
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 8-K

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

Date of Report (Date of earliest event reported): June 14, 2016

GOGO INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-35975
(Commission
File Number)

27-1650905
(IRS Employer
Identification No.)

**111 North Canal, Suite 1500
Chicago, IL**
(Address of principal executive offices)

60606
(Zip Code)

Registrant's telephone number, including area code: 312-517-5000

Not Applicable

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 1.01. Entry into a Material Definitive Agreement.

12.500% Senior Secured Notes due 2022

On June 14, 2016 (the "Issue Date"), Gogo Intermediate Holdings LLC (the "Company"), a direct wholly owned subsidiary of Gogo Inc. ("Gogo"), and Gogo Finance Co. Inc., a newly formed direct wholly owned subsidiary of the Company and an indirect wholly owned subsidiary of Gogo (the "Co-Issuer" and, together with the Company, the "Issuers"), issued \$525 million aggregate principal amount of their 12.500% senior secured notes due 2022 (the "notes") under an Indenture, dated as of June 14, 2016 (the "Indenture"), among the Issuers, Gogo, as guarantor, certain subsidiaries of the Company, as guarantors (the "Subsidiary Guarantors" and, together with Gogo, the "Guarantors"), and U.S. Bank National Association, as trustee (in such capacity, the "Trustee") and as collateral agent (in such capacity, the "Collateral Agent").

Interest on the notes will accrue at the rate of 12.500% per annum and will be payable semi-annually in arrears on July 1 and January 1, commencing on January 1, 2017. The notes mature on July 1, 2022.

The Company used a portion of the net proceeds from the issuance of the notes to repay all indebtedness outstanding under the Amended and Restated Senior Term Facility (as defined below), which the Company prepaid at par plus 3.0% of the principal amount of the loans prepaid. The Company intends to use the remaining net proceeds for working capital and other general corporate purposes, including potential costs associated with the launch and commercial rollout of its next-generation technology solutions.

Ranking; Guarantee

The notes are the senior secured indebtedness of the Issuers and are:

- effectively senior to all of the Issuers' existing and future senior unsecured indebtedness and the Issuers' indebtedness secured on a junior priority basis by the same collateral securing the notes, if any, in each case to the extent of the value of the collateral securing the notes;
- effectively senior in right of payment to any and all of the Issuers' future indebtedness that is subordinated in right of payment to the notes;
- effectively equal in right of payment with the Issuers' existing and future (i) unsecured indebtedness that is not subordinated in right of payment to the notes and (ii) indebtedness secured on a junior priority basis by the same collateral securing the notes, if any, in each case to the extent of any insufficiency in the collateral securing the notes;
- structurally senior to all existing and future indebtedness of Gogo, including Gogo's 3.75% convertible senior notes; and
- structurally subordinated to all indebtedness and other liabilities of any non-guarantor subsidiary of Gogo (other than the Issuers).

The notes are guaranteed, on a senior secured basis, by Gogo and all of the Company's existing and future domestic restricted subsidiaries (other than the Co-Issuer), subject to certain exceptions. The Issuers' obligations under the notes are not guaranteed by Gogo International Holdings LLC, a subsidiary of the Company that holds no material assets other than equity interests of the Company's foreign subsidiaries. Each guarantee is a senior secured obligation of such Guarantor and is:

- effectively senior to all of such Guarantor's existing and future senior unsecured indebtedness and such Guarantor's indebtedness secured on a junior priority basis by the same collateral securing the guarantee, if any, of such Guarantor, in each case to the extent of the value of the collateral securing the guarantee;

- effectively senior in right of payment to all of such Guarantor's future indebtedness that is subordinated in right of payment to such Guarantor's guarantee;
- effectively equal in right of payment with all of such Guarantor's existing and future (i) unsecured indebtedness that is not subordinated in right of payment to such Guarantor's guarantee, and (ii) indebtedness secured on a junior priority basis by the same collateral securing such guarantee, if any, in each case to the extent of any insufficiency in the collateral securing such guarantee; and
- structurally subordinated to all indebtedness and other liabilities of any non-Guarantor subsidiary of such Guarantor (excluding, in the case of Gogo, the Issuers).

Collateral

The notes and the related guarantees are secured by first-priority liens, subject to permitted liens, on substantially all of the Issuers' and the Guarantors' assets, except for certain excluded assets, including pledged equity interests of the Issuers and all of the Company's existing and future domestic restricted subsidiaries guaranteeing the notes.

The security interests in certain collateral may be released without the consent of holders of the notes if such collateral is disposed of in a transaction that complies with the Indenture and the Notes Security Documents (as defined below), and if any grantor of such security interests is released from its obligations with respect to the notes in accordance with the applicable provisions of the Indenture and the Notes Security Documents.

In addition, under certain circumstances described in the Indenture and the Notes Security Documents, the Company and the Guarantors have the right to transfer certain intellectual property assets that on the Issue Date constitute collateral securing the notes or the guarantees to a restricted subsidiary organized under the laws of Switzerland, resulting in the release of such collateral.

Optional Redemption

On or after July 1, 2019, the Issuers may, at their option, in whole or in part, at any time or from time to time, redeem any of the notes. The notes will be redeemable at the following redemption prices (expressed in percentages of principal amount), plus accrued and unpaid interest, if any, to (but not including) the redemption date (subject to the right of holders of record on the relevant regular record date that is on or prior to the redemption date to receive interest due on an interest payment date), if redeemed during the twelve-month period commencing on July 1 of the following years:

<u>Year</u>	<u>Redemption Price</u>
2019	106.250%
2020	103.125%
2021 and thereafter	100.000%

In addition, at any time prior to July 1, 2019, the Issuers may redeem up to 35% of the aggregate principal amount of the notes with the proceeds of certain equity offerings at a redemption price of 112.500% of their principal amount, plus accrued and unpaid interest, if any, to (but not including) the date of redemption; *provided, however*, that notes representing at least 65% of the principal amount of the notes remain outstanding immediately after each such redemption.

The Issuers may redeem the notes, in whole or in part, at any time prior to July 1, 2019, at a redemption price equal to 100% of the principal amount of the notes redeemed plus the make-whole premium set forth in the Indenture as of, and accrued and unpaid interest, if any, to (but not including) the applicable redemption date.

Covenants

The Indenture contains covenants that, among other things, limit the ability of the Issuers, the Subsidiary Guarantors and, in certain circumstances, Gogo, to: incur more indebtedness; pay dividends, redeem stock or make other distributions; make investments; create restrictions on the ability of the Company's restricted subsidiaries to pay dividends to the Issuers or make other intercompany transfers; create liens; transfer or sell assets; merge or consolidate; and enter into certain transactions with the Issuers' affiliates. Most of these covenants will cease to apply for so long as the notes have investment grade ratings from both Moody's Investment Services, Inc. and Standard & Poor's.

Change of Control

If Gogo or the Issuers undergo specific kinds of change of control prior to July 1, 2022, the Company is required to make an offer to repurchase for cash all of the notes at a repurchase price equal to 101% of the principal amount thereof, plus accrued and unpaid interest, if any, to (but not including) the payment date.

Events of Default

The Indenture provides for events of default, which, if any of them occurs, would permit or require the principal, premium, if any, and interest on all the then outstanding notes issued under the Indenture to be due and payable immediately.

Copies of the Indenture and the Form of Note are attached as Exhibits 4.1 and 4.2 hereto and incorporated herein by reference. The foregoing descriptions of the Indenture and the notes do not purport to be complete and are qualified in their entirety by reference to the full text of such documents.

Notes Security Documents

On the Issue Date, the Issuers and the Guarantors entered into a Collateral Agreement (the "Collateral Agreement"), among the Issuers, the Guarantors and the Collateral Agent, whereby the Issuers and the Guarantors granted a security interest in substantially all of their assets to secure all obligations of the Issuers and the Guarantors under the notes, the Indenture and the guarantees, as applicable, and a Collateral Agency Agreement (the "Collateral Agency Agreement" and, together with the Collateral Agreement, the "Notes Security Documents"), among the Issuers, the Guarantors, the Collateral Agent and the Trustee. Copies of the Collateral Agreement and the Collateral Agency Agreement are attached as Exhibits 10.1 and 10.2 hereto and incorporated herein by reference. The foregoing descriptions of the Collateral Agreement and the Collateral Agency Agreement do not purport to be complete and are qualified in their entirety by reference to the full text of such documents.

On the Issue Date, Gogo LLC, a subsidiary of the Company and a Subsidiary Guarantor, entered into a Patent Security Agreement in favor of the Collateral Agent, a Trademark Security Agreement in favor of the Collateral Agent and a Copyright Security Agreement in favor of the Collateral Agent. Copies of such Patent Security Agreement, Trademark Security Agreement and Copyright Security Agreement are attached as Exhibits 10.3, 10.4 and 10.5 hereto and incorporated herein by reference. The foregoing descriptions of such Patent Security Agreement, Trademark Security Agreement and Copyright Security Agreement do not purport to be complete and are qualified in their entirety by reference to the full text of such documents.

On the Issue Date, Gogo Business Aviation LLC, a subsidiary of the Company and a Subsidiary Guarantor, entered into a Trademark Security Agreement in favor of the Collateral Agent. A copy of such

Trademark Security Agreement is attached as Exhibit 10.6 hereto and incorporated herein by reference. The foregoing description of such Trademark Security Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of such document.

Item 1.02. Termination of a Material Definitive Agreement.

All outstanding obligations under the the Amended and Restated Credit Agreement, amended and restated as of July 30, 2014 among Gogo Business Aviation LLC (f/k/a Aircell Business Aviation Services LLC), Gogo LLC and Gogo Intermediate Holdings LLC, as Borrowers, the lenders party thereto and Morgan Stanley Senior Funding, Inc. as Administrative Agent and as Collateral Agent (the “Amended and Restated Senior Term Facility”) were paid in full on June 14, 2016, and the Amended and Restated Senior Term Facility was terminated in accordance with its terms on such date (subject to the survival of provisions expressly stated therein to survive the termination thereof).

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

The information set forth in Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 2.03.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

<u>Exhibit No.</u>	<u>Description</u>
4.1	Indenture, dated as of June 14, 2016, between Gogo Intermediate Holdings LLC, Gogo Finance Co. Inc., Gogo Inc., the Subsidiary Guarantors party thereto and U.S. Bank National Association, as trustee and collateral agent.
4.2	Form of 12.500% Senior Secured Note due 2022 (included in Exhibit 4.1 hereto).
10.1	Collateral Agreement, dated as of June 14, 2016, among Gogo Intermediate Holdings LLC, Gogo Finance Co. Inc., Gogo Inc., the Subsidiary Guarantors and U.S. Bank National Association, as collateral agent.
10.2	Collateral Agency Agreement, dated as of June 14, 2016, among Gogo Intermediate Holdings LLC, Gogo Finance Co. Inc., Gogo Inc., the Subsidiary Guarantors, and U.S. Bank National Association, as trustee and collateral agent.
10.3	Patent Security Agreement, dated as of June 14, 2016, by Gogo LLC, in favor of U.S. Bank National Association, as collateral agent.
10.4	Trademark Security Agreement, dated as of June 14, 2016, by Gogo LLC, in favor of U.S. Bank National Association, as collateral agent.
10.5	Copyright Security Agreement, dated as of June 14, 2016, by Gogo LLC, in favor of U.S. Bank National Association, as collateral agent.
10.6	Trademark Security Agreement, dated as of June 14, 2016, by Gogo Business Aviation LLC, in favor of U.S. Bank National Association, as collateral agent.

SIGNATURE

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

GOGO INC.

By: /s/ Norman Smagley

Norman Smagley

Executive Vice President and Chief Financial Officer

Date: June 14, 2016

EXHIBIT INDEX

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10.6	Trademark Security Agreement, dated as of June 14, 2016, by Gogo Business Aviation LLC, in favor of U.S. Bank National Association, as collateral agent.

GOGO INTERMEDIATE HOLDINGS LLC
GOGO FINANCE CO. INC.
AND EACH OF THE GUARANTORS PARTY HERETO
12.500% SENIOR SECURED NOTES DUE 2022

INDENTURE

Dated as of June 14, 2016

U.S. Bank National Association
as Trustee and Collateral Agent

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Exhibit E	FORM OF SUPPLEMENTAL INDENTURE

INDENTURE dated as of June 14, 2016 among Gogo Intermediate Holdings LLC, a Delaware limited liability company (the “Company”), Gogo Finance Co. Inc., a Delaware corporation (the “Co-Issuer” and, together with the Company, the “Issuers”), the Guarantors (as defined herein) and U.S. Bank National Association, as trustee (in such capacity, the “Trustee”) and collateral agent (in such capacity, the “Collateral Agent”).

The Issuers, the Guarantors, the Trustee and the Collateral Agent agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders (as defined herein) of the 12.500% Senior Secured Notes due 2022 (the “notes”):

ARTICLE 1
DEFINITIONS AND INCORPORATION
BY REFERENCE

Section 1.01 *Definitions.*

“*Acquired Indebtedness*” means, with respect to any specified Person:

(1) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Restricted Subsidiary of such specified Person, including Indebtedness incurred in connection with, or in contemplation of, such other Person merging with or into or becoming a Restricted Subsidiary of such specified Person; and

(2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

“*Additional Junior Lien Obligations*” means Junior Lien Obligations incurred after the Issue Date in accordance with the terms of the Collateral Agency Agreement.

“*additional notes*” means additional notes (other than the notes issued under this Indenture on the date hereof) issued under this Indenture in accordance with Sections 2.02 and 4.09 hereof, as part of the same series as the notes issued under this Indenture on the date hereof.

“*Additional Priority Lien Obligations*” means Priority Lien Obligations incurred after the Issue Date in accordance with the terms of the Collateral Agency Agreement.

“*Additional Secured Obligations*” means, collectively, Additional Priority Lien Obligations and Additional Junior Lien Obligations.

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

“*After-Acquired Property*” means any property, other than Excluded Assets, of the Parent, an Issuer or any Subsidiary Guarantor acquired after the Issue Date that constitutes Collateral.

“*Agent*” means any Registrar, co-registrar, Paying Agent or additional paying agent.

“*Airborne Equipment*” means equipment installed or to be installed on an aircraft, in each case, to provide in-flight connectivity and other services.

“*Applicable Premium*” means, with respect to any note on any applicable redemption date, the excess of: (a) the present value at such redemption date of (i) the redemption price at July 1, 2019 (such redemption price being set forth Section 3.07 hereof) plus (ii) all required interest payments due on the notes through July 1, 2019 (excluding accrued but unpaid interest to the date of redemption), computed using a discount rate equal to the Treasury Rate as of such redemption date plus 50 basis points; over (b) the then outstanding principal amount of the notes.

“*Applicable Procedures*” means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depositary, Euroclear and Clearstream that apply to such transfer or exchange.

“*Asset Acquisition*” means:

(1) an investment by the Parent, the Company or any Restricted Subsidiary in any other Person pursuant to which such Person shall become a Restricted Subsidiary or shall be merged with or into or consolidated with the Parent, the Company or any Restricted Subsidiary; or

(2) an acquisition by the Parent, the Company or any Restricted Subsidiary of the property and assets of any Person other than the Parent, the Company or any Restricted Subsidiary that constitute substantially all of a division or line of business of such Person.

“*Asset Disposition*” means the sale or other disposition by the Parent, the Company or any Restricted Subsidiary (other than to the Parent, the Company or another Restricted Subsidiary) of:

(1) all or substantially all of the Capital Stock of the Company or any Restricted Subsidiary; or

(2) all or substantially all of the assets that constitute a division or line of business of the Company or any Restricted Subsidiary.

“*Asset Sale*” means any sale, lease, transfer or other disposition (including by way of merger, consolidation, sale-leaseback transaction or similar transaction) in one transaction or a series of related transactions by the Company or any Restricted Subsidiary to any Person other than the Company or any Restricted Subsidiary of:

(1) all or any of the Capital Stock of the Company or any Restricted Subsidiary;

(2) all or substantially all of the property and assets of an operating unit or business of the Parent, the Company or any Restricted Subsidiary; or

(3) any other property and assets (other than the Capital Stock or other Investment in an Unrestricted Subsidiary) of the Company or any Restricted Subsidiary outside the ordinary course of business of the Company or such Restricted Subsidiary and, in each case, that is not governed by the provisions of this Indenture applicable to mergers, consolidations and sales of all or substantially all of the assets of the Company; *provided, however*, that “*Asset Sale*” shall not include:

(A) sales or other dispositions to the Company or any Restricted Subsidiary;

(B) the sale lease, assignment, sublease, license, sublicense or other disposition of any personal property in the ordinary course of business;

(C) sales or other dispositions of cash, Cash Equivalents or Investment Grade Securities;

(D) a disposition of obsolete or worn out property or equipment in the ordinary course of business or inventory (or other assets) held for sale in the ordinary course of business and dispositions of property or assets no longer used or useful in the conduct of the business of the Company or its Subsidiaries;

(E) the sale or discount (with or without recourse, and on customary or commercially reasonable terms) of accounts receivable or notes receivable arising in the ordinary course of business, or the conversion or exchange of accounts receivable for notes receivable, in each case not in connection with any financing transaction;

(F) sales or other dispositions of inventory, receivables and other current assets in the ordinary course of business;

(G) sales or other dispositions that are permitted pursuant to the provisions Article 4 and 5 hereof;

(H) any sale or dispositions that constitutes a Change of Control pursuant to this Indenture;

(I) sales, transfers or other dispositions of assets constituting a Restricted Payment permitted to be made under Section 4.07 hereof;

(J) any disposition arising from foreclosure, condemnation or similar action on assets not prohibited by this Indenture;

(K) any exchange of property pursuant to or intended to qualify under Section 1031 (or any successor section) of the U.S. Internal Revenue Code of 1986, as amended, or any exchange of equipment to be leased, rented or otherwise used in a Related Business;

(L) any disposition pursuant to buy/sell arrangements under any joint venture or similar agreement or arrangement, in each case not prohibited by this Indenture;

(M) any disposition of Equity Interests, Indebtedness or other securities of an Unrestricted Subsidiary;

(N) sales, transfers or other dispositions of assets with a Fair Market Value not in excess of \$5.0 million in any transaction or series of related transactions;

(O) sales or other dispositions of assets for consideration at least equal to the Fair Market Value of the assets sold or disposed of, to the extent that the consideration received would constitute Related Business Assets;

(P) the creation of any Lien permitted under this Indenture;

(Q) the unwinding or termination of any Currency Agreements, Interest Rate Agreements or Forward Stock Purchase Transactions; or

(R) the abandonment of intellectual property rights in the ordinary course of business, which in the reasonable good faith determination of the Parent are not material to the conduct of the business of the Parent, the Company and the Restricted Subsidiaries taken as a whole.

“*Attributable Debt*” in respect of a sale-leaseback transaction means, at the time of determination, the present value of the obligation of the lessee for net rental payments during the remaining term of the lease included in such sale-leaseback transaction including any period for which such lease has been extended or may, at the option of the lessor, be extended. Such present value shall be calculated using a discount rate equal to the rate of interest implicit in such transaction, determined in accordance with GAAP; *provided, however*, that if such sale-leaseback transaction results in a Capitalized Lease Obligation, the amount of Indebtedness represented thereby will be determined in accordance with the definition of “*Capitalized Lease Obligations*.”

“*Average Life*” means, at any date of determination with respect to any Indebtedness, the quotient obtained by dividing:

(1) the sum of the products of (A) the number of years from such date of determination to the dates of each successive scheduled principal payment of such Indebtedness and (B) the amount of such principal payment by

(2) the sum of all such principal payments.

“*Bank Product Obligations*” has the meaning set forth in the Collateral Agency Agreement.

“*Bankruptcy Law*” means Title 11, U.S. Code or any similar federal or state law for the relief of debtors.

“*Board of Directors*” means:

(1) with respect to a corporation, the board of directors of the corporation or a duly authorized committee thereof;

(2) with respect to a partnership, the Board of Directors of the general partner of the partnership; and

(3) with respect to any other Person, the board of directors or managers, sole member or managing member, or committee of such Person serving a similar function.

“*business day*” means any day other than a Legal Holiday.

“*Capital Stock*” means:

(1) in the case of a corporation, corporate stock;

(2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;

(3) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and

(4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any Convertible Debt, whether or not such Convertible Debt includes any right of participation with Capital Stock.

“*Capitalized Lease*” means, as applied to any Person, any lease of any property (whether real, personal or mixed) of which the discounted present value of the rental obligations of such Person as lessee, in conformity with GAAP, is required to be capitalized on the balance sheet of such Person.

“*Capitalized Lease Obligations*” means, at the time any determination is to be made, the amount of the liability in respect of a Capitalized Lease, and the Stated Maturity thereof shall be the date of the last payment of rent or any other amount due under such Capitalized Lease prior to the first date upon which such Capitalized Lease may be prepaid by the lessee without payment of a penalty.

“*Cash Equivalents*” means any of the following:

(1) U.S. Dollars, Canadian Dollars, Japanese yen, pounds sterling, euros or the national currency of any participating member state of the European Union and, with respect to any Foreign Restricted Subsidiary, other currencies held by such Foreign Restricted Subsidiary in the ordinary course of business;

(2) securities issued or directly guaranteed or insured by the government of the United States or any country that is a member of the European Union or any agency or instrumentality thereof in each case with maturities not exceeding two years from the date of acquisition;

(3) time deposit accounts, certificates of deposit and money market deposits maturing within one year of the date of acquisition thereof issued by a bank or trust company which is organized under the laws of the United States of America, any state thereof or any foreign country recognized by the United States of America, and which bank or trust company has capital, surplus and undivided profits aggregating in excess of \$500.0 million (or the foreign currency equivalent thereof) and has outstanding debt which is rated “A” (or such similar equivalent rating) or higher by at least one nationally recognized statistical rating organization (as defined in Rule 436 under the Securities Act);

(4) repurchase obligations for underlying securities of the types described in clauses (2) and (3) above entered into with any financial institution meeting the qualifications described in clause (3) above;

(5) commercial paper, maturing not more than one year after the date of acquisition, issued by a corporation (other than the Parent’s Affiliate) organized and in existence under the laws of the United States of America, any state thereof or any foreign country recognized by the United States of America with a rating at the time as of which any Investment therein is made of “P-1” (or higher) according to Moody’s or “A-1” (or higher) according to S&P;

(6) securities with maturities of six months or less from the date of acquisition issued or fully and unconditionally guaranteed by any state, commonwealth or territory of the United States of America, or by any political subdivision or taxing authority thereof, and rated at least “A” by S&P or Moody’s;

(7) corporate debt securities with maturities of eighteen months or less from the date of acquisition and with a rating at the time as of which any Investment therein is made of “A3” (or higher) according to Moody’s or “A-” (or higher) according to S&P;

(8) securities with maturities of six months or less from the date of acquisition backed by standby letters of credit issued by any commercial bank organized under the laws of the United States or any state thereof and having a combined capital and surplus of not less than \$500.0 million;

(9) direct obligations of a foreign government recognized by the United States of America with a maturity not more than twelve months from the date of acquisition and rated at least “A” by S&P;

(10) money market funds sponsored by a registered broker dealer or mutual fund distributor at least 95% of the assets of which are invested in the foregoing; and

(11) in the case of Investments by any Foreign Restricted Subsidiary, Investments of comparable tenor and credit quality to those described in the foregoing clauses (1) through (10) customarily utilized in the countries where such Foreign Restricted Subsidiary is located for short-term cash management purposes.

“*Certificated Notes*” means Definitive Notes in registered certificated form.

“*Change of Control*” means the occurrence of any one of the following events:

(1) if any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act), other than a Permitted Holder, becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of more than 50% of the total voting power of the Voting Stock of the Parent; *provided, however*, that, for purposes of this clause (1), (i) such other person shall be deemed to have “beneficial ownership” of any Voting Stock of a Person held by any other Person (the “*parent entity*”), if such other Person is the beneficial owner (as defined above in this clause (1)), directly or indirectly, of more than 50% of the voting power of the Voting Stock of such parent entity, and (ii) no Change of Control shall be deemed to occur if all or substantially all of the Persons that were the “beneficial owners” of the Voting Stock of the Parent immediately prior to a transaction permitted under Article 5 hereof are the “beneficial owners,” directly or indirectly, in the aggregate of a greater percentage than such other person or group of the total voting power of the Voting Stock of the entity resulting from such transaction (including, without limitation, an entity that, as a result of such transaction, owns the Parent or all or substantially all of the Parent’s assets either directly or through one or more subsidiaries);

(2) the sale, transfer, assignment, conveyance or other disposition, directly or indirectly, of all or substantially all the assets of (i) the Parent, the Issuers and the Restricted Subsidiaries, or (ii) the Issuers and the Restricted Subsidiaries, in each case considered as a whole (other than a disposition of such assets as an entirety or virtually as an entirety to a Wholly Owned Restricted Subsidiary of the Company);

(3) the shareholders of the Parent or the Company shall have approved any plan of liquidation or dissolution of the Parent or the Company, respectively; or

(4) the Company shall cease to be a Wholly Owned Subsidiary of the Parent.

“Clearstream” means Clearstream Banking, S.A.

“Co-Issuer” means Gogo Finance Co. Inc., and any and all successors thereto.

“Collateral” means all assets and properties a lien in which is granted pursuant to the Notes Security Documents to secure the Obligations under the Indenture, the notes and the Gurantantees.

“Collateral Agency Agreement” means that certain Collateral Agency Agreement, dated as of the Issue Date, made by and among the Issuers, the other Grantors, the Trustee, the Collateral Agent and each other Secured Debt Representative, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms.

“Collateral Agent” means U.S. Bank National Association, in its capacity as Collateral Agent under the Collateral Agency Agreement, together with its permitted successors and assigns in such capacity.

“Collateral Agreement” means that certain Collateral Agreement, dated as of the Issue Date, made by and among the Parent, the Issuers, the Subsidiary Guarantors and the Collateral Agent, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms.

“Common Stock” means, with respect to any Person, such Person’s equity other than Preferred Stock of such Person, whether outstanding on the Issue Date or issued thereafter, including, without limitation, all series and classes of such common stock, including any and all shares, interests, participations or other equivalents (however designated, whether voting or non-voting) thereof.

“Communications Act” means the Communications Act of 1934, and any similar or successor Federal statute, and the rules and regulations of the FCC or any other similar or successor agency thereunder.

“Communications Laws” means all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by a Governmental Authority (including the FCC) relating in any way to the use of radio frequency spectrum or the offering or provision of video, communications, telecommunications or information services (including the Communications Act).

“Company” means Gogo Intermediate Holdings LLC, and any and all successors thereto.

“Consolidated Cash Interest Expense” means, for any period and with respect to any Person, the amount of such Person’s Consolidated Interest Expense actually paid in cash during such period.

“Consolidated EBITDA” means, for any period and with respect to any Person:

- (1) the Consolidated Net Income of such Person for such period; plus
- (2) to the extent such amount was deducted in calculating such Consolidated Net Income (without duplication):
 - (A) Consolidated Interest Expense;

(B) Provision for all taxes based on income or profits;

(C) depreciation expense or amortization expense (including, but not limited to, amortization of intangible assets and properties and amortization and write-off of deferred financing fees);

(D) any non-recurring fees, expenses or charges (other than depreciation or amortization expense) or gains or losses related to any offering of Equity Interests of the Parent the proceeds of which are to be contributed to the Company or any Restricted Subsidiary, Permitted Investment, asset acquisition, disposition, recapitalization or the Incurrence of Indebtedness permitted to be Incurred hereunder (in each case, whether or not consummated or Incurred, as applicable), including, without limitation, any such fees, expenses or charges related to (a) the offering of the notes, (b) any amendment or other modification of the notes or any refinancing or refunding thereof and (c) the payment or prepayment of any existing Credit Facilities (other than the notes issued on the Issue Date);

(E) unusual or non-recurring charges, severance costs, relocation costs, integration and facilities' pre-opening and opening costs, signing costs, retention or completion bonuses, transition costs, costs related to closure/consolidation of facilities, costs associated with tax projects/audits, costs associated with any litigation settlement and costs consisting of professional consulting or other fees relating to any of the foregoing;

(F) the amount of any restructuring charges, accruals or reserves;

(G) any costs or expenses pursuant to any management or employee stock option or other equity related plan, program or arrangement, or other benefit plan, program or arrangement, or any stock subscription or shareholder agreement, to the extent funded with cash proceeds contributed to the capital of such Person or net cash proceeds of an issuance of Equity Interests of the Parent (other than Disqualified Stock) and excluded from the calculation set forth in Section 4.07(a)(C) hereof;

(H) any loss for such period attributable to Currency Agreements, Interest Rate Agreements, Forward Stock Purchase Transactions or other derivative instruments; and

(I) all other non-cash charges or expenses reducing Consolidated Net Income (other than charges or expenses that will require cash payments and for which an accrual or reserve is, or is required by GAAP to be, made), as determined on a consolidated basis for such Person and its Restricted Subsidiaries in conformity with GAAP; minus

(3) to the extent such amount was added in calculating such Consolidated Net Income (without duplication):

(A) amortization of deferred airborne lease incentives;

(B) all non-cash charges or expenses increasing Consolidated Net Income (excluding any non-cash charges or expenses which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges or asset valuation adjustments made in any prior period) as determined on a consolidated basis for such Person and its Restricted Subsidiaries in conformity with GAAP; and

(C) any net gain for such period attributable to Currency Agreements, Interest Rate Agreements, Forward Stock Purchase Transactions or other derivative instruments.

“*Consolidated Interest Expense*” means, for any period and with respect to any Person, the sum, without duplication, of (a) the aggregate amount of interest in respect of Indebtedness of such Person and its Restricted Subsidiaries for such period, to the extent deducted in calculating Consolidated Net Income for such period (including, without limitation, (i) amortization or accretion of original issue discount on any Indebtedness; (ii) the interest component of Capitalized Lease Obligations, (iii) non-cash interest payments; (iv) the interest portion of any deferred payment obligation, calculated in accordance with the effective interest method of accounting; (v) commissions, discounts and other fees and charges owed with respect to letters of credit and bankers’ acceptance financing; (vi) the net costs associated with Currency Agreements, Interest Rate Agreements and Forward Stock Purchase Transactions; and (vii) interest on Indebtedness that is Guaranteed or secured by such Person or any of its Restricted Subsidiaries, but only to the extent that such interest is actually paid by such person or any of its Restricted Subsidiaries), and all imputed interest with respect to Attributable Debt, in each case that is paid, accrued or scheduled to be paid or to be accrued by such Person and its Restricted Subsidiaries during such period; and (b) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued; less (c) interest income of such Person and its Restricted Subsidiaries for such period; excluding, however,

(1) in calculating Consolidated EBITDA, any amount of such interest of any Restricted Subsidiary if the net income of such Restricted Subsidiary is excluded in the calculation of Consolidated Net Income pursuant to clause (3) of the definition thereof (but only in the same proportion as the net income of such Restricted Subsidiary is excluded from the calculation of Consolidated Net Income pursuant to clause (3) of the definition thereof);

(2) amortization of deferred financing fees, debt issuance costs, commissions, fees and expenses, expensing of any bridge, commitment or other financing fees, penalties and interest relating to taxes and any “special interest” or “additional interest” with respect to other securities, and any accretion of accrued interest on discounted liabilities; and

(3) any premiums, fees and expenses (and any amortization thereof) payable in connection with the offering of the notes, all as determined on a consolidated basis (without taking into account Unrestricted Subsidiaries) in conformity with GAAP.

“*Consolidated Leverage Ratio*” means, as of any Transaction Date and with respect to any Person, the ratio of:

(1) the aggregate amount of Indebtedness of such Person and its Restricted Subsidiaries on a consolidated basis outstanding on such Transaction Date;

(2) the aggregate amount of Consolidated EBITDA for such Person and the Restricted Subsidiaries for the then most recent four fiscal quarters ending prior to the Transaction Date for which such Person’s financial statements are available (such four fiscal quarter period being the “*Four Quarter Period*”); *provided* that in making the foregoing calculation:

(A) pro forma effect shall be given to any Indebtedness to be Incurred or repaid on the Transaction Date;

(B) pro forma effect shall be given to Asset Dispositions and Asset Acquisitions (including giving pro forma effect to the application of proceeds of any Asset Disposition) that occur from the beginning of the Four Quarter Period through the Transaction Date (the “*Reference Period*”), as if they had occurred and such proceeds had been applied on the first day of such Reference Period; and

(C) pro forma effect shall be given to asset dispositions and asset acquisitions (including giving pro forma effect to the application of proceeds of any asset disposition) that have been made by any Person that has become a Restricted Subsidiary or has been merged with or into such Person or any Restricted Subsidiary during such Reference Period and that would have constituted Asset Dispositions or Asset Acquisitions had such transactions occurred when such Person was a Restricted Subsidiary as if such asset dispositions or asset acquisitions were Asset Dispositions or Asset Acquisitions that occurred on the first day of such Reference Period;

provided that to the extent that subclause (B) or (C) of this paragraph requires that pro forma effect be given to an Asset Acquisition or Asset Disposition, such pro forma calculation shall be based upon the four full fiscal quarters immediately preceding the Transaction Date of the Person, or division or line of business of the Person, that is acquired or disposed of for which financial information is available. For purposes of the foregoing, if cost savings and other operating expense reductions and improvements have been realized with respect to an acquisition or disposition of assets or other transaction being given pro forma effect or are reasonably expected to be realized, such savings, reductions and improvements may be included in the pro forma calculations to the extent permitted to be reflected in pro forma financial statements under Article 11 of Regulation S-X promulgated by the SEC, except that any such pro forma calculation may include cost savings and other operating expense reductions and improvements for such period attributable to the transaction to which pro forma effect is being given (including, without limitation, cost savings and other operating expense reductions and improvements attributable to execution or termination of any contract, reduction of costs related to administrative functions and networks, the termination of any employees or the closing of any facility) that have been realized or for which all steps necessary for the realization of which have been taken or are reasonably expected to be taken within twelve months following such transaction, *provided, however*, that such adjustments are set forth in an Officers’ Certificate which states (i) the amount of such adjustment or adjustments and (ii) that such adjustment or adjustments are based on the reasonable good faith beliefs of the officers executing such Officers’ Certificate.

“*Consolidated Net Income*” means , for any period, aggregate net income (or loss) of any Person and its Restricted Subsidiaries for such period determined in conformity with GAAP; *provided, however*, that the following items shall be excluded in computing Consolidated Net Income (without duplication):

(1) the net income (or loss) of any other Person that is not a Restricted Subsidiary, except (A) with respect to net income, to the extent of the amount of dividends or other distributions actually paid to such Person or any of its Restricted Subsidiaries by such other Person during such period and (B) with respect to net losses, to the extent of the amount of Investments made by such Person or any of its Restricted Subsidiaries in such other Person during such period;

(2) solely for the purposes of calculating the amount of Restricted Payments that may be made pursuant to Section 4.07(a)(C) hereof (and in such case, except to the extent includible pursuant to clause (1) above), the net income (or loss) of any other Person accrued prior to the date it becomes a Restricted Subsidiary or is merged into or consolidated with such Person or any of its Restricted Subsidiaries or all or substantially all of the property and assets of such other Person are acquired by such Person or any of its Restricted Subsidiaries;

(3) solely for the purposes of calculating the amount of Restricted Payments that may be made pursuant to Section 4.07(a)(C) hereof, the net income of any Restricted Subsidiary to the extent that (A) the declaration or payment of dividends or (B) any other payments or distributions by such Restricted Subsidiary of such net income, are not at the time permitted by the operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to such Restricted Subsidiary (unless such restriction with respect to the payment of dividends or similar distributions has been legally waived, or such restriction is under the notes or this Indenture);

(4) the cumulative effect of a change in accounting principles during such period to the extent included in Consolidated Net Income;

(5) any gain or loss attributable to sales of assets other than in the ordinary course of business;

(6) any non-cash charge or expense attributable to application of the purchase or recapitalization method of accounting (including the total amount of depreciation and amortization, cost of sales or other non-cash expense resulting from the write up of assets to the extent resulting from such purchase or recapitalization accounting adjustments);

(7) any gain or loss for such period attributable to the early extinguishment or retirement of Currency Agreements, Interest Rate Agreements, Forward Stock Purchase Transactions or other similar derivative instruments;

(8) solely for purposes of calculating the amount of Restricted Payments that may be made pursuant to Section 4.07(a)(C) hereof, any amount paid or accrued as dividends (other than dividends to the extent paid or payable in shares of Capital Stock (other than Disqualified Stock) of such Person) on Preferred Stock of such Person or any Restricted Subsidiary owned by Persons other than such Person and any of its Restricted Subsidiaries;

(9) any item classified or disclosed as an extraordinary, unusual or nonrecurring gain, loss or charge;

(10) any compensation expense paid or payable solely with Equity Interests (other than Disqualified Stock) of such Person or any options, warrants or other rights to acquire Capital Stock (other than Disqualified Stock);

(11) any non-cash gain or loss resulting from mark-to-market accounting related to Currency Agreements, Interest Rate Agreements, Forward Stock Purchase Transactions or other derivate instruments; and

(12) to the extent otherwise included in Consolidated Net Income, any unrealized currency translation gains or losses including those related to currency remeasurements of Indebtedness (including any loss or gain resulting from Currency Agreements).

Notwithstanding the foregoing, for the purpose of Section 4.07(a)(C) hereof only, there shall be excluded from Consolidated Net Income, without duplication, any income consisting of dividends, repayments of loans or advances or other transfers of assets from Unrestricted Subsidiaries to the Company or a Restricted Subsidiary, and any income consisting of return of capital, repayment or other proceeds from dispositions or repayments of Investments consisting of Restricted Payments, in each case to the extent such income would be included in Consolidated Net Income and such related dividends, repayments, transfers, return of capital or other proceeds are applied by the Company to increase the amount of Restricted Payments permitted under such covenant pursuant to clause (C)(iii) or (iv) thereof.

“*Consolidated Total Assets*” means the total assets of any Person and its Restricted Subsidiaries determined on a consolidated basis in conformity with GAAP (determined as of the date closest to any Transaction Date for which a consolidated balance sheet of the Person is available).

“*continuing*” means, with respect to any Default or Event of Default, that such Default or Event of Default has not been cured or waived.

“*Convertible Debt*” means Indebtedness of a Person that is convertible or exchangeable into Capital Stock of such Person (and cash in lieu of fractional shares) and/or cash (in an amount determined by reference to the price of such Capital Stock).

“*Corporate Trust Office of the Trustee*” means the address of the Trustee specified in Section 13.02 hereof or such other address as to which the Trustee may give notice to the Company.

“*Credit Facilities*” means one or more debt facilities or other financial arrangements (including indentures or commercial paper facilities), in each case, with banks or other institutional lenders, accredited investors or institutional investors providing for revolving credit loans, term loans, term debt, debt securities, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables) or letters of credit, in each case, as amended, restated, modified, renewed, extended, increased, refunded, replaced in any manner (whether upon or after termination or otherwise) or refinanced (including by means of sales of debt securities to institutional investors) in whole or in part from time to time.

“*Currency Agreement*” means, in respect of a Person, any foreign exchange contract, currency swap agreement or other similar agreement or arrangement (including derivative agreements or arrangements), as to which such Person is a party or a beneficiary.

“*Custodian*” means the Trustee, as custodian with respect to the notes in global form, or any successor entity thereto.

“*Default*” means any event that is, or after notice or passage of time or both would be, an Event of Default.

“*Definitive Note*” means a Certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of Exhibit A1 hereto except that such note shall not bear the Global Note Legend and shall not have the “Schedule of Exchanges of Interests in the Global Note” attached thereto.

“*Depository*” means, with respect to the notes issuable or issued in whole or in part in global form, the Person specified in Section 2.03 hereof as the Depository with respect to the notes, and any and all successors thereto appointed as depository hereunder and having become such pursuant to the applicable provision of this Indenture.

“*Designated Rating*” means a rating equal to B3 (or equivalent) by Moody’s and B- (or equivalent) by S&P, or an equivalent rating by any other Rating Agency.

“*Disqualified Stock*” means any class or series of Capital Stock of any Person that by its terms or otherwise is:

- (1) required to be redeemed prior to the Stated Maturity of the notes;
- (2) redeemable at the option of the holder of such class or series of Capital Stock at any time prior to the Stated Maturity of the notes; or
- (3) convertible into or exchangeable for Capital Stock referred to in clause (1) or (2) above or Indebtedness having a scheduled maturity prior to the Stated Maturity of the notes;

provided, however, that any Capital Stock that would not constitute Disqualified Stock but for provisions thereof giving holders thereof the right to require such Person to repurchase or redeem such Capital Stock upon the occurrence of an “asset sale” or “change of control” occurring prior to the Stated Maturity of the notes shall not constitute Disqualified Stock if the “asset sale” or “change of control” provisions applicable to such Capital Stock are no more favorable to the holders of such Capital Stock than the provisions contained in Sections 4.10 and 4.15 hereof and such Capital Stock, or the agreements or instruments governing the redemption rights thereof, specifically provides that such Person will not repurchase or redeem any such stock pursuant to such provision prior to the Company’s repurchase of such notes as are required to be repurchased pursuant to Sections 4.10 and 4.15 hereof; *provided further*, that if such Capital Stock is issued to any employee or to any plan for the benefit of employees, officers, directors, managers, consultants or independent contractors of the Parent or any of its Subsidiaries or by any such plan to such employees, officers, directors, managers, consultants or independent contractors, such Capital Stock shall not constitute Disqualified Stock solely because it may be required to be repurchased by the Parent or any of its Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee’s, officer’s, director’s, manager’s, consultant’s or independent contractor’s termination, death or disability.

“*Domestic Restricted Subsidiary*” means any Restricted Subsidiary other than a Foreign Restricted Subsidiary.

“*Equity Interests*” means Capital Stock and all warrants, options or other rights to acquire Capital Stock, but excluding Convertible Debt.

“*Euroclear*” means Euroclear Bank, S.A./N.V., as operator of the Euroclear system.

“*Exchange Act*” means the U.S. Securities Exchange Act of 1934, as amended.

“*Excluded Assets*” has the meaning set forth in the Collateral Agreement.

“*Existing Convertible Notes*” means the Parent’s 3.75% Convertible Senior Notes due 2020 outstanding on the Issue Date.

“*Fair Market Value*” means the price that would be paid in an arm’s-length transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer under no compulsion to buy, as determined in good faith by the Board of Directors, whose determination shall be conclusive if evidenced by a Board Resolution.

“FCC” means the Federal Communications Commission, and any successor agency of the United States government exercising substantially equivalent powers.

“FCC License” means any Governmental Authorization granted by the FCC pursuant to the Communications Act, or by any other Governmental Authority pursuant to Communications Laws, to any Grantor or assigned or transferred to any Grantor pursuant to Communications Laws.

“FCC License Holder” means (A) as of the Issue date, AC BidCo LLC and (B) after the Issue Date, any Restricted Subsidiary that that the Company designates to hold FCC Licenses.

“Foreign Restricted Subsidiary” means any Restricted Subsidiary which (a) is not organized under the laws of the United States of America or any State thereof or the District of Columbia or (b) owns (directly or indirectly) no material assets other than equity interests (or equity interests and debt interests) of one or more entities described in clause (a).

“Forward Stock Purchase Transactions” means any prepaid forward stock purchase transactions, any call or call option, any warrant or right to purchase, or any substantively equivalent derivative transaction or series of transactions, entered into by the Issuers or any Restricted Subsidiary in connection with the issuance of Convertible Debt.

“Four Quarter Period” has the meaning set forth in the definition of “Consolidated Leverage Ratio.”

“GAAP” means generally accepted accounting principles in the United States of America as in effect as of December 31, 2015, including, without limitation, those set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as approved by a significant segment of the accounting profession. All ratios and computations contained or referred to in this Indenture shall be computed in conformity with GAAP applied on a consistent basis.

“Global Note Legend” means the legend set forth in Section 2.06(f)(2) hereof, which is required to be placed on all Global Notes issued under this Indenture.

“Global Notes” means, individually and collectively, each of the Restricted Global Notes and the Unrestricted Global Notes deposited with or on behalf of and registered in the name of the Depository or its nominee, substantially in the form of Exhibit A1 hereto and that bears the Global Note Legend and that has the “Schedule of Exchanges of Interests in the Global Note” attached thereto, issued in accordance with Section 2.01, 2.06(b)(3), 2.06(b)(4) or 2.06(d)(2) hereof.

“Governmental Authority” means any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization.

“Governmental Authorizations” means all authorizations, certificates, consents, decrees, permits, licenses, registrations, waivers, privileges, approvals from and filings with all Governmental Authorities necessary in connection with the business of the Parent and its Subsidiaries.

“Grantors” means the Parent, the Issuers, the Subsidiary Guarantors and any other Person (if any) that at any time provides collateral security for any Secured Obligations.

“*guarantee*” means a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner (including letters of credit and reimbursement agreements in respect thereof), of all or any part of any Indebtedness or other Obligations.

“*Guarantee*” means the guarantee by any Guarantor of the Issuers’ Obligations under this Indenture.

“*Guarantor*” means each Person that guarantees the notes in accordance with the terms of this Indenture.

“*Hedging Obligations*” has the meaning set forth in the Collateral Agency Agreement.

“*Holder*” means the Person in whose name a note is registered on the registrar’s books.

“*Incur*” means, with respect to any Indebtedness, to incur, create, issue, assume, guarantee or otherwise become liable for or with respect to, or become responsible for, the payment of, contingently or otherwise, such Indebtedness, including an “*Incurrence*” of Acquired Indebtedness; *provided, however*, that neither the accrual of interest nor the accretion of original issue discount shall be considered an Incurrence of Indebtedness.

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

- (1) all indebtedness (including principal and premium) of such Person for borrowed money;
- (2) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;
- (3) all reimbursement obligations of such Person in respect of letters of credit, bankers’ acceptances or other similar instruments (the amount of such obligations being equal at any time to the aggregate then undrawn and unexpired amount of such letters of credit, bankers’ acceptances or other instruments plus the aggregate amount of drawings thereunder that have not then been reimbursed);
- (4) all obligations of such Person to pay the deferred and unpaid purchase price of property or services, which purchase price is due more than one year after the date of placing such property in service or taking delivery and title thereto or the completion of such services, except (i) Trade Payables and (ii) any earn-out obligations until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP;
- (5) all Capitalized Lease Obligations of such Person or Attributable Debt in respect of sale-leaseback transactions;
- (6) all Indebtedness of other Persons secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person; *provided, however*, that the amount of such Indebtedness shall be the lesser of (A) the Fair Market Value of such asset at such date of determination and (B) the amount of such Indebtedness;

(7) to the extent not otherwise included in this definition, all Indebtedness of other Persons Guaranteed by such Person to the extent such Indebtedness is Guaranteed by such Person (other than by endorsement of negotiable instruments for collection in the ordinary course of business);

(8) to the extent not otherwise included in this definition, net obligations under Currency Agreements, Interest Rate Agreements and Forward Stock Purchase Transactions; and

(9) all Disqualified Stock issued by such Person, valued at the greater of its voluntary or involuntary liquidation preference and its maximum fixed repurchase price, plus accrued dividends.

The amount of Indebtedness of any Person at any date shall be the outstanding balance at such date of all unconditional obligations as described above and, with respect to contingent obligations, the maximum liability upon the occurrence of the contingency giving rise to the obligation, *provided*

(1) that the amount outstanding at any time of any Indebtedness issued with original issue discount is the face amount of such Indebtedness less the remaining unamortized portion of the original issue discount of such Indebtedness at the time of its issuance as determined in conformity with GAAP;

(2) that money borrowed and set aside at the time of the Incurrence of any Indebtedness in order to prefund the payment of the interest on such Indebtedness shall not be deemed to be “Indebtedness” so long as such money is held to secure the payment of such interest; and

(3) that Indebtedness shall not include any liability for federal, state, local or other taxes.

“*Indenture*” means this Indenture, as amended or supplemented from time to time.

“*Indirect Participants*” means a Person who holds a beneficial interest in a Global Note through a Participant.

“*Initial Purchasers*” means Morgan Stanley & Co. LLC, J.P. Morgan Securities LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated, Evercore Group L.L.C. and UBS Securities LLC.

“*Institutional Accredited Investor*” means an institution that is an “accredited investor” as defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act, who are not also QIBs.

“*Interest Rate Agreement*” means, with respect to any Person, any interest rate protection agreement, interest rate future agreement, interest rate option agreement, interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedge agreement, option or future contract or other similar agreement or arrangement (including derivative agreements or arrangements), as to which such Person is party or a beneficiary.

“*Investment*” in any Person means any direct or indirect advance, loan or other extension of credit (including, without limitation, by way of Guarantee or similar arrangement but excluding advances to customers in the ordinary course of business that are, in conformity with GAAP, recorded as accounts receivable on the Company’s balance sheet or those of any Restricted Subsidiary) or capital contribution to (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others), or any purchase or acquisition of Equity Interests, bonds, notes, debentures or other similar instruments issued by, such Person and shall include:

(1) the designation of a Restricted Subsidiary as an Unrestricted Subsidiary; and

(2) the Fair Market Value of the Capital Stock (or any other Investment) held by the Company or any Restricted Subsidiary, of (or in) any Person that has ceased to be a Restricted Subsidiary, including, without limitation, by reason of any transaction permitted by Section 4.17(3) hereof; *provided* that the Fair Market Value of the Investment remaining in any Person that has ceased to be a Restricted Subsidiary shall not exceed the aggregate amount of Investments previously made in such Person valued at the time such Investments were made less the net reduction of such Investments.

For purposes of the definition of “*Unrestricted Subsidiary*” and Section 4.07 hereof:

(1) “*Investment*” shall include the Fair Market Value of the assets (net of liabilities (other than liabilities to the Company or any Restricted Subsidiary)) of any Restricted Subsidiary at the time that such Restricted Subsidiary is designated an Unrestricted Subsidiary;

(2) the Fair Market Value of the assets (net of liabilities (other than liabilities to the Company or any Restricted Subsidiary)) of any Unrestricted Subsidiary at the time that such Unrestricted Subsidiary is designated a Restricted Subsidiary shall be considered a reduction in outstanding Investments; and

(3) any property transferred to or from an Unrestricted Subsidiary shall be valued at its Fair Market Value at the time of such transfer.

“*Investment Grade Rating*” means a rating equal to or higher than Baa3 (or equivalent) by Moody’s and BBB- (or equivalent) by S&P, or an equivalent rating by any other Rating Agency.

“*Investment Grade Securities*” means (i) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof (other than Cash Equivalents), (ii) debt securities or debt instruments with an Investment Grade Rating, but excluding any debt securities or instruments constituting loans or advances among Parent and its Subsidiaries, (iii) investments in any fund that invests exclusively in investments of the type described in clauses (i) and (ii), which fund may also hold immaterial amounts of cash pending investment or distribution, and (iv) corresponding instruments in countries other than the United States customarily utilized for high quality investments.

“*IP Reorganization Transaction*” means (x) the sale or transfer of intellectual property assets and/or the rights to use such intellectual property assets, by the Parent, the Company or any Subsidiary Guarantor to a Restricted Subsidiary organized under the laws of Switzerland whose Equity Interests may only be held entirely by a Restricted Subsidiary (a) whose Equity Interests may only be held entirely by the Company or a Subsidiary Guarantor and (b) which has no Indebtedness outstanding owed to any party other than the Company or a Subsidiary Guarantor and (y) any related transactions; *provided* that, if such transactions result in a license in favor of the Parent, the Company or any Subsidiary Guarantor to use such intellectual property assets, the rights of the Parent, the Company or such Subsidiary Guarantor under such license shall be pledged to the Collateral Agent as Collateral securing the Secured Obligations; *provided further* that the Restricted Subsidiary to which such intellectual property assets and/or rights to use such intellectual property assets are sold or transferred shall not (i) engage in any material business activities other than in connection with, incidental to, or in support of the acquisition,

development, exploitation, commercialization or licensing of intellectual property assets and/or rights to use such intellectual property assets (“IP Entity Permitted Activities”) or (ii) Incur Indebtedness owed to any party other than the Company or a Subsidiary Guarantor (other than Trade Payables and other Indebtedness Incurred in the ordinary course and in connection with, incidental to, or in support of IP Entity Permitted Activities) or issue Equity Interests, other than in favor of or to the Company or another Restricted Subsidiary.

“*Issue Date*” means June 14, 2016.

“*Issuers*” means the Company and the Co-Issuer, collectively.

“*Junior Lien*” has the meaning set forth in the Collateral Agency Agreement.

“*Junior Lien Obligations*” has the meaning set forth in the Collateral Agency Agreement.

“*Legal Holiday*” means a Saturday, a Sunday or a day on which banking institutions in the City of New York or at a place of payment are authorized by law, regulation or executive order to remain closed. If a payment date is a Legal Holiday at a place of payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest shall accrue on such payment for the intervening period.

“*Lien*” has the meaning set forth in the Collateral Agency Agreement.

“*Moody’s*” means Moody’s Investors Service, Inc. and its successors.

“*Net Cash Proceeds*” means:

(1) with respect to any Asset Sale, the proceeds of such Asset Sale in the form of cash or Cash Equivalents, including payments in respect of deferred payment obligations (to the extent corresponding to the principal, but not interest, component thereof) when received in the form of cash or Cash Equivalents (except to the extent such obligations are financed or sold with recourse to the Company or any Restricted Subsidiary) and proceeds from the conversion of other property received when converted to cash or Cash Equivalents, net of

(A) brokerage commissions and other fees and expenses (including fees and expenses of counsel and investment bankers) related to such Asset Sale,

(B) provisions for all taxes (whether or not such taxes will actually be paid or are payable) as a result of such Asset Sale without regard to the consolidated results of operations of the Company and its Restricted Subsidiaries, taken as a whole,

(C) payments made to repay Indebtedness or any other obligation outstanding at the time of such Asset Sale that either (i) is secured by a Lien on the property or assets sold or (ii) is required to be paid as a result of such sale, and

(D) appropriate amounts to be provided by the Company or any Restricted Subsidiary as a reserve against any liabilities associated with such Asset Sale, including, without limitation, pension and other post-employment benefit liabilities, liabilities, liabilities related to environmental matters and liabilities under any indemnification obligations associated with such Asset Sale, all as determined in conformity with GAAP; and

(2) with respect to any issuance or sale of Equity Interests, the proceeds of such issuance or sale in the form of cash or Cash Equivalents, including payments in respect of deferred payment obligations (to the extent corresponding to the principal, but not interest, component thereof) when received in the form of cash or Cash Equivalents (except to the extent such obligations are financed or sold with recourse to the Company or any Restricted Subsidiary) and proceeds from the conversion of other property received when converted to cash or Cash Equivalents, net of attorneys' fees, accountants' fees, underwriters' or initial purchasers' fees, discounts or commissions and brokerage, consultant and other fees incurred in connection with such issuance or sale and net of taxes paid or payable as a result thereof.

"Non-U.S. Person" means a Person who is not a U.S. Person.

"notes" has the meaning assigned to it in the preamble to this Indenture. The Initial Notes and the additional notes shall be treated as a single class for all purposes under this Indenture, and unless the context otherwise requires, all references to the notes shall include the Initial Notes and any additional notes.

"Notes Security Documents" means the Collateral Agency Agreement, the Collateral Agreement and all other pledge agreements, collateral assignments, mortgages, collateral agency agreements, deeds of trust or other grants or transfers for security executed and delivered by the Parent, the Issuers or any Subsidiary Guarantor creating (or purporting to create) a Lien upon the Collateral as contemplated by this Indenture or the Collateral Agreement, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms.

"Obligations" with respect to any Indebtedness means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing such Indebtedness (including all interest, fees and other amounts accruing during any insolvency proceeding, regardless of whether or not allowed or allowable in such proceeding); *provided* that Obligations with respect to the notes shall not include fees or indemnification in favor of the Trustee and other third parties other than the Holders.

"Obligor" means a Person obligated as an issuer or guarantor of the notes.

"Offer to Purchase" means an offer to purchase notes by the Company from the Holders commenced by mailing or delivering a notice to the Trustee and each Holder stating:

- (1) the covenant pursuant to which the offer is being made and that all notes validly tendered will be accepted for payment on a *pro rata* basis;
- (2) the purchase price and the date of purchase (which shall be a business day no earlier than 30 days nor later than 60 days from the date such notice is mailed) (the "*Payment Date*");
- (3) that any note not tendered will continue to accrue interest pursuant to its terms;
- (4) that, unless the Company defaults in the payment of the purchase price, any note accepted for payment pursuant to the Offer to Purchase shall cease to accrue interest on and after the *Payment Date*;
- (5) that Holders electing to have a note purchased pursuant to the Offer to Purchase will be required to surrender the note, together with the form entitled "*Option of the Holder to*

Elect Purchase” on the reverse side of the note completed, to the paying agent at the address specified in the notice prior to the close of business on the business day immediately preceding the Payment Date;

(6) that Holders will be entitled to withdraw their election, subject to certain conditions;

(7) that Holders whose notes are being purchased only in part will be issued new notes equal in principal amount to the unpurchased portion of the notes surrendered; *provided, however*, that each note purchased and each new note issued shall be in a principal amount of \$2,000 or an integral multiple of \$1,000 in excess thereof; and

(8) in the event of an Offer to Purchase as a result of the occurrence of a Change of Control exclusively, the circumstances and relevant facts regarding such Change of Control, including information with respect to pro forma historical income, cash flow and capitalization, after giving effect to the Change of Control.

On the Payment Date, the Company shall:

(1) accept for payment on a *pro rata* basis, or on such other basis as the Trustee shall select in accordance with this Indenture, the notes or portions thereof (and, in the case of an Offer to Purchase made pursuant to Section 4.10 hereof, any other Pari Passu Debt included in such Offer to Purchase) tendered pursuant to an Offer to Purchase;

(2) deposit with the paying agent money sufficient to pay the purchase price of all notes or portions thereof so accepted; and

(3) deliver, or cause to be delivered, to the Trustee all notes or portions thereof so accepted together with an Officers’ Certificate specifying the notes or portions thereof accepted for payment by the Company.

The paying agent shall promptly mail to the Holders so accepted payment in an amount equal to the purchase price, and the Trustee shall promptly authenticate and mail (or cause to be transferred by book entry) to such Holders a new note equal in principal amount to any unpurchased portion of the note surrendered; *provided, however*, that each note purchased and each new note issued shall be in a principal amount of \$2,000 or an integral multiple of \$1,000 in excess thereof. The Company will publicly announce the results of an Offer to Purchase as soon as practicable after the Payment Date. The Trustee shall act as the paying agent for an Offer to Purchase. The Company will comply with Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable, in the event that the Company is required to repurchase notes pursuant to an Offer to Purchase.

“*Officer*” means, with respect to any Person, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary or any Vice President of such Person.

“*Officers’ Certificate*” means a certificate signed on behalf of a Person by two Officers of such Person that meets the requirements of Section 13.05 hereof.

“*opinion of counsel*” means an opinion from legal counsel who is reasonably acceptable to the Trustee, that meets the requirements of Section 13.05 hereof. The counsel may be an employee of or counsel to the Parent, any Subsidiary of the Parent.

“*Parent*” means Gogo Inc., and any and all successors thereto.

“*Parent Expenses*” means (i) costs (including all professional fees and expenses) incurred by the Parent in connection with maintaining its existence or in connection with its reporting obligations under, or in connection with compliance with, applicable laws or applicable rules of any governmental, regulatory or self-regulatory body or stock exchange, any agreement or instrument relating to Indebtedness of the Parent, including in respect of any reports filed with respect to the Securities Act, the Exchange Act or the respective rules and regulations promulgated thereunder, (ii) indemnification obligations of the Parent owing to directors, members, officers, employees or other Persons under its organizational documents or pursuant to written agreements with or for the benefit of any such Person, or obligations in respect of director and officer insurance (including premiums therefor), (iii) other administrative and operational expenses (including all professional fees and expenses) of the Parent incurred in the ordinary course of business and substantially consistent with past practice (if any), including customary directors’ fees, consulting fees, employee salaries, bonuses or employment agreements, compensation or employee benefit arrangements and incentive arrangements with any officer, director or employee of the Parent and (iv) fees and expenses incurred by the Parent in connection with any offering of Capital Stock or Indebtedness, (w) which offering is not completed, or (x) where the net proceeds of such offering are received by or contributed or loaned to the Issuers or any their respective Subsidiaries, or (y) in a prorated amount of such expenses in proportion to the amount of such net proceeds so received, contributed or loaned, or (z) otherwise on an interim basis prior to completion of such offering so long as the Parent shall cause the amount of such expenses to be repaid to the relevant Subsidiary out of the proceeds of such offering promptly if completed.

“*Parent Guarantee*” means a Guarantee on the terms set forth in this Indenture by the Parent of the Issuers’ Obligations under the notes.

“*Pari Passu Debt*” means (1) any Indebtedness of the Issuers that ranks equally in right of payment and Lien priority with the notes and (2) any Indebtedness of a Subsidiary Guarantor that ranks equally in right of payment and Lien priority with such Subsidiary Guarantor’s Subsidiary Guarantee.

“*Participants*” means, with respect to the Depositary, Euroclear or Clearstream, a Person who has an account with the Depositary, Euroclear or Clearstream, respectively (and, with respect to DTC, shall include Euroclear and Clearstream).

“*Payment Date*” has the meaning set forth in the definition of “*Offer to Purchase*.”

“*Permitted Asset Swap*” means the substantially concurrent purchase and sale or exchange of Related Business Assets or a combination of Related Business Assets and cash or Cash Equivalents between the Company or any Restricted Subsidiary and another Person; *provided* that any cash or Cash Equivalents received must be applied in accordance with Section 4.10 hereof.

“*Permitted Holder*” means Oakleigh Thorne, Thorndale Farm, LLC or any of their respective Affiliates.

“Permitted Investment” means:

(1) an Investment in the Company or any Restricted Subsidiary, or in a Person which will, upon the making of such Investment, become a Restricted Subsidiary or, in one transaction or a series of related transactions, be merged or consolidated with or into, or transfer or convey all or substantially all its assets to, or is liquidated into, the Company or any such Restricted Subsidiary (and any Investment held by such Person that was not acquired by such Person in contemplation of so becoming a Restricted Subsidiary);

(2) any Investment in cash or Cash Equivalents or Investment Grade Securities;

(3) any Investment in securities or other assets not constituting cash or Cash Equivalents or Investment Grade Securities and received as consideration in, or retained in connection with, sales or other dispositions of property or assets, including Asset Sales made in compliance with Section 4.10 hereof;

(4) any Investment existing on the Issue Date or made pursuant to binding commitments in effect on the Issue Date or an Investment consisting of any modification, replacement, renewal or extension of any Investment or binding commitment existing on the Issue Date; *provided* that the amount of any such Investment or binding commitment may be increased (x) as required by the terms of such Investment or binding commitment as in existence on the Issue Date or (y) as otherwise permitted under this Indenture;

(5) payroll, travel and similar advances to officers, directors and employees of the Parent, the Company or any Restricted Subsidiary to cover matters in the ordinary course of business and consistent with past practice (including travel, entertainment and relocation expenses);

(6) stock, obligations, securities or other Investments received in settlement of Indebtedness Incurred in the ordinary course of business and owing to, or of other claims asserted by, the Company or any Restricted Subsidiary, or as a result of foreclosure, perfection or enforcement of any Lien created in the ordinary course of business or in satisfaction of judgments, including in connection with a bankruptcy proceeding or other reorganization of another Person;

(7) Investments in prepaid expenses, negotiable instruments held for collection and lease, utility and workers’ compensation, performance and other similar deposits;

(8) receivables owing to the Company or any Restricted Subsidiary, if created or acquired in the ordinary course of business;

(9) repurchases of the notes;

(10) any Investment the payment for which consists of Equity Interests of the Company (exclusive of Disqualified Stock);

(11) pledges or deposits (x) with respect to leases or utilities provided to third parties in the ordinary course of business or (y) otherwise described in the definition of “Permitted Liens” or made in connection with Liens permitted under Section 4.12 hereof;

(12) Interest Rate Agreements and Currency Agreements designed solely to protect the Company or any Restricted Subsidiary against fluctuations in interest rates or foreign currency exchange rates;

(13) [Reserved]; and

(14) Investments in any Unrestricted Subsidiary, joint venture or any other Person that is not the Company's Affiliate that do not exceed, in the aggregate with all other Permitted Investments made pursuant to this clause (14) and then outstanding, \$25.0 million; *provided, however*, that such Unrestricted Subsidiary's, joint venture's or other Person's primary business is related, ancillary or complementary to the businesses of the Company and the Restricted Subsidiaries on the date of such Investment.

"*Permitted Liens*" means:

(a) Prior to a Suspension Date and from and after the corresponding Reversion Date, if any:

(1) Liens (which may be (but are not required to be) Priority Liens) securing Indebtedness consisting of (i) Indebtedness (including Liens securing any Obligations in respect thereof) Incurred under Section 4.09(b)(1) hereof, (ii) Hedging Obligations (which are not entered into for speculative purposes) and (iii) Bank Product Obligations; in each case under the foregoing clauses (i) through (iii) including Liens securing any Guarantee of any thereof;

(2) Liens for taxes, assessments, governmental charges or claims not yet delinquent or that are being contested in good faith by appropriate legal proceedings promptly instituted and diligently conducted; *provided* that any reserve or other appropriate provision as shall be required in conformity with GAAP shall have been made therefor;

(3) statutory and common law Liens of landlords and carriers, warehousemen, mechanics, suppliers, materialmen, repairmen or other similar Liens arising in the ordinary course of business and with respect to amounts that are not overdue for a period of more than 60 days or that are being contested in good faith by appropriate legal proceedings promptly instituted and diligently conducted and for which a reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made;

(4) Liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, and other similar insurance-related obligations (including, without limitation, pledges or deposits securing liability to insurance carries under insurance or self-insurance arrangements);

(5) Liens incurred or deposits made to secure the performance of tenders, bids, leases, statutory or regulatory obligations, bankers' acceptances, surety and appeal bonds, government contracts, performance and return-of-money bonds and other obligations of a similar nature incurred in the ordinary course of business (exclusive of obligations for the payment of borrowed money);

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

(7) easements, rights-of-way, municipal and zoning ordinances and similar charges, encumbrances, title defects or other irregularities that do not in the aggregate materially adversely affect the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the Company and the Restricted Subsidiaries, taken as a whole;

(8) [Reserved];

(9) leases, subleases, licenses or sublicenses granted to third parties that do not materially interfere with the business of the Company and the Restricted Subsidiaries, taken as a whole;

(10) [Reserved];

(11) any interest or title of a lessor in the property subject to any Capitalized Lease or operating lease;

(12) Liens arising from filing Uniform Commercial Code financing statements regarding operating leases or consignments entered into by the Parent, the Company or any Restricted Subsidiary in the ordinary course of business;

(13) Liens on property of, or on shares of Capital Stock or Indebtedness of, any Person existing at the time such Person becomes, or becomes a part of, a Restricted Subsidiary (or at the time the Parent, the Company or a Restricted Subsidiary acquires such property or assets, including any acquisition by means of a merger or consolidation with or into the Parent, the Company or any Restricted Subsidiary); *provided, however*, that such Liens (i) are not created or incurred in connection with, or in contemplation of, such other Person becoming a Restricted Subsidiary (or such acquisition of such property or assets) and (ii) do not extend to or cover any property or assets of the Company or any Restricted Subsidiary other than the property or assets acquired;

(14) Liens in favor of the Company or any Restricted Subsidiary;

(15) Liens arising from the rendering of a final judgment or order against the Parent, the Company or any Restricted Subsidiary that does not give rise to an Event of Default;

(16) Liens securing reimbursement obligations with respect to letters of credit that encumber documents and other property relating to such letters of credit and the products and proceeds thereof;

(17) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(18) Liens encumbering customary initial deposits and margin deposits, and other Liens that are within the general parameters customary in the industry and incurred in the ordinary course of business, in each case, securing Indebtedness under Interest Rate Agreements, Currency Agreements, Forward Stock Purchase Transactions and other forward contracts, options, future contracts, futures options or similar agreements or arrangements incurred in each case, not for speculative purposes;

(19) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into by the Parent, the Company or any Restricted Subsidiary in the ordinary course of business;

(20) [Reserved];

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

(22) Liens on inventory or other goods and proceeds securing obligations in respect of bankers' acceptances issued or created to facilitate the purchase, shipment or storage of such inventory or other goods;

(23) Liens existing on, or provided for under written arrangements existing on, the Issue Date (other than Liens created for the benefit of, or to secure, the notes or any Guarantee, which shall be deemed to be Incurred pursuant to clause (1) above);

(24) Liens securing Indebtedness (including Liens securing any Obligations in respect thereof) which is Incurred to refinance Secured Indebtedness which is permitted to be Incurred under Section 4.09(b)(4) hereof; *provided, however*, that (i) such Liens do not extend to or cover any property or assets of the Parent, the Company or any Restricted Subsidiary other than the property or assets securing the Indebtedness being refinanced and (ii) such Liens are the same priority as or lower in priority than the Liens securing the Secured Indebtedness being refinanced;

(25) Liens on the Capital Stock of, or any property or assets of, a Restricted Subsidiary (other than any Subsidiary Guarantor) securing Indebtedness or other Obligations of such Restricted Subsidiary permitted under Section 4.09 hereof;

(26) Liens on the Capital Stock of, or any property or assets of, an Unrestricted Subsidiary that secure Indebtedness or other obligations of such Unrestricted Subsidiary;

(27) any encumbrance or restriction (including, but not limited to, pursuant to put and call arrangements or buy/sell arrangements) with respect to Capital Stock of any joint venture or similar arrangement pursuant to any joint venture or similar agreement;

(28) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(29) Liens arising by operation of law (or by agreement to the same effect) in the ordinary course of business;

(30) Liens on cash set aside at the time of the Incurrence of any Indebtedness or government securities purchased with such cash, in either case to the extent that such cash or government securities prefund the payment of interest on such Indebtedness and are held in an escrow account or similar arrangement to be applied for such purpose;

(31) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit or sweep accounts of the Parent, the Company or any Restricted Subsidiary that permit satisfaction of overdraft, cash pooling or similar obligations incurred in the ordinary course of business of the Parent, the Company or any Restricted Subsidiary or (iii) relating to purchase orders and other agreements entered into with customers of the Parent, the Company or any Restricted Subsidiary in the ordinary course of business; and

(32) Liens to secure Indebtedness permitted under Section 4.09(b)(8) hereof (other than Indebtedness incurred in connection with, or in contemplation of, such other Person merging with or into or becoming a Restricted Subsidiary of such specified Person); or

(b) during any Suspension Period:

(1) Liens described in clause (a) of this definition (other than subclauses (1), (25) and (26) thereof, except Liens securing the Notes Obligations and any Indebtedness issued in exchange for, or the net proceeds of which are used to refinance or refund the Notes Obligations); and

(2) Liens securing Indebtedness in an aggregate principal amount not to exceed 15% of the Consolidated Total Assets of the Company.

For purposes of determining compliance with this definition, (v) a Lien need not be incurred solely by reference to one category of Permitted Liens described in this definition but may be incurred under any combination of such categories (including in part under one such category and in part under any other such category); (w) in the event that a Lien (or any portion thereof) meets the criteria of one or more of such categories of Permitted Liens, the Company shall, in its sole discretion, classify or reclassify such Lien (or any portion thereof) in any manner that complies with this definition; (x) the principal amount of Indebtedness secured by a Lien outstanding under any category of Permitted Liens shall be determined after giving effect to the application of proceeds of any such Indebtedness to refinance any such other indebtedness; (y) any Lien securing Indebtedness that was permitted to secure such Indebtedness at the time of the Incurrence of such Indebtedness shall also be permitted to secure any increase in the amount of such Indebtedness in connection with the accrual of interest, the accretion of accreted value, the payment of interest in the form of additional Indebtedness with the same terms, the payment of dividends on Capital Stock constituting Indebtedness in the form of additional shares of the same class of Capital Stock and fluctuations in the exchange rate of currencies; and (z) if any Indebtedness or other obligation is secured by any Lien outstanding under any category of Permitted Liens measured by reference to a dollar amount, and is refinanced by any Indebtedness or other obligation secured by any Lien incurred by reference to such category of Permitted Liens, and such refinancing would cause such dollar amount to be exceeded, such dollar amount shall not be deemed to be exceeded (and such refinancing Lien shall be deemed permitted) so long as the principal amount of such refinancing Indebtedness or other obligation does not exceed the principal amount of such Indebtedness being refinanced, plus the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) incurred or payable in connection with such refinancing (the "*Refinancing Costs*"); *provided* that the Refinancing Costs shall not exceed \$10.0 million.

"*Person*" means an individual, a corporation, a partnership, a limited liability company, an association, a trust or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

"*Post-Petition Interest*" has the meaning set forth in the Collateral Agency Agreement.

"*Preferred Stock*" means, with respect to any Person, Capital Stock issued by such Person that is entitled to preference or priority over one or more series or classes of other Capital Stock issued by such Person upon any distribution of such Person's property and assets, whether by dividend or upon liquidation.

"*Priority Lien*" has the meaning set forth in the Collateral Agency Agreement.

“*Priority Lien Documents*” has the meaning set forth in the Collateral Agency Agreement.

“*Priority Lien Obligations*” has the meaning set forth in the Collateral Agency Agreement.

“*Private Placement Legend*” means the legend set forth in Section 2.06(f)(1) hereof to be placed on all notes issued under this Indenture except where otherwise permitted by the provisions of this Indenture.

“*QIB*” means a “qualified institutional buyer” as defined in Rule 144A.

“*Rating Agency*” means S&P and Moody’s or, if S&P or Moody’s or both shall not make a rating on the notes publicly available, a nationally recognized statistical rating agency or agencies, as the case may be, selected by the Company (as certified by a resolution of the Board of Directors) which shall be substituted for S&P or Moody’s or both, as the case may be.

“*Reference Period*” has the meaning set forth in the definition of “*Consolidated Leverage Ratio*.”

“*Refinancing Costs*” has the meaning set forth in the definition of “*Permitted Liens*.”

“*Regulation S*” means Regulation S promulgated under the Securities Act.

“*Regulation S Global Note*” means a Regulation S Temporary Global Note or Regulation S Permanent Global Note, as appropriate.

“*Regulation S Permanent Global Note*” means a permanent Global Note in the form of Exhibit A1 hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depository or its nominee, issued in a denomination equal to the outstanding principal amount of the Regulation S Temporary Global Note upon expiration of the Restricted Period.

“*Regulation S Temporary Global Note*” means a temporary Global Note in the form of Exhibit A2 hereto deposited with or on behalf of and registered in the name of the Depository or its nominee, issued in a denomination equal to the outstanding principal amount of the notes initially sold in reliance on Rule 903 of Regulation S.

“*Related Business*” means those businesses in which the Company or any of its Subsidiaries is engaged on the date of this Indenture, or that are similar, related, complementary, incidental or ancillary thereto, or any reasonable extensions, developments or expansions thereof.

“*Related Business Assets*” means assets (other than cash or Cash Equivalents) used or useful in a Related Business; *provided* that any assets received by the Company or a Restricted Subsidiary in exchange for assets transferred by the Company or a Restricted Subsidiary will not be deemed to be Related Business Assets if they consist of securities of a Person, unless such Person is, or upon receipt of the securities of such Person, such Person would become, a Restricted Subsidiary.

“*Responsible Officer*,” when used with respect to the Trustee, means any officer within the Corporate Trust Office of the Trustee having direct responsibility for the administration of this Indenture or to whom such matter is referred because of his or her knowledge of and familiarity with the particular subject.

“*Restricted Definitive Note*” means a Definitive Note bearing the Private Placement Legend.

“*Restricted Global Note*” means a Global Note bearing the Private Placement Legend.

“*Restricted Period*” means the 40-day distribution compliance period as defined in Regulation S.

“*Restricted Subsidiary*” means any of the Company’s Subsidiaries, other than the Co-Issuer and other than any Unrestricted Subsidiaries.

“*Rule 144*” means Rule 144 promulgated under the Securities Act.

“*Rule 144A*” means Rule 144A promulgated under the Securities Act.

“*Rule 903*” means Rule 903 promulgated under the Securities Act.

“*Rule 904*” means Rule 904 promulgated under the Securities Act.

“*S&P*” means Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, and its successors.

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

“*Secured Debt Documents*” has the meaning set forth in the Collateral Agency Agreement.

“*Secured Debt Representative*” has the meaning set forth in the Collateral Agency Agreement.

“*Secured Indebtedness*” means, with respect to any Person at any date of determination, any Indebtedness secured by a Lien on any assets of such Person.

“*Secured Leverage Ratio*” means, as of any Transaction Date and with respect to any Person, the ratio of:

(x) the aggregate amount of Secured Indebtedness (or, in the case of Secured Indebtedness issued at less than its principal amount at maturity, the accreted value thereof) of such Person and its Restricted Subsidiaries on a consolidated basis on such Transaction Date; to

(y) the aggregate amount of Consolidated EBITDA for such Person and its Restricted Subsidiaries for the Four Quarter Period; *provided* that the Secured Leverage Ratio shall be calculated in a manner consistent with the definition of “*Consolidated Leverage Ratio*.”

“*Secured Obligations*” has the meaning set forth in the Collateral Agency Agreement.

“*Secured Parties*” has the meaning set forth in the Collateral Agency Agreement.

“*Securities Act*” means the United States Securities Act of 1933, as amended.

“*Significant Subsidiary*” means, at any date of determination, any Restricted Subsidiary that, together with its Subsidiaries,

(1) for the Company’s most recent fiscal year, accounted for more than 10% of the consolidated revenue of the Company and its Restricted Subsidiaries; or

(2) as of the end of such fiscal year, was the owner of more than 10% of the Company's consolidated assets and those of its Restricted Subsidiaries, all as set forth on the most recently available consolidated financial statements of the Company for such fiscal year.

"*Stated Maturity*" means,

(1) with respect to any Indebtedness, the date specified in such Indebtedness as the fixed date on which the final installment of principal of such Indebtedness is due and payable; and

(2) with respect to any scheduled installment of principal of or interest on any Indebtedness, the date specified in such Indebtedness as the fixed date on which such installment is due and payable.

"*Subsidiary*" means, with respect to any Person, any corporation, association or other business entity of which more than 50% of the voting power of the outstanding voting stock is owned, directly or indirectly, by such Person and/or one or more other Subsidiaries of such Person.

"*Subsidiary Guarantee*" means a Guarantee on the terms set forth in this Indenture by a Subsidiary Guarantor of the Issuers' Obligations under the notes.

"*Subsidiary Guarantor*" means each Domestic Restricted Subsidiary and any other Person that becomes a Subsidiary Guarantor pursuant to Section 4.20 hereof.

"*TIA*" means the Trust Indenture Act of 1939, as amended (15 U.S.C. §§ 77aaa-77bbbb).

"*Trade Payables*" means, with respect to any Person, any accounts payable or any other Indebtedness or monetary obligation to trade creditors created, assumed or Guaranteed by such Person or any of its Subsidiaries arising in the ordinary course of business in connection with the acquisition of goods or services.

"*Transaction Date*" means, with respect to the Incurrence of any Indebtedness, the date such Indebtedness is to be Incurred and, with respect to any Restricted Payment, the date such Restricted Payment is to be made.

"*Treasury Rate*" means, as of the applicable redemption date, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two business days prior to such redemption date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from such redemption to July 1, 2019; *provided, however*, that if the period from such redemption date to July 1, 2019 is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used.

"*Trustee*" means U.S. Bank National Association, until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving hereunder.

"*UCC*" means the Uniform Commercial Code as in effect from time to time in the State of New York; *provided, however*, that in the event that, by reason of mandatory provisions of law, any or all of the perfection or priority of, or remedies with respect to, any Collateral is governed by the Uniform Commercial Code as enacted and in effect in a jurisdiction other than the State of New York, the term

“UCC” shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions hereof relating to such perfection, priority or remedies.

