT AGREEMENT AND PROPOSED REFINANCING

As of June 28, 2017

U.S. Bank National Association, as Trustee  
One Federal Street, 3rd Floor  
Boston, Massachusetts 02110  
Attention: Corporate Trust Services—Silver Creek CLO, Ltd.  
Email: brian.sheehan@usbank.com

Ladies and Gentlemen:

Reference is made to the: (x) Indenture, dated as of July 18, 2014 (the “Indenture”) by and among Silver Creek CLO, Ltd., an exempted company incorporated with limited liability under the laws of the Cayman Islands, as the issuer (the “Issuer”), Silver Creek CLO, LLC, a limited liability company formed under the laws of the State of Delaware, as the co-issuer (the “Co-Issuer” and, together with the Issuer, the “Co-Issuers”), and U.S. Bank National Association, as the trustee (in such capacity, the “Trustee”) and (y) Notice of Proposed First Supplemental Indenture and Assignment Agreement and Request for Consent to the Holders of Subordinated Notes dated June 28, 2017 (the “Notice”). Capitalized terms used but not otherwise defined herein have the meanings given to them in the Indenture or the Notice.

This is to certify that the Person identified on Addendum I hereto is a current Holder of Subordinated Notes, as specified on such Proof of Ownership as of June 28, 2017 (the “Consent Solicitation Record Date”) and that it has the full power to execute and deliver this consent and direction (the “Consent”) and such power has not been granted or assigned to any other person.

CURRENT AGGREGATE OUTSTANDING AMOUNT OF  
SUBORDINATED NOTES HELD  
AND AUTHORIZED TO VOTE: U.S. \$ \_\_\_\_\_

CUSIP: \_\_\_\_\_

The undersigned Holder of Subordinated Notes hereby (please check one):

(i) consents to (A) the amendments and execution of the First Supplemental Indenture, (B) the terms and conditions of the Proposed Refinancing and the financial institutions acting as purchasers thereof, (C) any subsequent changes to the First Supplemental Indenture and Proposed Refinancing that the Issuer and Collateral Manager may determine necessary to effect such Proposed Refinancing and (D) the terms of the Assignment Agreement, including all

amendments to, and the assignment of, the Collateral Management Agreement and the Collateral Administration Agreement contemplated therein and (ii) waives any notice requirement in the Indenture to the extent applicable to the First Supplemental Indenture (including, for the avoidance of doubt, any notice requirement with respect to any subsequent changes to the First Supplemental Indenture)

(i) does **NOT** consent to (A) the amendments and execution of the First Supplemental Indenture, (B) the terms and conditions of the Proposed Refinancing, (C) any subsequent changes to the First Supplemental Indenture and Proposed Refinancing that the Issuer and Collateral Manager may determine necessary to effect such Proposed Refinancing and (D) the terms of the Assignment Agreement and (ii) does **NOT** waive any notice requirement in the Indenture to the extent applicable to the First Supplemental Indenture (including, for the avoidance of doubt, any notice requirement with respect to any subsequent changes to the First Supplemental Indenture)

The Co-Issuers, the Trustee, the Collateral Manager and counsel which delivers an Opinion of Counsel to the Trustee pursuant to Section 8.3 of the Indenture, is authorized to conclusively rely on the validity and effectiveness of this Consent.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the undersigned has duly authorized and executed this Consent as of the date first written above.

NAME OF HOLDER:

---

(Print Name of Entity)

By: \_\_\_\_\_

Name:

Title:

**This Consent is given to the Trustee, Collateral Manager and Issuer. THIS CONSENT WILL BE BINDING ON ANY TRANSFeree OF THE SUBJECT SECURITIES.**

ADDENDUM I  
**SILVER CREEK CLO, LTD.**

**PROOF OF OWNERSHIP**  
*(For DTC and Euroclear Participants)*

Class of Notes: Subordinated Notes

Beneficial Holder: \_\_\_\_\_  
(Please Print)

Signature of Authorized Signer of  
Beneficial Holder: \_\_\_\_\_

Name and Title of Authorized Signer  
at Beneficial Holder: \_\_\_\_\_

Telephone Number of Authorized Signer: \_\_\_\_\_

Email Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

CUSIP number(s): \_\_\_\_\_

Holdings:	Original Aggregate Outstanding Amount	Current Aggregate Outstanding Amount
Subordinated Notes		

DTC Participant Name: \_\_\_\_\_

DTC Participant Number: \_\_\_\_\_

DTC Participant Contact Name: \_\_\_\_\_

DTC Participant Telephone Number: \_\_\_\_\_

DTC Participant Email Address: \_\_\_\_\_

Medallion Guarantee or Notary Required: *(U.S. Persons should affix stamp & signature and provide incumbency certificate; Non-U.S. Persons should provide notarization or affix stamp and signature and provide incumbency certificate)*

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

(Additional signature lines are provided for multiple authorized signers, if required. Medallion Guarantee and Notary continued on next page)

MEDALLION GUARANTEE for DTC Participant or Euroclear Contact: :\_\_\_\_\_

*(U.S. Persons should affix stamp and signature; Non-U.S. Persons should provide notarization)*

[OR]

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

\_\_\_\_\_ Of \_\_\_\_\_)

\_\_\_\_\_) ss

\_\_\_\_\_ Of \_\_\_\_\_)

On \_\_\_\_\_, 2017 before me, the undersigned, a Notary Public in and for said \_\_\_\_\_, personally appeared \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon which the person(s) acted, executed the instrument under due authority.

WITNESS my hand and official seal.

---

\_\_\_\_\_  
Notary Public in and for

the \_\_\_\_\_ of \_\_\_\_\_

(SEAL)

**SILVER CREEK CLO, LTD.**

**PROOF OF OWNERSHIP**  
*(For Holders of Certificated Notes)*

Class of Subject Securities: Subordinated Notes

Name of Registered Owner(s): \_\_\_\_\_  
(Please Print)

Signature of Authorized Signer of  
Registered Owner: \_\_\_\_\_

Name and Title of Authorized Signer  
at Registered Owner:  
(Please Print) \_\_\_\_\_

Telephone Number of Authorized Signer: \_\_\_\_\_

Email Address: \_\_\_\_\_

Mailing Address:  
\_\_\_\_\_

CUSIP number(s): \_\_\_\_\_

Holdings:	Original Aggregate Outstanding Amount	Current Aggregate Outstanding Amount
Subordinated Notes		

Medallion Guarantee or Notary Required: (U.S. Persons should affix stamp & signature and provide incumbency certificate; Non-U.S. Persons should provide notarization or affix stamp and signature and provide incumbency certificate)

Date: \_\_\_\_\_ Signature \_\_\_\_\_

Date: \_\_\_\_\_

(Additional signature lines are provided for multiple authorized signers, if required. Medallion Guarantee and Notary continued on next page)

MEDALLION GUARANTEE for DTC Participant or Euroclear Contact: :\_\_\_\_\_

*(U.S. Persons should affix stamp and signature; Non-U.S. Persons should provide notarization)*

[OR]

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

\_\_\_\_\_ Of      )

    )    ss

\_\_\_\_\_ Of      )

On \_\_\_\_\_, 2017 before me, the undersigned, a Notary Public in and for said \_\_\_\_\_, personally appeared \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon which the person(s) acted, executed the instrument under due authority.

WITNESS my hand and official seal.

---

Notary Public in and for

the \_\_\_\_\_ of \_\_\_\_\_

(SEAL)