“*Unrestricted Definitive Note*” means a Definitive Note that does not bear and is not required to bear the Private Placement Legend.

“*Unrestricted Global Note*” means a Global Note that does not bear and is not required to bear the Private Placement Legend.

“*Unrestricted Subsidiary*” means:

(1) any Subsidiary of the Company that at the time of determination shall be designated an Unrestricted Subsidiary by the Board of Directors of the Company in the manner provided below; and

(2) any Subsidiary of an Unrestricted Subsidiary.

The Board of Directors of the Company may designate any Restricted Subsidiary (including any newly acquired or newly formed Subsidiary) of the Company to be an Unrestricted Subsidiary unless such Subsidiary owns any of the Capital Stock of the Company or owns or holds any Lien on any property of the Company or any Restricted Subsidiary of the Company; *provided, however*, that:

(A) any guarantee by the Company or any Restricted Subsidiary of any Indebtedness of the Subsidiary outstanding at the time of designation, or provided thereafter, shall be deemed an “*Incurrence*” of such Indebtedness and an “*Investment*” by the Company or such Restricted Subsidiary at the time of such designation or when provided thereafter, as applicable;

(B) either (i) the Subsidiary to be so designated has total assets of \$1,000 or less or (ii) if such Subsidiary has assets greater than \$1,000, such designation would be permitted under Section 4.07 hereof;

(C) if applicable, the Incurrence of Indebtedness and the Investment referred to in subclause (A) of this proviso would be permitted under Sections 4.09 and 4.07 hereof; and

(D) such Restricted Subsidiary and its Subsidiaries does not at the time of such designation, and does not thereafter, Incur any Indebtedness pursuant to which the lender thereunder has recourse to any of the assets of the Parent, the Issuers or any other Restricted Subsidiary, and is not a guarantor of or obligor of, and provides no credit support for, any Indebtedness of the Company or any Restricted Subsidiary.

The Board of Directors of the Company may designate any Unrestricted Subsidiary of the Company to be a Restricted Subsidiary; *provided, however*, that

(1) no Default or Event of Default shall have occurred and be continuing at the time of or after giving effect to such designation; and

(2) all Liens and Indebtedness of such Unrestricted Subsidiary outstanding immediately after such designation would, if Incurred at such time, have been permitted to be Incurred (and shall be deemed to have been Incurred) for all purposes of this Indenture.

Any such designation by the Board of Directors shall be evidenced to the Trustee by promptly filing with the Trustee a copy of the board resolution giving effect to such designation and an Officers' Certificate certifying that such designation complied with the foregoing provisions.

"U.S. Government Obligations" means securities that are (i) direct obligations of the United States of America for the payment of which it is full faith and credit is pledged or (ii) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America, which, in either case, are not callable or redeemable at the option of the issuer thereof at any time prior to the Stated Maturity of the notes, and shall also include a depository receipt issued by a bank or trust company as custodian with respect to any such U.S. Government Obligation or a specific payment of interest on or principal of any such U.S. Government Obligation held by such custodian for the account of the holder of a depository receipt; *provided, however*, that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of such U.S. Government Obligation or the specific payment of interest on or principal of such U.S. Government Obligation evidenced by such depository receipt.

"U.S. Person" means a U.S. Person as defined in Rule 902(k) promulgated under the Securities Act.

"Voting Stock" means, with respect to any Person, Capital Stock of any class or kind ordinarily having the power to vote for the election of directors, managers or other voting members of the governing body of such Person.

"Wholly Owned" means, with respect to any Subsidiary of any Person, the ownership of all of the outstanding Capital Stock of such Subsidiary (other than any director's qualifying shares or Investments by foreign nationals mandated by applicable law) by such Person or one or more Wholly Owned Subsidiaries of such Person or any combination thereof.

Section 1.02 Other Definitions.

<u>Term</u>	<u>Defined in Section</u>
"Affiliate Transaction"	4.11
"Asset Sale Offer"	3.09
"Authentication Order"	2.02
"Covenant Defeasance"	8.03
"DTC"	2.03
"Electronic Means"	2.06
"Event of Default"	6.01
"Excess Proceeds"	4.10
"First Call Date"	3.07
"Guaranteed Indebtedness"	4.18
"IRS"	8.04
"Legal Defeasance"	8.02
"Make-Whole Redemption"	3.07
"Make-Whole Redemption Price"	3.07
"Offer Amount"	3.09
"Offer Period"	3.09

<u>Term</u>	<u>Defined in Section</u>
“Parent Guarantee Payment”	11.01
“Paying Agent”	2.03
“Purchase Date”	3.09
“Registrar”	2.03
“Restricted Payments”	4.07
“Reversion Date”	4.22
“Subsidiary Guarantee Payment”	11.01
“Suspended Covenants”	4.22
“Suspension Date”	4.22
“Suspension Period”	4.22

Section 1.03 Incorporation by Reference of Trust Indenture Act.

Whenever this Indenture refers explicitly to a provision of the TIA, such provision is incorporated by reference in and made a part of this Indenture to the extent such provision is specifically and expressly set forth in this Indenture as being applicable. Any terms incorporated by reference in this Indenture that are explicitly defined by the TIA, defined explicitly by any TIA reference to another statute or defined explicitly by SEC rule under the TIA, have the meanings so assigned to them therein.

Section 1.04 Rules of Construction.

Unless the context otherwise requires:

- (1) a term has the meaning assigned to it;
- (2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (3) “or” is not exclusive;
- (4) “including” is not limiting;
- (5) words in the singular include the plural, and in the plural include the singular;
- (6) “will” shall be interpreted to express a command;
- (7) provisions apply to successive events and transactions;
- (8) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision;
- (9) all references to “\$” or “dollars” shall refer to the lawful currency of the United States of America;
- (10) the words “include,” “included” and “including,” as used herein, shall be deemed in each case to be followed by the phrase “without limitation,” if not expressly followed by such phrase or the phrase “but not limited to”;

(11) references to sections of or rules under the Securities Act will be deemed to include substitute, replacement or successor sections or rules adopted by the SEC from time to time; and

(12) notwithstanding any provision of this Indenture, no provision of the TIA shall apply or be incorporated by reference into this Indenture or the Notes, and no provision of this Indenture will be understood with respect to, interpreted by reference to or incorporate any meaning relating to, any provisions, requirements or limitations set forth in the TIA, or any related rules, regulations, case law or other applicable guidance, unless the TIA has been explicitly referenced and/or a TIA reference has been specifically and expressly set forth in this Indenture as being applicable.

ARTICLE 2 THE NOTES

Section 2.01 *Form and Dating.*

(a) *General.* The notes and the Trustee's certificate of authentication will be substantially in the form of Exhibits A1 and A2 hereto. The notes may have notations, legends or endorsements required by law, stock exchange rule or usage. Each note will be dated the date of its authentication. The notes shall be in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof.

The terms and provisions contained in the notes will constitute, and are hereby expressly made, a part of this Indenture and the Issuers, the Guarantors, the Trustee and the Collateral Agent, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

(b) *Global Notes.* Notes issued in global form will be substantially in the form of Exhibit A1 or A2 hereto (including the Global Note Legend thereon and the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Notes issued in definitive form will be substantially in the form of Exhibit A1 hereto (but without the Global Note Legend thereon and without the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Each Global Note will represent such of the outstanding notes as will be specified therein and each shall provide that it represents the aggregate principal amount of outstanding notes from time to time endorsed thereon and that the aggregate principal amount of outstanding notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding notes represented thereby will be made by the Trustee or the Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06 hereof.

(c) *Temporary Global Notes.* Notes offered and sold in reliance on Regulation S will be issued initially in the form of the Regulation S Temporary Global Note, which will be deposited on behalf of the purchasers of the notes represented thereby with the Trustee, at its New York office, as custodian for the Depository, and registered in the name of the Depository or the nominee of the Depository for the accounts of designated agents holding on behalf of Euroclear or Clearstream, duly executed by the Issuers and authenticated by the Trustee as hereinafter provided. The Restricted Period will be terminated upon the receipt by the Trustee of:

(1) a written certificate from the Depository, together with copies of certificates from Euroclear and Clearstream certifying that they have received certification of non-United States

beneficial ownership of 100% of the aggregate principal amount of the Regulation S Temporary Global Note (except to the extent of any beneficial owners thereof who acquired an interest therein during the Restricted Period pursuant to another exemption from registration under the Securities Act and who will take delivery of a beneficial ownership interest in a Rule 144A Global Note bearing a Private Placement Legend, all as contemplated by Section 2.06(b) hereof); and

(2) an Officers' Certificate from the Issuers.

Following the termination of the Restricted Period, the Trustee shall remove the Regulation S Temporary Global Note Legend from the Regulation S Temporary Global Note, following which temporary beneficial interests in the Regulation S Temporary Global Note shall automatically become beneficial interests in the Regulation S Permanent Global Note pursuant to the Applicable Procedures. The aggregate principal amount of the Regulation S Temporary Global Note and the Regulation S Permanent Global Note may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depository or its nominee, as the case may be, in connection with transfers of interests therein as hereinafter provided.

(3) *Euroclear and Clearstream Procedures Applicable.* The provisions of the "Operating Procedures of the Euroclear System" and "Terms and Conditions Governing Use of Euroclear" and the "General Terms and Conditions of Clearstream Banking" and "Customer Handbook" of Clearstream will be applicable to transfers of beneficial interests in the Regulation S Temporary Global Note and the Regulation S Permanent Global Note that are held by Participants through Euroclear or Clearstream.

Section 2.02 *Execution and Authentication.*

At least one Officer must sign the notes for each Issuer by manual or facsimile signature.

If an Officer whose signature is on a note no longer holds that office at the time a note is authenticated, the note will nevertheless be valid.

A note will not be valid until authenticated by the manual signature of the Trustee. The signature will be conclusive evidence that the note has been authenticated under this Indenture.

The Trustee will, upon receipt of a written order of the Issuers signed by an Officer of each Issuer (an "*Authentication Order*"), authenticate notes for original issue that may be validly issued under this Indenture, including any additional notes. The aggregate principal amount of notes outstanding at any time may not exceed the aggregate principal amount of notes authorized for issuance by the Issuers pursuant to one or more Authentication Orders, except as provided in Section 2.07 hereof.

The Trustee may appoint an authenticating agent acceptable to the Issuers to authenticate notes. An authenticating agent may authenticate notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an Agent to deal with Holders or an Affiliate of the Issuers.

Section 2.03 *Registrar and Paying Agent.*

The Issuers will maintain an office or agency where notes may be presented for registration of transfer or for exchange ("*Registrar*") and an office or agency where notes may be presented for payment ("*Paying Agent*"). The Registrar will keep a register of the notes and of their transfer and exchange. The

Issuers may appoint one or more co-registrars and one or more additional paying agents. The term “Registrar” includes any co-registrar and the term “Paying Agent” includes any additional paying agent. The Issuers may change any Paying Agent or Registrar without notice to any Holder. The Issuers will notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. If the Issuers fail to appoint or maintain another entity as Registrar or Paying Agent, the Trustee shall act as such. The Parent or any of its Subsidiaries may act as Paying Agent or Registrar.

The Issuers initially appoint The Depository Trust Company (“DTC”) to act as Depository with respect to the Global Notes.

The Issuers initially appoint the Trustee to act as the Registrar and Paying Agent and to act as Custodian with respect to the Global Notes.

Section 2.04 *Paying Agent to Hold Money in Trust.*

The Issuers will require each Paying Agent other than the Trustee to agree in writing that the Paying Agent will hold in trust for the benefit of Holders or the Trustee all money held by the Paying Agent for the payment of principal of, premium on, if any, or interest, if any, on, the notes, and will notify the Trustee of any default by the Issuers in making any such payment. While any such default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee. The Issuers at any time may require a Paying Agent to pay all money held by it to the Trustee. Upon payment over to the Trustee, the Paying Agent (if other than the Parent, the Issuers or a Subsidiary of the Parent) will have no further liability for the money. If the Parent, the Issuers or a Subsidiary of the Parent acts as Paying Agent, it will segregate and hold in a separate trust fund for the benefit of the Holders all money held by it as Paying Agent. Upon any bankruptcy or reorganization proceedings relating to the Issuers, the Trustee will serve as Paying Agent for the notes.

Section 2.05 *Holder Lists.*

The Trustee will preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Holders. If the Trustee is not the Registrar, the Issuers will furnish to the Trustee at least seven business days before each interest payment date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders.

Section 2.06 *Transfer and Exchange.*

(a) *Transfer and Exchange of Global Notes.* A Global Note may not be transferred except as a whole by the Depository to a nominee of the Depository, by a nominee of the Depository to the Depository or to another nominee of the Depository, or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository. All Global Notes will be exchanged by the Issuers for Definitive Notes if:

(1) the Issuers deliver to the Trustee notice from the Depository that it is unwilling or unable to continue to act as Depository or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depository is not appointed by the Issuers within 120 days after the date of such notice from the Depository;

(2) the Issuers in their sole discretion determine that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and deliver a written notice to such effect to the Trustee; *provided* that in no event shall the Regulation S Temporary Global Note be

exchanged by the Issuers for Definitive Notes prior to (A) the expiration of the Restricted Period and (B) the receipt by the Registrar of any certificates required pursuant to Rule 903(b)(3)(ii)(B) under the Securities Act; or

(3) there has occurred and is continuing a Default or Event of Default with respect to the notes.

Upon the occurrence of either of the preceding events in (1) or (2) above, Definitive Notes shall be issued in such names as the Depositary shall instruct the Trustee. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10 hereof. Every note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or 2.10 hereof, shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another note other than as provided in this Section 2.06(a); however, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b), (c) or (f) hereof.

(b) *Transfer and Exchange of Beneficial Interests in the Global Notes.* The transfer and exchange of beneficial interests in the Global Notes will be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Notes will be subject to restrictions on transfer comparable to those set forth herein to the extent required by the Securities Act. Transfers of beneficial interests in the Global Notes also will require compliance with either subparagraph (1) or (2) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(1) *Transfer of Beneficial Interests in the Same Global Note.* Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Private Placement Legend; *provided, however,* that prior to the expiration of the Restricted Period, transfers of beneficial interests in the Regulation S Temporary Global Note may not be made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Beneficial interests in any Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b) (1).

(2) *All Other Transfers and Exchanges of Beneficial Interests in Global Notes.* In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(1) above, the transferor of such beneficial interest must deliver to the Registrar either:

(A) both:

(i) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged; and

(ii) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase; or

(B) both:

(i) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged; and

(ii) instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (1) above;

provided that in no event shall Definitive Notes be issued upon the transfer or exchange of beneficial interests in the Regulation S Temporary Global Note prior to (A) the expiration of the Restricted Period and (B) the receipt by the Registrar of any certificates required pursuant to Rule 903 under the Securities Act.

Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.06(h) hereof.

(3) *Transfer of Beneficial Interests to Another Restricted Global Note.* A beneficial interest in any Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Note if the transfer complies with the requirements of Section 2.06(b)(2) above and the Registrar receives the following:

(A) if the transferee will take delivery in the form of a beneficial interest in the Rule 144A Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof; and

(B) if the transferee will take delivery in the form of a beneficial interest in the Regulation S Temporary Global Note or the Regulation S Permanent Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof.

(4) *Transfer and Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in an Unrestricted Global Note.* A beneficial interest in any Restricted Global Note may be exchanged by any holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note if the exchange or transfer complies with the requirements of Section 2.06(b)(2) above and the Registrar receives the following:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (1) (a) thereof; or

(B) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case, if the Registrar so requests or if the Applicable Procedures so require, an opinion of counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer is effected at a time when an Unrestricted Global Note has not yet been issued, the Issuers shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred.

Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Note.

(c) Transfer or Exchange of Beneficial Interests for Definitive Notes.

(1) *Beneficial Interests in Restricted Global Notes to Restricted Definitive Notes.* If any holder of a beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Restricted Definitive Note, then, upon receipt by the Registrar of the following documentation:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (2)(a) thereof;

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such beneficial interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such beneficial interest is being transferred to an Institutional Accredited Investor in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (B) through (D) above, a certificate to the effect set forth in Exhibit B hereto, including the certifications, certificates and opinion of counsel required by item (3) thereof, if applicable;

(F) if such beneficial interest is being transferred to the Parent, the Issuers or any of the Subsidiaries of the Parent, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(G) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(h) hereof, and the Issuers shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes to the Persons in whose names such notes are so registered. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c)(1) shall bear the Private Placement Legend and shall be subject to all restrictions on transfer contained therein.

(2) *Beneficial Interests in Regulation S Temporary Global Note to Definitive Notes.* Notwithstanding Sections 2.06(c)(1)(A) and (C) hereof, a beneficial interest in the Regulation S Temporary Global Note may not be exchanged for a Definitive Note or transferred to a Person who takes delivery thereof in the form of a Definitive Note prior to (A) the expiration of the Restricted Period and (B) the receipt by the Registrar of any certificates required pursuant to Rule 903(b)(3)(ii)(B) under the Securities Act, except in the case of a transfer pursuant to an exemption from the registration requirements of the Securities Act other than Rule 903 or Rule 904.

(3) *Beneficial Interests in Restricted Global Notes to Unrestricted Definitive Notes.* A holder of a beneficial interest in a Restricted Global Note may exchange such beneficial interest for an Unrestricted Definitive Note or may transfer such beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note only if the Registrar receives the following:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for an Unrestricted Definitive Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (1)(b) thereof; or

(B) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case, if the Registrar so requests or if the Applicable Procedures so require, an opinion of counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(4) *Beneficial Interests in Unrestricted Global Notes to Unrestricted Definitive Notes.* If any holder of a beneficial interest in an Unrestricted Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon satisfaction of the

conditions set forth in Section 2.06(b)(2) hereof, the Trustee will cause the aggregate principal amount of the applicable Unrestricted Global Note to be reduced accordingly pursuant to Section 2.06(h) hereof, and the Issuers will execute and the Trustee will authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(4) will be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest requests through instructions to the Registrar from or through the Depositary and the Participant or Indirect Participant. The Trustee will deliver such Definitive Notes to the Persons in whose names such notes are so registered. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(4) will not bear the Private Placement Legend.

(d) *Transfer and Exchange of Definitive Notes for Beneficial Interests.*

(1) *Restricted Definitive Notes to Beneficial Interests in Restricted Global Notes.* If any Holder of a Restricted Definitive Note proposes to exchange such note for a beneficial interest in a Restricted Global Note or to transfer such Restricted Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note, then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such Restricted Definitive Note proposes to exchange such note for a beneficial interest in a Restricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (2)(b) thereof;

(B) if such Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such Restricted Definitive Note is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such Restricted Definitive Note is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such Restricted Definitive Note is being transferred to an Institutional Accredited Investor in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (B) through (D) above, a certificate to the effect set forth in Exhibit B hereto, including the certifications, certificates and opinion of counsel required by item (3) thereof, if applicable;

(F) if such Restricted Definitive Note is being transferred to the Parent, the Issuers or any of the Subsidiaries of the Parent, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(G) if such Restricted Definitive Note is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee will cancel the Restricted Definitive Note, increase or cause to be increased the aggregate principal amount of, in the case of clause (A) above, the appropriate Restricted Global Note, in the case of clause (C) above, the Regulation S Global Note, and in all other cases, the Rule 144A Global Note.

(2) *Restricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes.* A Holder of a Restricted Definitive Note may exchange such note for a beneficial interest in an Unrestricted Global Note or transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note only if the Registrar receives the following:

(A) if the Holder of such Definitive Notes proposes to exchange such notes for a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(c) thereof; or

(B) if the Holder of such Definitive Notes proposes to transfer such notes to a Person who shall take delivery thereof in the form of a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case, if the Registrar so requests or if the Applicable Procedures so require, an opinion of counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

Upon satisfaction of the conditions of any of the subparagraphs in this Section 2.06(d)(2), the Trustee will cancel the Definitive Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note.

(3) *Unrestricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes.* A Holder of an Unrestricted Definitive Note may exchange such note for a beneficial interest in an Unrestricted Global Note or transfer such Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee will cancel the applicable Unrestricted Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes.

If any such exchange or transfer from a Definitive Note to a beneficial interest is effected pursuant to subparagraph (2) or (3) above at a time when an Unrestricted Global Note has not yet been issued, the Issuers will issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee will authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of Definitive Notes so transferred.

(e) *Transfer and Exchange of Definitive Notes for Definitive Notes.* Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.06(e), the Registrar will register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder must present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the requesting Holder must provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.06(e).

(1) *Restricted Definitive Notes to Restricted Definitive Notes.* Any Restricted Definitive Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note if the Registrar receives the following:

(A) if the transfer will be made pursuant to Rule 144A, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transfer will be made pursuant to Rule 903 or Rule 904, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; and

(C) if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable.

(2) *Restricted Definitive Notes to Unrestricted Definitive Notes.* Any Restricted Definitive Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note if the Registrar receives the following:

(A) if the Holder of such Restricted Definitive Notes proposes to exchange such notes for an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(d) thereof; or

(B) if the Holder of such Restricted Definitive Notes proposes to transfer such notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case, if the Registrar so requests, an opinion of counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(3) *Unrestricted Definitive Notes to Unrestricted Definitive Notes.* A Holder of Unrestricted Definitive Notes may transfer such notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Notes pursuant to the instructions from the Holder thereof.

(f) *Legends.* The following legends will appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture.

(1) *Private Placement Legend.*

(A) Except as permitted by subparagraph (B) below, each Global Note and each Definitive Note (and all notes issued in exchange therefor or substitution thereof) shall bear the legend in substantially the following form:

“THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. NEITHER THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, SUCH REGISTRATION. THE HOLDER OF THIS SECURITY, BY ITS ACCEPTANCE HEREOF, AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR ACCOUNT FOR WHICH IT HAS PURCHASED SECURITIES, TO OFFER, SELL OR OTHERWISE TRANSFER SUCH SECURITY, PRIOR TO THE DATE (THE “RESALE RESTRICTION TERMINATION DATE”) THAT IS [IN THE CASE OF RULE 144A NOTES: ONE YEAR] [IN THE CASE OF REGULATION S NOTES: 40 DAYS] AFTER THE LATER OF THE ORIGINAL ISSUE DATE HEREOF AND THE LAST DATE ON WHICH THE ISSUER OR ANY AFFILIATE OF THE ISSUER WAS THE OWNER OF THIS SECURITY (OR ANY PREDECESSOR OF SUCH SECURITY), ONLY (A) TO THE ISSUERS OR ANY OF THEIR SUBSIDIARIES, (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT, (C) FOR SO LONG AS THE SECURITIES ARE ELIGIBLE FOR RESALE PURSUANT TO RULE 144A UNDER THE SECURITIES ACT, TO A PERSON IT REASONABLY BELIEVES IS A “QUALIFIED INSTITUTIONAL BUYER” AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (D) THROUGH OFFERS AND SALES TO NON-U.S. PERSONS THAT OCCUR OUTSIDE THE UNITED STATES, IN COMPLIANCE WITH RULE 904 UNDER REGULATION S UNDER THE SECURITIES ACT, (E) TO AN INSTITUTIONAL “ACCREDITED INVESTOR” WITHIN THE MEANING OF RULE 501(a)(1), (2), (3) OR (7) UNDER THE SECURITIES ACT THAT IS ACQUIRING THE SECURITY FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF SUCH AN INSTITUTIONAL ACCREDITED INVESTOR, IN EACH CASE IN A MINIMUM PRINCIPAL AMOUNT OF THE SECURITIES OF \$250,000, FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TO OR FOR OFFER OR SALE IN CONNECTION WITH ANY DISTRIBUTION IN VIOLATION OF THE SECURITIES ACT OR (F) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT TO THE ISSUERS’ AND THE TRUSTEE’S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSE (D), (E) OR (F) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM. THIS LEGEND WILL BE REMOVED UPON THE REQUEST OF THE HOLDER AFTER THE RESALE RESTRICTION TERMINATION DATE.”

(B) Notwithstanding the foregoing, any Global Note or Definitive Note issued pursuant to subparagraphs (b)(4), (c)(3), (c)(4), (d)(2), (d)(3), (e)(2), (e)(3) or (f) of this Section 2.06 (and all notes issued in exchange therefor or substitution thereof) will not bear the Private Placement Legend.

(2) *Global Note Legend.* Each Global Note will bear a legend in substantially the following form:

“THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE

BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (1) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06 OF THE INDENTURE, (2) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (3) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (4) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE ISSUERS.

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) (“DTC”), TO THE ISSUERS OR THEIR AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.”

(3) *Regulation S Temporary Global Note Legend.* The Regulation S Temporary Global Note will bear a legend in substantially the following form:

“THE RIGHTS ATTACHING TO THIS REGULATION S TEMPORARY GLOBAL NOTE, AND THE CONDITIONS AND PROCEDURES GOVERNING ITS EXCHANGE FOR DEFINITIVE NOTES, ARE AS SPECIFIED IN THE INDENTURE (AS DEFINED HEREIN). NEITHER THE HOLDER NOR THE BENEFICIAL OWNERS OF THIS REGULATION S TEMPORARY GLOBAL NOTE SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON.”

(g) *Cancellation and/or Adjustment of Global Notes.* At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note will be returned to or retained and canceled by the Trustee in accordance with Section 2.11 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of notes represented by such Global Note will be reduced accordingly and an endorsement will be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note will be increased accordingly and an endorsement will be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(h) *General Provisions Relating to Transfers and Exchanges.*

(1) To permit registrations of transfers and exchanges, the Issuers will execute and the Trustee will authenticate Global Notes and Definitive Notes upon receipt of an Authentication Order in accordance with Section 2.02 hereof or at the Registrar's request.

(2) No service charge will be made to a Holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange of notes, but the Company or the Trustee may require payment of a sum sufficient to cover any transfer tax or other similar governmental charge payable in connection therewith.

(3) The Registrar will not be required to register the transfer of or exchange of any note selected for redemption in whole or in part, except the unredeemed portion of any note being redeemed in part.

(4) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes will be the valid obligations of the Issuers, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(5) Neither the Registrar nor the Issuers will be required:

(A) to issue, to register the transfer of or to exchange any notes during a period beginning at the opening of business 15 days before the day of any selection of notes for redemption under Section 3.02 hereof and ending at the close of business on the day of selection;

(B) to register the transfer of or to exchange any note selected for redemption in whole or in part, except the unredeemed portion of any note being redeemed in part; or

(C) to register the transfer of or to exchange a note between a record date and the next succeeding interest payment date.

(6) Prior to due presentment for the registration of a transfer of any note, the Trustee, any Agent and the Issuers may deem and treat the Person in whose name any note is registered as the absolute owner of such note for the purpose of receiving payment of principal of and interest on such notes and for all other purposes, and none of the Trustee, any Agent or the Issuers shall be affected by notice to the contrary.

(7) The Trustee will authenticate Global Notes and Definitive Notes in accordance with the provisions of Section 2.02 hereof.

(8) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.06 to effect a registration of transfer or exchange may be delivered using unsecured e-mail, facsimile transmission or other similar unsecured electronic methods (including pdf files) ("*Electronic Means*").

The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any note (including any transfers between or among Participants or other beneficial owners of interests in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by the terms of, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

Neither the Trustee nor any Agent shall have any responsibility for any actions taken or not taken by the Depositary. The Trustee shall have no responsibility or obligation to any beneficial owner of an interest in a Global Note, Participants or any other Persons with respect to the accuracy of the records of DTC or its nominee or of Participants, with respect to any ownership interest in the notes or with respect to the delivery to any Participant, beneficial owner or other Person (other than DTC) of any notice or the payment of any amount or delivery of any notes (or other security or property) under or with respect to such notes. All notices and communications to be given to the Holders and all payments to be made to Holders in respect of the notes shall be given or made only to or upon the order of the registered Holders (which shall be DTC or its nominee in the case of a Global Note). The rights of beneficial owners in any Global Note shall be exercised only through DTC, subject to the applicable rules and procedures of DTC. The Trustee may rely and shall be fully protected in relying upon information furnished by DTC with respect to its Participants and any beneficial owners.

Section 2.07 *Replacement Notes.*

If any mutilated note is surrendered to the Trustee or the Issuers and the Trustee receives evidence to its satisfaction of the destruction, loss or theft of any note, the Issuers will issue and the Trustee, upon receipt of an Authentication Order, will authenticate a replacement note if the Trustee's requirements are met. An indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Issuers to protect the Issuers, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a note is replaced. The Issuers may charge for their expenses in replacing a note.

Every replacement note is an additional obligation of the Issuers and will be entitled to all of the benefits of this Indenture equally and proportionately with all other notes duly issued hereunder.

Section 2.08 *Outstanding Notes.*

The notes outstanding at any time are all the notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with the provisions hereof, and those described in this Section 2.08 as not outstanding. Except as set forth in Section 2.09 hereof, a note does not cease to be outstanding because the Issuers or an Affiliate of the Issuers holds the note.

If a note is replaced pursuant to Section 2.07 hereof, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced note is held by a protected purchaser.

If the principal amount of any note is considered paid under Section 4.01 hereof, it ceases to be outstanding and interest on it ceases to accrue.

If the Paying Agent (other than the Parent, the Issuers, a Subsidiary of the Parent or an Affiliate of any thereof) holds, on a redemption date or maturity date, money sufficient to pay notes payable on that date, then on and after that date such notes will be deemed to be no longer outstanding and will cease to accrue interest.

In determining whether the Holders of the requisite principal amount of notes have concurred in any consent, notes owned by the Parent, the Company or an Affiliate of the Parent or the Company shall be disregarded and deemed not to be outstanding, except that, for the purpose of determining whether the

Trustee shall be protected in conclusively relying on any such consent, only notes that the Trustee actually knows are so owned shall be so disregarded. 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 to act with respect to such notes and that the pledgee is not the Parent, the Company or an Affiliate of the Parent or the Company. Notwithstanding the foregoing, notes that are to be acquired by the Parent, the Company or an Affiliate of the Parent or the Company pursuant to an exchange offer, tender offer or other agreement shall not be deemed to be owned by such entity until legal title to such notes passes to such entity.

Section 2.09 *Treasury Notes.*

In determining whether the Holders of the required principal amount of notes have concurred in any direction, waiver or consent, notes owned by the Issuers or any Guarantor, or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuers or any Guarantor, will be considered as though not outstanding, except that for the purposes of determining whether the Trustee will be protected in relying on any such direction, waiver or consent, only notes that the Trustee knows are so owned will be so disregarded.

Section 2.10 *Temporary Notes.*

Until certificates representing notes are ready for delivery, the Issuers may prepare and the Trustee, upon receipt of an Authentication Order, will authenticate temporary notes. Temporary notes will be substantially in the form of Certificated Notes but may have variations that the Issuers consider appropriate for temporary notes and as may be reasonably acceptable to the Trustee. Without unreasonable delay, the Issuers will prepare and the Trustee will authenticate Definitive Notes in exchange for temporary notes.

Holders of temporary notes will be entitled to all of the benefits of this Indenture.

Section 2.11 *Cancellation.*

The Issuers at any time may deliver notes to the Trustee for cancellation. The Registrar and Paying Agent will forward to the Trustee any notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else will cancel all notes surrendered for registration of transfer, exchange, payment, replacement or cancellation and will destroy canceled notes (subject to the record retention requirements of the Exchange Act). Certification of the destruction of all canceled notes will be delivered to the Issuers upon the written request of the Issuers. The Issuers may not issue new notes to replace notes that they have paid or that have been delivered to the Trustee for cancellation.

Section 2.12 *Defaulted Interest.*

If the Issuers default in a payment of interest on the notes, it will pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, to the Persons who are Holders on a subsequent special record date, in each case at the rate provided in the notes and in Section 4.01 hereof. The Issuers will notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each note and the date of the proposed payment. The Issuers will fix or cause to be fixed each such special record date and payment date; *provided* that no such special record date may be less than 10 days prior to the related payment date for such defaulted interest. At least 15 days before the special record date, the Issuers (or, upon the written request of the Issuers, the Trustee in the name and at the expense of the Issuers) will mail or cause to be mailed to Holders a notice that states the special record date, the related payment date and the amount of such interest to be paid.

Section 2.13 *CUSIP and ISIN Numbers.*

The Issuers in issuing the notes may use “CUSIP” and “ISIN” numbers and, if so, the Trustee shall use “CUSIP” and “ISIN” numbers in notices, including notices of redemption or purchase, as a convenience to Holders; *provided, however*, that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the notes or as contained in any notice of a redemption or purchase and that reliance may be placed only on the other identification numbers printed on the notes, and any such notice, redemption or purchase shall not be affected by any defect in or omission of such CUSIP and ISIN numbers. The Issuers shall promptly notify the Trustee in writing of any change in the CUSIP and ISIN numbers.

ARTICLE 3
REDEMPTION AND PREPAYMENT

Section 3.01 *Notices to Trustee.*

If the Issuers elect to redeem notes pursuant to the optional redemption provisions of Section 3.07 hereof, it must furnish to the Trustee, at least 35 days but not more than 60 days before a redemption date, an Officers’ Certificate setting forth:

- (1) the clause of this Indenture pursuant to which the redemption shall occur;
- (2) the redemption date;
- (3) the principal amount of notes to be redeemed; and
- (4) the redemption price.

Section 3.02 *Selection of Notes to Be Redeemed or Purchased.*

(a) In the case of any partial redemption of the notes, and the notes are Global Notes, they will be selected for redemption in accordance with DTC procedures. If the notes are not Global Notes, the Trustee will select the notes for redemption:

(1) in compliance with the requirements of the principal national securities exchange, if any, on which the notes are listed; or

(2) if the notes are not listed, by lot or by such other method as the Trustee in its sole discretion deems to be fair and appropriate. However, no note of \$2,000 or less, in original principal amount, will be redeemed in part.

(b) In the event of partial redemption or purchase by lot, the particular notes to be redeemed or purchased will be selected, unless otherwise provided herein, not less than 30 nor more than 60 days prior to the redemption or purchase date by the Trustee from the outstanding notes not previously called for redemption or purchase.

(c) The Trustee will promptly notify the Issuers in writing of the notes selected for redemption or purchase and, in the case of any note selected for partial redemption or purchase, the principal amount thereof to be redeemed or purchased. Notes and portions of notes selected will be in amounts of \$2,000 or whole multiples of \$1,000 in excess thereof; except that if all of the notes of a Holder are to be redeemed or purchased, the entire outstanding amount of notes held by such Holder shall be redeemed or purchased. Except as provided in the preceding sentence, provisions of this Indenture that apply to notes called for redemption or purchase also apply to portions of notes called for redemption or purchase.

Section 3.03 *Notice of Redemption.*

Subject to the provisions of Section 3.09 hereof, at least 30 days but not more than 60 days before a redemption date, the Issuers will mail or cause to be mailed, by first-class mail, a notice of redemption to each Holder whose notes are to be redeemed at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the notes or a satisfaction and discharge of this Indenture pursuant to Articles 8 or 12 hereof.

The notice will identify the notes to be redeemed and will state:

- (1) the redemption date;
- (2) the redemption price;
- (3) if any note is being redeemed in part, the portion of the principal amount of such note to be redeemed and that, after the redemption date upon surrender of such note, a new note or notes in principal amount equal to the unredeemed portion will be issued upon cancellation of the original note;
- (4) the name and address of the Paying Agent;
- (5) that notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;
- (6) that, unless the Issuers default in making such redemption payment, interest on notes called for redemption ceases to accrue on and after the redemption date;
- (7) the paragraph of the notes and/or Section of this Indenture pursuant to which the notes called for redemption are being redeemed; and
- (8) that no representation is made as to the correctness or accuracy of the CUSIP or ISIN number, if any, listed in such notice or printed on the notes.

At the Issuers' request, the Trustee will give the notice of redemption in the Issuers' name and at its expense; *provided, however*, that the Issuers have delivered to the Trustee, at least 35 days prior to the redemption date (unless a shorter notice shall be satisfactory to the Trustee), an Officers' Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph.

In connection with any redemption of notes (including with the net cash proceeds of an equity offering), any such redemption or notice thereof may, at the Issuers' discretion, be subject to the satisfaction (or waiver by the Issuers in their sole discretion) of one or more conditions precedent, including, but not limited to, consummation of any related equity offering or Change of Control. In addition, if such redemption or notice is subject to satisfaction of one or more conditions precedent, such notice may state that, in the Issuers' discretion, the redemption date may be delayed until such time as any or all such conditions shall be satisfied (or, waived by the Issuers in their sole discretion), or such

redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been (or, in the Issuers' sole determination, may not be) satisfied (or waived by the Issuers in their sole discretion) by the redemption date, or by the redemption date so delayed; *provided* that if the redemption date is so delayed, redemption notices issued more than 60 days prior to the redemption date shall be deemed to have been issued upon not more than 60 days' notice; and *provided further* that redemption notices issued in connection with a defeasance of the notes or a satisfaction and discharge of this Indenture may be given more than 60 days prior to the redemption date.

Section 3.04 Effect of Notice of Redemption.

Once notice of redemption is mailed in accordance with Section 3.03 hereof, notes called for redemption become irrevocably due and payable on the redemption date at the redemption price.

Section 3.05 Deposit of Redemption or Purchase Price.

One business day prior to the redemption or purchase date, the Issuers will deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption or purchase price of and accrued interest, if any, on all notes to be redeemed or purchased on that date. The Trustee or the Paying Agent will promptly return to the Issuers any money deposited with the Trustee or the Paying Agent by the Issuers in excess of the amounts necessary to pay the redemption or purchase price of and accrued interest, if any, on all notes to be redeemed or purchased.

If the Issuers comply with the provisions of the preceding paragraph, on and after the redemption or purchase date, interest will cease to accrue on the notes or the portions of notes called for redemption or purchase. If a note is redeemed or purchased on or after an interest record date but on or prior to the related interest payment date, then any accrued and unpaid interest shall be paid to the Person in whose name such note was registered at the close of business on such record date. If any note called for redemption or purchase is not so paid upon surrender for redemption or purchase because of the failure of the Issuers to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the redemption or purchase date until such principal is paid, and to the extent lawful on any interest not paid on such unpaid principal, in each case at the rate provided in the notes and in Section 4.01 hereof.

Section 3.06 Notes Redeemed or Purchased in Part.

Upon surrender of a note that is redeemed or purchased in part, the Issuers will issue and, upon receipt of an Authentication Order, the Trustee will authenticate for the Holder at the expense of the Issuers a new note equal in principal amount to the unredeemed or unpurchased portion of the note surrendered.

Section 3.07 Optional Redemption.

(a) At any time prior to July 1, 2019, the Issuers may, at their option, at any time and from time to time, redeem up to 35% of the aggregate principal amount of the notes (including additional notes issued after the Issue Date, if any) originally issued with the net proceeds from one or more equity offerings of the Parent at a redemption price of 112.500% of their principal amount, plus accrued and unpaid interest, if any, to (but not including) the date of redemption; *provided, however*, that:

(1) notes representing at least 65% of the principal amount of the notes (including additional notes issued after the Issue Date, if any) remain outstanding immediately after each such redemption; and

(2) notice of each such redemption is mailed within 120 days after the closing of the related equity offering.

(b) The Issuers may redeem the notes, in whole or in part, at any time prior to July 1, 2019 (a “*Make-Whole Redemption*”) upon not less than 30 or more than 60 days’ prior notice mailed by first-class mail to each Holder’s last address as it appears in the security register or otherwise delivered in accordance with DTC procedures, at a redemption price equal to 100% of the principal amount of the notes redeemed plus the Applicable Premium as of, and accrued and unpaid interest, if any, to (but not including) the applicable redemption date (the “*Make-Whole Redemption Price*”).

(c) Except pursuant to the preceding paragraphs, the notes will not be redeemable at the Issuers’ option prior to July 1, 2019.

(d) On or after July 1, 2019 (the “*First Call Date*”), the Issuers may, at their option, in whole or in part, at any time or from time to time, redeem any of the notes upon not less than 30 nor more than 60 days’ prior notice mailed by first-class mail to each Holder’s last address as it appears in the security register or otherwise delivered in accordance with DTC procedures. The notes will be redeemable at the following redemption prices (expressed in percentages of principal amount), plus accrued and unpaid interest, if any, to (but not including) the redemption date (subject to the right of Holders of record on the relevant regular record date that is on or prior to the redemption date to receive interest due on an interest payment date), if redeemed during the twelve-month period commencing on July 1 of the following years:

<u>Year</u>	<u>Redemption Price</u>
2019	106.250%
2020	103.125%
2021 and thereafter	100.000%

Unless the Issuers default in the payment of the redemption price, interest will cease to accrue on the notes or portions thereof called for redemption on the applicable redemption date.

(e) Any redemption pursuant to this Section 3.07 shall be made pursuant to the provisions of Sections 3.01 through 3.06 hereof.

Section 3.08 *Mandatory Redemption.*

The Issuers are not required to make mandatory redemption or sinking fund payments with respect to the notes.

Section 3.09 *Offer to Purchase by Application of Excess Proceeds.*

In the event that, pursuant to Section 4.10 hereof, the Company is required to commence an offer to all Holders to purchase notes (an “*Asset Sale Offer*”), it will follow the procedures specified below and satisfy the requirements of Section 4.10 hereof.

The Asset Sale Offer will remain open for a period of at least 20 business days following its commencement and not more than 30 business days, except to the extent that a longer period is required by applicable law (the “*Offer Period*”). No later than three business days after the termination of the Offer Period (the “*Purchase Date*”), the Company will apply all Excess Proceeds (the “*Offer Amount*”) to the purchase of notes and such other Indebtedness tendered (on a *pro rata* basis based on the principal amount of notes and such other Indebtedness surrendered, if applicable) or, if less than the Offer Amount has been tendered, all notes and other Indebtedness tendered in response to the Asset Sale Offer. Payment for any notes so purchased will be made in the same manner as interest payments are made.

If the Purchase Date is on or after an interest record date and on or before the related interest payment date, any accrued and unpaid interest, if any, will be paid to the Person in whose name a note is registered at the close of business on such record date, and no additional interest will be payable to Holders who tender notes pursuant to the Asset Sale Offer.

Upon the commencement of an Asset Sale Offer, the Company will send, by first-class mail or Electronic Means, a notice to the Trustee and each of the Holders, with a copy to the Trustee. The notice will contain all instructions and materials necessary to enable such Holders to tender notes pursuant to the Asset Sale Offer. The notice, which will govern the terms of the Asset Sale Offer, will state:

- (1) that the Asset Sale Offer is being made pursuant to this Section 3.09 and Section 4.10 hereof and the length of time the Asset Sale Offer will remain open;
- (2) the Offer Amount, the purchase price and the Purchase Date;
- (3) that any note not tendered or accepted for payment will continue to accrue interest;
- (4) that, unless the Company defaults in making such payment, any note accepted for payment pursuant to the Asset Sale Offer will cease to accrue interest after the Purchase Date;
- (5) that Holders electing to have a note purchased pursuant to an Asset Sale Offer may elect to have notes purchased in denominations of \$2,000 or an integral multiple of \$1,000 in excess thereof;
- (6) that Holders electing to have notes purchased pursuant to any Asset Sale Offer will be required to surrender the note, with the form entitled “*Option of the Holder to Elect Purchase*” attached to the notes completed, or transfer by book-entry transfer, to the Company, a Depositary, if appointed by the Company, or a Paying Agent at the address specified in the notice at least three days before the Purchase Date;
- (7) that Holders will be entitled to withdraw their election if the Company, the Depositary or the Paying Agent, as the case may be, receives, not later than the expiration of the Offer Period, notice (provided in accordance with the applicable instructions) setting forth the name of the Holder, the principal amount of the note the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have such note purchased;
- (8) that, if the aggregate principal amount of notes and other Indebtedness surrendered by holders thereof exceeds the Offer Amount, the Company will select the notes and other Indebtedness to be purchased on a *pro rata* basis based on the principal amount of notes and such other Indebtedness surrendered (with such adjustments as may be deemed appropriate by the Company so that only notes in denominations of \$2,000, or an integral multiple of \$1,000 in excess thereof, will be purchased); and
- (9) that Holders whose notes were purchased only in part will be issued new notes equal in principal amount to the unpurchased portion of the notes surrendered (or transferred by book-entry transfer).

On or before the Purchase Date, the Company will, to the extent lawful, accept for payment, on a *pro rata* basis to the extent necessary, the Offer Amount of notes or portions thereof tendered pursuant to the Asset Sale Offer, or if less than the Offer Amount has been tendered, all notes tendered, and will deliver or cause to be delivered to the Trustee the notes properly accepted together with an Officers' Certificate stating that such notes or portions thereof were accepted for payment by the Company in accordance with the terms of this Section 3.09. The Company, the Depositary or the Paying Agent, as the case may be, will promptly (but in any case not later than five days after the Purchase Date) mail or deliver to each tendering Holder an amount equal to the purchase price of the notes tendered by such Holder and accepted by the Company for purchase, and the Company will promptly issue a new note, and the Trustee, upon written request from the Company, will authenticate and mail or deliver (or cause to be transferred by book entry) such new note to such Holder, in a principal amount equal to any unpurchased portion of the note surrendered. Any note not so accepted shall be promptly mailed or delivered by the Company to the Holder thereof. The Company will publicly announce the results of the Asset Sale Offer on the Purchase Date.

Other than as specifically provided in this Section 3.09, any purchase pursuant to this Section 3.09 shall be made pursuant to the provisions of Sections 3.01 through 3.06 hereof.

ARTICLE 4 COVENANTS

Section 4.01 *Payment of Notes.*

The Issuers will pay or cause to be paid the principal of, premium on, if any, and interest, if any, on the notes on the dates and in the manner provided in the notes. Principal, premium, if any, and interest, if any, will be considered paid on the date due if the Paying Agent, if other than the Issuers, the Parent or a Subsidiary of the Parent, holds as of 11:00 a.m. Eastern Time on the due date money deposited by the Issuers in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest, if any, then due.

The Issuers will pay interest (including Post-Petition Interest in any proceeding under any Bankruptcy Law) on overdue principal at a rate that is 1% higher than the then applicable interest rate on the notes to the extent lawful; it will pay interest (including Post-Petition Interest in any proceeding under any Bankruptcy Law) on overdue installments of interest, if any (without regard to any applicable grace period), at the same rate to the extent lawful.

Section 4.02 *Maintenance of Office or Agency.*

The Company will maintain in the Borough of Manhattan, the City of New York, an office or agency (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) where notes may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Issuers in respect of the notes and this Indenture may be served. The Issuers will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Issuers fail to maintain any such required office or agency or fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

The Issuers may also from time to time designate one or more other offices or agencies where the notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; *provided, however*, that no such designation or rescission will in any manner relieve the Issuers of their obligation to maintain an office or agency in the Borough of Manhattan, the City of New York for such purposes. The Issuers will give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

The Issuers hereby designate the Corporate Trust Office of the Trustee as one such office or agency of the Issuers in accordance with Section 2.03 hereof.

Section 4.03 *Reports.*

(a) Whether or not the Company is then required to file reports with the SEC, the Company will file with the SEC (unless such filing is not permitted under the Exchange Act or by the SEC) all reports and other information that it would be required to file with the SEC by Sections 13(a) or 15(d) under the Exchange Act if it were subject thereto. The Company will supply the Trustee and each Holder, without cost to any Holder, copies of the reports and other information or post such reports and other information on the Company's primary website.

In the event that the Company is not required to file such reports, documents and information with the SEC pursuant to the Exchange Act, the Company will nevertheless deliver such Exchange Act information to the Trustee and the Holders (via posting electronically or otherwise (in each case as provided below)) as if the Company were subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act (a) in the case of quarterly reports, within 15 days after the time period specified in the SEC's rules and regulations and (b) in the case of annual reports, within 30 days after the time period specified in the SEC's rules and regulations. In addition, in the event the Company is not required to file reports under Section 13 or 15(d) of the Exchange Act, the Company (or the Parent in lieu thereof) will hold a quarterly conference call with Holders, qualified prospective investors and securities analysts to discuss the information contained in the annual and quarterly reports required hereunder not later than 10 business days following the time the Company furnishes such reports to the Trustee.

(b) If the Company has designated as Unrestricted Subsidiaries any of its Subsidiaries that is a Significant Subsidiary or that, when taken together with all other Unrestricted Subsidiaries, would be a Significant Subsidiary, then the quarterly and annual financial information required by this covenant will include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in "Management's Discussion and Analysis of Financial Condition and Results of Operations," of the financial condition and results of operations of the Company and the Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries.

(c) For so long as any notes remain outstanding, the Company and the Subsidiary Guarantors will make available to the Holders and to prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

The Company will be deemed to have satisfied the information and reporting requirements of paragraph (a) of this Section 4.03 if (a) the Parent is subject to the reporting requirements of Section 13(a) or 15(d) of the Exchange Act and has filed reports required under Section 13(a) and 15(d) of the Exchange Act with the SEC via the EDGAR (or successor) filing system or (b) the Parent has made such reports available electronically (including by posting to a non-public, password-protected website as provided above) pursuant to this Section 4.03 and, in each case, the material differences (if any) between the financial information and historical results of operations of the Company and those of the Parent will be disclosed in such reports. The Trustee shall have no obligation to determine if and when any of the required financial statements or reports are publicly available and accessible electronically. Delivery of these reports, information and documents to the Trustee is for informational purposes only, and the Trustee's receipt of them will not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Parent's, the Issuers' and the Subsidiary Guarantors' compliance with any of their covenants hereunder (as to which the Trustee is entitled to rely exclusively on an Officers' Certificate).

Section 4.04 *Compliance Certificate*.

(a) The Company Officers shall deliver to the Trustee, (i) within 120 days after the end of each fiscal year during which any notes were outstanding and (ii) upon written request from the Trustee, an Officers' Certificate stating whether the Parent, any Issuer or any Restricted Subsidiary, to such Officers' knowledge, is in default in the performance or observance of any of the terms, provisions and conditions of this Indenture (or, if a Default or Event of Default has occurred, describing all such Defaults or Events of Default of which he or she may have knowledge).

(b) [Reserved].

(c) So long as any of the notes are outstanding, the Company will deliver to the Trustee, within five business days of having knowledge of any Default or Event of Default, an Officers' Certificate specifying such Default or Event of Default.

Section 4.05 *Taxes*.

The Issuers will pay, and will cause the Parent and each of the Subsidiaries of the Parent to pay, prior to delinquency, all material taxes, assessments, and governmental levies except such as are contested in good faith and by appropriate proceedings or where the failure to effect such payment is not adverse in any material respect to the Holders of the notes.

Section 4.06 *Stay, Extension and Usury Laws*.

Each Issuer and each of the Guarantors covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and each Issuer and each of the Guarantors (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law has been enacted.

Section 4.07 *Limitation on Restricted Payments*.

(a) The Company will not, and will not permit any Restricted Subsidiary to, directly or indirectly:

(1) declare or pay any dividend or make any other payments or distribution on or with respect to its Equity Interests, including, without limitation, in connection with any merger or consolidation involving the Company or any Restricted Subsidiary (other than (A) dividends or distributions payable solely in shares of the Company's Equity Interests (other than Disqualified Stock); and (B) *pro rata* dividends or distributions on Common Stock of Restricted Subsidiaries held by minority stockholders), held by Persons other than the Company or any Restricted Subsidiary;

(2) purchase, redeem, retire or otherwise acquire for value (A) any Equity Interests of the Company held by Persons other than any Restricted Subsidiary or (B) any Equity Interests of the Parent;

(3) call for redemption or make any payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value any of its unsecured Indebtedness, any of its Indebtedness that is subordinated in right of payment to the notes, the Parent Guarantee or any Subsidiary Guarantee, or any of its Indebtedness secured by a Lien ranking junior to the Priority Liens, except (A) the payment of interest at the Stated Maturity thereof and (B) intercompany Indebtedness permitted to be Incurred pursuant to Section 4.09(b)(3) hereof; or

(4) make any Investment, other than a Permitted Investment, in any Person;

(such payments or any other actions described in clauses (1) through (4) above being collectively called “*Restricted Payments*”) if:

(A) after giving effect to the proposed Restricted Payment, a Default or Event of Default shall have occurred and be continuing;

(B) at the time of the proposed Restricted Payment, either of the Rating Agencies has assigned to the notes a rating below the Designated Rating; or

(C) after giving effect to the proposed Restricted Payment, the aggregate amount of all Restricted Payments made by the Company and the Restricted Subsidiaries since the Issue Date (the amount, if other than in cash, to be determined in good faith by the Board of Directors, whose determination shall be conclusive and evidenced by a board resolution) shall exceed the sum, without duplication, of:

(i) 100% of the Consolidated EBITDA of the Company, determined on a cumulative basis during the period beginning on the first day of the fiscal quarter immediately following the Issue Date and ending on the last day of the last fiscal quarter preceding the Transaction Date for which consolidated financial statements of the Company are available, *provided* that if the cumulative Consolidated EBITDA of the Company, determined in accordance with this subclause (C)(i) at the end of any fiscal quarter is a deficit, 100% of such deficit will be subtracted from the cumulative total determined at the end of such fiscal quarter; *plus*

(ii) 100% of the aggregate Net Cash Proceeds received (A) by the Company as capital contributions to the Company after the Issue Date or from the issuance or sale (other than to an Issuer or a Restricted Subsidiary) of its Equity Interests (other than Disqualified Stock) or (B) by the Company or any Restricted Subsidiary from the Incurrence by the Company or any Restricted Subsidiary after the Issue Date of Indebtedness that has been converted into or exchanged for Equity Interests of the Company (other than Disqualified Stock) or Equity Interests of the Parent, *plus* the amount of any cash received by the Company or any Restricted Subsidiary upon such conversion or exchange, in each case, except to the extent such Net Cash Proceeds are used to make Restricted Payments pursuant to clause (3), (4), (6) or (7) of paragraph (b) of this Section 4.07; *plus*

(iii) an amount equal to the net reduction in Investments (other than reductions in Permitted Investments or Investments made pursuant to clause (6) below) in any Person resulting from payments of interest on Indebtedness, dividends, repayments of loans or advances, or other transfers of assets, in each case to the Company or any Restricted Subsidiary or from the Net Cash Proceeds from the sale of any such Investment (except, in each case, to the extent any such payment or proceeds are included in the calculation of Consolidated Net Income), or from redesignations of Unrestricted Subsidiaries as Restricted Subsidiaries (valued in each case as provided in the definition of “*Investment*”), not to exceed, in each case, the amount of Investments previously made by the Company or any Restricted Subsidiary in such Person or Unrestricted Subsidiary; *plus*

(iv) 100.0% of the net cash proceeds received by the Company or any Restricted Subsidiary from:

(a) the sale (other than to an Issuer or a Restricted Subsidiary, or to an employee stock ownership plan or trust established by the Parent, the Company or any Restricted Subsidiary) of the Equity Interests of an Unrestricted Subsidiary (other than to the extent the Investment in such Restricted Subsidiary constituted a Permitted Investment), or

(b) any distribution or dividend from an Unrestricted Subsidiary; *less*

(v) 150% of the sum, without duplication, of (x) Consolidated Cash Interest Expense and (y) non-cash interest payments, on any Indebtedness of the Company and its Restricted Subsidiaries for such period; provided that if the deduction pursuant to this subclause (C)(v) would cause the sum of subclauses (C)(i) through (C)(v) to be less than zero, such sum will be deemed to be zero; and *less*

(vi) 100% of the Restricted Payments made pursuant to clause (14) of the second paragraph of this covenant.

(b) The foregoing provision shall not be violated by reason of:

(1) the payment of any dividend within 60 days after the date of declaration thereof if, at said date of declaration, such payment would comply with paragraph (a) of this Section 4.07;

(2) the redemption, purchase, defeasance or other acquisition or retirement for value of unsecured Indebtedness of the Company or a Restricted Subsidiary or Indebtedness of the Company or a Restricted Subsidiary that is secured by a Lien ranking junior to the Priority Liens or subordinated in right of payment to the notes, the Parent Guarantee or any Subsidiary Guarantee, including premium, if any, and accrued and unpaid interest, with the proceeds of, or in exchange for, Indebtedness Incurred under Section 4.09(b)(4) hereof;

(3) the repurchase, redemption or other acquisition of the Equity Interests of the Parent, the Company or an Unrestricted Subsidiary, or the declaration and payment of accrued

dividends on such Equity Interests, in exchange for, or out of the proceeds of a substantially concurrent issuance or sale (to a Person who is not a Subsidiary of the Parent or the Company) of, Equity Interests (other than Disqualified Stock) of the Parent or the Company, to the extent such proceeds are contributed to the common equity capital of the Company, or a substantially concurrent contribution to the common equity capital of the Company or a Restricted Subsidiary, except to the extent such proceeds are used to make Restricted Payments pursuant to clause (C)(ii) of paragraph (a) of this Section 4.07 or pursuant to clause (4), (6) or (7) of this paragraph (b);

(4) the making of any principal payment or the repurchase, redemption, retirement, defeasance or other acquisition for value of any unsecured Indebtedness or Indebtedness which is secured by a Lien ranking junior to the Priority Liens or subordinated in right of payment to the notes, the Parent Guarantee or any Subsidiary Guarantee in exchange for, or out of the Net Cash Proceeds of a substantially concurrent issuance or sale (to a Person who is not a Subsidiary of the Parent or the Company) of, Equity Interests (other than Disqualified Stock) of the Parent or the Company, to the extent such proceeds are contributed to the common equity capital of the Company, or contributions to the common equity capital of the Company or a Restricted Subsidiary, except to the extent such proceeds are used to make Restricted Payments pursuant to clause (C)(ii) of paragraph (a) of this Section 4.07 or pursuant to clause (3), (6) or (7) of this paragraph (b);

(5) payments or distributions to dissenting stockholders pursuant to applicable law, pursuant to or in connection with a consolidation, merger or transfer of assets that complies with the provisions of this Indenture applicable to mergers, consolidations and transfers of all or substantially all of the Company's property and assets;

(6) Investments that are not Permitted Investments in an amount that does not exceed, in the aggregate with all other Investments made pursuant to this clause (6) and then outstanding, the sum of:

(A) 100% of the aggregate Net Cash Proceeds received (A) by the Company as capital contributions to the Company after the Issue Date or from the issuance or sale (other than to an Issuer or a Restricted Subsidiary) of its Equity Interests (other than Disqualified Stock) or (B) by the Company or any Restricted Subsidiary from the Incurrence by the Company or any Restricted Subsidiary after the Issue Date of Indebtedness that has been converted into or exchanged for Equity Interests of the Company (other than Disqualified Stock) or Equity Interests of the Parent, *plus* the amount of any cash received by the Company or any Restricted Subsidiary upon such conversion or exchange, in each case except to the extent such Net Cash Proceeds are used to make Restricted Payments pursuant to clause (C)(ii) of paragraph (a) of this Section 4.07 or pursuant to clause (3), (4) or (7) of this paragraph (b); *plus*

(B) the net reduction in Investments made pursuant to this clause (6) resulting from distributions on or repayments of such Investments or from the Net Cash Proceeds or non-cash proceeds (in the case of any such non-cash proceeds, limited to an aggregate Fair Market Value of \$5.0 million in any twelve-month period) from the sale of any such Investment (except in each case to the extent any such payment or proceeds is included in the calculation of Consolidated Net Income) or from such Person becoming a Restricted Subsidiary (valued in each case as provided in the definition of "Investment"), *provided, however*, that the net reduction in any Investment shall not exceed the amount of such Investment;

(7) Investments acquired by the Company or a Restricted Subsidiary in exchange for Equity Interests (other than Disqualified Stock) of the Parent or the Company (except to the extent such acquired property has been used to make Restricted Payments pursuant to clause (C)(ii) of paragraph (a) of this Section 4.07 or pursuant to clause (3), (4) or (6) of this paragraph (b));

(8) the repurchase, redemption or other acquisition of the Parent's Equity Interests from Persons who are or were formerly the Parent's directors, officers or employees or those of the Company or any of the Restricted Subsidiaries, or their respective estates, heirs, family members, spouses or former spouses, *provided, however*, that the aggregate amount of all such repurchases made in any calendar year pursuant to this clause (8) shall not exceed \$1.5 million (with unused amounts pursuant to this proviso being carried over to subsequent twelve-month periods up to a maximum of \$5.0 million in any twelve-month period), and *provided further* that any shares of the Parent's Capital Stock that are acquired in connection with forfeitures, net share settlements or similar arrangements under the Parent's stock plan or other employee benefit plan shall be disregarded for purposes of the foregoing limit;

(9) other Restricted Payments in an aggregate amount not to exceed \$15.0 million;

(10) the payment of cash dividends or other distributions on Equity Interests used to, or the making of loans to, fund the payment of (a) Parent Expenses, (b) U.S. federal, foreign, state and local income taxes imposed on the Parent to the extent such income taxes are attributable to the income of any direct or indirect Subsidiary of the Parent that, at any time, is (i) a member of a group filing a consolidated, combined, affiliated or unitary income tax return with the Parent or (ii) a disregarded entity of (A) the Parent or (B) any direct or indirect Subsidiary of the Parent described in clause (i); *provided* that payments for such taxes shall be reduced by any portion of such taxes attributable to such income for each period that were directly paid by the applicable Subsidiary to the proper Governmental Authority; *provided further* that any payments attributable to the income of Unrestricted Subsidiaries shall be permitted only to the extent that cash payments were made for such purpose by the Unrestricted Subsidiaries to the Restricted Subsidiaries or the Issuers; and (c) franchise or other taxes required to maintain the Parent's existence;

(11) (i) repurchases of Equity Interests deemed to occur upon exercise of stock options or warrants if such Equity Interests represent a portion of the exercise price of such options or warrants and (ii) payments made or expected to be made by the Company or any Restricted Subsidiary in respect of withholding or similar taxes payable or expected to be payable by any future, present or former director, officer, employee, manager, consultant or independent contractor of the Parent, the Company or any Subsidiary of the Parent (or their respective Affiliates, estates or immediate family members) in connection with the exercise of stock options or the grant, vesting or delivery of Equity Interests;

(12) [Reserved];

(13) the payment of cash in lieu of the issuance of fractional shares of Capital Stock in connection with any merger, consolidation, amalgamation or other business combination, or in connection with any dividend, distribution or split of, or upon exercise, conversion or exchange of Equity Interests, warrants, options or other securities exercisable or convertible into, Capital Stock of the Parent;

(14) so long as no Event of Default specified in clause (1), (2), (7) or (8) of Section 6.01 hereof has occurred and is continuing, dividends or distributions to Parent in an amount necessary to pay interest (or, for Preferred Stock, dividends) on the Existing Convertible Notes or any Indebtedness that is incurred or Preferred Stock that is issued to refinance, replace, renew or refund the Existing Convertible Notes (in full or in part, on one or more occasions and from time to time), in an aggregate amount during any twelve-month period that does not exceed (i) if tested during the period beginning on the Issue Date and ending on the last day of the twelfth full fiscal quarter following the Issue Date, \$14.0 million; or (ii) if tested during the period beginning on the first day of the thirteenth full fiscal quarter following the Issue Date, the greater of (x) \$14.0 million and (y) 20% of Consolidated EBITDA of the Company for the then most recent four fiscal quarters ending prior to the Transaction Date for which financial statements of the Company are available; or

(15) any Restricted Payment; *provided* that on a pro forma basis, after giving effect to such Restricted Payment and any related transactions, the Consolidated Leverage Ratio of the Company would be equal to or less than 2.00 to 1.00;

provided further, however, that except in the case of clauses (1), (3), (5), (7), (8) and (13) of this paragraph (b) no Default or Event of Default shall have occurred and be continuing or occur as a consequence of the actions or payments set forth therein. For purposes of clause (11) above, taxes shall include all interest and penalties with respect thereto.

(c) Each Restricted Payment permitted pursuant to the preceding paragraph (other than the Restricted Payment referred to in clause (2) thereof, an exchange of Equity Interests for Equity Interests or Indebtedness referred to in clause (3) or (4) thereof and an Investment referred to in clause (6) or (7) thereof) shall be included in calculating whether the conditions of clause (C) of paragraph (a) of this Section 4.07 have been met with respect to any subsequent Restricted Payments. The Net Cash Proceeds from any issuance of Equity Interests referred to in clauses (3), (4), (6) and (7) of paragraph (b) of this Section 4.07 shall be excluded in calculating whether the conditions of clause (C) of paragraph (a) of this Section 4.07 have been met with respect to any subsequent Restricted Payments. In the event the proceeds of an issuance of the Parent's or the Company's Equity Interests are used for the redemption, purchase or other acquisition of the notes, or Pari Passu Debt, then the Net Cash Proceeds of such issuance shall be included in clause (C) of paragraph (a) of this Section 4.07 only to the extent such proceeds are not used for such redemption, purchase or other acquisition of Indebtedness.

(d) For purposes of the covenant described above, if any Restricted Payment (or a portion thereof) would be permitted pursuant to one or more provisions described above and/or one or more of the exceptions contained in the definition of "*Permitted Investment*," the Company may divide and classify such Restricted Payment (or a portion thereof) in any manner that complies with this covenant and may later divide and reclassify any such Restricted Payment to the extent the Restricted Payment (as so divided and/or reclassified) would be permitted to be made in reliance on the applicable exception as of the date of such reclassification.

Section 4.08 *Limitation on Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries.*

(a) The Company will not, and will not permit any Restricted Subsidiary to, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction of any kind on the ability of any Restricted Subsidiary to:

(1) pay dividends or make any other distributions permitted by applicable law on any Equity Interests of such Restricted Subsidiary owned by the Company or any other Restricted Subsidiary;

- (2) pay any Indebtedness owed to the Company or any other Restricted Subsidiary;
- (3) make loans or advances to the Company or any Restricted Subsidiary; or
- (4) transfer any of its property or assets to the Company or any other Restricted Subsidiary.

(b) The foregoing provisions shall not restrict any encumbrances or restrictions:

(1) existing on the Issue Date or any other agreements, including under this Indenture, the notes, the Guarantees and the Notes Security Documents, in effect on the Issue Date;

(2) existing under or by reason of applicable law or required by any regulatory authority having jurisdiction over the Company or any Restricted Subsidiary;

(3) existing with respect to any Person or the property or assets of such Person acquired by the Company or any Restricted Subsidiary, existing at the time of such acquisition and not incurred in contemplation thereof, which encumbrances or restrictions are not applicable to any Person or the property or assets of any Person other than such Person or the property or assets of such Person so acquired;

(4) in the case of clause (4) of paragraph (a) of this Section 4.08, in each case under this clause (4), as reasonably determined by the Company:

(A) that restrict in a customary manner the subletting, assignment or transfer of any property or asset that is a lease, license, conveyance or contract or similar property or asset;

(B) existing by virtue of any transfer of, agreement to transfer, option or right with respect to, or Lien on any of the Company's property or assets or those of a Restricted Subsidiary not otherwise prohibited by this Indenture; or

(C) arising or agreed to in the ordinary course of business, not relating to any Indebtedness, and that do not, individually or in the aggregate, reduce the value of the Company's property or assets or those of a Restricted Subsidiary in any manner material to the Company or any Restricted Subsidiary;

(5) with respect to a Restricted Subsidiary and imposed pursuant to an agreement that has been entered into for the sale or disposition of all or substantially all of the Capital Stock of, or property and assets of, such Restricted Subsidiary;

(6) contained in Secured Indebtedness and Capitalized Lease Obligations otherwise permitted to be Incurred pursuant to Sections 4.09 and 4.12 hereof to the extent limiting the right of the debtor to dispose of the assets securing such Indebtedness or subject to such Capitalized Lease Obligation;

(7) contained in the terms of any Indebtedness or any agreement pursuant to which such Indebtedness was issued if:

(A) the encumbrance or restriction either:

(i) applies only in the event of a payment default or non-compliance with respect to a financial covenant contained in such Indebtedness or agreement; or

(ii) is contained in an agreement governing the terms of any Credit Facility;

(B) the encumbrance or restriction is not materially more disadvantageous to the Holders than is customary in comparable financings (as reasonably determined by the Company); and

(C) the Company determines on the date of the Incurrence of such Indebtedness that any such encumbrance or restriction would not be expected to materially impair the Company's ability to make principal or interest payments on the notes;

(8) with respect to customary provisions in joint venture agreements or arrangements and other similar agreements or arrangements relating solely to the applicable joint venture; or

(9) any encumbrances or restrictions of the type referred to in clauses (1) through (4) of paragraph (a) of this Section 4.08 imposed by any amendments, modifications, restatements, renewals, supplements, refundings, replacements or refinancings of the contracts, instruments or Obligations referred to in clauses (1) through (8) of this paragraph (b); *provided* that such encumbrances and restrictions contained in any such amendment, modification, restatement, renewal, supplement, refunding, replacement or refinancing are no less favorable in any material respect to the Holders than those encumbrances or restrictions that are then in effect and that are being amended, modified, restated, renewed, supplemented, refunded, replaced or refinanced.

(c) Nothing contained in this Section 4.08 shall prevent the Company or any Restricted Subsidiary from:

(1) creating, incurring, assuming or suffering to exist any Liens otherwise permitted in Section 4.12 hereof; or

(2) restricting the sale or other disposition of the Company's property or assets or those of any of its Restricted Subsidiaries that secure the Company's Indebtedness or that of any of its Restricted Subsidiaries.

Section 4.09 *Limitation on Indebtedness.*

(a) The Company will not, and will not permit any Restricted Subsidiary to, Incur any Indebtedness; *provided, however*, that the Company or any Subsidiary Guarantor may Incur Indebtedness if, after giving effect to the Incurrence of such Indebtedness and the receipt and application of the proceeds therefrom, the Consolidated Leverage Ratio of the Company would be greater than zero and less than 5.25:1.

(b) Notwithstanding the foregoing, the Company and any Restricted Subsidiary (except as specified below) may Incur each and all of the following:

(1) Indebtedness under Credit Facilities (including the notes issued on the Issue Date under the terms herein) in an aggregate principal amount at any one time outstanding under this clause (1) not to exceed the greater of (x) the sum of (A) the principal amount of the notes issued on the Issue Date and (B) \$75.0 million and (y) an aggregate principal amount of Indebtedness that at the time of Incurrence does not cause, on the date of Incurrence of such Indebtedness, after giving effect to such Incurrence (including the use of proceeds thereof), the Secured Leverage Ratio of the Company to exceed 4.0:1; *provided* that no Restricted Subsidiary that is not a Subsidiary Guarantor may guarantee, be an obligor under or provide credit support for, Indebtedness Incurred under this clause (1) to refinance, refund or replace the notes or the Guarantees;

(2) any Indebtedness outstanding on the Issue Date (other than Indebtedness described in clauses (1), (3) or (7) of this paragraph (b));

(3) Indebtedness owed:

(A) to the Company; or

(B) to any Restricted Subsidiary; *provided, however*, that any event which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any subsequent transfer of such Indebtedness (other than to the Company or another Restricted Subsidiary) will be deemed, in each case, to constitute an Incurrence of such Indebtedness not permitted by this clause (3);

provided that any such Indebtedness owed to the Company or a Subsidiary Guarantor shall be pledged as Collateral securing the Notes Obligations pursuant to the Notes Security Documents;

(4) Indebtedness issued in exchange for, or the net proceeds of which are used to refinance or refund (including, for avoidance of doubt, repurchases upon consummation of a tender offer for), Indebtedness Incurred under paragraph (a) of this Section 4.09, this clause (4) or clause (2) or (8) of this paragraph (b), in each case in an amount not to exceed the amount so refinanced or refunded (plus premiums, accrued interest, fees and expenses); *provided, however*, that (x) such refinancing Indebtedness is Incurred by either (A) the Restricted Subsidiary that is the obligor on the Indebtedness being refinanced or refunded or (B) the Company or a Guarantor, and (y) Indebtedness the proceeds of which are used to refinance or refund the notes or Indebtedness which constitutes Pari Passu Debt or which is subordinated in right of payment to the notes shall only be permitted under this clause (4) if:

(A) in case the notes are refinanced in part or the Indebtedness to be refinanced is Pari Passu Debt, such new Indebtedness, by its terms or by the terms of any agreement or instrument pursuant to which such new Indebtedness is outstanding, is *pari passu* with, or subordinate in right of payment to, the remaining notes or such Subsidiary Guarantee, as applicable;

(B) in case the Indebtedness to be refinanced is subordinated in right of payment to the notes or any Subsidiary Guarantee, such new Indebtedness, by its terms or by the terms of any agreement or instrument pursuant to which such new Indebtedness is issued or remains outstanding, is expressly made subordinate in right of payment to the notes or such Subsidiary Guarantee, as applicable, at least to the extent that the Indebtedness to be refinanced is subordinated to the notes or such Subsidiary Guarantee, as applicable;

(C) such new Indebtedness, determined as of the date of Incurrence of such new Indebtedness, does not mature prior to the Stated Maturity of the Indebtedness to be refinanced or refunded, and the Average Life of such new Indebtedness is at least equal to the remaining Average Life of the Indebtedness to be refinanced or refunded; and *provided further* that in no event may (i) the Parent's Indebtedness be refinanced by means of any Indebtedness of any of its Restricted Subsidiaries pursuant to this clause (4), (ii) the Company's Indebtedness be refinanced by means of any Indebtedness of any of its Restricted Subsidiaries pursuant to this clause (4) or (iii) the Company's or any Subsidiary Guarantor's Indebtedness be refinanced by means of Indebtedness of any Subsidiary that is not a Subsidiary Guarantor pursuant to this clause (4); and

(D) (i) such new Indebtedness, to the extent it refinances or refunds Indebtedness that is secured by Collateral, is secured, if applicable, by Collateral with a Lien priority that is not senior to the priority of the Liens securing such refinanced or refunded Indebtedness and (ii) no unsecured Indebtedness shall be refinanced or refunded by secured Indebtedness;

(5) Indebtedness:

(A) in respect of (i) open accounts extended by suppliers on normal trade terms in connection with purchases of goods and services, (ii) performance, bid, surety, indemnity, appeal bonds, completion guarantees and other Obligations of like nature and (iii) guarantees and/or Obligations as an account party in respect of the face amount of letters of credit in respect thereof, in each case securing Obligations not constituting Indebtedness for borrowed money (including worker's compensation claims, environmental remediation and other environmental matters and obligations in connection with leased real property, self-insurance or similar requirements) provided in the ordinary course of business or arising from the endorsement of instruments in the ordinary course of business;

(B) under Currency Agreements, Interest Rate Agreements and Forward Stock Purchase Transactions; *provided, however*, that such agreements are, in each case, Incurred not for speculative purposes;

(C) arising from agreements providing for indemnification, adjustment of purchase price or similar obligations, or from guarantees or letters of credit, surety bonds or performance bonds securing any of the Company's obligations or those of any of the Restricted Subsidiaries pursuant to such agreements, in any case Incurred in connection with the acquisition or disposition of any business, assets or Restricted Subsidiary in accordance with the terms of this Indenture (other than guarantees of Indebtedness Incurred by any Person acquiring all or any portion of such business, assets or Restricted Subsidiary for the purpose of financing such acquisition), in a principal amount not to exceed the gross proceeds actually paid or received by the Company or any Restricted Subsidiary, as applicable, in connection with such acquisition or disposition;

(6) the Indebtedness of the Company and guarantees thereof, to the extent the net proceeds thereof are promptly:

(A) used to purchase notes tendered in an Offer to Purchase made as a result of a Change of Control; or

(B) deposited to defease the notes pursuant to Section 8.04 hereof;

provided that, for purposes of determining compliance with this Section 4.09, Indebtedness Incurred pursuant to this clause (6) will be treated as Incurred pursuant to clause (1) of this paragraph (b) when (i) the net proceeds are used to purchase notes (and such purchase is consummated) or (ii) the notes defeased cease to be Indebtedness of the Company;

(7) the Subsidiary Guarantees and guarantees of Indebtedness of the Company by any Restricted Subsidiary; *provided* that the guarantee by any Restricted Subsidiary of such Indebtedness (other than the notes) is permitted by and made in accordance with Section 4.18 hereof;

(8) Acquired Indebtedness; *provided, however*, that on the date on which the applicable Person becomes a Restricted Subsidiary or on which the applicable Indebtedness is assumed in connection with an Asset Acquisition, and after giving effect to the Incurrence of such Indebtedness, either (x) the Company would have been able to Incur at least \$1.00 of Indebtedness under the first paragraph of this covenant or (y) the Consolidated Leverage Ratio of the Company would be equal to or less than the Consolidated Leverage Ratio of the Company immediately prior to giving effect to such Asset Acquisition;

(9) (A) Indebtedness or related obligations of the Company or any Subsidiary Guarantor under cash management or similar treasury or custodial arrangements with any Lender or any affiliate of such Lender or (B) cash management or similar treasury or custodial arrangements with any Person that is not a Lender or an affiliate of any Lender; and

(10) Indebtedness that is owed to the seller of a business in a Permitted Investment to the extent constituting consideration for such Permitted Investment; *provided* that (i) such Indebtedness under this clause (10) shall be unsecured and shall not mature or amortize any principal prior to the date that is 91 days after the Stated Maturity of the notes and (ii) the aggregate principal amount of Indebtedness outstanding under this clause (10) at any time may not exceed \$20.0 million.

(c) Notwithstanding any other provision of this Section 4.09, the maximum amount of Indebtedness that the Company or a Restricted Subsidiary may Incur pursuant to this Section 4.09 shall not be deemed to be exceeded with respect to any outstanding Indebtedness due solely to the result of fluctuations in the exchange rates of currencies.

(d) For purposes of determining any particular amount of Indebtedness under this Section 4.09:

(x) guarantees, Liens or Obligations with respect to letters of credit supporting Indebtedness otherwise included in the determination of such particular amount shall not be included; and

(y) any Liens granted pursuant to the equal and ratable provisions referred to in Section 4.12 hereof shall not be treated as Indebtedness.

(e) For purposes of determining compliance with this Section 4.09, in the event that an item of Indebtedness meets the criteria of more than one of the types of Indebtedness described in the above clauses, the Company, in its sole discretion, shall classify such item of Indebtedness and only be required to include the amount and type of such Indebtedness in one of such clauses, and from time to time may reclassify such item of Indebtedness to the extent that such reclassified Indebtedness could be Incurred at the time of such reclassification pursuant to the clause or clauses into which such Indebtedness is reclassified; *provided, however*, that Indebtedness outstanding on the Issue Date under any existing Credit Facilities (including the notes issued on the Issue Date under the terms herein) will be treated as Incurred on the Issue Date under clause (1) of paragraph (b) of this Section 4.09 and may not subsequently be reclassified.

(f) For purposes of determining compliance with any dollar-denominated restriction on the Incurrence of Indebtedness denominated in a foreign currency, the dollar-equivalent principal amount of such Indebtedness Incurred pursuant thereto will be calculated based on the relevant currency exchange rate in effect on the date that such Indebtedness was Incurred, *provided, however*, that:

(1) the dollar-equivalent principal amount of any such Indebtedness outstanding on the Issue Date shall be calculated based on the relevant currency exchange rate in effect on the Issue Date; and

(2) if such Indebtedness is Incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness, converted into the currency in which the Indebtedness being refinanced is denominated at the currency exchange rate in effect on the date of such refinancing, does not exceed the principal amount of such Indebtedness being refinanced (plus premiums, accrued interest, fees and expenses).

(g) The principal amount of any Indebtedness Incurred to refinance other Indebtedness, if Incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the foreign currency exchange rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such refinancing.

(h) Neither the Issuers nor any Subsidiary Guarantor will incur any Indebtedness that pursuant to its terms is subordinate or junior in right of payment to any Indebtedness unless such Indebtedness is subordinated in right of payment to the notes or the relevant Subsidiary Guarantee, as applicable, to the same extent; *provided* that Indebtedness will not be considered subordinate or junior in right of payment to any other Indebtedness solely by virtue of being unsecured or secured to a greater or lesser extent or with greater or lower priority.

Section 4.10 *Limitation on Asset Sales.*

(a) The Company will not, and will not permit any Restricted Subsidiary to, consummate any Asset Sale, unless:

(1) the consideration received by the Company or the Restricted Subsidiary is at least equal to the Fair Market Value (on the date a definitive agreement for such Asset Sale was entered into) of the assets sold or disposed of;

(2) except in the case of a Permitted Asset Swap, at least 75% of the consideration received consists of cash, Cash Equivalents or the assumption of any liabilities (as shown on the Company's most recent consolidated balance sheet or in the footnotes thereto, or if incurred, accrued or increased subsequent to the date of such balance sheet, such liabilities that would have been reflected on the Company's consolidated balance sheet or in the footnotes thereto if such incurrence, accrual or increase had taken place on or prior to the date of such balance sheet, as determined in good faith by the Company) of the Company or any Restricted Subsidiary, other than liabilities that are unsecured or by their terms or as to Lien priority subordinated to the Notes Obligations, that are assumed by the transferee of any such assets or Equity Interests (or are otherwise extinguished in connection with the transactions relating to such Asset Sale) pursuant to a written agreement that releases the Company or such Restricted Subsidiary from such liabilities; *provided, however*, that this clause shall not apply to the lease, sharing, assignment or other use of facilities, rights of way or other access rights or the assignment of transmission or network capacity; and *provided further* that the amount of any notes or other Obligations or other securities or assets received by the Company or such Restricted Subsidiary from such transferee that are converted by the Company or such Restricted Subsidiary into cash or Cash Equivalents, or by their terms are required to be satisfied for cash or Cash Equivalents (to the extent of the cash or Cash Equivalents received) within 180 days of the receipt thereof shall each be deemed to be Cash Equivalents for the purposes of this clause (2); and

(3) in the case of an Asset Sale of Collateral, all consideration from such Asset Sale that is not in the form of cash or Cash Equivalents is pledged as Collateral to secure the Notes Obligations pursuant to a Priority Lien concurrently with or immediately after the receipt thereof.

(b) Within 365 days after the receipt of any Net Cash Proceeds from an Asset Sale of any Collateral, the Company or any Restricted Subsidiary may apply an amount equal to the amount of such Net Cash Proceeds to:

(1) permanently repay (A) Priority Lien Obligations under the notes (including, at the Company's option, by making an offer (in accordance with the procedures set forth below for an Offer to Purchase) to all Holders to purchase their notes at 100% of the principal amount thereof, plus accrued but unpaid interest) or (B) any other Priority Lien Obligations (including by way of prepayments that may be declined) (and to correspondingly reduce commitments with respect thereto); *provided* that if any such Priority Lien Obligations other than the notes are reduced with the Net Cash Proceeds of any Asset Sale, the Company shall offer to equally and ratably reduce Obligations under the notes as provided in Section 3.07 hereof, through open-market purchases (to the extent such purchases are at or above 100% of the principal amount thereof) or by making an offer (in accordance with the procedures set forth below for an Offer to Purchase) to all Holders to purchase their notes at 100% of the principal amount thereof, plus accrued but unpaid interest; or

(2) invest in property or assets (other than current assets) of a nature or type or that are used in a business (or in a company having property and assets of a nature or type, or engaged in a business) similar or related to the nature or type of the property and assets of, or the business of, the Company and the Restricted Subsidiaries existing on the date of such investment (as determined in good faith by the Board of Directors, whose determination shall be conclusive and evidenced by a board resolution); *provided* that with respect to property or assets acquired pursuant to this clause (2), (A) the purchase of such property or assets is consummated no later than (i) the 365th day after such Asset Sale or (ii) so long as a binding agreement with respect to the purchase of such property or assets is entered into within 365 days after the Asset Sale, 180 days after the date of such binding agreement and (B) such property or assets shall be pledged as Collateral subject to a Priority Lien securing the Priority Lien Obligations.

(c) Within 365 days after the receipt of any Net Cash Proceeds from an Asset Sale of any assets other than Collateral, the Company or any Restricted Subsidiary may apply an amount equal to the amount of such Net Cash Proceeds to:

(1) permanently repay (A) Indebtedness of a Subsidiary of the Company that is not a Subsidiary Guarantor or (B) Pari Passu Debt, in each case owing to a Person other than the Company or any Restricted Subsidiary; *provided, however*, that if the obligation repaid pursuant to subclause (A) or (B) of this clause (1) is revolving credit Indebtedness, the Company or such Restricted Subsidiary, as applicable, must correspondingly reduce loan commitments with respect thereto; or

(2) invest in property or assets (other than current assets) of a nature or type or that are used in a business (or in a company having property and assets of a nature or type, or engaged in a business) similar or related to the nature or type of the property and assets of, or the business of, the Company and the Restricted Subsidiaries existing on the date of such investment (as determined in good faith by the Board of Directors, whose determination shall be conclusive and evidenced by a board resolution); *provided* that with respect to property or assets acquired pursuant to this clause (2), (A) the purchase of such property or assets is consummated no later than (i) the 365th day after such Asset Sale or (ii) so long as a binding agreement with respect to the purchase of such property or assets is entered into within 365 days after the Asset Sale, 180 days after the date of such binding agreement and (B) such property or assets shall be pledged as Collateral subject to a Priority Lien securing the Priority Lien Obligations.

Pending the final application of any Net Cash Proceeds, the Company or any Restricted Subsidiary may temporarily reduce revolving credit borrowings or otherwise invest the Net Cash Proceeds in any manner that is not prohibited by this Indenture.

The amount of such excess Net Cash Proceeds required to be applied (or to be committed to be applied) during the applicable time period set forth in paragraphs (b) and (c) of this Section 4.10 and not applied as so required by the end of such period shall constitute "*Excess Proceeds*."

If, as of the first day of any calendar month, the aggregate amount of Excess Proceeds not theretofore subject to an Offer to Purchase pursuant to this Section 4.10 totals at least \$10.0 million, the Company must commence, not later than the fifteenth business day of such month, and consummate an Offer to Purchase from the Holders on a *pro rata* basis an aggregate principal amount of notes and, to the extent permitted or required by the terms thereof, any other Pari Passu Debt, equal to the Excess Proceeds on such date, at a purchase price equal to 100% of the principal amount of the notes and such other Pari Passu Debt, if applicable, on the relevant Payment Date, plus, in each case, accrued interest (if any) to (but not including) the Payment Date. If any Excess Proceeds remain after consummation of an Offer to Purchase, the Company may use those Excess Proceeds for any purpose not otherwise prohibited by this Indenture. If the aggregate principal amount of notes and other Pari Passu Debt tendered in response to such Offer to Purchase exceeds the amount of Excess Proceeds, the Trustee will select the notes and such other Pari Passu Debt to be purchased on a *pro rata* basis, subject to DTC procedures if the notes are Global Notes. Upon completion of the Offer to Purchase, the amount of Excess Proceeds will be reset to zero.

The provisions under this Indenture relating to the Company's obligation to make an offer to purchase the notes as a result of an Asset Sale, including the definition of "*Asset Sale*," may be waived or modified at any time (including after Net Cash Proceeds have been received) with the written consent of the Holders of a majority in principal amount of the notes then outstanding.

(d) The Issuers will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with each repurchase of notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with the provisions of Section 3.09 hereof or this Section 4.10, the Issuers will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under Section 3.09 hereof or this Section 4.10 by virtue of such compliance.

Section 4.11 *Limitation on Transactions with Affiliates.*

(a) The Company will not, and will not permit any Restricted Subsidiary to, directly or indirectly, enter into, renew or extend any transaction (including, without limitation, the purchase, sale, lease or exchange of property or assets, or the rendering of any service) with any of the Company's Affiliates (an "Affiliate Transaction"), unless:

(1) the terms of such transaction are fair and reasonable and no less favorable to the Company or such Restricted Subsidiary than could be obtained, at the time of such transaction or, if such transaction is pursuant to a written agreement, at the time of the execution of the agreement providing therefor, in a comparable arm's-length transaction with a Person that is not an Affiliate;

(2) if such transaction involves an amount in excess of \$20.0 million, the Company or such Restricted Subsidiary delivers to the Trustee a resolution adopted by a majority of the disinterested members of the Board of Directors approving such transaction and set forth in an Officers' Certificate certifying that such transaction complies with clause (1) of this paragraph (a); and

(3) if such transaction involves an amount in excess of \$50.0 million, the Company or such Restricted Subsidiary delivers to the Trustee a written opinion of a nationally recognized appraisal or investment banking firm stating that the transaction is fair to the Company or such Restricted Subsidiary from a financial point of view. Such nationally recognized appraisal or investment banking firm may have other relationships with the Company, such Restricted Subsidiary or any affiliate thereof.

(b) The foregoing limitation does not limit and shall not apply to:

(1) any transaction solely between or among the Company and any Restricted Subsidiary;

(2) the payment of customary directors' fees, indemnification and similar arrangements, consulting fees, employee salaries, bonuses or employment agreements, compensation or employee benefit arrangements and incentive arrangements with any officer, director or employee of the Parent, the Company or any Restricted Subsidiary entered into in the ordinary course of business;

(3) any transaction (i) with respect to the lease, sharing or other use of facilities, equipment, transmission or network capacity, right-of-way or other access rights, between the Company or any Restricted Subsidiary and any other Person or (ii) between the Company or any

Restricted Subsidiary and customers, clients, suppliers, lessors or purchasers or sellers of goods or services, in each case with respect to transactions under this subclause (ii) in the ordinary course of business and otherwise in compliance with the terms of this Indenture; *provided, however*, that such transaction is on terms that:

(A) if applicable, are consistent with the past practices of the Company or such Restricted Subsidiary; and

(B) are no less favorable, taken as a whole, to the Company or the relevant Restricted Subsidiary than those that could have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person (or, in the event that there are no comparable transactions involving unrelated Persons to apply for comparative purposes, is otherwise on terms that, taken as a whole, the Company has determined to be fair to the Company or the relevant Restricted Subsidiary);

(4) any Restricted Payments not prohibited by Section 4.07 hereof and any Permitted Investments;

(5) payments, loans, advances or guarantees (or cancellation of loans, advances or guarantees) to future, present or former employees, managers, consultants or independent contractors of the Company or any Subsidiary or guarantees in respect thereof for bona fide business purposes or in the ordinary course of business *provided, however*, that the aggregate amount of such loans, advances or guarantees outstanding at any time may not exceed \$1.0 million;

(6) any agreement or arrangement as in effect as of the Issue Date or as thereafter amended, supplemented or replaced (to the extent such amendment, supplement or replacement agreement is no less favorable in any material respect to the Holders than such agreement or arrangement as then in effect and that is being amended, supplemented or replaced);

(7) transactions between the Company or a Restricted Subsidiary and any Person that would constitute an Affiliate Transaction solely because such Person is a director or such Person has a director which is also a director of the Parent or the Company; *provided, however*, that such director abstains from voting as a director of the Parent or the Company, as the case may be, on any matter involving such other Person;

(8) pledges of Equity Interests of Unrestricted Subsidiaries;

(9) the issuances of securities or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, equity purchase agreements, stock options and stock ownership plans or similar employee benefit plans approved in good faith by the Board of Directors of the Parent;

(10) (i) any employment, consulting, service or termination agreement, or customary reimbursement and indemnification arrangements, entered into by the Company or a Restricted Subsidiary with current, former or future officers, directors, employees, managers, consultants and independent contractors of the Company or a Subsidiary and (ii) any payment of compensation or other employee compensation, benefit plan or arrangement, any health, disability or similar insurance plan which covers current, former or future officers, directors, employees, managers, consultants and independent contractors of the Company or a Subsidiary

(including amounts paid pursuant to any management equity plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, stock option or similar plans and any successor plan thereto and any supplemental executive retirement benefit plans or arrangements), in each case, in the ordinary course of business or as otherwise approved in good faith by the Board of Directors of the Parent;

(11) investments by Affiliates in Indebtedness or Equity Interests of the Company or a Subsidiary, so long as non-Affiliates were also offered the opportunity to invest in such Indebtedness or Equity Interests, and transactions with Affiliates solely in their capacity as Holders of Indebtedness or Equity Interests of the Company or a Subsidiary, to the extent such transaction is with all Holders of such class (and there are such non-Affiliate Holders) and such Affiliates are treated no more favorably than all other Holders of such class generally;

(12) transactions with joint ventures for the purchase or sale of goods, equipment and services entered into in the ordinary course of business; *provided, however*, that such transaction is on terms that are fair and reasonable and no less favorable to the Company or such Restricted Subsidiary than could be obtained, at the time of such transaction or, if such transaction is pursuant to a written agreement, at the time of the execution of the agreement providing therefor, in an arm's-length transaction with a Person that is not an Affiliate; or

(13) intellectual property licenses in the ordinary course of business.

Section 4.12 *Limitation on Liens.*

The Parent will not, the Company will not and the Company will not permit any Restricted Subsidiary to, (i) create, incur, assume or suffer to exist any Lien on any of its assets or properties of any character (including, without limitation, licenses, any shares of Capital Stock of the Company or any Restricted Subsidiary or any Indebtedness or Attributable Debt of the Company or any Restricted Subsidiary), in each case except Permitted Liens, (ii) as security for any Indebtedness, create, incur, assume or suffer to exist, in favor of any Person other than the Collateral Agent, a Permitted Lien in any leasehold interest in a cell tower that constitutes Excluded Assets because a leasehold mortgage is required to create or perfect a security interest therein, unless the applicable Grantor also creates, incurs, assumes or suffers to exist a Priority Lien in favor of the Collateral Agent that is senior to the Lien of such Person in such leasehold interest, or (iii) take any steps to perfect Permitted Liens in favor of any Person other than the Collateral Agent in respect of Collateral constituting a leasehold interest in a cell tower, including without limitation the granting of a leasehold mortgage in respect of such leasehold interest, unless the applicable Grantor also perfects the Lien in such Collateral in favor the Collateral Agent, and ensures that the Collateral Agent's perfected Lien is a Priority Lien.

Section 4.13 *Limitations on Business Activities of the Co-Issuer.*

The Co-Issuer may not hold any material assets, become liable for any material Obligations or engage in any business activities or operations; *provided* that the Co-Issuer may (1) be a co-obligor with respect to Indebtedness (including, for the avoidance of doubt, the notes) if the Company is a primary obligor on such Indebtedness, the net proceeds of such Indebtedness are received by the Company and such Indebtedness is otherwise permitted to be incurred under this Indenture, (2) guarantee any Obligations under Credit Facilities or any other Indebtedness of the Company or the Restricted Subsidiaries permitted to be incurred under this Indenture or (3) take any action permitted by Article 5 hereof.

Section 4.14 *Corporate Existence.*

Subject to Article 5 hereof, the Parent shall do, or cause to be done, all things necessary to preserve and keep in full force and effect its corporate existence, and the corporate, partnership or other existence of each of the Issuers and the Company's Restricted Subsidiaries, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Parent, the Issuers or any such Restricted Subsidiary; *provided, however,* that the Parent shall not be required to preserve the corporate, partnership or other existence of any of the Company's Restricted Subsidiaries, if the Board of Directors of the Parent shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Parent and its Subsidiaries, taken as a whole, and that the loss thereof is not adverse in any material respect to the Holders of the notes.

Section 4.15 *Repurchase of Notes upon a Change of Control.*

The Company must commence, within 30 days of the occurrence of a Change of Control, and consummate an Offer to Purchase for all notes then outstanding, at a purchase price equal to 101% of the principal amount thereof on the relevant Payment Date, plus accrued interest (if any) to (but not including) the Payment Date. The Company will provide notice of a Change of Control to each Holder, with a copy to the Trustee.

Section 4.16 *Limitation on Sale-Leaseback Transactions.*

(a) The Company will not, and will not permit any Restricted Subsidiary to, enter into any sale-leaseback transaction involving any of its assets or properties whether now owned or hereafter acquired, whereby the Company or a Restricted Subsidiary sells or transfers such assets or properties and then or thereafter leases such assets or properties or any part thereof or any other assets or properties which the Company or such Restricted Subsidiary, as the case may be, intends to use for substantially the same purpose or purposes as the assets or properties sold or transferred.

(b) The foregoing restriction does not apply to any sale-leaseback transaction with respect to assets or properties if:

(1) the Company or such Restricted Subsidiary, as applicable, could have (a) Incurred Indebtedness in an amount equal to the Attributable Debt relating to such sale-leaseback transaction under Section 4.09(a) hereof and (b) incurred a Lien to secure such Indebtedness pursuant to Section 4.12 hereof;

(2) the gross cash proceeds of such sale-leaseback transaction are at least equal to the Fair Market Value of the property that is the subject of such sale-leaseback transaction; or

(3) the transfer of assets in such sale-leaseback transaction is permitted by, and the Company or such Restricted Subsidiary, as applicable, applies the proceeds received from such sale-leaseback transaction in compliance with, Section 4.10 hereof;

provided, that the foregoing restriction shall not apply to any sale-leaseback transaction with respect to cell towers or Airborne Equipment entered into by the Company or a Restricted Subsidiary in the ordinary course of its business.

Section 4.17 *Limitation on the Issuance and Sale of Capital Stock of Restricted Subsidiaries.*

The Company will not sell, and will not permit any Restricted Subsidiary, directly or indirectly, to issue or sell, any shares of Capital Stock of a Restricted Subsidiary (including options, warrants or other rights to purchase shares of such Capital Stock) except:

- (1) to the Company or a Wholly Owned Restricted Subsidiary;
- (2) issuances of director's qualifying shares or sales to foreign nationals of shares of Capital Stock of Foreign Restricted Subsidiaries, to the extent required by applicable law;
- (3) if, immediately after giving effect to such issuance or sale, such Restricted Subsidiary would no longer constitute a Restricted Subsidiary and any Investment in such Person remaining after giving effect to such issuance or sale would have been permitted to be made under Section 4.07 hereof if made on the date of such issuance or sale; or
- (4) issuances or sales of Common Stock of a Restricted Subsidiary, *provided, however*, that the Company or such Restricted Subsidiary applies the Net Cash Proceeds, if any, of any such sale in compliance with Section 4.10 hereof.

Section 4.18 *Limitation on Issuances of Guarantees by Restricted Subsidiaries.*

The Company will not permit any Restricted Subsidiary, directly or indirectly, to guarantee any of the Parent's, the Company's or any Subsidiary Guarantor's Indebtedness (any such Indebtedness being the "*Guaranteed Indebtedness*"), unless:

- (1) such Restricted Subsidiary simultaneously executes and delivers a supplemental indenture to this Indenture providing for a Subsidiary Guarantee of payment of the notes by such Restricted Subsidiary;
- (2) such Restricted Subsidiary waives and will not in any manner whatsoever claim or take the benefit or advantage of, any rights of reimbursement, indemnity or subrogation or any other rights against the Parent or the Company, as applicable, or any Restricted Subsidiary as a result of any payment by such Restricted Subsidiary under its Subsidiary Guarantee; *provided, however*, that this paragraph shall not be applicable to any Guarantee of any such Restricted Subsidiary that existed at the time such Person became a Restricted Subsidiary and was not Incurred in connection with, or in contemplation of, such Person becoming a Restricted Subsidiary; and
- (3) if the Guaranteed Indebtedness is Indebtedness of the Parent, the Company would have been permitted to Incur such Guaranteed Indebtedness pursuant to Section 4.09(a) hereof.

If the Guaranteed Indebtedness:

- (A) constitutes Pari Passu Debt or Indebtedness of the Parent that ranks equally in right of payment and Lien priority with the Parent Guarantee, then the Guarantee of such Guaranteed Indebtedness shall constitute Pari Passu Debt or shall be subordinated to, the Subsidiary Guarantee;

(B) is subordinated to the notes, a Subsidiary Guarantee or the Parent Guarantee, or is unsecured, as applicable, then the Guarantee of such Guaranteed Indebtedness shall be subordinated to the Subsidiary Guarantee at least to the extent that the Guaranteed Indebtedness is subordinated to the notes, such Subsidiary Guarantee or the Parent Guarantee or will be unsecured, as applicable; or

(C) is secured by Collateral, then the Guarantee of such Guaranteed Indebtedness shall be secured, if applicable, by Collateral with a Lien priority that is not senior to the priority of the Liens securing such Guaranteed Indebtedness.

Notwithstanding the foregoing, any Subsidiary Guarantee by a Restricted Subsidiary may provide by its terms that it shall be automatically and unconditionally released and discharged upon (1) any sale or other disposition (including by merger or otherwise) of (x) Capital Stock of the Restricted Subsidiary or (y) all or substantially all of the assets of such Restricted Subsidiary, in each case if (i) such sale or other disposition (including by merger or otherwise) complies with the applicable provisions hereof and (ii) following which such Restricted Subsidiary is no longer a Restricted Subsidiary; or (2) the release or discharge of the Guarantee which resulted in the creation of such Subsidiary Guarantee, except a discharge or release by or as a result of payment under such Guarantee.

Section 4.19 *[Reserved]*.

Section 4.20 *Future Subsidiary Guarantors*.

The Company shall cause each Person that becomes a Domestic Restricted Subsidiary following the Issue Date to, within 30 days of the date that such Person has become a Domestic Restricted Subsidiary, (i) execute and deliver to the Trustee a supplemental indenture pursuant to which such Domestic Restricted Subsidiary shall guarantee the payment and performance of the notes at the time such Person becomes a Domestic Restricted Subsidiary; (ii) execute supplements to the applicable Notes Security Documents in order to grant a Lien in the Collateral owned by such Domestic Restricted Subsidiary to the same extent as that set forth in this Indenture and the Notes Security Documents and execute supplements to the Collateral Agency Agreement; and (iii) take all actions required by the Notes Security Documents to perfect such Lien. The form of such supplemental indenture is attached as Exhibit E hereto.

Section 4.21 *Limitations on Business Activities of any FCC License Holder*.

No FCC License Holder may (i) engage in any material business activities other than in connection with, incidental to, or in support of, the acquisition and use of such licenses or its role as licensee and/or licensor of the FCC Licenses (the "*Permitted Activities*") or (ii) incur Indebtedness owed to any party other than the Company or another Subsidiary Guarantor (other than Indebtedness owed to the FCC and incurred in connection with, incidental to, or in support of the Permitted Activities) or issue Equity Interests, other than in favor of or to the Company or a Subsidiary Guarantor, in the case of (i) and (ii) other than as required by applicable law, rule or regulation; *provided* that any FCC License Holder may guarantee any Indebtedness (including any Obligation in respect thereof) of the Company or the Restricted Subsidiaries permitted to be incurred hereunder; *provided, however*, that such guarantee, by its terms or by the terms of any agreement or instrument pursuant to which such guarantee is outstanding, is subordinate in right of payment to the Guarantee by such FCC License Holder of the notes, and is secured, if applicable, by Collateral with a Junior Lien. The Parent, the Company and the Restricted Subsidiaries shall, subject to FCC consent (for which the Company or its Restricted Subsidiaries, as applicable, will apply promptly following the Issue Date), use commercially reasonable efforts to cause any FCC Licenses held by any of them (other than any FCC Licenses without an independent market

value) to be transferred to an FCC License Holder (unless such transfer (x) would have a material adverse effect on the Company's or any Subsidiary of the Company's ability to use such licenses in the ordinary course of business or (y) is prohibited by applicable law, rule or regulation) no later than 90 days following the Issue Date. Any FCC License Holder shall be a Subsidiary Guarantor. All of the Equity Interests and evidences of Indebtedness of an FCC License Holder owed to the Company or another Subsidiary Guarantor shall be pledged as Collateral to secure the Notes Obligations under a Priority Lien.

Section 4.22 *Suspension of Covenants.*

Following the first day (the "*Suspension Date*") that:

- (1) the notes have an Investment Grade Rating from both of the Rating Agencies, and
- (2) no Default has occurred and is continuing under this Indenture,

the Company and the Restricted Subsidiaries, as applicable, will not be subject to the provisions of Sections 4.07, 4.08, 4.09, 4.10, 4.11, 4.16, 4.17, 4.18 and 4.20 hereof and clause (3) of the first paragraph of Section 5.01 hereof (collectively, the "*Suspended Covenants*"). In the event that the Company and the other Restricted Subsidiaries, as applicable, are not subject to the Suspended Covenants for any period of time as a result of the foregoing, and on any subsequent date (the "*Reversion Date*") one or both of the Rating Agencies withdraws its Investment Grade Rating or downgrades the rating assigned to the notes below an Investment Grade Rating, then the Company and the other Restricted Subsidiaries, as applicable, will thereafter again be subject to the Suspended Covenants with respect to future events. The period of time between the Suspension Date and the Reversion Date is referred to as the "*Suspension Period.*" Notwithstanding that the Suspended Covenants may be reinstated, no Default or Event of Default will be deemed to have occurred as a result of a failure to comply with the Suspended Covenants during the Suspension Period and the Company and any Restricted Subsidiary will be permitted, without causing a Default or Event of Default or breach of any kind under this Indenture, to honor, comply with or otherwise perform any contractual commitments or obligations entered into in good faith during a Suspension Period following a Reversion Date and to consummate the transactions contemplated thereby. The Issuers will notify the Trustee of the occurrence of any Suspension Date or Reversion Date, but failure to so notify the Trustee shall not invalidate the occurrence of the Suspension Date or the Reversion Date and shall not constitute a Default or Event of Default by the Issuers.

On the Reversion Date, all Indebtedness Incurred during the Suspension Period will be deemed to have been outstanding on the Issue Date, so that it is classified as permitted under clause (2) of paragraph (b) of Section 4.09 hereof and all Liens created, incurred, assumed or suffered to exist during the Suspension Period will be deemed to have been existing on the Issue Date, so that it is classified as permitted under subclause (23) of clause (a) under the definition of "*Permitted Liens.*" Calculations made after the Reversion Date of the amount available to be made as Restricted Payments under Section 4.07 hereof will be made as though such covenant had been in effect prior to, but not during, the Suspension Period (and, for avoidance of doubt, all Consolidated EBITDA, Consolidated Cash Interest Expense and other amounts attributable to the Suspension Period that would otherwise increase the amount of Restricted Payments available to be made pursuant to any clause of Section 4.07 hereof shall be excluded in determining the amount of Restricted Payments available to be made following the Reversion Date). For purposes of determining compliance with Section 4.10(b), on the Reversion Date, the Excess Proceeds will be deemed to be reset to zero. In addition, for purposes of Section 4.11 hereof, all agreements and arrangements entered into by the Company and any Restricted Subsidiary with an Affiliate of the Company during the Suspension Period prior to such Reversion Date will be deemed to have been entered into on or prior to the Issue Date, and for purposes of Section 4.8 hereof, all contracts entered into during the Suspension Period prior to such Reversion Date that contain any of the restrictions contemplated by such covenant will be deemed to have been existing on the Issue Date.

ARTICLE 5
SUCCESSORS

Section 5.01 *Consolidation, Merger and Sale of Assets.*

Neither of the Issuers will consolidate with, merge with or into, or sell, convey, transfer, lease or otherwise dispose of all or substantially all of its property and assets (as an entirety or substantially an entirety in one transaction or a series of related transactions) to, any Person or permit any Person to merge with or into either of the Issuers unless:

(1) such Issuer shall be the continuing Person, or the Person (if other than such Issuer) formed by such consolidation or into which such Issuer is merged or that acquired or leased its property and assets (A) shall be a corporation or limited liability company organized and validly existing under the laws of the United States of America or any jurisdiction thereof; *provided* that there shall be at least one Obligor of the notes that is a corporation organized or existing under such laws; and (B) shall expressly assume, by supplemental indenture, executed and delivered to the Trustee, all of its obligations on all of the notes and under this Indenture and the Notes Security Documents;

(2) immediately after giving effect to such transaction, no Default or Event of Default will have occurred and be continuing;

(3) immediately after giving effect to such transaction on a pro forma basis the Company or any Person becoming the successor Obligor of the notes, as the case may be, could incur at least \$1.00 of Indebtedness under Section 4.09(a) hereof; *provided, however*, that this clause (3) shall not apply to:

(A) a consolidation, merger or sale of all (but not less than all) of the Company's assets if all of the Liens and Indebtedness of the Company or of any Person becoming the successor Obligor on the notes, as the case may be, and their Restricted Subsidiaries outstanding immediately after such transaction would, if Incurred at such time, have been permitted to be Incurred (and all such Liens and Indebtedness, other than the Liens and Indebtedness of the Company and their Restricted Subsidiaries outstanding immediately prior to the transaction, shall be deemed to have been Incurred) for all purposes of this Indenture; or

(B) a consolidation, merger or sale of all or substantially all of the Company's assets if immediately after giving effect to such transaction on a pro forma basis, the Company or any Person becoming the successor Obligor of the notes shall have a Consolidated Leverage Ratio equal to or less than the Consolidated Leverage Ratio of the Company immediately prior to such transaction;

(4) such Issuer delivers to the Trustee an Officers' Certificate and opinion of counsel, in each case stating that such consolidation, merger or transfer and such supplemental indenture comply with this provision and that all conditions precedent provided for herein relating to such transaction have been complied with;

(5) such Issuer or the surviving entity, as applicable, promptly causes such amendments, supplements or other instruments to be executed, delivered, filed and recorded, as applicable, in such jurisdictions as may be reasonably required by applicable law to preserve and protect the Lien of the Notes Security Documents on the Collateral owned by or transferred to such Issuer or the surviving entity;

(6) the Collateral owned by or transferred to such Issuer or the surviving entity, as applicable, shall (A) constitute Collateral under this Indenture and the Notes Security Documents; (B) be subject to a Priority Lien in favor of the Collateral Agent for the benefit of the Trustee and the Holders; and (C) not be subject to any Lien other than Permitted Liens; and

(7) the property and assets of the Person which is merged or consolidated with or into such Issuer or the surviving entity, as applicable, to the extent that they are property or assets or of the types which would constitute Collateral under the Notes Security Documents, shall be treated as After-Acquired Property and such Issuer or the surviving entity shall take such action as may be reasonably necessary to cause such property and assets to be made subject to the Priority Lien of the Notes Security Documents in the manner and to the extent required in this Indenture;

provided that clause (3) of this Section 5.01 does not apply if, in the good faith determination of the Board of Directors, whose determination shall be evidenced by a board resolution, the principal purpose of such transaction is to change the state of organization of such Issuer; and *provided further, however*, that any such transaction shall not have as one of its purposes the evasion of the foregoing limitations. In addition, clause (3) of this Section 5.01 will not apply to any consolidation, merger, sale, conveyance, transfer, lease or other disposition of assets (i) between or among the Issuers and any Guarantors or (ii) in connection with any IP Reorganization Transaction.

Notwithstanding anything to the contrary herein, in the event the Company becomes a corporation or the Company or the Person formed by or surviving any consolidation or merger with the Company (permitted in accordance with the terms of this Indenture) is a corporation, the Co-Issuer may be merged into the Company or it may be dissolved in accordance with this Indenture and cease to be an Issuer.

The Person formed by any such consolidation or merger will succeed to, and be substituted for, and may exercise every right and power of such Issuer under this Indenture, but the predecessor company in the case of

(1) a sale, transfer, assignment, conveyance or other disposition (unless such sale, transfer, assignment, conveyance or other disposition is of all the assets of such Issuer as an entirety or substantially as an entirety) or

(2) a lease,

shall not be released from any of the obligations or covenants under this Indenture, including with respect to the payment of the notes.

Section 5.02 *Successor Substituted.*

Upon any consolidation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the properties or assets of an Issuer in a transaction that is subject to, and that complies with the provisions of, Section 5.01 hereof, the successor Person formed by such

consolidation or into or with which such Issuer is merged or to which such sale, assignment, transfer, lease, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, assignment, transfer, lease, conveyance or other disposition, the provisions of this Indenture referring to the "Company" or "Co-Issuer" or "Issuers," as the case may be, shall refer instead to the successor Person and not to the Company, the Co-Issuer or the Issuers, as the case may be), and may exercise every right and power of the Company, the Co-Issuer or the Issuers, as the case may be, under this Indenture with the same effect as if such successor Person had been named as the Company, the Co-Issuer or the Issuers, as the case may be, herein; *provided, however*, that the predecessor shall not be relieved from the obligation to pay the principal of, premium on, if any, and interest, if any, on, the notes except in the case of a sale of all of such Issuer's assets in a transaction that is subject to, and that complies with the provisions of, Section 5.01 hereof.

ARTICLE 6 DEFAULTS AND REMEDIES

Section 6.01 *Events of Default.*

Each of the following is an "*Event of Default*":

(1) default in the payment of principal of (or premium, if any, on) the notes when the same becomes due and payable at maturity, upon acceleration, redemption or otherwise;

(2) default in the payment of interest on the notes when the same becomes due and payable, and such default continues for a period of 30 days;

(3) default in the performance or breach of the provisions of this Indenture applicable to mergers, consolidations and transfers of all or substantially all of the assets of the Company or the Restricted Subsidiaries or the failure to make or consummate an Offer to Purchase in accordance with Section 4.15 hereof;

(4) an Issuer or the Parent defaults in the performance of or breaches any other covenant or agreement of the Issuers or the Parent, as applicable, in this Indenture or under the notes (other than a default specified in clause (1), (2) or (3) of this Section 6.01) or under the Notes Security Documents, and such default or breach continues for a period of 30 consecutive days after written notice by the Trustee or to the Company and the Trustee by the Holders of 25% or more in aggregate principal amount of the notes;

(5) there occurs with respect to any issue or issues of Indebtedness of an Issuer or any Significant Subsidiary having an outstanding principal amount of \$25.0 million or more in the aggregate for all such issues of all such Persons, whether such Indebtedness now exists or shall hereafter be created, (A) an event of default that has caused the holder thereof to declare such Indebtedness to be due and payable prior to its Stated Maturity and such Indebtedness has not been discharged in full or such acceleration has not been rescinded or annulled within 30 days of such acceleration and/or (B) the failure to make a principal payment at the final (but not any interim) fixed maturity and such defaulted payment shall not have been made, waived or extended within 30 days of such payment default;

(6) any final judgment or order (not covered by insurance) for the payment of money in excess of \$25.0 million in the aggregate for all such final judgments or orders against all such Persons (treating any deductibles, self-insurance or retention as not so covered) shall be rendered against an Issuer or any Significant Subsidiary and shall not be paid or discharged, and there shall

be any period of 30 consecutive days following entry of the final judgment or order (or any longer period provided for the timely payment of such judgment or order) that causes the aggregate amount for all such final judgments or orders outstanding and not paid or discharged against all such Persons to exceed \$25.0 million during which a stay of enforcement of such final judgment or order, by reason of a pending appeal or otherwise, shall not be in effect;

(7) a court having jurisdiction in the premises enters a decree or order for:

(A) relief in respect of an Issuer or any Significant Subsidiary in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect;

(B) appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of an Issuer or any Significant Subsidiary or for all or substantially all of the property and assets of an Issuer or any Significant Subsidiary; or

(C) the winding up or liquidation of the affairs of an Issuer or any Significant Subsidiary and, in each case, such decree or order shall remain unstayed and in effect for a period of 30 consecutive days;

(8) an Issuer or any Significant Subsidiary:

(A) commences a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or consents to the entry of an order for relief in an involuntary case under any such law;

(B) consents to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of an Issuer or any Significant Subsidiary or for all or substantially all of the property and assets of an Issuer or any Significant Subsidiary; or

(C) effects any general assignment for the benefit of creditors;

(9) (a) Subsidiary Guarantees provided by Subsidiary Guarantors that individually or together would constitute a Significant Subsidiary cease to be in full force and effect (other than in accordance with the terms of such Subsidiary Guarantees or the terms of this Indenture) or any Subsidiary Guarantor denies or disaffirms its obligations under its Subsidiary Guarantee, or (b) the Parent Guarantee ceases to be in full force and effect or the Parent denies or disaffirms its obligations under the Parent Guarantee, and in each such case such Default continues for 10 days (other than by reason of the termination of this Indenture or the release of such Guarantee in accordance with this Indenture);

(10) unless all of the Collateral has been released from the Liens in accordance with the provisions of the Notes Security Documents,

(A) a default (that has not been cured) by the Parent, the Issuers or any Subsidiary Guarantor in the performance of any obligation under the Notes Security Documents which materially adversely affects the enforceability, validity, perfection or priority of the Liens securing the notes on any portion of the Collateral;

(B) the repudiation or disaffirmation by the Parent, the Issuers or any Subsidiary Guarantor of any of its material obligations under the Notes Security Documents; or

(C) the final, non-appealable determination in a judicial proceeding that the Notes Security Documents are unenforceable or invalid against Parent, an Issuer or any Subsidiary Guarantor party thereto for any reason with respect to any portion of the Collateral with a value greater than \$7.5 million,

and, in the case of any event described in subclauses (A) through (C), such default, repudiation, disaffirmation or determination is not rescinded, stayed, or waived by the Persons having such authority pursuant to the Notes Security Documents or otherwise cured within 60 days; or

(11) the Collateral Agency Agreement is not or ceases to be binding on or enforceable against any party thereto (or against any person on whose behalf any such party makes any covenant or agreements therein), or shall otherwise not be effective to create the rights and obligations purported to be created thereunder.

The Trustee shall not be charged with knowledge of any default or Event of Default with respect to the notes unless a written notice of such default or Event of Default shall have been given to a Responsible Officer by the Parent, the Issuers, the Subsidiary Guarantors or any Holder.

Section 6.02 *Acceleration.*

If an Event of Default (other than an Event of Default specified in clause (7) or (8) of Section 6.01 above that occurs with respect to an Issuer or a Significant Subsidiary) occurs and is continuing under this Indenture, the Trustee or Holders of at least 25% in aggregate principal amount of the notes then outstanding by written notice to the Issuers (and to the Trustee if such notice is given by the Holders), may declare the principal amount of, premium, if any, and accrued interest on the notes to be immediately due and payable. Upon a declaration of acceleration, such principal amount, premium, if any, and accrued interest shall be immediately due and payable. If such acceleration occurs on or after the First Call Date, the principal amount of, premium, if any, and accrued interest on notes that becomes due and payable shall equal the optional redemption price in effect on the date of such acceleration, as if such acceleration were an optional redemption of the notes accelerated. If such acceleration occurs prior to the First Call Date, the principal amount of, premium, if any, and accrued interest on notes that becomes due and payable shall equal the Make-Whole Redemption Price in effect on the date of such acceleration, as if such acceleration were a Make-Whole Redemption of the Notes accelerated. The amounts described in the preceding two sentences are intended to be liquidated damages and not unmatured interest or a penalty.

In the event of a declaration of acceleration because an Event of Default set forth in clause (5) of Section 6.01 above has occurred and is continuing, such declaration of acceleration shall be automatically rescinded and annulled if the event of default triggering such Event of Default pursuant to clause (5) of Section 6.01 shall be remedied or cured by the relevant Issuer or the relevant Significant Subsidiary or waived by the holders of the relevant Indebtedness within 60 days after the declaration of acceleration with respect thereto.

If an Event of Default specified in clause (7) or (8) of Section 6.01 above occurs with respect to an Issuer or any Significant Subsidiary the principal amount of, premium, if any, and accrued interest on the notes then outstanding shall become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder.

Section 6.03 *Other Remedies.*

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal of, premium on, if any, or interest, if any, on the notes or to enforce the performance of any provision of the notes or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a note in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

Section 6.04 *Waiver of Past Defaults.*

The Holders of at least a majority in principal amount of the outstanding notes, by written notice to the Company and to the Trustee, may waive all past Defaults with respect to the notes and rescind and annul a declaration of acceleration and its consequences if (1) all existing Events of Default, other than the nonpayment of the principal of, premium, if any, and interest on the notes that have become due solely by such declaration of acceleration, have been cured or waived and (2) the rescission would not conflict with any judgment or decree of a court of competent jurisdiction. Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

Section 6.05 *Control by Majority.*

Subject to the terms of the Notes Security Documents and provision of an indemnity satisfactory to the Trustee, the Holders of at least a majority in aggregate principal amount of the outstanding notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or the Collateral Agent or exercising any trust or power conferred on the Trustee pursuant to this Indenture. However, the Trustee and Collateral Agent may refuse to follow any direction that conflicts with law or this Indenture, that may involve the Trustee or the Collateral Agent in personal liability, or that the Trustee or the Collateral Agent determines in good faith may be unduly prejudicial to the rights of Holders not joining in the giving of such direction and may take any other action it deems proper that is not inconsistent with any such direction received from such Holders.

Section 6.06 *Limitation on Suits.*

A Holder may not pursue any remedy with respect to this Indenture or the notes unless:

- (1) the Holder gives the Trustee written notice of a continuing Event of Default;
- (2) the Holders of at least 25% in aggregate principal amount of outstanding notes make a written request to the Trustee to pursue the remedy;
- (3) such Holder or Holders offer the Trustee indemnity satisfactory to the Trustee against any costs, liability or expense;
- (4) the Trustee does not comply with the request within 60 days after receipt of the request and the offer of indemnity; and

(5) during such 60-day period, the Holders of a majority in aggregate principal amount of the outstanding notes do not give the Trustee a direction that is inconsistent with the request.

Notwithstanding the foregoing, in no event may any Holder directly enforce any Lien of the Collateral Agent pursuant to the Notes Security Documents. A Holder of a note may not use this Indenture to prejudice the rights of another Holder of a note or to obtain a preference or priority over another Holder of a note.

Subject to the terms of the Notes Security Documents and provision of an indemnity satisfactory to the Trustee, the Holders of at least a majority in aggregate principal amount of the outstanding notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or the Collateral Agent or exercising any trust or power conferred on the Trustee pursuant to this Indenture. However, the Trustee and Collateral Agent may refuse to follow any direction that conflicts with law or this Indenture, that may involve the Trustee or the Collateral Agent in personal liability, or that the Trustee or the Collateral Agent determines in good faith may be unduly prejudicial to the rights of Holders not joining in the giving of such direction and may take any other action it deems proper that is not inconsistent with any such direction received from such Holders.

Section 6.07 Rights of Holders of Notes to Receive Payment.

Notwithstanding any other provision of this Indenture, the right of any Holder of a note to receive payment of principal of, premium on, if any, or interest, if any, on the note, on or after the respective due dates expressed in the note (including in connection with an offer to purchase), or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder; *provided* that a Holder shall not have the right to institute any such suit for the enforcement of payment if and to the extent that the institution or prosecution thereof or the entry of judgment therein would, under applicable law, result in the surrender, impairment, waiver or loss of the Lien of this Indenture upon any property subject to such Lien.

Section 6.08 Collection Suit by Trustee.

If an Event of Default specified in Section 6.01(1) or (2) hereof occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Issuers for the whole amount of principal of, premium on, if any, and interest, if any, remaining unpaid on the notes and interest on overdue principal and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

Section 6.09 Trustee May File Proofs of Claim.

The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the notes allowed in any judicial proceedings relative to the Issuers (or any other Obligor upon the notes), its creditors or its property and shall be entitled and empowered to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07

hereof. To the extent that the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.10 *Priorities.*

Subject to the Notes Security Documents, if the Trustee collects any money pursuant to this Article 6 (including any amounts received from the Collateral Agent), it shall pay out the money in the following order:

First: to the Trustee or Collateral Agent, as applicable, for amounts due under Section 7.07 hereof, including payment of all compensation, expenses and liabilities incurred, and all advances made, by the Trustee or Collateral Agent, as applicable, and the costs and expenses of collection, in each case, to the extent expressly permitted by Section 7.07 hereof;

Second: to Holders of notes for amounts due and unpaid on the notes for principal, premium, if any, and interest, if any, ratably, without preference or priority of any kind, according to the amounts due and payable on the notes for principal, premium, if any, and interest, if any, respectively; and

Third: to the Issuers or to such party as a court of competent jurisdiction shall direct.

The Trustee may fix a record date and payment date for any payment to Holders of notes pursuant to this Section 6.10.

Section 6.11 *Undertaking for Costs.*

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by a Holder of a note pursuant to Section 6.07 hereof, or a suit by Holders of more than 10% in aggregate principal amount of the then outstanding notes.

ARTICLE 7
TRUSTEE

Section 7.01 *Duties of Trustee.*

(a) If an Event of Default has occurred and is continuing, the Trustee will exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) Except during the continuance of an Event of Default:

(1) the duties of the Trustee will be determined solely by the express provisions of this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, the Trustee will examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

(c) The Trustee may not be relieved from liabilities for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(1) this paragraph does not limit the effect of paragraph (b) of this Section 7.01;

(2) the Trustee will not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(3) the Trustee will not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05 hereof.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b) and (c) of this Section 7.01.

(e) No provision of this Indenture, the notes, the Guarantees or the Notes Security Documents will require the Trustee to expend or risk its own funds or incur any liability. The Trustee will be under no obligation to exercise any of its rights or powers under this Indenture or the Notes Security Documents at the request of any Holders, unless such Holder has offered to the Trustee security and indemnity satisfactory to it against any loss, liability or expense.

(f) The Trustee will not be liable for interest on any money received by it except as the Trustee may agree in writing with the Issuers. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

Section 7.02 *Rights of Trustee.*

(a) The Trustee may conclusively rely upon any document believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an opinion of counsel or both. The Trustee will not be liable for any action it takes or omits to take in good faith in reliance on such Officers' Certificate or opinion of counsel. The Trustee may consult with counsel of its selection and the written advice of such counsel or any opinion of counsel will be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in accordance with the advice or opinion of such counsel.

(c) The Trustee may act through its attorneys and agents and will not be responsible for the misconduct or negligence of any agent appointed with due care.

(d) The Trustee will not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Issuers will be sufficient if signed by an Officer of each Issuer.

(f) The Trustee will be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders unless such Holders have offered to the Trustee reasonable indemnity or security satisfactory to the Trustee against the losses, liabilities and expenses that might be incurred by it in compliance with such request or direction.

(g) 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, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Issuers, personally or by agent or attorney at the sole cost of the Issuers and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation.

(h) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and to each agent, custodian and other Person employed to act hereunder.

(i) The Trustee may request that the Issuers deliver an Officers' Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which Officers' Certificate may be signed by any Person authorized to sign an Officers' Certificate, including any Person specified as so authorized in any such certificate previously delivered and not superseded.

(j) In no event shall the Trustee be responsible or liable for special, punitive, indirect or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(k) In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; *provided* that the Trustee shall use reasonable efforts consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 7.03 *Individual Rights of Trustee.*

The Trustee in its individual or any other capacity may become the owner or pledgee of notes and may otherwise deal with either Issuer or any Guarantor or any Affiliate of either Issuer or any Guarantor

with the same rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days, apply to the SEC for permission to continue as trustee (if this Indenture has been qualified under the TIA) or resign. Any Agent may do the same with like rights and duties. The Trustee is also subject to Sections 7.10 and 7.11 hereof.

Section 7.04 Trustee's Disclaimer.

The Trustee will not be responsible for and makes no representation as to the validity or adequacy of this Indenture, the Notes Security Documents or the notes, it shall not be accountable for the Issuers' use of the proceeds from the notes or any money paid to the Issuers or upon the Issuers' direction under any provision of this Indenture, it will not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it will not be responsible for any statement or recital herein or any statement in the notes or any other document in connection with the sale of the notes or pursuant to this Indenture or any of the Notes Security Documents other than its certificate of authentication.

The Trustee shall not be responsible for the existence, genuineness, value or protection of any Collateral for the legality, effectiveness or sufficiency of any Notes Security Document, or for the creation, perfection, priority, sufficiency or protection of any Lien created by a note.

Section 7.05 Notice of Defaults.

If a Default or Event of Default occurs and is continuing and if it is known to the Trustee, the Trustee will mail or deliver to Holders of notes a notice of the Default or Event of Default within 90 days after it occurs. Except in the case of a Default or Event of Default in payment of principal of, premium on, if any, or interest, if any, on, any note, the Trustee may withhold the notice if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders of the notes.

Section 7.06 Reports by Trustee to Holders of the Notes.

(a) Within 60 days after each May 15 beginning with the May 15 following the date of this Indenture, and for so long as notes remain outstanding, the Trustee will mail to the Holders of the notes a brief report dated as of such reporting date that complies with TIA §313(a) (but if no event described in TIA §313(a) has occurred within the twelve months preceding the reporting date, no report need be transmitted). The Trustee also will comply with TIA §313(b) (2). The Trustee will also transmit by mail all reports as required by TIA §313(c).

(b) A copy of each report at the time of its mailing to the Holders of notes will be mailed by the Trustee to the Company and filed by the Trustee with the SEC and each stock exchange on which the notes are listed in accordance with TIA §313(d). The Issuers will promptly notify the Trustee when the notes are listed on any stock exchange.

Section 7.07 Compensation and Indemnity.

(a) The Issuers will pay to the Trustee, from time to time, reasonable compensation for its acceptance of this Indenture and services hereunder. The Trustee's compensation will not be limited by any law on compensation of a trustee of an express trust. The Issuers will reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses will include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

(b) The Issuers and the Guarantors will jointly and severally indemnify the Trustee against any and all losses, liabilities or expenses (other than any taxes based upon, measured by or determined by reference to the income of the Trustee) incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, the notes, the Guarantees and the Notes Security Documents, including the costs and expenses of enforcing the same against the Issuers and the Guarantors (including this Section 7.07) and defending itself against any claim (whether asserted by the Issuers, the Guarantors, any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties hereunder or thereunder, except to the extent any such loss, liability or expense may be attributable to its negligence, bad faith or willful misconduct. The Trustee will notify the Issuers promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Issuers will not relieve the Issuers or any of the Guarantors of their obligations hereunder. The Issuers or such Guarantor will defend the claim and the Trustee will cooperate in the defense. The Trustee may have separate counsel and the Issuers will pay the reasonable fees and expenses of such counsel. Neither the Issuers nor any Guarantor need pay for any settlement made without its consent, which consent will not be unreasonably withheld.

(c) The obligations of the Issuers and the Guarantors under this Section 7.07 will survive the resignation or removal of the Trustee and the satisfaction and discharge of this Indenture.

(d) To secure the Issuers' and the Guarantors' payment obligations in this Section 7.07, the Trustee will have a Lien prior to the notes on all money or property held or collected by the Trustee, except that held in trust to pay principal of, premium on, if any, or interest, if any, on, particular notes. Such Lien will survive the satisfaction and discharge of this Indenture.

(e) When the Trustee incurs expenses or renders services after an Event of Default specified in clause (7) or (8) of Section 6.01 hereof occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

Section 7.08 *Replacement of Trustee.*

(a) A resignation or removal of the Trustee and appointment of a successor Trustee will become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.08.

(b) The Trustee may resign at any time and be discharged from the trust hereby created by so notifying the Issuers in writing and by mailing notice thereof to the Holders. The Holders of a majority in aggregate principal amount of the then outstanding notes may remove the Trustee by so notifying the Trustee and the Issuers in writing. The Issuers may remove the Trustee if:

- (1) the Trustee fails to comply with Section 7.10 hereof;
- (2) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
- (3) a custodian or public officer takes charge of the Trustee or its property; or
- (4) the Trustee becomes incapable of acting.

(c) If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Issuers will promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in aggregate principal amount of the then outstanding notes may appoint a successor Trustee to replace the successor Trustee appointed by the Issuers.

(d) If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee (at the expense of the Issuers), the Issuers or the Holders of at least 10% in aggregate principal amount of the then outstanding notes may petition any court of competent jurisdiction for the appointment of a successor Trustee.

(e) If the Trustee, after written request by any Holder who has been a Holder for at least six months, fails to comply with Section 7.10 hereof, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(f) A successor Trustee will deliver a written acceptance of its appointment to the retiring Trustee and to the Issuers. Thereupon, the resignation or removal of the retiring Trustee will become effective, and the successor Trustee will have all the rights, powers and duties of the Trustee under this Indenture and the Notes Security Documents. The successor Trustee will mail a notice of its succession to Holders. The retiring Trustee will promptly transfer all property held by it as Trustee to the successor Trustee; *provided* all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.07 hereof. Notwithstanding replacement of the Trustee pursuant to this Section 7.08, the Issuers' obligations under Section 7.07 hereof will continue for the benefit of the retiring Trustee.

Section 7.09 *Successor Trustee by Merger, etc.*

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business or assets to, another corporation or banking association, the successor corporation without any further act will be the successor Trustee.

Section 7.10 *Eligibility; Disqualification.*

There will at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least \$100.0 million as set forth in its most recent published annual report of condition.

This Indenture will always have a Trustee who satisfies the requirements of TIA §310(a)(1), (2) and (5). The Trustee is subject to TIA §310(b).

Section 7.11 *Preferential Collection of Claims Against Issuers.*

The Trustee is subject to TIA §311(a), excluding any creditor relationship listed in TIA §311(b). A Trustee who has resigned or been removed shall be subject to TIA §311(a) to the extent indicated therein.

ARTICLE 8
LEGAL DEFEASANCE AND COVENANT DEFEASANCE

Section 8.01 *Option to Effect Legal Defeasance or Covenant Defeasance.*

The Issuers may at any time, at the option of the Company's Board of Directors evidenced by a resolution set forth in an Officers' Certificate, elect to have either Section 8.02 or 8.03 hereof be applied to all outstanding notes upon compliance with the conditions set forth below in this Article 8.

Section 8.02 *Legal Defeasance and Discharge.*

Upon the Issuers' exercise under Section 8.01 hereof of the option applicable to this Section 8.02, the Obligors will, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be deemed to have been discharged from their obligations with respect to all outstanding notes (including the Guarantees) on the date the conditions set forth below are satisfied (hereinafter, "*Legal Defeasance*"). For this purpose, Legal Defeasance means that the Obligors will be deemed to have paid and discharged the entire Indebtedness represented by the outstanding notes (including the Guarantees), which will thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 hereof and the other Sections of this Indenture referred to in clauses (1) and (2) below, and to have satisfied all their other obligations under such notes, the Guarantees and this Indenture (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following provisions which will survive until otherwise terminated or discharged hereunder:

- (1) the rights of Holders of outstanding notes to receive payments in respect of the principal of, premium on, if any, or interest, if any, on such notes when such payments are due from the trust referred to in Section 8.04 hereof;
- (2) the Company's obligations with respect to such notes under Article 2 and Section 4.02 hereof;
- (3) the rights, powers, trusts, duties and immunities of the Trustee hereunder and the Obligors' obligations in connection therewith; and
- (4) this Article 8.

Subject to compliance with this Article 8, the Issuers may exercise their option under this Section 8.02 notwithstanding the prior exercise of their option under Section 8.03 hereof. If the Issuers exercise their option to defease the notes pursuant to the requirements of this Indenture, the Liens on the Collateral securing the notes will be released and the Guarantees in effect at such time will terminate.

Section 8.03 *Covenant Defeasance.*

Upon the Issuers' exercise under Section 8.01 hereof of the option applicable to this Section 8.03, the Obligors will, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be released from each of their obligations under the covenants contained in Sections 4.07, 4.08, 4.09, 4.10, 4.11, 4.12, 4.13, 4.15, 4.16, 4.17, 4.18, 4.20 and 4.21 hereof and clause (3) of the first paragraph of Section 5.01 hereof with respect to the outstanding notes on and after the date the conditions set forth in Section 8.04 hereof are satisfied (hereinafter, "*Covenant Defeasance*"), and the notes will thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but will continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such notes will not be deemed

outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding notes and Guarantees, the Obligors may omit to comply with and will have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply will not constitute a Default or an Event of Default under Section 6.01 hereof, but, except as specified above, the remainder of this Indenture and such notes and Guarantees will be unaffected thereby. In addition, upon the Issuers' exercise under Section 8.01 hereof of the option applicable to this Section 8.03, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, Sections 6.01(3) with respect to such clause (3) of the first paragraph of Section 5.01 hereof, 6.01(4) with respect to such other covenants, and 6.01(5) and (6) hereof will not constitute Events of Default.

Section 8.04 *Conditions to Legal or Covenant Defeasance.*

In order to exercise either Legal Defeasance or Covenant Defeasance under either Section 8.02 or 8.03 hereof:

(1) the Issuers must have deposited with the Trustee, in trust, money and/or U.S. Government Obligations that through the payment of interest and principal in respect thereof in accordance with their terms will provide money in an amount sufficient (accompanied by a report delivered to the Trustee from a nationally recognized firm of independent public accountants (which may be the regularly employed accountants of the Parent) regarding the calculation of the amount deposited in comparison to the interest, premium, maturity and other terms of this Indenture) to pay the principal of, premium, if any, and accrued interest on the notes on the Stated Maturity of such payments in accordance with the terms of this Indenture and such notes;

(2) with respect to Legal Defeasance under Section 8.02 hereof, the Issuers must have delivered to the Trustee either (i) an opinion of counsel to the effect that Holders will not recognize income, gain or loss for U.S. federal income tax purposes as a result of the Issuers' exercise of their option under Section 8.02 hereof and will be subject to U.S. federal income tax on the same amount and in the same manner and at the same times as would have been the case if such deposit, defeasance and discharge had not occurred, which opinion of counsel must be based upon (and accompanied by a copy of) a ruling of the Internal Revenue Service (the "IRS") to the same effect unless there has been a change in applicable U.S. federal income tax law after the Issue Date such that a ruling is no longer required or (ii) a ruling directed to the Trustee received from the IRS to the same effect as the aforementioned opinion of counsel;

(3) with respect to Covenant Defeasance under Section 8.03 (3) hereof, the Issuers must have delivered to the Trustee an opinion of counsel to the effect that Holders will not recognize income, gain or loss for U.S. federal income tax purposes as a result of the Issuers' exercise of their option under Section 8.03 hereof and will be subject to U.S. federal income tax on the same amount and in the same manner and at the same times as would have been the case if such deposit and defeasance had not occurred;

(4) immediately after giving effect to such deposit on a pro forma basis, no Event of Default, or event that after the giving of notice or lapse of time or both would become an Event of Default, shall have occurred and be continuing on the date of such deposit, and such deposit shall not result in a breach or violation of, or constitute a default under, any other agreement or instrument to which the Parent, the Company or any of their respective Subsidiaries is a party or by which the Parent, the Company or any of their respective Subsidiaries is bound; and

(5) the Issuers must deliver to the Trustee an Officers' Certificate and an opinion of counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

Section 8.05 Deposited Money and U.S. Government Obligations to be Held in Trust; Other Miscellaneous Provisions.

Subject to Section 8.06 hereof, all money and U.S. Government Obligations (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the "Trustee") pursuant to Section 8.04 hereof in respect of the outstanding notes will be held in trust and applied by the Trustee, in accordance with the provisions of such notes and this Indenture, to the payment, either directly or through any Paying Agent (including either Issuer acting as Paying Agent) as the Trustee may determine, to the Holders of such notes of all sums due and to become due thereon in respect of principal, premium, if any, and interest, if any, but such money need not be segregated from other funds except to the extent required by law.

The Issuers will pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or U.S. Government Obligations deposited pursuant to Section 8.04 hereof or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding notes.

Notwithstanding anything in this Article 8 to the contrary, the Trustee will deliver or pay to the Issuers from time to time upon the request of the Issuers any money or U.S. Government Obligations held by it as provided in Section 8.04 hereof which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04(1) hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

In the event the Issuers exercise under Section 8.01 hereof the option applicable to either Section 8.02 or 8.03 hereof and such notes are declared due and payable because of the occurrence of an Event of Default that remains applicable, the amount of money and/or U.S. Government Obligations on deposit with the Trustee will be sufficient (accompanied by a report delivered to the Trustee from a nationally recognized firm of independent public accountants (which may be the regularly employed accountants of the Parent) regarding the calculation of the amount deposited in comparison to the interest, premium, maturity and other terms of this Indenture) to pay amounts due on such notes at the time of their Stated Maturity but may not be sufficient to pay amounts due on such notes at the time of the acceleration resulting from such Event of Default. However, the Issuers will remain liable for such payments.

Section 8.06 Repayment to the Issuers.

Any money deposited with the Trustee or any Paying Agent, or then held by the Issuers, in trust for the payment of the principal of, premium on, if any, or interest, if any, on any note and remaining unclaimed for two years after such principal, premium, if any, or interest, if any, has become due and payable shall be paid to the Issuers on their request or (if then held by the Issuers) will be discharged from such trust; and the Holder of such note will thereafter be permitted to look only to the Issuers for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Issuers as trustee thereof, will thereupon cease; *provided, however*, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Issuers cause to be published once, in the New York Times and The Wall Street Journal (national edition), notice that such money remains unclaimed and that, after a date specified therein, which will not be less than 30 days from the date of such notification or publication, any unclaimed balance of such money then remaining will be repaid to the Issuers.

Section 8.07 *Reinstatement.*

If the Trustee or Paying Agent is unable to apply any U.S. dollars or U.S. Government Obligations in accordance with Section 8.02 or 8.03 hereof, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Obligors' obligations under this Indenture and the notes and the Guarantees will be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 hereof until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02 or 8.03 hereof, as the case may be; *provided, however*, that, if the Issuers make any payment of principal of, premium on, if any, or interest, if any, on, any note following the reinstatement of its obligations, the Issuers will be subrogated to the rights of the Holders of such notes to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE 9
AMENDMENT, SUPPLEMENT AND WAIVER

Section 9.01 *Without Consent of the Holders.*

Notwithstanding Section 9.02 of this Indenture, the Issuers, the Parent and the Subsidiary Guarantors, when authorized by a resolution of their Boards of Directors (as evidenced by board resolutions), and the Trustee may amend or supplement this Indenture, the notes, the Guarantees or the Notes Security Documents without notice to or the consent of any Holder:

- (1) to cure any ambiguity, omission, mistake, defect or inconsistency in this Indenture;
- (2) to comply with the provisions concerning consolidation, merger and sale of assets;
- (3) to evidence and provide for the acceptance of appointment hereunder by a successor trustee or Collateral Agent;
- (4) to provide for uncertificated notes in addition to or in place of Certificated Notes;
- (5) to add one or more additional Guarantees on the terms required by this Indenture, or provide for the assumption of the Parent's, either Issuer's or any of the Subsidiary Guarantors' obligations to the Holders;
- (6) to make any change that, in the good faith opinion of the Board of Directors of the Parent as evidenced by a board resolution, does not adversely affect the legal rights of any Holder in any material respect;
- (7) to conform the text of this Indenture (including any supplemental indenture or other instrument pursuant to which additional notes are issued), the notes (including any additional notes), any Subsidiary Guarantee, the Parent Guarantee, the Collateral Agency Agreement or any Collateral Agreement to any provision of the "Description of Notes" section of the Issuers' Offering Memorandum dated June 9, 2016, relating to the initial offering of the notes, to the extent that such provision in that "Description of Notes" was intended to be a verbatim recitation of a provision of this Indenture, the notes, the Parent Guarantee, any Subsidiary Guarantee, the Collateral Agency Agreement or any Collateral Agreement;

(8) to amend the Collateral Agency Agreement to add additional holders of Additional Secured Obligations permitted under this Indenture, the Collateral Agency Agreement and any Secured Debt Documents then in effect;

(9) to add covenants for the benefit of the Holders, or to surrender any right or power conferred upon the Parent, the Issuers or any Guarantor;

(10) to release, terminate or discharge the Guarantee of any Guarantor or any Lien, in each case when such release, termination or discharge is permitted in accordance with the terms of this Indenture;

(11) to provide for the issuance of additional notes in accordance with the limitations set forth in this Indenture as of the date of this Indenture;

(12) to make any changes with respect to the rights or obligations of the Trustee or other provisions relating to the Trustee that do not adversely affect the rights of any Holder in any material respect;

(13) to make any amendments to the provisions of this Indenture relating to the transfer and legending of notes as permitted by this Indenture, including, without limitation to facilitate the issuance and administration of the notes; *provided, however*, that (i) compliance with this Indenture as so amended would not result in notes being transferred in violation of the Securities Act or any applicable securities law and (ii) such amendment does not materially and adversely affect the rights of Holders to transfer notes;

(14) to amend the Notes Security Documents to add any holders of Priority Lien Obligations to the extent permitted under this Indenture, the Collateral Agency Agreement and any Priority Lien Document then in effect; and

(15) to add to the Collateral securing the notes.

Upon the request of the Issuers accompanied by a resolution of their Boards of Directors authorizing the execution of any such amended or supplemental indenture, and upon receipt by the Trustee of the documents described in Section 13.04 hereof, the Trustee will join with the Issuers and the Guarantors in the execution of any amended or supplemental indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee will not be obligated to enter into such amended or supplemental indenture that affects its own rights, duties or immunities under this Indenture or otherwise.

Section 9.02 *With the Consent of Holders.*

Except as provided below in this Section 9.02, the Issuers, the Parent, the Subsidiary Guarantors and the Trustee may amend or supplement this Indenture (including, without limitation, Sections 3.09, 4.10 and 4.15 hereof), the notes, the Guarantees and the Notes Security Documents with the consent of the Holders of not less than a majority in aggregate principal amount of the notes then outstanding (including, without limitation, additional notes, if any) voting as a single class (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, notes), and, subject to Sections 6.04 and 6.07 hereof, any existing Default or Event of Default (other than

a Default or Event of Default in the payment of the principal of, premium on, if any, or interest, if any, on, the notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any other provision of this Indenture, the notes or the Guarantees, or with the Notes Security Documents, may be waived with the consent of the Holders of not less than a majority in aggregate principal amount of the notes then outstanding (including, without limitation, additional notes, if any) voting as a single class (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, notes). Any amendment to, or waiver of, any provision of this Indenture or any Notes Security Document that has the effect of releasing all or substantially all of the Collateral from the Liens of the notes will require consent of the Holders of at least 75% in aggregate principal amount of the notes then outstanding. Section 2.08 hereof shall determine which notes are considered to be “outstanding” for purposes of this Section 9.02.

Upon the request of the Issuers accompanied by a resolution of their Board of Directors authorizing the execution of any such amended or supplemental indenture, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of notes as aforesaid, and upon receipt by the Trustee of the documents described in Section 13.04 hereof, the Trustee will join with the Issuers and the Guarantors in the execution of such amended or supplemental indenture unless such amended or supplemental indenture directly affects the Trustee’s own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but will not be obligated to, enter into such amended or supplemental Indenture.

It is not necessary for the consent of the Holders of notes under this Section 9.02 to approve the particular form of any proposed amendment, supplement or waiver, but it is sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Issuers will mail to the Holders of notes affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Issuers to mail such notice, or any defect therein, will not, however, in any way impair or affect the validity of any such amended or supplemental indenture or waiver. Subject to Sections 6.04 and 6.07 hereof, the Holders of a majority in aggregate principal amount of the notes then outstanding voting as a single class may waive compliance in a particular instance by the Issuers with any provision of this Indenture, the notes or the Guarantees. However, without the consent of each Holder affected, an amendment, supplement or waiver under this Section 9.02 may not:

- (1) change the Stated Maturity of the principal of, or any installment of interest on, any note;
- (2) reduce the principal amount of, or interest or premium, if any, on, any note;
- (3) change the place or currency of payment of principal of, or interest or premium, if any, on, any note;
- (4) change the optional redemption dates or optional redemption prices of the notes from those stated in Section 3.07 hereof;
- (5) impair the right to institute suit for the enforcement of any payment on or after the Stated Maturity (or, in the case of a redemption, on or after the redemption date) of any note or the Parent Guarantee or any Subsidiary Guarantee;
- (6) reduce the above-stated percentage of outstanding notes, the consent of whose Holders is necessary to modify or amend this Indenture;

(7) waive a default in the payment of principal of, or interest or premium, if any, on, the notes or modify any provisions of this Indenture relating to modification or amendment thereof;

(8) release the Parent Guarantee or any Subsidiary Guarantee other than pursuant to the terms of this Indenture;

(9) reduce the percentage or aggregate principal amount of outstanding notes, the consent of whose Holders is necessary for waiver of compliance with certain provisions of this Indenture or for waiver of certain defaults; or

(10) make any change to or modify the ranking of the notes that would adversely affect the Holders in any material respect.

Section 9.03 *[Reserved]*.

Section 9.04 *Revocation and Effect of Consents*.

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a note is a continuing consent by the Holder of a note and every subsequent Holder of a note or portion of a note that evidences the same debt as the consenting Holder's note, even if notation of the consent is not made on any note. However, any such Holder of a note or subsequent Holder of a note may revoke the consent as to its note if the Trustee receives written notice of revocation before the date the amendment, supplement or waiver becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

Section 9.05 *Notation on or Exchange of Notes*.

The Trustee may place an appropriate notation about an amendment, supplement or waiver on any note thereafter authenticated. The Issuers in exchange for all notes may issue and the Trustee shall, upon receipt of an Authentication Order, authenticate new notes that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new note will not affect the validity and effect of such amendment, supplement or waiver.

Section 9.06 *Trustee to Sign Amendments, etc.*

The Trustee will sign any amended or supplemental indenture authorized pursuant to this Article 9 if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. The Issuers may not sign an amended or supplemental indenture until the Board of Directors of each of the Issuers approves it. In executing any amended or supplemental indenture, the Trustee will be entitled to receive and (subject to Section 7.01 hereof) will be fully protected in relying upon, in addition to the documents required by Section 13.04 hereof, an Officers' Certificate and an opinion of counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by this Indenture.

ARTICLE 10
COLLATERAL AND SECURITY

Section 10.01 *Notes Security Documents.*

The payment of the principal of and interest and premium, if any, on the notes when due, whether on an Interest Payment Date, at Stated Maturity, by acceleration, repurchase, redemption or otherwise and whether by the Issuers pursuant to the notes or by any Guarantor pursuant to its Guarantee, the payment of all other Obligations and the performance of all other Obligations of the Issuers and the Guarantors under this Indenture, the notes, the Guarantees and the Notes Security Documents are secured as provided in the Notes Security Documents and will be secured by Notes Security Documents hereafter delivered as required or permitted by this Indenture.

The Issuers and the Guarantors will deliver to the Trustee true and complete copies of all documents delivered to the Collateral Agent pursuant to the Collateral Agreement and the Collateral Agency Agreement, and will do or cause to be done all such acts and things as may be necessary or proper, or as may be required by the provisions of the Collateral Agreement or the Collateral Agency Agreement, to assure and confirm to the Trustee and the Collateral Agent the security interest in the Collateral contemplated hereby, by the Collateral Agreement and the other Notes Security Documents, or by any part thereof, as from time to time constituted, so as to render the same available for the security and benefit of this Indenture and of the notes secured hereby, according to the intent and purposes herein expressed.

Notwithstanding anything contained herein or in any Security Document to the contrary, neither the Trustee nor the Collateral Agent shall have any responsibility or liability for the preparation, filing, continuation or correctness of financing statements or continuation statements or with respect to the perfection or priority of any security interest created by this Indenture or any of the Security Documents.

Section 10.02 *Collateral Agent and Trustee.*

(a) The Collateral Agent shall have all the rights and protections provided in the Notes Security Documents.

(b) None of the Trustee, Paying Agent or Registrar or the Collateral Agent (except as provided in the Notes Security Documents), nor any of their respective officers, directors, employees, attorneys or agents will be responsible or liable for the existence, genuineness, value or protection of any Collateral, for the legality, enforceability, effectiveness or sufficiency of the Notes Security Documents, for the creation, perfection, priority, sufficiency or protection of any Liens on the Collateral, or any defect or deficiency as to any such matters.

(c) Except as required or permitted by the Notes Security Documents, the Holders, by accepting a note, acknowledge that the Collateral Agent will not be obligated:

- (1) to act upon directions purported to be delivered to it by any Person, except in accordance with the Notes Security Documents;
- (2) to foreclose upon or otherwise enforce any Lien on the Collateral; or
- (3) to take any other action whatsoever with regard to any or all of the Liens on the Collateral or the Notes Security Documents.

Section 10.03 *Authorization of Actions to Be Taken.*

(a) Each Holder of notes, by its acceptance thereof, consents and agrees to the terms of each Notes Security Document, as originally in effect and as amended, supplemented or replaced from time to time in accordance with its respective terms and the terms of this Indenture, authorizes and directs the Trustee and the Collateral Agent to enter into the Notes Security Documents to which each is a party, and authorizes and empowers the Trustee and the Collateral Agent to bind the Holders of notes as set forth in the Notes Security Documents to which the Trustee or the Collateral Agent is a party, and to perform its obligations and exercise its rights and powers thereunder.

(b) Each Holder of notes, by its acceptance thereof, authorizes and directs the Trustee and the Collateral Agent to enter into one or more amendments to the Collateral Agency Agreement or enter into any intercreditor agreements or any amendments or supplements to the Notes Security Documents in accordance with the provisions of this Indenture and the Notes Security Documents.

(c) Unless otherwise prohibited by this Indenture, the Issuers shall not direct the Collateral Agent or the Trustee to enter into any amendments to the Collateral Agency Agreement, except in accordance with the Collateral Agency Agreement.

(d) Each Holder of a note, by accepting such note, shall be deemed to have (1) appointed and authorized the Trustee to give effect to such provisions in Section 10.03(b); (2) authorized the Trustee to become a party to any future intercreditor arrangements described in Section 10.03(b); (3) agreed to be bound by such provisions in Section 10.03(b) and the provisions of any future intercreditor arrangements described in Section 10.03(b); and (4) irrevocably appointed the Trustee to act on its behalf to enter into and comply with such provisions in Section 10.03(b) and the provisions of any future intercreditor arrangements in Section 10.03(b).

(e) Each of the Trustee and the Collateral Agent is authorized and empowered to receive for the benefit of the Holders of notes any funds collected or distributed to the Collateral Agent under the Notes Security Documents and, subject to the terms of the Notes Security Documents, to make further distributions of such funds to the Holders of notes according to the provisions of this Indenture.

(f) Subject to the provisions of Section 7.01, Section 7.02 and the Notes Security Documents, the Trustee may, and upon the written direction of the Holders holding a majority of the aggregate outstanding principal amount of the notes shall, direct, on behalf of the Holders, the Collateral Agent to take all actions it deems necessary or appropriate in order to:

- (1) foreclose upon or otherwise enforce any or all of the Liens on the Collateral;
- (2) enforce any of the terms of the Notes Security Documents to which the Collateral Agent is a party; or
- (3) collect and receive payment of any and all Obligations.

Subject to the Collateral Agency Agreement, the Trustee is hereby authorized and empowered by each Holder of notes (by its acceptance thereof), but shall be under no obligation to unless directed, in writing, by Holders holding a majority of the outstanding principal amount of the notes, to institute and maintain, or direct the Collateral Agent to institute and maintain, such suits and proceedings as it or such Holders may deem reasonably expedient to protect or enforce the Liens on the Collateral or the Notes Security Documents to which the Collateral Agent or Trustee is a party or to prevent any impairment of Collateral by any acts that may be unlawful or in violation of the Notes Security Documents or this

Indenture, and such suits and proceedings as the Trustee or such Holders may deem reasonably expedient to preserve or protect its interests and the interests of the Holders of notes in the Collateral, including power to institute and maintain suits or proceedings to restrain the enforcement of or compliance with any legislative or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid if the enforcement of, or compliance with, such enactment, rule or order would impair the Liens on the Collateral or be prejudicial to the interests of Holders or the Trustee. The Issuers shall reimburse the Trustee, Holders and Collateral Agent, as applicable, for any reasonable out-of-pocket costs and expenses incurred in connection with such suits and proceedings.

Section 10.04 Powers Exercisable by Receiver or Trustee.

In case the Collateral shall be in the possession of a receiver or trustee, lawfully appointed, the powers conferred in this Article 10 upon the Issuers or a Guarantor with respect to the release, sale or other disposition of such property may be exercised by such receiver or trustee, and an instrument signed by such receiver or trustee shall be deemed the equivalent of any similar instrument of the Issuers or a Guarantor or of any officer or officers thereof required by the provisions of this Article 10; and if the Trustee or the Collateral Agent shall be in the possession of the Collateral under any provision of this Indenture, then such powers may be exercised by the Trustee or the Collateral Agent, as the case may be.

Section 10.05 Release upon Termination of the Issuers' Obligations.

In the event (i) that the Issuers deliver to the Trustee an Officers' Certificate and opinion of counsel stating that all the Obligations under this Indenture, the notes, the Guarantees and the Notes Security Documents have been satisfied and discharged by the payment in full of the Issuers' obligations under the notes, the Guarantees, this Indenture and the Notes Security Documents, and all such Obligations have been so satisfied, or (ii) a discharge, Legal Defeasance or Covenant Defeasance of this Indenture occurs under Article 8 or 12, the Trustee at the written request of the Issuers shall deliver to the Issuers and the Collateral Agent a notice stating that the Trustee, on behalf of the Holders, disclaims and gives up any and all rights it has in or to the Collateral, and any rights it has under the Notes Security Documents.

Section 10.06 Collateral Agent as Third-Party Beneficiary.

This Article 10 is intended for the benefit of, and shall be enforceable as a third-party beneficiary by, the Collateral Agent as a holder of Liens on the Collateral.

Section 10.07 Collateral Account.

Each Holder of a note, by accepting such note, agrees to the establishment, maintenance and administration of a "Collateral Account" by the Collateral Agent on behalf of the Trustee and the other Secured Debt Representatives, for the benefit of the Holders and the other Secured Parties.

ARTICLE 11
GUARANTEES

Section 11.01 *Guarantee*.

(a) Subject to this Article 11, each of the Guarantors hereby, jointly and severally, unconditionally guarantees to each Holder of a note authenticated and delivered by the Trustee and to the Trustee the Collateral Agent and their respective successors and assigns, irrespective of the validity and enforceability of this Indenture, the notes or the obligations of the Issuers hereunder or thereunder, that:

(1) the principal of, premium, if any, on, and interest, if any, on the notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of, premium on, if any, and interest, if any, on, the notes, if lawful, and all other obligations of the Issuers to the Holders or the Trustee or the Collateral Agent hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and

(2) in case of any extension of time of payment or renewal of any notes or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise.

Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay the same immediately. Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

Any amount received by the Trustee through the enforcement of a Guarantee will be applied to all outstanding obligations in respect of principal, interest and premium, if any, then owing on the notes.

(b) The Guarantors hereby agree that their obligations hereunder are unconditional, irrespective of the validity, regularity or enforceability of the notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Issuers, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor. Each Guarantor hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of either Issuer, any right to require a proceeding first against the Issuers, protest, notice and all demands whatsoever and covenant that this Guarantee will not be discharged except by complete performance of the obligations contained in the notes and this Indenture.

(c) If any Holder or the Trustee or the Collateral Agent is required by any court or otherwise to return to the Issuers, the Guarantors or any custodian, trustee, liquidator or other similar official acting in relation to either the Issuers or the Guarantors, any amount paid by either to the Trustee or such Holder, this Guarantee, to the extent theretofore discharged, will be reinstated in full force and effect.

(d) Each Guarantor agrees that it will not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (1) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 hereof for the purposes of this Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (2) in the event of any declaration of acceleration of such obligations as provided in Article 6 hereof, such obligations (whether or not due and payable) will forthwith become due and payable by the Guarantors for the purpose of this Guarantee.

(e) Any Subsidiary Guarantor that makes a payment under its Subsidiary Guarantee (the "*Subsidiary Guarantee Payment*") will be entitled (without affecting any obligation of such Subsidiary Guarantor to make such payment and so long as the exercise of such right does not impair the rights of the Holders under the Guarantee), upon payment in full of all guaranteed Obligations under this Indenture, to a contribution from each other Guarantor in an amount equal to such other Guarantor's pro rata portion of the Subsidiary Guarantee Payment based on the respective net assets of all Guarantors at the time of the Subsidiary Guarantee Payment, determined in accordance with GAAP.

(f) In the event that the Parent makes a payment under its Parent Guarantee (the “*Parent Guarantee Payment*”), the Parent will be entitled (without affecting any obligation of the Parent to make such payment and so long as the exercise of such right does not impair the rights of the Holders under the Guarantee) upon payment in full of all guaranteed Obligations under this Indenture, to a contribution from each other Guarantor in an amount equal to such other Guarantor’s pro rata portion of the Parent Guarantee Payment based on the respective net assets of all the Guarantors at the time of the Parent Guarantee Payment, determined in accordance with GAAP.

Section 11.02 Limitation on Guarantor Liability.

Each Guarantor, and by its acceptance of notes, each Holder, hereby confirms that it is the intention of all such parties that the Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law to the extent applicable to any Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the obligations of such Guarantor will be limited to the maximum amount that will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Guarantor that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under this Article 11, result in the obligations of such Guarantor under its Guarantee not being deemed to constitute a fraudulent conveyance or fraudulent transfer under federal or state law.

Section 11.03 Execution and Delivery of Guarantee.

The Company shall cause each Domestic Restricted Subsidiary that is required to become a Subsidiary Guarantor pursuant to Section 4.20 to promptly execute and deliver to the Trustee a supplemental indenture (in the form attached hereto as Exhibit E or otherwise in form and substance reasonably satisfactory to the Trustee), evidencing its Subsidiary Guarantee on substantially the terms set forth in this Article 11. Concurrently therewith, the Company shall deliver to the Trustee an opinion of counsel to the effect that such supplemental indenture has been duly authorized, executed and delivered by such Domestic Restricted Subsidiary and that, subject to applicable bankruptcy, insolvency, fraudulent transfer, fraudulent conveyance, reorganization, moratorium and other laws now or hereinafter in effect affecting creditors’ rights or remedies generally and to general principles of equity (including standards of materiality, good faith, fair dealing and reasonableness), whether considered in a proceeding at law or at equity, such supplemental indenture is a valid and binding agreement of such Domestic Restricted Subsidiary, enforceable against such Domestic Restricted Subsidiary in accordance with its terms.

Section 11.04 Guarantors May Consolidate, etc., on Certain Terms.

Except as otherwise provided in Section 11.05 hereof, each Subsidiary Guarantor will not, and the Issuers will not permit a Subsidiary Guarantor to, consolidate with, merge with or into, or sell, convey, transfer, lease or otherwise dispose of all or substantially all of its property and assets (as an entirety or substantially an entirety in one transaction or a series of related transactions) to, any Person or permit any Person to merge with or into it (other than the Issuers or any Subsidiary Guarantor), unless:

- (1) immediately after giving effect to such transaction, no Default or Event of Default will have occurred and be continuing, and

(2) either:

(A) such Subsidiary Guarantor shall be the continuing Person, or the Person (if other than such Subsidiary Guarantor) formed by such consolidation or into which such Subsidiary Guarantor is merged or that acquired or leased its property and assets (i) shall be a corporation or limited liability company organized and validly existing under the laws of the United States of America or any jurisdiction thereof and (ii) shall expressly assume, by supplemental indenture, executed and delivered to the Trustee, all of its obligations on the Subsidiary Guarantee and under this Indenture and the Notes Security Documents; *provided that*:

(i) such Subsidiary Guarantor or the surviving entity, as applicable, promptly causes such amendments, supplements or other instruments to be executed, delivered, filed and recorded, as applicable, in such jurisdictions as may be reasonably required by applicable law to preserve and protect the Lien of the Notes Security Documents on the Collateral owned by or transferred to such Subsidiary Guarantor or the surviving entity;

(ii) the Collateral owned by or transferred to such Subsidiary Guarantor or the surviving entity, as applicable, shall (A) constitute Collateral under this Indenture and the Notes Security Documents; (B) be subject to the Priority Lien in favor of the Collateral Agent for the benefit of the Trustee and the Holders; and (C) not be subject to any Lien other than Permitted Liens; and

(iii) the property and assets of the Person which is merged or consolidated with or into such Subsidiary Guarantor or the surviving entity, as applicable, to the extent that they are property or assets or of the types which would constitute Collateral under the Notes Security Documents, shall be treated as After-Acquired Property and such Subsidiary Guarantor or the surviving entity shall take such action as may be reasonably necessary to cause such property and assets to be made subject to the Priority Lien of the Notes Security Documents in the manner and to the extent required in this Indenture; or

(B) the transaction is not prohibited by Section 4.10 hereof.

In case of any such consolidation, merger, sale, assignment, transfer, or conveyance and upon the assumption by the successor Person, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the Guarantee and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Subsidiary Guarantor, such successor Person will succeed to and be substituted for the Subsidiary Guarantor with the same effect as if it had been named herein as a Subsidiary Guarantor. Such Subsidiary Guarantor shall deliver to the Trustee an Officers' Certificate and opinion of counsel, in each case stating that such consolidation, merger or transfer and such supplemental indenture (including any supplement to any Notes Security Document if required in connection with such transaction) comply with this provision and that all conditions precedent provided for herein relating to such transaction have been complied with. In such event, the Person formed by such consolidation or merger will succeed to, and be substituted for, such Subsidiary Guarantor under the Indenture and such Subsidiary Guarantor's Subsidiary Guarantee and, except in the case of a lease, such Subsidiary Guarantor will automatically be released and discharged from its obligations under the Indenture and its Subsidiary Guarantee. All the Subsidiary Guarantees so issued will in all respects have the same legal rank and benefit under this Indenture as the Subsidiary Guarantees theretofore and thereafter issued in accordance with the terms of this Indenture as though all of such Subsidiary Guarantees had been issued at the date of the execution hereof.

Except as set forth in Articles 4 and 5 hereof, and notwithstanding the foregoing, nothing contained in this Indenture or in any of the notes will prevent any consolidation or merger of a Subsidiary Guarantor with or into an Issuer or another Subsidiary Guarantor, or will prevent any sale, assignment, transfer, or conveyance of the property of a Subsidiary Guarantor as an entirety or substantially as an entirety to an Issuer or another Subsidiary Guarantor.

Notwithstanding the foregoing, the Parent shall not merge or consolidate with or transfer all of its assets to, an Issuer or any Restricted Subsidiary if the Issuer or any Restricted Subsidiary will become an issuer or other obligor on the Existing Convertible Notes or any Indebtedness that is incurred to refinance, replace, renew or refund the Existing Convertible Notes (in whole or in part, on one or more occasions and from time to time).

Section 11.05 Releases.

(a) A Subsidiary Guarantee of a Subsidiary Guarantor will be automatically and unconditionally released (and thereupon shall terminate and be discharged and be of no further force and effect):

(1) in connection with any sale or other disposition (including by merger or otherwise) of (x) Capital Stock of the Subsidiary Guarantor or (y) all or substantially all of the assets of such Subsidiary Guarantor, in each case if (i) such sale or other disposition (including by merger or otherwise) complies with the applicable provisions hereof and (ii) following which such Subsidiary Guarantor is no longer a Restricted Subsidiary;

(2) if the Company properly designates the Subsidiary Guarantor as an Unrestricted Subsidiary under this Indenture;

(3) upon the merger or consolidation of any Subsidiary Guarantor with and into an Issuer or another Subsidiary Guarantor that is the surviving Person in such merger or consolidation, or upon the liquidation of such Subsidiary Guarantor following the transfer of all of its assets to the Issuers or another Subsidiary Guarantor; *provided* that any Subsidiary Guarantor that survives any such transaction or is the transferee of assets of such a Subsidiary Guarantor remains a Subsidiary Guarantor;

(4) upon a legal defeasance or satisfaction and discharge of this Indenture that complies with Article 8 hereof;

(5) upon payment in full of the aggregate principal amount of all notes then outstanding and all other Obligations under this Indenture and the notes then due and owing; or

(6) during the Suspension Period, upon the merger or consolidation of any Subsidiary Guarantor with and into another Subsidiary that is not a Guarantor with such other Subsidiary being the surviving Person in such merger or consolidation, or upon liquidation of such Subsidiary Guarantor following the transfer of all of its assets to a Subsidiary that is not a Guarantor.

(b) The Parent Guarantee will be automatically and unconditionally released (and thereupon shall terminate and be discharged and be of no further force and effect):

(1) upon the merger or consolidation of the Parent with and into an Issuer or a Subsidiary Guarantor that is the surviving Person in such merger or consolidation, or upon the liquidation of the Parent following the transfer of all of its assets to the Issuers or a Subsidiary Guarantor, in each case, if such transfer sale or other disposition (including by merger or otherwise) complies with the applicable provisions of this Indenture and such surviving Person or transferee remains a Guarantor or an Issuer after completion of such transaction;

(2) upon a legal defeasance or satisfaction and discharge of this Indenture that complies with Article 8 hereof; or

(3) upon payment in full of the aggregate principal amount of all notes then outstanding and all other Obligations under this Indenture and the notes then due and owing.

(c) Upon any occurrence giving rise to a release of a Guarantee as specified above, the Trustee will, at the direction of and sole cost of the Company, execute any documents reasonably required in order to evidence or effect such release, termination and discharge in respect of the Guarantee. Neither the Parent, the Issuers nor any Subsidiary Guarantor will be required to make a notation on the notes to reflect any Guarantee or any such release, termination or discharge. Upon any release of a Guarantor from its Guarantee, such Guarantor shall also be released from its obligations under the Notes Security Documents.

(d) Any Guarantor not released from its obligations under its Guarantee as provided in this Section 11.05 will remain liable for the full amount of principal of, premium on, if any, and interest, if any, on, the notes and for the other obligations of any Guarantor under this Indenture as provided in this Article 11.

ARTICLE 12 SATISFACTION AND DISCHARGE

Section 12.01 *Satisfaction and Discharge.*

This Indenture will be discharged and will cease to be of further effect as to all notes issued hereunder, when:

(1) either:

(A) all notes that have been authenticated and delivered (other than destroyed, lost or stolen notes that have been replaced, notes that are paid and notes for whose payment money or securities have theretofore been deposited in trust and thereafter repaid to the Issuers) have been delivered to the Trustee for cancellation and the Issuers or any other Obligor have paid or caused to be paid all sums payable under this Indenture, or

(B) all notes not theretofore delivered to the Trustee for cancellation have become due and payable, mature within one year or otherwise come due and payable within one year, or are to be called for redemption within one year and the Issuers or any other Obligor have irrevocably deposited or caused to be deposited with the Trustee, as trust funds in trust solely for the benefit of the Holders, money or U.S. Government Obligations or a combination of the two sufficient, without consideration of any reinvestment of interest, to pay principal, premium, if any, and accrued interest on the notes to the date of deposit (in the case of notes that have become due and payable), the date of maturity or redemption and all other sums payable under this Indenture;

(2) no Default or Event of Default shall have occurred and be continuing on the date of such deposit and such deposit will not result in a breach or violation of, or constitute a default under such Indenture or any other instrument to which the Issuers or any other Obligor is a party or by which the Issuers or any other Obligor is bound; and

(3) the Issuers have delivered irrevocable instructions to the Trustee to apply the deposited money toward the payment of the notes at maturity or the redemption date, as applicable.

In addition, the Issuers must deliver an Officers' Certificate and an opinion of counsel to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

Notwithstanding the satisfaction and discharge of this Indenture, if money has been deposited with the Trustee pursuant to subclause (B) of clause (1) of this Section 12.01, the provisions of Sections 12.02 and 8.06 hereof will survive. In addition, nothing in this Section 12.01 will be deemed to discharge those provisions of Section 7.07 hereof, that, by their terms, survive the satisfaction and discharge of this Indenture.

Section 12.02 Application of Trust Money.

Subject to the provisions of Section 8.06 hereof, all money deposited with the Trustee pursuant to Section 12.01 hereof shall be held in trust and applied by it, in accordance with the provisions of the notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal, premium, if any, and interest, if any, for whose payment such money has been deposited with the Trustee; but such money need not be segregated from other funds except to the extent required by law.

If the Trustee or Paying Agent is unable to apply any money or U.S. Government Obligations in accordance with Section 12.01 hereof by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Issuers' and any Guarantor's obligations under this Indenture and the notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 12.01 hereof; *provided* that if the Issuers have made any payment of principal of, premium on, if any, or interest, if any, on any notes because of the reinstatement of its obligations, the Issuers shall be subrogated to the rights of the Holders of such notes to receive such payment from the money or U.S. Government Obligations held by the Trustee or Paying Agent.

ARTICLE 13
MISCELLANEOUS

Section 13.01 *[Reserved]*.

Section 13.02 *Notices*.

Any notice or communication by the Issuers, any Guarantor, the Trustee or the Collateral Agent to the others is duly given if in writing and delivered in Person or by first-class mail (registered or certified, return receipt requested), Electronic Means or overnight air courier guaranteeing next day delivery, to the others' address:

If to the Issuers and/or any Guarantor:

Gogo Inc.
111 N. Canal St.
Chicago, Illinois 60606
Facsimile No.: (312) 575-0543
Attention: General Counsel

With a copy to:

Debevoise & Plimpton LLP
919 Third Avenue
New York, New York 10022
Facsimile No.: (212) 521-7334
Attention: Matthew E. Kaplan, Esq.

If to the Trustee or the Collateral Agent:

U.S. Bank National Association
190 S. LaSalle Street, 10th Floor
MK-IL-SLTR
Chicago, Illinois 60603
Direct No.: (312) 332-6781
Facsimile No.: (312) 332-8009
Attention: Global Corporate Trust

The Issuers, any Guarantor, the Trustee or the Collateral Agent, by notice to the others, may designate additional or different addresses for subsequent notices or communications.

All notices and communications (other than those sent to Holders) will be deemed to have been duly given: at the time delivered by hand, if personally delivered; five business days after being deposited in the mail, postage prepaid, if mailed; when receipt acknowledged, if transmitted by Electronic Means; and the next business day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

Any notice or communication to a Holder will be mailed by first-class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar. Failure to mail a notice or communication to a Holder or any defect in it will not affect its sufficiency with respect to other Holders.

If a notice or communication is mailed in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Company delivers a notice or communication to Holders, it will deliver a copy to the Trustee and the Collateral Agent and each Agent at the same time.

The Trustee shall have the right to accept and act upon instructions, including funds transfer instructions ("*Instructions*") given by the Issuers pursuant to this Indenture and delivered using Electronic Means; *provided, however*, that the Issuers shall provide to the Trustee an incumbency certificate listing officers with the authority to provide such Instructions (each, an "*Authorized Officer*") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the

Issuers whenever a person is to be added or deleted from the listing. If the Issuers elect to give the Trustee Instructions using Electronic Means and the Trustee elects to act upon such Instructions, the Trustee's understanding of such Instructions shall be deemed controlling. The Issuers understand and agree that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that Instructions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The Issuers shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee and that the Issuers and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Issuers. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such Instructions notwithstanding such Instructions conflict or are inconsistent with a subsequent written instruction. The Issuers agree: (a) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; and (b) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.

Section 13.03 Communication by Holders of Notes with Other Holders of Notes.

Holders may communicate pursuant to TIA §312(b) with other Holders with respect to their rights under this Indenture or the notes. The Company, the Trustee, the Collateral Agent, the Registrar and anyone else shall have the protection of TIA §312(c).

Section 13.04 Certificate and Opinion as to Conditions Precedent.

Upon any request or application by the Company to the Trustee or the Collateral Agent to take any action under this Indenture, the Company shall furnish to the Trustee or the Collateral Agent:

- (1) an Officers' Certificate in form and substance reasonably satisfactory to the Trustee or the Collateral Agent, as the case may be (which must include the statements set forth in Section 13.05 hereof), stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied; and
- (2) an opinion of counsel in form and substance reasonably satisfactory to the Trustee or the Collateral Agent, as the case may be (which must include the statements set forth in Section 13.05 hereof), stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

Section 13.05 Statements Required in Certificate or Opinion.

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture must include:

- (1) a statement that the Person making such certificate or opinion has read such covenant or condition;
- (2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(3) a statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been satisfied; and

(4) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been satisfied.

Section 13.06 Rules by Trustee and Agents.

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

Section 13.07 No Personal Liability of Incorporators, Stockholders, Members, Officers, Directors or Employees.

No recourse for the payment of the principal of, premium, if any, or interest on any of the notes or for any claim based thereon or otherwise in respect thereof, and no recourse under or upon any obligation, covenant or agreement of the Issuers, the Parent or any Subsidiary Guarantor in this Indenture, or in any of the notes or because of the creation of any Indebtedness represented thereby or under the Notes Security Documents, shall be had against any incorporator, stockholder, member, officer, director, employee or controlling Person, in their capacity as such, of any of the Parent, the Issuers or any Subsidiary Guarantor or of any of their respective successors. Each Holder, by accepting the notes, waives and releases all such liability. The waiver and release are part of the consideration for issuance of the notes. The waiver may not be effective to waive liabilities under the federal securities laws.

Section 13.08 Governing Law; Jurisdiction.

THIS INDENTURE, THE NOTES AND THE GUARANTEES, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS INDENTURE, THE NOTES AND THE GUARANTEES, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

The Issuers and the Guarantors irrevocably consent and agree, for the benefit of the Holders from time to time of the notes and the Trustee, that any legal action, suit or proceeding against it with respect to obligations, liabilities or any other matter arising out of or in connection with this Indenture, the notes or the Guarantees may be brought in the courts of the State of New York or the courts of the United States located in the Borough of Manhattan, The City of New York, New York and, until amounts due and to become due in respect of the notes have been paid, hereby irrevocably consent and submit to the non-exclusive jurisdiction of each such court in personam, generally and unconditionally with respect to any action, suit or proceeding for itself in respect of its properties, assets and revenues.

The Issuers and the Guarantors irrevocably and unconditionally waive, to the fullest extent permitted by law, any objection which they may now or hereafter have to the laying of venue of any of the aforesaid actions, suits or proceedings arising out of or in connection with this Indenture, the notes or the Guarantees brought in the courts of the State of New York or the courts of the United States located in the Borough of Manhattan, The City of New York, New York and hereby further irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

Section 13.09 *No Adverse Interpretation of Other Agreements.*

This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 13.10 *Successors.*

All agreements of the Company in this Indenture and the notes will bind its successors. All agreements of the Trustee in this Indenture will bind its successors. All agreements of each Guarantor in this Indenture will bind its successors, except as otherwise provided in Section 11.05 hereof. The provisions of Article 10 referring to the Collateral Agent shall inure to the benefit of such Collateral Agent.

Section 13.11 *Severability.*

In case any provision in this Indenture or in the notes is invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby.

Section 13.12 *Counterpart Originals.*

The parties may sign any number of copies of this Indenture. Each signed copy will be an original, but all of them together represent the same agreement.

Section 13.13 *Table of Contents, Headings, etc.*

The Table of Contents, Cross-Reference Table and Headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and will in no way modify or restrict any of the terms or provisions hereof.

Section 13.14 *Waiver of Jury Trial.*

EACH OF THE ISSUERS, THE GUARANTORS AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES, THE GUARANTEES OR THE TRANSACTIONS CONTEMPLATED HEREBY.

[Signatures on following page]

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands as of the date and year first above written.

ISSUERS

GOGO INTERMEDIATE HOLDINGS LLC

By: /s/ Norman Smagley

Name: Norman Smagley

Title: Executive Vice President, Chief Financial Officer
and Assistant Secretary

GOGO FINANCE CO. INC.

By: /s/ Norman Smagley

Name: Norman Smagley

Title: Executive Vice President, Chief Financial Officer
and Assistant Secretary

GUARANTORS

GOGO INC.

By: /s/ Norman Smagley

Name: Norman Smagley

Title: Executive Vice President, Chief Financial Officer
and Assistant Secretary

AC BIDCO LLC

By: /s/ Norman Smagley

Name: Norman Smagley

Title: Executive Vice President, Chief Financial Officer
and Assistant Secretary

GOGO LLC

By: /s/ Norman Smagley

Name: Norman Smagley

Title: Executive Vice President, Chief Financial Officer
and Assistant Secretary

[Signature Page to Indenture]

By: /s/ Norman Smagley

Name: Norman Smagley

Title: Executive Vice President, Chief Financial Officer
and Assistant Secretary

[Signature Page to Indenture]

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: /s/Linda Garcia

Name: Linda Garcia

Title: Vice President

U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent

By: /s/Linda Garcia

Name: Linda Garcia

Title: Vice President

[Signature Page to Indenture]

[Face of Note]

CUSIP/ISIN _____

12.500% Senior Secured Notes due 2022

No. _____

\$ _____

GOGO INTERMEDIATE HOLDINGS LLC

and

GOGO FINANCE CO. INC.

promises to pay to _____ or registered assigns,

the principal sum of _____ DOLLARS
on July 1, 2022.

Interest Payment Dates: July 1 and January 1

Record Dates: June 15 and December 15

Dated: _____

GOGO INTERMEDIATE HOLDINGS LLC

By: _____
Name:
Title:

GOGO FINANCE CO. INC.

By: _____
Name:
Title:

This is one of the notes referred to
in the within-mentioned Indenture:

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
Authorized Signatory

[Insert the Global Note Legend, if applicable pursuant to the provisions of the Indenture]

[Insert the Private Placement Legend, if applicable pursuant to the provisions of the Indenture]

Capitalized terms used herein have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

(1) *INTEREST.* Gogo Intermediate Holdings LLC, a Delaware limited liability company (the “*Company*”), and Gogo Finance Co. Inc., a Delaware corporation (the “*Co-Issuer*” and, together with the Company, the “*Issuers*”), promise to pay or cause to be paid interest on the principal amount of this note at 12.500% per annum from _____, ____ until maturity. The Issuers will pay interest, if any, semi-annually in arrears on July 1 and January 1 of each year, or if any such day is not a business day, on the next succeeding business day (each, an “*Interest Payment Date*”). Interest on the notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance; *provided that*, if this note is authenticated between a record date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such next succeeding Interest Payment Date; *provided further* that the first Interest Payment Date shall be _____, _____. The Issuers will pay interest (including Post-Petition Interest in any proceeding under any Bankruptcy Law) on overdue principal at a rate that is 1% higher than the then applicable interest rate on the notes to the extent lawful; it will pay interest (including Post-Petition Interest in any proceeding under any Bankruptcy Law) on overdue installments of interest, if any (without regard to any applicable grace period), at the same rate to the extent lawful.

Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months.

(2) *METHOD OF PAYMENT.* The Issuers will pay interest on the notes (except defaulted interest), if any, to the Persons who are registered Holders of notes at the close of business on the June 15 or December 15 next preceding the Interest Payment Date, even if such notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. The notes will be payable as to principal, premium, if any, and interest, if any, at the office or agency of the Paying Agent and Registrar within the City and State of New York, or, at the option of the Issuers, payment of interest, if any, may be made by check mailed to the Holders at their addresses set forth in the register of Holders; *provided that* payment by wire transfer of immediately available funds will be required with respect to principal of, premium on, if any, and interest, if any, on, all Global Notes and all other notes the Holders of which will have provided wire transfer instructions to the Issuers or the Paying Agent. Such payment will be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

(3) *PAYING AGENT AND REGISTRAR.* Initially, U.S. Bank National Association, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Issuers may change the Paying Agent or Registrar without prior notice to the Holders of the notes. The Parent or any of its Subsidiaries may act as Paying Agent or Registrar.

(4) *INDENTURE*. The Issuers issued the notes under an Indenture dated as of June 14, 2016 (the “*Indenture*”) among the Issuers, the Guarantors, the Trustee and the Collateral Agent. The terms of the notes include those stated in the Indenture. The notes are subject to all such terms, and Holders are referred to the Indenture for a statement of such terms. To the extent any provision of this note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. The notes are secured obligations of the Issuers and the Guarantors. The Indenture does not limit the aggregate principal amount of notes that may be issued thereunder.

(5) *OPTIONAL REDEMPTION*.

(a) At any time prior to July 1, 2019, the Issuers may, at their option, at any time and from time to time, redeem up to 35% of the aggregate principal amount of the notes (including additional notes issued after the Issue Date, if any) originally issued with the net proceeds from one or more equity offerings of the Parent at a redemption price of 112.500% of their principal amount, plus accrued and unpaid interest, if any, to (but not including) the date of redemption; *provided, however*, that:

(i) notes representing at least 65% of the principal amount of the notes (including additional notes issued after the Issue Date, if any) remain outstanding immediately after each such redemption; and

(ii) notice of each such redemption is mailed within 120 days after the closing of the related equity offering.

(b) The Issuers may redeem the notes, in whole or in part, at any time prior to July 1, 2019 upon not less than 30 or more than 60 days’ notice, at a redemption price equal to 100% of the principal amount of the notes redeemed plus the Applicable Premium as of, and accrued and unpaid interest, if any, to (but not including) the applicable redemption date.

(c) Except pursuant to the preceding paragraphs, the notes will not be redeemable at the Issuers’ option prior to July 1, 2019.

(d) On or after July 1, 2019, the Issuers may, at their option, in whole or in part, at any time or from time to time, redeem any of the notes upon not less than 30 nor more than 60 days’ prior notice mailed by first-class mail to each Holder’s last address as it appears in the security register or otherwise delivered in accordance with DTC procedures. The notes will be redeemable at the following redemption prices (expressed in percentages of principal amount), plus accrued and unpaid interest, if any, to (but not including) the redemption date (subject to the right of Holders of record on the relevant regular record date that is on or prior to the redemption date to receive interest due on an interest payment date), if redeemed during the twelve-month period commencing on July 1 of the following years:

<u>Year</u>	<u>Redemption Price</u>
2019	106.250%
2020	103.125%
2021 and thereafter	100.000%

Unless the Issuers default in the payment of the redemption price, interest will cease to accrue on the notes or portions thereof called for redemption on the applicable redemption date.

(6) *MANDATORY REDEMPTION.* The Issuers are not required to make mandatory redemption or sinking fund payments with respect to the notes.

(7) *REPURCHASE AT THE OPTION OF HOLDER.*

(a) The Company must commence, within 30 days of the occurrence of a Change of Control, and consummate an Offer to Purchase for all notes then outstanding, at a purchase price equal to 101% of the principal amount thereof on the relevant Payment Date, plus accrued interest (if any) to (but not including) the Payment Date. The Company will provide notice of a Change of Control to each Holder, with a copy to the Trustee.

(b) If the Parent, the Company or any Restricted Subsidiary consummates any Asset Sales, and if, as of the first day of any calendar month, the aggregate amount of Excess Proceeds not theretofore subject to an Offer to Purchase totals at least \$10.0 million, the Company must commence, not later than the fifteenth business day of such month, and consummate an Offer to Purchase from the Holders on a *pro rata* basis an aggregate principal amount of notes and, to the extent permitted or required by the terms thereof, any other Pari Passu Debt, equal to the Excess Proceeds on such date, at a purchase price equal to 100% of the principal amount of the notes and such other Pari Passu Debt, if applicable, on the relevant Payment Date, plus, in each case, accrued interest (if any) to (but not including) the Payment Date. If any Excess Proceeds remain after consummation of an Offer to Purchase, the Company may use those Excess Proceeds for any purpose not otherwise prohibited by this Indenture. If the aggregate principal amount of notes and other Pari Passu Debt tendered in response to such Offer to Purchase exceeds the amount of Excess Proceeds, the Trustee will select the notes and such other Pari Passu Debt to be purchased on a *pro rata* basis, subject to DTC procedures if the notes are Global Notes. Upon completion of the Offer to Purchase, the amount of Excess Proceeds will be reset to zero. Holders of notes that are the subject of an Offer to Purchase will receive an Asset Sale Offer from the Company prior to any related purchase date and may elect to have such notes purchased by completing the form entitled "*Option of the Holder to Elect Purchase*" attached to the notes.

(8) *NOTICE OF REDEMPTION.* At least 30 days but not more than 60 days before a redemption date, the Issuers will mail or cause to be mailed, by first-class mail, a notice of redemption to each Holder whose notes are to be redeemed at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the notes or a satisfaction and discharge of the Indenture pursuant to Articles 8 or 12 thereof. Notes and portions of notes selected will be in amounts of \$2,000 or whole multiples of \$1,000 in excess thereof; except that if all of the notes of a Holder are to be redeemed or purchased, the entire outstanding amount of notes held by such Holder shall be redeemed or purchased.

In connection with any redemption of notes (including with the net cash proceeds of an equity offering), any such redemption or notice thereof may, at the Issuers' discretion, be subject to the satisfaction (or waiver by the Issuers in their sole discretion) of one or more conditions precedent, including, but not limited to, consummation of any related equity offering or Change of Control. In addition, if such redemption or notice is subject to satisfaction of one or more conditions precedent, such notice may state that, in the Issuers' discretion, the redemption date may be delayed until such time as any or all such conditions shall be satisfied (or, waived by the Issuers in their sole discretion), or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been (or, in the Issuers' sole determination, may not be) satisfied (or waived by the Issuers in their sole discretion) by the

redemption date, or by the redemption date so delayed; provided that if the redemption date is so delayed, redemption notices issued more than 60 days prior to the redemption date shall be deemed to have been issued upon not more than 60 days' notice; and provided further that redemption notices issued in connection with a defeasance of the notes or a satisfaction and discharge of this Indenture may be given more than 60 days prior to the redemption date.

(9) *DENOMINATIONS, TRANSFER, EXCHANGE*. The notes are in registered form in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof. The transfer of notes may be registered and notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Issuers need not exchange or register the transfer of any note or portion of a note selected for redemption, except for the unredeemed portion of any note being redeemed in part. Also, the Issuers need not exchange or register the transfer of any notes for a period of 15 days before a selection of notes to be redeemed or during the period between a record date and the next succeeding Interest Payment Date.

(10) *PERSONS DEEMED OWNERS*. The registered Holder of a note may be treated as the owner of it for all purposes. Only registered Holders have rights under the Indenture.

(11) *AMENDMENT, SUPPLEMENT AND WAIVER*. Subject to certain exceptions, the Indenture, the notes, the Guarantees and the Notes Security Documents may be amended or supplemented with the consent of the Holders of not less than a majority in aggregate principal amount of the notes then outstanding (including additional notes, if any) voting as a single class, and any existing Default or Event of Default or compliance with any other provision of the Indenture, the notes or the Guarantees, or with the Notes Security Documents, may be waived with the consent of the Holders of not less than a majority in aggregate principal amount of the notes then outstanding (including additional notes, if any) voting as a single class. Without the consent of any Holder of notes, the Indenture, the notes, the Guarantees or the Notes Security Documents may be amended or supplemented to cure any ambiguity, omission, mistake, defect or inconsistency in the Indenture; to comply with the provisions of the Indenture concerning consolidation, merger and sale of assets; to evidence and provide for the acceptance of appointment under the Indenture by a successor trustee or Collateral Agent; to provide for uncertificated notes in addition to or in place of Certificated Notes; to add one or more additional Guarantees on the terms required by the Indenture, or provide for the assumption of the Parent's, either Issuer's or any of the Subsidiary Guarantors' obligations to the Holders; to make any change that, in the good faith opinion of the Board of Directors of the Parent as evidenced by a board resolution, does not adversely affect the legal rights of any Holder in any material respect; to conform the text of the Indenture (including any supplemental indenture or other instrument pursuant to which additional notes are issued), the notes (including any additional notes), any Subsidiary Guarantee, the Parent Guarantee, the Collateral Agency Agreement or any Collateral Agreement to any provision of the "Description of Notes" section of the Issuers' Offering Memorandum dated June 9, 2016, relating to the initial offering of the notes, to the extent that such provision in that "Description of Notes" was intended to be a verbatim recitation of a provision of the Indenture, the notes, the Parent Guarantee, any Subsidiary Guarantee, the Collateral Agency Agreement or any Collateral Agreement; to amend the Collateral Agency Agreement to add additional holders of Additional Secured Obligations permitted under the Indenture, the Collateral Agency Agreement and any Secured Debt Documents then in effect; to add covenants for the benefit of the Holders, or to surrender any right or power conferred upon the Parent, the Issuers or any Guarantor; to release, terminate or discharge the Guarantee of any Guarantor or any Lien, in each case when such release, termination or discharge is permitted in

accordance with the terms of this Indenture; to provide for the issuance of additional notes in accordance with the limitations set forth in the Indenture as of the date of the Indenture; to make any changes with respect to the rights or obligations of the Trustee or other provisions relating to the Trustee that do not adversely affect the rights of any Holder in any material respect; to make any amendments to the provisions of the Indenture relating to the transfer and legending of notes as permitted by the Indenture, including, without limitation to facilitate the issuance and administration of the notes; *provided, however*, that (i) compliance with the Indenture as so amended would not result in notes being transferred in violation of the Securities Act or any applicable securities law and (ii) such amendment does not materially and adversely affect the rights of Holders to transfer notes; to amend the Notes Security Documents to add any holders of Priority Lien Obligations to the extent permitted under the Indenture, the Collateral Agency Agreement and any Priority Lien Document then in effect; and to add to the Collateral securing the notes.

(12) *DEFAULTS AND REMEDIES*. Events of Default include: (i) default in the payment of principal of (or premium, if any, on) the notes when the same becomes due and payable at maturity, upon acceleration, redemption or otherwise; (ii) default in the payment of interest on the notes when the same becomes due and payable, and such default continues for a period of 30 days; (iii) default in the performance or breach of the provisions of the Indenture applicable to mergers, consolidations and transfers of all or substantially all of the assets of the Company or the Restricted Subsidiaries or the failure to make or consummate an Offer to Purchase in accordance with Section 4.15 thereof; (iv) an Issuer or the Parent defaults in the performance of or breaches any other covenant or agreement of the Issuers or the Parent, as applicable, in the Indenture or under the notes (other than a default specified in clause (1), (2) or (3) of Section 6.01 of the Indenture) or under the Notes Security Documents, and such default or breach continues for a period of 30 consecutive days after written notice by the Trustee or to the Company and the Trustee by the Holders of 25% or more in aggregate principal amount of the notes; (v) there occurs with respect to any issue or issues of Indebtedness of an Issuer or any Significant Subsidiary having an outstanding principal amount of \$25.0 million or more in the aggregate for all such issues of all such Persons, whether such Indebtedness now exists or shall hereafter be created, (A) an event of default that has caused the holder thereof to declare such Indebtedness to be due and payable prior to its Stated Maturity and such Indebtedness has not been discharged in full or such acceleration has not been rescinded or annulled within 30 days of such acceleration and/or (B) the failure to make a principal payment at the final (but not any interim) fixed maturity and such defaulted payment shall not have been made, waived or extended within 30 days of such payment default; (vi) any final judgment or order (not covered by insurance) for the payment of money in excess of \$25.0 million in the aggregate for all such final judgments or orders against all such Persons (treating any deductibles, self-insurance or retention as not so covered) shall be rendered against an Issuer or any Significant Subsidiary and shall not be paid or discharged, and there shall be any period of 30 consecutive days following entry of the final judgment or order (or any longer period provided for the timely payment of such judgment or order) that causes the aggregate amount for all such final judgments or orders outstanding and not paid or discharged against all such Persons to exceed \$25.0 million during which a stay of enforcement of such final judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; (vii) a court having jurisdiction in the premises enters a decree or order for (A) relief in respect of an Issuer or any Significant Subsidiary in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect; (B) appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of an Issuer or any Significant Subsidiary or for all or substantially all of the property and assets of an Issuer or any Significant Subsidiary; or (C) the winding up or liquidation of the affairs of an Issuer or any Significant Subsidiary and, in each case, such decree or order shall remain unstayed and in effect for a period of 30 consecutive days;

(viii) an Issuer or any Significant Subsidiary (A) commences a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or consents to the entry of an order for relief in an involuntary case under any such law; (B) consents to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of an Issuer or any Significant Subsidiary or for all or substantially all of the property and assets of an Issuer or any Significant Subsidiary; or (C) effects any general assignment for the benefit of creditors; (ix) (a) Subsidiary Guarantees provided by Subsidiary Guarantors that individually or together would constitute a Significant Subsidiary cease to be in full force and effect (other than in accordance with the terms of such Subsidiary Guarantees or the terms of the Indenture) or any Subsidiary Guarantor denies or disaffirms its obligations under its Subsidiary Guarantee, or (b) the Parent Guarantee ceases to be in full force and effect or the Parent denies or disaffirms its obligations under the Parent Guarantee, and in each such case such Default continues for 10 days (other than by reason of the termination of the Indenture or the release of such Guarantee in accordance with the Indenture); (x) unless all of the Collateral has been released from the Liens in accordance with the provisions of the Notes Security Documents (A) a default (that has not been cured) by the Parent, the Issuers or any Subsidiary Guarantor in the performance of any obligation under the Notes Security Documents which materially adversely affects the enforceability, validity, perfection or priority of the Liens securing the notes on any portion of the Collateral; (B) the repudiation or disaffirmation by the Parent, the Issuers or any Subsidiary Guarantor of any of its material obligations under the Notes Security Documents; or (C) the final, non-appealable determination in a judicial proceeding that the Notes Security Documents are unenforceable or invalid against Parent, an Issuer or any Subsidiary Guarantor party thereto for any reason with respect to any portion of the Collateral with a value greater than \$7.5 million, and, in the case of any event described in subclauses (A) through (C), such default, repudiation, disaffirmation or determination is not rescinded, stayed, or waived by the Persons having such authority pursuant to the Notes Security Documents or otherwise cured within 60 days; or (xi) the Collateral Agency Agreement is not or ceases to be binding on or enforceable against any party thereto (or against any person on whose behalf any such party makes any covenant or agreements therein), or shall otherwise not be effective to create the rights and obligations purported to be created thereunder. In the case of an Event of Default arising from certain events of bankruptcy or insolvency with respect to an Issuer, or any Significant Subsidiary, the principal amount of, premium, if any, and accrued interest on the notes then outstanding shall become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder. If any other Event of Default occurs and is continuing, the Trustee or Holders of at least 25% in aggregate principal amount of the notes then outstanding by written notice to the Issuers (and to the Trustee if such notice is given by the Holders), may declare the principal amount of, premium, if any, and accrued interest on the notes to be immediately due and payable. Upon a declaration of acceleration, such principal amount, premium, if any, and accrued interest shall be immediately due and payable. If such acceleration occurs on or after the First Call Date, the principal amount of, premium, if any, and accrued interest on notes that becomes due and payable shall equal the optional redemption price in effect on the date of such acceleration, as if such acceleration were an optional redemption of the notes accelerated. If such acceleration occurs prior to the First Call Date, the principal amount of, premium, if any, and accrued interest on notes that becomes due and payable shall equal the Make-Whole Redemption Price in effect on the date of such acceleration, as if such acceleration were a Make-Whole Redemption of the Notes accelerated. The amounts described in the preceding two sentences are intended to be liquidated damages and not unmatured interest or a penalty. In the event of a declaration of acceleration because an Event of Default set forth in clause (5) of Section 6.01 of the Indenture has occurred and is continuing, such declaration of acceleration shall be automatically rescinded and annulled if the event of default triggering such Event of Default pursuant to clause (5) of Section 6.01 of the Indenture shall be remedied or

cured by the relevant Issuer or the relevant Significant Subsidiary or waived by the holders of the relevant Indebtedness within 60 days after the declaration of acceleration with respect thereto. If an Event of Default specified in clause (7) or (8) of Section 6.01 of the Indenture occurs with respect to an Issuer or any Significant Subsidiary the principal amount of, premium, if any, and accrued interest on the notes then outstanding shall become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder. Holders may not enforce the Indenture or the notes except as provided in the Indenture. Subject to certain limitations, the Holders of at least a majority in aggregate principal amount of the outstanding notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or the Collateral Agent or exercising any trust or power conferred on the Trustee pursuant to the Indenture. The Trustee may withhold from Holders of the notes notice of any continuing Default or Event of Default (except a Default or Event of Default relating to the payment of principal, premium, if any, or interest, if any,) if it determines that withholding notice is in their interest. The Holders of at least a majority in aggregate principal amount of the outstanding notes, by notice to the Company and to the Trustee, may waive all past Defaults with respect to the notes and rescind and annul a declaration of acceleration and its consequences if (1) all existing Events of Default, other than the nonpayment of the principal of, premium, if any, and interest on the notes that have become due solely by such declaration of acceleration, have been cured or waived and (2) the rescission would not conflict with any judgment or decree of a court of competent jurisdiction. The Company's officers are required to furnish to the Trustee annually a statement regarding compliance with the Indenture, and the Company is required, within five business days upon any Officer becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

(13) *TRUSTEE DEALINGS WITH ISSUERS.* The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for either Issuer or any Guarantor or any Affiliate of either Issuer or any Guarantor, and may otherwise deal with either Issuer or any Guarantor or any Affiliate of either Issuer or any Guarantor, as if it were not the Trustee.

(14) *NO RECOURSE AGAINST OTHERS.* No recourse for the payment of the principal of, premium, if any, or interest on any of the notes or for any claim based thereon or otherwise in respect thereof, and no recourse under or upon any obligation, covenant or agreement of the Issuers, the Parent or any Subsidiary Guarantor in this Indenture, or in any of the notes or because of the creation of any Indebtedness represented thereby or under the Notes Security Documents, shall be had against any incorporator, stockholder, member, officer, director, employee or controlling Person, in their capacity as such, of any of the Parent, the Issuers or any Subsidiary Guarantor or of any of their respective successors. Each Holder, by accepting the notes, waives and releases all such liability. The waiver and release are part of the consideration for issuance of the notes. The waiver may not be effective to waive liabilities under the federal securities laws.

(15) *AUTHENTICATION.* This note will not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

(16) *ABBREVIATIONS.* Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

(17) *CUSIP AND ISIN NUMBERS*. The Issuers have caused CUSIP and ISIN numbers, if applicable, to be printed on the notes, and the Trustee may use CUSIP and ISIN numbers, if applicable, in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the notes or as contained in any notice of redemption, and reliance may be placed only on the other identification numbers placed thereon.

(18) *GOVERNING LAW*. THE INDENTURE, THIS NOTE AND THE GUARANTEES, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THE INDENTURE, THIS NOTE AND THE GUARANTEES, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to:

Gogo Inc.
111 N. Canal St.
Chicago, Illinois 60606
Facsimile No.: (312) 575-0543
Attention: General Counsel

With a copy to:

Debevoise & Plimpton LLP
919 Third Avenue
New York, New York 10022
Facsimile No.: (212) 521-7334
Attention: Matthew E. Kaplan, Esq.

ASSIGNMENT FORM

To assign this note, fill in the form below:

(I) or (we) assign and transfer this note to:

_____ (Insert assignee's legal name)

_____ (Insert assignee's soc. sec. or tax I.D. no.)

_____ (Print or type assignee's name, address and zip code)

and irrevocably appoint _____
to transfer this note on the books of the Issuers. The agent may substitute another to act for him.

Date: _____

Your Signature: _____
(Sign exactly as your name appears on the face of this note)

Signature Guarantee*: _____

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

Option of the Holder to Elect Purchase

If you want to elect to have this note purchased by the Company pursuant to Section 4.10 or 4.15 of the Indenture, check the appropriate box below:

Section 4.10

Section 4.15

If you want to elect to have only part of the note purchased by the Company pursuant to Section 4.10 or Section 4.15 of the Indenture, state the amount you elect to have purchased:

\$_____

Date: _____

Your Signature: _____
(Sign exactly as your name appears on the face of this note)

Tax Identification No.: _____

Signature Guarantee*: _____

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE *

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest in this Global Note, have been made:

<u>Date of Exchange</u>	<u>Amount of decrease in Principal Amount of this Global Note</u>	<u>Amount of increase in Principal Amount of this Global Note</u>	<u>Principal Amount of this Global Note following such decrease (or increase)</u>	<u>Signature of authorized officer of Trustee or Custodian</u>
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* *This schedule should be included only if the note is issued in global form.*

[Face of Regulation S Temporary Global Note]

CUSIP/ISIN _____

12.500% Senior Secured Notes due 2022

No. _____

\$ _____

GOGO INTERMEDIATE HOLDINGS LLC

and

GOGO FINANCE CO. INC.

promises to pay to _____ or registered assigns,

the principal sum of _____ DOLLARS
on July 1, 2022.

Interest Payment Dates: July 1 and January 1

Record Dates: June 1 and December 1

Dated: _____

GOGO INTERMEDIATE HOLDINGS LLC

By: _____
Name:
Title:

GOGO FINANCE CO. INC.

By: _____
Name:
Title:

This is one of the notes referred to
in the within-mentioned Indenture:

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
Authorized Signatory

THE RIGHTS ATTACHING TO THIS REGULATION S TEMPORARY GLOBAL NOTE, AND THE CONDITIONS AND PROCEDURES GOVERNING ITS EXCHANGE FOR DEFINITIVE NOTES, ARE AS SPECIFIED IN THE INDENTURE (AS DEFINED HEREIN). NEITHER THE HOLDER NOR THE BENEFICIAL OWNERS OF THIS REGULATION S TEMPORARY GLOBAL NOTE SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON.

THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (1) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06 OF THE INDENTURE, (2) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (3) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (4) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE ISSUERS.

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) (“DTC”), TO THE ISSUERS OR THEIR AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. NEITHER THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, SUCH REGISTRATION. THE HOLDER OF THIS SECURITY, BY ITS ACCEPTANCE HEREOF, AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR ACCOUNT FOR WHICH IT HAS PURCHASED SECURITIES, TO OFFER, SELL OR OTHERWISE TRANSFER SUCH SECURITY, PRIOR TO THE DATE (THE “RESALE RESTRICTION TERMINATION DATE”) THAT IS [IN THE CASE OF RULE 144A NOTES: ONE YEAR] [IN THE CASE OF REGULATION S NOTES: 40 DAYS] AFTER THE LATER OF THE ORIGINAL ISSUE DATE HEREOF AND THE LAST DATE ON WHICH THE ISSUER OR ANY AFFILIATE OF THE ISSUER WAS THE OWNER OF THIS SECURITY (OR ANY PREDECESSOR OF SUCH SECURITY), ONLY (A) TO THE ISSUERS OR ANY OF THEIR SUBSIDIARIES, (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN

DECLARED EFFECTIVE UNDER THE SECURITIES ACT, (C) FOR SO LONG AS THE SECURITIES ARE ELIGIBLE FOR RESALE PURSUANT TO RULE 144A UNDER THE SECURITIES ACT, TO A PERSON IT REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (D) THROUGH OFFERS AND SALES TO NON-U.S. PERSONS THAT OCCUR OUTSIDE THE UNITED STATES, IN COMPLIANCE WITH RULE 904 UNDER REGULATION S UNDER THE SECURITIES ACT, (E) TO AN INSTITUTIONAL "ACCREDITED INVESTOR" WITHIN THE MEANING OF RULE 501(a)(1), (2), (3) OR (7) UNDER THE SECURITIES ACT THAT IS ACQUIRING THE SECURITY FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF SUCH AN INSTITUTIONAL ACCREDITED INVESTOR, IN EACH CASE IN A MINIMUM PRINCIPAL AMOUNT OF THE SECURITIES OF \$250,000, FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TO OR FOR OFFER OR SALE IN CONNECTION WITH ANY DISTRIBUTION IN VIOLATION OF THE SECURITIES ACT OR (F) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT TO THE ISSUERS' AND THE TRUSTEE'S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSE (D), (E) OR (F) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM. THIS LEGEND WILL BE REMOVED UPON THE REQUEST OF THE HOLDER AFTER THE RESALE RESTRICTION TERMINATION DATE.

Capitalized terms used herein have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

(1) *INTEREST.* Gogo Intermediate Holdings LLC, a Delaware limited liability company (the "*Company*"), and Gogo Finance Co. Inc., a Delaware corporation (the "*Co-Issuer*" and, together with the Company, the "*Issuers*"), promise to pay or cause to be paid interest on the principal amount of this note at 12.500% per annum from _____, ____ until maturity. The Issuers will pay interest, if any, semi-annually in arrears on July 1 and January 1 of each year, or if any such day is not a business day, on the next succeeding business day (each, an "*Interest Payment Date*"). Interest on the notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance; *provided* that, if this note is authenticated between a record date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such next succeeding Interest Payment Date; *provided further* that the first Interest Payment Date shall be _____, _____. The Issuers will pay interest (including Post-Petition Interest in any proceeding under any Bankruptcy Law) on overdue principal at a rate that is 1% higher than the then applicable interest rate on the notes to the extent lawful; it will pay interest (including Post-Petition Interest in any proceeding under any Bankruptcy Law) on overdue installments of interest, if any (without regard to any applicable grace period), at the same rate to the extent lawful.

Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months.

Until this Regulation S Temporary Global Note is exchanged for one or more Regulation S Permanent Global Notes, the Holder hereof shall not be entitled to receive payments of interest hereon; until so exchanged in full, this Regulation S Temporary Global Note shall in all other respects be entitled to the same benefits as other notes under the Indenture.

(2) *METHOD OF PAYMENT.* The Issuers will pay interest on the notes (except defaulted interest), if any, to the Persons who are registered Holders of notes at the close of

business on the June 15 or December 15 next preceding the Interest Payment Date, even if such notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. The notes will be payable as to principal, premium, if any, and interest, if any, at the office or agency of the Paying Agent and Registrar within the City and State of New York, or, at the option of the Issuers, payment of interest, if any, may be made by check mailed to the Holders at their addresses set forth in the register of Holders; *provided* that payment by wire transfer of immediately available funds will be required with respect to principal of, premium on, if any, and interest, if any, on, all Global Notes and all other notes the Holders of which will have provided wire transfer instructions to the Issuers or the Paying Agent. Such payment will be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

(3) *PAYING AGENT AND REGISTRAR*. Initially, U.S. Bank National Association, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Issuers may change the Paying Agent or Registrar without prior notice to the Holders of the notes. The Parent or any of its Subsidiaries may act as Paying Agent or Registrar.

(4) *INDENTURE*. The Issuers issued the notes under an Indenture dated as of June 14, 2016 (the “*Indenture*”) among the Issuers, the Guarantors, the Trustee and the Collateral Agent. The terms of the notes include those stated in the Indenture. The notes are subject to all such terms, and Holders are referred to the Indenture for a statement of such terms. To the extent any provision of this note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. The notes are secured obligations of the Issuers and the Guarantors. The Indenture does not limit the aggregate principal amount of notes that may be issued thereunder.

(5) *OPTIONAL REDEMPTION*.

(a) At any time prior to July 1, 2019, the Issuers may, at their option, at any time and from time to time, redeem up to 35% of the aggregate principal amount of the notes (including additional notes issued after the Issue Date, if any) originally issued with the net proceeds from one or more equity offerings of the Parent at a redemption price of 112.500% of their principal amount, plus accrued and unpaid interest, if any, to (but not including) the date of redemption; *provided, however*, that:

(i) notes representing at least 65% of the principal amount of the notes (including additional notes issued after the Issue Date, if any) remain outstanding immediately after each such redemption; and

(ii) notice of each such redemption is mailed within 120 days after the closing of the related equity offering.

(b) The Issuers may redeem the notes, in whole or in part, at any time prior to July 1, 2019 upon not less than 30 or more than 60 days’ notice, at a redemption price equal to 100% of the principal amount of the notes redeemed plus the Applicable Premium as of, and accrued and unpaid interest, if any, to (but not including) the applicable redemption date.

(c) Except pursuant to the preceding paragraphs, the notes will not be redeemable at the Issuers’ option prior to July 1, 2019.

(d) On or after July 1, 2019, the Issuers may, at their option, in whole or in part, at any time or from time to time, redeem any of the notes upon not less than 30 nor more than 60 days' prior notice mailed by first-class mail to each Holder's last address as it appears in the security register or otherwise delivered in accordance with DTC procedures. The notes will be redeemable at the following redemption prices (expressed in percentages of principal amount), plus accrued and unpaid interest, if any, to (but not including) the redemption date (subject to the right of Holders of record on the relevant regular record date that is on or prior to the redemption date to receive interest due on an interest payment date), if redeemed during the twelve-month period commencing on July 1 of the following years:

<u>Year</u>	<u>Redemption Price</u>
2019	106.250%
2020	103.125%
2021 and thereafter	100.000%

Unless the Issuers default in the payment of the redemption price, interest will cease to accrue on the notes or portions thereof called for redemption on the applicable redemption date.

(6) *MANDATORY REDEMPTION*. The Issuers are not required to make mandatory redemption or sinking fund payments with respect to the notes.

(7) *REPURCHASE AT THE OPTION OF HOLDER*.

(a) The Company must commence, within 30 days of the occurrence of a Change of Control, and consummate an Offer to Purchase for all notes then outstanding, at a purchase price equal to 101% of the principal amount thereof on the relevant Payment Date, plus accrued interest (if any) to (but not including) the Payment Date. The Company will provide notice of a Change of Control to each Holder, with a copy to the Trustee.

(b) If the Parent, the Company or any Restricted Subsidiary consummates any Asset Sales, and if, as of the first day of any calendar month, the aggregate amount of Excess Proceeds not theretofore subject to an Offer to Purchase totals at least \$10.0 million, the Company must commence, not later than the fifteenth business day of such month, and consummate an Offer to Purchase from the Holders on a *pro rata* basis an aggregate principal amount of notes and, to the extent permitted or required by the terms thereof, any other Pari Passu Debt, equal to the Excess Proceeds on such date, at a purchase price equal to 100% of the principal amount of the notes and such other Pari Passu Debt, if applicable, on the relevant Payment Date, plus, in each case, accrued interest (if any) to (but not including) the Payment Date. If any Excess Proceeds remain after consummation of an Offer to Purchase, the Company may use those Excess Proceeds for any purpose not otherwise prohibited by this Indenture. If the aggregate principal amount of notes and other Pari Passu Debt tendered in response to such Offer to Purchase exceeds the amount of Excess Proceeds, the Trustee will select the notes and such other Pari Passu Debt to be purchased on a *pro rata* basis, subject to DTC procedures if the notes are Global Notes. Upon completion of the Offer to Purchase, the amount of Excess Proceeds will be reset to zero. Holders of notes that are the subject of an Offer to Purchase will receive an Asset Sale Offer from the Company prior to any related purchase date and may elect to have such notes purchased by completing the form entitled "*Option of the Holder to Elect Purchase*" attached to the notes.

(8) *NOTICE OF REDEMPTION*. At least 30 days but not more than 60 days before a redemption date, the Issuers will mail or cause to be mailed, by first-class mail, a notice of redemption to each Holder whose notes are to be redeemed at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the notes or a satisfaction and discharge of the Indenture pursuant to Articles 8 or 12 thereof. Notes and portions of notes selected will be in amounts of \$2,000 or whole multiples of \$1,000 in excess thereof; except that if all of the notes of a Holder are to be redeemed or purchased, the entire outstanding amount of notes held by such Holder shall be redeemed or purchased.

In connection with any redemption of notes (including with the net cash proceeds of an equity offering), any such redemption or notice thereof may, at the Issuers' discretion, be subject to the satisfaction (or waiver by the Issuers in their sole discretion) of one or more conditions precedent, including, but not limited to, consummation of any related equity offering or Change of Control. In addition, if such redemption or notice is subject to satisfaction of one or more conditions precedent, such notice may state that, in the Issuers' discretion, the redemption date may be delayed until such time as any or all such conditions shall be satisfied (or, waived by the Issuers in their sole discretion), or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been (or, in the Issuers' sole determination, may not be) satisfied (or waived by the Issuers in their sole discretion) by the redemption date, or by the redemption date so delayed; provided that if the redemption date is so delayed, redemption notices issued more than 60 days prior to the redemption date shall be deemed to have been issued upon not more than 60 days' notice; and provided further that redemption notices issued in connection with a defeasance of the notes or a satisfaction and discharge of this Indenture may be given more than 60 days prior to the redemption date.

(9) *DENOMINATIONS, TRANSFER, EXCHANGE*. The notes are in registered form in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof. The transfer of notes may be registered and notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Issuers need not exchange or register the transfer of any note or portion of a note selected for redemption, except for the unredeemed portion of any note being redeemed in part. Also, the Issuers need not exchange or register the transfer of any notes for a period of 15 days before a selection of notes to be redeemed or during the period between a record date and the next succeeding Interest Payment Date.

This Regulation S Temporary Global Note is exchangeable in whole or in part for one or more Global Notes only (i) on or after the termination of the 40-day distribution compliance period (as defined in Regulation S) and (ii) upon presentation of certificates (accompanied by an opinion of counsel, if applicable) required by Article 2 of the Indenture. Upon exchange of this Regulation S Temporary Global Note for one or more Global Notes, the Trustee shall cancel this Regulation S Temporary Global Note.

(10) *PERSONS DEEMED OWNERS*. The registered Holder of a note may be treated as the owner of it for all purposes. Only registered Holders have rights under the Indenture.

(11) *AMENDMENT, SUPPLEMENT AND WAIVER*. Subject to certain exceptions, the Indenture, the notes, the Guarantees and the Notes Security Documents may be amended or supplemented with the consent of the Holders of not less than a majority in aggregate principal amount of the notes then outstanding (including additional notes, if any) voting as a single class,

and any existing Default or Event of Default or compliance with any other provision of the Indenture, the notes or the Guarantees, or with the Notes Security Documents, may be waived with the consent of the Holders of not less than a majority in aggregate principal amount of the notes then outstanding (including additional notes, if any) voting as a single class. Without the consent of any Holder of notes, the Indenture, the notes, the Guarantees or the Notes Security Documents may be amended or supplemented to cure any ambiguity, omission, mistake, defect or inconsistency in the Indenture; to comply with the provisions of the Indenture concerning consolidation, merger and sale of assets; to evidence and provide for the acceptance of appointment under the Indenture by a successor trustee or Collateral Agent; to provide for uncertificated notes in addition to or in place of Certificated Notes; to add one or more additional Guarantees on the terms required by the Indenture, or provide for the assumption of the Parent's, either Issuer's or any of the Subsidiary Guarantors' obligations to the Holders; to make any change that, in the good faith opinion of the Board of Directors of the Parent as evidenced by a board resolution, does not adversely affect the legal rights of any Holder in any material respect; to conform the text of the Indenture (including any supplemental indenture or other instrument pursuant to which additional notes are issued), the notes (including any additional notes), any Subsidiary Guarantee, the Parent Guarantee, the Collateral Agency Agreement or any Collateral Agreement to any provision of the "Description of Notes" section of the Issuers' Offering Memorandum dated June 9, 2016, relating to the initial offering of the notes, to the extent that such provision in that "Description of Notes" was intended to be a verbatim recitation of a provision of the Indenture, the notes, the Parent Guarantee, any Subsidiary Guarantee, the Collateral Agency Agreement or any Collateral Agreement; to amend the Collateral Agency Agreement to add additional holders of Additional Secured Obligations permitted under the Indenture, the Collateral Agency Agreement and any Secured Debt Documents then in effect; to add covenants for the benefit of the Holders, or to surrender any right or power conferred upon the Parent, the Issuers or any Guarantor; to release, terminate or discharge the Guarantee of any Guarantor or any Lien, in each case when such release, termination or discharge is permitted in accordance with the terms of this Indenture; to provide for the issuance of additional notes in accordance with the limitations set forth in the Indenture as of the date of the Indenture; to make any changes with respect to the rights or obligations of the Trustee or other provisions relating to the Trustee that do not adversely affect the rights of any Holder in any material respect; to make any amendments to the provisions of the Indenture relating to the transfer and legending of notes as permitted by the Indenture, including, without limitation to facilitate the issuance and administration of the notes; *provided, however*, that (i) compliance with the Indenture as so amended would not result in notes being transferred in violation of the Securities Act or any applicable securities law and (ii) such amendment does not materially and adversely affect the rights of Holders to transfer notes; to amend the Notes Security Documents to add any holders of Priority Lien Obligations to the extent permitted under the Indenture, the Collateral Agency Agreement and any Priority Lien Document then in effect; and to add to the Collateral securing the notes.

(12) *DEFAULTS AND REMEDIES*. Events of Default include: (i) default in the payment of principal of (or premium, if any, on) the notes when the same becomes due and payable at maturity, upon acceleration, redemption or otherwise; (ii) default in the payment of interest on the notes when the same becomes due and payable, and such default continues for a period of 30 days; (iii) default in the performance or breach of the provisions of the Indenture applicable to mergers, consolidations and transfers of all or substantially all of the assets of the Company or the Restricted Subsidiaries or the failure to make or consummate an Offer to Purchase in accordance with Section 4.15 thereof; (iv) an Issuer or the Parent defaults in the performance of or breaches any other covenant or agreement of the Issuers or the Parent, as applicable, in the Indenture or under the notes (other than a default specified in clause (1), (2) or (3) of Section 6.01 of the

Indenture) or under the Notes Security Documents, and such default or breach continues for a period of 30 consecutive days after written notice by the Trustee or to the Company and the Trustee by the Holders of 25% or more in aggregate principal amount of the notes; (v) there occurs with respect to any issue or issues of Indebtedness of an Issuer or any Significant Subsidiary having an outstanding principal amount of \$25.0 million or more in the aggregate for all such issues of all such Persons, whether such Indebtedness now exists or shall hereafter be created, (A) an event of default that has caused the holder thereof to declare such Indebtedness to be due and payable prior to its Stated Maturity and such Indebtedness has not been discharged in full or such acceleration has not been rescinded or annulled within 30 days of such acceleration and/or (B) the failure to make a principal payment at the final (but not any interim) fixed maturity and such defaulted payment shall not have been made, waived or extended within 30 days of such payment default; (vi) any final judgment or order (not covered by insurance) for the payment of money in excess of \$25.0 million in the aggregate for all such final judgments or orders against all such Persons (treating any deductibles, self-insurance or retention as not so covered) shall be rendered against an Issuer or any Significant Subsidiary and shall not be paid or discharged, and there shall be any period of 30 consecutive days following entry of the final judgment or order (or any longer period provided for the timely payment of such judgment or order) that causes the aggregate amount for all such final judgments or orders outstanding and not paid or discharged against all such Persons to exceed \$25.0 million during which a stay of enforcement of such final judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; (vii) a court having jurisdiction in the premises enters a decree or order for (A) relief in respect of an Issuer or any Significant Subsidiary in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect; (B) appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of an Issuer or any Significant Subsidiary or for all or substantially all of the property and assets of an Issuer or any Significant Subsidiary; or (C) the winding up or liquidation of the affairs of an Issuer or any Significant Subsidiary and, in each case, such decree or order shall remain unstayed and in effect for a period of 30 consecutive days; (viii) an Issuer or any Significant Subsidiary (A) commences a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or consents to the entry of an order for relief in an involuntary case under any such law; (B) consents to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of an Issuer or any Significant Subsidiary or for all or substantially all of the property and assets of an Issuer or any Significant Subsidiary; or (C) effects any general assignment for the benefit of creditors; (ix) (a) Subsidiary Guarantees provided by Subsidiary Guarantors that individually or together would constitute a Significant Subsidiary cease to be in full force and effect (other than in accordance with the terms of such Subsidiary Guarantees or the terms of the Indenture) or any Subsidiary Guarantor denies or disaffirms its obligations under its Subsidiary Guarantee, or (b) the Parent Guarantee ceases to be in full force and effect or the Parent denies or disaffirms its obligations under the Parent Guarantee, and in each such case such Default continues for 10 days (other than by reason of the termination of the Indenture or the release of such Guarantee in accordance with the Indenture); (x) unless all of the Collateral has been released from the Liens in accordance with the provisions of the Notes Security Documents (A) a default (that has not been cured) by the Parent, the Issuers or any Subsidiary Guarantor in the performance of any obligation under the Notes Security Documents which materially adversely affects the enforceability, validity, perfection or priority of the Liens securing the notes on any portion of the Collateral; (B) the repudiation or disaffirmation by the Parent, the Issuers or any Subsidiary Guarantor of any of its material obligations under the Notes Security Documents; or (C) the final, non-appealable determination in a judicial proceeding that the Notes Security Documents are unenforceable or invalid against Parent, an Issuer or any Subsidiary Guarantor party thereto for any reason with respect to any portion of the Collateral with a value greater than \$7.5 million, and, in the case of any event described in subclauses (A) through (C), such default,

repudiation, disaffirmation or determination is not rescinded, stayed, or waived by the Persons having such authority pursuant to the Notes Security Documents or otherwise cured within 60 days; or (xi) the Collateral Agency Agreement is not or ceases to be binding on or enforceable against any party thereto (or against any person on whose behalf any such party makes any covenant or agreements therein), or shall otherwise not be effective to create the rights and obligations purported to be created thereunder. In the case of an Event of Default arising from certain events of bankruptcy or insolvency with respect to an Issuer, or any Significant Subsidiary, the principal amount of, premium, if any, and accrued interest on the notes then outstanding shall become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder. If any other Event of Default occurs and is continuing, the Trustee or Holders of at least 25% in aggregate principal amount of the notes then outstanding by written notice to the Issuers (and to the Trustee if such notice is given by the Holders), may declare the principal amount of, premium, if any, and accrued interest on the notes to be immediately due and payable. Upon a declaration of acceleration, such principal amount of, premium, if any, and accrued interest shall be immediately due and payable. If such acceleration occurs on or after the First Call Date, the principal amount of, premium, if any, and accrued interest on notes that becomes due and payable shall equal the optional redemption price in effect on the date of such acceleration, as if such acceleration were an optional redemption of the notes accelerated. If such acceleration occurs prior to the First Call Date, the principal amount of, premium, if any, and accrued interest on notes that becomes due and payable shall equal the Make-Whole Redemption Price in effect on the date of such acceleration, as if such acceleration were a Make-Whole Redemption of the Notes accelerated. The amounts described in the preceding two sentences are intended to be liquidated damages and not unmatured interest or a penalty. In the event of a declaration of acceleration because an Event of Default set forth in clause (5) of Section 6.01 of the Indenture has occurred and is continuing, such declaration of acceleration shall be automatically rescinded and annulled if the event of default triggering such Event of Default pursuant to clause (5) of Section 6.01 of the Indenture shall be remedied or cured by the relevant Issuer or the relevant Significant Subsidiary or waived by the holders of the relevant Indebtedness within 60 days after the declaration of acceleration with respect thereto. If an Event of Default specified in clause (7) or (8) of Section 6.01 of the Indenture occurs with respect to an Issuer or any Significant Subsidiary the principal amount of, premium, if any, and accrued interest on the notes then outstanding shall become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder. Holders may not enforce the Indenture or the notes except as provided in the Indenture. Subject to certain limitations, the Holders of at least a majority in aggregate principal amount of the outstanding notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or the Collateral Agent or exercising any trust or power conferred on the Trustee pursuant to the Indenture. The Trustee may withhold from Holders of the notes notice of any continuing Default or Event of Default (except a Default or Event of Default relating to the payment of principal, premium, if any, or interest, if any,) if it determines that withholding notice is in their interest. The Holders of at least a majority in aggregate principal amount of the outstanding notes, by notice to the Company and to the Trustee, may waive all past Defaults with respect to the notes and rescind and annul a declaration of acceleration and its consequences if (1) all existing Events of Default, other than the nonpayment of the principal of, premium, if any, and interest on the notes that have become due solely by such declaration of acceleration, have been cured or waived and (2) the rescission would not conflict with any judgment or decree of a court of competent jurisdiction. The Company's officers are required to furnish to the Trustee annually a statement regarding compliance with the Indenture, and the Company is required, within five business days upon any Officer becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

(13) *TRUSTEE DEALINGS WITH ISSUERS.* The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for either Issuer or any Guarantor or any Affiliate of either Issuer or any Guarantor, and may otherwise deal with either Issuer or any Guarantor or any Affiliate of either Issuer or any Guarantor, as if it were not the Trustee.

(14) *NO RECOURSE AGAINST OTHERS.* No recourse for the payment of the principal of, premium, if any, or interest on any of the notes or for any claim based thereon or otherwise in respect thereof, and no recourse under or upon any obligation, covenant or agreement of the Issuers, the Parent or any Subsidiary Guarantor in this Indenture, or in any of the notes or because of the creation of any Indebtedness represented thereby or under the Notes Security Documents, shall be had against any incorporator, stockholder, member, officer, director, employee or controlling Person, in their capacity as such, of any of the Parent, the Issuers or any Subsidiary Guarantor or of any of their respective successors. Each Holder, by accepting the notes, waives and releases all such liability. The waiver and release are part of the consideration for issuance of the notes. The waiver may not be effective to waive liabilities under the federal securities laws.

(15) *AUTHENTICATION.* This note will not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

(16) *ABBREVIATIONS.* Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

(17) *CUSIP AND ISIN NUMBERS.* The Issuers have caused CUSIP and ISIN numbers, if applicable, to be printed on the notes, and the Trustee may use CUSIP and ISIN numbers, if applicable, in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the notes or as contained in any notice of redemption, and reliance may be placed only on the other identification numbers placed thereon.

(18) *GOVERNING LAW.* THE INDENTURE, THIS NOTE AND THE GUARANTEES, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THE INDENTURE, THIS NOTE AND THE GUARANTEES, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to:

Gogo Inc.
111 N. Canal St.
Chicago, Illinois 60606
Facsimile No.: (312) 575-0543
Attention: General Counsel

With a copy to:

Debevoise & Plimpton LLP
919 Third Avenue
New York, New York 10022
Facsimile No.: (212) 521-7334
Attention: Matthew E. Kaplan, Esq.

ASSIGNMENT FORM

To assign this note, fill in the form below:

(I) or (we) assign and transfer this note to:

(Insert assignee's legal name)

(Insert assignee's soc. sec. or tax I.D. no.)

(Print or type assignee's name, address and zip code)

and irrevocably appoint _____

to transfer this note on the books of the Issuers. The agent may substitute another to act for him.

Date: _____

Your Signature: _____

(Sign exactly as your name appears on the face of this note)

Signature Guarantee*: _____

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

OPTION OF THE HOLDER TO ELECT PURCHASE

If you want to elect to have this note purchased by the Company pursuant to Section 4.10 or 4.15 of the Indenture, check the appropriate box below:

Section 4.10

Section 4.15

If you want to elect to have only part of the note purchased by the Company pursuant to Section 4.10 or Section 4.15 of the Indenture, state the amount you elect to have purchased:

\$ _____

Date: _____

Your Signature: _____
(Sign exactly as your name appears on the face of this note)

Tax Identification No.: _____

Signature Guarantee*: _____

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

SCHEDULE OF EXCHANGES OF INTERESTS IN THE REGULATION S TEMPORARY GLOBAL NOTE

The following exchanges of a part of this Regulation S Temporary Global Note for an interest in another Global Note, or exchanges of a part of another other Restricted Global Note for an interest in this Regulation S Temporary Global Note, have been made:

<u>Date of Exchange</u>	<u>Amount of decrease in Principal Amount of this Global Note</u>	<u>Amount of increase in Principal Amount of this Global Note</u>	<u>Principal Amount of this Global Note following such decrease (or increase)</u>	<u>Signature of authorized officer of Trustee or Custodian</u>
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FORM OF CERTIFICATE OF TRANSFER

Gogo Inc.
 111 N. Canal St.
 Chicago, Illinois 60606
 Facsimile No.: (312) 575-0543
 Attention: Investor Relations

U.S. Bank National Association
 190 S. LaSalle Street, 10th Floor
 MK-IL-SLTR
 Chicago, Illinois 60603
 Direct No.: (312) 332-6781
 Facsimile No.: (312) 332-8009
 Attention: Global Corporate Trust

Re: 12.500% Senior Secured Notes due 2022

Reference is hereby made to the Indenture, dated as of June 14, 2016 (the “*Indenture*”), among Gogo Intermediate Holdings LLC, a Delaware limited liability company (the “*Company*”), Gogo Finance Co. Inc., a Delaware corporation (the “*Co-Issuer*” and, together with the Company, the “*Issuers*”), the Guarantors party thereto and U.S. Bank National Association, as trustee and collateral agent. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____, (the “*Transferor*”) owns and proposes to transfer the note[s] or interest in such note[s] specified in Annex A hereto, in the principal amount of \$_____ in such note[s] or interests (the “*Transfer*”), to _____ (the “*Transferee*”), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1. **Check if Transferee will take delivery of a beneficial interest in the Rule 144A Global Note or a Restricted Definitive Note pursuant to Rule 144A.** The Transfer is being effected pursuant to and in accordance with Rule 144A under the Securities Act of 1933, as amended (the “*Securities Act*”), and, accordingly, the Transferor hereby further certifies that the beneficial interest or Definitive Note is being transferred to a Person that the Transferor reasonably believes is purchasing the beneficial interest or Definitive Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a “qualified institutional buyer” within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A, and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Rule 144A Global Note and/or the Restricted Definitive Note and in the Indenture and the Securities Act.

2. **Check if Transferee will take delivery of a beneficial interest in the Regulation S Temporary Global Note, the Regulation S Permanent Global Note or a Restricted Definitive Note pursuant to Regulation S.** The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a Person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its

behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was prearranged with a buyer in the United States, (ii) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S under the Securities Act, (iii) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act and (iv) if the proposed transfer is being made prior to the expiration of the Restricted Period, the transfer is not being made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on Transfer enumerated in the Private Placement Legend printed on the Regulation S Permanent Global Note, the Regulation S Temporary Global Note and/or the Restricted Definitive Note and in the Indenture and the Securities Act.

3. **Check and complete if Transferee will take delivery of a beneficial interest in a Global Note or a Definitive Note pursuant to any provision of the Securities Act other than Rule 144A or Regulation S.** The Transfer is being effected in compliance with the transfer restrictions applicable to beneficial interests in Restricted Global Notes and Restricted Definitive Notes and pursuant to and in accordance with the Securities Act and any applicable blue sky securities laws of any state of the United States, and accordingly the Transferor hereby further certifies that (check one):

(a) such Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act;

or

(b) such Transfer is being effected to the Company or a subsidiary thereof;

or

(c) such Transfer is being effected pursuant to an effective registration statement under the Securities Act and in compliance with the prospectus delivery requirements of the Securities Act.

or

(d) such Transfer is being effected to an Institutional Accredited Investor and pursuant to an exemption from the registration requirements of the Securities Act other than Rule 144A, Rule 144, Rule 903 or Rule 904, and the Transferor hereby further certifies that it has not engaged in any general solicitation within the meaning of Regulation D under the Securities Act and the Transfer complies with the transfer restrictions applicable to beneficial interests in a Restricted Global Note or Restricted Definitive Notes and the requirements of the exemption claimed, which certification is supported by (1) a certificate executed by the Transferee in the form of Exhibit D to the Indenture and (2) an opinion of counsel provided by the Transferor or the Transferee (a copy of which the Transferor has attached to this certification), to the effect that such Transfer is in compliance with the Securities Act.

Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Global Note and/or the Restricted Definitive Notes and in the Indenture and the Securities Act.

4. **Check if Transferee will take delivery of a beneficial interest in an Unrestricted Global Note or of an Unrestricted Definitive Note.**

(a) **Check if Transfer is pursuant to Rule 144.** (i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(b) **Check if Transfer is Pursuant to Regulation S.** (i) The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(c) **Check if Transfer is Pursuant to Other Exemption.** (i) The Transfer is being effected pursuant to and in compliance with an exemption from the registration requirements of the Securities Act other than Rule 144, Rule 903 or Rule 904 and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any State of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will not be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

[Insert Name of Transferor]

By: _____

Name:

Title:

Dated: _____

1. The Transferor owns and proposes to transfer the following:

[CHECK ONE OF (a) OR (b)]

- (a) a beneficial interest in the:
 - (i) Rule 144A Global Note (CUSIP _____), or
 - (ii) Regulation S Global Note (CUSIP _____), or
- (b) a Restricted Definitive Note.

2. After the Transfer the Transferee will hold:

[CHECK ONE]

- (a) a beneficial interest in the:
 - (i) Rule 144A Global Note (CUSIP _____), or
 - (ii) Regulation S Global Note (CUSIP _____), or
 - (iv) Unrestricted Global Note (CUSIP _____); or
- (b) a Restricted Definitive Note; or
- (c) an Unrestricted Definitive Note,

in accordance with the terms of the Indenture.

FORM OF CERTIFICATE OF EXCHANGE

Gogo Inc.
 111 N. Canal St.
 Chicago, Illinois 60606
 Facsimile No.: (312) 575-0543
 Attention: Investor Relations

U.S. Bank National Association
 190 S. LaSalle Street, 10th Floor
 MK-IL-SLTR
 Chicago, Illinois 60603
 Direct No.: (312) 332-6781
 Facsimile No.: (312) 332-8009
 Attention: Global Corporate Trust

Re: 12.500% Senior Secured Notes due 2022

(CUSIP [])

Reference is hereby made to the Indenture, dated as of June 14, 2016 (the “*Indenture*”), among Gogo Intermediate Holdings LLC, a Delaware limited liability company (the “*Company*”), Gogo Finance Co. Inc., a Delaware corporation (the “*Co-Issuer*” and, together with the Company, the “*Issuers*”), the Guarantors party thereto and U.S. Bank National Association, as trustee and collateral agent. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____, (the “*Owner*”) owns and proposes to exchange the note[s] or interest in such note[s] specified herein, in the principal amount of \$_____ in such note[s] or interests (the “*Exchange*”). In connection with the Exchange, the Owner hereby certifies that:

1. Exchange of Restricted Definitive Notes or Beneficial Interests in a Restricted Global Note for Unrestricted Definitive Notes or Beneficial Interests in an Unrestricted Global Note

(a) **Check if Exchange is from beneficial interest in a Restricted Global Note to beneficial interest in an Unrestricted Global Note.** In connection with the Exchange of the Owner’s beneficial interest in a Restricted Global Note for a beneficial interest in an Unrestricted Global Note in an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner’s own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Global Notes and pursuant to and in accordance with the Securities Act of 1933, as amended (the “*Securities Act*”), (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest in an Unrestricted Global Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(b) **Check if Exchange is from beneficial interest in a Restricted Global Note to Unrestricted Definitive Note.** In connection with the Exchange of the Owner’s beneficial interest in a Restricted Global Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Definitive Note is being acquired for the Owner’s own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(c) **Check if Exchange is from Restricted Definitive Note to beneficial interest in an Unrestricted Global Note.** In connection with the Owner's Exchange of a Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(d) **Check if Exchange is from Restricted Definitive Note to Unrestricted Definitive Note.** In connection with the Owner's Exchange of a Restricted Definitive Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

2. Exchange of Restricted Definitive Notes or Beneficial Interests in Restricted Global Notes for Restricted Definitive Notes or Beneficial Interests in Restricted Global Notes

(a) **Check if Exchange is from beneficial interest in a Restricted Global Note to Restricted Definitive Note.** In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a Restricted Definitive Note with an equal principal amount, the Owner hereby certifies that the Restricted Definitive Note is being acquired for the Owner's own account without transfer. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the Restricted Definitive Note issued will continue to be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.

(b) **Check if Exchange is from Restricted Definitive Note to beneficial interest in a Restricted Global Note.** In connection with the Exchange of the Owner's Restricted Definitive Note for a beneficial interest in the [CHECK ONE] Rule 144A Global Note, Regulation S Global Note with an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer and (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, and in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the beneficial interest issued will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the relevant Restricted Global Note and in the Indenture and the Securities Act.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

[Insert Name of Transferor]

By: _____

Name:

Title:

Dated: _____

FORM OF CERTIFICATE OF
ACQUIRING INSTITUTIONAL ACCREDITED INVESTOR

Gogo Inc.
111 N. Canal St.
Chicago, Illinois 60606
Facsimile No.: (312) 575-0543
Attention: Investor Relations

U.S. Bank National Association
190 S. LaSalle Street, 10th Floor
MK-IL-SLTR
Chicago, Illinois 60603
Direct No.: (312) 332-6781
Facsimile No.: (312) 332-8009
Attention: Global Corporate Trust

Re: 12.500% Senior Secured Notes due 2022

Reference is hereby made to the Indenture, dated as of June 14, 2016 (the "*Indenture*"), among Gogo Intermediate Holdings LLC, a Delaware limited liability company (the "*Company*"), Gogo Finance Co. Inc., a Delaware corporation (the "*Co-Issuer*" and, together with the Company, the "*Issuers*"), the Guarantors party thereto and U.S. Bank National Association, as trustee and collateral agent. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

In connection with our proposed purchase of \$ _____ aggregate principal amount of:

(a) a beneficial interest in a Global Note, or

(b) a Definitive Note,

we confirm that:

1. We understand that any subsequent transfer of the notes or any interest therein is subject to certain restrictions and conditions set forth in the Indenture and the undersigned agrees to be bound by, and not to resell, pledge or otherwise transfer the notes or any interest therein except in compliance with, such restrictions and conditions and the Securities Act of 1933, as amended (the "*Securities Act*").

2. We understand that the offer and sale of the notes have not been registered under the Securities Act, and that the notes and any interest therein may not be offered or sold except as permitted in the following sentence. We agree, on our own behalf and on behalf of any accounts for which we are acting as hereinafter stated, that if we should sell the notes or any interest therein, we will do so only (A) to the Company or any subsidiary thereof, (B) in accordance with Rule 144A under the Securities Act to a "qualified institutional buyer" (as defined therein), (C) to an institutional "accredited investor" (as defined below) that is purchasing for its own account or for the account of such an institutional "accredited investor," in each case in a minimum principal amount of notes of \$250,000 for investment purposes and not with a view to or for offer or sale in connection with any distribution in violation of the Securities Act, that, prior to such transfer, furnishes (or has furnished on its behalf by a U.S. broker-dealer) to you and to the Issuers a signed letter substantially in the form of this letter and an opinion of counsel in form reasonably acceptable to the Issuers to the effect that such transfer is in compliance with the Securities Act, (D) outside the United States in accordance with Rule 904 of Regulation S under the Securities Act,

(E) pursuant to the provisions of Rule 144 under the Securities Act or (F) pursuant to an effective registration statement under the Securities Act, and we further agree to provide to any Person purchasing the Definitive Note or beneficial interest in a Global Note from us in a transaction meeting the requirements of clauses (A) through (E) of this paragraph a notice advising such purchaser that resales thereof are restricted as stated herein.

3. We understand that, on any proposed resale of the notes or beneficial interest therein, we will be required to furnish to you and the Issuers such certifications, legal opinions and other information as you and the Issuers may reasonably require to confirm that the proposed sale complies with the foregoing restrictions. We further understand that the notes purchased by us will bear a legend to the foregoing effect.

4. We are an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act) and have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of our investment in the notes, and we and any accounts for which we are acting are each able to bear the economic risk of our or its investment.

5. We are acquiring the notes or beneficial interest therein purchased by us for our own account or for one or more accounts (each of which is an institutional "accredited investor") as to each of which we exercise sole investment discretion, in a minimum principal amount of notes of \$250,000 for investment purposes and not with a view to or for offer or sale in connection with any distribution in violation of the Securities Act.

You and the Issuers are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

[Insert Name of Accredited Investor]

By: _____

Name:

Title:

Dated: _____

FORM OF SUPPLEMENTAL INDENTURE
TO BE DELIVERED BY SUBSEQUENT GUARANTORS

SUPPLEMENTAL INDENTURE (this "*Supplemental Indenture*"), dated as of _____, among _____ (the "*Guaranteeing Subsidiary*"), a subsidiary of Gogo Inc. (or its permitted successor), a Delaware corporation, Gogo Intermediate Holdings LLC, a Delaware limited liability company, and Gogo Finance Co. Inc., a Delaware corporation (together, the "*Issuers*"), the other Guarantors (as defined in the Indenture referred to herein) and U.S. Bank National Association, as trustee under the Indenture referred to below (the "*Trustee*").

W I T N E S S E T H

WHEREAS, the Issuers have heretofore executed and delivered to the Trustee an indenture (the "*Indenture*"), dated as of June 14, 2016 providing for the issuance of 12.500% Senior Secured Notes due 2022 (the "*notes*");

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary shall unconditionally guarantee all of the Issuers' Obligations under the notes and the Indenture on the terms and conditions set forth herein (the "*Guarantee*"); and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders of the notes as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

2. AGREEMENT TO GUARANTEE. The Guaranteeing Subsidiary hereby agrees to provide an unconditional Guarantee on the terms and subject to the conditions set forth in the Guarantee and in the Indenture including but not limited to Article 11 thereof.

3. NO RECOURSE AGAINST OTHERS. No director, officer, employee, incorporator or stockholder of the Issuers or any Guarantor, as such, will have any liability for any obligations of the Issuers or the Guarantors under the notes, this Indenture, the Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of notes by accepting a note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the notes. The waiver may not be effective to waive liabilities under the federal securities laws.

4. NEW YORK LAW TO GOVERN. THE INTERNAL LAW OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THIS SUPPLEMENTAL INDENTURE WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

5. COUNTERPARTS. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

6. EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

7. THE TRUSTEE. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Subsidiary and the Issuers.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed and attested, all as of the date first above written.

Dated: _____,

[GUARANTEEING SUBSIDIARY]

By: _____
Name:
Title:

ISSUERS

GOGO INTERMEDIATE HOLDINGS LLC

By: _____
Name:
Title:

GOGO FINANCE CO. INC.

By: _____
Name:
Title:

GUARANTORS

GOGO INC.

By: _____
Name:
Title:

AC BIDCO LLC

By: _____
Name:
Title:

GOGO LLC

By: _____
Name:
Title:

GOGO BUSINESS AVIATION LLC

By: _____
Name:
Title:

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
Authorized Signatory

U.S. BANK NATIONAL ASSOCIATION,
as Collateral Agent

By: _____
Authorized Signatory

COLLATERAL AGREEMENT

made by

GOGO INC.,
GOGO INTERMEDIATE HOLDINGS LLC,
GOGO FINANCE CO. INC.

and certain of their Subsidiaries

in favor of

U.S. BANK NATIONAL ASSOCIATION,
as Collateral Agent

Dated as of June 14, 2016

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Annex

Annex 1 – Form of Assumption Agreement

COLLATERAL AGREEMENT dated as of June 14, 2016 among each of the signatories hereto designated as a Grantor on the signature pages hereto (together with any other entity that may become a party hereto as a Grantor as provided herein, the “Grantors”) and U.S. BANK NATIONAL ASSOCIATION, as collateral agent (in such capacity, together with its permitted successors and assigns in such capacity, the “Collateral Agent”) for the Priority Lien Secured Parties (as defined in such Collateral Agency Agreement referred to below) pursuant to the Collateral Agency Agreement referred to below.

W I T N E S S E T H:

WHEREAS, Gogo Intermediate Holdings LLC, a Delaware limited liability company, and Gogo Finance Co. Inc., a Delaware corporation, intend to issue 12.500% Senior Secured Notes due 2022 (the “Notes”) in an aggregate principal amount of \$525,000,000 pursuant to an Indenture dated as of the date hereof (as amended, waived, supplemented or otherwise modified from time to time, the “Indenture”) among Gogo Intermediate Holdings LLC, Gogo Finance Co. Inc., the guarantors from time to time party thereto and U.S. Bank National Association, as trustee thereunder;

WHEREAS, the Grantors may from time to time incur additional Priority Lien Obligations in accordance with the terms of the Secured Debt Documents (as defined in the Collateral Agency Agreement) and the Collateral Agency Agreement;

WHEREAS, Gogo Intermediate Holdings LLC and Gogo Finance Co. Inc. are members of an affiliated group of companies that includes each other Grantor;

WHEREAS, Gogo Intermediate Holdings LLC, Gogo Finance Co. Inc. and the other Grantors are engaged in related businesses and each Grantor will derive substantial direct and indirect benefit from the making of the extensions of credit under the Priority Lien Documents (as defined in the Collateral Agency Agreement);

WHEREAS, the Grantors, the Collateral Agent and the Priority Lien Representatives (as defined in the Collateral Agency Agreement) have entered into a Collateral Agency Agreement dated as of the date hereof (as amended, waived, supplemented or otherwise modified from time to time, including in connection with the joinder of any Junior Lien Representatives (as defined in the Collateral Agency Agreement) and other future parties thereto from time to time, the “Collateral Agency Agreement”); and

WHEREAS, it is a condition precedent to the obligation of the Priority Lien Secured Parties to make their respective extensions of credit to the Grantors under the Priority Lien Documents that the Grantors shall have executed and delivered this Agreement to the Collateral Agent for the ratable benefit of the Priority Lien Secured Parties.

NOW, THEREFORE, in consideration of the premises and to induce the Collateral Agent and the Priority Lien Secured Parties to enter into the Priority Lien Documents and to induce the Priority Lien Secured Parties to make their respective extensions of credit to the Grantors thereunder, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, each Grantor hereby agrees with the Collateral Agent, for the ratable benefit of the Priority Lien Secured Parties, as follows:

SECTION 1. DEFINED TERMS

1.1 Definitions. (a) Unless otherwise defined herein, terms defined in the Collateral Agency Agreement and used herein shall have the meanings given to them in the Collateral Agency Agreement, and the following terms which are defined in the UCC are used herein as so defined (and if defined in

more than one article of the UCC shall have the meaning specified in Article 9 thereof): Accounts, Account Debtor, As-Extracted Collateral, Authenticate, Certificated Security, Chattel Paper, Commodity Account, Commodity Contract, Commodity Intermediary, Documents, Electronic Chattel Paper, Entitlement Order, Equipment, Farm Products, Financial Asset, Fixtures, General Intangibles, Goods, Health-Care-Insurance Receivable, Instruments, Inventory, Letter of Credit Rights, Manufactured Homes, Money, Payment Intangibles, Securities Account, Securities Intermediary, Security, Security Entitlement, Supporting Obligations, Tangible Chattel Paper and Uncertificated Security.

(b) The following terms shall have the following meanings:

“After-Acquired Intellectual Property” shall have the meaning set forth in Section 5.9(c).

“Agreement” shall mean this Collateral Agreement, as the same may be amended, restated, supplemented, or otherwise modified from time to time.

“Cash Equivalents” shall have the meaning set forth in the Indenture and shall include any similar term in any other Priority Lien Document.

“Collateral” shall have the meaning set forth in Section 3(a).

“Collateral Account” shall mean any collateral account established by the Collateral Agent as provided in Section 6.1 or 6.3.

“Collateral Agency Agreement” shall have the meaning set forth in the recitals to this Agreement.

“Collateral Agent” shall have the meaning set forth in the preamble to this Agreement.

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

“Communications Act” shall mean the Communications Act of 1934, and any similar or successor Federal statute, and the rules and regulations of the FCC or any other similar or successor agency thereunder.

“Communications Laws” shall mean all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by a Governmental Authority (including the FCC) relating in any way to the use of radiofrequency spectrum or the offering or provision of video, communications, telecommunications or information services (including the Communications Act).

“Copyright Licenses” shall mean all written licenses providing for the grant to or from a Grantor of any right in or to any Copyright (including, without limitation, those listed on Schedule 6).

“Copyrights” shall mean, with respect to any Grantor, all of such Grantor’s right, title and interest in and to all copyrightable works of authorship, all United States and foreign copyrights (whether or not the underlying works of authorship have been published), including but not limited to copyrights in software and databases, all designs (including but not limited to all industrial designs, “Protected Designs” within the meaning of 17 U.S.C. 1301 et. Seq. and Community designs), and all “Mask Works” (as defined in 17 U.S.C. 901 of the U.S. Copyright

Act), whether registered or unregistered, and with respect to any and all of the foregoing: (i) all registrations and applications for registration thereof including, without limitation, the registrations and applications listed on Schedule 6, (ii) all extensions, renewals, and restorations thereof, (iii) all rights to sue or otherwise recover for any past, present and future infringement or other violation thereof, (iv) all Proceeds of the foregoing, including, without limitation, license fees, royalties, income, payments, claims, damages and proceeds of suit now or hereafter due and/or payable with respect thereto, and (v) all other copyright rights accruing thereunder or pertaining thereto throughout the world.

“Deposit Account” shall mean all “deposit accounts” as defined in Article 9 of the UCC and all other accounts maintained with any financial institution (other than Securities Accounts or Commodity Accounts), and shall include, without limitation, all of the accounts listed on Schedule 2 hereto under the heading “Deposit Accounts” together, in each case, with all funds held therein and all certificates or instruments representing any of the foregoing.

“Equity Interests” (i) shall mean with respect to any Person, any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents, including membership interests (however designated, whether voting or non-voting) of the equity of such Person, including, if such person is a partnership, partnership interests (whether general or limited), if such Person is a limited liability company, membership interests, and, if such Person is a trust, all beneficial interests therein, and shall also include any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of property of, such corporation, partnership, limited liability company or trust, whether outstanding on the date hereof or issued on or after the date hereof and (ii) shall include, without limitation, all Pledged Stock, Pledged Partnership Interests and Pledged LLC Interests.

“Excluded Assets” shall mean (i) any permit, lease, license, contract or agreement to which any Grantor is a party or any of its rights or interests thereunder if and only to the extent that the grant of a security interest hereunder (a) is prohibited by or a violation of any law, rule or regulation applicable to such Grantor or (b) shall constitute or result in a breach of a term or provision of, or the termination or a default under the terms of, such permit, lease, license, contract or agreement (other than to the extent that any such law, rule, regulation, term or provision would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the UCC of any relevant jurisdiction or any other applicable law (including any debtor relief law or principle of equity); provided, however, that the Collateral shall include (and such security interest shall attach and the definition of Excluded Assets shall not then include) immediately at such time as the contractual or legal prohibition shall no longer be applicable and to the extent severable, and shall attach immediately to any portion of such permit, lease, license, contract or agreement not subject to the prohibitions specified in clauses (a) or (b) above; provided further that the exclusions referred to in clause (i) of this definition shall not include any Proceeds of such permit, lease, license, contract or agreement, (ii) property owned by any Grantor that is subject to a purchase money Lien or Capitalized Lease Obligation (as defined in the Indenture and including any similar term in any other Priority Lien Document) permitted under the Priority Lien Documents if the agreement pursuant to which such Lien is granted (or the document providing for such Capitalized Lease Obligation) prohibits, or requires the consent of any Person other than the Grantors which has not been obtained as a condition to, the creation of any other Lien on such property, (iii) any “intent-to-use” application for registration of a Trademark filed pursuant to Section 1(b) of the Lanham Act, 15 U.S.C. § 1051, prior to the filing and acceptance of a “Statement of Use” pursuant to Section 1(d) of the Lanham Act or an “Amendment to Allege Use” pursuant to Section 1(c) of the Lanham Act with respect thereto, solely to the extent, if any, that, and solely during the period, if any, in which, the grant of a security interest therein could

impair the validity or enforceability of any registration that issues from such intent-to-use application under applicable federal law (“Intent-to-Use Applications”), (iv) any trucks, trailers, tractors, service vehicles, automobiles, construction and earth moving equipment, rolling stock or other registered mobile equipment or other Equipment of any nature covered by certificates of title law of any jurisdiction and all tires and other appurtenances to any of the foregoing, to the extent a Lien on any such assets may not be perfected by the filing of a UCC financing statement, (v) Excluded Foreign Restricted Subsidiary Voting Stock, (vi) Letter of Credit Rights and commercial tort claims individually with a value of less than \$1,000,000, in each case, that do not constitute Proceeds of Collateral, (vii) those assets over which the granting of security interests in such assets would result in material adverse tax consequences as reasonably determined by the Gogo Intermediate Holdings LLC (it being understood that the Grantors shall not be required to enter into any security agreements or pledge agreements governed by foreign law), (viii) assets to the extent the granting or perfecting of a security interest in such assets would result in costs or other consequences to Gogo Intermediate Holdings LLC or any of its Subsidiaries as reasonably determined by Gogo Intermediate Holdings LLC and the Collateral Agent that are excessive in view of the benefits that would be obtained by the Priority Lien Secured Parties, (ix) any margin stock (within the meaning of Regulation U issued by the Federal Reserve Board), (x) any aircraft, airframes, aircraft engines or helicopters, or any Equipment or other assets constituting a part thereof, to the extent a Lien on any such assets may not be perfected by the filing of a UCC financing statement, (xi) leased cell towers to the extent a leasehold mortgage is required to create or perfect a security interest therein and (xii) Deposit Accounts exclusively used for payroll, payroll taxes and other employee wage and benefit payments.

“Excluded Foreign Restricted Subsidiary Voting Stock” shall mean any voting stock in excess of 65% of the total outstanding amount of any class of voting stock of a Foreign Restricted Subsidiary.

“Excluded Swap Obligation” shall mean, with respect to any Grantor, as it relates to all or a portion of the grant by such Grantor of a security interest hereunder, any Swap Obligation if, and to the extent that, such Swap Obligation (or such security interest in respect thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof). If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such security interest is or becomes illegal.

“FCC” shall mean the Federal Communications Commission, and any successor agency of the United States Government exercising substantially equivalent powers.

“FCC License” shall mean any Governmental Authorization granted by the FCC pursuant to the Communications Act, or by any other Governmental Authority pursuant to Communications Laws, to any Grantor or assigned or transferred to any Grantor pursuant to Communications Laws.

“Foreign Restricted Subsidiary” shall have the meaning set forth in the Indenture and shall include any similar term in any other Priority Lien Document.

“Governmental Authority” shall mean any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization.

“Governmental Authorization” shall mean all authorizations, certificates, consents, decrees, permits, licenses, registrations, waivers, privileges, approvals from and filings with all Governmental Authorities necessary in connection with the business of Parent and its Subsidiaries.

“Grantors” shall have the meaning set forth in the preamble to this Agreement.

“Indenture” shall have the meaning set forth in the recitals to this Agreement.

“Intellectual Property” shall mean, with respect to any Grantor, the collective reference to all rights, priorities and privileges relating to intellectual property of such Grantor, whether arising under United States, multinational or foreign laws, including, without limitation, Copyrights, Copyright Licenses, Patents, Patent Licenses, Trademarks, Trademark Licenses, Trade Secrets and Trade Secret Licenses, and all rights to sue or otherwise recover for any past, present and future infringement, dilution, misappropriation, or other violation or impairment thereof, including the right to receive all Proceeds therefrom, including without limitation license fees, royalties, income payments, claims, damages and proceeds of suit, now or hereafter due and/or payable with respect thereto.

“Intellectual Property Security Agreements” shall mean, collectively, the Copyright Security Agreement substantially the form of Exhibit A-1, the Patent Security Agreement substantially in the form of Exhibit A-2, and the Trademark Security Agreement substantially in the form of Exhibit A-3.

“Investment Property” shall mean the collective reference to (i) all “investment property” as such term is defined in Section 9-102(a)(49) of the UCC on the date hereof including, without limitation, all Certificated Securities and Uncertificated Securities, all Security Entitlements, all Securities Accounts, all Commodity Contracts and all Commodity Accounts (other than any Excluded Foreign Restricted Subsidiary Voting Stock) and (ii) whether or not constituting “investment property” as so defined, all Pledged Notes, all Pledged Equity Interests, all Pledged Security Entitlements and all Pledged Commodity Contracts.

“Issuers” shall mean the collective reference to each issuer of Pledged Equity Interests.

“Material Adverse Effect” shall mean a material adverse effect on (a) the business, assets, property, condition (financial or otherwise) or results of operations of the Grantors and their respective Subsidiaries, taken as a whole, (b) the validity or enforceability of this Agreement or any of the other Priority Lien Documents or the rights or remedies of the Collateral Agent or the Priority Lien Secured Parties hereunder or thereunder, taken as a whole, or (c) the validity, perfection or priority of the Collateral Agent’s Liens upon a material portion of the Collateral.

“Material Intellectual Property” shall mean any Intellectual Property included in the Collateral that is material to the business of any Grantor.

“Material Real Property” shall mean any fee interest of any Grantor in real property having a value of greater than \$1,000,000 and any leasehold interest of any Grantor in real property having annual fixed rental payments of greater than \$1,000,000; *provided* that (i) the value of any leasehold interest in real property shall not include any leasehold improvements and (ii) Material Real Property shall not include Excluded Assets.

“Mortgages” shall mean any mortgages, deeds of trust or other security document made by any Grantor in favor of, or for the benefit of, the Collateral Agent, as the same may be amended, supplemented, waived or otherwise modified from time to time, for the benefit of the Priority Lien Secured Parties, in each case, in form and substance reasonably satisfactory to the Collateral Agent and the applicable Grantor.

“Notes” shall have the meaning set forth in the recitals to this Agreement.

“Patent Licenses” shall mean all written licenses providing for the grant to or from a Grantor of any right in or to any Patent (including, without limitation, those listed on Schedule 6).

“Patents” shall mean, with respect to any Grantor, all of such Grantor’s right, title and interest in and to all patentable inventions and designs, all United States, foreign, and multinational patents, certificates of invention, and similar industrial property rights, and applications for any of the foregoing, including, without limitation, (i) each patent and patent application listed on Schedule 6, (ii) all reissues, substitutes, divisions, continuations, continuations-in-part, extensions, renewals, and reexaminations thereof, (iii) all inventions and improvements described and claimed therein, (iv) all rights to sue or otherwise recover for any past, present and future infringement or other violation thereof, (v) all Proceeds of the foregoing, including, without limitation, license fees, royalties, income, payments, claims, damages, and proceeds of suit and other payments now or hereafter due and/or payable with respect thereto, and (vi) all other patent rights accruing thereunder or pertaining thereto throughout the world.

“Perfected IP” shall have the meaning set forth in Section 5.9(d).

“Pledged Commodity Contracts” shall mean all Commodity Contracts listed on Schedule 2 and all other Commodity Contracts to which any Grantor is party from time to time.

“Pledged Debt Securities” shall mean all debt securities now owned or hereafter acquired by any Grantor, including, without limitation, the debt securities listed on Schedule 2, together with any other certificates, options, rights or security entitlements of any nature whatsoever in respect of the debt securities of any Person that may be issued or granted to, or held by, any Grantor while this Agreement is in effect.

“Pledged Equity Interests” shall mean all Equity Interests, and shall include Pledged LLC Interest, Pledged Partnership Interest and Pledged Stock; provided, however, that “Pledged Equity Interests” shall not include Excluded Assets.

“Pledged LLC Interests” shall mean all membership interests and other interests of any Grantor now owned or hereafter acquired in any limited liability company including, without limitation, all limited liability company interests listed on Schedule 2 hereto under the heading “Pledged LLC Interests” and the certificates, if any, representing such limited liability company interests and any interest of such Grantor on the books and records of such limited liability company and any securities entitlements relating thereto and all dividends, distributions, cash, warrants, rights, options, instruments, securities and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such limited liability company interests and any other warrant, right or option or other agreement to acquire any of the foregoing, all management rights, all voting rights, any interest in any capital

account of a member in such limited liability company, all rights as and to become a member of the limited liability company, all rights of the Grantor under any shareholder or voting trust agreement or similar agreement in respect of such limited liability company, all of the Grantor's right, title and interest as a member to any and all assets or properties of such limited liability company, and all other rights, powers, privileges, interests, claims and other property in any manner arising out of or relating to any of the foregoing; provided however that Pledged LLC Interests shall not include Excluded Assets.

"Pledged Notes" shall mean all promissory notes now owned or hereafter acquired by any Grantor including, without limitation, those listed on Schedule 2.

"Pledged Partnership Interests" shall mean all partnership interests and other interests of any Grantor now owned or hereafter acquired in any general partnership, limited partnership, limited liability partnership or other partnership including, without limitation, all partnership interests listed on Schedule 2 hereto under the heading "Pledged Partnership Interests" and the certificates, if any, representing such partnership interests, and any interest of such Grantor on the books and records of such partnership and all dividends, distributions, cash, warrants, rights, options, instruments, securities and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such partnership interests and any other warrant, right or option to acquire any of the foregoing, all management rights, all voting rights, any interest in any capital account of a partner in such partnership, all rights as and to become a partner of such partnership, all of the Grantor's rights, title and interest as a partner to any and all assets or properties of such partnership, and all other rights, powers, privileges, interests, claims and other property in any manner arising out of or relating to any of the foregoing; provided however that Pledged Partnership Interests shall not include Excluded Assets.

"Pledged Stock" shall mean all shares of capital stock now owned or hereafter acquired by such Grantor, including, without limitation, all shares of capital stock described on Schedule 2 hereto under the heading "Pledged Stock", and the certificates, if any, representing such shares and any interest of such Grantor in the entries on the books of the issuer of such shares and all dividends, distributions, cash, warrants, rights, options, instruments, securities and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such shares and any other warrant, right or option to acquire any of the foregoing provided, however, that Pledged Stock shall not include Excluded Assets.

"Pledged Securities" shall mean the collective reference to the Pledged Debt Securities, the Pledged Notes and the Pledged Equity Interests regardless of whether constituting Securities under the UCC.

"Pledged Security Entitlements" shall mean all security entitlements with respect to the financial assets listed on Schedule 2 and all other security entitlements of any Grantor.

"Priority Lien Event of Default" shall mean any event or condition that, under the terms of any Priority Lien Document, causes, or permits holders of Priority Lien Debt outstanding thereunder (with the giving of notice or the lapse of time, or both, to the extent applicable) to cause, the Priority Lien Debt outstanding thereunder to become immediately due and payable.

"Priority Lien Obligations" shall have the meaning set forth in the Collateral Agency Agreement; provided that the Priority Lien Obligations shall exclude any Excluded Swap Obligations.

“Proceeds” shall mean all “proceeds” as such term is defined in Section 9-102(a)(64) of the UCC and, in any event, shall include, without limitation, all dividends or other income from the Pledged Securities, collections thereon or distributions or payments with respect thereto.

“Receivable” shall mean all Accounts and any other any right to payment for goods or other property sold, leased, licensed or otherwise disposed of or for services rendered, whether or not such right is evidenced by an Instrument or Chattel Paper or classified as a Payment Intangible and whether or not it has been earned by performance. References herein to Receivables shall include any Supporting Obligation or collateral securing such Receivable.

“Requirement of Law” shall mean, as to any Person, any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject, including, without limitation, the Governmental Authorizations and the Communications Act.

“Securities Act” shall mean the Securities Act of 1933, as amended.

“Specified Assets” shall have the meaning set forth in Section 4.3(b).

“Specified Event of Default” shall mean a Priority Lien Event of Default arising under item (1), (2), (7) or (8) of the definition of “Event of Default” set forth in Section 6.01 of the Indenture or any similar Priority Lien Event of Default arising under any other Priority Lien Document.

“Specified IP Assets” shall mean all Collateral consisting of Intellectual Property for which the creation or perfection of Liens thereon requires execution of documents, filings in or other actions under the laws of jurisdictions outside of the United States of America, any State thereof or the District of Columbia.

“Swap Obligation” shall mean, with respect to any Grantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a “swap” within the meaning of section 1a(47) of the Commodity Exchange Act.

“Trademark Licenses” shall mean all written licenses providing for the grant to or from a Grantor of any right in or to any Trademark (including, without limitation, those listed on Schedule 6).

“Trademarks” shall mean, with respect to any Grantor, all of such Grantor’s right, title and interest in and to all domestic, foreign and multinational trademarks, service marks, trade names, corporate names, company names, business names, fictitious business names, trade dress, trade styles, logos, Internet domain names and other indicia of origin or source identification, whether registered or unregistered (other than Intent-to-Use Applications), and, with respect to any and all of the foregoing, (i) all registrations and applications for registration thereof including, without limitation, the registrations and applications listed on Schedule 6, (ii) all extensions and renewals thereof, (iii) all of the goodwill of the business connected with the use of and symbolized by any of the foregoing, (iv) all rights to sue or otherwise recover for any past, present and future infringement, dilution, or other violation thereof, (iv) all Proceeds of the foregoing, including, without limitation, license fees, royalties, income, payments, claims, damages, proceeds of suit now and other payments hereafter due and/or payable with respect thereto, and (v) all other trademark rights accruing thereunder or pertaining thereto throughout the world.

“Trade Secret Licenses” shall mean all written licenses providing for the grant to or from a Grantor of any right in or to any Trade Secret.

“Trade Secrets” shall mean, with respect to any Grantor, all of such Grantor’s right, title and interest in and to (i) all trade secrets and all confidential and proprietary information, including know-how, manufacturing and production processes and techniques, inventions, research and development information, technical data, financial, marketing and business data, pricing and cost information, business and marketing plans, and customer and supplier lists and information, in each case, to the extent recognized and protected as a trade secret under the applicable laws of the relevant jurisdiction, and with respect to any and all of the foregoing (i) all rights to sue or otherwise recover for any past, present and future misappropriation or other violation thereof, (ii) all Proceeds of the foregoing, including, without limitation, license fees, royalties, income, payments, claims, damages, proceeds of suit and other payments now or hereafter due and/or payable with respect thereto, and (iii) all other trade secret rights accruing thereunder or pertaining thereto throughout the world.

“UCC” shall mean the Uniform Commercial Code as in effect from time to time in the State of New York; provided, however, that in the event that, by reason of mandatory provisions of law, any or all of the perfection or priority of, or remedies with respect to, any Collateral is governed by the Uniform Commercial Code as enacted and in effect in a jurisdiction other than the State of New York, the term “UCC” shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions hereof relating to such perfection, priority or remedies.

1.2 Other Definitional Provisions. (a) The words “hereof”, “herein”, “hereto” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section, Schedule, Exhibit and Annex references are to this Agreement unless otherwise specified. References to any Schedule, Exhibit or Annex shall mean such Schedule, Exhibit or Annex as amended or supplemented from time to time in accordance with this Agreement.

(b) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

(c) Where the context requires, terms relating to the Collateral or any part thereof, when used in relation to a Grantor, shall refer to such Grantor’s Collateral or the relevant part thereof.

(d) The expressions “payment in full,” “paid in full” and any other similar terms or phrases when used herein with respect to the Priority Lien Obligations shall mean the unconditional, final and irrevocable payment in full in cash, in immediately available funds, of all of the Priority Lien Obligations.

(e) The use herein of the word “include” or “including”, when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as “without limitation” or “but not limited to” or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter.

(f) All references herein to provisions of the UCC shall include all successor provisions under any subsequent version or amendment to any Article of the UCC.

(g) This Agreement will be construed without regard to the identity of the party who drafted it and as though the parties participated equally in drafting it. Consequently, each of the parties acknowledges and agrees that any rule of construction that a document is to be construed against the drafting party will not be applicable to this Agreement.

SECTION 2. [RESERVED]

SECTION 3. GRANT OF SECURITY INTEREST; CONTINUING LIABILITY UNDER COLLATERAL

(a) Each Grantor hereby grants to the Collateral Agent, for the benefit of the Priority Lien Secured Parties, a security interest in, all of the following property, in each case, wherever located and now owned or at any time hereafter acquired by such Grantor or in which such Grantor now has or at any time in the future may acquire any right, title or interest (collectively, subject to the last sentence of this Section 3(a), the "Collateral"), as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of such Grantor's Priority Lien Obligations:

- (i) all Accounts, including all Receivables;
- (ii) all Chattel Paper;
- (iii) all Deposit Accounts;
- (iv) all Documents;
- (v) all Equipment;
- (vi) all General Intangibles;
- (vii) all Instruments;
- (viii) all Intellectual Property;
- (ix) all Inventory;
- (x) all Investment Property;
- (xi) all Letter of Credit Rights;
- (xii) all Money;
- (xiii) all Pledged Equity Interests;
- (xiv) all Goods not otherwise described above;
- (xv) all Collateral Accounts;

(xvi) all books, records, ledger cards, files, correspondence, customer lists, blueprints, technical specifications, manuals, computer software, computer printouts, tapes, disks and other electronic storage media and related data processing software and similar items that at any time evidence or contain information relating to any of the Collateral or are otherwise necessary or helpful in the collection thereof or realization thereupon;

(xvii) all commercial tort claims now or hereinafter described on Schedule 9; and

(xviii) to the extent not otherwise included, all Proceeds, products accessions, rents and profits of any and all of the foregoing and all collateral security, Supporting Obligations and guarantees given by any Person with respect to any of the foregoing.

Notwithstanding the foregoing provisions of this Section 3(a), the foregoing grant of a security interest shall not extend to, and the term “Collateral” shall not include (a) FCC Licenses to the extent (but only to the extent) that any law, regulation, permit, order or decree of any Governmental Authority in effect at the time applicable thereto prohibits the grant of a security interest therein; provided, however, that the foregoing grant of a security interest shall extend to, and the Collateral shall include, each of the following: (A) the right to receive all proceeds derived or arising from or in connection with the sale, assignment, transfer or transfer of control over such FCC Licenses; (B) any and all Proceeds of any FCC Licenses that are otherwise excluded; and (C) in the event that such law, regulation, permit, order or decree shall be amended, modified or interpreted to permit (or shall be replaced with another rule or regulation, or any other law, rule or regulation is adopted, which would permit) the grant of a security interest therein, such FCC Licenses as well as any and all Proceeds thereof that might theretofore have been excluded from such grant of a security interest and from the Collateral and (b) Excluded Assets. It is understood that with respect to the Specified IP Assets, the above grant is effective only to the extent such security interest can be granted pursuant to this Agreement.

(b) Notwithstanding anything herein to the contrary, the Grantors will not be required to (x) take any action in any jurisdiction other than the United States of America, or required by the laws of any such jurisdiction, in order to create any security interests (or other Liens) in assets located or titled outside of the United States of America or to perfect any security interests (or other Liens) in any Collateral, (y) deliver control agreements with respect to, or confer perfection by “control” over, any deposit accounts, bank or securities accounts or other Collateral, except to the extent required by Section 5.2(b) or (c) of this Agreement, provided that, in the case of Collateral that constitutes (A) Equity Interests, (B) intercompany notes in certificated form or (C) notes in certificated form evidencing debt owed to any Grantor by a third party, the Grantors will in each case deliver such Equity Interests or notes (in the case of any such notes, limited to any note with a principal amount in excess of \$1,000,000) to the Collateral Agent in accordance with the provisions of this Agreement (provided that the aggregate principal amount of notes not delivered to the Collateral Agent because the amount of such notes is below the \$1,000,000 threshold described above shall not at any time exceed \$2,500,000), or (z) deliver landlord lien waivers, estoppels or collateral access letters.

SECTION 4. REPRESENTATIONS AND WARRANTIES

To induce the Collateral Agent and the Priority Lien Secured Parties to enter into the Priority Lien Documents and make their respective extensions of credit thereunder, each Grantor hereby represents and warrants to the Collateral Agent and the Priority Lien Secured Parties on the date hereof that:

4.1 [Reserved].

4.2 Title; No Other Liens. Such Grantor owns each item of the Collateral free and clear of any and all Liens or claims, except for the Liens or claims created under this Agreement, including, without limitation, liens arising as a result of such Grantor becoming bound (as a result of merger or otherwise) as Grantor under a security agreement entered into by another Person, except for Liens permitted under the Priority Lien Documents. No financing statement, mortgage or other public notice with respect to all or any part of the Collateral is on file or of record in any public office, except such as have been filed in favor of the Collateral Agent, for the ratable benefit of the Priority Lien Secured Parties, pursuant to this Agreement or as are permitted by the Priority Lien Documents or as to which documentation to terminate the same shall have been delivered to the Collateral Agent.

4.3 Valid, Perfected First Priority Liens. (a) Except with respect to Specified IP Assets, this Agreement is effective to create a valid and enforceable security interest in the Collateral in favor of the Collateral Agent to secure the payment and performance of the Priority Lien Obligations, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

(b) Except with respect to Specified Assets, upon the completion of the Perfection Actions (as defined below), the security interest created pursuant to this Agreement (A) will be (to the extent provided in this Agreement) a perfected security interest in the Collateral in favor of the Collateral Agent, and (B) will be prior to all other Liens of all other Persons other than Permitted Liens, and enforceable as such as against all other Persons other than Ordinary Course Transferees, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law). As used in this Section 4.3(b), the following terms have the following meanings:

"Financing Statements": the financing statements delivered to the Collateral Agent by the Grantors for filing in the jurisdictions listed on Schedule 3 (which financing statements are in proper form for filing in such jurisdiction).

"Ordinary Course Transferees": (i) with respect to Goods only, buyers in the ordinary course of business and lessees in the ordinary course of business to the extent provided in Sections 9-320(a) and 9-321 of the UCC as in effect from time to time in the relevant jurisdiction; (ii) with respect to General Intangibles only, licensees in the ordinary course of business to the extent provided in Section 9-321 of the UCC as in effect from time to time in the relevant jurisdiction and (iii) any other Person who is entitled to take free of the Lien pursuant to the UCC as in effect from time to time in the relevant jurisdiction.

"Perfection Actions": (i) the filing or recording of the Financing Statements, any mortgages to the extent required by the Indenture or any other Priority Lien Document, any Intellectual Property Security Agreement as set forth in Schedule 3, and any filings after the date hereof in any other jurisdiction as may be necessary under any Requirement of Law, (ii) the delivery to and continuing possession by the Collateral Agent of all Instruments and Pledged Securities a security interest in which is perfected by possession, (iii) the actions contemplated in the proviso in clause (y) of Section 3(b) and (iv) the obtaining and maintenance of "control" (as described in the UCC) by the Collateral Agent of all Deposit Accounts and Securities Accounts a security interest in which is perfected by control.

"Permitted Liens": Liens permitted pursuant to the Indenture, including without limitation those permitted to exist pursuant to Section 4.12 of the Indenture, and the other Priority Lien Documents.

“Specified Assets”: the following property of the Grantors:

- (1) Fixtures, Money and Cash Equivalents (other than Cash Equivalents constituting Investment Property to the extent a security interest is perfected by the filing of a financing statement under the UCC);
- (2) Specified IP Assets;
- (3) Uncertificated Securities (to the extent a security interest is not perfected by the filing of a financing statement);
- (4) Collateral for which the perfection of Liens thereon requires filings in or other actions under the laws of jurisdictions outside the United States of America, any State thereof or the District of Columbia (except to the extent the such filings or other actions have been made or taken);
- (5) goods included in Collateral received by any Person for “sale or return” within the meaning of Section 2-326 of the UCC of the applicable jurisdiction, to the extent of claims of creditors of such Person;
- (6) Proceeds of Accounts, Receivables or Inventory which do not themselves constitute Collateral or which do not constitute identifiable cash Proceeds or which have not yet been transferred to or deposited in the Collateral Account (if any);
- (7) deposit accounts, bank or securities accounts or other Collateral to the extent perfection is achieved by “control” in the form of control or other agreements, except to the extent required by Section 5.2(b) or (c) of this Agreement; and
- (8) Collateral to the extent perfection requires delivery of landlord lien waivers, estoppels or collateral access letters.

4.4 Name; Jurisdiction of Organization, Etc. On the date hereof, such Grantor’s exact legal name (as indicated on the public record of such Grantor’s jurisdiction of formation or organization), jurisdiction of organization, organizational identification number, if any, and the location of such Grantor’s chief executive office or sole place of business are specified on Schedule 4. On the date hereof, each Grantor is organized solely under the law of the jurisdiction so specified and has not filed any certificates of domestication, transfer or continuance in any other jurisdiction. Except as otherwise indicated on Schedule 4, the jurisdiction of each such Grantor’s organization of formation is required to maintain a public record showing the Grantor to have been organized or formed. Except as specified on Schedule 4, it has not changed its name, jurisdiction of organization, chief executive office or sole place of business (if applicable) or its corporate structure in any way (e.g. by merger, consolidation, change in corporate form or otherwise) within the past five years and has not within the last five years become bound (whether as a result of merger or otherwise) as Grantor under a security agreement entered into by another Person, which has not heretofore been terminated. Unless otherwise stated on Schedule 4, such Grantor is not a transmitting utility as defined in UCC § 9-102(a)(80).

4.5 Inventory and Equipment. (a) On the date hereof, the Inventory and the Equipment are kept at the locations listed on Schedule 5. The provisions of this Section 4.5 shall not apply to Equipment or Inventory that is in transit, that has been sold (including sales on consignment or approval in the ordinary course of business), that is out for repair, that is at other locations for purposes of onsite maintenance or repair or to Equipment and Inventory at locations with less than \$1,000,000 in aggregate value.

(b) None of the Inventory or Equipment is in the possession of an issuer of a negotiable document (as defined in Section 7-104 of the UCC) therefor or is otherwise in the possession of any bailee or warehouseman.

4.6 Special Collateral; Excluded Collateral. (a) None of the Collateral constitutes, or is the Proceeds of, (1) Farm Products, (2) As-Extracted Collateral, (3) Manufactured Homes, (4) Health-Care Insurance Receivables, (5) timber to be cut or (6) aircraft engines, satellites, ships or railroad rolling stock

(b) No Excluded Asset is material to the business of such Grantor other than as set forth on Schedule 7 hereto.

4.7 Investment Property. (a) Schedule 2 hereto sets forth under the headings “Pledged Stock”, “Pledged LLC Interests” and “Pledged Partnership Interests” respectively, all of the Pledged Stock, Pledged LLC Interests and Pledged Partnership Interests owned by any Grantor and such Pledged Equity Interests constitute the percentage of issued and outstanding shares of stock, percentage of membership interests or percentage of partnership interests of the respective issuers thereof indicated on such Schedule. Schedule 2 hereto sets forth under the heading “Pledged Debt Securities” or “Pledged Notes” all of the Pledged Debt Securities and Pledged Notes representing or evidencing Indebtedness from time to time owed to any Grantor in an aggregate principal amount in excess of \$1,000,000 and all of such Pledged Debt Securities and Pledged Notes have been, in the case of those issued by Affiliates of such Grantor, or, in the case of those issued by Persons that are not Affiliates of such Grantor, to the knowledge of such Grantor have been, duly authorized, authenticated, issued, and delivered and are the legal, valid and binding obligation of the issuers thereof enforceable in accordance with their terms and are not in default, and in the case of those issued by Affiliates of such Grantor, constitute all of the issued and outstanding inter-company indebtedness owed from Affiliates evidenced by an instrument or certificated security of the respective issuers thereof owing to such Grantor. Schedule 2 hereto (as such schedule may be amended from time to time) sets forth under the headings “Securities Accounts,” “Commodities Accounts,” and “Deposit Accounts” respectively, all of the Securities Accounts, Commodities Accounts and Deposit Accounts, in each case, with amounts contained therein in excess of \$1,000,000, in which each Grantor has an interest. Each Grantor is the sole entitlement holder or customer of each such account, and such Grantor has not consented to, and is not otherwise aware of, any Person (other than the Collateral Agent pursuant hereto or as set forth on Schedule 2 hereto) having “control” (within the meanings of Sections 8-106, 9-106 and 9-104 of the UCC) over, or any other interest in, any such Securities Account, Commodity Account or Deposit Account or any securities, commodities or other property credited thereto.

(b) The shares of Pledged Stock pledged by such Grantor hereunder constitute all of the issued and outstanding shares of all classes of the Equity Interests of each Issuer owned by such Grantor other than any such Equity Interests that are Excluded Assets.

(c) All the shares of the Pledged Equity Interests have been duly and validly issued and are fully paid and nonassessable.

(d) Such Grantor is the record and beneficial owner of, and has good and marketable title to, the Investment Property and Deposit Accounts pledged by it hereunder, free of any and all Liens or options in favor of, or claims of, any other Person, except for the Liens, options or claims created under this Agreement and Liens permitted under the Priority Lien Documents.

4.8 Receivables. (a) [Reserved.]

(b) None of the Grantors has Receivables in excess of \$500,000 individually or \$1,000,000 in the aggregate with respect to which the obligor is a Governmental Authority.

4.9 Intellectual Property.

(a) Schedule 6 lists all of the following Intellectual Property, to the extent owned by such Grantor: (i) issued Patents and pending Patent applications, (ii) registered Trademarks and applications for the registration of Trademarks (other than Internet domain names), and (iii) registered Copyrights and applications to register Copyrights. As of the date hereof, except as set forth on Schedule 6, all such Patents, Trademarks and Copyrights are recorded in the name of such Grantor. Except as set forth on Schedule 6, such Grantor is the sole and exclusive owner of the entire right, title and interest in and to such Patents, Trademarks and Copyrights, and, to the knowledge of such Grantor, any other Material Intellectual Property owned by such Grantor, in each case free and clear of all Liens, except for Liens permitted by the Priority Lien Documents.

(b) Except as set forth on Schedule 6 and/or as could not reasonably be expected to have a Material Adverse Effect, all registrations and applications for Patents, Trademarks and Copyrights owned by such Grantor are subsisting and have not been adjudged invalid or unenforceable, in whole or in part, nor, in the case of Patents, are any issued Patents owned by such Grantor the subject of a reexamination proceeding, and such Grantor has performed all acts and has paid all renewal, maintenance, and other fees required to maintain each and every registration and application of Copyrights, Patents and Trademarks owned such Grantor constituting Material Intellectual Property in full force and effect.

(c) Except for those matters which (i) are disclosed on Schedule 6 and/or (ii) could not reasonably be expected to have a Material Adverse Effect, no action or proceeding is pending, or, to the knowledge of such Grantor, threatened, alleging that such Grantor, or the conduct of such Grantor's business infringes, misappropriates, dilutes, or otherwise violates the intellectual property rights of any other Person. Except as set forth on Schedule 6, to the knowledge of such Grantor, no Person is engaging in any activity that infringes, misappropriates, dilutes or violates any Intellectual Property owned by such Grantor, except for such infringement, misappropriation, dilution or violation that could not reasonably be expected to have a Material Adverse Effect.

(d) Schedule 6 lists all exclusive Copyright Licenses held by such Grantor that constitute Material Intellectual Property.

(e) Except as could not reasonably be expected to have a Material Adverse Effect, such Grantor has taken commercially reasonable efforts to control the nature and quality of its products sold and its services rendered under or in connection with its owned Trademarks.

(f) Except as could not reasonably be expected to have a Material Adverse Effect, to the extent required by applicable law and reasonably practicable, such Grantor has been using appropriate statutory notice of registration in connection with its use of its owned registered Trademarks, issued Patents and registered Copyrights.

(g) Except for those matters which (i) are disclosed on Schedule 6 and/or (ii) could not reasonably be expected to have a Material Adverse Effect, no holding, decision, ruling, or judgment has been rendered in any action or proceeding before any court or administrative authority challenging the validity, enforceability, or scope of, or such Grantor's right to register, own or use, any Material Intellectual Property owned by such Grantor or such Grantor's ownership interest therein, and no such action or proceeding is pending or, to such Grantor's knowledge, threatened.

(h) Except for those matters which (i) are disclosed on Schedule 6 and/or (ii) could not reasonably be expected to have a Material Adverse Effect, no settlements or consents, covenants not to sue, coexistence agreements, non-assertion assurances, or releases have been entered into by such Grantor in any manner that adversely impacts such Grantor's rights to own, license to others or use any Material Intellectual Property owned by such Grantor. Except as could not reasonably be expected to have a Material Adverse Effect, the consummation of the transactions contemplated by this Agreement will not result in the termination, suspension, limitation or other impairment of any of such Grantor's rights in its Material Intellectual Property.

(i) Except as could not reasonably be expected to have a Material Adverse Effect, such Grantor has taken commercially reasonable efforts to protect the confidentiality of its Trade Secrets constituting its Material Intellectual Property.

4.10 Letter of Credit Rights. No Grantor is a beneficiary or assignee under any letter of credit with potential value in excess of \$1,000,000 other than the letters of credit described on Schedule 8 hereto which Schedule shall be promptly updated by the applicable Grantor from time to time to reflect any additional letter of credit rights with potential value in excess of \$1,000,000 obtained since such schedule was last delivered.

4.11 Commercial Tort Claims. No Grantor has any commercial tort claims with a potential value in excess of \$1,000,000 other than those described on Schedule 9, which schedule shall be promptly updated by the Grantor and delivered to the Collateral Agent from time to time to reflect any additional commercial tort claims with a potential value in excess of \$1,000,000 arising since such schedule was last delivered.

SECTION 5. COVENANTS

Each Grantor covenants and agrees with the Priority Lien Secured Parties that, from and after the date of this Agreement until the Discharge of Priority Lien Obligations:

5.1 [Reserved].

5.2 Delivery and Control of Instruments and Certificated Securities, Deposit Accounts, Securities Accounts.

(a) If any amount in excess of \$1,000,000 payable under or in connection with any of the Collateral is or shall become evidenced or represented by any Instrument or Certificated Security, such Instrument (other than checks received in the ordinary course of business) or Certificated Security shall be promptly delivered to the Collateral Agent, duly endorsed in a manner reasonably satisfactory to the Collateral Agent, to be held as Collateral pursuant to this Agreement.

(b) With respect to any Deposit Account in existence as of the date hereof, within 120 days after the date hereof, and with respect to any Deposit Account opened or acquired after the date hereof, within 120 days after the opening or acquisition thereof (in each case, or such longer period as may be reasonably acceptable to the Collateral Agent), each Grantor shall use commercially reasonable efforts to maintain all Deposit Accounts (excluding any Deposit Account exclusively used for payroll, payroll taxes and other employee wage and benefit payments) with a value in excess of \$1,000,000 only with financial institutions that have agreed to comply with entitlement orders and instructions issued or originated by the Collateral Agent without further consent of such Grantor, such agreement to be in form and substance reasonably satisfactory to the Collateral Agent and such Grantor.

(c) With respect to any Securities Account in existence as of the date hereof, within 120 days after the date hereof, and with respect to any Securities Account opened or acquired after the date hereof, within 120 days after the opening or acquisition thereof (in each case, or such longer period as may be reasonably acceptable to the Collateral Agent), each Grantor shall use commercially reasonable efforts to maintain all Securities Accounts with a value in excess of \$1,000,000 only with financial institutions that have agreed to comply with entitlement orders and instructions issued or originated by the Collateral Agent without further consent of such Grantor, such agreement to be in form and substance reasonably satisfactory to the Collateral Agent and such Grantor.

(d) Notwithstanding the foregoing, (i) the aggregate value of Deposit Accounts or Securities Accounts not subject to control agreements pursuant to Section 5.2(b) and (c) because of their value being below the \$1,000,000 thresholds described therein shall not at any time exceed \$2,500,000 and (ii) the net cash proceeds of the Notes shall be held in a Deposit Account that is subject to the requirements of Section 5.2(b), pending the application of such proceeds.

5.3 Maintenance of Perfected Security Interest; Further Documentation. (a) Except with respect to the Specified Assets, and to the extent described in Section 4.3, each Grantor shall take all actions as described in Section 7.3 of the Collateral Agency Agreement. In furtherance of the foregoing, within 90 days after the end of each fiscal year of Parent, Parent shall deliver to the Collateral Agent a certificate of an Officer (as defined in the Indenture and including any similar term in any other Priority Lien Document) of Parent attaching a supplement to the Schedules hereto reflecting any changes to the Schedules hereto during such fiscal year or confirming that there has been no change in such information since the date of this Agreement or latest supplement of the Schedules hereto.

(b) In the event that a Grantor hereafter acquires any Collateral of a type described in Section 4.6(a) hereof, it shall promptly notify the Collateral Agent in writing and use commercially reasonable efforts to take such actions and execute such documents and make such filings all at such Grantor's expense as required by applicable law or as the Collateral Agent may reasonably request in order to ensure that the Collateral Agent has a valid, perfected, first priority security interest in such Collateral, subject to any Liens expressly permitted by the Priority Lien Documents. Notwithstanding the foregoing, no Grantor shall be required to so notify the Collateral Agent or to take any such action (other than the filing of UCC-1 financing statements, if applicable) unless the Collateral (in the good faith determination of such Grantor) is of a value in excess of \$1,000,000 or is material to such Grantor's business.

5.4 Changes in Locations, Name, Jurisdiction of Incorporation, etc. Such Grantor will not, except upon 10 days' prior written notice to the Collateral Agent (or such shorter notice period or subsequent notice period as shall be reasonably satisfactory to the Collateral Agent) and delivery to the Collateral Agent of duly authorized and, where required, executed copies of all additional financing statements and other documents required by applicable law or as reasonably requested by the Collateral Agent to maintain the validity, perfection and priority of the security interests provided for herein, without limiting the prohibitions on mergers involving the Grantors contained in the Priority Lien Documents, change its legal name, jurisdiction of organization or, in the case of a Grantor that is not a registered organization organized under the law of a state of the United States, the location of its chief executive office or sole place of business, if applicable, from that referred to in Section 4.4.

5.5 Notices. Such Grantor will advise the Collateral Agent in writing promptly, in reasonable detail, of:

(a) any Lien (other than any Liens expressly permitted by the Priority Lien Documents) on any of the Collateral which would adversely affect the ability of the Collateral Agent to exercise any of its remedies hereunder; and

(b) the occurrence of any other event which could reasonably be expected to have a material adverse effect on the aggregate value of the Collateral or on the security interests created hereby.

5.6 Investment Property. (a) If such Grantor shall become entitled to receive or shall receive any stock or other ownership certificate (including, without limitation, any certificate representing a stock dividend or a distribution in connection with any reclassification, increase or reduction of capital or any certificate issued in connection with any reorganization), option or rights in respect of the capital stock or other Pledged Equity Interest of any Issuer, whether in addition to, in substitution of, as a conversion of, or in exchange for, any shares of or other ownership interests in the Pledged Equity Interests, or otherwise in respect thereof, such Grantor shall accept the same as the agent of the Priority Lien Secured Parties, hold the same in trust for the Priority Lien Secured Parties and deliver the same forthwith to the Collateral Agent in the exact form received, duly endorsed by such Grantor to the Collateral Agent, if required, together with an undated stock power covering such certificate duly executed in blank by such Grantor and with, if the Collateral Agent so requests (and the Collateral Agent hereby does so request), signature guaranteed, to be held by the Collateral Agent, subject to the terms hereof, as additional collateral security for the Priority Lien Obligations. Any sums paid upon or in respect of the Pledged Equity Interests upon the liquidation or dissolution of any Issuer shall be paid over to the Collateral Agent to be held by it hereunder as additional collateral security for the Priority Lien Obligations, and in case any distribution of capital shall be made on or in respect of the Pledged Equity Interests or any property shall be distributed upon or with respect to the Pledged Equity Interests pursuant to the recapitalization or reclassification of the capital of any Issuer or pursuant to the reorganization thereof, the property so distributed shall, unless otherwise subject to a perfected security interest in favor of the Collateral Agent, be delivered to the Collateral Agent to be held by it hereunder as additional collateral security for the Priority Lien Obligations. If any sums of money or property so paid or distributed in respect of the Pledged Equity Interests shall be received by such Grantor, such Grantor shall, until such money or property is paid or delivered to the Collateral Agent, hold such money or property in trust for the Priority Lien Secured Parties, segregated from other funds of such Grantor, as additional collateral security for the Priority Lien Obligations.

(b) Without the prior written consent of the Collateral Agent, such consent not to be unreasonably withheld, such Grantor will not (i) enter into any agreement or undertaking restricting the right or ability of such Grantor or the Collateral Agent to sell, assign or transfer any of the Investment Property or Proceeds thereof or any interest therein or (ii) without the prior written consent of the Collateral Agent, such consent not to be unreasonably withheld, cause or permit any Issuer of any Pledged Partnership Interests or Pledged LLC Interests which are not securities (for purposes of the UCC) on the date hereof to elect or otherwise take any action to cause such Pledged Partnership Interests or Pledged LLC Interests to be treated as securities for purposes of the UCC; provided, however, that notwithstanding the foregoing, if any issuer of any Pledged Partnership Interests or Pledged LLC Interests takes any such action in violation of the foregoing in this clause (ii), such Grantor shall promptly notify the Collateral Agent in writing of any such election or action and, in such event, use commercially reasonable efforts to take steps necessary or advisable to establish the Collateral Agent's "control" thereof.

(c) Each Grantor which is an Issuer, agrees that (i) it will be bound by the terms of this Agreement relating to the Pledged Equity Interests issued by it and will comply with such terms insofar as such terms are applicable to it, (ii) it will notify the Collateral Agent promptly in writing of the occurrence of any of the events described in Section 5.6(a) with respect to the Pledged Equity Interests issued by it and (iii) the terms of Sections 5.7(c) and 6.6 shall apply to it, mutatis mutandis, with respect to all actions that may be required of it pursuant to Section 5.7(c) or 6.6 with respect to the Pledged Equity Interests issued by it.

5.7 Voting and Other Rights with Respect to Pledged Securities. (a) Unless (x) a Specified Event of Default shall have occurred and be continuing or (y) any Priority Lien Obligations were accelerated in accordance with the provisions of the applicable Priority Lien Document, and the Collateral Agent shall have given notice to the relevant Grantor of the Collateral Agent's intent to exercise its corresponding rights pursuant to Section 5.7(b), each Grantor shall be permitted to receive all cash dividends paid in respect of the Pledged Equity Interests and all payments made in respect of the Pledged Notes or Pledged Debt Securities, to the extent permitted in the Priority Lien Documents, and to exercise all voting and corporate rights with respect to the Pledged Equity Interests; provided, however, that no vote shall be cast or corporate or other ownership right exercised or other action taken which would materially and adversely impair the Collateral or which would result in any material violation of any provision of this Agreement or any other Priority Lien Document.

(b) If (x) a Specified Event of Default shall occur and be continuing or (y) any Priority Lien Obligations have been accelerated in accordance with the provisions of the applicable Priority Lien Document, and the Collateral Agent shall give notice of its intent to exercise such rights to the relevant Grantor or Grantors: (i) all rights of each Grantor to exercise or refrain from exercising the voting and other consensual rights which it would otherwise be entitled to exercise pursuant hereto shall cease and all such rights shall thereupon become vested in the Collateral Agent who shall thereupon have the sole right, but shall be under no obligation, to exercise or refrain from exercising such voting and other consensual rights and (ii) the Collateral Agent shall have the right, without notice to any Grantor, to transfer all or any portion of the Pledged Equity Interests to its name or the name of its nominee or agent. In addition, the Collateral Agent shall have the right at any time, without notice to any Grantor, to exchange any certificates or instruments representing any Pledged Equity Interests for certificates or instruments of smaller or larger denominations. In order to permit the Collateral Agent to exercise the voting and other consensual rights which it may be entitled to exercise pursuant hereto and to receive all dividends and other distributions which it may be entitled to receive hereunder each Grantor shall promptly execute and deliver (or cause to be executed and delivered) to the Collateral Agent all proxies, dividend payment orders and other instruments as the Collateral Agent may from time to time reasonably request and each Grantor acknowledges that the Collateral Agent may utilize the power of attorney set forth herein.

(c) Each Grantor hereby authorizes and instructs each Issuer of any Pledged Equity Interest pledged by such Grantor hereunder to (i) comply with any instruction received by it from the Collateral Agent in writing that (x) states that (1) a Specified Event of Default has occurred and is continuing or (2) any Priority Lien Obligations have been accelerated in accordance with the provisions of the applicable Priority Lien Document and (y) is otherwise in accordance with the terms of this Agreement, without any other or further instructions from such Grantor, and each Grantor agrees that each Issuer shall be fully protected in so complying, and (ii) unless otherwise expressly permitted hereby, pay any dividends or other payments with respect to the Pledged Equity Interests directly to the Collateral Agent.

5.8 Receivables. (a) No Grantor will (i) grant any extension of the time of payment of any Receivable required to be included in Collateral, (ii) compromise or settle any Receivable required to be included in Collateral for less than the full amount thereof, (iii) release, wholly or partially, any Person liable for the payment of any Receivable required to be included in Collateral, (iv) allow any credit or discount whatsoever on any Receivable required to be included in Collateral or (v) amend, supplement or modify any Receivable required to be included in Collateral; provided that notwithstanding

any of the above, such extensions, compromises, settlements, releases, credits, discounts, amendments, supplements or modifications shall be permitted if (A) they occur in the ordinary course of business (it being acknowledged that each Grantor in the ordinary course of its business compromises and settles Receivable for significantly less than the full amount thereof and routinely gives significant credits or discounts), (B) they are otherwise permitted by the Priority Lien Documents, or (C) they would not reasonably be expected to materially adversely affect the value of the Receivable required to be included in Collateral taken as a whole.

(b) Such Grantor will deliver to the Collateral Agent a copy of each material demand, notice or document received by it that questions or calls into doubt the validity or enforceability of more than 5% of the aggregate amount of the then outstanding Receivables.

(c) Other than in the ordinary course of business consistent with its past practice or as could not reasonably be expected to have a Material Adverse Effect, each Grantor shall perform and comply with all of its obligations with respect to the Receivables.

5.9 Intellectual Property. Except as provided in the Priority Lien Documents: (a) Such Grantor will not, (and shall use commercially reasonable efforts to ensure its licensees will not), without the prior written consent of the Collateral Agent, discontinue use of any Material Intellectual Property owned by such Grantor, or do any act or omit to do any act whereby any Material Intellectual Property owned by such Grantor may lapse, become abandoned, cancelled, dedicated to the public, forfeited, or otherwise impaired, or abandon any application or any right to file an application for a Copyright, Patent, or Trademark constituting Material Intellectual Property owned by such Grantor.

(b) Such Grantor shall take all commercially reasonable steps, including in any proceeding before the United States Patent and Trademark Office or the United States Copyright Office, as applicable, to pursue any application and maintain any registration or issuance of each Trademark, Patent, and Copyright owned by, or with respect to any registered Copyright exclusively licensed to, such Grantor (to the extent permitted by applicable law) and constituting Material Intellectual Property, including, but not limited to, those applications and registrations listed on Schedule 6.

(c) Such Grantor agrees that, (i) should it obtain an ownership interest in any item of Intellectual Property which is not now a part of the Collateral, (ii) should it obtain an exclusive license to any registered Copyright which is not now a part of the Collateral, (iii) should it (either by itself or through any agent, employee, licensee, or designee on such Grantor's behalf) file any application for the registration or issuance of any Intellectual Property with the United States Patent and Trademark Office, the United States Copyright Office, or any similar office or agency in any other country or in any political subdivision of any of the foregoing, or (iv) should it file a Statement of Use or an Amendment to Allege Use with respect to any Intent-to-Use Application (collectively, the "After-Acquired Intellectual Property"), then the provisions of Section 3 shall automatically apply thereto, and any such After-Acquired Intellectual Property shall automatically become part of the Collateral, and it shall give prompt written notice thereof (and, in any event, within 45 days after the relevant event) to the Collateral Agent, and it shall provide the Collateral Agent promptly (and, in any event, within 45 days after the relevant event) with an amended Schedule 6 and promptly (and, in any event, within 45 days after the relevant event) take the actions specified in Section 5.09(d) with respect thereto.

(d) Such Grantor agrees to execute Intellectual Property Security Agreements with respect to any United States issued Patents and Patent applications, any United States registered Trademarks and applications for the registration of United States Trademarks (except any Intent-to-Use Applications), any United States registered Copyrights and applications to register United States Copyrights, and any Copyright Licenses that grant to such Grantor any exclusive right in or to any United

States registered Copyright (collectively, “Perfected IP”), in each case, included in the Collateral as of the date hereof, as well as any Perfected IP constituting After-Acquired Intellectual Property, in substantially the form of Exhibits C-1, C-2, and C-3 in order to record the security interest granted herein to the Collateral Agent for the ratable benefit of the Priority Lien Secured Parties with the United States Patent and Trademark Office and the United States Copyright Office, as applicable, and such Grantor shall promptly execute and deliver, and have recorded, any and all other agreements, instruments, documents, and papers as the Collateral Agent may reasonably request to evidence the Priority Lien Secured Parties’ security interest in any such Intellectual Property with any other applicable offices, agencies, or Governmental Authorities within the United States.

(e) Such Grantor shall use commercially reasonable efforts so as not to permit the inclusion in any contract to which it hereafter becomes a party of any provision that could or may in any way materially impair or prevent the creation of a security interest in, or the assignment of, such Grantor’s rights and interests in any Material Intellectual Property owned by such Grantor under such contracts.

(f) Such Grantor shall promptly notify the Collateral Agent in writing if it knows that any Patent, Trademark or Copyright that is registered or subject to an application for registration that is Material Intellectual Property owned by such Grantor may become (i) abandoned or dedicated to the public or placed in the public domain, (ii) invalid or unenforceable, (iii) subject to any adverse determination or development regarding such Grantor’s ownership, registration or use or the validity or enforceability of such Patent, Trademark or Copyright (including the institution of, or any adverse development with respect to, any action or proceeding in the United States Patent and Trademark Office, the United States Copyright Office, any state registry, any foreign counterpart of the foregoing, or any court) or (iv) the subject of any reversion or termination rights.

(g) Such Grantor will (and shall use commercially reasonable efforts to ensure that its licensees will), to the extent it has determined such notice is necessary and is reasonably practicable, use proper notice of its Patent, Trademark or Copyright rights in connection with the use of any of its owned Material Intellectual Property.

(h) In the event that any Person initiates, or threatens in writing to initiate, any action or proceeding alleging that such Grantor, or the conduct of such Grantor’s business, infringes, misappropriates, dilutes, or otherwise violates the intellectual property of any other Person, and such action or proceeding could reasonably be expected to have a Material Adverse Effect, such Grantor shall promptly notify the Collateral Agent after it learns thereof.

(i) In the event that any Material Intellectual Property owned by or exclusively licensed to any Grantor is infringed, misappropriated, diluted or otherwise violated by another Person, such Grantor shall promptly (i) take actions that it considers reasonable under the circumstances to stop such infringement, misappropriation, dilution or other violation and to protect its rights in such Material Intellectual Property, and (ii) notify the Collateral Agent after it learns thereof.

(j) Such Grantor shall take such commercially reasonable steps as it determines necessary in its reasonable business judgment to protect the secrecy of all Trade Secrets constituting Material Intellectual Property, including, without limitation, entering into confidentiality agreements with employees and consultants and labeling and restricting access to secret information and documents.

5.10 Government Receivables. If any Grantor shall at any time after the date of this Agreement acquire or become the beneficiary of Receivables in excess of \$5,000,000 in the aggregate in respect of which the account debtor is an Applicable Governmental Authority (as defined below), such

Grantor shall (i) promptly thereafter notify the Collateral Agent in writing thereof, (ii) provide to the Collateral Agent all such documents and instruments, and take all such actions, as shall be reasonably be requested by the Collateral Agent to enable the Collateral Agent to comply with the requirements of the Federal Assignment of Claims Act of 1940 or any other Requirement of Law to perfect its security interest in such Receivables and obtain the benefits of such Act or Requirement of Law with respect thereto and (iii) otherwise comply with its obligations under Section 5.3 with respect thereto. As used in this paragraph, the term "Applicable Governmental Authority" shall mean any Governmental Authority the law applicable to which provide that, for a creditor of a Person to which such Governmental Authority has an obligation to pay money, whether pursuant to a Receivable, a General Intangible or otherwise, to perfect such creditor's Lien on such obligation and/or to obtain the full benefits of such Lien and such law, certain notice, filing, recording or other similar actions other than the filing of a financing statement under the UCC must be given, executed, filed, recorded, delivered or completed, including, without limitation, any Federal Governmental Authority to which the Federal Assignment of Claims Act of 1940 is applicable.

5.11 Insurance Certificates and Endorsements. The Grantors will furnish to the Collateral Agent, upon request, information in reasonable detail as to the insurance maintained by them and use commercially reasonable efforts to ensure that such insurance shall be endorsed or otherwise amended to include a customary lender's loss payable endorsement and to name the Collateral Agent as additional insured or loss payee, as applicable.

5.12 Material Real Property. Subject to the applicable limitations set forth herein, with respect to any Material Real Property in existence as of the date hereof or acquired hereafter (in which case the applicable Grantor will give prompt written notice to the Collateral Agent of the acquisition thereof), to the extent the Material Real Property is financeable, the applicable Grantor will, with respect to any Material Real Property in existence as of the date hereof, within 120 days after the date hereof, and with respect to any Material Real Property acquired after the date hereof, within 120 days after the acquisition thereof (in each case, or such longer period as may be reasonably acceptable to the Collateral Agent), (i) execute and deliver a Mortgage, subject to Liens permitted under the Priority Lien Documents covering such real property, (ii) provide the Collateral Agent with (x) a pro forma title insurance policy covering such Material Real Property in an amount equal to 105% of the purchase price of such owned real property or the fair market value of the leasehold interests (or, in each case, such other lesser amount as shall be reasonably acceptable to the Collateral Agent) as well as, to the extent reasonably requested, a current ALTA survey thereof (or local equivalent thereof), or deliver existing surveys together with affidavits of no-change to the title insurance company in lieu thereof, (y) any consents, affidavits or estoppels reasonably deemed necessary or advisable by the Collateral Agent in connection with such Mortgage, each of the foregoing in form and substance reasonably satisfactory to the Collateral Agent and (z) if any such Material Real Property is located in an area designated by the Federal Emergency Management Agency as having special flood or mud slide hazards, a standard flood hazard determination form and proof of flood insurance, if applicable, covering such Material Real Property and (iii) if requested by the Collateral Agent, deliver to the Collateral Agent legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Collateral Agent; provided that it is understood and agreed that the Grantors shall only be required to use commercially reasonable efforts to comply with this Section 5.12 with respect to Material Real Property consisting of leasehold interests in real property. Notwithstanding anything contained herein to the contrary, it is understood and agreed that (x) with respect to any Mortgage securing a leasehold interest in real property in a jurisdiction that imposes a mortgage recording tax, (i) the amount secured by such Mortgage shall not exceed an amount equal to the fair market value for such leasehold interest in real property (such fair market value being determined by the applicable Grantor in its sole discretion in good faith) and (ii) such Mortgage shall specify the dollar value of the Collateral secured by such Mortgage and (y) with respect to any Mortgage securing a fee interest in real property in a jurisdiction that imposes a

mortgage recording tax, (i) the amount secured by such Mortgage shall not exceed an amount equal to the fair market value for such fee interest in real property and (ii) such Mortgage shall specify the dollar value of the Collateral secured by such Mortgage. The applicable Grantor will pay all recording costs, intangible taxes and other fees and costs (including attorneys' fees and expenses) incurred in connection with this Section 5.12.

SECTION 6. REMEDIAL PROVISIONS

6.1 Certain Matters Relating to Receivables. (a) The Collateral Agent shall have the right (but not the obligation) annually (or, if a Priority Lien Event of Default has occurred and is continuing, at any time) to make test verifications of the Receivables in any manner and through any medium that it reasonably considers advisable, and each Grantor shall furnish all such assistance and information as the Collateral Agent may require in connection with such test verifications. Annually (or, if a Priority Lien Event of Default has occurred and is continuing, at any time), upon the Collateral Agent's request and at the expense of the relevant Grantor, such Grantor shall cause independent public accountants or others satisfactory to the Collateral Agent to furnish to the Collateral Agent reports showing reconciliations, aging and test verifications of, and trial balances for, the Receivables.

(b) The Collateral Agent hereby authorizes each Grantor to collect such Grantor's Receivables and each Grantor hereby agrees to continue to collect all amounts due or to become due to such Grantor under the Receivables and any Supporting Obligation and diligently exercise each material right it may have under any Receivable and any Supporting Obligation, in each case, at its own expense consistent with its reasonable business judgment; provided, however, that the Collateral Agent may curtail or terminate said authority at any time after the occurrence and during the continuance of a Priority Lien Event of Default. If required by the Collateral Agent at any time after the occurrence and during the continuance of a Priority Lien Event of Default, any payments of Receivables, when collected by any Grantor, (i) shall be forthwith (and, in any event, within two Business Days) be deposited by such Grantor in the exact form received, duly endorsed by such Grantor to the Collateral Agent if required, in a Collateral Account maintained under the sole dominion and control of the Collateral Agent, subject to withdrawal by the Collateral Agent for application in accordance with Section 3.4 of the Collateral Agency Agreement, and (ii) until so turned over, shall be held by such Grantor in trust for the Priority Lien Secured Parties, segregated from other funds of such Grantor. Each such deposit of Proceeds of Receivables shall be accompanied by a report identifying in reasonable detail the nature and source of the payments included in the deposit.

(c) If a Priority Lien Event of Default has occurred and is continuing, at the Collateral Agent's request, each Grantor shall deliver to the Collateral Agent all original and other documents evidencing, and relating to, the agreements and transactions which gave rise to the Receivables, including, without limitation, all original orders, invoices and shipping receipts.

6.2 Communications with Obligors; Grantors Remain Liable. (a) The Collateral Agent in its own name or in the name of others may at any time after the occurrence and during the continuance of a Priority Lien Event of Default communicate with obligors under the Receivables to verify with them to the Collateral Agent's satisfaction the existence, amount and terms of any Receivables.

(b) After the occurrence and during the continuance of a Priority Lien Event of Default, the Collateral Agent may at any time notify, or require any Grantor to so notify, the Account Debtor or counterparty on any Receivable of the security interest of the Collateral Agent therein. In addition, after the occurrence and during the continuance of a Priority Lien Event of Default, the Collateral Agent may upon written notice to the applicable Grantor, notify, or require any Grantor to notify, the Account Debtor or counterparty to make all payments under the Receivable directly to the Collateral Agent.

(c) Anything herein to the contrary notwithstanding, each Grantor shall remain liable under each of the Receivables to observe and perform all the conditions and obligations to be observed and performed by it thereunder, all in accordance with the terms of any agreement giving rise thereto. No Priority Lien Secured Party shall have any obligation or liability under any Receivable (or any agreement giving rise thereto) by reason of or arising out of this Agreement or the receipt by any Priority Lien Secured Party of any payment relating thereto, nor shall any Priority Lien Secured Party be obligated in any manner to perform any of the obligations of any Grantor under or pursuant to any Receivable (or any agreement giving rise thereto), to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party thereunder, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time or times.

6.3 Proceeds to be Turned Over To Collateral Agent. In addition to the rights of the Priority Lien Secured Parties specified in Section 6.1 with respect to payments of Receivables, if a Priority Lien Event of Default shall occur and be continuing, all Proceeds received by any Grantor consisting of cash, Cash Equivalents, checks and other near-cash items shall be held by such Grantor in trust for the Priority Lien Secured Parties, segregated from other funds of such Grantor, and shall, forthwith upon receipt by such Grantor, be turned over to the Collateral Agent in the exact form received by such Grantor (duly endorsed by such Grantor to the Collateral Agent, if required). All Proceeds received by the Collateral Agent hereunder shall be held by the Collateral Agent in a Collateral Account maintained under its sole dominion and control. All Proceeds while held by the Collateral Agent in a Collateral Account (or by such Grantor in trust for the Priority Lien Secured Parties) shall continue to be held as collateral security for all the Priority Lien Obligations and shall not constitute payment thereof until applied as provided in accordance with Section 3.4 of the Collateral Agency Agreement.

6.4 [Reserved].

6.5 Code and Other Remedies. (a) If a Priority Lien Event of Default shall occur and be continuing, the Collateral Agent, on behalf of the Priority Lien Secured Parties, may exercise, in addition to all other rights and remedies granted to them in this Agreement and in any other instrument or agreement securing, evidencing or relating to the Priority Lien Obligations, all rights and remedies of a Priority Lien Secured Party under the UCC (whether or not the UCC applies to the affected Collateral) and its rights under any other applicable law or in equity. Without limiting the generality of the foregoing, if a Priority Lien Event of Default shall occur and be continuing, the Collateral Agent, without demand of performance or other demand, defense, presentment, protest, advertisement or notice of any kind (except any notice required by law referred to below) to or upon any Grantor or any other Person (all and each of which demands, presentments, protests, defenses, advertisements and notices are hereby waived), may in such circumstances forthwith collect, receive, appropriate and realize upon the Collateral, or any part thereof, and/or may, subject to pre-existing rights and licenses, forthwith sell, lease, license, assign, give option or options to purchase, or otherwise dispose of and deliver the Collateral or any part thereof (or contract to do any of the foregoing), in one or more parcels at public or private sale or sales, at any exchange, broker's board or office of any Priority Lien Secured Party, on the internet or elsewhere upon such terms and conditions as it may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery without assumption of any credit risk. The Collateral Agent may store, repair or recondition any Collateral or otherwise prepare any Collateral for disposal in the manner and to the extent that the Collateral Agent deems appropriate. Each Priority Lien Secured Party shall have the right upon any such public sale or sales, and, to the extent permitted by law, upon any

such private sale or sales, to purchase the whole or any part of the Collateral so sold, free of any right or equity of redemption in any Grantor, which right or equity is hereby waived and released. For purposes of bidding and making settlement or payment of the purchase price for all or a portion of the Collateral sold at any such sale made in accordance with the UCC, the Collateral Agent shall be entitled to use and apply any of the Priority Lien Obligations on a pro rata basis as a credit on account of the purchase price for any Collateral payable by the Collateral Agent at such sale. Each purchaser at any such sale shall hold the property sold absolutely free from any claim or right on the part of any Grantor, and each Grantor hereby waives (to the extent permitted by applicable law) all rights of redemption, stay and/or appraisal which it now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted. Each Grantor agrees that, to the extent notice of sale shall be required by law, at least ten (10) days notice to such Grantor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Collateral Agent shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Collateral Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. The Collateral Agent may sell the Collateral without giving any warranties as to the Collateral. The Collateral Agent may specifically disclaim or modify any warranties of title or the like. The foregoing will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral. Each Grantor hereby waives any claims against the Collateral Agent arising by reason of the fact that the price at which any Collateral may have been sold at such a private sale was less than the price which might have been obtained at a public sale, even if the Collateral Agent accepts the first offer received and does not offer such Collateral to more than one offeree. Each Grantor further agrees, at the Collateral Agent's request, to assemble the Collateral and make it available to the Collateral Agent at places which the Collateral Agent shall reasonably select, whether at such Grantor's premises or elsewhere. The Collateral Agent shall have the right to enter onto the property where any Collateral is located without any obligation to pay rent and take possession thereof with or without judicial process. The Collateral Agent shall have no obligation to marshal any of the Collateral.

(b) Such Proceeds shall be applied or retained by the Collateral Agent in accordance with Section 3.4 of the Collateral Agency Agreement. The reasonable out-of-pocket expenses of the Collateral Agent incurred in connection with actions undertaken as provided in this Section 6.5, including with respect to the care or safekeeping of any of the Collateral or in any way relating to the Collateral or the rights of the Priority Lien Secured Parties hereunder, shall be payable in accordance with the provisions of Section 7.11 of the Collateral Agency Agreement.

(c) In the event of any Disposition of any of the Intellectual Property, the goodwill of the business connected with and symbolized by any Trademarks subject to such Disposition shall be included, and, to the extent required under applicable law, the applicable Grantor shall supply the Collateral Agent or its designee with (i) copies of such Grantor's documents and things embodying such Grantor's know-how and expertise, relating to the exploitation of such Intellectual Property, including the manufacture, distribution, advertising and sale of products or the provision of services under such Intellectual Property, and (ii) copies of such Grantor's customer lists and other records and documents relating to such Intellectual Property and to the manufacture, distribution, advertising and sale of such products and services.

(d) For the purpose of enabling Collateral Agent to exercise rights and remedies under this Section 6.5 (including in order to take possession of, collect, receive, assemble, process, appropriate, remove, realize upon, sell, assign, license out, convey, transfer or grant options to purchase any Collateral) at such time as Collateral Agent shall be lawfully entitled to exercise such rights and remedies, each Grantor hereby grants to Collateral Agent, for the benefit of the Priority Lien Secured Parties, subject to pre-existing rights and licenses, (i) an irrevocable, nonexclusive, and assignable license

(exercisable without payment of royalty or other compensation to such Grantor), subject, in the case of Trademarks, to sufficient rights to quality control and inspection in favor of such Grantor to avoid the risk of invalidation of such Trademarks, to use, practice, license, sublicense, and otherwise exploit any and all Intellectual Property now owned and held or hereafter acquired or created by such Grantor (which license shall include access to all media in which any of the licensed items may be recorded or stored and to all software and programs used for the compilation or printout thereof to the extent permitted by the terms of applicable licenses) and (ii) an irrevocable license (without payment of rent or other compensation to such Grantor) to use, operate and occupy all real property owned, operated, leased, subleased, or otherwise occupied by such Grantor.

(e) The Collateral Agent shall incur no liability as a result of the sale of the Collateral, or any part thereof, at any private or public sale pursuant to this Agreement conducted in accordance with the requirements of applicable laws. To the extent permitted by applicable law, the Grantors hereby waive any claims against the Collateral Agent and the Priority Lien Secured Parties arising by reason of the fact that the price at which the Collateral may have been sold at such a private sale was less than the price that might have been obtained at a public sale or was less than the aggregate amount of the Priority Lien Obligations, even if the Collateral Agent accepts the first offer received and does not offer the Collateral to more than one offeree, provided that such private sale is conducted in accordance with applicable laws and this Agreement. The Grantors hereby agree that in respect of any sale of any of the Collateral pursuant to the terms hereof, the Collateral Agent is hereby authorized to comply with any limitation or restriction in connection with such sale as it may be advised by counsel is necessary in order to avoid any violation of applicable laws, or in order to obtain any required approval of the sale or of the purchaser by any Governmental Authority or official, and each Grantor further agrees that such compliance shall not, in and of itself, result in such sale being considered or deemed not to have been made in a commercially reasonable manner, nor shall the Collateral Agent be liable or accountable to any Grantor for any discount allowed by reason of the fact that such Collateral is sold in compliance with any such limitation or restriction.

6.6 Effect of Securities Laws. (a) Each Grantor recognizes that the Collateral Agent may be unable to effect a public sale of any or all the Pledged Equity Interests or the Pledged Debt Securities by reason of certain prohibitions contained in the Securities Act and applicable state securities laws or otherwise, and may be compelled to resort to one or more private sales thereof to a restricted group of purchasers which will be obliged to agree, among other things, to acquire such securities for their own account for investment and not with a view to the distribution or resale thereof. Each Grantor acknowledges and agrees that any such private sale may result in prices and other terms less favorable than if such sale were a public sale and, notwithstanding such circumstances, agrees that any such private sale shall be deemed to have been made in a commercially reasonable manner. The Collateral Agent shall be under no obligation to delay a sale of any of the Pledged Equity Interests or the Pledged Debt Securities for the period of time necessary to permit the Issuer thereof to register such securities for public sale under the Securities Act, or under applicable state securities laws, even if such Issuer would agree to do so.

(b) Each Grantor agrees to use its best efforts to do or cause to be done all such other acts as may be necessary to make such sale or sales of all or any portion of the Pledged Equity Interests or the Pledged Debt Securities pursuant to this Section 6.6 valid and binding and in compliance with any and all other applicable Requirements of Law. Each Grantor further agrees that a breach of any of the covenants contained in this Section 6.6 will cause irreparable injury to the Priority Lien Secured Parties, that the Priority Lien Secured Parties have no adequate remedy at law in respect of such breach and, as a consequence, that each and every covenant contained in this Section 6.6 shall be specifically enforceable against such Grantor, and such Grantor hereby waives and agrees not to assert any defenses against an action for specific performance of such covenants except for a defense that no Priority Lien Event of Default has occurred or a defense of payment.

6.7 Deficiency. Each Grantor shall remain liable for any deficiency if the proceeds of any sale or other disposition of the Collateral are insufficient to pay its Priority Lien Obligations and the fees and disbursements of any attorneys employed by any Priority Lien Secured Party to collect such deficiency.

6.8 Compliance with FCC Laws. Notwithstanding anything in this Agreement to the contrary, no action shall be taken by the Collateral Agent or the Priority Lien Secured Parties with respect to the foreclosure on, sale, transfer or disposition of, or control of, the Collateral that would constitute or result in any assignment or transfer of control, whether de jure or de facto, of any FCC License, if such assignment or transfer of control would require under then existing law (including Communications Laws) the prior approval of the FCC, without first obtaining such approval of the FCC.

SECTION 7. POWER OF ATTORNEY; AUTHORIZATION OF FINANCING STATEMENTS

7.1 Collateral Agent's Appointment as Attorney-in-Fact, etc. (a) Each Grantor hereby irrevocably constitutes and appoints the Collateral Agent and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of such Grantor and in the name of such Grantor or in its own name, for the purpose of carrying out the terms of this Agreement, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to accomplish the purposes of this Agreement, and, without limiting the generality of the foregoing, each Grantor hereby gives the Collateral Agent the power and right, on behalf of such Grantor, without notice to or assent by such Grantor, to do any or all of the following:

(i) in the name of such Grantor or its own name, or otherwise, take possession of and endorse and collect any checks, drafts, notes, acceptances or other instruments for the payment of moneys due under any Receivable required to be included in Collateral hereunder or with respect to any other Collateral and file any claim or take any other action or proceeding in any court of law or equity or otherwise deemed appropriate by the Collateral Agent for the purpose of collecting any and all such moneys due under any Receivable or with respect to any other Collateral whenever payable;

(ii) except with respect to the Specified IP Assets, in the case of any Intellectual Property, execute and deliver, and have recorded, any and all agreements, instruments, documents and papers as the Collateral Agent may request to evidence the Priority Lien Secured Parties' security interest in such Intellectual Property and the goodwill and general intangibles of such Grantor relating thereto or represented thereby;

(iii) pay or discharge taxes and Liens levied or placed on or threatened against the Collateral, effect any repairs or purchase any insurance called for by the terms of the Priority Lien Documents and pay all or any part of the premiums therefor and the costs thereof;

(iv) execute, in connection with any sale provided for in Section 6.5 or 6.6, any endorsements, assignments or other instruments of conveyance or transfer with respect to the Collateral;

(v)(1) direct any party liable for any payment under any of the Collateral to make payment of any and all moneys due or to become due thereunder directly to the Collateral

Agent or as the Collateral Agent shall direct; (2) ask or demand for, collect, and receive payment of and receipt for, any and all moneys, claims and other amounts due or to become due at any time in respect of or arising out of any Collateral; (3) sign and endorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments, verifications, notices and other documents in connection with any of the Collateral; (4) commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect the Collateral or any portion thereof and to enforce any other right in respect of any Collateral; (5) defend any suit, action or proceeding brought against such Grantor with respect to any Collateral; (6) settle, compromise or adjust any such suit, action or proceeding and, in connection therewith, give such discharges or releases as the Collateral Agent may deem appropriate; (7) subject to pre-existing rights and licenses, assign any Copyright, Patent or Trademark owned by such Grantor (along with the goodwill of the business to which any such Copyright, Patent or Trademark pertains), throughout the world for such term or terms, on such conditions, and in such manner, as the Collateral Agent shall in its reasonable discretion determine; and (8) generally, but subject to pre-existing rights and licenses, sell, transfer, pledge and make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though the Collateral Agent were the absolute owner thereof for all purposes, and do, at the Collateral Agent's option and such Grantor's expense, at any time, or from time to time, all acts and things which the Collateral Agent reasonably deems necessary to protect, preserve or realize upon the Collateral and the Priority Lien Secured Parties' security interests therein and to effect the intent of this Agreement, all as fully and effectively as such Grantor might do;

(vi) prepare draft applications seeking the FCC's consent to transfer control of, or assign, FCC Licenses, and provided such applications are certified as accurate and are executed by an officer of the appropriate Grantor, file such applications with the FCC; and

(vii) to do all other acts and things necessary to carry out the purposes of this Agreement, as fully and completely as though the Collateral Agent were the absolute owner of the Collateral for all purposes;

provided, however, that nothing herein contained shall be construed as requiring or obligating the Collateral Agent or any other Priority Lien Secured Party to make any commitment or to make any inquiry as to the nature or sufficiency of any payment received by the Collateral Agent or any other Priority Lien Secured Party, or to present or file any claim or notice, or to take any action with respect to the Collateral or any part thereof or the moneys due or to become due in respect thereof or any property covered thereby, and no action taken or omitted to be taken by the Collateral Agent or any other Priority Lien Secured Party with respect to the Collateral or any part thereof shall give rise to any defense, counterclaim or offset in favor of any Grantor or to any claim or action against the Collateral Agent or any other Priority Lien Secured Party. It is understood and agreed that the appointment of the Collateral Agent as the agent and attorney-in-fact of the Grantors for the purposes set forth above is coupled with an interest and is irrevocable. The provisions of this Section shall in no event relieve any Grantor of any of its obligations hereunder or under any other Priority Lien Document with respect to the Collateral or any part thereof or impose any obligation on the Collateral Agent or any other Priority Lien Secured Party to proceed in any particular manner with respect to the Collateral or any part thereof, or in any way limit the exercise by the Collateral Agent or any other Priority Lien Secured Party of any other or further right which it may have on the date of this Agreement or hereafter, whether hereunder, under any other Priority Lien Document, by law or otherwise.

Anything in this Section 7.1(a) to the contrary notwithstanding, the Collateral Agent agrees that, except as provided in Section 7.1(b), it will not exercise any rights under the power of attorney provided for in this Section 7.1(a) unless a Priority Lien Event of Default shall have occurred and be continuing.

(b) If any Grantor fails to perform or comply with any of its agreements contained herein, the Collateral Agent, at its option, but without any obligation so to do, may perform or comply, or otherwise cause performance or compliance, with such agreement; provided, however, that unless a Priority Lien Event of Default has occurred and is continuing or time is of the essence, the Collateral Agent shall not exercise any of the powers in this Section 7.1 without first making demand on the Grantor and the Grantor failing to promptly comply therewith.

(c) The reasonable out-of-pocket expenses of the Collateral Agent incurred in connection with actions undertaken as provided in this Section 7.1 shall be payable in accordance with the provisions of Section 7.11 of the Collateral Agency Agreement.

(d) Each Grantor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof. All powers, authorizations and agencies contained in this Agreement are coupled with an interest and are irrevocable until this Agreement is terminated and the security interests created hereby are released.

7.2 Authorization of Financing Statements. Each Grantor acknowledges that pursuant to Section 9-509(b) of the UCC and any other applicable law, the Collateral Agent is authorized to file or record financing or continuation statements, and amendments thereto, and other filing or recording documents or instruments with respect to the Collateral in such form and in such offices as the Collateral Agent reasonably determines appropriate to perfect or maintain the perfection of the security interests of the Collateral Agent under this Agreement to the extent provided herein. Each Grantor agrees that such financing statements may describe the collateral in the same manner as described in the Security documents or as “all assets” or “all personal property” of the such Grantor, whether now owned or hereafter existing or acquired by such Grantor or such other description as the Collateral Agent, in its sole judgment, determines is necessary or advisable. A photographic or other reproduction of this Agreement shall be sufficient as a financing statement or other filing or recording document or instrument for filing or recording in any jurisdiction.

SECTION 8. THE COLLATERAL AGENT

8.1 Authority of Collateral Agent. (a) Each Grantor acknowledges that the rights and responsibilities of the Collateral Agent under this Agreement with respect to any action taken by the Collateral Agent or the exercise or non-exercise by the Collateral Agent of any option, voting right, request, judgment or other right or remedy provided for herein or resulting or arising out of this Agreement shall, as between the Collateral Agent and the other Priority Lien Secured Parties, be governed by the Collateral Agency Agreement and the Priority Lien Documents and by such other agreements with respect thereto as may exist from time to time among them, but, as between the Collateral Agent and the Grantors, the Collateral Agent shall be conclusively presumed to be acting as agent for the Priority Lien Secured Parties with full and valid authority so to act or refrain from acting, and no Grantor shall be under any obligation, or entitlement, to make any inquiry respecting such authority.

(b) The provisions of Articles 3, 5 and 6 of the Collateral Agency Agreement are incorporated herein by reference. Each Priority Lien Secured Party, by its acceptance of the benefits hereof, agrees that it shall have no right individually to realize upon any of the Collateral hereunder, it being understood and agreed by such Priority Lien Secured Party that all rights and remedies hereunder may be exercised solely by the Collateral Agent for the benefit of the Priority Lien Secured Parties in accordance with the terms of this Agreement and the Collateral Agency Agreement. To the extent permitted by applicable law, each Priority Lien Secured Party authorizes the Collateral Agent to credit bid all or any part of the Priority Lien Obligations held by it.

SECTION 9. MISCELLANEOUS

9.1 Amendments in Writing. None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except with the written consent of the applicable Grantors and the Collateral Agent (acting in accordance with Section 7.1 of the Collateral Agency Agreement).

9.2 Notices. All notices, requests and demands to or upon the Collateral Agent or any Grantor hereunder shall be effected in the manner provided for in Section 7.8 of the Collateral Agency Agreement.

9.3 No Waiver by Course of Conduct; Cumulative Remedies. No Priority Lien Secured Party shall by any act (except by a written instrument pursuant to Section 9.1), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Priority Lien Event of Default. No failure to exercise, nor any delay in exercising, on the part of any Priority Lien Secured Party, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by any Priority Lien Secured Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which such Priority Lien Secured Party would otherwise have on any future occasion. The rights and remedies herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

9.4 Expenses; Indemnification. (a) The provisions of Section 7.11 and Section 7.12 of the Collateral Agency Agreement are incorporated herein by reference but without duplication.

9.5 Successors and Assigns. This Agreement shall be binding upon the successors and assigns of each Grantor and shall inure to the benefit of the Priority Lien Secured Parties and their successors and assigns; provided that no Grantor may assign, transfer or delegate any of its rights or obligations under this Agreement without the prior written consent of the Collateral Agent and any such assignment, transfer or delegation without such consent shall be null and void.

9.6 Set-Off. Each Grantor hereby irrevocably authorizes each Priority Lien Secured Party (other than any Hedge Provider or Bank Product Provider) at any time and from time to time while a Priority Lien Event of Default shall have occurred and be continuing, without notice to such Grantor or any other Grantor, any such notice being expressly waived by each Grantor, to set-off and appropriate and apply any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such party to or for the credit or the account of such Grantor, or any part thereof in such amounts as such Priority Lien Secured Party may elect, against and on account of the obligations and liabilities of such Grantor to such Priority Lien Secured Party hereunder and claims of every nature and description of such Priority Lien Secured Party against such Grantor, in any currency, whether arising hereunder, under the Indenture, any other Priority Lien Document or otherwise, as such Priority Lien Secured Party may elect, whether or not any Priority Lien Secured Party has made any demand for payment and although such obligations, liabilities and claims may be contingent or unmatured; provided that such Priority Lien Secured Party turns over to the Collateral Agent the value of the set-off and appropriation permitted by this Section 9.6 for application in accordance with Section 3.4 of the Collateral Agency Agreement. Each such Priority Lien Secured Party shall notify such Grantor promptly of any such set-off and the application made by such Priority Lien Secured Party of the proceeds thereof; provided that the failure to give such notice shall not affect the validity of such set-off and application. The rights of each Priority Lien Secured Party (other than any Hedge Provider or Bank Product Provider) under this Section are in addition to other rights and remedies (including, without limitation, other rights of set-off) which such Priority Lien Secured Party may have.

9.7 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Agreement by facsimile or other electronic transmission (e.g., “.pdf” or “.tif” format) shall be effective as delivery of a manually executed counterpart hereof.

9.8 Severability. In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby (it being understood that the invalidity of a particular provision in a particular jurisdiction shall not in and of itself affect the validity of such provision in any other jurisdiction).

9.9 Section Headings. The Section headings used in this Agreement are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

9.10 [Reserved].

9.11 GOVERNING LAW. THIS AGREEMENT AND ANY DISPUTE, CLAIM OR CONTROVERSY ARISING OUT OF OR RELATING TO THIS AGREEMENT (WHETHER ARISING IN CONTRACT, TORT OR OTHERWISE) SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAW RULES THAT WOULD RESULT IN THE APPLICATION OF A DIFFERENT GOVERNING LAW (OTHER THAN ANY MANDATORY PROVISIONS OF THE UCC RELATING TO THE LAW GOVERNING PERFECTION AND EFFECT OF PERFECTION OR PRIORITY OF THE SECURITY INTERESTS).

9.12 Submission to Jurisdiction; Waivers. Each Grantor hereby irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement, or for recognition and enforcement of any judgment in respect thereof, to the exclusive general jurisdiction of the courts of the State of New York sitting in the Borough of Manhattan, the courts of the United States for the Southern District of New York sitting in the Borough of Manhattan, and appellate courts from any thereof;

(b) agrees that all claims in respect of any such action or proceeding shall be heard and determined in such New York state court or, to the fullest extent permitted by applicable law, in such federal court;

(c) agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law and that nothing in this Agreement or any other Priority Lien Document shall affect any right that any Priority Lien Secured Party may otherwise have to bring any action or proceeding relating to this Agreement against any Grantor or any of its assets in the courts of any jurisdiction;

(d) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(e) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such Grantor at its address referred to in Section 7.8 of the Collateral Agency Agreement or at such other address of which the Collateral Agent shall have been notified pursuant thereto;

(f) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law; and

(g) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover any special, exemplary, punitive or consequential damages.

9.13 Acknowledgments. Each Grantor hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement; and

(b) no joint venture is created hereby or otherwise exists by virtue of the transactions contemplated hereby among the Priority Lien Secured Parties or among the Grantors and the Priority Lien Secured Parties.

9.14 Additional Grantors. Each Subsidiary of any Grantor that is required to become a party to this Agreement pursuant to Section 4.20 of the Indenture or any other Priority Lien Document shall become a Grantor for all purposes of this Agreement upon execution and delivery by such Subsidiary of an Assumption Agreement in the form of Annex 1 hereto.

9.15 Releases. (a) The provisions of Article 4 of the Collateral Agency Agreement are incorporated herein by reference.

(b) Each Grantor acknowledges that it is not authorized to file any financing statement (other than financing statements to maintain or continue a perfected security interest to the extent necessary to comply with Section 5.3) or amendment or termination statement with respect to any financing statement originally filed in connection herewith without the prior written consent of the Collateral Agent, subject to such Grantor's rights under Section 9-509(d)(2) of the UCC.

9.16 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT, BREACH OF DUTY, COMMON LAW, STATUTE OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION. EACH PARTY HERETO FURTHER REPRESENTS AND WARRANTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES IT JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

9.17 Collateral Agency Agreement. Notwithstanding anything herein to the contrary, the lien and security interest granted to the Collateral Agent for the benefit of the Priority Lien Secured Parties pursuant to this Agreement and the exercise of any right or remedy by the Collateral Agent for the benefit of the Priority Lien Secured Parties hereunder are subject to the provisions of the Collateral Agency Agreement. In the event of any conflict between the terms of the Collateral Agency Agreement and this Agreement, the terms of the Collateral Agency Agreement shall govern and control.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, each of the undersigned has caused this Collateral Agreement to be duly executed and delivered as of the date first above written.

GRANTORS:

GOGO INC.

By: /s/ Norman Smagley
Name: Norman Smagley
Title: Executive Vice President, Chief Financial Officer
and Assistant Secretary

GOGO INTERMEDIATE HOLDINGS LLC

By: /s/ Norman Smagley
Name: Norman Smagley
Title: Executive Vice President, Chief Financial Officer
and Assistant Secretary

GOGO FINANCE CO. INC.

By: /s/ Norman Smagley
Name: Norman Smagley
Title: Executive Vice President, Chief Financial Officer
and Assistant Secretary

GOGO BUSINESS AVIATION LLC

By: /s/ Norman Smagley
Name: Norman Smagley
Title: Executive Vice President, Chief Financial Officer
and Assistant Secretary

GOGO LLC

By: /s/ Norman Smagley
Name: Norman Smagley
Title: Executive Vice President, Chief Financial Officer
and Assistant Secretary

AC BIDCO LLC

By: /s/ Norman Smagley
Name: Norman Smagley
Title: Executive Vice President, Chief Financial Officer
and Assistant Secretary

COLLATERAL AGENT:

U.S. BANK NATIONAL ASSOCIATION,
as Collateral Agent

By: /s/ Linda Garcia

Name: Linda Garcia
Title: Vice President

NOTICE ADDRESSES OF GRANTORS

DESCRIPTION OF PLEDGED INVESTMENT PROPERTY

Pledged Stock:

<u>Grantor</u>	<u>Issuer</u>	<u>Issuer's Jurisdiction Under New York UCC Section 9-305(a)(2)</u>	<u>Class of Stock</u>	<u>Stock Certificate No.</u>	<u>Percentage of Shares</u>	<u>No. of Shares</u>
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Pledged Notes:

<u>Grantor</u>	<u>Issuer</u>	<u>Payee</u>	<u>Principal Amount</u>
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Pledged Debt Securities:

<u>Grantor</u>	<u>Issuer</u>	<u>Issuer's Jurisdiction Under New York UCC Section 9-305(a)(2)</u>	<u>Payee</u>	<u>Principal Amount</u>
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Pledged Security Entitlements:

<u>Grantor</u>	<u>Issuer of Financial Asset</u>	<u>Description of Financial Asset</u>	<u>Securities Intermediary (Name and Address)</u>	<u>Securities Account (Number and Location)</u>	<u>Securities Intermediary's Jurisdiction Under New York UCC Section 9-305(a)(3)</u>
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Pledged Commodity Contracts:

<u>Grantor</u>	<u>Description of Commodity Contract</u>	<u>Commodity Intermediary (Name and Address)</u>	<u>Commodity Account (Number and Location)</u>	<u>Commodity Intermediary's Jurisdiction Under New York UCC Section 9-305(a)(4)</u>
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Pledged Partnership Interests:

<u>Grantor</u>	<u>Issuer</u>	<u>Type of Partnership Interest (e.g., General or Limited)</u>	<u>Certificated (Y/N)</u>	<u>Certificate No. (if any)</u>	<u>% of Outstanding Partnership Interests of the Partnership</u>
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Pledged LLC Interests:

<u>Grantor</u>	<u>Issuer</u>	<u>Certificated (Y/N)</u>	<u>Certificate No. (if any)</u>	<u>No. of Pledged Units</u>	<u>% of Outstanding LLC Interests of the Issuer</u>
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Other Pledged Equity Interests:

<u>Grantor</u>	<u>Issuer</u>	<u>Class of Equity Interests</u>	<u>Certificated (Y/N)</u>	<u>Certificate No. (if any)</u>	<u>% of Outstanding Equity Interests of the Issuer</u>
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Deposit Accounts:

<u>Grantor</u>	<u>Name of Depository Bank</u>	<u>Account Number</u>	<u>Account Name</u>
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FILINGS AND OTHER ACTIONS
REQUIRED TO PERFECT SECURITY INTERESTS

Uniform Commercial Code Filings

[List each office where a financing statement is to be filed]

United States Copyright, Patent and Trademark Filings

[List all filings]

Actions with respect to Investment Property

[Describe all actions required to obtain "control" of Investment Property]

Other Actions

[Describe other actions to be taken]

EXACT LEGAL NAME, JURISDICTION OF ORGANIZATION, LOCATION OF CHIEF
EXECUTIVE OFFICE OR SOLE PLACE OF BUSINESS (IF APPLICABLE) AND
ORGANIZATIONAL ID

Exact Legal Name

Jurisdiction of Organization

Organizational I.D.

Chief Executive Office or Sole Place of
Business

LOCATION OF INVENTORY AND EQUIPMENT

Grantor Locations

COPYRIGHTS

PATENTS

TRADEMARKS

EXCLUSIVE LICENSES TO REGISTERED UNITED STATES COPYRIGHTS, PATENTS AND
TRADEMARKS

6-1

MATERIAL EXCLUDED ASSETS

7-1

LETTER OF CREDIT RIGHTS

COMMERCIAL TORT CLAIMS

9-1

FORM OF COPYRIGHT SECURITY AGREEMENT

This **COPYRIGHT SECURITY AGREEMENT**, dated as of [_____], 20[___] (this "Agreement"), is made by the signatory hereto indicated as a "Grantor" (the "Grantor") in favor of U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent for the Priority Lien Secured Parties (in such capacity and together with its permitted successors and assigns in such capacity, the "Collateral Agent").

WHEREAS, the Grantor entered into a Collateral Agreement dated as of June 14, 2016 (as amended, restated, supplemented or otherwise modified from time to time, the "Collateral Agreement") among the Grantor, the Collateral Agent and the other persons party thereto, pursuant to which Grantor granted to the Collateral Agent, for the benefit of the Priority Lien Secured Parties, a security interest in the Copyright Collateral (as defined below); and

WHEREAS, pursuant to the Collateral Agreement, Grantor agreed to execute this Agreement, in order to record the security interest granted to the Collateral Agent for the benefit of the Priority Lien Secured Parties with the United States Copyright Office.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby agrees with the Collateral Agent as follows:

SECTION 1. Defined Terms

Capitalized terms used but not defined herein shall have the respective meanings given thereto in the Collateral Agreement, and if not defined therein, shall have the respective meanings given thereto in the Collateral Agency Agreement referred to therein.

SECTION 2. Grant of Security Interest

Grantor hereby grants to the Collateral Agent, for the benefit of the Priority Lien Secured Parties, a security interest in, all of the following property, in each case, wherever located and now owned or at any time hereafter acquired by Grantor or in which Grantor now has or at any time in the future may acquire any right, title or interest (collectively, the "Copyright Collateral") as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of Grantor's Priority Lien Obligations:

(a) All of Grantor's right, title and interest in and to all works of authorship, all United States and foreign copyrights (whether or not the underlying works of authorship have been published), including but not limited to copyrights in software and databases, all designs (including but not limited to all industrial designs, "Protected Designs" within the meaning of 17 U.S.C. 1301 et. Seq. and Community designs), and all "Mask Works" (as defined in 17 U.S.C. 901 of the U.S. Copyright Act), whether registered or unregistered, and with respect to any and all of the foregoing: (i) all registrations and applications for registration thereof including, without limitation, the registrations and applications listed in Schedule A attached hereto, (ii) all extensions, renewals, and restorations thereof, (iii) all rights to sue or otherwise recover for any past, present and future infringement or other violation thereof, (iv) all Proceeds of the foregoing, including, without limitation, license fees, royalties, income, payments, claims, damages and proceeds of suit now or hereafter due and/or payable with respect thereto, and (v) all other copyright rights accruing thereunder or pertaining thereto throughout the world (collectively "Copyrights"); and

(b) all written licenses pursuant to which Grantor has been granted exclusive rights in any registered Copyrights, including, without limitation, each agreement listed in Schedule A attached hereto.

SECTION 3. Collateral Agreement and Collateral Agency Agreement

The security interest granted pursuant to this Agreement is granted in conjunction with the security interest granted to the Collateral Agent for the Priority Lien Secured Parties pursuant to the Collateral Agreement, and the Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the security interest in the Copyright Collateral made and granted hereby are more fully set forth in the Collateral Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein. In the event that any provision of this Agreement is deemed to conflict with the Collateral Agreement or the Collateral Agency Agreement, the provisions of the Collateral Agreement or the Collateral Agency Agreement, as applicable, shall control.

SECTION 4. Governing Law

THIS AGREEMENT AND ANY DISPUTE, CLAIM OR CONTROVERSY ARISING OUT OF OR RELATING TO THIS AGREEMENT (WHETHER ARISING IN CONTRACT, TORT OR OTHERWISE) SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAW RULES THAT WOULD RESULT IN THE APPLICATION OF A DIFFERENT GOVERNING LAW (OTHER THAN ANY MANDATORY PROVISIONS OF THE UCC RELATING TO THE LAW GOVERNING PERFECTION AND EFFECT OF PERFECTION OR PRIORITY OF THE SECURITY INTERESTS).

SECTION 5. Counterparts

This Agreement may be executed in one or more counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

[Remainder of page intentionally left blank]

EXHIBIT A-1-2

IN WITNESS WHEREOF, Grantor has caused this Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

**[NAME OF GRANTOR],
as Grantor**

By: _____
Name:
Title:

EXHIBIT A-1-3

Accepted and Agreed:

U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent

By: _____

Name:
Title:

EXHIBIT A-1-4

COPYRIGHT REGISTRATIONS

<u>Title</u>	<u>Author</u>	<u>Registration No.</u>	<u>Registration Date</u>

COPYRIGHT APPLICATIONS

<u>Title</u>	<u>Author</u>	<u>Application / Case No.</u>	<u>Filing Date</u>

EXCLUSIVE COPYRIGHT LICENSES

<u>Title of Copyright License</u>	<u>Name of Licensor</u>	<u>Registration Number of underlying Copyright</u>

FORM OF PATENT SECURITY AGREEMENT

This **PATENT SECURITY AGREEMENT**, dated as of [____], 20[___] (this "Agreement"), is made by the signatory hereto indicated as a "Grantor" (the "Grantor") in favor of U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent for the Priority Lien Secured Parties (in such capacity and, together with its permitted successors and assigns in such capacity, the "Collateral Agent").

WHEREAS, the Grantor entered into a Collateral Agreement dated as of June 14, 2016 (as amended, restated, supplemented or otherwise modified from time to time, the "Collateral Agreement") among the Grantor, the Collateral Agent and the other persons party thereto, pursuant to which the Grantor granted to the Collateral Agent, for the benefit of the Priority Lien Secured Parties, a security interest in the Patent Collateral (as defined below); and

WHEREAS, pursuant to the Collateral Agreement, Grantor agreed to execute this Agreement, in order to record the security interest granted to the Collateral Agent for the benefit of the Priority Lien Secured Parties with the United States Patent and Trademark Office.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor hereby agrees with the Collateral Agent as follows:

SECTION 1. Defined Terms

Capitalized terms used but not defined herein shall have the respective meanings given thereto in the Collateral Agreement, and if not defined therein, shall have the respective meanings given thereto in the Collateral Agency Agreement referred to therein.

SECTION 2. Notice and Confirmation of Grant of Security Interest.

Grantor hereby confirms the grant in the Collateral Agreement to the Collateral Agent, for the benefit of the Priority Lien Secured Parties, of a security interest in, all of the following property, in each case, wherever located and now owned or at any time hereafter acquired by Grantor or in which Grantor now has or at any time in the future may acquire any right, title or interest (collectively, the "Patent Collateral") as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of Grantor's Priority Lien Obligations:

All of Grantor's right, title and interest in and to all patentable inventions and designs, all United States, foreign, and multinational patents, certificates of invention, and similar industrial property rights, and applications for any of the foregoing, including without limitation: (i) each patent and patent application listed in Schedule A attached hereto (ii) all reissues, substitutes, divisions, continuations, continuations-in-part, extensions, renewals, and reexaminations thereof, (iii) all inventions and improvements described and claimed therein, (iv) all rights to sue or otherwise recover for any past, present and future infringement or other violation thereof, (v) all Proceeds of the foregoing, including, without limitation, license fees, royalties, income, payments, claims, damages, and proceeds of suit now or hereafter due and/or payable with respect thereto, income, royalties, damages and other payments now and hereafter due and/or payable with respect thereto, and (vi) all other patent rights accruing thereunder or pertaining thereto throughout the world.

SECTION 3. Collateral Agreement and Collateral Agency Agreement

The security interest confirmed pursuant to this Agreement is confirmed in conjunction with the security interest granted to the Collateral Agent for the Priority Lien Secured Parties pursuant to the Collateral Agreement, and the Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the security interest in the Patent Collateral made and granted hereby are more fully set forth in the Collateral Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein. In the event that any provision of this Agreement is deemed to conflict with the Collateral Agreement or the Collateral Agency Agreement, the provisions of the Collateral Agreement or the Collateral Agency Agreement, as applicable, shall control.

SECTION 4. Governing Law

THIS AGREEMENT AND ANY DISPUTE, CLAIM OR CONTROVERSY ARISING OUT OF OR RELATING TO THIS AGREEMENT (WHETHER ARISING IN CONTRACT, TORT OR OTHERWISE) SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAW RULES THAT WOULD RESULT IN THE APPLICATION OF A DIFFERENT GOVERNING LAW (OTHER THAN ANY MANDATORY PROVISIONS OF THE UCC RELATING TO THE LAW GOVERNING PERFECTION AND EFFECT OF PERFECTION OR PRIORITY OF THE SECURITY INTERESTS).

SECTION 5. Counterparts

This Agreement may be executed in one or more counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

[Remainder of page intentionally left blank]

EXHIBIT A-2-2

IN WITNESS WHEREOF, Grantor has caused this Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

**[NAME OF GRANTOR],
as Grantor**

By: _____
Name:
Title:

EXHIBIT A-2-3

Accepted and Agreed:

U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent

By: _____

Name:
Title:

EXHIBIT A-2-4

PATENTS AND PATENT APPLICATIONS

<u>Title</u>	<u>Application No.</u>	<u>Filing Date</u>	<u>Patent No.</u>	<u>Issue Date</u>
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EXHIBIT A-2-5

FORM OF TRADEMARK SECURITY AGREEMENT

This **TRADEMARK SECURITY AGREEMENT**, dated as of [_____], 20[___] (this "Agreement"), is made by the signatory hereto indicated as a "Grantor" (the "Grantor") in favor of U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent for the Priority Lien Secured Parties (in such capacity and, together with its permitted successors and assigns in such capacity, the "Collateral Agent").

WHEREAS, the Grantor entered into a Collateral Agreement dated as of June 14, 2016 (as amended, restated, supplemented or otherwise modified from time to time, the "Collateral Agreement") among the Grantor, the Collateral Agent and the other persons party thereto, pursuant to which the Grantor granted to the Collateral Agent, for the benefit of the Priority Lien Secured Parties, a security interest in the Trademark Collateral (as defined below); and

WHEREAS, pursuant to the Collateral Agreement, Grantor agreed to execute this Agreement, in order to record the security interest granted to the Collateral Agent for the benefit of the Priority Lien Secured Parties with the United States Patent and Trademark Office.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantors hereby agree with the Collateral Agent as follows:

SECTION 1. Defined Terms

Capitalized terms used but not defined herein shall have the respective meanings given thereto in the Collateral Agreement, and if not defined therein, shall have the respective meanings given thereto in the Collateral Agency Agreement referred to therein.

SECTION 2. Notice and Confirmation of Grant of Security Interest in Trademark Collateral

SECTION 2.1 Notice and Confirmation of Grant of Security. Grantor hereby confirms the grant in the Collateral Agreement to the Collateral Agent, for the benefit of the Priority Lien Secured Parties, of a security interest in, all of the following property, in each case, wherever located and now owned or at any time hereafter acquired by Grantor or in which Grantor now has or at any time in the future may acquire any right, title or interest (collectively, the "Trademark Collateral") as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of Grantor's Priority Lien Obligations:

All of Grantor's right, title and interest in and to all domestic, foreign and multinational trademarks, service marks, trade names, corporate names, company names, business names, fictitious business names, trade dress, trade styles, logos, Internet domain names and other indicia of origin or source identification, whether registered or unregistered, and with respect to any and all of the foregoing: (i) all registrations and applications for registration thereof including, without limitation, the registrations and applications listed in Schedule A attached hereto, (ii) all extension and renewals thereof, (iii) all of the goodwill of the business connected with the use of and symbolized by any of the foregoing, (iv) all rights to sue or otherwise recover for any past, present and future infringement, dilution, or other violation thereof, (v) all Proceeds of the foregoing, including, without limitation, license fees, royalties, income, payments, claims, damages and proceeds of suit now or hereafter due and/or payable with respect thereto, and (vi) all other trademark rights accruing thereunder or pertaining thereto throughout the world.

SECTION 2.2 Certain Limited Exclusions. Notwithstanding anything herein to the contrary, in no event shall the Trademark Collateral include or the security interest granted under Section 2.1 hereof attach to any "intent-to-use" application for registration of a Trademark filed pursuant to Section 1(b) of the Lanham Act, 15 U.S.C. § 1051, prior to the filing and acceptance of a "Statement of Use" pursuant to Section 1(d) of the Lanham Act or an "Amendment to Allege Use" pursuant to Section 1(c) of the Lanham Act with respect thereto, solely to the extent, if any, that, and solely during the period, if any, in which, the grant of a security interest therein could impair the validity or enforceability of any registration that issues from such intent-to-use application under applicable federal law.

SECTION 3. Collateral Agreement and Collateral Agency Agreement

The security interest confirmed pursuant to this Agreement is confirmed in conjunction with the security interest granted to the Collateral Agent for the Priority Lien Secured Parties pursuant to the Collateral Agreement, and the Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the security interest in the Trademark Collateral made and granted hereby are more fully set forth in the Collateral Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein. In the event that any provision of this Agreement is deemed to conflict with the Collateral Agreement or the Collateral Agency Agreement, the provisions of the Collateral Agreement or the Collateral Agency Agreement, as applicable, shall control.

SECTION 4. Governing Law

THIS AGREEMENT AND ANY DISPUTE, CLAIM OR CONTROVERSY ARISING OUT OF OR RELATING TO THIS AGREEMENT (WHETHER ARISING IN CONTRACT, TORT OR OTHERWISE) SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAW RULES THAT WOULD RESULT IN THE APPLICATION OF A DIFFERENT GOVERNING LAW (OTHER THAN ANY MANDATORY PROVISIONS OF THE UCC RELATING TO THE LAW GOVERNING PERFECTION AND EFFECT OF PERFECTION OR PRIORITY OF THE SECURITY INTERESTS).

SECTION 5. Counterparts

This Agreement may be executed in one or more counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

[Remainder of page intentionally left blank]

EXHIBIT A-3-2

IN WITNESS WHEREOF, Grantor has caused this Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

**[NAME OF GRANTOR],
as Grantor**

By: _____
Name:
Title:

EXHIBIT A-3-3

Accepted and Agreed:

U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent

By: _____

Name:
Title:

EXHIBIT A-3-4

TRADEMARK REGISTRATIONS AND APPLICATIONS

<u>Mark</u>	<u>Serial No.</u>	<u>Filing Date</u>	<u>Registration No.</u>	<u>Registration Date</u>
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EXHIBIT A-3-5

FORM OF ASSUMPTION AGREEMENT

ASSUMPTION AGREEMENT, dated as of _____, _____, made by _____, a _____ (the "Additional Grantor"), in favor of U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent (in such capacity and, together with its permitted successors and assigns, the "Collateral Agent") for the Priority Lien Secured Parties (as defined in the Collateral Agency Agreement referred to in the Collateral Agreement (as hereinafter defined)). All capitalized terms not defined herein shall have the meaning ascribed to them in the Collateral Agreement or the Collateral Agency Agreement, as applicable.

WITNESSETH:

WHEREAS, the Grantors (other than the Additional Grantor) have entered into the Collateral Agreement dated as of June 14, 2016 (as amended, supplemented or otherwise modified from time to time, the "Collateral Agreement") in favor of the Collateral Agent for the benefit of the Priority Lien Secured Parties;

WHEREAS, the Additional Grantor is required to become a party to the Collateral Agreement; and

WHEREAS, the Additional Grantor has agreed to execute and deliver this Assumption Agreement in order to become a party to the Collateral Agreement.

NOW, THEREFORE, IT IS AGREED:

1. Collateral Agreement. By executing and delivering this Assumption Agreement, the Additional Grantor, as provided in Section 9.14 of the Collateral Agreement, hereby becomes a party to the Collateral Agreement as a Grantor thereunder with the same force and effect as if originally named therein as a Grantor and, without limiting the generality of the foregoing, hereby expressly assumes all obligations and liabilities of a Grantor thereunder. The information set forth in Annex 1-A hereto is hereby added to the information set forth in Schedules _____¹ to the Collateral Agreement. The Additional Grantor hereby represents and warrants that each of the representations and warranties contained in Section 4 of the Collateral Agreement is true and correct on and as the date hereof (after giving effect to this Assumption Agreement) as if made on and as of such date.

2. GOVERNING LAW. THIS ASSUMPTION AGREEMENT AND ANY DISPUTE, CLAIM OR CONTROVERSY ARISING OUT OF OR RELATING TO THIS ASSUMPTION AGREEMENT (WHETHER ARISING IN CONTRACT, TORT OR OTHERWISE) SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAW RULES THAT WOULD RESULT IN THE APPLICATION OF A DIFFERENT GOVERNING LAW (OTHER THAN ANY MANDATORY PROVISIONS OF THE UCC RELATING TO THE LAW GOVERNING PERFECTION AND EFFECT OF PERFECTION OR PRIORITY OF THE SECURITY INTERESTS).

¹ Refer to each Schedule which needs to be supplemented.

3. Successors and Assigns.

This Assumption Agreement will be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, except that the Additional Grantor may not assign, transfer or delegate any of its rights or obligations under this Assumption Agreement without the prior written consent of the Collateral Agent and any such assignment, transfer or delegation without such consent shall be null and void.

IN WITNESS WHEREOF, the undersigned has caused this Assumption Agreement to be duly executed and delivered as of the date first above written.

[ADDITIONAL GRANTOR]

By: _____
Name:
Title:

Annex 1-2

Annex 1A-1

COLLATERAL AGENCY AGREEMENT

dated as of June 14, 2016

among

GOGO INC.,

GOGO INTERMEDIATE HOLDINGS LLC,

GOGO FINANCE CO. INC.,

the other Grantors from time to time party hereto,

U.S. BANK NATIONAL ASSOCIATION,
as Trustee under the Indenture

and

U.S. BANK NATIONAL ASSOCIATION,
as Collateral Agent

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EXHIBIT A – Additional Secured Debt Designation

EXHIBIT B – Form of Collateral Agency Joinder—Additional Secured Debt

EXHIBIT C – Form of Collateral Agency Joinder—Additional Grantors

EXHIBIT D – Additional Secured Obligation Designation

EXHIBIT E – Form of Collateral Agency Joinder—Additional Secured Obligations

COLLATERAL AGENCY AGREEMENT dated as of June 14, 2016 among Gogo Inc., a Delaware corporation (the “**Parent**”), Gogo Intermediate Holdings LLC, a Delaware limited liability company (the “**Company**”), Gogo Finance Co. Inc., a Delaware corporation (the “**Co-Issuer**” and, together with the Company, the “**Issuers**”), the other Grantors from time to time party hereto, U.S. Bank National Association, as Trustee (as defined below), and U.S. Bank National Association, as Collateral Agent (in such capacity and together with its permitted successors and assigns in such capacity, the “**Collateral Agent**”).

W I T N E S S E T H:

WHEREAS, the Issuers intend to issue 12.500% Senior Secured Notes due 2022 (the “**Notes**”) in an aggregate principal amount of \$525,000,000 pursuant to an Indenture dated as of the date hereof (as amended, restated, amended and restated, supplemented or otherwise modified and in effect from time to time, the “**Indenture**”) among the Issuers, the guarantors party thereto and U.S. Bank National Association, as trustee (in such capacity and together with its permitted successors and assigns in such capacity, the “**Trustee**”).

WHEREAS, the Issuers and the other Grantors intend to secure the Obligations under the Indenture, any future Priority Lien Debt, any other Priority Lien Obligations on a priority basis and ,subject to such priority, intend to secure any future Junior Lien Debt and any other Junior Lien Obligations, with Liens on all present and future Collateral to the extent that such Liens have been provided for in the applicable Security Documents.

WHEREAS, this Agreement sets forth the terms on which each Secured Party has appointed the Collateral Agent to act as the collateral agent for the present and future holders of the Secured Obligations to receive, hold, maintain, administer and distribute the Collateral at any time delivered to the Collateral Agent or the subject of the Security Documents, and to enforce the Security Documents and all interests, rights, powers and remedies of the Collateral Agent with respect thereto or thereunder and the proceeds thereof.

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement hereby agree as follows:

ARTICLE 1. DEFINITIONS; PRINCIPLES OF CONSTRUCTION

SECTION 1.1 Defined Terms. The following terms will have the following meanings:

“**Act of Required Secured Parties**” means, as to any matter at any time:

(1) prior to the Discharge of Priority Lien Obligations, a direction in writing delivered to the Collateral Agent by or with the written consent of, the holders of (or the Priority Lien Representatives representing the holders of) more than 50% of the sum of:

(a) the aggregate outstanding principal amount of Priority Lien Debt (including the face amount of outstanding letters of credit whether or not then available or drawn); and

(b) other than in connection with the exercise of remedies, the aggregate unfunded commitments to extend credit which, when funded, would constitute Priority Lien Debt; *provided, however*, that if at any time prior to the Discharge of Priority Lien Obligations the only remaining Priority Lien Obligations are Hedging Obligations and/or Bank Product Obligations, then the term “Act of Required Secured Parties” will mean the holders of a majority of the sum of the (i) aggregate “settlement amount” (or similar term) as defined in the Hedge Agreements (or, with respect to any Hedge Agreement that has been terminated in accordance with its terms, the amount, if any, then due and payable by any Grantor (exclusive of expenses and similar payments but including any early termination payments then due) under such Hedge Agreement) under all Hedge Agreements the Hedging Obligations under which would constitute Priority Lien Obligations and (ii) aggregate amounts payable under Bank Product Agreements (exclusive of expenses and similar payments) the Bank Product Obligations under which would constitute Priority Lien Obligations; *provided further*, that any Hedge Agreement with a “settlement amount” (or similar term) or termination payment that is a negative number shall be disregarded for purposes of all calculations required by the term “Act of Required Secured Parties;” and

(2) at any time after the Discharge of Priority Lien Obligations, a direction in writing delivered to the Collateral Agent by or with the written consent of the Required Junior Lien Debtholders (or the Junior Lien Representatives representing the Required Junior Lien Debtholders).

For purposes of this definition, (a) Secured Debt registered in the name of, or beneficially owned by, an Issuer or any Affiliate of the Issuers will be deemed not to be outstanding and neither the Issuers nor any Affiliate of the Issuers will be entitled to vote such Secured Debt and (b) votes will be determined in accordance with Section 7.2.

“**Additional Secured Debt**” has the meaning set forth in Section 3.8(b)(1).

“**Additional Secured Debt Designation**” means a notice in substantially the form of Exhibit A.

“**Additional Secured Obligation Designation**” means a notice in substantially the form of Exhibit D.

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

“**Affiliate Securities**” means all “securities” of any of the Issuers’ “affiliates” (as the terms “securities” and “affiliates” are used in Rule 3-16 of Regulation S-X under the Securities Act of 1933, as amended, and any successor rule) including any securities described in Section 4.4(c) hereof.

“Agreement” means this Collateral Agency Agreement, as amended, supplemented, amended and restated or otherwise modified from time to time in accordance with Section 7.1 hereof.

“Bank Product Agreement” means any agreement giving rise to Bank Product Obligations; *provided* that the Bank Product Provider that is a counterparty thereto has delivered a Collateral Agency Joinder in respect thereof and the other requirements of Section 3.9 have been complied with.

“Bank Product Obligations” means, all obligations and liabilities (whether direct or indirect, absolute or contingent, due or to become due or now existing or hereafter incurred) of the Issuers or any other Grantor, whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses or otherwise, which may arise under, out of, or in connection with any treasury, investment, depository, clearing house, wire transfer, cash management or automated clearing house transfers of funds services or any related services, to any person, in each case that are designated by the Issuers to the Collateral Agent and each Secured Debt Representative as Bank Product Obligations by written notice in accordance with Section 3.9 hereof.

“Bank Product Provider” means any Person to whom Bank Product Obligations are owing.

“Bankruptcy Code” means Title 11 of the United States Code entitled “Bankruptcy,” as now and hereafter in effect, or any successor statute.

“Board of Directors” means (1) with respect to a corporation, the board of directors of the corporation or a duly authorized committee thereof, (2) with respect to a partnership, the Board of Directors of the general partner of the partnership and (3) with respect to any other Person, the board of directors or managers, sole member or managing member, or committee of such Person serving a similar function.

“Business Day” means any day other than a Saturday, a Sunday or a day on which banking institutions in the City of New York or at a place of payment of any applicable Secured Obligations are authorized or required by law, regulation or executive order to remain closed.

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

“Class” means (1) in the case of Junior Lien Obligations, every Series of Junior Lien Debt and all other Junior Lien Obligations, taken together, and (2) in the case of Priority Lien Obligations, every Series of Priority Lien Debt and all other Priority Lien Obligations, taken together.

“Co-Issuer” has the meaning set forth in the preamble to this Agreement.

“Collateral” means, in the case of each Series of Secured Debt, all properties and assets of the Issuers and the other Grantors now owned or hereafter acquired in which Liens have been granted, or purported to be granted, or required to be granted, to the Collateral Agent to secure any or all of the Secured Obligations, including any property subject to Liens granted pursuant to Section 2.8, and shall exclude any properties and assets in which the Collateral Agent is required to release its Liens pursuant to Section 3.2.

“Collateral Agency Joinder” means (i) with respect to the provisions of this Agreement relating to any Additional Secured Debt, an agreement substantially in the form of Exhibit B, (ii) with respect to the provisions of this Agreement relating to the addition of additional Grantors, an agreement substantially in the form of Exhibit C and (iii) with respect to the provisions of this Agreement relating to any Hedging Obligations or Bank Product Obligations, an agreement substantially in the form of Exhibit E.

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

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

“Controlling Representative” means at any time (1) prior to the Discharge of Priority Lien Obligations, the Priority Lien Representative that represents the Series of Priority Lien Debt with the then largest outstanding principal amount or, if there is no outstanding Series of Priority Lien Debt, the Hedge Provider or Bank Product Provider with the largest amount of Priority Lien Obligations owed to it (calculated in accordance with Section 3.4 hereof) and (2) after the Discharge of Priority Lien Obligations, the Junior Lien Representative that represents the Series of Junior Lien Debt with the then largest outstanding principal amount or, if there is no outstanding Series of Junior Lien Debt, the Hedge Provider or Bank Product Provider with the largest amount of Junior Lien Obligations owed to it (calculated in accordance with Section 3.4 hereof).

“Convertible Debt” has the meaning set forth in the Indenture.

“DIP Financing” has the meaning set forth in Section 2.8(a).

“Discharge of Priority Lien Obligations” means the occurrence of all of the following:

(1) termination or expiration of all commitments to extend credit that would constitute Priority Lien Debt;

(2) with respect to each Series of Priority Lien Debt, either (x) payment in full in cash of the principal of and interest and premium (if any) on all Priority Lien Debt of such Series (other than any undrawn letters of credit) or (y) there has been a legal defeasance or covenant defeasance pursuant to the terms of the applicable Priority Lien Debt Documents for such Series of Priority Lien Debt;

(3) with respect to any undrawn letters of credit constituting Priority Lien Debt, either (x) discharge or cash collateralization (at the lower of (A) 103% of the aggregate undrawn amount and (B) the percentage of the aggregate undrawn amount required for release of liens under the terms of the applicable Priority Lien Document) of all outstanding letters of credit constituting Priority Lien Debt or (y) the issuer of each such letter of credit has notified the Collateral Agent in writing that alternative arrangements satisfactory to such issuer and to the holders of the related Series of Priority Lien Debt that has reimbursement obligations with respect thereto have been made; and

(4) payment in full in cash of all other Priority Lien Obligations (other than any obligations for taxes, costs, indemnifications, reimbursements, damages and other liabilities in respect of which no claim or demand for payment has been made at such time) that are outstanding and unpaid at the time the Priority Lien Debt is paid in full in cash or the cash collateralization or payment (or other arrangements with respect thereto) of all Hedging Obligations and Bank Product Obligations constituting Priority Lien Obligations on terms satisfactory to each applicable counterparty, and the expiration or termination of all Hedging Agreements the obligations under which would constitute Priority Lien Obligations;

provided, however, that if, at any time after the Discharge of Priority Lien Obligations has occurred, any Grantor thereafter enters into any Priority Lien Document evidencing a Priority Lien Debt the incurrence of which is not prohibited by any applicable Secured Debt Document, then such Discharge of Priority Lien Obligations shall automatically be deemed not to have occurred for all purposes of this Agreement with respect to such new Priority Lien Debt (other than with respect to any actions taken as a result of the occurrence of such first Discharge of Priority Lien Obligations), and, from and after the date on which the Issuers designate such Funded Debt as Priority Lien Debt in accordance with Section 3.8, the Obligations under such Priority Lien Document shall automatically and without any further action be treated as Priority Lien Obligations for all purposes of this Agreement, including for purposes of the Lien priorities and rights in respect of Collateral set forth herein and any Junior Lien Obligations shall be deemed to have been at all times Junior Lien Obligations and at no time Priority Lien Obligations.

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

(1) in respect of borrowed money or advances; or

(2) evidenced by loan agreements, bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof).

For the avoidance of doubt, “Funded Debt” shall not include Hedging Obligations or Bank Product Obligations.

“Grantors” means Parent, the Issuers, the Guarantors and any other Person (if any) that at any time provides collateral security for any Secured Obligations.

“Guarantee” means a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner including, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Funded Debt (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take or pay or to maintain financial statement conditions or otherwise).

“Guarantor” means, with respect to any Priority Lien Obligations, each person who has Guaranteed payment of any Priority Lien Obligations and, with respect to any Junior Lien Obligations, each person who has Guaranteed payment of any Junior Lien Obligations.

“Hedge Agreement” means any Swap Contract; *provided* that the counterparty thereto has delivered a Collateral Agency Joinder in respect thereof and the other requirements of Section 3.9 have been complied with. As used herein, “Hedge Agreement” shall include both any Swap Contract constituting a “master agreement” and any related Swap Transaction; *provided, however* that a Collateral Agency Joinder pursuant to Section 3.9 shall only be required once for each master agreement and shall not be required for each individual Swap Transaction thereunder.

“Hedging Obligations” means, with respect to any specified Person, the obligations of such Person under any Hedge Agreement.

“Hedge Provider” means the counterparty to any Grantor under any Hedge Agreement.

“Indemnified Liabilities” means any and all liabilities (including all environmental liabilities), obligations, losses, damages, penalties, actions, judgments, suits, costs, taxes, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, performance, administration or enforcement of this Agreement or any of the other Security Documents, including any of the foregoing relating to the use of proceeds of any Secured Debt or the violation of, noncompliance with or liability under, any law (including environmental laws) applicable to or enforceable against the Issuers, any of their respective Subsidiaries or any other Grantor or any of the Collateral and all reasonable costs and expenses (including reasonable fees and expenses of legal counsel selected by the Indemnitee) incurred by any Indemnitee in connection with any claim, action, investigation or proceeding in any respect relating to any of the foregoing, whether or not suit is brought.

“Indemnitee” has the meaning set forth in Section 7.12(a).

“Indenture” has the meaning set forth in the recitals to this Agreement.

“Insolvency or Liquidation Proceeding” means:

(1) any voluntary or involuntary case commenced by or against the Issuers or any other Grantor under Title 11, U.S. Code or any similar federal or state law for the relief of debtors, any other proceeding for the reorganization, recapitalization,

receivership, liquidation or adjustment or marshalling of the assets or liabilities of the Issuers or any other Grantor, any receivership or assignment for the benefit of creditors relating to the Issuers or any other Grantor or any similar case or proceeding relative to the Issuers or any other Grantor or its creditors, as such, in each case whether or not voluntary;

(2) any liquidation, dissolution, marshalling of assets or liabilities or other winding up of or relating to the Issuers or any other Grantor, in each case whether or not voluntary and whether or not involving bankruptcy or insolvency; or

(3) any other proceeding of any type or nature in which substantially all claims of creditors of the Issuers or any other Grantor are determined and any payment or distribution is or may be made on account of such claims.

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

“**Junior Lien**” means a Lien granted, or purported to be granted, by a Security Document to the Collateral Agent, at any time, upon any property of the Issuers or any other Grantor to secure Junior Lien Obligations.

“**Junior Lien Adequate Protection Payments**” has the meaning set forth in Section 2.8(d).

“**Junior Lien Debt**” means any Funded Debt incurred by any Grantor and letter of credit and reimbursement Obligations with respect thereto that is secured by a Junior Lien and that was permitted to be incurred and permitted to be so secured under each applicable Secured Debt Document; *provided*, that:

(a) on or before the date on which such Funded Debt is incurred by the relevant Grantor, such Funded Debt is designated by the Issuers as “Junior Lien Debt” for the purposes of the Secured Debt Documents in an Additional Secured Debt Designation executed and delivered in accordance with Section 3.8; *provided*, that no Funded Debt may be designated as both Junior Lien Debt and Priority Lien Debt;

(b) unless such Funded Debt is issued under an existing Secured Debt Document for any Series of Junior Lien Debt whose Secured Debt Representative is already party to this Agreement, the Junior Lien Representative for such Funded Debt executes and delivers a Collateral Agency Joinder in accordance with Section 3.8(b); and

(c) all other requirements set forth in Section 3.8 have been complied with.

For the avoidance of doubt, Hedging Obligations and Bank Product Obligations do not constitute Junior Lien Debt but may constitute Junior Lien Obligations.

“Junior Lien Documents” means, collectively, any credit agreement, indenture or other agreement pursuant to which any Junior Lien Debt is incurred and the Junior Lien Security Documents.

“Junior Lien Obligations” means Junior Lien Debt and all other Obligations in respect thereof including, any Post-Petition Interest whether or not allowable, together with all Hedging Obligations and Bank Product Obligations, and all guarantees of any of the foregoing.

“Junior Lien Representative” means, in the case of any Series of Junior Lien Debt, the trustee, agent or representative of the holders of such Series of Junior Lien Debt who maintains the transfer register for such Series of Junior Lien Debt and (A) is appointed as a representative of the Junior Lien Debt (for purposes related to the administration of the Security Documents) pursuant to the credit agreement, indenture or other agreement governing such Series of Junior Lien Debt, together with its permitted successors and assigns in such capacity, and (B) who has executed a Collateral Agency Joinder.

“Junior Lien Secured Parties” means the holders of Junior Lien Obligations and each Junior Lien Representative.

“Junior Lien Security Documents” means all security agreements, pledge agreements, collateral assignments, mortgages, deeds of trust, collateral agency agreements, control agreements or other grants or transfers for security executed and delivered by the Issuers or any other Grantor creating (or purporting to create) a Lien upon Collateral in favor of the Collateral Agent, for the benefit of any of the Junior Lien Secured Parties, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms and Section 7.1.

“Junior Trust Estate” has the meaning set forth in Section 2.2.

“Lien” means any mortgage, pledge, security interest, encumbrance, lien or charge of any kind (including, without limitation, any conditional sale or other title retention agreement or lease in the nature thereof or any agreement to give any security interest); *provided* that in no event shall an operating lease be deemed to constitute a Lien.

“Notes” has the meaning set forth in the recitals to this Agreement.

“Note Documents” means the Indenture, the Notes and the Priority Lien Security Documents securing the Obligations in respect thereof.

“Obligations” means any principal (including reimbursement obligations with respect to letters of credit whether or not drawn), interest (including all interest accrued thereon after the commencement of any Insolvency or Liquidation Proceeding at the rate, including any applicable post-default rate, specified in the applicable Secured Debt Documents, even if such interest is not enforceable, allowable or allowed as a claim in such proceeding), premium (if any), fees, indemnifications, reimbursements, expenses and other liabilities payable under the documentation governing any Secured Obligations.

“Officer’s Certificate” means a certificate with respect to compliance with a condition or covenant provided for in this Agreement, signed on behalf of the Issuers by a Responsible Officer of the Issuers in his or her capacity as a Responsible Officer of the Issuers and not in his or her individual capacity, including:

(a) a statement that the Responsible Officer making such certificate has read such covenant or condition;

(b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate are based;

(c) a statement that, in the opinion of such Responsible Officer, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been satisfied; and

(d) a statement as to whether or not, in the opinion of such Responsible Officer, such condition or covenant has been satisfied.

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

“Pay-Over Amount” has the meaning set forth in Section 2.8(d).

“Person” means an individual, a corporation, a partnership, a limited liability company, an association, a trust or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

“Post-Petition Interest” means interest, fees, expenses and other charges that pursuant to the Priority Lien Documents or Junior Lien Documents, as applicable, continue to accrue after the commencement of any Insolvency or Liquidation Proceeding, whether or not such interest, fees, expenses and other charges are allowed or allowable under the Bankruptcy Code or in any such Insolvency or Liquidation Proceeding.

“Priority Lien” means a Lien granted, or purported to be granted, by a Security Document to the Collateral Agent, at any time, upon any property of the Issuers or any other Grantor to secure Priority Lien Obligations.

“Priority Lien Debt” means:

(1) the Notes issued on the date hereof; and

(2) any other Funded Debt incurred by any Grantor and letter of credit and reimbursement Obligations with respect thereto that is secured by a Priority Lien and that was permitted to be incurred and permitted to be so secured under each applicable Secured Debt Document; *provided*, in the case of any Funded Debt referred to in this clause (2), that:

(a) on or before the date on which such Funded Debt is incurred by the relevant Grantor, such Funded Debt is designated by the Issuers as “Priority Lien Debt” for the purposes of the Secured Debt Documents in an Additional Secured Debt Designation executed and delivered in accordance with Section 3.8(a); *provided*, that no Funded Debt may be designated as both Junior Lien Debt and Priority Lien Debt;

(b) unless such Funded Debt is issued under an existing Secured Debt Document for any Series of Priority Lien Debt whose Secured Debt Representative is already party to this Agreement, the Priority Lien Representative for such Funded Debt executes and delivers a Collateral Agency Joinder in accordance with Section 3.8(b); and

(c) all other requirements set forth in Section 3.8 have been complied with.

For the avoidance of doubt, Hedging Obligations and Bank Product Obligations do not constitute Priority Lien Debt but may constitute Priority Lien Obligations.

“**Priority Lien Documents**” means the Note Documents and any other credit agreement, indenture or other agreement pursuant to which any Priority Lien Debt is incurred and the Priority Lien Security Documents.

“**Priority Lien Obligations**” means the Priority Lien Debt and all other Obligations in respect of Priority Lien Debt, including any Post-Petition Interest whether or not allowable, together with all Hedging Obligations and Bank Product Obligations, and all guarantees of any of the foregoing. In addition to the foregoing, all obligations owing to the Collateral Agent in its capacity as such, whether pursuant to this Agreement or one or more of the Priority Lien Documents or Junior Lien Documents, shall in each case be deemed to constitute Priority Lien Obligations (with the obligations described in this sentence being herein the “Collateral Agent Obligations”), which Collateral Agent Obligations shall be entitled to the priority provided in clause FIRST of Section 3.4(a).

“**Priority Lien Hedge and Bank Product Reference Date**” has the meaning set forth in Section 3.9(d).

“**Priority Lien Representative**” means:

(a) in the case of the Notes, the Trustee; and

(b) in the case of any other Series of Priority Lien Debt, the trustee, agent or representative of the holders of such Series of Priority Lien Debt who maintains the transfer register for such Series of Priority Lien Debt and (A) is appointed as a representative of the Priority Lien Debt (for purposes related to the administration of the Security Documents) pursuant to the credit agreement, indenture or other agreement governing such Series of Priority Lien Debt, together with its permitted successors and assigns in such capacity, and (B) who has executed a Collateral Agency Joinder.

“Priority Lien Secured Parties” means the holders of Priority Lien Obligations, each Priority Lien Representative and the Collateral Agent.

“Priority Lien Security Documents” means all security agreements, pledge agreements, collateral assignments, mortgages, deeds of trust, collateral agency agreements, control agreements or other grants or transfers for security executed and delivered by the Issuers or any other Grantor creating (or purporting to create) a Lien upon Collateral in favor of the Collateral Agent, for the benefit of any of the Priority Lien Secured Parties, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms and Section 7.1.

“Reaffirmation Agreement” means an agreement reaffirming the security interests granted to the Collateral Agent in substantially the form attached as Exhibit 1 to Exhibit A of this Agreement

“Recovery” has the meaning set forth in Section 2.8(f).

“Reference Date” has the meaning set forth in Section 3.8(d).

“Related Parties” means, as to any Person, such Person’s Affiliates and each of their respective directors, officers, members, partners, trustees, employees, attorneys and agents, and (in each case) their respective heirs, representatives, successors and assigns.

“Required Junior Lien Debtholders” means, as to any matter at any time, the holders of (or the Junior Lien Representatives representing the holders of) more than 50% of the sum of:

(a) the aggregate outstanding principal amount of Junior Lien Debt (including the face amount of outstanding letters of credit whether or not then available or drawn); and

(b) other than in connection with the exercise of remedies, the aggregate unfunded commitments to extend credit which, when funded, would constitute Junior Lien Debt; *provided, however*, that if at any time the only remaining Junior Lien Obligations are Hedging Obligations and/or Bank Product Obligations, then the term “Required Junior Lien Debtholders” will mean the holders of a majority of the sum of the (i) aggregate “settlement amount” (or similar term) as defined in the Hedge Agreements (or, with respect to any Hedge Agreement that has been terminated in accordance with its terms, the amount, if any, then due and payable by any Grantor (exclusive of expenses and similar payments but including any early termination payments then due) under such Hedge Agreement) under all Hedge Agreements the Hedging Obligations under which would constitute Junior Lien Obligations and (ii) aggregate amounts payable under Bank Product Agreements (exclusive of expenses and similar payments) the Bank Product Obligations under which would constitute Junior Lien Obligations; *provided further*, that any Hedge Agreement with a “settlement amount” (or similar term) or termination payment that is a negative number shall be disregarded for purposes of all calculations required by the term “Required Junior Lien Debtholders”.

For purposes of this definition, (a) Junior Lien Debt registered in the name of, or beneficially owned by, an Issuer or any Affiliate of the Issuers will be deemed not to be outstanding and neither the Issuers nor any Affiliate of the Issuers will be entitled to vote such Secured Debt and (b) votes will be determined in accordance with Section 7.2.

“Responsible Officer” means the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of the Issuers.

“Secured Debt” means Junior Lien Debt and Priority Lien Debt.

“Secured Debt Default” means any event or condition that, under the terms of any Secured Debt Document governing any Series of Secured Debt causes, or permits holders of Secured Debt outstanding thereunder (with or without the giving of notice or lapse of time, or both, and whether or not notice has been given or time has lapsed) to cause, the Secured Debt outstanding thereunder to become immediately due and payable.

“Secured Debt Documents” means the Junior Lien Documents and the Priority Lien Documents.

“Secured Debt Representative” means each Junior Lien Representative and each Priority Lien Representative.

“Secured Obligations” means Junior Lien Obligations and Priority Lien Obligations.

“Secured Parties” means the holders of Secured Obligations, the Secured Debt Representatives and the Collateral Agent.

“Security Documents” means this Agreement, each Collateral Agency Joinder, each Priority Lien Security Document and each Junior Lien Security Document, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms and Section 7.1.

“Senior Trust Estate” has the meaning set forth in Section 2.1.

“Series of Junior Lien Debt” means, severally, each issue or series of Junior Lien Debt for which a single transfer register is maintained. For the avoidance of doubt, all reimbursement obligations in respect of letters of credit issued pursuant to a Junior Lien Document shall be part of the same Series of Junior Lien Debt as all other Junior Lien Debt incurred pursuant to such Junior Lien Document.

“Series of Priority Lien Debt” means the Notes issued on the date hereof and each other issue or series of Priority Lien Debt for which a single transfer register is maintained. For the avoidance of doubt, all reimbursement obligations in respect of letters of credit issued pursuant to a Priority Lien Document shall be part of the same Series of Priority Lien Debt as all other Priority Lien Debt incurred pursuant to such Priority Lien Document.

“Series of Secured Debt” means, severally, each Series of Priority Lien Debt and each Series of Junior Lien Debt.

“Short Fall” has the meaning set forth in Section 2.8(d).

“Standstill Period” has the meaning set forth in Section 2.4.

“Subsidiary” means, with respect to any Person, any corporation, association or other business entity of which more than 50% of the voting power of the outstanding Voting Stock is owned, directly or indirectly, by such Person and/or one or more other Subsidiaries of such Person.

“Swap Contract” means (a) any and all interest rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options for forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a “Master Agreement”), including such obligations or liabilities under any Master Agreement.

“Swap Transactions” means any and all such transactions of any kind, and the related confirmations, that are subject to the terms and conditions of, or governed by, any Hedge Agreement.

“Trustee” has the meaning set forth in the recitals to this Agreement.

“Trust Estates” has the meaning set forth in Section 2.2.

“UCC” means the Uniform Commercial Code as in effect from time to time in the State of New York; provided, however, that in the event that, by reason of mandatory provisions of law, any or all of the perfection or priority of, or remedies with respect to, any Collateral is governed by the Uniform Commercial Code as enacted and in effect in a jurisdiction other than the State of New York, the term “UCC” shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions hereof relating to such perfection, priority or remedies.

“Voting Stock” means, with respect to any Person, Capital Stock of any class or kind ordinarily having the power to vote for the election of directors, managers or other voting members of the governing body of such Person.

SECTION 1.2 Other Definition Provisions.

(a) The words “hereof,” “herein,” “hereto” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section, Schedule, Exhibit and Annex references, are to this Agreement unless otherwise specified. References to any Schedule, Exhibit or Annex shall mean such Schedule, Exhibit or Annex as amended or supplemented from time to time in accordance with this Agreement.

(b) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

(c) The expressions “payment in full,” “paid in full” and any other similar terms or phrases when used herein shall mean payment in cash in immediately available funds.

(d) The use herein of the word “include” or “including,” when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as “without limitation” or “but not limited to” or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter.

(e) All references herein to provisions of the UCC shall include all successor provisions under any subsequent version or amendment to any Article of the UCC.

(f) All terms used in this Agreement that are defined in Article 9 of the UCC and not otherwise defined herein have the meanings assigned to them in Article 9 of the UCC.

(g) Notwithstanding anything to the contrary in this Agreement, any references contained herein to any section, clause, paragraph, definition or other provision of the Indenture (including any definition contained therein) shall be deemed to be a reference to such section, clause, paragraph, definition or other provision as in effect on the date of this Agreement; *provided*, that any reference to any such section, clause, paragraph or other provision shall refer to such section, clause, paragraph or other provision of the Indenture (including any definition contained therein) as amended or modified from time to time if such amendment or modification has been (1) made in accordance with the Indenture and (2) prior to the Discharge of Priority Lien Obligations, approved in a writing delivered to the Trustee and the Collateral Agent by, or on behalf of, the requisite Priority Lien Secured Parties as are needed (if any) under the terms of the applicable Priority Lien Documents to approve such amendment or modification. Unless otherwise set forth herein, references to principal amount shall include, without duplication, any reimbursement obligations with respect to a letter or credit and the face amount thereof (whether or not such amount is, at the time of determination, drawn or available to be drawn).

This Agreement and the other Security Documents will be construed without regard to the identity of the party who drafted it and as though the parties participated equally in drafting it. Consequently, each of the parties acknowledges and agrees that any rule of construction that a document is to be construed against the drafting party will not be applicable either to this Agreement or the other Security Documents.

SECTION 2.1 Declaration of Senior Trust.

To secure the payment of the Priority Lien Obligations and in consideration of the premises and mutual agreements set forth in this Agreement, each of the Grantors hereby confirms the grant to the Collateral Agent, and the Collateral Agent hereby accepts and agrees to hold, in trust under this Agreement for the benefit of all current and future Priority Lien Secured Parties, all of such Grantor's right, title and interest in, to and under all Collateral now or hereafter granted to the Collateral Agent under any Priority Lien Security Document (in its capacity as collateral trustee, trustee, collateral agent or similar capacity under such Priority Lien Security Document) for the benefit of the Priority Lien Secured Parties, together with all of the Collateral Agent's right, title and interest in, to and under the Priority Lien Security Documents, and all interests, rights, powers and remedies of the Collateral Agent thereunder or in respect thereof and all cash and non-cash proceeds thereof (collectively, the "**Senior Trust Estate**").

The Collateral Agent and its permitted successors and assigns under this Agreement will hold the Senior Trust Estate in trust for the benefit solely and exclusively of all current and future Priority Lien Secured Parties as security for the payment of all present and future Priority Lien Obligations.

Notwithstanding the foregoing, if at any time:

(1) all Liens securing the Priority Lien Obligations have been released as provided in Section 4.1;

(2) the Collateral Agent holds no other property in trust as part of the Senior Trust Estate;

(3) no monetary obligation (other than any obligations for taxes, costs, indemnifications, reimbursements, damages and other liabilities in respect of which no claim or demand for payment has been made at such time) is outstanding and payable under this Agreement to the Collateral Agent or any of its co-trustees or agents (whether in an individual or representative capacity); and

(4) the Issuers deliver to the Collateral Agent an Officer's Certificate stating that all Priority Liens of the Collateral Agent have been released in compliance with all applicable provisions of the Priority Lien Documents and that the Grantors are not required by any Priority Lien Document to grant any Priority Lien upon any property,

then the Senior Trust Estate will terminate (subject to any reinstatement pursuant to Sections 3.8(d) or 7.21 hereof), except that all provisions set forth in Sections 7.11 and 7.12 that are enforceable by the Collateral Agent or any of its co-trustees or agents (whether in an individual or representative capacity) will remain enforceable in accordance with their terms.

The parties further declare and covenant that the Senior Trust Estate will be held and distributed by the Collateral Agent subject to the further agreements herein.

SECTION 2.2 Declaration of Junior Trust.

To secure the payment of the Junior Lien Obligations and in consideration of the premises and the mutual agreements set forth herein, each of the Grantors hereby confirms the grant to the Collateral Agent, and the Collateral Agent hereby accepts and agrees to hold, in trust under this Agreement for the benefit of all current and future Junior Lien Secured Parties, all of such Grantor's right, title and interest in, to and under all Collateral now or hereafter granted to the Collateral Agent under any Junior Lien Security Document (in its capacity as collateral trustee, trustee, collateral agent or similar capacity under such Junior Lien Security Document) for the benefit of the Junior Lien Secured Parties, together with all of the Collateral Agent's right, title and interest in, to and under the Junior Lien Security Documents, and all interests, rights, powers and remedies of the Collateral Agent thereunder or in respect thereof and all cash and non-cash proceeds thereof (collectively, the "**Junior Trust Estate**," and together with the Senior Trust Estate, the "**Trust Estates**").

The Collateral Agent and its permitted successors and assigns under this Agreement will hold the Junior Trust Estate in trust for the benefit solely and exclusively of all current and future Junior Lien Secured Parties as security for the payment of all present and future Junior Lien Obligations.

Notwithstanding the foregoing, if at any time:

(1) all Liens securing the Junior Lien Obligations have been released as provided in Section 4.1;

(2) the Collateral Agent holds no other property in trust as part of the Junior Trust Estate;

(3) no monetary obligation (other than any obligations for taxes, costs, indemnifications, reimbursements, damages and other liabilities in respect of which no claim or demand for payment has been made at such time) is outstanding and payable under this Agreement to the Collateral Agent or any of its co-trustees or agents (whether in an individual or representative capacity); and

(4) the Issuers deliver to the Collateral Agent an Officer's Certificate stating that all Junior Liens of the Collateral Agent have been released in compliance with all applicable provisions of the Junior Lien Documents and that the Grantors are not required by any Junior Lien Document to grant any Junior Lien upon any property,

then the Junior Trust Estate will terminate, except that all provisions set forth in Sections 7.11 and 7.12 that are enforceable by the Collateral Agent or any of its co-trustees or agents (whether in an individual or representative capacity) will remain enforceable in accordance with their terms.

The parties further declare and covenant that the Junior Trust Estate will be held and distributed by the Collateral Agent subject to the further agreements herein.

SECTION 2.3 Priority of Liens Between Classes. Notwithstanding anything else contained herein or in any other Security Document, and notwithstanding the date, time, method, manner or order of grant, attachment or perfection of any Liens securing the Junior Lien Obligations granted on the Collateral or of any Liens securing the Priority Lien Obligations granted on the Collateral and notwithstanding any provision of the UCC, the time of incurrence of any Series of Priority Lien Debt or Series of Junior Lien Debt or the time of incurrence of any other Priority Lien Obligation or Junior Lien Obligation or any other applicable law or any defect or deficiencies in, or failure to perfect or lapse in perfection of, or avoidance as a fraudulent conveyance or otherwise of, the Liens securing the Priority Lien Obligations, the subordination of such Liens to any other Liens, or any other circumstance whatsoever, whether or not any Insolvency or Liquidation Proceeding has been commenced against the Issuers or any other Grantor, it is the intent of the parties that, and the parties hereto agree for themselves and the Junior Lien Secured Parties and Priority Lien Secured Parties represented by them that:

(1) this Agreement and the other Security Documents create two separate and distinct Trust Estates and Liens: (i) the Senior Trust Estate and Priority Lien securing the payment and performance of the Priority Lien Obligations and (ii) the Junior Trust Estate and Junior Lien securing the payment and performance of the Junior Lien Obligations; and

(2) any Liens on Collateral securing the Junior Lien Obligations now or hereafter held by the Collateral Agent for the benefit of the Junior Lien Secured Parties or held by any Junior Lien Secured Party, in each case, whether by grant, possession, statute, operation of law, subrogation or otherwise, are subject and subordinate to any Liens on Collateral securing the Priority Lien Obligations.

For the avoidance of doubt, in the event that any Junior Lien Secured Party becomes a judgment lien creditor as a result of its enforcement of its rights as an unsecured creditor, such judgment lien shall be subject to the terms of this Agreement for all purposes hereof (including the priority of Liens).

SECTION 2.4 Restrictions on Enforcement of Junior Liens; Prohibition on Contesting Liens.

(a) Until the Discharge of Priority Lien Obligations, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against the Issuers or any other Grantor, the Priority Lien Secured Parties will have, subject to the exceptions set forth below in clauses (1) through (4), the exclusive right to authorize and direct the Collateral Agent with respect to each of the Priority Lien Security Documents and the Junior Lien Security Documents and the Collateral including, without limitation, the exclusive right to authorize or direct the Collateral Agent to enforce, collect or realize on any Collateral or exercise any other right or remedy with respect to the Collateral (including, without limitation, the exercise of any right of setoff or any right under any lockbox agreement, account control agreement, landlord waiver or bailee's letter or similar agreement or arrangement) and no Junior Lien Representative or Junior

Lien Secured Party may authorize or direct the Collateral Agent with respect to such matters; *provided, however*, that the Required Junior Lien Debtholders (or any Junior Lien Representative representing such Required Junior Lien Debtholders) may so direct the Collateral Agent with respect to the enforcement of Junior Lien Security Documents and rights and remedies against the Collateral thereunder after the passage of a period of at least 180 days has elapsed since the later of: (i) the date on which any Junior Lien Representative has declared the existence of any Event of Default under (and as defined in) any Junior Lien Document and demanded the repayment of all the principal amount of all Junior Lien Obligations thereunder; and (ii) the date on which the Collateral Agent and each Priority Lien Representative has received notice from such Junior Lien Representative of such declarations of an Event of Default under (and as defined in) any Junior Lien Document, (the “*Standstill Period*”); *provided further* that notwithstanding anything herein to the contrary, in no event shall any Junior Lien Debtholder or Junior Lien Representative so authorize or direct the Collateral Agent if, notwithstanding the expiration of the Standstill Period, the Priority Lien Secured Parties or a Priority Lien Representative shall have caused the Collateral Agent to commence and diligently pursue the exercise of rights and remedies with respect to all or any material portion of the Collateral. Notwithstanding the foregoing, the Required Junior Lien Debtholders (or the Junior Lien Representatives representing the Required Junior Lien Debtholders) may direct the Collateral Agent or any Junior Lien Representative, as applicable:

(1) without any condition or restriction whatsoever, at any time after the Discharge of Priority Lien Obligations;

(2) as necessary to redeem any Collateral in a creditor’s redemption permitted by law or to deliver any notice or demand necessary to enforce (subject to the prior Discharge of Priority Lien Obligations) any right to claim, take or receive proceeds of Collateral remaining after the Discharge of Priority Lien Obligations in the event of foreclosure or other enforcement of any Lien (other than Liens in favor of the Collateral Agent or a Priority Lien Secured Party);

(3) as necessary to perfect or establish the priority (subject to Priority Liens) of the Junior Liens upon any Collateral, except that the Junior Lien Secured

Parties may not require the Collateral Agent to take any action to perfect any Collateral through possession or control other than the Collateral Agent taking any action for possession or control required by the Priority Lien Secured Parties and the Collateral Agent agreeing pursuant to Section 7.4 that the Collateral Agent as agent for the benefit of the Priority Lien Secured Parties agrees to act as bailee and/or agent for the Collateral Agent for the benefit of the Junior Lien Secured Parties as specified in Section 7.4;

(4) as necessary to create, prove, preserve or protect (but not enforce) the Junior Liens upon any Collateral;

(5) file any necessary responsive or defensive pleadings in opposition to any motion, claim, adversary proceeding or other pleading made by any person objecting to or otherwise seeking the disallowance of the claims of the Junior Lien Secured Parties, including any claims secured by the Collateral, if any, in each case in accordance with the terms of this Agreement; or

(6) vote on any plan of reorganization, arrangement, compromise or liquidation, file any proof of claim, make other filings and make any arguments and motions that are, in each case, in accordance with the terms of this Agreement, with respect to the Junior Lien Obligations and the Collateral; provided that no filing of any claim or vote, or pleading related to such claim or vote, to accept or reject a disclosure statement, plan of reorganization, arrangement, compromise or liquidation, or any other document, agreement or proposal similar to the foregoing by the Collateral Agent (on behalf of the Junior Lien Secured Parties) or the Junior Lien Representative may be inconsistent with the provisions of this Agreement;

(b) Until the Discharge of Priority Lien Obligations, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against the Issuers or any other Grantor, none of the Junior Lien Secured Parties, the Collateral Agent (unless acting pursuant to an Act of Required Secured Parties) or any Junior Lien Representative will:

(1) request judicial relief, in an Insolvency or Liquidation Proceeding or in any other court, or take any other action, that would hinder, delay, limit or prohibit the lawful exercise or enforcement of any right or remedy otherwise available to the Priority Lien Secured Parties in respect of the Priority Liens or that would limit, invalidate, avoid or set aside any Priority Lien or subordinate the Priority Liens to the Junior Liens or grant the Junior Liens equal ranking to the Priority Liens;

(2) oppose or otherwise contest any motion for relief from the automatic stay or for any injunction against foreclosure or enforcement of Priority Liens made by any Priority Lien Secured Party or any Priority Lien Representative in any Insolvency or Liquidation Proceeding;

(3) oppose or otherwise contest any lawful exercise by any Priority Lien Secured Party or any Priority Lien Representative of the right to credit bid Priority Lien Debt at any sale of Collateral in foreclosure of Priority Liens;

(4) oppose or otherwise contest any other request for judicial relief made in any court by any holder of Priority Lien Obligations or any Priority Lien Representative relating to the lawful enforcement of any Priority Lien;

(5) contest, protest or object to any foreclosure proceeding or action brought by the Collateral Agent, any Priority Lien Representative or any Priority Lien Secured Party or any other exercise by the Collateral Agent, any Priority Lien Representative or any Priority Lien Secured Party of any rights and remedies relating to the Collateral under the Priority Lien Documents or otherwise and each Junior Lien Representative on behalf of itself and each Junior Lien Secured Party hereby waives any and all rights it may have to object to the time or manner in which the Collateral Agent, any Priority Lien Representative or any Priority Lien Secured Party seeks to enforce the Priority Lien Obligations or the Priority Liens;

(6) contest or support any other Person in contesting, in any proceeding (including any Insolvency or Liquidation Proceeding) the validity, enforceability, perfection, priority or extent of the Priority Liens or the amount, nature or extent of the Priority Lien Debt Obligations; or

(7) object to the forbearance by the Collateral Agent from bringing or pursuing any foreclosure proceeding or action or any other exercise of any rights or remedies relating to the Collateral.

Except as specifically set forth in this Agreement, both before and during an Insolvency or Liquidation Proceeding, the Junior Lien Secured Parties and the Junior Lien Representatives may take any actions and exercise any and all rights that would be available to a holder of unsecured claims that are not inconsistent with this Agreement.

(c) At any time prior to the Discharge of Priority Lien Obligations and after (1) the commencement of any Insolvency or Liquidation Proceeding in respect of the Issuers or any other Grantor or (2) the Collateral Agent and each Junior Lien Representative have received written notice from any Priority Lien Representative at the direction of an Act of Required Secured Parties stating that (A) any Series of Priority Lien Debt has become due and payable in full (whether at maturity, upon acceleration or otherwise) or (B) the holders of Priority Liens securing one or more Series of Priority Lien Debt have become entitled under any Priority Lien Documents to and desire to enforce any or all of the Priority Liens by reason of a default under such Priority Lien Documents, no payment of money (or the equivalent of money) shall be made from the proceeds of Collateral by the Issuers or any other Grantor to the Trustee, the Collateral Agent (other than payments to the Collateral Agent for the benefit of the Priority Lien Secured Parties) or any Junior Lien Secured Party (including, without limitation, payments and prepayments made for application to Junior Lien Obligations and all other payments and deposits made pursuant to any provision of any Junior Lien Document).

(d) All proceeds of Collateral received by the Collateral Agent, any Junior Lien Representative or any Junior Lien Secured Party in violation of Section 2.4(b) or 2.4(c) will be held by the Collateral Agent, the applicable Junior Lien Representative or the applicable Junior Lien Secured Party in trust for the account of the Priority Lien Secured Parties and remitted to the Collateral Agent upon demand by the Collateral Agent or any Priority Lien Representative for application in accordance with Section 3.4 hereof. The Junior Liens will remain attached to and enforceable against all proceeds so held or remitted until applied to satisfy the Priority Lien Obligations. All proceeds of Collateral received by the Collateral Agent, Junior Lien Secured Parties and Junior Lien Representatives not in violation of Section 2.4(b) or 2.4(c) will be received by the Collateral Agent, Junior Lien Secured Parties and the Junior Lien Representatives free from the Priority Liens and all other Liens except the Junior Liens.

SECTION 2.5 Waiver of Right of Marshaling.

(a) Prior to the Discharge of Priority Lien Obligations, Junior Lien Secured Parties, each Junior Lien Representative and the Collateral Agent may not assert or enforce any marshaling, appraisal, valuation or other similar right accorded to a junior lienholder, as against the Priority Lien Secured Parties or the Priority Lien Representatives (in their capacity as priority lienholders).

(b) Following the Discharge of Priority Lien Obligations, the Junior Lien Secured Parties and any Junior Lien Representative may assert their right under the UCC or otherwise to any proceeds remaining following a sale or other disposition of Collateral by, or on behalf of, the Priority Lien Secured Parties.

SECTION 2.6 Discretion in Enforcement of Priority Liens.

(a) In exercising rights and remedies with respect to the Collateral, at any time prior to a Discharge of Priority Lien Obligations the Priority Lien Secured Parties and the Priority Lien Representatives shall have the exclusive right to enforce (or refrain from enforcing) the provisions of the Priority Lien Documents and exercise (or refrain from exercising) remedies thereunder or any such rights and remedies, all in such order and in such manner as they may determine in the exercise of their sole and exclusive discretion, including:

- (1) the exercise or forbearance from exercise of all rights and remedies in respect of the Collateral and/or the Priority Lien Obligations;
- (2) the enforcement or forbearance from enforcement of any Priority Lien in respect of the Collateral;
- (3) the exercise or forbearance from exercise of rights and powers of a holder of shares of stock included in the Senior Trust Estate to the extent provided in the Priority Lien Security Documents;
- (4) the acceptance of the Collateral in full or partial satisfaction of the Priority Lien Obligations; and
- (5) the exercise or forbearance from exercise of all rights and remedies of a secured lender under the UCC or any similar law of any applicable jurisdiction or in equity.

SECTION 2.7 Amendments to Priority Lien Documents and Discretion in Enforcement of Priority Lien Obligations.

(a) Without in any way limiting the generality of Section 2.6, the Priority Lien Secured Parties and the Priority Lien Representatives may, at any time and from time to time, without the consent of or notice to the Junior Lien Secured Parties or the Junior Lien Representatives, without incurring responsibility to the Junior Lien Secured Parties and the Junior Lien Representatives and without impairing or releasing the subordination provided in this Agreement or the obligations hereunder of the Junior Lien Secured Parties and the Junior Lien Representatives, do any one or more of the following:

- (1) change the manner, place or terms of payment or extend the time of payment of, or renew or alter, the Priority Lien Obligations, or otherwise amend or supplement in any manner the Priority Lien Obligations, or any instrument evidencing the Priority Lien Obligations or any agreement under which the Priority Lien Obligations are outstanding including, without limitation, increasing the principal amount thereof and/or any applicable margin or similar component of interest rate;

- (2) release any Person or entity liable in any manner for the collection of the Priority Lien Obligations;
- (3) release the Priority Lien on any Collateral; and
- (4) exercise or refrain from exercising any rights against any Grantor.

SECTION 2.8 Insolvency or Liquidation Proceedings.

(a) If in any Insolvency or Liquidation Proceeding and prior to the Discharge of Priority Lien Obligations, the Priority Lien Secured Parties by an Act of Required Secured Parties shall desire to permit the use of "Cash Collateral" (as such term is defined in Section 363(a) of the Bankruptcy Code), or to permit the Issuers or any other Grantor to obtain financing, whether from the Priority Lien Secured Parties or any other Person under Section 364 of the Bankruptcy Code or any similar Bankruptcy Law ("**DIP Financing**") then each of the Collateral Agent (on behalf of the Junior Lien Secured Parties) and each Junior Lien Representative for itself and on behalf of the other Junior Lien Secured Parties represented by it, agrees that it will raise no objection to such Cash Collateral use or DIP Financing including any proposed orders for such Cash Collateral use and/or DIP Financing which are acceptable to the Priority Lien Secured Parties) and to the extent the Liens securing the Priority Lien Obligations are subordinated to or pari passu with such DIP Financing, the Collateral Agent will subordinate its Junior Liens in the Collateral to the Liens securing such DIP Financing (and all Obligations relating thereto) and will not request adequate protection or any other relief in connection therewith (except, as expressly agreed by the Priority Lien Secured Parties or to the extent permitted by Section 2.8(d)). No Junior Lien Secured Party may provide DIP Financing to any Issuer or other Grantor secured by Liens equal or senior in priority to the Liens securing any Priority Lien Obligations; provided that if no Priority Lien Secured Party offers to provide DIP Financing to the extent permitted under this Section 2.8(a) on or before the date of the hearing to approve DIP Financing, then a Junior Lien Secured Party may seek to provide such DIP Financing secured by Liens equal or senior in priority to the Liens securing any Priority Lien Obligations, and the Priority Lien Secured Parties may object thereto. Each of the Collateral Agent (on behalf of the Junior Lien Secured Parties) and each Junior Lien Representative on behalf itself and the Junior Lien Secured Parties represented by it agree that each of them will not seek consultation rights in connection with, and will raise no objection or oppose, a motion to sell, liquidate or otherwise dispose of Collateral under Section 363 of the Bankruptcy Code if the requisite Priority Lien Secured Parties have consented to such sale, liquidation or other disposition. Each of the Collateral Agent (on behalf of the Junior Lien Secured Parties) and each Junior Lien Representative on behalf of itself and the Junior Lien Secured Parties represented by it further agrees that it will not directly or indirectly oppose or impede entry of any order in connection with such sale, liquidation or other disposition, including orders to retain professionals or set bid procedures in connection with such sale, liquidation or disposition if the requisite Priority Lien Secured Parties have consented to such (i) retention of professionals and bid procedures in connection with such sale, liquidation or disposition of such assets and (ii) the sale, liquidation or disposition of such assets, in which event the Junior Lien Secured Parties will be deemed to have consented to the sale or disposition of Collateral pursuant to Section 363(f) of the Bankruptcy Code and such motion does not impair the rights of the Junior Lien Secured Parties under Section 363(k) of the Bankruptcy Code.

(b) Until the Discharge of Priority Lien Obligations has occurred, the Collateral Agent (on behalf of the Junior Lien Secured Parties) and each Junior Lien Representative, for itself and on behalf of the other Junior Lien Secured Party represented by it, agrees that none of them shall: (i) seek (or support any other Person seeking) relief from the automatic stay or any other stay in any Insolvency or Liquidation Proceeding in respect of the Collateral, without the prior written consent of the Priority Lien Secured Parties, unless a motion for adequate protection permitted under Section 2.8(d) has been denied by a bankruptcy court or (ii) oppose (or support any other Person in opposing) any request by the Priority Lien Secured Parties for relief from such stay.

(c) If, in any Insolvency or Liquidation Proceeding, debt obligations of the reorganized debtor secured by Liens upon any property of the reorganized debtor are distributed pursuant to a plan of reorganization or similar dispositive restructuring plan, both on account of Priority Lien Obligations and on account of Junior Lien Obligations, then, to the extent the debt obligations distributed on account of the Priority Lien Obligations and on account of the Junior Lien Obligations are secured by Liens upon the same property, the provisions of this Agreement will survive the distribution of such debt obligations pursuant to such plan and will apply with like effect to the Liens securing such debt obligations.

(d) The Collateral Agent (on behalf of the Junior Lien Secured Parties) and each Junior Lien Representative, for itself and on behalf of the other Junior Lien Secured Parties represented by it, agrees that none of them shall contest (or support any other Person contesting): (1) any request by the Priority Lien Representatives or the Priority Lien Secured Parties for adequate protection under any Bankruptcy Law; or (2) any objection by the Priority Lien Representatives or the Priority Lien Secured Parties to any motion, relief, action or proceeding based on the Priority Lien Secured Parties claiming a lack of adequate protection. Notwithstanding the foregoing provisions in this Section 2.8(d), in any Insolvency or Liquidation Proceeding: (1) if the Priority Lien Secured Parties (or any subset thereof) are granted adequate protection in the form of additional collateral in connection with any Cash Collateral use or DIP Financing, then the Collateral Agent (on behalf of the Junior Lien Secured Parties) or Junior Lien Representative, on behalf of itself or any of the other Junior Lien Secured Parties represented by it, may seek or request adequate protection in the form of a Lien on such additional collateral, which Lien will be subordinated to the Liens securing the Priority Lien Obligations and such Cash Collateral use or DIP Financing (and all Obligations relating thereto) on the same basis as the other Liens securing the Junior Lien Obligations are so subordinated to the Priority Lien Obligations under this Agreement; and (2) each of the Collateral Agent, the Junior Lien Representatives and the Junior Lien Secured Parties shall only be permitted to seek adequate protection with respect to their rights in the Collateral in any Insolvency or Liquidation Proceeding in the form of (A) additional collateral; provided that as adequate protection for the Priority Lien Obligations, the Collateral Agent, on behalf of the Priority Lien Secured Parties, is also granted a senior Lien on such additional collateral; (B) replacement Liens on the Collateral; provided that as adequate protection for the Priority Lien Obligations, the Collateral Agent, on behalf of the Priority Lien Secured Parties, is also granted senior replacement Liens on the Collateral; (C) an administrative expense claim; provided that as adequate protection for the Priority Lien Obligations, the Collateral Agent, on behalf of the Priority Lien Secured Parties, is also granted an administrative expense claim which is senior and prior to the administrative expense claim of the Collateral Agent (on behalf of the Junior Lien Secured Parties) and each

Junior Lien Representative on behalf of the Junior Lien Secured Parties represented by it; and (D) cash payments with respect to interest on the Junior Lien Obligations; provided that (1) as adequate protection for the Priority Lien Obligations, the Collateral Agent, on behalf of the Priority Lien Secured Parties, is also granted cash payments with respect to interest on the Priority Lien Obligations, and (2) such cash payments do not exceed an amount equal to the interest accruing on the principal amount of Junior Lien Obligations outstanding on the date such relief is granted at the interest rate under the Junior Lien Documents and accruing from the date the Collateral Agent (on behalf of the Junior Lien Secured Parties) or the Junior Lien Representatives on behalf of the Junior Lien Secured Parties represented by them is granted such relief. If any Junior Lien Secured Party receives post-petition interest and/or adequate protection payments in an Insolvency or Liquidation Proceeding (“**Junior Lien Adequate Protection Payments**”), and the Priority Lien Secured Parties do not receive payment in full in cash of all Priority Lien Obligations (subject, in the case of principal outstanding under the Priority Lien Documents and face amounts of letters of credit) upon the effectiveness of the plan of reorganization for, or conclusion of, that Insolvency or Liquidation Proceeding, then, each Junior Lien Secured Party shall pay over to the Priority Lien Secured Party an amount (the “**Pay-Over Amount**”) equal to the lesser of (i) the Junior Lien Adequate Protection Payments received by such Junior Lien Secured Parties and (ii) the amount of the short-fall (the “**Short Fall**”) in payment in full of the Priority Lien Obligations (subject, in the case of principal outstanding under the Priority Lien Documents and face amounts of letters of credit); provided that to the extent any portion of the Short Fall represents payments received by the Priority Lien Secured Parties in the form of promissory notes, equity or other property, equal in value to the cash paid in respect of the Pay-Over Amount, the Priority Lien Secured Parties shall, upon receipt of the Pay-Over Amount, transfer those promissory notes, equity or other property, pro rata, equal in value to the cash paid in respect of the Pay-Over Amount to the applicable Junior Lien Secured Parties in exchange for the Pay-Over Amount. Notwithstanding anything herein to the contrary, the Priority Lien Secured Parties shall not be deemed to have consented to, and expressly retain their rights to object to the grant of adequate protection in the form of cash payments to the Junior Lien Secured Parties made pursuant to this Section 2.8(d).

(e) Nothing contained herein shall prohibit or in any way limit the Priority Lien Representative or any Priority Lien Secured Party from objecting in any Insolvency or Liquidation Proceeding or otherwise to any action taken by the Collateral Agent (on behalf of the Junior Lien Secured Parties), the Junior Lien Representative or any of the other Junior Lien Secured Parties, including the seeking by the Collateral Agent (on behalf of the Junior Lien Secured Parties), the Junior Lien Representative or any of the other Junior Lien Secured Parties of adequate protection or the asserting by the Collateral Agent (on behalf of the Junior Lien Secured Parties), the Junior Lien Representative or any of the other Junior Lien Secured Parties of any of its rights and remedies under the Junior Lien Documents or otherwise.

(f) If any Priority Lien Secured Party is required in any Insolvency or Liquidation Proceeding or otherwise to turn over or otherwise pay to the estate of the Issuers or any other Grantor any amount paid in respect of Priority Lien Obligations (a “**Recovery**”), then such Priority Lien Secured Party shall be entitled to a reinstatement of Priority Lien Obligations with respect to all such recovered amounts on the date of such Recovery, and from and after the date of such reinstatement the Discharge of Priority Lien Obligations shall be deemed not to have occurred for all purposes hereunder. If this Agreement shall have been terminated prior to such Recovery, this Agreement shall be reinstated in full force and effect, and such prior termination shall not diminish, release, discharge, impair or otherwise affect the obligations of the parties hereto from such date of reinstatement.

(g) The Collateral Agent (on behalf of the Junior Lien Secured Parties) and each Junior Lien Representative, for itself and on behalf of the Junior Lien Secured Parties, and the Collateral Agent (on behalf of the Priority Lien Secured Parties) and each Priority Lien Representative for itself and on behalf of the Priority Lien Secured Parties for whom it acts as representative, acknowledges and agrees that:

(1) the grants of Liens pursuant to the Priority Lien Security Documents and the Junior Lien Security Documents constitute two separate and distinct grants of Liens; and

(2) because of, among other things, their differing rights in the Collateral, the Junior Lien Obligations are fundamentally different from the Priority Lien Obligations and must be separately classified in any plan of reorganization proposed or adopted in an Insolvency or Liquidation Proceeding.

To further effectuate the intent of the parties as provided in the immediately preceding sentence, if it is held that the claims of the Priority Lien Secured Parties and the Junior Lien Secured Parties in respect of the Collateral constitute only one secured claim (rather than separate classes of senior and junior secured claims), then each of the parties hereto hereby acknowledges and agrees that all distributions shall be made as if there were separate classes of senior and junior secured claims against the Grantors in respect of the Collateral (with the effect being that, to the extent that the aggregate value of the Collateral is sufficient (for this purpose ignoring all claims held by the Junior Lien Secured Parties), the Priority Lien Secured Parties shall be entitled to receive, in addition to amounts distributed to them in respect of principal, pre-petition interest and other claims, all amounts owing (or that would be owing if there were such separate classes of senior and junior secured claims) in respect of Post-Petition Interest, including any additional interest payable pursuant to the Priority Lien Documents, arising from or related to a default, which is disallowed as a claim in any Insolvency or Liquidation Proceeding before any distribution is made in respect of the claims held by the Junior Lien Secured Parties with respect to the Collateral, with the Collateral Agent (on behalf of the Junior Lien Secured Parties) or each Junior Lien Representative, as applicable, for itself and on behalf of the Junior Lien Secured Parties for whom it acts as representative, hereby acknowledging and agreeing to turn over to the Priority Lien Secured Parties, Collateral or proceeds of Collateral otherwise received or receivable by them to the extent necessary to effectuate the intent of this sentence, even if such turnover has the effect of reducing the claim or recovery of the Junior Lien Secured Parties.

(h) The parties to this Agreement acknowledge that this Agreement is a "subordination agreement" under section 510(a) of the Bankruptcy Code, which will be effective before, during and after the commencement of an Insolvency or Liquidation Proceeding. All references in this Agreement to any Grantor will include such Person as a debtor-in-possession and any receiver or trustee for such Person in an Insolvency or Liquidation Proceeding.

SECTION 2.9 Collateral Shared Equally and Ratably within Class. The parties to this Agreement agree that the payment and satisfaction of all of the Secured Obligations within each Class will be secured equally and ratably by the Liens established in favor of the Collateral Agent for the benefit of the Secured Parties belonging to such Class, notwithstanding the time of incurrence of any Secured Obligations within such Class or the date, time, method or order of grant, attachment or perfection of any Liens securing such Secured Obligations within such Class and notwithstanding any provision of the UCC, the time of incurrence of any Series of Priority Lien Debt or Series of Junior Lien Debt or the time of incurrence of any other Priority Lien Obligation or Junior Lien Obligation, or any other applicable law or any defect or deficiencies in, or failure to perfect or lapse in perfection of, or avoidance as a fraudulent conveyance or otherwise of, the Liens securing the Priority Lien Obligations or the Junior Lien Obligations the subordination of such Liens to any other Liens, or any other circumstance whatsoever, whether or not any Insolvency or Liquidation Proceeding has been commenced against the Issuers or any other Grantor, it is the intent of the parties that, and the parties hereto agree for themselves and the Junior Lien Secured Parties and Priority Lien Secured Parties represented by them that:

(1) all Junior Lien Obligations will be and are secured equally and ratably by all Junior Liens at any time granted by the Issuers or any other Grantor to secure any Obligations in respect of any Series of Junior Lien Debt, whether or not upon property otherwise constituting collateral for such Series of Junior Lien Debt, and that all such Junior Liens will be enforceable by the Collateral Agent for the benefit of all Junior Lien Secured Party equally and ratably; provided, however, that notwithstanding the foregoing, (x) this provision will not be violated with respect to any particular Collateral and any particular Series of Junior Lien Debt if the Secured Debt Documents in respect thereof prohibit the applicable Junior Lien Representative from accepting the benefit of a Lien on any particular asset or property or such Junior Lien Representative otherwise expressly declines in writing to accept the benefit of a Lien on such asset or property and (y) this provision will not be violated with respect to any particular Hedging Obligations or Bank Product Obligations if the applicable Hedge Agreement or Bank Product Agreement prohibit the applicable Hedge Provider or Bank Product Provider from accepting the benefit of a Lien on any particular asset or property or such Hedge Provider or Bank Product Provider otherwise expressly declines in writing to accept the benefit of a Lien on such asset or property; and

(2) all Priority Lien Obligations will be and are secured equally and ratably by all Priority Liens at any time granted by the Issuers or any other Grantor to secure any Obligations in respect of any Series of Priority Lien Debt, whether or not upon property otherwise constituting collateral for such Series of Priority Lien Debt, and that all such Priority Liens will be enforceable by the Collateral Agent for the benefit of all Priority Lien Secured Parties equally and ratably provided however, that notwithstanding the foregoing, (x) this provision will not be violated with respect to any particular Collateral and any particular Series of Priority Lien Debt if the Secured Debt Documents in respect thereof prohibit the applicable Priority Lien Representative from accepting the benefit of a Lien on any particular asset or property or such Priority Lien Representative otherwise expressly declines in writing to accept the benefit of a Lien on such asset or property and (y) this provision will not be violated with respect to any particular Hedging

Obligations or Bank Product Obligations if the applicable Hedge Agreement or Bank Product Agreement prohibit the applicable Hedge Provider or Bank Product Provider from accepting the benefit of a Lien on any particular asset or property or such Hedge Provider or Bank Product Provider otherwise expressly declines in writing to accept the benefit of a Lien on such asset or property;

It is understood and agreed that nothing in this Section 2.9 is intended to alter the priorities among Secured Parties belonging to different Classes as provided in Section 2.3.

SECTION 2.10 No New Liens. So long as the Discharge of Priority Lien Obligations has not occurred, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against an Issuer or any other Grantor, the parties hereto agree that the Issuers will not, and will not permit any other Grantor to:

(a) grant or permit any additional Liens on any asset or property to secure any Junior Lien Obligation unless it has granted or concurrently grants a Priority Lien on such asset or property to secure all of the Priority Lien Obligations, the parties hereto agreeing that any such Lien shall be subject to Section 2.3 hereof; provided that notwithstanding anything in this Agreement to the contrary, cash and cash equivalents may be pledged to secure Priority Lien Obligations or Junior Lien Obligations, as applicable, consisting of reimbursement obligations in respect of letters of credit pursuant to the Priority Lien Documents or Junior Lien Documents, as applicable, without granting a Lien thereon to secure any Junior Lien Obligations or Priority Lien Obligations, as applicable; or

(b) grant or permit any additional Liens on any asset or property to secure any Priority Lien Obligations unless it has granted or concurrently grants a Junior Lien on such asset or property to secure all of the Junior Lien Obligations; provided that this provision will not be violated if the Collateral Agent is given a reasonable opportunity to accept a Lien on any asset or property for the benefit of the Junior Lien Secured Parties and the Collateral Agent states in writing that the Junior Lien Documents prohibit the Collateral Agent from accepting a Lien on such asset or property or the applicable Junior Lien Representative otherwise expressly declines to accept a Lien on such asset or property.

To the extent that the foregoing provisions are not complied with for any reason, without limiting any other rights and remedies available to the Priority Lien Secured Parties, the Collateral Agent, on behalf of the Junior Lien Secured Parties, agrees that any amounts received by or distributed to it pursuant to or as a result of Liens granted in contravention of this Section 2.10 shall be subject to Section 3.4.

Notwithstanding the foregoing or Section 2.11, any Grantor may grant or permit Liens on cash or cash equivalents to the issuers of letters of credit (and/or any lenders participating in the facilities under which such letters of credit are issued) to satisfy requirements set forth in the reimbursement agreement for such letters of credit or the related facilities with respect to the cash collateralization of such letters of credit without granting a lien on such cash or cash equivalents to secure any other Secured Obligation.

SECTION 2.11 Similar Liens and Agreements. The parties hereto agree that, except as provided in Section 2.10, it is their intention that the Collateral for the Priority Lien Obligations and the Collateral for the Junior Lien Obligations be identical. In furtherance of the foregoing, the parties hereto agree, subject to the other provisions of this Agreement, that the Security Documents creating or evidencing the Priority Liens and the Junior Liens, will be in all material respects the same forms of documents other than as is necessary or appropriate to reflect the first lien and second lien nature of the Obligations thereunder.

In addition, the Grantors agree that each mortgage securing any Junior Lien on such property contain such other language as the Controlling Representative may reasonably request to reflect the subordination of such mortgage to the mortgage securing any Priority Lien on such property.

SECTION 2.12 Confirmation of Subordination in Junior Lien Security Documents. The Grantors agree that each Junior Lien Security Document shall include the following language (or language to similar effect approved by the Controlling Representative):

“Notwithstanding anything herein to the contrary, the lien and security interest granted to the Collateral Agent for the benefit of the [Junior Lien Secured Parties] pursuant to this Agreement and the exercise of any right or remedy by the Collateral Agent for the benefit of the [Junior Lien Secured Parties] hereunder are subject to the provisions of the Collateral Agency Agreement, dated as of June 14, 2016 (as amended, restated, supplemented or otherwise modified from time to time, the “**Collateral Agency Agreement**”), among Gogo Inc., a Delaware corporation, Gogo Intermediate Holdings LLC, a Delaware limited liability company, Gogo Finance Co. Inc., a Delaware corporation, the other Grantors from time to time party thereto, U.S. Bank National Association, as Collateral Agent and certain other persons party or that may become party thereto from time to time (including the Secured Debt Representatives thereunder). In the event of any conflict between the terms of the Collateral Agency Agreement and this Agreement, the terms of the Collateral Agency Agreement shall govern and control.”

; *provided, however*, that if the jurisdiction in which any such Junior Lien Security Document will be filed prohibits the inclusion of the language above or would prevent a document containing such language from being recorded, the applicable Junior Lien Representatives and the Controlling Representative agree, prior to such Junior Lien Security Document being entered into, to negotiate in good faith replacement language stating that the lien and security interest granted under such Junior Lien Security Document is subject to the provisions of this Agreement.

ARTICLE 3. OBLIGATIONS AND POWERS OF COLLATERAL AGENT

SECTION 3.1 Appointment and Undertaking of the Collateral Agent.

(a) Each Hedge Provider, each Bank Product Provider and each other Secured Party acting through its respective Secured Debt Representative and/or by its acceptance of the

benefits of the Security Documents hereby appoints the Collateral Agent to serve as collateral agent hereunder on the terms and conditions set forth herein. Subject to, and in accordance with, this Agreement, the Collateral Agent will, as collateral agent, for the benefit solely and exclusively of the present and future Secured Parties, in accordance with the terms of this Agreement:

(1) accept, enter into, hold, maintain, administer and enforce all Security Documents, including all Collateral subject thereto, and all Liens created thereunder, perform its obligations hereunder and under the Security Documents and protect, exercise and enforce the interests, rights, powers and remedies granted or available to it under, pursuant to or in connection with the Security Documents;

(2) take all lawful and commercially reasonable actions permitted under the Security Documents that it may deem necessary or advisable to protect or preserve its interest in the Collateral subject thereto and such interests, rights, powers and remedies;

(3) deliver and receive notices pursuant to this Agreement and the Security Documents;

(4) sell, assign, collect, assemble, foreclose on, institute legal proceedings with respect to, or otherwise exercise or enforce the rights and remedies of a secured party (including a mortgagee, trust deed beneficiary and insurance beneficiary or loss payee) with respect to the Collateral under the Security Documents and its other interests, rights, powers and remedies;

(5) remit as provided in Section 3.4 all cash proceeds received by the Collateral Agent from the collection, foreclosure or enforcement of its interest in the Collateral under the Security Documents or any of its other interests, rights, powers or remedies;

(6) execute and deliver (i) amendments and supplements to the Security Documents as from time to time authorized pursuant to Section 7.1 accompanied by an Officer's Certificate to the effect that the amendment or supplement was permitted under Section 7.1 and (ii) acknowledgements of Collateral Agency Joinders delivered pursuant to Section 3.8, 3.9 or 7.21 hereof; and

(7) release any Lien granted to it by any Security Document upon any Collateral if and as required by Section 3.2 or Article 4.

(b) Each party to this Agreement acknowledges and consents to the undertaking of the Collateral Agent set forth in Section 3.1(a) and agrees to each of the other provisions of this Agreement applicable to the Collateral Agent.

(c) Notwithstanding anything to the contrary contained in this Agreement, the Collateral Agent will not commence any exercise of remedies or any foreclosure actions or otherwise take any action or proceeding against any of the Collateral (other than actions as necessary to prove, protect or preserve the Liens securing the Secured Obligations) unless and until it shall have been directed in writing by an Act of Required Secured Parties and then only in accordance with the provisions of this Agreement.

(d) Notwithstanding anything to the contrary contained in this Agreement, act or decline to act in connection with any enforcement of Liens as provided in Section 3.3

(e) Notwithstanding anything to the contrary contained in this Agreement, no Grantor nor any of its Affiliates may serve as Collateral Agent.

SECTION 3.2 Release or Subordination of Liens. The Collateral Agent will not release or subordinate any Lien of the Collateral Agent or consent to the release or subordination of any Lien of the Collateral Agent, except:

(a) as directed by an Act of Required Secured Parties accompanied by an Officer's Certificate to the effect that the release or subordination was permitted by each applicable Secured Debt Document;

(b) as required by Article 4;

(c) as ordered pursuant to applicable law under a final and nonappealable order or judgment of a court of competent jurisdiction; or

(d) for the subordination of the Junior Trust Estate and the Junior Liens to the Senior Trust Estate and the Priority Liens.

SECTION 3.3 Enforcement of Liens. If the Collateral Agent at any time receives written notice that any event has occurred that constitutes a default under any Secured Debt Document entitling the Collateral Agent to foreclose upon, collect or otherwise enforce its Liens under the Security Documents, the Collateral Agent will promptly deliver written notice thereof to each Secured Debt Representative. Thereafter, the Collateral Agent may await direction by an Act of Required Secured Parties and will act, or decline to act, as directed by an Act of Required Secured Parties, in the exercise and enforcement of the Collateral Agent's interests, rights, powers and remedies in respect of the Collateral or under the Security Documents or applicable law and, following the initiation of such exercise of remedies, the Collateral Agent will act, or decline to act, with respect to the manner of such exercise of remedies as directed by an Act of Required Secured Parties; provided, however, that upon expiration of the Standstill Period, the Collateral Agent shall exercise or decline to exercise enforcement rights, powers and remedies as directed by the Required Junior Lien Debtholders as provided in Section 2.4 hereof unless the priority Lien Secured Parties or a Priority Lien Representative shall have caused the Collateral Agent to commence and diligently pursue the exercise of rights and remedies with respect to all or any material portion of the Collateral. Unless it has been directed to the contrary by an Act of Required Secured Parties, the Collateral Agent in any event may (but will not be obligated to) take or refrain from taking such action with respect to any default under any Secured Debt Document as it may deem advisable and in the best interest of the Secured Parties.

SECTION 3.4 Application of Proceeds.

(a) The Collateral Agent will apply the proceeds of any collection, sale, foreclosure or other realization upon, or exercise of any right or remedy with respect to, any Collateral and the proceeds thereof and the proceeds of any insurance policy required under any Priority Lien Document or Junior Lien Document or otherwise covering the Collateral in the following order of application:

FIRST, to the payment of all amounts payable under this Agreement on account of the Collateral Agent's fees and any reasonable legal fees, costs and expenses or other liabilities of any kind incurred by the Collateral Agent or any co-trustee or agent of the Collateral Agent in connection with any Security Document (including, but not limited to, indemnification obligations that are then due and payable);

SECOND, to the respective Priority Lien Representatives, Hedge Providers and Bank Product Providers on a pro rata basis for each Series of Priority Lien Debt, Hedging Obligations constituting Priority Lien Obligations and Bank Product Obligations constituting Priority Lien Obligations that are secured by such Collateral (or, where such Hedging Obligations or Bank Product Obligations are represented by a Priority Lien Representative, to such Priority Lien Representative on their behalf) for application to the payment of all such outstanding Priority Lien Debt and any such other Priority Lien Obligations that are then due and payable and so secured (for application in such order as may be provided in the Priority Lien Documents applicable to the respective Priority Lien Obligations) in an amount sufficient to pay in full in cash all outstanding Priority Lien Debt and all other Priority Lien Obligations that are then due and payable (including all interest and fees accrued thereon after the commencement of any Insolvency or Liquidation Proceeding at the rate, including any applicable post-default rate, specified in the Priority Lien Documents, even if such interest is not enforceable, allowable or allowed as a claim in such proceeding, and including the discharge or cash collateralization (at the lower of (1) 103% of the aggregate undrawn amount and (2) the percentage of the aggregate undrawn amount required for release of Liens under the terms of the applicable Priority Lien Document) of all outstanding letters of credit constituting Priority Lien Debt);

THIRD, to the respective Junior Lien Representatives, Hedge Providers and Bank Product Providers on a pro rata basis for each Series of Junior Lien Debt, Hedging Obligations constituting Junior Lien Obligations and Bank Product Obligations constituting Junior Lien Obligations that are secured by such Collateral (or, where such Hedging Obligations or Bank Product Obligations are represented by a Junior Lien Representative, to such Junior Lien Representative on their behalf) for application to the payment of all such outstanding Junior Lien Debt and any such other Junior Lien Obligations that are then due and payable and so secured (for application in such order as may be provided in the Junior Lien Documents applicable to the respective Junior Lien Obligations) in an amount sufficient to pay in full in cash all outstanding Junior Lien Debt and all other Junior Lien Obligations that are then due and payable (including all interest and fees accrued thereon after the commencement of any Insolvency or Liquidation Proceeding at the rate, including any applicable post-default rate, specified in

the Junior Lien Documents, even if such interest is not enforceable, allowable or allowed as a claim in such proceeding, and including the discharge or cash collateralization (at the lower of (1) 103% of the aggregate undrawn amount and (2) the percentage of the aggregate undrawn amount required for release of Liens under the terms of the applicable Junior Lien Document) of all outstanding letters of credit constituting Junior Lien Debt); and

FOURTH, any surplus remaining after the payment in full in cash of amounts described in the preceding clauses will be paid to the Issuers or the applicable Grantor, as the case may be, its successors or assigns, or to such other Persons as may be entitled to such amounts under applicable law or as a court of competent jurisdiction may direct.

Notwithstanding the foregoing, if any Series of Secured Debt has released its Lien on any Collateral as described below in Section 4.4, then such Series of Secured Debt and any related Secured Obligations of that Series thereafter shall not be entitled to share in the proceeds of any Collateral so released by that Series.

(b) If any Junior Lien Representative or any Junior Lien Secured Party collects or receives any proceeds of such foreclosure, collection or other enforcement, proceeds of any title insurance or other insurance and any proceeds subject to Liens that have been avoided or otherwise invalidated that should have been applied to the payment of the Priority Lien Obligations in accordance with Section 3.4(a) above, whether after the commencement of an Insolvency or Liquidation Proceeding or otherwise, such Junior Lien Representative or such Junior Lien Secured Party, as the case may be, will forthwith deliver the same to the Collateral Agent, for the account of the Priority Lien Secured Parties, to be applied in accordance with Section 3.4(a). Until so delivered, such proceeds shall be segregated and will be held by that Junior Lien Representative or that Junior Lien Secured Party, as the case may be, for the benefit of the Priority Lien Secured Parties.

(c) This Section 3.4 is intended for the benefit of, and will be enforceable as a third party beneficiary by, each present and future holder of Secured Obligations, each present and future Secured Debt Representative and the Collateral Agent as holder of Priority Liens and Junior Liens. The Secured Debt Representative of each future Series of Secured Debt will be required to deliver a Collateral Agency Joinder including a lien sharing and priority confirmation as provided in Section 3.8 at the time of incurrence of such Series of Secured Debt.

(d) In connection with the application of proceeds pursuant to Section 3.4(a), except as otherwise directed by an Act of Required Secured Parties, the Collateral Agent may sell any non-cash proceeds for cash prior to the application of the proceeds thereof.

(e) In making the determinations and allocations in accordance with Section 3.4(a), the Collateral Agent may conclusively rely upon information supplied by the relevant Priority Lien Representative, Hedge Provider and Bank Product Provider as to the amounts of unpaid principal and interest and other amounts outstanding with respect to its respective Priority Lien Debt and any other Priority Lien Obligations, the amount of any "settlement amount" (or similar term) of any Hedge Agreements included in the Priority Lien Obligations and the aggregate amounts payable under any Bank Product Agreements included in the Priority Lien

Obligations and information supplied by the relevant Junior Lien Representative, Hedge Provider and Bank Product Provider as to the amounts of unpaid principal and interest and other amounts outstanding with respect to its respective Junior Lien Debt and any other Junior Lien Obligations, the amount of any "settlement amount" (or similar term) of any Hedge Agreements included in the Junior Lien Obligations and the aggregate amounts payable under any Bank Product Agreements included in the Junior Lien Obligations. In calculating the amount of Secured Obligations owed to any Hedge Provider, the Secured Obligations owed to such Hedge Provider shall be determined by the relevant Hedge Provider in accordance with the terms of the relevant Hedge Agreement; provided that, notwithstanding anything herein or in any other Secured Obligations Document to the contrary, in the event that any such Hedge Agreement consists of more than one confirmation or trade or in the event that the relevant Hedge Provider is a party to any other Hedge Agreement, solely for purposes of calculating the Secured Obligations owed to such Hedge Provider under this Agreement, such calculation shall setoff and net all Obligations owing to such Hedge Provider or owed by such Hedge Provider under each such confirmation or trade and/or additional Hedge Agreement. In calculating the amount of Secured Obligations owed to any Bank Product Provider, the Secured Obligations owed to such Bank Product Provider shall be determined by the relevant Bank Product Provider in accordance with the terms of the relevant Bank Product Agreement.

SECTION 3.5 Powers of the Collateral Agent.

(a) The Collateral Agent is irrevocably authorized and empowered to enter into and perform its obligations and protect, perfect, exercise and enforce its interest, rights, powers and remedies under the Security Documents and applicable law and in equity and to act as set forth in this Article 3 or, subject to the other provisions of this Agreement, as requested in any lawful directions given to it from time to time in respect of any matter by an Act of Required Secured Parties.

(b) No Secured Debt Representative or Secured Party (other than the Collateral Agent) will have any liability whatsoever for any act or omission of the Collateral Agent.

SECTION 3.6 Documents and Communications. The Collateral Agent will permit each Secured Debt Representative and each Secured Party upon reasonable written notice from time to time to inspect and copy, at the cost and expense of the party requesting such copies, any and all Security Documents and other documents, notices, certificates, instructions or communications received by the Collateral Agent in its capacity as such.

SECTION 3.7 For Sole and Exclusive Benefit of the Secured Parties. The Collateral Agent will accept, hold, administer and enforce all Liens on the Collateral at any time transferred or delivered to it and all other interests, rights, powers and remedies at any time granted to or enforceable by the Collateral Agent and all other property of the Trust Estates solely and exclusively for the benefit of the present and future holders of present and future Secured Obligations, and will distribute all proceeds received by it in realization thereon or from enforcement thereof solely and exclusively pursuant to the provisions of Section 3.4.

SECTION 3.8 Additional Secured Debt.

(a) The Collateral Agent will, as collateral agent hereunder, perform its undertakings set forth in this Agreement with respect to any Secured Debt that is issued or incurred after the date hereof if:

(1) such Secured Debt is identified as Junior Lien Debt or Priority Lien Debt in accordance with the procedures set forth in Section 3.8(b); and

(2) unless such Secured Debt is issued under an existing Secured Debt Document for any Series of Secured Debt whose Secured Debt Representative is already party to this Agreement, the designated Secured Debt Representative identified pursuant to Section 3.8(b) signs a Collateral Agency Joinder and delivers the same to the Collateral Agent.

Notwithstanding the foregoing, (x) the incurrence of revolving credit obligations under commitments that have previously been designated as Secured Debt and (y) the issuance of letters of credit and incurrence of reimbursement obligations in respect thereof under commitments that have previously been designated as Secured Debt, shall automatically constitute Secured Debt and shall not require compliance with the procedures set forth in Section 3.8(b).

(b) The Issuers will be permitted to designate as Secured Debt hereunder any Funded Debt that is incurred by any Grantor after the date of this Agreement in accordance with the terms of all applicable Secured Debt Documents. The Issuers may only effect such designation by delivering to the Collateral Agent an Additional Secured Debt Designation that:

(1) states that the applicable Grantor intends to incur additional Secured Debt ("**Additional Secured Debt**") which will either be (as specified in such Additional Secured Debt Designation) (i) Priority Lien Debt not prohibited by any Secured Debt Document to be incurred and secured by a Priority Lien equally and ratably with all previously existing and future Priority Lien Debt or (ii) Junior Lien Debt not prohibited by any Secured Debt Document to be incurred and secured with a Junior Lien equally and ratably with all previously existing and future Junior Lien Debt;

(2) specifies the name and address of the Secured Debt Representative for such Additional Secured Debt for purposes of this Agreement including Section 7.7;

(3) states that each Issuer and each other Grantor has duly authorized, executed (if applicable) and recorded (or caused to be recorded) in each appropriate governmental office all relevant filings and recordations to ensure that the Additional Secured Debt is secured by the Collateral in accordance with the Security Documents;

(4) attaches as Exhibit 1 to such Additional Secured Debt Designation a Reaffirmation Agreement in substantially the form attached as Exhibit 1 to Exhibit A of this Agreement, which Reaffirmation Agreement has been duly executed by the Issuers and each other Grantor and Guarantor; and

(5) states that the Issuers have caused a copy of the Additional Secured Debt Designation and the related Collateral Agency Joinder to be delivered to each then existing Secured Debt Representative.

Although the Issuers shall be required to deliver a copy of each Additional Secured Debt Designation and each Collateral Agency Joinder to each then existing Secured Debt Representative, the failure to so deliver a copy of the Additional Secured Debt and/or Collateral Agency Joinder to any then existing Secured Debt Representative shall not affect the status of such debt as Additional Secured Debt if the other requirements of this Section 3.8 are complied with. Notwithstanding the foregoing, nothing in this Agreement will be construed to allow the Issuers or any other Grantor to incur additional Funded Debt or Liens if prohibited by the terms of any Secured Debt Documents.

(c) With respect to any Secured Debt that is issued or incurred after the date hereof, each Issuer and each of the other Grantors agrees to take such actions (if any) as may from time to time reasonably be requested by the Collateral Agent, any Priority Lien Representative, any Junior Lien Representative or any Act of Required Secured Parties, and enter into such technical amendments, modifications and/or supplements to the then existing Guarantees and Security Documents (or execute and deliver such additional Security Documents) as may from time to time be reasonably requested by such Persons, to ensure that the Additional Secured Debt is secured by, and entitled to the benefits of, the relevant Security Documents, and each Secured Party (by its acceptance of the benefits hereof) hereby agrees to, and authorizes the Collateral Agent to enter into, any such technical amendments, modifications and/or supplements (and additional Security Documents). Each Issuer and each Grantor hereby further agree that, if there are any recording, filing or other similar fees payable in connection with any of the actions to be taken pursuant to this Section 3.8(c), all such amounts shall be paid by, and shall be for the account of, the Issuers and the respective Grantors, on a joint and several basis.

(d) The Grantors shall have the right at any time on or after the Discharge of Priority Lien Obligations has occurred, to enter into any Priority Lien Document evidencing a Priority Lien Debt which incurrence is not prohibited by the applicable Secured Debt Documents, and to designate such Funded Debt as Priority Lien Debt in accordance with Section 3.8(b). At any time from and after the date of such designation pursuant to Section 3.8(b) (the "**Reference Date**"), subject to compliance with Section 3.8(c), the obligations under such Priority Lien Document shall automatically and without further action be treated as Priority Lien Debt for all purposes of this Agreement, including for purposes of the Lien priorities and rights in respect of Collateral set forth herein, and the Junior Lien Obligations shall be at all times subordinated and junior to such Priority Liens Obligations pursuant to the terms of this Agreement, including with respect to Junior Lien Obligations that were incurred or outstanding on or prior to the Reference Date.

SECTION 3.9 Hedging Obligations and Bank Product Obligations.

(a) The Collateral Agent will, as collateral agent hereunder, also perform its undertakings set forth in Section 3.1(a) with respect to any Hedging Obligations or Bank Product Obligations under a Hedge Agreement or Bank Product Agreement that is incurred after the date hereof if:

(1) such Hedge Agreement (and each Swap Transaction in respect thereof) or Bank Product Agreement is identified in accordance with the procedures set forth in Section 3.9(b); and

(2) the Hedge Provider or Bank Product Provider, as applicable, identified pursuant to Section 3.9(b) signs a Collateral Agency Joinder and delivers the same to the Collateral Agent (it being understood and agreed that only one Collateral Agency Joinder will be required for each Hedge Agreement and that separate Collateral Agency Joinders will not be required for each Swap Transaction thereunder).

(b) Each time a Grantor enters into (i) any Swap Contract that such Grantor desires to designate as a Hedge Agreement, (ii) any Swap Transaction under any Hedge Agreement or (iii) any agreement giving rise to Bank Product Obligations that such Grantor desires to designate as a Bank Product Agreement, the Issuers shall deliver to the Collateral Agent an Additional Secured Obligations Designation that:

(1) states that the relevant Grantor intends to incur such Hedging Obligations or Bank Product Obligations, as applicable, which will be (as specified in such Additional Secured Obligation Designation) Priority Lien Obligations or Junior Lien Obligations, as applicable, and that no Secured Debt Document prohibits the incurrence thereof or prohibits such Hedging Obligations or Bank Product Obligations to be secured by a Priority Lien or a Junior Lien, as applicable, equally and ratably with all previously existing and future Priority Lien Obligations or Junior Lien Obligations, as applicable;

(2) specifies the name and address of the relevant Hedge Provider or Bank Product Provider and identifies the Hedge Agreement, Swap Transaction or Bank Product Agreement, as applicable;

(3) states that each Issuer and each other Grantor has duly authorized, executed (if applicable) and recorded (or caused to be recorded) in each appropriate governmental office all relevant filings and recordations to ensure that such Hedging Obligations or Bank Product Obligations are secured by the Collateral in accordance with the Security Documents;

(4) attaches as Exhibit 1 to such Additional Secured Obligation Designation a Reaffirmation Agreement in substantially the form attached as Exhibit 1 to Exhibit D of this Agreement, which Reaffirmation Agreement has been duly executed by the Issuers and each other Grantor and Guarantor; and

(5) states that the Issuers have caused a copy of the Additional Secured Obligation Designation and the related Collateral Agency Joinder to be delivered to each then existing Secured Debt Representative.

Although the Issuers shall be required to deliver a copy of each Additional Secured Obligation Designation and each Collateral Agency Joinder to each then existing Secured Debt

Representative, the failure to so deliver a copy of the Additional Secured Obligation Designation and/or Collateral Agency Joinder to any then existing Secured Debt Representative shall not affect the status of such obligations as Secured Obligations if the other requirements of this Section 3.9 are complied with. Notwithstanding the foregoing, nothing in this Agreement will be construed to allow the Issuers or any other Grantor to incur additional Obligations or Liens or enter into any Swap Transactions if prohibited by the terms of any Secured Debt Document.

(c) With respect to any Hedging Obligations and Bank Product Obligations, the Issuers and each of the other Grantors agrees to take such actions (if any) as necessary or as otherwise may from time to time reasonably be requested by the Collateral Agent, any Priority Lien Representative, any Act of Required Secured Parties, any Junior Lien Representative or the Required Junior Lien Debtholders, as applicable, and enter into such amendments, modifications and/or supplements to the then existing Guarantees and Security Documents (or execute and deliver such additional Security Documents) as may from time to time be reasonably requested by such Persons, to ensure that the Hedging Obligations and Bank Product Obligations incurred after the date hereof are secured by, and entitled to the benefits of, the relevant Security Documents, and each Secured Party (by its acceptance of the benefits hereof) hereby agrees to, and authorizes the Collateral Agent to enter into, any such amendments, modifications and/or supplements (and additional Security Documents). The Issuers and each Grantor hereby further agree that if there are any recording, filing or other similar fees or taxes payable in connection with any of the actions to be taken pursuant to this Section 3.9(c) all such amounts shall be paid by, and shall be for the account of, the Issuers and the respective Grantors, on a joint and several basis.

(d) The Grantors shall have the right, at any time on or after the Discharge of Priority Lien Obligations has occurred, to enter into any Hedge Agreement or Bank Product Agreement evidencing Priority Lien Obligations which incurrence is not prohibited by the applicable Secured Debt Documents, and to designate such obligations as Priority Lien Obligations in accordance with Section 3.9(b). At any time from and after the date of such designation pursuant to Section 3.9(b) (the "**Priority Lien Hedge and Bank Product Reference Date**"), subject to compliance with Sections 3.9(c), the obligations under such Hedge Agreement or Bank Product Agreement shall automatically and without further action be treated as Priority Lien Obligations for all purposes of this Agreement, including for purposes of the Lien priorities and rights in respect of Collateral set forth herein, and the Junior Lien Obligations shall be at all times subordinated and junior to such Priority Lien Obligations pursuant to the terms of this Agreement, including with respect to Junior Lien Obligations that were incurred or outstanding on or prior to the Priority Lien Hedge and Bank Product Reference Date.

ARTICLE 4. OBLIGATIONS ENFORCEABLE BY THE ISSUERS AND THE OTHER GRANTORS

SECTION 4.1 Release of Liens on Collateral.

(a) The Collateral Agent's Liens upon the Collateral will be released in any of the following circumstances:

(1) in whole, upon (A) payment in full and discharge of all outstanding Secured Debt and all other Secured Obligations (other than any obligations for taxes, costs, indemnifications, reimbursements, damages and other liabilities in respect of which no claim or demand for payment has been made at such time) that are outstanding, due and payable at the time all of the Secured Debt is paid in full and discharged (or the cash collateralization or payment (or other arrangements with respect thereto) of all Hedging Obligations and Bank Product Obligations constituting Secured Obligations on terms satisfactory to each applicable counterparty, and the expiration or termination of all Hedging Agreements the obligations under which would constitute Secured Obligations) and (B) termination or expiration of all commitments to extend credit under all Secured Debt Documents and the cancellation or termination, cash collateralization (at the lower of (1) 103% of the aggregate undrawn amount and (2) the percentage of the aggregate undrawn amount required for release of Liens under the terms of the applicable Secured Debt Documents) of all outstanding letters of credit issued pursuant to any Secured Debt Documents or, solely to the extent if any agreed to by the issuer of any outstanding letter of credit issued pursuant to any Secured Debt Document, the issuance of a back to back letter of credit in favor of the issuer of any such outstanding letter of credit in an amount equal to such outstanding letter of credit and issued by a financial institution acceptable to such issuer; or

(2) as to any Collateral (including any rights to use intellectual property assets constituting Collateral) that is sold, transferred or otherwise disposed of (other than pursuant to clauses (3) or (4) below) by any Grantor to a Person that is not (either before or after such sale, transfer or disposition) a Grantor or a Restricted Subsidiary (as defined in the applicable Priority Lien Documents) of a Grantor (except in the case of an IP Reorganization Transaction (as defined in the Indenture), which shall result in a release of the subject Collateral pursuant to this clause (2)) in a transaction or other circumstance that is permitted by all of the Secured Debt Documents, at the time of such sale, transfer or other disposition or to the extent of the interest sold, transferred or otherwise disposed of; or

(3) as to a release of less than all or substantially all of the Collateral (other than pursuant to clause (2) above), if (A) consent to the release of all Priority Liens (or, at any time after the Discharge of Priority Lien Obligations, the Junior Liens) on such Collateral has been given by an Act of Required Secured Parties or (B) the Priority Liens (or, at any time after the Discharge of Priority Lien Obligations, the Junior Liens) on such collateral have been automatically released pursuant to the Priority Lien Documents; *provided*, that this clause (3) shall not apply to Discharge of Priority Lien Obligations upon payment in full thereof; or

(4) as to a release of all or substantially all of the Collateral (other than pursuant to clause (2) above), if (A) consent to release of that Collateral has been given by the requisite percentage or number of holders of each Series of Secured Debt at the time outstanding as provided for in the applicable Secured Debt Documents and (B) the Issuers have delivered an Officer's Certificate to the Collateral Agent certifying that any such necessary consents have been obtained; or

(5) if any Grantor is released from its obligations under each of the Junior Lien Documents, then the Junior Liens on such Collateral and the obligations of such Grantor (if it is also a Guarantor) under its Guarantee of the Junior Lien Obligations, shall be automatically, unconditionally and simultaneously released;

(6) if any Grantor is released from its obligations under each of the Priority Lien Documents, then the Priority Liens on such Collateral and the obligations of such Grantor (if it is also a Guarantor) under its Guarantee of the Priority Lien Obligations, shall be automatically, unconditionally and simultaneously released; or

(7) notwithstanding any of the foregoing, if the Collateral Agent is exercising its rights or remedies with respect to the Collateral under the Priority Lien Security Documents pursuant to an Act of Required Secured Parties, and the Collateral Agent releases any of the Priority Liens on any part of the Collateral or any Guarantor is released from its obligations under its Guarantee of the Priority Lien Obligations in connection therewith, then the Junior Liens on such Collateral and the obligations of such Guarantor under its Guarantee of the Junior Lien Obligations, shall be automatically, unconditionally and simultaneously released. If in connection with any exercise of rights and remedies by the Collateral Agent under the Priority Lien Security Documents pursuant to an Act of Required Secured Parties, the equity interests of any Person are foreclosed upon or otherwise disposed of and the Collateral Agent releases Priority Lien on the property or assets of such Person then the Junior Liens with respect to the property or assets of such Person will be concurrently and automatically released to the same extent as the Priority Liens on such property or assets are released.

(b) In addition to and without limiting the provisions of Section 4.1(a), the Collateral Agent agrees for the benefit of the Issuers and the other Grantors that if the Collateral Agent at any time receives:

(1) an Officer's Certificate stating that (A) the signing officer has read Article 4 of this Agreement and understands the provisions and the definitions relating hereto, (B) such officer has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not the conditions precedent in this Agreement and all other Secured Debt Documents, if any, relating to the release of the Collateral have been complied with and (C) in the opinion of such officer, such conditions precedent, if any, have been or will, by the applicable release date, be complied with;

(2) the proposed instrument or instruments releasing such Lien as to such property in recordable form, if applicable; and

(3) to the extent required by Section 4.1(a), prior to the Discharge of Priority Lien Obligations, the written confirmation of each Priority Lien Representative (or, at any time after the Discharge of Priority Lien Obligations, each Junior Lien Representative) (such confirmation to be given following receipt of, and based solely on, the Officer's Certificate described in clause (1) above) that, in its view, such release is permitted by Section 4.1(a) and the respective Secured Debt Documents governing the Secured Obligations the holders of which such Secured Debt Representative represents;

then the Collateral Agent will execute (with such acknowledgements and/or notarizations as are required) and deliver such release to the Issuers or other applicable Grantor on or before the later of (x) the date specified in such request for such release and (y) the fifth Business Day after the date of receipt of the items required by this Section 4.1(b) by the Collateral Agent.

(c) The Collateral Agent hereby agrees that:

(1) in the case of any release pursuant to clause (2) of Section 4.1(a), if the terms of any such sale, transfer or other disposition require the payment of the purchase price to be contemporaneous with the delivery of the applicable release, then, at the written request of and at the expense of the Issuers or other applicable Grantor, the Collateral Agent will either (A) be present at and deliver the release at the closing of such transaction or (B) deliver the release under customary escrow arrangements that permit such contemporaneous payment and delivery of the release; and

(2) at any time when a Secured Debt Default under a Series of Secured Debt that constitutes Junior Lien Debt has occurred and is continuing, within one Business Day of the receipt by it of any Act of Required Secured Parties pursuant to Section 4.1(a)(3), the Collateral Agent will deliver a copy of such Act of Required Secured Parties to each Secured Debt Representative.

(d) Each Secured Debt Representative hereby agrees that:

(1) as soon as reasonably practicable after receipt of an Officer's Certificate from the Issuers pursuant to Section 4.1(b)(1) it will, to the extent required by such Section, either provide (A) the written confirmation required by Section 4.1(b)(3), (B) a written statement that such release is not permitted by Section 4.1(a) or (C) a request for further information from the Issuers reasonably necessary to determine whether the proposed release is permitted by Section 4.1(a) and after receipt of such information such Secured Debt Representative will as soon as reasonably practicable either provide the written confirmation or statement required pursuant to clause (A) or (B), as applicable; and

(2) within one Business Day of the receipt by it of any notice from the Collateral Agent pursuant to Section 4.1(c)(2), such Secured Debt Representative will deliver a copy of such notice to each registered holder of the Series of Priority Lien Debt or Series of Junior Lien Debt for which it acts as Secured Debt Representative.

SECTION 4.2 Delivery of Copies to Secured Debt Representatives. The Issuers will deliver to each Secured Debt Representative a copy of each Officer's Certificate delivered to the Collateral Agent pursuant to Section 4.1(b), together with copies of all documents delivered to the Collateral Agent with such Officer's Certificate. The Secured Debt Representatives will not be obligated to take notice thereof or to act thereon, subject to Section 4.1(d).

SECTION 4.3 Collateral Agent not Required to Serve, File or Record. The Collateral Agent is not required to serve, file, register or record any instrument releasing or subordinating its Liens on any Collateral; *provided, however*, that if the Issuers or any other Grantor shall make a written demand for a termination statement under Section 9-513(c) of the UCC, the Collateral Agent shall comply with the written request of such Issuers or Grantor to comply with the requirements of such UCC provision.

SECTION 4.4 Release of Liens in Respect of any Series of Priority Lien Debt or any Series of Junior Lien Debt.

(a) *Release of Liens in Respect of the Notes*. In addition to any release pursuant to Section 4.1 hereof, the Collateral Agent's Priority Lien will no longer secure the Notes outstanding under the Indenture or any other Obligations under the Indenture, and the right of the holders of the Notes and such Obligations to the benefits and proceeds of the Collateral Agent's Priority Lien on the Collateral will terminate and be discharged:

(1) upon satisfaction and discharge of the Indenture as set forth under Section 12.01 of the Indenture;

(2) upon a Legal Defeasance or Covenant Defeasance (each as defined under the Indenture) of the Notes as set forth under Section 8.02 or Section 8.03, as applicable, of the Indenture;

(3) upon payment in full and discharge of all Notes outstanding under the Indenture and all Obligations that are outstanding, due and payable under the Indenture at the time the Notes are paid in full and discharged; or

(4) in whole or in part, with the consent of the holders of the requisite percentage of Notes in accordance with Section 9.02 of the Indenture.

In addition, the Collateral Agent's Priority Lien on any Excess Proceeds (as defined in the Indenture) that remain unexpended after the conclusion of an applicable Offer to Purchase (as defined in the Indenture) conducted in accordance with the Indenture will no longer secure the Notes outstanding under the Indenture or any other Obligations under the Indenture, and the right of the holders of the Notes and such Obligations to the benefits and proceeds of the Collateral Agent's Priority Lien on such Excess Proceeds will terminate and be discharged.

(b) *Release of Liens in Respect of any Series of Priority Lien Debt (other than the Notes) or any Series of Junior Lien Debt*. In addition to any release pursuant to Section 4.1 hereof, as to any Series of Priority Lien Debt other than the Notes, the Collateral Agent's Priority Lien will no longer secure such Series of Priority Lien Debt if the requirements of a Discharge of Priority Lien Obligations are satisfied with respect to such Series of Priority Lien Debt and all Priority Lien Obligations related thereto. In addition to any release pursuant to Section 4.1 hereof, as to any Series of Junior Lien Debt, the Collateral Agent's Junior Lien will no longer secure such Series of Junior Lien Debt if such Junior Lien Debt has been paid in full in cash, all commitments to extent credit in respect of such Series of Junior Lien Debt have been terminated and all other Junior Lien Obligations related thereto that are outstanding and unpaid at the time such Series of Junior Lien Debt is paid are also paid in full in cash (other than any obligations for taxes, costs, indemnifications, reimbursements, damages and other liabilities in respect of which no claim or demand for payment has been made at such time).

(c) *Release of Liens with respect to Affiliate Securities.* In the event that Rule 3-16 of Regulation S-X under the Securities Act is amended, modified or interpreted by the Securities and Exchange Commission to require (or is replaced with another rule or regulation, or any other law, rule or regulation is adopted, which would require) the filing with the Securities and Exchange Commission of separate financial statements of any “affiliate” of the Issuers due to the fact that such affiliate’s “securities” secure any Series of Secured Debt, then such “securities” shall automatically be deemed not to constitute security for any Series of Secured Debt so affected (but shall continue to constitute collateral for any Series of Secured Debt not having the above described effect). As used herein, “securities” and “affiliate” shall have the meaning set forth in Regulation S-X or such other law, rule or regulation, as applicable. In addition, any Series of Secured Debt may disclaim the benefit of any Affiliate Securities in any Collateral Agency Joinder.

ARTICLE 5. IMMUNITIES OF THE COLLATERAL AGENT

SECTION 5.1 No Implied Duty. The Collateral Agent will not have any fiduciary duties nor will it have responsibilities or obligations other than those expressly assumed by it in this Agreement and the other Security Documents. The Collateral Agent will not be required to take any action that is contrary to applicable law or any provision of this Agreement or the other Security Documents. Neither the Collateral Agent nor any of its Related Parties shall be (a) liable for any action lawfully taken or omitted to be taken by it or such Person under or in connection with this Agreement or any Security Document (except to the extent that any of the foregoing are found by a final and non-appealable decision of a court of competent jurisdiction to have been caused by its or such Person’s (as applicable) own gross negligence, bad faith or willful misconduct) or (b) responsible in any manner to any Secured Party for any recitals, statements, representations or warranties made by any Grantor or any officer thereof contained in this Agreement or any Security Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Collateral Agent or its Related Parties under or in connection with, this Agreement or any Security Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement, any Security Document, the Collateral or for any failure of the Grantors or any other party thereto to perform its obligations hereunder or thereunder. Neither the Collateral Agent nor any of the Secured Parties shall be under any obligation to any other Secured Party to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any Security Document, or to inspect the properties, books or records of any Grantor or any other Person. Neither the Collateral Agent nor any of its Related Parties shall have any responsibility to any Grantor or to any other Secured Party on account of the failure, delay in performance or breach by, or as a result of any information, materials or calculations provided by, any Secured Party of any of its obligations hereunder or to any Secured Party on account of the failure of or delay in performance or breach by any other Secured Party or any Grantor of any of their respective obligations hereunder or under any other Security Document or in connection herewith or therewith. Unless otherwise specified in this Agreement or the other applicable Secured Debt Documents, the Collateral Agent shall seek direction from, and act solely at the written direction of, an Act of Required Secured Parties. The Secured Parties

hereby acknowledge that neither the Collateral Agent nor its Related Parties shall be under any duty to take any discretionary action permitted to be taken by it pursuant to the provisions of this Agreement unless it shall be requested in writing to do so by an Act of Required Secured Parties. The Secured Parties further acknowledge and agree that so long as the Collateral Agent or its Related Parties shall make any determination to be made by it hereunder or under any other Secured Debt Document in good faith, neither the Collateral Agent nor its Related Parties shall have any liability in respect of such determination to any Person. Neither the Collateral Agent nor any of its Related Parties shall have any obligation to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder.

SECTION 5.2 Appointment of Agents and Advisors. The Collateral Agent may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, accountants, appraisers or other experts or advisors selected by it in good faith as it may reasonably require and will not be responsible for any misconduct or negligence on the part of any of them.

SECTION 5.3 Other Agreements. The Collateral Agent has accepted its appointment as Collateral Agent hereunder and is bound by the Security Documents executed by the Collateral Agent as of the date of this Agreement and, as directed by an Act of Required Secured Parties, the Collateral Agent shall execute additional Security Documents delivered to it after the date of this Agreement; *provided, however*, that such additional Security Documents do not adversely affect the rights, privileges, benefits and immunities of the Collateral Agent. The Collateral Agent will not otherwise be bound by, or be held obligated by, the provisions of any credit agreement, indenture or other agreement governing Secured Debt (other than this Agreement and the other Security Documents to which it is a party).

SECTION 5.4 Solicitation of Instructions.

(a) The Collateral Agent may at any time solicit written confirmatory instructions, in the form of an Act of Required Secured Parties, an Officer's Certificate or an order of a court of competent jurisdiction, as to any action that it may be requested or required to take, or that it may propose to take, in the performance of any of its obligations under this Agreement or the other Security Documents.

(b) No written direction given to the Collateral Agent by an Act of Required Secured Parties that in the sole judgment of the Collateral Agent imposes, purports to impose or might reasonably be expected to impose upon the Collateral Agent any obligation or liability not set forth in or arising under this Agreement and the other Security Documents will be binding upon the Collateral Agent unless the Collateral Agent elects, at its sole option, to accept such direction.

SECTION 5.5 Limitation of Liability. The Collateral Agent will not be responsible or liable for any action taken or omitted to be taken by it hereunder or under any other Security Document, except for its own gross negligence, bad faith or willful misconduct as determined in a final and nonappealable decision of a court of competent jurisdiction.

SECTION 5.6 Documents in Satisfactory Form. The Collateral Agent will be entitled to require that all agreements, certificates, opinions, instruments and other documents at any time submitted to it, including those expressly provided for in this Agreement, be delivered to it in a form and with substantive provisions reasonably satisfactory to it.

SECTION 5.7 Entitled to Rely. The Collateral Agent may seek and conclusively rely upon, and shall be fully protected in relying upon, any judicial order or judgment, upon any advice, opinion or statement of legal counsel, independent consultants and other experts selected by it in good faith and upon any certification, instruction, notice or other writing delivered to it by the Issuers or any other Grantor in compliance with the provisions of this Agreement or delivered to it by any Secured Debt Representative as to the Secured Parties for whom it acts, without being required to determine the authenticity thereof or the correctness of any fact stated therein or the propriety or validity of service thereof. The Collateral Agent may act in reliance upon any instrument comporting with the provisions of this Agreement or any signature reasonably believed by it to be genuine and may assume that any Person purporting to give notice or receipt or advice or make any statement or execute any document in connection with the provisions hereof or the other Security Documents has been duly authorized to do so. To the extent an Officer's Certificate or opinion of counsel is required or permitted under this Agreement to be delivered to the Collateral Agent in respect of any matter, the Collateral Agent may rely conclusively on Officer's Certificate or opinion of counsel as to such matter and such Officer's Certificate or opinion of counsel shall be full warranty and protection to the Collateral Agent for any action taken, suffered or omitted by it under the provisions of this Agreement and the other Security Documents.

SECTION 5.8 Secured Debt Default. The Collateral Agent will not be required to inquire as to the occurrence or absence of any Secured Debt Default and will not be affected by or required to act upon any notice or knowledge as to the occurrence of any Secured Debt Default unless and until it is directed by an Act of Required Secured Parties.

SECTION 5.9 Actions by Collateral Agent. As to any matter not expressly provided for by this Agreement or the other Security Documents, the Collateral Agent will act or refrain from acting as directed by an Act of Required Secured Parties and will be fully protected if it does so, and any action taken, suffered or omitted pursuant to hereto or thereto shall be binding on the Secured Parties. Phrases such as "satisfactory to the Collateral Agent", "approved by the Collateral Agent", "acceptable to the Collateral Agent", "as determined by the Collateral Agent", "in the Collateral Agent's discretion", "selected by the Collateral Agent", and phrases of similar import authorize and permit the Collateral Agent to approve, disapprove, determine, act or decline to act in its discretion, it being understood that the Collateral Agent in exercising such discretion shall act on the instructions by an Act of Required Secured Parties and shall be fully protected in, and shall incur no liability in connection with, acting (or failing to act) pursuant to such instructions. With regards to any action or refusal to act that involves discretion (including, but not limited to the exercise of any remedies), the Collateral Agent shall be entitled to refrain from any act or the taking of any action hereunder or from the exercise of any power or authority vested in it hereunder or thereunder unless and until the Collateral Agent shall have received instructions by an Act of Required Secured Parties and shall not be liable for any such delay in acting.

SECTION 5.10 Security or Indemnity in favor of the Collateral Agent. The Collateral Agent will not be required to advance or expend any funds or otherwise incur any financial liability in the performance of its duties or the exercise of its powers or rights hereunder unless it has been provided with security or indemnity reasonably satisfactory to it against any and all liability or expense which may be incurred by it by reason of taking or continuing to take such action.

SECTION 5.11 Rights of the Collateral Agent. In the event of any conflict between any terms and provisions set forth in this Agreement and those set forth in any other Security Document, the terms and provisions of this Agreement shall supersede and control the terms and provisions of such other Security Document. In the event there is any bona fide, good faith disagreement between the other parties to this Agreement or any of the other Security Documents resulting in adverse claims being made in connection with Collateral held by the Collateral Agent and the terms of this Agreement or any of the other Security Documents do not unambiguously mandate the action the Collateral Agent is to take or not to take in connection therewith under the circumstances then existing, or the Collateral Agent is in doubt as to what action it is required to take or not to take hereunder or under the other Security Documents, it will be entitled to refrain from taking any action (and will incur no liability for doing so) until directed otherwise in writing by a request signed jointly by the parties hereto entitled to give such direction or by order of a court of competent jurisdiction.

SECTION 5.12 Limitations on Duty of Collateral Agent in Respect of Collateral.

(a) Beyond the exercise of reasonable care in the custody of Collateral in its possession, notwithstanding anything to the contrary contained herein or in applicable law, the Collateral Agent shall have no responsibility for (i) preparing, recording, filing, re-recording, or re-filing any financing statement, perfection statement, continuation statement or other instrument in any public office or for otherwise ensuring the perfection or maintenance of any security interest granted pursuant to, or contemplated by, this Agreement, (ii) taking any necessary steps to preserve rights against any parties with respect to any Collateral, (iii) taking any action to protect against any diminution in value of the Collateral or (iv) monitoring or confirming the Grantors' compliance with any of their respective covenants, including covenants regarding the granting, perfection or maintenance of any security interest. The Collateral Agent will be deemed to have exercised reasonable care in the custody of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which it accords its own property, and the Collateral Agent will not be liable or responsible for any loss or diminution in the value of any of the Collateral by reason of the act or omission of any carrier, forwarding agency or other agent or bailee selected by the Collateral Agent in good faith.

(b) Except as provided in Section 5.12(a), the Collateral Agent will not be responsible for the existence, genuineness or value of any of the Collateral or for the validity, perfection, priority or enforceability of the Liens in any of the Collateral, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder, except to the extent such action or omission constitutes gross negligence, bad faith or willful misconduct on the part of the Collateral Agent (as determined in a final and nonappealable decision of a court of competent jurisdiction), for the validity or sufficiency of the Collateral or any agreement or

assignment contained therein, for the validity of the title of any Grantor to the Collateral, for insuring the Collateral or for the payment of taxes, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of the Collateral. The Collateral Agent hereby disclaims any representation or warranty to the current and future holders of the Secured Obligations concerning the perfection of the security interests granted to it or in the value of any Collateral.

(c) If at any time the Collateral Agent is served with any judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process which in any way affects the Collateral (including, but not limited to, orders of attachment or garnishment or other forms of levies or injunctions or stays relating to the transfer of the Collateral), the Collateral Agent (a) shall furnish to the Issuers and the Secured Debt Representatives prompt written notice thereof and (b) is authorized to comply therewith in any manner as it or its legal counsel of its own choosing deems appropriate and if the Collateral Agent complies with any such judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process, the Collateral Agent shall not be liable to any of the parties hereto or to any other Person even though such order, judgment, decree, writ or process may be subsequently modified or vacated or otherwise determined to have been without legal force or effect.

SECTION 5.13 Assumption of Rights, Not Assumption of Duties. Notwithstanding anything to the contrary contained herein:

(1) each of the parties thereto will remain liable under each of the Security Documents (other than this Agreement) to the extent set forth therein to perform all of their respective duties and obligations thereunder to the same extent as if this Agreement had not been executed;

(2) the exercise by the Collateral Agent of any of its rights, remedies or powers hereunder will not release such parties from any of their respective duties or obligations under the other Security Documents; and

(3) the Collateral Agent will not be obligated to perform any of the obligations or duties of any of the parties to the Security Documents other than the Collateral Agent.

SECTION 5.14 No Liability for Clean Up of Hazardous Materials. In the event that the Collateral Agent is required to acquire title to an asset for any reason, or take any managerial action of any kind in regard thereto, in order to carry out any fiduciary or trust obligation for the benefit of another, which in the Collateral Agent's sole discretion may cause the Collateral Agent to be considered an "owner or operator" under any environmental laws or otherwise cause the Collateral Agent to incur, or be exposed to, any environmental liability or any liability under any other federal, state or local law, the Collateral Agent reserves the right, instead of taking such action, either to resign as Collateral Agent in accordance with Article 6 or to arrange for the transfer of the title or control of the asset to a court appointed receiver. The Collateral Agent will not be liable to any Person for any environmental liability or any environmental claims or contribution actions under any federal, state or local law, rule or regulation by reason of the Collateral Agent's actions and conduct as authorized, empowered and directed hereunder or relating to any kind of discharge or release or threatened discharge or release of any hazardous materials into the environment.

SECTION 5.15 Force Majeure. The Collateral Agent shall not incur any liability for not performing any act or fulfilling any duty, obligation or responsibility hereunder by reason of any act or provision of any present or future law or regulation or governmental authority, any act of God or war, civil unrest, local or national disturbance or disaster, any act of terrorism, or the unavailability of the Federal Reserve Bank wire or facsimile or other wire or communication facility; provided that the Collateral Agent shall use commercially reasonable efforts to eliminate or minimize the effects of any such event.

ARTICLE 6. RESIGNATION AND REMOVAL OF THE COLLATERAL AGENT

SECTION 6.1 Resignation or Removal of Collateral Agent. Subject to the appointment of a successor Collateral Agent as provided in Section 6.2 and the acceptance of such appointment by the successor Collateral Agent:

(a) the Collateral Agent may resign at any time by giving not less than 30 days' notice of resignation to each Secured Debt Representative and the Issuers; and

(b) the Collateral Agent may be removed at any time, with or without cause, by an Act of Required Secured Parties.

SECTION 6.2 Appointment of Successor Collateral Agent. Upon any such resignation or removal, a successor Collateral Agent reasonably acceptable to the Issuers and the other Grantors may be appointed by an Act of Required Secured Parties. If no successor Collateral Agent has been so appointed and accepted such appointment within 30 days after the predecessor Collateral Agent gave notice of resignation or was removed, the retiring Collateral Agent may (at the expense of the Issuers), at its option, appoint a successor Collateral Agent, or petition a court of competent jurisdiction for appointment of a successor Collateral Agent, which must be a bank or trust company:

- (1) authorized to exercise corporate agency or trust powers;
- (2) having a combined capital and surplus of at least \$500,000,000; and
- (3) that is not an Issuer or an Affiliate of the Issuers.

The Collateral Agent will fulfill its obligations hereunder until a successor Collateral Agent meeting the requirements of this Section 6.2 has accepted its appointment as Collateral Agent and the provisions of Section 6.3 have been satisfied.

SECTION 6.3 Succession. When the Person so appointed as successor Collateral Agent accepts such appointment:

(1) such Person will succeed to and become vested with all the rights, powers, privileges and duties of the predecessor Collateral Agent, and the predecessor Collateral Agent will be discharged from its duties and obligations hereunder; and

(2) the predecessor Collateral Agent will (at the expense of the Issuers) promptly transfer all Liens and collateral security and other property of the Trust Estates within its possession or control to the possession or control of the successor Collateral Agent and will execute instruments and assignments as may be necessary or desirable or reasonably requested by the successor Collateral Agent to transfer to the successor Collateral Agent all Liens, interests, rights, powers and remedies of the predecessor Collateral Agent in respect of the Security Documents or the Trust Estates.

Thereafter the predecessor Collateral Agent will remain entitled to enforce the immunities granted to it in Article 5 and the provisions of Sections 7.11 and 7.12.

SECTION 6.4 Merger, Conversion or Consolidation of Collateral Agent. Any Person into which the Collateral Agent may be merged or converted or with which it may be consolidated, or any Person resulting from any merger, conversion or consolidation to which the Collateral Agent shall be a party, or any Person succeeding to the business of the Collateral Agent shall be the successor of the Collateral Agent pursuant to Section 6.3, provided that (i) without the execution or filing of any paper with any party hereto or any further act on the part of any of the parties hereto, except where an instrument of transfer or assignment is required by law to effect such succession, anything herein to the contrary notwithstanding, such Person satisfies the eligibility requirements specified in clauses (1) through (4) of Section 6.2 and (ii) prior to any such merger, conversion or consolidation, the Collateral Agent shall have notified the Issuers, each Priority Lien Representative and each Junior Lien Representative thereof in writing.

ARTICLE 7. MISCELLANEOUS PROVISIONS

SECTION 7.1 Amendment.

(a) No amendment, waiver or other modification to the provisions of any Security Document (other than this Agreement) will be effective against the parties to this Agreement that are not party to such Security Document without the approval of the Collateral Agent acting as directed by an Act of Required Secured Parties, except that:

(1) any amendment, waiver or other modification that has the effect solely of:

(A) adding or maintaining Collateral, securing additional Secured Obligations that are otherwise not prohibited by the terms of any Secured Debt Document to be secured by the Collateral or preserving, perfecting or establishing the Liens thereon or the rights of the Collateral Agent therein;

(B) curing any ambiguity, omission, mistake, defect or inconsistency;

(C) providing for the assumption of any Grantor's obligations under any Secured Debt Document in the case of a merger or consolidation or sale of all or substantially all of the assets of such Grantor to the extent not prohibited by the terms of the Secured Debt Documents; or

(D) conforming the text of this Agreement to any provision of the "Description of Notes" provisions in the Offering Memorandum for the Notes to the extent that such provision in the "Description of Notes" provisions in the Offering Memorandum for the Notes was intended to be a verbatim recitation of a provision of this Agreement (as evidenced by an Officer's Certificate of the Issuers);

will become effective when executed and delivered by the Issuers or any other applicable Grantor party thereto and the Collateral Agent;

(2) no amendment, waiver or other modification that reduces, impairs or adversely affects the right of any Secured Party:

(A) to vote its outstanding Secured Debt as to any matter described as subject to an Act of Required Secured Parties (or amends the provisions of this Section 7.1(a) (2) or the definitions of "*Act of Required Secured Parties*", "*Required Junior Lien Debtholders*" or "*Controlling Representative*");

(B) to share in the order of application described in Section 3.4 in the proceeds of enforcement of or realization on any Collateral that has not been released in accordance with the provisions described in Section 4.1 or 4.4;

(C) to require that Liens securing Secured Obligations be released only as set forth in the provisions described in Section 4.1 or 4.4;
or

(D) under this Section 7.1,

will become effective without the consent of the requisite percentage or number of holders of each Series of Secured Debt so affected under the applicable Secured Debt Documents; and

(3) no amendment, waiver or other modification that imposes any obligation upon the Collateral Agent or any Secured Debt Representative or adversely affects the rights of the Collateral Agent or any Secured Debt Representative, respectively, in its capacity as such will become effective without the consent of the Collateral Agent or such Secured Debt Representative, respectively.

(b) Notwithstanding Section 7.1(a) but subject to Sections 7.1(a)(2) and 7.1(a)(3):

(1) any mortgage or other Security Document that secures Junior Lien Obligations (but not Priority Lien Obligations) may be amended, waived or otherwise modified with the approval of the Collateral Agent acting as directed in writing by the Required Junior Lien Debtholders, unless such amendment, waiver or modification would not be permitted under the terms of this Agreement or the other Priority Lien Documents;

(2) any amendment, waiver or other modification of any provision of any Priority Lien Security Document will apply automatically to any comparable provision of any comparable Junior Lien Security Document without the consent of or notice to any Junior Lien Secured Party and without any action by the Issuers or any other Grantor or any holder of notes or other Junior Lien Secured Party; and

(3) any amendment, waiver or other modification of this Agreement will require the written consent of the Collateral Agent (acting as directed by an Act of Required Secured Parties), each of the Secured Debt Representatives and, to the extent of their respective rights and obligations under this Agreement, the Issuers and the other Grantors.

(c) The Collateral Agent will not be required to enter into any amendment, waiver or other modification unless it has received an Officer's Certificate to the effect that such amendment, waiver or other modification will not result in a breach of any provision or covenant contained in any of the Secured Debt Documents. Prior to executing any amendment, waiver or other modification pursuant to this Section 7.1, the Collateral Agent will be entitled to receive an opinion of counsel of the Issuers to the effect that the conditions precedent to the execution and delivery of such document have been satisfied.

SECTION 7.2 Voting. In connection with any matter under this Agreement requiring a vote of holders of Secured Debt, each Series of Secured Debt will cast its votes in accordance with the Secured Debt Documents governing such Series of Secured Debt. The amount of Secured Debt to be voted by a Series of Secured Debt will equal (1) the aggregate principal amount of Secured Debt held by such Series of Secured Debt (including outstanding letters of credit whether or not then available or drawn), *plus* (2) other than in connection with an exercise of remedies, the aggregate unfunded commitments to extend credit which, when funded, would constitute Funded Debt of such Series of Secured Debt. Following and in accordance with the outcome of the applicable vote under its Secured Debt Documents, the Secured Debt Representative of each Series of Secured Debt will cast all of its votes under that Series of Secured Debt as a block in respect of any vote under this Agreement.

SECTION 7.3 Further Assurances.

(a) The Issuers and each of the other Grantors will do or cause to be done all acts and things that may be required, or that the Collateral Agent from time to time may reasonably request, to assure and confirm that the Collateral Agent holds, for the benefit of the Secured Parties, duly created and enforceable and perfected Liens upon the Collateral, (including any property or assets that are acquired or otherwise become, or are required by any Secured Debt Document to become, Collateral after the date hereof), in each case as contemplated by, and with the Lien priority required under, the Secured Debt Documents.

(b) The Issuers and each of the other Grantors will promptly execute, acknowledge and deliver such security documents, instruments, certificates, notices and other documents, and take such other actions as may be reasonably required by applicable law, or that the Collateral Agent may reasonably request, to create, perfect, protect, assure or enforce the Liens and benefits intended to be conferred, in each case as contemplated by the Secured Debt Documents for the benefit of the Secured Parties.

(c) Upon the request of the Collateral Agent, the Issuers and the other Grantors will permit the Collateral Agent or any of its agents or representatives, at reasonable times and intervals upon reasonable prior notice, to visit their offices and sites and inspect any of the Collateral and to discuss matters relating to the Collateral with their respective officers and independent public accountants. The Issuers and the other Grantors shall, at any reasonable time and from time to time upon reasonable prior notice, permit the Collateral Agent or any of its agents or representatives to examine and make copies of and abstracts from the records and books of account of the Issuers and the other Grantors and their Subsidiaries, all at the Issuers' expense.

SECTION 7.4 Perfection of Junior Trust Estate.

Solely for purposes of perfecting the Liens of the Collateral Agent in its capacity as agent of the Junior Lien Secured Parties and the Junior Lien Representatives in any portion of the Junior Trust Estate in the possession or control of the Collateral Agent (or its agents or bailees) as part of the Senior Trust Estate including, without limitation, any instruments, goods, negotiable documents, tangible chattel paper, certificated securities, securities accounts or money, the Collateral Agent, the Priority Lien Secured Parties and the Priority Lien Representatives hereby acknowledge that the Collateral Agent also holds such property as gratuitous bailee for the benefit of the Collateral Agent for the benefit of the Junior Lien Secured Parties and the Junior Lien Representatives (such bailment being intended, among other things, to satisfy the requirements of Sections 8-106(d)(d), 8-301(a)(2) and 9-313(c) of the UCC). Solely with respect to any deposit accounts under the control (within the meaning of Section 9-104 of the UCC) of the Collateral Agent in its capacity as agent of the holders of the Priority Lien Obligations, the Collateral Agent agrees to also hold control over such deposit accounts as gratuitous agent for the benefit of the Junior Lien Secured Parties and the Junior Lien Representatives.

SECTION 7.5 Separate Grants and Separate Classification. Each of the parties and beneficiaries hereto acknowledges and agrees that:

(a) the grants of Liens to the Collateral Agent for the benefit of the Priority Lien Secured Parties and the grants of Liens to the Collateral Agent for the benefit of the Junior Lien Secured Parties constitute two separate and distinct grants of Liens; and

(b) because of, among other things, their differing rights in the Collateral, the Priority Lien Obligations are fundamentally different from the Junior Lien Obligations and must be separately classified in any plan of reorganization proposed or adopted in an Insolvency or Liquidation Proceeding.

To further effectuate the intent of the parties as provided in the immediately preceding sentence, if it is held that the claims of the Priority Lien Secured Parties and the Junior Lien Secured Parties in respect of the Collateral constitute only one secured claim (rather than separate classes of senior and junior secured claims), then each of the parties hereto hereby acknowledges and agrees that, all distributions shall be made as if there were separate classes of senior and junior secured claims against the Grantors in respect of the Collateral (with the effect being that, to the extent that the aggregate value of the Collateral is sufficient (for this purpose ignoring all claims held by the Junior Lien Secured Parties), the Priority Lien Secured Parties shall be entitled to receive, in addition to amounts distributed to them in respect of principal, pre-petition interest and other claims, all amounts owing (or that would be owing if there were such separate classes of senior and junior secured claims) in respect of post-petition interest, including any additional interest payable pursuant to the Priority Lien Documents, arising from or related to a default, which is disallowed as a claim in any Insolvency or Liquidation Proceeding) before any distribution is made in respect of the claims held by the Junior Lien Secured Parties with respect to the Collateral, with the Junior Lien Secured Parties, hereby acknowledging and agreeing to turn over to the Collateral Agent, for itself and on behalf of the Priority Lien Secured Parties, Collateral or proceeds of Collateral otherwise received or receivable by them to the extent necessary to effectuate the intent of this sentence, even if such turnover has the effect of reducing the claim or recovery of the Junior Lien Secured Parties).

SECTION 7.6 Successors and Assigns.

(a) Except as provided in Section 5.2, the Collateral Agent may not, in its capacity as such, delegate any of its duties or assign any of its rights hereunder, and any attempted delegation or assignment of any such duties or rights will be null and void. All obligations of the Collateral Agent hereunder will inure to the sole and exclusive benefit of, and be enforceable by, each Secured Debt Representative and each present and future holder of Secured Obligations, each of whom will be entitled to enforce this Agreement as a third-party beneficiary hereof, and all of their respective successors and assigns.

(b) Neither the Issuers nor any other Grantor may delegate any of its duties or assign any of its rights hereunder, and any attempted delegation or assignment of any such duties or rights will be null and void. All obligations of the Issuers and the other Grantors hereunder will inure to the sole and exclusive benefit of, and be enforceable by, the Collateral Agent, each Secured Debt Representative and each present and future holder of Secured Obligations, each of whom will be entitled to enforce this Agreement as a third-party beneficiary hereof, and all of their respective successors and assigns.

SECTION 7.7 Delay and Waiver. No failure to exercise, no course of dealing with respect to the exercise of, and no delay in exercising, any right, power or remedy arising under this Agreement or any of the other Security Documents will impair any such right, power or remedy or operate as a waiver thereof. No single or partial exercise of any such right, power or remedy will preclude any other or future exercise thereof or the exercise of any other right, power or remedy. The remedies herein are cumulative and are not exclusive of any remedies provided by law.

SECTION 7.8 Notices. Any communications, including notices and instructions, between the parties hereto or notices provided herein to be given may be given to the following addresses (including being sent by facsimile or email):

If to the Collateral Agent:

U.S. Bank National Association
190 S. LaSalle Street, 10th Floor
MK-IL-SLTR
Chicago, IL 60603
Attention: Global Corporate Trust & Escrow Services
Telephone: (312) 332-6781
Facsimile: (312) 332-8009
Email: linda.garcia@usbank.com

If to the Issuers or any other Grantor:

c/o Gogo Inc.
111 N. Canal St.
Chicago, IL 60606
Attn: Varvara Alva
Facsimile: 312-575-0543
Telephone: 312-517-6069

If to the Trustee:

U.S. Bank National Association
190 S. LaSalle Street, 10th Floor
MK-IL-SLTR
Chicago, IL 60603
Attention: Global Corporate Trust & Escrow Services
Telephone: (312) 332-6781
Facsimile: (312) 332-8009
Email: linda.garcia@usbank.com

and if to any other Secured Debt Representative, to such address as it may specify by written notice to the parties named above.

All notices and communications will be mailed by first class mail, certified or registered, return receipt requested, by overnight air courier guaranteeing next day delivery, or by facsimile or email, to the relevant address set forth above or, as to holders of Secured Debt, its address shown on the register kept by the office or agency where the relevant Secured Debt may be presented for registration of transfer or for exchange. Failure to mail or send a notice or communication to a holder of Secured Debt or any defect in it will not affect its sufficiency with respect to other holders of Secured Debt.

If a notice or communication is mailed in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it. Notices and communications sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and communications sent to an email address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return email or other written acknowledgement); *provided* that if any such notice or communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient.

SECTION 7.9 Notice Following Discharge of Priority Lien Obligations. Promptly following the Discharge of Priority Lien Obligations with respect to one or more Series of Priority Lien Debt, each Priority Lien Representative with respect to each applicable Series of Priority Lien Debt that is so discharged will provide written notice of such discharge to the Collateral Agent and to each other Secured Debt Representative, provided that the failure to provide such written notice shall not affect the effectiveness of such Discharge of Priority Lien Obligations.

SECTION 7.10 Entire Agreement. This Agreement states the complete agreement of the parties relating to the undertaking of the Collateral Agent set forth herein and supersedes all oral negotiations and prior writings in respect of such undertaking.

SECTION 7.11 Compensation; Expenses. The Grantors jointly and severally agree to pay, promptly upon demand:

- (1) such compensation to the Collateral Agent and its agents as the Issuers and the Collateral Agent may agree in writing from time to time;
- (2) all reasonable costs and expenses incurred by the Collateral Agent and its agents in the preparation, execution, delivery, filing, recordation, administration or enforcement of this Agreement or any other Security Document or any consent, amendment, waiver or other modification relating hereto or thereto;
- (3) all reasonable fees, expenses and disbursements of a single firm of legal counsel and any auditors, accountants, consultants or appraisers or other professional advisors and agents reasonably engaged by the Collateral Agent in connection with the negotiation, preparation, closing, administration, performance or enforcement of this Agreement and the other Security Documents or any consent, amendment, waiver or other modification relating hereto or thereto and any other document or matter requested by the Issuers or any other Grantor;
- (4) all reasonable costs and expenses incurred by the Collateral Agent and its agents in creating, perfecting, preserving, releasing or enforcing the Collateral Agent's Liens on the Collateral, including filing and recording fees, expenses, stamp or documentary taxes, search fees, and title insurance premiums;

(5) all other reasonable costs and expenses incurred by the Collateral Agent and its agents in connection with the negotiation, preparation and execution of the Security Documents and any consents, amendments, waivers or other modifications thereto and the transactions contemplated thereby or the exercise of rights or performance of obligations by the Collateral Agent thereunder; and

(6) after the occurrence of any Secured Debt Default, all reasonable costs and expenses incurred by the Collateral Agent, its agents and any Secured Debt Representative in connection with the preservation, collection, foreclosure or enforcement of the Collateral subject to the Security Documents or any interest, right, power or remedy of the Collateral Agent or in connection with the collection or enforcement of any of the Secured Obligations or the proof, protection, administration or resolution of any claim based upon the Secured Obligations in any Insolvency or Liquidation Proceeding, including all fees and disbursements of attorneys, accountants, auditors, consultants, appraisers and other professionals engaged by the Collateral Agent, its agents or the Secured Debt Representatives.

The agreements in this Section 7.11 will survive repayment of all other Secured Obligations and the removal or resignation of the Collateral Agent.

SECTION 7.12 Indemnity.

(a) The Grantors jointly and severally agree to defend, indemnify, pay and hold harmless the Collateral Agent and each of its Affiliates and each of their respective directors, officers, members, partners, trustees, employees, attorneys and agents, and (in each case) their respective heirs, representatives, successors and assigns (each of the foregoing, an “**Indemnitee**”) from and against any and all Indemnified Liabilities; *provided*, no Indemnitee will be entitled to indemnification hereunder with respect to any Indemnified Liability to the extent such Indemnified Liability is found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnitee.

(b) All amounts due under this Section 7.12 will be payable upon demand.

(c) To the extent that the undertakings to defend, indemnify, pay and hold harmless set forth in Section 7.12(a) may be unenforceable in whole or in part because they violate any law or public policy, each of the Grantors will contribute the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by Indemnitees or any of them.

(d) No Grantor will ever assert any claim against any Indemnitee, on any theory of liability, for any lost profits or special, indirect or consequential damages or (to the fullest extent a claim for punitive damages may lawfully be waived) any punitive damages arising out of, in connection with, or as a result of, this Agreement or any other Security Document or any agreement or instrument or transaction contemplated hereby or relating in any respect to any Indemnified Liability, and each of the Grantors hereby forever waives, releases and agrees not to sue upon any claim for any such lost profits or special, indirect, consequential or (to the fullest extent lawful) punitive damages, whether or not accrued and whether or not known or suspected to exist in its favor.

(e) The agreements in this Section 7.12 will survive repayment of all other Secured Obligations and the removal or resignation of the Collateral Agent.

SECTION 7.13 Actions Upon Breach; Specific Performance.

If any Junior Lien Secured Party, in contravention of the terms of this Agreement, in any way takes, attempts to or threatens to take any action with respect to the Collateral (including any attempt to realize upon or enforce any remedy with respect to this Agreement), or fails to take any action required by this Agreement, this Agreement shall create an irrebuttable presumption and admission by such Junior Lien Secured Party that relief against such Junior Lien Secured Party by injunction, specific performance and/or other appropriate equitable relief is necessary to prevent irreparable harm to the Priority Lien Secured Parties, it being understood and agreed by each Junior Lien Representative and each Junior Lien Collateral Agent, on behalf of each Junior Lien Secured Party represented by it, that (i) the Priority Lien Secured Parties' damages from actions of any Junior Lien Secured Party may at that time be difficult to ascertain and may be irreparable and (ii) each Junior Lien Secured Party waives any defense that the Grantors and/or the Priority Lien Secured Parties cannot demonstrate damage and/or be made whole by the awarding of damages. Each of the Priority Lien Representatives and/or Priority Lien Collateral Agents may demand specific performance of this Agreement. Each Junior Lien Representative and each Junior Lien Collateral Agent, on behalf of itself and each other Junior Lien Secured Party represented by it, hereby irrevocably waives any defense based on the adequacy of a remedy at law and any other defense which might be asserted to bar the remedy of specific performance in any action which may be brought by any Priority Lien Representative, any Priority Lien Collateral Agent or any other Priority Lien Secured Party. No provision of this Agreement shall constitute or be deemed to constitute a waiver by any Priority Lien Representative or any Priority Lien Collateral Agent on behalf of itself and each other Priority Lien Secured Party represented by it of any right to seek damages from any Person in connection with any breach or alleged breach of this Agreement.

SECTION 7.14 Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. The parties hereto shall endeavor in good-faith negotiations to replace any invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

SECTION 7.15 Section Headings. The section headings and Table of Contents used in this Agreement are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

SECTION 7.16 Obligations Secured. All obligations of the Grantors set forth in or arising under this Agreement will be Secured Obligations and are secured by all Liens granted by the Security Documents.

SECTION 7.17 Governing Law. **THIS AGREEMENT AND ANY DISPUTE, CLAIM OR CONTROVERSY ARISING OUT OF OR RELATING TO THIS AGREEMENT (WHETHER ARISING IN CONTRACT, TORT OR OTHERWISE) SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAW RULES THAT WOULD RESULT IN THE APPLICATION OF A DIFFERENT GOVERNING LAW (OTHER THAN ANY MANDATORY PROVISIONS OF THE UCC RELATING TO THE LAW GOVERNING PERFECTION AND THE EFFECT OF PERFECTION OR PRIORITY OF THE SECURITY INTERESTS).**

SECTION 7.18 Consent to Jurisdiction. All judicial proceedings brought against any party hereto arising out of or relating to this Agreement shall be brought in any state or federal court of competent jurisdiction in the State, County and City of New York. By executing and delivering this Agreement, each Grantor, for itself and in connection with its properties, irrevocably:

(1) accepts generally and unconditionally the exclusive jurisdiction and venue of such courts;

(2) waives any defense of forum non conveniens;

(3) agrees that service of all process in any such proceeding in any such court may be made by registered or certified mail, return receipt requested, to such party at its address provided in accordance with Section 7.8;

(4) agrees that service as provided in clause (3) above is sufficient to confer personal jurisdiction over such party in any such proceeding in any such court and otherwise constitutes effective and binding service in every respect; and

(5) agrees that the Collateral Agent, the Secured Debt Representatives and the other Secured Parties retain the right to serve process in any other manner permitted by law or to bring proceedings against the Grantors in the courts of any other jurisdiction.

SECTION 7.19 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT, BREACH OF DUTY, COMMON LAW, STATUTE OR

ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION. EACH PARTY HERETO FURTHER REPRESENTS AND WARRANTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

SECTION 7.20 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by facsimile or other electronic imaging means), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Agreement by facsimile or other electronic transmission (e.g. "pdf" or "tif" format) shall be effective as delivery of a manually executed counterpart hereof.

SECTION 7.21 Grantors and Additional Grantors. Each Issuer represents and warrants that each Person who is a Grantor on the date hereof has duly executed this Agreement. The Issuers will cause each Person that hereafter becomes a Grantor or is required by any Secured Debt Document to become a party to this Agreement to become a party to this Agreement, for all purposes of this Agreement, by causing such Person to execute and deliver to the Collateral Agent a Collateral Agency Joinder, whereupon such Person will be bound by the terms hereof to the same extent as if it had executed and delivered this Agreement as of the date hereof. The Issuers shall promptly provide each Secured Debt Representative with a copy of each Collateral Agency Joinder executed and delivered pursuant to this Section 7.21; provided, however, that the failure to so deliver a copy of the Collateral Agency Joinder to any then existing Secured Debt Representative shall not affect the inclusion of such Person as a Grantor if the other requirements of this Section 7.21 are complied with.

SECTION 7.22 Continuing Nature of this Agreement. This Agreement, including the subordination provisions hereof, will be reinstated if at any time any payment or distribution in respect of any of the Priority Lien Obligations is rescinded or must otherwise be returned in an Insolvency or Liquidation Proceeding or otherwise by any Priority Lien Secured Party or Priority Lien Representative or any representative of any such party (whether by demand, settlement, litigation or otherwise). In the event that all or any part of a payment or distribution made with respect to the Priority Lien Obligations is recovered from any Priority Lien Secured Party or any Priority Lien Representative in an Insolvency or Liquidation Proceeding or otherwise, such payment or distribution received by any Junior Lien Secured Party or Junior Lien Representative with respect to the Junior Lien Obligations from the proceeds of any Collateral at any time after the date of the payment or distribution that is so recovered, whether pursuant to a right of subrogation or otherwise, that Junior Lien Representative or that Junior Lien Secured Party, as the case may be, will forthwith deliver the same to the Collateral Agent, for the account of the Priority Lien Secured Parties to be applied in accordance with Section 3.4. Until so delivered, such proceeds will be held by that Junior Lien Representative or that Junior Lien Secured Party, as the case may be, for the benefit of the Priority Lien Secured Parties.

SECTION 7.23 Insolvency. This Agreement will be applicable both before and after the commencement of any Insolvency or Liquidation Proceeding by or against any Grantor. The relative rights, as provided for in this Agreement, will continue after the commencement of any such Insolvency or Liquidation Proceeding on the same basis as prior to the date of the commencement of any such case, as provided in this Agreement.

SECTION 7.24 Rights and Immunities of Secured Debt Representatives. The Trustee will be entitled to all of the rights, benefits, protections, immunities and indemnities set forth in the Indenture and any future Secured Debt Representative will be entitled to all of the rights, protections, immunities and indemnities set forth in the credit agreement, indenture or other agreement governing the applicable Secured Debt with respect to which such Person will act as representative, in each case as if specifically set forth herein. In no event will any Secured Debt Representative be liable for any act or omission on the part of the Grantors or the Collateral Agent hereunder.

SECTION 7.25 USA PATRIOT Act Section 326 Customer Identification Program. The parties hereto acknowledge that in order to help the United States government fight the funding of terrorism and money laundering activities, pursuant to Federal regulations that became effective on October 1, 2003 (Section 326 of the USA PATRIOT Act) all financial institutions are required to obtain, verify, record and update information that identifies each person establishing a relationship or opening an account. The parties to this Agreement agree that they will provide to the Collateral Agent such information as it may request, from time to time, in order for the Collateral Agent to satisfy the requirements of the USA PATRIOT Act, including but not limited to the name, address, tax identification number and other information that will allow them to identify the individual or entity who is establishing the relationship or opening the account and may also ask for formation documents such as articles of incorporation or other identifying documents to be provided.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Collateral Agency Agreement to be executed by their respective officers or representatives as of the day and year first above written.

GOGO INC.

By: /s/ Norman Smagley

Name: Norman Smagley

Title: Executive Vice President, Chief Financial Officer
and Assistant Secretary

GOGO INTERMEDIATE HOLDINGS LLC

By: /s/ Norman Smagley

Name: Norman Smagley

Title: Executive Vice President, Chief Financial Officer
and Assistant Secretary

GOGO FINANCE CO. INC.

By: /s/ Norman Smagley

Name: Norman Smagley

Title: Executive Vice President, Chief Financial Officer
and Assistant Secretary

GOGO BUSINESS AVIATION LLC

By: /s/ Norman Smagley

Name: Norman Smagley

Title: Executive Vice President, Chief Financial Officer
and Assistant Secretary

GOGO LLC

By: /s/ Norman Smagley

Name: Norman Smagley

Title: Executive Vice President, Chief Financial Officer
and Assistant Secretary

AC BIDCO LLC

By: /s/ Norman Smagley

Name: Norman Smagley

Title: Executive Vice President, Chief Financial Officer
and Assistant Secretary

U.S. BANK NATIONAL ASSOCIATION, as
Trustee under the Indenture

By: /s/ Linda Garcia

Name: Linda Garcia

Title: Vice President

U.S. BANK NATIONAL ASSOCIATION, as
Collateral Agent

By: /s/ Linda Garcia

Name: Linda Garcia

Title: Vice President

**[FORM OF]
ADDITIONAL SECURED DEBT DESIGNATION**

Reference is made to the Collateral Agency Agreement dated as of June 14, 2016 (as amended, supplemented, amended and restated or otherwise modified and in effect from time to time, the “Collateral Agency Agreement”) among Gogo Inc., a Delaware corporation (the “Parent”), Gogo Intermediate Holdings LLC, a Delaware limited liability company (the “Company”), Gogo Finance Co. Inc., a Delaware corporation (the “Co-Issuer” and, together with the Company, the “Issuers”), the other Grantors from time to time party thereto, U.S. Bank National Association, as Trustee under the Indenture (as defined therein) and U.S. Bank National Association, as Collateral Agent. Capitalized terms used but not otherwise defined herein have the meanings assigned to them in the Collateral Agency Agreement. This Additional Secured Debt Designation is being executed and delivered in order to designate additional secured debt as either Priority Lien Debt or Junior Lien Debt entitled to the benefit of the Collateral Agency Agreement.

The undersigned, the duly appointed [*specify title*] of the [Issuers] hereby certifies on behalf of the [Issuers] that:

(A) [*insert name of the Issuer or other Grantor*] intends to incur additional Secured Debt (“**Additional Secured Debt**”) which will be [*select appropriate alternative*] [Priority Lien Debt permitted by each applicable Secured Debt Document to be secured by a Priority Lien equally and ratably with all previously existing and future Priority Lien Debt] or [Junior Lien Debt permitted by each applicable Secured Debt Document to be secured with a Junior Lien equally and ratably with all previously existing and future Junior Lien Debt];

(B) the name and address of the Secured Debt Representative for the Additional Secured Debt for purposes of Section 7.8 of the Collateral Agency Agreement is:

Telephone: _____

Fax: _____

(C) Each of the Issuers and each other Grantor has duly authorized, executed (if applicable) and recorded (or caused to be recorded) in each appropriate governmental office all relevant filings and recordings to ensure that the Additional Secured Debt is secured by the Collateral in accordance with the Security Documents;

EXHIBIT A

(D) Attached as Exhibit 1 hereto is a Reaffirmation Agreement duly executed by the Issuers and each other Grantor and Guarantor, and
(E) the Issuers have caused a copy of this Additional Secured Debt Designation and the related Collateral Agency Joinder to be delivered to each existing Secured Debt Representative.

IN WITNESS WHEREOF, the Issuers have caused this Additional Secured Debt Designation to be duly executed by the undersigned officer as of _____, 20__.

GOGO INTERMEDIATE HOLDINGS LLC

By: _____
Name: _____
Title: _____

GOGO FINANCE CO. INC.

By: _____
Name: _____
Title: _____

ACKNOWLEDGEMENT OF RECEIPT

The undersigned, the duly appointed Collateral Agent under the Collateral Agency Agreement, hereby acknowledges receipt of an executed copy of this Additional Secured Debt Designation.

U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent

By: _____
Name: _____
Title: _____

[FORM OF]

REAFFIRMATION AGREEMENT

Reference is made to the Collateral Agency Agreement dated as of June 14, 2016 (as amended, supplemented, amended and restated or otherwise modified and in effect from time to time, the "Collateral Agency Agreement") among Gogo Inc., a Delaware corporation (the "Parent"), Gogo Intermediate Holdings LLC, a Delaware limited liability company (the "Company"), Gogo Finance Co. Inc., a Delaware corporation (the "Co-Issuer" and, together with the Company, the "Issuers"), the other Grantors from time to time party thereto, U.S. Bank National Association, as Trustee under the Indenture (as defined therein) and U.S. Bank National Association, as Collateral Agent. Capitalized terms used but not otherwise defined herein have the meanings assigned to them in the Collateral Agency Agreement. This Reaffirmation Agreement is being executed and delivered as of _____, 20__ in connection with an Additional Secured Debt Designation of even date herewith which Additional Secured Debt Designation has designated additional secured debt as either Priority Lien Debt or Junior Lien Debt (as described therein) entitled to the benefit of the Collateral Agency Agreement.

Each of the undersigned hereby consents to the designation of additional secured debt as [Priority/Junior] Lien Debt as set forth in the Additional Secured Debt Designation of even date herewith and hereby confirms its respective guarantees, pledges, grants of security interests and other obligations, as applicable, under and subject to the terms of each of the [Priority/Junior] Lien Documents to which it is party, and agrees that, notwithstanding the designation of such additional indebtedness or any of the transactions contemplated thereby, such guarantees, pledges, grants of security interests and other obligations, and the terms of each [Priority/Junior] Lien Document to which it is a party, are not impaired or adversely affected in any manner whatsoever and shall continue to be in full force and effect and such additional secured debt shall be entitled to all of the benefits of such [Priority/Junior] Lien Documents.

Governing Law and Miscellaneous Provisions. The provisions of Article 7 of the Collateral Agency Agreement will apply with like effect to this Reaffirmation Agreement.

IN WITNESS WHEREOF, each of the undersigned has caused this Reaffirmation Agreement to be duly executed as of the date written above.

[Names of Grantors and Guarantors]

By: _____
 Name:
 Title:

**[FORM OF]
COLLATERAL AGENCY JOINDER – ADDITIONAL DEBT**

Reference is made to the Collateral Agency Agreement dated as of June 14, 2016 (as amended, supplemented, amended and restated or otherwise modified and in effect from time to time, the “Collateral Agency Agreement”) among Gogo Inc., a Delaware corporation (the “Parent”), Gogo Intermediate Holdings LLC, a Delaware limited liability company (the “Company”), Gogo Finance Co. Inc., a Delaware corporation (the “Co-Issuer” and, together with the Company, the “Issuers”), the other Grantors from time to time party thereto, U.S. Bank National Association, as Trustee under the Indenture (as defined therein) and U.S. Bank National Association, as Collateral Agent. Capitalized terms used but not otherwise defined herein have the meanings assigned to them in the Collateral Agency Agreement. This Collateral Agency Joinder is being executed and delivered pursuant to Section 3.8 of the Collateral Agency Agreement as a condition precedent to the debt for which the undersigned is acting as agent being entitled to the benefits of being additional secured debt under the Collateral Agency Agreement.

1. Joinder. The undersigned, _____, a _____, (the “New Representative”) as [trustee, administrative agent] under that certain [*described applicable credit agreement, indenture or other document governing the additional secured debt*] hereby agrees to become party as [a Junior Lien Representative] [a Priority Lien Representative] under the Collateral Agency Agreement for all purposes thereof on the terms set forth therein, and to be bound by the terms of the Collateral Agency Agreement as fully as if the undersigned had executed and delivered the Collateral Agency Agreement as of the date thereof.

2. Lien Sharing and Priority Confirmation.

[*Option A: to be used if Additional Debt is Junior Lien Debt*] The undersigned New Representative, on behalf of itself and each holder of Obligations in respect of the Series of Junior Lien Debt for which the undersigned is acting as Junior Lien Representative hereby agrees, for the enforceable benefit of all holders of each current and future Series of Priority Lien Debt and Junior Lien Debt, each current and future Priority Lien Representative, each other current and future Junior Lien Representative and each current and future Priority Lien Secured Party and Junior Lien Obligations and as a condition to being treated as Secured Debt under the Collateral Agency Agreement that:

(a) as provided by Section 2.9 of the Collateral Agency Agreement, all Junior Lien Obligations will be and are secured equally and ratably by all Junior Liens at any time granted by the Issuers or any other Grantor to secure any Obligations in respect of any Series of Junior Lien Debt, whether or not upon property otherwise constituting collateral for such Series of Junior Lien Debt, and that all such Junior Liens will be enforceable by the Collateral Agent for the benefit of all Junior Lien Secured Party equally and ratably; provided, however, that notwithstanding the foregoing, (x) this provision will not be violated with

respect to any particular Collateral and any particular Series of Junior Lien Debt if the Secured Debt Documents in respect thereof prohibit the applicable Junior Lien Representative from accepting the benefit of a Lien on any particular asset or property or such Junior Lien Representative otherwise expressly declines in writing to accept the benefit of a Lien on such asset or property and (y) this provision will not be violated with respect to any particular Hedging Obligations or Bank Product Obligations if the Hedge Agreement or Bank Product Agreement prohibit the applicable Hedge Provider or Bank Product Provider from accepting the benefit of a Lien on any particular asset or property or such Hedge Provider or Bank Product Provider otherwise expressly declines in writing to accept the benefit of a Lien on such asset or property;

(b) the New Representative and each holder of Obligations in respect of the Series of Junior Lien Debt for which the undersigned is acting as Junior Lien Representative are bound by the provisions of this Agreement, including the provisions relating to the ranking of Junior Liens and the order of application of proceeds from the enforcement of Junior Liens; and

(c) the Collateral Agent shall perform its obligations under the Collateral Agency Agreement and the other Security Documents. **[or]**

[Option B: to be used if Additional Debt is Priority Lien Debt] [The undersigned New Representative, on behalf of itself and each holder of Obligations in respect of the Series of Priority Lien Debt for which the undersigned is acting as Priority Lien Representative hereby agrees, for the enforceable benefit of all holders of each existing and future Series of Priority Lien Debt and Junior Lien Debt, each current and future Junior Lien Representative, each other existing and future Priority Lien Representative and each current and future Priority Lien Secured Party and Junior Lien Obligations and as a condition to being treated as Secured Debt under the Collateral Agency Agreement that:

(a) as provided by Section 2.9 of the Collateral Agency Agreement, all Priority Lien Obligations will be and are secured equally and ratably by all Priority Liens at any time granted by the Issuers or any other Grantor to secure any Obligations in respect of any Series of Priority Lien Debt, whether or not upon property otherwise constituting collateral for such Series of Priority Lien Debt, and that all such Priority Liens will be enforceable by the Collateral Agent for the benefit of all Priority Lien Secured Parties equally and ratably provided however, that notwithstanding the foregoing, (x) this provision will not be violated with respect to any particular Collateral and any particular Series of Priority Lien Debt if the Secured Debt Documents in respect thereof prohibit the applicable Priority Lien Representative from accepting the benefit of a Lien on any particular asset or property or such Priority Lien Representative otherwise expressly declines in writing to accept the benefit of a Lien on such asset or property and (y) this provision will not be violated with respect to any particular Hedging Obligations or Bank Product Obligations if the Hedge Agreement or Bank Product Agreement prohibit the applicable Hedge Provider or Bank Product Provider from accepting the benefit of a Lien on any particular asset or property or such Hedge Provider or Bank Product Provider otherwise expressly declines in writing to accept the benefit of a Lien on such asset or property;

(b) the New Representative and each holder of Obligations in respect of the Series of Priority Lien Debt for which the undersigned is acting as Priority Lien Representative are bound by the provisions of this Agreement, including the provisions relating to the ranking of Priority Liens and the order of application of proceeds from the enforcement of Priority Liens; and

(c) the Collateral Agent shall perform its obligations under the Collateral Agency Agreement and the other Security Documents.]

3. Governing Law and Miscellaneous Provisions. The provisions of Article 7 of the Collateral Agency Agreement will apply with like effect to this Collateral Agency Joinder.

IN WITNESS WHEREOF, the parties hereto have caused this Collateral Agency Joinder to be executed by their respective officers or representatives as of _____, 20__.

[Insert Name of the New Representative]

By: _____
Name: _____
Title: _____

The Collateral Agent hereby acknowledges receipt of this Collateral Agency Joinder and agrees to act as Collateral Agent for the New Representative and the holders of the Obligations represented thereby:

U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent
By: _____
Name: _____
Title: _____

**[FORM OF]
COLLATERAL AGENCY JOINDER – ADDITIONAL GRANTOR**

Reference is made to the Collateral Agency Agreement dated as of June 14, 2016 (as amended, supplemented, amended and restated or otherwise modified and in effect from time to time, the “Collateral Agency Agreement”) among Gogo Intermediate Holdings LLC, a Delaware limited liability company (the “Company”), Gogo Finance Co. Inc, a Delaware corporation (Co-Issuer and, together with the Company, the “Issuers”), the Grantors from time to time party thereto, U.S. Bank National Association, as Trustee under the Indenture (as defined therein) and U.S. Bank National Association, as Collateral Agent. Capitalized terms used but not otherwise defined herein have the meanings assigned to them in the Collateral Agency Agreement. This Collateral Agency Joinder is being executed and delivered pursuant to Section 7.21 of the Collateral Agency Agreement.

1. Joinder. The undersigned, _____, a _____, hereby agrees to become party as a Grantor under the Collateral Agency Agreement for all purposes thereof on the terms set forth therein, and to be bound by the terms of the Collateral Agency Agreement as fully as if the undersigned had executed and delivered the Collateral Agency Agreement as of the date thereof.

2. Governing Law and Miscellaneous Provisions. The provisions of Article 7 of the Collateral Agency Agreement will apply with like effect to this Collateral Agency Joinder.

IN WITNESS WHEREOF, the parties hereto have caused this Collateral Agency Joinder to be executed by their respective officers or representatives as of _____, 20__.

[_____]

By: _____
Name: _____
Title: _____

The Collateral Agent hereby acknowledges receipt of this Collateral Agency Joinder and agrees to act as Collateral Agent with respect to the Collateral pledged by the new Grantor:

U.S. BANK NATIONAL ASSOCIATION, as
Collateral Agent

By: _____
Name: _____
Title: _____

**[FORM OF]
ADDITIONAL SECURED OBLIGATION DESIGNATION**

Reference is made to the Collateral Agency Agreement dated as of June 14, 2016 (as amended, supplemented, amended and restated or otherwise modified and in effect from time to time, the "Collateral Agency Agreement") among Gogo Inc., a Delaware corporation (the "Parent"), Gogo Intermediate Holdings LLC, a Delaware limited liability company (the "Company"), Gogo Finance Co. Inc., a Delaware corporation (the "Co-Issuer" and, together with the Company, the "Issuers"), the other Grantors from time to time party thereto, U.S. Bank National Association, as Trustee under the Indenture (as defined therein) and U.S. Bank National Association, as Collateral Agent. Capitalized terms used but not otherwise defined herein have the meanings assigned to them in the Collateral Agency Agreement. This Additional Secured Obligation Designation is being executed and delivered in order to designate [Hedging Obligations] [Bank Product Obligations] as [Priority Lien Obligations][Junior Lien Obligations] entitled to the benefit of the Collateral Agency Agreement.

The undersigned, the duly appointed [*specify title*] of the Issuers hereby certifies on behalf of the Issuers that:

- (a) [*insert name of relevant Grantor*] intends to incur [Hedging Obligations][Bank Product Obligations] pursuant to the following agreement: [*describe Hedge Agreement, Swap Transaction or Bank Product Agreement*] which will be [Priority Lien Obligations][Junior Lien Obligations] and are permitted by each applicable Secured Debt Document;
- (b) the name and address of the [Hedge Provider][Bank Product Provider] is:

Telephone: _____
Fax: _____
- (c) Each of the Issuers and each other Grantor has duly authorized, executed (if applicable) and recorded (or caused to be recorded) in each appropriate governmental office all relevant filings and recordations to ensure that such [Hedge Obligations][Bank Product Obligations] are secured by the Collateral in accordance with the Security Documents, and
- (d) the Issuers have caused a copy of this Additional Secured Debt Designation and the related Collateral Agency Joinder to be delivered to each existing Secured Debt Representative.

IN WITNESS WHEREOF, the Issuers have caused this Additional Secured Obligation Designation to be duly executed by the undersigned officer as of _____, 20__.

GOGO INTERMEDIATE HOLDINGS LLC

By: _____
Name: _____
Title: _____

GOGO FINANCE CO. INC.

By: _____
Name: _____
Title: _____

ACKNOWLEDGEMENT OF RECEIPT

The undersigned, the duly appointed Collateral Agent under the Collateral Agency Agreement, hereby acknowledges receipt of an executed copy of this Additional Secured Obligation Designation.

U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent

By: _____
Name: _____
Title: _____

**[FORM OF]
COLLATERAL AGENCY JOINDER – ADDITIONAL SECURED OBLIGATIONS OTHER THAN FUNDED DEBT**

Reference is made to the Collateral Agency Agreement dated as of June 14, 2016 (as amended, supplemented, amended and restated or otherwise modified and in effect from time to time, the “Collateral Agency Agreement”) among Gogo Inc., a Delaware corporation (the “Parent”), Gogo Intermediate Holdings LLC, a Delaware limited liability company (the “Company”), Gogo Finance Co. Inc., a Delaware corporation (the “Co-Issuer” and, together with the Company, the “Issuers”), the other Grantors from time to time party thereto, U.S. Bank National Association, as Trustee under the Indenture (as defined therein) and U.S. Bank National Association, as Collateral Agent. Capitalized terms used but not otherwise defined herein have the meanings assigned to them in the Collateral Agency Agreement. This Collateral Agency Joinder is being executed and delivered pursuant to Section 3.9 of the Collateral Agency Agreement as a condition precedent to the debt for which the undersigned is acting as agent being entitled to the benefits of being [Priority Lien Obligations] [Junior Lien Obligations] under the Collateral Agency Agreement.

1. Joinder. The undersigned, _____, a _____, (the “New Secured Party”) as a [Hedge Provider] [Bank Product Provider] under that certain [*describe applicable Hedge Agreement, Swap Transaction or Bank Product Agreement*] hereby agrees to become party as Secured Party under the Collateral Agency Agreement for all purposes thereof on the terms set forth therein, and to be bound by the terms of the Collateral Agency Agreement as fully as if the undersigned had executed and delivered the Collateral Agency Agreement as of the date thereof.

2. Lien Sharing and Priority Confirmation.

The undersigned New Secured Party hereby agrees, for the enforceable benefit of each current and future Priority Lien Representative, each current and future Junior Lien Representative, each current and future Priority Lien Secured Party and each current and future Junior Lien Secured Party and as a condition to being treated as Secured Debt under the Collateral Agency Agreement that:

(a) all [Priority Lien Obligations] [Junior Lien Obligations] will be and are secured equally and ratably by all [Priority Liens] [Junior Liens] at any time granted by the Issuers or any other Grantor to secure any Obligations in respect of any Series of [Priority Lien Debt] [Junior Lien Debt], whether or not upon property otherwise constituting collateral for such Series of [Priority Lien Debt] [Junior Lien Debt], and that all such [Priority Liens] [Junior Liens] will be enforceable by the Collateral Agent for the benefit of all [Priority Lien Secured Parties] [Junior Lien Secured Parties] equally and ratably;

(b) the New Representative and each holder of Obligations in respect of the Series of [Priority Lien Debt] [[Junior Lien Debt] for which the undersigned is acting as [Priority Lien Representative] [Junior Lien Representative] are bound by the provisions of this Agreement, including the provisions relating to the ranking of [Priority Liens] [Junior Liens] and the order of application of proceeds from the enforcement of [Priority Liens] [Junior Liens]; and

(c) the Collateral Agent shall perform its obligations under the Collateral Agency Agreement and the other Security Documents.

3. Governing Law and Miscellaneous Provisions. The provisions of Article 7 of the Collateral Agency Agreement will apply with like effect to this Collateral Agency Joinder.

IN WITNESS WHEREOF, the parties hereto have caused this Collateral Agency Joinder to be executed by their respective officers or representatives as of _____, 20__.

[Insert Name of the New Secured Party]

By: _____
Name: _____
Title: _____

The Collateral Agent hereby acknowledges receipt of this Collateral Agency Joinder and agrees to act as Collateral Agent for the New Secured Party:

U.S. BANK NATIONAL ASSOCIATION, as
Collateral Agent

By: _____
Name: _____
Title: _____

PATENT SECURITY AGREEMENT

This **PATENT SECURITY AGREEMENT**, dated as of June 14, 2016 (this "Agreement"), is made by the signatory hereto indicated as a "Grantor" (the "Grantor") in favor of U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent for the Priority Lien Secured Parties (in such capacity and, together with its permitted successors and assigns in such capacity, the "Collateral Agent").

WHEREAS, the Grantor entered into a Collateral Agreement dated as of June 14, 2016 (as amended, restated, supplemented or otherwise modified from time to time, the "Collateral Agreement") among the Grantor, the Collateral Agent and the other persons party thereto, pursuant to which the Grantor granted to the Collateral Agent, for the benefit of the Priority Lien Secured Parties, a security interest in the Patent Collateral (as defined below); and

WHEREAS, pursuant to the Collateral Agreement, Grantor agreed to execute this Agreement, in order to record the security interest granted to the Collateral Agent for the benefit of the Priority Lien Secured Parties with the United States Patent and Trademark Office.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor hereby agrees with the Collateral Agent as follows:

SECTION 1. Defined Terms

Capitalized terms used but not defined herein shall have the respective meanings given thereto in the Collateral Agreement, and if not defined therein, shall have the respective meanings given thereto in the Collateral Agency Agreement referred to therein.

SECTION 2. Notice and Confirmation of Grant of Security Interest.

Grantor hereby confirms the grant in the Collateral Agreement to the Collateral Agent, for the benefit of the Priority Lien Secured Parties, of a security interest in, all of the following property, in each case, wherever located and now owned or at any time hereafter acquired by Grantor or in which Grantor now has or at any time in the future may acquire any right, title or interest (collectively, the "Patent Collateral") as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of Grantor's Priority Lien Obligations:

All of Grantor's right, title and interest in and to all patentable inventions and designs, all United States, foreign, and multinational patents, certificates of invention, and similar industrial property rights, and applications for any of the foregoing, including without limitation: (i) each patent and patent application listed in Schedule A attached hereto (ii) all reissues, substitutes, divisions, continuations, continuations-in-part, extensions, renewals, and reexaminations thereof, (iii) all inventions and improvements described and claimed therein, (iv) all rights to sue or otherwise recover for any past, present and future infringement or other violation thereof, (v) all Proceeds of the foregoing, including, without limitation, license fees, royalties, income, payments, claims, damages, and proceeds of suit now or hereafter due and/or payable with respect thereto, income, royalties, damages and other payments now and hereafter due and/or payable with respect thereto, and (vi) all other patent rights accruing thereunder or pertaining thereto throughout the world.

SECTION 3. Collateral Agreement and Collateral Agency Agreement

The security interest confirmed pursuant to this Agreement is confirmed in conjunction with the security interest granted to the Collateral Agent for the Priority Lien Secured Parties pursuant to the Collateral Agreement, and the Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the security interest in the Patent Collateral made and granted hereby are more fully set forth in the Collateral Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein. In the event that any provision of this Agreement is deemed to conflict with the Collateral Agreement or the Collateral Agency Agreement, the provisions of the Collateral Agreement or the Collateral Agency Agreement, as applicable, shall control.

SECTION 4. Governing Law

THIS AGREEMENT AND ANY DISPUTE, CLAIM OR CONTROVERSY ARISING OUT OF OR RELATING TO THIS AGREEMENT (WHETHER ARISING IN CONTRACT, TORT OR OTHERWISE) SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAW RULES THAT WOULD RESULT IN THE APPLICATION OF A DIFFERENT GOVERNING LAW (OTHER THAN ANY MANDATORY PROVISIONS OF THE UCC RELATING TO THE LAW GOVERNING PERFECTION AND EFFECT OF PERFECTION OR PRIORITY OF THE SECURITY INTERESTS).

SECTION 5. Counterparts

This Agreement may be executed in one or more counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, Grantor has caused this Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

**GOGO LLC,
as Grantor**

By: /s/ Norman Smagley
Name: Norman Smagley
Title: Executive Vice President, Chief Financial
Officer and Assistant Secretary

Accepted and Agreed:

U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent

By: /s/ Linda Garcia

Name: Linda Garcia

Title: Vice President

PATENTS AND PATENT APPLICATIONS

Gogo LLC U.S. Issued Patents

Title	Appl. No.	Appl. Date	Patent No.	Issue Date
METHOD AND APPARATUS FOR COMMUNICATION WITH A MOBILE UNIT	08/988,457	12/10/1997	6,799,037	08/06/2002
AIR-TO-GROUND CELLULAR NETWORK FOR DECK-TO-DECK CALL COVERAGE	11/240,975	09/30/2005	7,640,016	12/29/2009
CABIN TELECOMMUNICATION UNIT	10/241,723	09/11/2002	7,689,752	03/30/2010
SYSTEM FOR HANDOFF OF AIRCRAFT-BASED CONTENT DELIVERY TO ENABLE PASSENGERS TO RECEIVE THE REMAINDER OF A SELECTED CONTENT FROM A TERRESTRIAL LOCATION	12/021,133	01/28/2008	7,702,328	04/20/2010
SYSTEM FOR MANAGING THE MULTIPLE AIR-TO-GROUND COMMUNICATIONS LINKS ORIGINATING FROM EACH AIRCRAFT IN AN AIR-TO-GROUND CELLULAR COMMUNICATION NETWORK	11/590,709	10/31/2006	7,920,860	04/05/2011
SYSTEM FOR TRANSMITTING WIRELESS HIGH-SPEED DATA SIGNALS BETWEEN A TERRESTRIAL-BASED ANTENNA AND AN AIRCRAFT	10/378,203	03/03/2003	8,032,135	10/04/2011
SYSTEM FOR MANAGING AN AIRCRAFT-ORIGINATED EMERGENCY SERVICES CALL IN AN AIRBORNE WIRELESS CELLULAR NETWORK	12/182,834	07/30/2008	8,060,083	11/15/2011
SYSTEM FOR CUSTOMIZING ELECTRONIC SERVICES FOR DELIVERY TO A PASSENGER IN AN AIRBORNE WIRELESS CELLULAR NETWORK	12/021,169	01/28/2008	8,068,829	11/29/2011
SIP CLIENT-BASED LOCAL NUMBER PORTABILITY THROUGH AN AIRCRAFT AIR-TO-GROUND LINK	12/423,555	04/14/2009	8,073,443	12/06/2011
SYSTEM FOR CUSTOMIZING ELECTRONIC CONTENT FOR DELIVERY TO A PASSENGER IN AN AIRBORNE WIRELESS CELLULAR NETWORK	12/021,125	01/28/2008	8,078,163	12/13/2011
SYSTEM FOR CREATING AN AIRCRAFT-BASED INTERNET PROTOCOL SUBNET IN AN AIRBORNE WIRELESS CELLULAR NETWORK	12/060,662	04/01/2008	8,081,969	12/20/2011
SYSTEM FOR CREATING AN AIR-TO-GROUND IP TUNNEL IN AN AIRBORNE WIRELESS CELLULAR NETWORK TO DIFFERENTIATE INDIVIDUAL PASSENGERS	12/060,674	04/01/2008	8,081,968	12/20/2011
CABIN TELECOMMUNICATION UNIT	12/707,070	09/11/2002	8,140,732	3/20/2012
AIR-TO-GROUND CELLULAR COMMUNICATION NETWORK TERRESTRIAL BASE STATION HAVING MULTI-DIMENSIONAL SECTORS WITH ALTERNATING RADIO FREQUENCY POLARIZATIONS	11/590,146	10/31/2006	8,145,208	03/27/2012
SYSTEM FOR MANAGING VOICE OVER INTERNET PROTOCOL COMMUNICATIONS IN A NETWORK	12/029,298	02/11/2008	8,185,040	05/22/2012
METHOD AND APPARATUS FOR COMMUNICATION WITH A MOBILE UNIT	11/100,753	04/07/2005	8,498,641	07/30/2013

<u>Title</u>	<u>Appl. No.</u>	<u>Appl. Date</u>	<u>Patent No.</u>	<u>Issue Date</u>
SYSTEM FOR TRANSMITTING WIRELESS HIGH-SPEED DATA SIGNALS BETWEEN A TERRESTRIAL-BASED ANTENNA AND AN AIRCRAFT	13/222,722	08/31/2011	8,700,032	04/15/2015
DYNAMIC TIME BASED PRODUCTS	14/291,562	05/30/2014	9,258,432	02/09/2016
SYSTEMS AND METHODS FOR TWO-PART ELECTRONIC DEVICE REGISTRATION	14/291,558	05/30/2014	9,232,546	01/05/2016
MESH NETWORK BASED AUTOMATED UPLOAD OF CONTENT TO AIRCRAFT	14/553,641	11/25/2014	9,287,999	03/15/2016
DATA DELIVERY TO DEVICES ON VEHICLES USING MULTIPLE FORWARD LINKS	14/225,050	03/25/2014	9,197,314	11/24/2015
GROUND SYSTEM FOR VEHICLE DATA DISTRIBUTION	13/675,190	11/13/2012	9,088,613	07/21/2015
COMMUNICATION SYSTEM AND METHOD FOR NODES ASSOCIATED WITH A VEHICLE	13/675,194	11/13/2012	9,087,193	07/21/2015
LINE REPLACEABLE UNIT WITH UNIVERSAL HEAT SINK RECEPTACLE	13/799,869	03/13/2013	8,982,562	03/17/2015
DETERMINING HUMAN STIMULI AT COMPUTING DEVICES	13/781,841	03/01/2013	9,147,065	09/29/2015
MESH NETWORK BASED AUTOMATED UPLOAD OF CONTENT TO AIRCRAFT	13/544,742	07/09/2012	8,934,893	01/13/2015
SPECTRUM SHARING BETWEEN AN AIRCRAFT-BASED AIR-TO-GROUND COMMUNICATION SYSTEM AND EXISTING GEOSTATIONARY SATELLITE SERVICES	13/172,539	06/29/2011	8,442,519	05/14/2013
TRAFFIC SCHEDULING SYSTEM FOR WIRELESS COMMUNICATIONS	13/009,579	01/19/2011	8,457,627	06/4/2013
DIFFERENTIATED SERVICES CODE POINT MIRRORING FOR WIRELESS COMMUNICATIONS	13/009,687	01/19/2011	8,452,276	05/28/2013
SYSTEM FOR PROVIDING HIGH SPEED COMMUNICATIONS SERVICE IN AN AIRBORNE WIRELESS CELLULAR NETWORK	12/137,995	06/12/2008	8,914,022	12/16/2014
MULTI-LINK AIRCRAFT CELLULAR SYSTEM FOR SIMULTANEOUS COMMUNICATION WITH MULTIPLE TERRESTRIAL CELL SITES	11/590,379	10/31/2006	8,447,292	05/21/2013
SYSTEM FOR MANAGING MOBILE INTERNET PROTOCOL ADDRESSES IN AN AIRBORNE WIRELESS CELLULAR NETWORK	12/060,645	04/01/2008	8,995,993	3/31/2015
OPTIMIZING USAGE OF MODEMS FOR DATA DELIVERY TO DEVICES ON VEHICLES	14/225,077	03/25/2014	9,326,217	04/26/2016

Gogo LLC U.S. Patent Applications

<u>Title</u>	<u>Appl. No.</u>	<u>Appl. Date</u>	<u>Pub. No.</u>	<u>Pub. Date</u>
SYSTEM FOR PROVIDING TEMPORARY INTERNET ACCESS FROM A RESTRICTED LOCAL AREA NETWORK ENVIRONMENT	13/588,903	08/17/2012	2014/0053243	02/20/2014
VEHICLE DATA DISTRIBUTION SYSTEM AND METHOD	13/675,200	11/13/2012	2014/0136658	05/15/2014
MULTIPLE ANTENNA SYSTEM AND METHOD FOR MOBILE PLATFORMS	14/177,863	02/11/2014	2014/0225767	08/14/2014
RADOME HAVING LOCALIZED AREAS OF REDUCED RADIO SIGNAL ATTENUATION	14/209,698	03/13/2014	2015/0130671	05/14/2015
HYBRID COMMUNICATIONS FOR DEVICES ON VEHICLES	14/225,017	03/25/2014	2015/0131513	05/14/2015
RADOME HAVING LOCALIZED AREAS OF REDUCED RADIO SIGNAL ATTENUATION	14/209,713	03/13/2014	2015/0130672	05/14/2015
ADAPTIVE MODULATION IN A HYBRID VEHICLE COMMUNICATION SYSTEM	14/224,859	03/25/2014	2015/0131512	05/14/2015

<u>Title</u>	<u>Appl. No.</u>	<u>Appl. Date</u>	<u>Pub. No.</u>	<u>Pub. Date</u>
SYSTEM FOR MANAGING MOBILE INTERNET PROTOCOL ADDRESSES IN AN AIRBORNE WIRELESS CELLULAR NETWORK	14/340,921	07/25/2014	2014/0334379	11/13/2014
AUTONONMOUS-MODE CONTENT DELIVERY AND KEY MANAGEMENT	14/530,409	10/31/2014	Not yet published	Not yet published
RESUMPTION OF PLAY FOR A CONTENT-DELIVERY SESSION	14/530,423	10/31/2014	Not yet published	Not yet published
SYSTEMS AND METHODS FOR FACILITATING VOICE-BASD COMMUNICATIONS	14/267,563	05/01/2014	2015/0319301	11/05/2015
SYSTEMS AND METHODS FOR NOTIFYING ELECTRONIC DEVICES OF VOICE-BASED COMMUNICATION REQUESTS	14/267,400	05/01/2014	2015/0319300	11/05/2015
SYSTEMS AND METHODS FOR CONFIGURING AN ELECTRONIC DEVICE FOR CALLING CELLULAR BASED COMMUNICATIONS	14/291,511	05/30/2014	2015/0133116	05/14/2015
SYSTEMS AND METHODS FOR COMMUNICATIONS WITH NON- TERRESTRIAL ELECTRONIC DEVICES	14/291,979	05/30/2014	2015/0351066	12/03/2015
SYSTEMS AND METHODS FOR FACILITATING COMMUNICATIONS ORIGINATING FROM A NON-TERRESTRIAL NETWORK	14/291,878	05/30/2014	2015/0350996	12/03/2015
SYSTEMS AND METHODS FOR FACILITATING COMMUNICATIONS DESTINED FOR A NON-TERRESTRIAL NETWORK	14/292,035	05/30/2014	2015/0349875	12/03/2015
MUPLEE MODM COMMUNICATION SYSTEM AND METHOD FOR MOBILE PLATFORM	14/307,228	06/17/2014	2015/0365870	12/17/2015
DATA CACHING IN A HYBRID COMMUNICATIONS SYSTEM	14/309,342	06/19/2014	2015/0134754	05/14/2015
SYSTEMS AND METHODS FOR FACILITATING VOICE AND MESSANGING COMMUNICATIONS VIA VARIOUS NETWORKS	14/312,413	06/23/2014	2015/0131519	05/14/2015
DELAYED DISK RECOVERY	14/320,966	07/01/2014	2016/0004586	01/07/2016
CONTENT INTEGRITY CHECKS	14/320,970	07/01/2014	2016/0006807	01/07/2016
MOBILE TELE-COMPUTER NETWORK FOR MOTION PICITURE, TELEVISION AND TV ADVERTISING PRODUCTION	90/012,810	7/TBD/2014	Not yet published	Not yet published
COMMUNICATIONS SYSTEMS AND METHODS FOR NODES ASSOCIATED WITH A VEHICLE	14/754,046	06/29/2015	2015/0319248	11/05/2015
GROUND SYSTEM FOR VEHICLE DATA DISTRIBUTION	14/797,461	07/13/2015	2015/0319073	11/05/2015
DATA DELIVERY TO DEVICES ON VEHICLES USING MULTIPLE FORWARD LINKS	14/876,542	10/06/2015	2016/0036517	02/04/2016
DYNAMIC TIME BASED PRODUCT	14/995,459	01/14/2016	Not yet published	Not yet published
MESH NETWORK BASED AUTOMATED UPLOAD OF CONTENT TO AIRCRAFT	15/014,333	02/03/2016	Not yet published	Not yet published
FEATURE TRANSPARENCY FOR WIRELESS DEVICES	14/912,834	02/18/2016	Not yet published	Not yet published
OPTIMIZING USAGE OF MODEMS FOR DATA DELIVERY TO DEVICES ON VEHICLES	15/075,032	03/18/2016	Not yet published	Not yet published
SYSTEMS AND METHODS FOR FACILITATING COMMUNICATIONS DESTINED FOR A NON-TERRESTRIAL NETWORK	15/079,953	03/24/2016	Not yet published	Not yet published
PRESENCE-BASED NETWORK AUTHENTICATION	15/090,026	04/04/2016	Not yet published	Not yet published
SYSTEMS AND METHODS FOR ON-BOARD ACCESS CONTROL	15/092,844	04/07/2016	Not yet published	Not yet published
SYSTEMS AND METHODS FOR AUTHENTICATING APPLICATIONS TO ON-BOARD SERVICES	15/092,884	04/07/2016	Not yet published	Not yet published
HYBRID COMMUNICATIONS FOR DEVICES ON VEHICLES	15/150,576	5/10/2016	Not yet published	Not yet published
SYSTEMS AND METHODS FOR AVERTING UNSANCTIONED ACCESS TO ON-BOARD VEHICLE NETWORKS	15/170,649	6/1/2016	Not yet published	Not yet published

TRADEMARK SECURITY AGREEMENT

This **TRADEMARK SECURITY AGREEMENT**, dated as of June 14, 2016 (this "Agreement"), is made by the signatory hereto indicated as a "Grantor" (the "Grantor") in favor of U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent for the Priority Lien Secured Parties (in such capacity and, together with its permitted successors and assigns in such capacity, the "Collateral Agent").

WHEREAS, the Grantor entered into a Collateral Agreement dated as of June 14, 2016 (as amended, restated, supplemented or otherwise modified from time to time, the "Collateral Agreement") among the Grantor, the Collateral Agent and the other persons party thereto, pursuant to which Grantor granted to the Collateral Agent, for the benefit of the Priority Lien Secured Parties, a security interest in the Trademark Collateral (as defined below); and

WHEREAS, pursuant to the Collateral Agreement, Grantor agreed to execute this Agreement, in order to record the security interest granted to the Collateral Agent for the benefit of the Priority Lien Secured Parties with the United States Patent and Trademark Office.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor hereby agrees with the Collateral Agent as follows:

SECTION 1. Defined Terms

Capitalized terms used but not defined herein shall have the respective meanings given thereto in the Collateral Agreement, and if not defined therein, shall have the respective meanings given thereto in the Collateral Agency Agreement referred to therein.

SECTION 2. Notice and Confirmation of Grant of Security Interest in Trademark Collateral

SECTION 2.1 Notice and Confirmation of Grant of Security. Grantor hereby confirms the grant in the Collateral Agreement to the Collateral Agent, for the benefit of the Priority Lien Secured Parties, of a security interest in, all of the following property, in each case, wherever located and now owned or at any time hereafter acquired by Grantor or in which Grantor now has or at any time in the future may acquire any right, title or interest (collectively, the "Trademark Collateral") as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of Grantor's Priority Lien Obligations:

All of Grantor's right, title and interest in and to all domestic, foreign and multinational trademarks, service marks, trade names, corporate names, company names, business names, fictitious business names, trade dress, trade styles, logos, Internet domain names and other indicia of origin or source identification, whether registered or unregistered, and with respect to any and all of the foregoing: (i) all registrations and applications for registration thereof including, without limitation, the registrations and applications listed in Schedule A attached hereto, (ii) all extension and renewals thereof, (iii) all of the goodwill of the business connected with the use of and symbolized by any of the foregoing, (iv) all rights to sue or otherwise recover for any past, present and future infringement, dilution, or other violation thereof, (v) all Proceeds of the foregoing, including, without limitation, license fees, royalties, income, payments, claims, damages and proceeds of suit now or hereafter due and/or payable with respect thereto, and (vi) all other trademark rights accruing thereunder or pertaining thereto throughout the world.

SECTION 2.2 Certain Limited Exclusions. Notwithstanding anything herein to the contrary, in no event shall the Trademark Collateral include or the security interest granted under Section 2.1 hereof attach to any “intent-to-use” application for registration of a Trademark filed pursuant to Section 1(b) of the Lanham Act, 15 U.S.C. § 1051, prior to the filing and acceptance of a “Statement of Use” pursuant to Section 1(d) of the Lanham Act or an “Amendment to Allege Use” pursuant to Section 1(c) of the Lanham Act with respect thereto, solely to the extent, if any, that, and solely during the period, if any, in which, the grant of a security interest therein could impair the validity or enforceability of any registration that issues from such intent-to-use application under applicable federal law.

SECTION 3. Collateral Agreement and Collateral Agency Agreement

The security interest confirmed pursuant to this Agreement is confirmed in conjunction with the security interest granted to the Collateral Agent for the Priority Lien Secured Parties pursuant to the Collateral Agreement, and the Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the security interest in the Trademark Collateral made and granted hereby are more fully set forth in the Collateral Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein. In the event that any provision of this Agreement is deemed to conflict with the Collateral Agreement or the Collateral Agency Agreement, the provisions of the Collateral Agreement or the Collateral Agency Agreement, as applicable, shall control.

SECTION 4. Governing Law

THIS AGREEMENT AND ANY DISPUTE, CLAIM OR CONTROVERSY ARISING OUT OF OR RELATING TO THIS AGREEMENT (WHETHER ARISING IN CONTRACT, TORT OR OTHERWISE) SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAW RULES THAT WOULD RESULT IN THE APPLICATION OF A DIFFERENT GOVERNING LAW (OTHER THAN ANY MANDATORY PROVISIONS OF THE UCC RELATING TO THE LAW GOVERNING PERFECTION AND EFFECT OF PERFECTION OR PRIORITY OF THE SECURITY INTERESTS).

SECTION 5. Counterparts

This Agreement may be executed in one or more counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, Grantor has caused this Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

**GOGO LLC,
as Grantor**

By: s/ Norman Smagley
Name: Norman Smagley
Title: Executive Vice President, Chief Financial
Officer and Assistant Secretary

Accepted and Agreed:

**U.S. BANK NATIONAL ASSOCIATION,
as Collateral Agents**

By: /s/ Linda Garcia

Name: Linda Garcia

Title: Vice President

TRADEMARK REGISTRATIONS AND APPLICATIONS

Gogo LLC U.S. Trademark Registrations

<u>Trademark</u>	<u>Class</u>	<u>Appl. No.</u>	<u>Appl. Date</u>	<u>Reg. No.</u>	<u>Reg. Date</u>
Emoticon Logo *-)-	38	77976486	10/19/2007	3600042	3/31/2009
Emoticon Logo *-)-	9	77309056	10/19/2007	3667304	8/11/2009
GOGO	9	77216179	9/8/2009	3680364	9/8/2009
GOGO	38	77216180	6/26/2007	3499843	9/9/2008
GOGO BIZ	38	85581100	3/27/2012	4256786	12/11/2012
GOGO	9	85339267	6/6/2011	4129839	4/17/2012
GOGO	38	85339274	6/6/2011	4133147	4/24/2012
GOGO VISION	38	85370757	7/13/2011	4133220	4/24/2012
IN AIR. ONLINE.	9	85349568	6/17/2011	4126958	4/10/2012
IN AIR. ONLINE.	38	85349559	6/17/2011	4126957	4/10/2012
LAND ON TOP OF THINGS	38	85440937	10/6/2011	4247178	11/20/2012
IT'S THE INTERNET. IN THE SKY.	38	85440977	10/6/2011	4167076	7/3/2012

Gogo LLC U.S. Trademark Applications

<u>Trademark</u>	<u>Class</u>	<u>Appl. No.</u>	<u>Appl. Date</u>
2KU	9	86950777	3/23/2016
2KU	38	86808422	11/3/2015

EXCLUSIVE LICENSES TO REGISTERED UNITED STATES COPYRIGHTS, PATENTS AND TRADEMARKS

None.

COPYRIGHT SECURITY AGREEMENT

This **COPYRIGHT SECURITY AGREEMENT**, dated as of June 14, 2016 (this "Agreement"), is made by the signatory hereto indicated as a "Grantor" (the "Grantor") in favor of U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent for the Priority Lien Secured Parties (in such capacity and together with its permitted successors and assigns in such capacity, the "Collateral Agent").

WHEREAS, the Grantor entered into a Collateral Agreement dated as of June 14, 2016 (as amended, restated, supplemented or otherwise modified from time to time, the "Collateral Agreement") among the Grantor, the Collateral Agent and the other persons party thereto, pursuant to which Grantor granted to the Collateral Agent, for the benefit of the Priority Lien Secured Parties, a security interest in the Copyright Collateral (as defined below); and

WHEREAS, pursuant to the Collateral Agreement, Grantor agreed to execute this Agreement, in order to record the security interest granted to the Collateral Agent for the benefit of the Priority Lien Secured Parties with the United States Copyright Office.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby agrees with the Collateral Agent as follows:

SECTION 1. Defined Terms

Capitalized terms used but not defined herein shall have the respective meanings given thereto in the Collateral Agreement, and if not defined therein, shall have the respective meanings given thereto in the Collateral Agency Agreement referred to therein.

SECTION 2. Grant of Security Interest

Grantor hereby grants to the Collateral Agent, for the benefit of the Priority Lien Secured Parties, a security interest in, all of the following property, in each case, wherever located and now owned or at any time hereafter acquired by Grantor or in which Grantor now has or at any time in the future may acquire any right, title or interest (collectively, the "Copyright Collateral") as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of Grantor's Priority Lien Obligations:

(a) All of Grantor's right, title and interest in and to all works of authorship, all United States and foreign copyrights (whether or not the underlying works of authorship have been published), including but not limited to copyrights in software and databases, all designs (including but not limited to all industrial designs, "Protected Designs" within the meaning of 17 U.S.C. 1301 et. Seq. and Community designs), and all "Mask Works" (as defined in 17 U.S.C. 901 of the U.S. Copyright Act), whether registered or unregistered, and with respect to any and all of the foregoing: (i) all registrations and applications for registration thereof including, without limitation, the registrations and applications listed in Schedule A attached hereto, (ii) all extensions, renewals, and restorations thereof, (iii) all rights to sue or otherwise recover for any past, present and future infringement or other violation thereof, (iv) all Proceeds of the foregoing, including, without limitation, license fees, royalties, income, payments, claims, damages and proceeds of suit now or hereafter due and/or payable with respect thereto, and (v) all other copyright rights accruing thereunder or pertaining thereto throughout the world (collectively "Copyrights"); and

(b) all written licenses pursuant to which Grantor has been granted exclusive rights in any registered Copyrights, including, without limitation, each agreement listed in Schedule A attached hereto.

SECTION 3. Collateral Agreement and Collateral Agency Agreement

The security interest granted pursuant to this Agreement is granted in conjunction with the security interest granted to the Collateral Agent for the Priority Lien Secured Parties pursuant to the Collateral Agreement, and the Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the security interest in the Copyright Collateral made and granted hereby are more fully set forth in the Collateral Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein. In the event that any provision of this Agreement is deemed to conflict with the Collateral Agreement or the Collateral Agency Agreement, the provisions of the Collateral Agreement or the Collateral Agency Agreement, as applicable, shall control.

SECTION 4. Governing Law

THIS AGREEMENT AND ANY DISPUTE, CLAIM OR CONTROVERSY ARISING OUT OF OR RELATING TO THIS AGREEMENT (WHETHER ARISING IN CONTRACT, TORT OR OTHERWISE) SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAW RULES THAT WOULD RESULT IN THE APPLICATION OF A DIFFERENT GOVERNING LAW (OTHER THAN ANY MANDATORY PROVISIONS OF THE UCC RELATING TO THE LAW GOVERNING PERFECTION AND EFFECT OF PERFECTION OR PRIORITY OF THE SECURITY INTERESTS).

SECTION 5. Counterparts

This Agreement may be executed in one or more counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, Grantor has caused this Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

**GOGO LLC,
as Grantor**

By: /s/ Norman Smagley

Name: Norman Smagley

Title: Executive Vice President, Chief Financial
Officer and Assistant Secretary

Accepted and Agreed:

U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent

By: /s/ Linda Garcia

Name: Linda Garcia

Title: Vice President

COPYRIGHT REGISTRATIONS

<u>Title</u>	<u>Author</u>	<u>Registration No.</u>	<u>Registration Date</u>
Aircell cloud design	Gogo LLC	VA0001853407	12/13/2012
Gogo cloud design.	Gogo LLC	VA0001853402	12/13/2012

TRADEMARK SECURITY AGREEMENT

This **TRADEMARK SECURITY AGREEMENT**, dated as of June 14, 2016 (this "Agreement"), is made by the signatory hereto indicated as a "Grantor" (the "Grantor") in favor of U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent for the Priority Lien Secured Parties (in such capacity and, together with its permitted successors and assigns in such capacity, the "Collateral Agent").

WHEREAS, the Grantor entered into a Collateral Agreement dated as of June 14, 2016 (as amended, restated, supplemented or otherwise modified from time to time, the "Collateral Agreement") among the Grantor, the Collateral Agent and the other persons party thereto, pursuant to which Grantor granted to the Collateral Agent, for the benefit of the Priority Lien Secured Parties, a security interest in the Trademark Collateral (as defined below); and

WHEREAS, pursuant to the Collateral Agreement, Grantor agreed to execute this Agreement, in order to record the security interest granted to the Collateral Agent for the benefit of the Priority Lien Secured Parties with the United States Patent and Trademark Office.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor hereby agrees with the Collateral Agent as follows:

SECTION 1. Defined Terms

Capitalized terms used but not defined herein shall have the respective meanings given thereto in the Collateral Agreement, and if not defined therein, shall have the respective meanings given thereto in the Collateral Agency Agreement referred to therein.

SECTION 2. Notice and Confirmation of Grant of Security Interest in Trademark Collateral

SECTION 2.1 Notice and Confirmation of Grant of Security. Grantor hereby confirms the grant in the Collateral Agreement to the Collateral Agent, for the benefit of the Priority Lien Secured Parties, of a security interest in, all of the following property, in each case, wherever located and now owned or at any time hereafter acquired by Grantor or in which Grantor now has or at any time in the future may acquire any right, title or interest (collectively, the "Trademark Collateral") as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of Grantor's Priority Lien Obligations:

All of Grantor's right, title and interest in and to all domestic, foreign and multinational trademarks, service marks, trade names, corporate names, company names, business names, fictitious business names, trade dress, trade styles, logos, Internet domain names and other indicia of origin or source identification, whether registered or unregistered, and with respect to any and all of the foregoing: (i) all registrations and applications for registration thereof including, without limitation, the registrations and applications listed in Schedule A attached hereto, (ii) all extension and renewals thereof, (iii) all of the goodwill of the business connected with the use of and symbolized by any of the foregoing, (iv) all rights to sue or otherwise recover for any past, present and future infringement, dilution, or other violation thereof, (iv) all Proceeds of the foregoing, including, without limitation, license fees, royalties, income, payments, claims, damages and proceeds of suit now or hereafter due and/or payable with respect thereto, and (v) all other trademark rights accruing thereunder or pertaining thereto throughout the world.

SECTION 2.2 Certain Limited Exclusions. Notwithstanding anything herein to the contrary, in no event shall the Trademark Collateral include or the security interest granted under Section 2.1 hereof attach to any “intent-to-use” application for registration of a Trademark filed pursuant to Section 1(b) of the Lanham Act, 15 U.S.C. § 1051, prior to the filing and acceptance of a “Statement of Use” pursuant to Section 1(d) of the Lanham Act or an “Amendment to Allege Use” pursuant to Section 1(c) of the Lanham Act with respect thereto, solely to the extent, if any, that, and solely during the period, if any, in which, the grant of a security interest therein could impair the validity or enforceability of any registration that issues from such intent-to-use application under applicable federal law.

SECTION 3. Collateral Agreement and Collateral Agency Agreement

The security interest confirmed pursuant to this Agreement is confirmed in conjunction with the security interest granted to the Collateral Agent for the Priority Lien Secured Parties pursuant to the Collateral Agreement, and the Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the security interest in the Trademark Collateral made and granted hereby are more fully set forth in the Collateral Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein. In the event that any provision of this Agreement is deemed to conflict with the Collateral Agreement or the Collateral Agency Agreement, the provisions of the Collateral Agreement or the Collateral Agency Agreement, as applicable, shall control.

SECTION 4. Governing Law

THIS AGREEMENT AND ANY DISPUTE, CLAIM OR CONTROVERSY ARISING OUT OF OR RELATING TO THIS AGREEMENT (WHETHER ARISING IN CONTRACT, TORT OR OTHERWISE) SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAW RULES THAT WOULD RESULT IN THE APPLICATION OF A DIFFERENT GOVERNING LAW (OTHER THAN ANY MANDATORY PROVISIONS OF THE UCC RELATING TO THE LAW GOVERNING PERFECTION AND EFFECT OF PERFECTION OR PRIORITY OF THE SECURITY INTERESTS).

SECTION 5. Counterparts

This Agreement may be executed in one or more counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, Grantor has caused this Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

**GOGO BUSINESS AVIATION LLC,
as Grantor**

By: /s/ Norman Smagley
Name: Norman Smagley
Title: Executive Vice President, Chief Financial
Officer and Assistant Secretary

Accepted and Agreed:

**U.S. BANK NATIONAL ASSOCIATION,
as Collateral Agent**

By: /s/ Linda Garcia

Name: Linda Garcia

Title: Vice President

TRADEMARK REGISTRATIONS AND APPLICATIONS

Gogo Business Aviation LLC U.S. Trademark Registrations

<u>Trademark</u>	<u>Class</u>	<u>Appl. No.</u>	<u>Appl. Date</u>	<u>Reg. No.</u>	<u>Reg. Date</u>
AIRCELL	9, 38	75679536	4/9/1999	2641476	10/29/2002
AIRCELL	9	75679720	4/9/1999	2606315	8/13/2002
AIRCELL	38	74246637	2/18/1992	1997223	8/27/1996
AIRCELL	9	77175183	5/8/2007	3473337	7/22/2008
AIRCELL	38	77175204	5/8/2007	3561842	1/13/2009
AIRCELL (and design)	38	85495466	12/14/2011	4186069	8/7/2012
AIRCELL (and design)	9	85495497	12/14/2011	4186071	8/7/2012
AIRCELL AXCESS	38	77175208	5/8/2007	3513369	10/7/2008
AIRCELL AXCESS	38	78595026	3/25/2005	3286856	8/28/2007
AIRCELL AXCESS	9	78595031	3/25/2005	3286857	8/28/2007
AIRCELL AXCESS	9	77175191	5/8/2007	3481693	8/5/2008
IN AIR & ON.	38	85495479	12/14/2011	4260362	12/18/2012
IN TOUCH, IN FLIGHT	38	75561855	9/30/1998	2307311	1/11/2000
IN TOUCH, IN FLIGHT	38	77175218	5/8/2007	3477620	7/29/2008
AIRFONE	38	74035115	3/5/1990	1861211	11/1/1994
1-800-AIRFONE	38	74676977	5/5/1995	2089648	8/19/1997
IN TOUCH, IN FLIGHT	38	77175218	5/8/2007	3477620	7/29/2008

Gogo Business Aviation U.S. Trademark Applications

None.

EXCLUSIVE LICENSES TO REGISTERED UNITED STATES COPYRIGHTS, PATENTS AND TRADEMARKS

None.