
**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): March 21, 2019

Affiliated Managers Group, Inc.
(Exact Name of Registrant as Specified in Its Charter)

Delaware
(State or Other Jurisdiction of Incorporation)

001-13459
(Commission
File Number)

04-3218510
(IRS Employer
Identification No.)

777 South Flagler Drive
West Palm Beach, Florida
(Address of Principal Executive Offices)

33401
(Zip Code)

(800) 345-1100
(Registrant's Telephone Number, Including Area Code)

N/A
(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 (see General Instruction A.2. below):

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

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

Emerging growth company

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

ITEM 1.01 Entry Into a Material Definitive Agreement

Junior Subordinated Notes

On March 27, 2019, Affiliated Managers Group, Inc. (the “Company”) completed the issuance and sale of \$280,000,000 aggregate principal amount of the Company’s 5.875% Junior Subordinated Notes due 2059 (the “Notes”). The Notes were issued pursuant to a junior subordinated indenture, dated as of March 27, 2019 (the “Base Indenture”), as supplemented by the first supplemental indenture thereto, dated as of March 27, 2019 (the “First Supplemental Indenture” and, together with the Base Indenture, the “Indenture”), in each case between the Company and U.S. Bank National Association. The Notes have been registered under the Securities Act of 1933, as amended, by a shelf registration statement on Form S-3ASR (Registration No. 333-230423) which became effective March 21, 2019 (the “Registration Statement”). In addition, pursuant to the Underwriting Agreement (as defined below), the Company has granted the underwriters for the offering of Notes an option, exercisable for 30 days from March 21, 2019, to purchase up to an additional \$42,000,000 aggregate principal amount of Notes solely to cover over-allotments.

The terms of the Notes are described in the Company’s prospectus dated March 21, 2019, as supplemented by the final prospectus supplement dated March 21, 2019, as filed with the Securities and Exchange Commission on March 22, 2019; the prospectus as so supplemented forms part of the Registration Statement. The Company intends to use the majority of the net proceeds from the issuance and sale of the Notes to repay outstanding indebtedness under its revolving credit facility, with the remaining portion used for other general corporate purposes. See “Use of Proceeds” in the final prospectus supplement.

Copies of the Base Indenture, the First Supplemental Indenture and the form of Note are attached hereto as Exhibits 4.1, 4.2 and 4.3, respectively, and are incorporated herein by reference. The foregoing descriptions of the Indenture and the Notes are summaries only and are qualified in their entirety by the complete text of such documents attached to this Current Report on Form 8-K.

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

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

ITEM 8.01 Other Events

Underwriting Agreement

On March 21, 2019, the Company entered into an underwriting agreement (the “Underwriting Agreement”) with Morgan Stanley & Co. LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated, Wells Fargo Securities, LLC and RBC Capital Markets, LLC as representatives of the underwriters named therein. A copy of the Underwriting Agreement is attached hereto as Exhibit 1.1 and is incorporated herein by reference.

A copy of the opinion of Simpson Thacher & Bartlett LLP, counsel to the Company, relating to the validity of the Notes is attached as Exhibit 5.1 hereto.

Equity Distribution Program

On March 27, 2019, the Company filed a prospectus supplement (which superseded and replaced the Company’s prior \$500,000,000 prospectus supplement filed on August 16, 2016), pursuant to which the Company may issue and sell shares of its common stock (immediately or on a forward basis) having an aggregate sales price of up to \$500,000,000 in amounts and at times to be determined by the Company (the “Equity Distribution Program”). No shares of common stock were issued or sold under the prior prospectus supplement, and such earlier equity distribution program has been terminated.

In connection with the Equity Distribution Program, the Company has entered into equity distribution agreements and master confirmation letter agreements with Merrill Lynch, Pierce, Fenner & Smith Incorporated, Barclays Capital Inc., Citigroup Global Markets Inc., J.P. Morgan Securities LLC, RBC Capital Markets, LLC and Wells Fargo Securities, LLC and affiliates thereof.

The forms of equity distribution agreement and master confirmation letter agreement are attached hereto as exhibits to this filing and are incorporated by reference herein.

A copy of the opinion of Simpson Thacher & Bartlett LLP, counsel to the Company, relating to the validity of the shares issuable under the Equity Distribution program is attached as Exhibit 5.2 hereto.

The foregoing descriptions of the Underwriting Agreement, the form equity distribution agreement and form master confirmation letter agreement are summaries only and are qualified in their entirety by the complete text of such documents attached to this Current Report on Form 8-K as Exhibits 1.1, 1.2 and 10.1, respectively.

ITEM 9.01 Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
1.1	<u>Underwriting Agreement, dated March 21, 2019, among Affiliated Managers Group, Inc. and Morgan Stanley & Co. LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated, Wells Fargo Securities, LLC and RBC Capital Markets, LLC as representatives of the underwriters named therein</u>
1.2	<u>Form of Equity Distribution Agreement, dated as of March 27, 2019</u>
4.1	<u>Indenture for Junior Subordinated Notes between Affiliated Managers Group, Inc., as issuer, and U.S. Bank National Association, as trustee, dated as of March 27, 2019</u>
4.2	<u>First Supplemental Indenture, dated as of March 27, 2019, between Affiliated Managers Group, Inc., as issuer, and U.S. Bank National Association, as trustee</u>
4.3	<u>Form of 5.875% Junior Subordinated Note due 2059 (included in Exhibit 4.2)</u>
5.1	<u>Opinion of Simpson Thacher & Bartlett LLP relating to the validity of the Notes</u>
5.2	<u>Opinion of Simpson Thacher & Bartlett LLP relating to the validity of the shares to be issued pursuant to each of the Equity Distribution Agreements and the Master Confirmation Letter Agreements, as applicable, each dated as of March 27, 2019</u>
10.1	<u>Form of Master Confirmation Letter Agreement, dated as of March 27, 2019</u>
23.1	<u>Consent of Simpson Thacher & Bartlett LLP (included in Exhibit 5.1)</u>
23.2	<u>Consent of Simpson Thacher & Bartlett LLP (included in Exhibit 5.2)</u>

SIGNATURES

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

Date: March 27, 2019

AFFILIATED MANAGERS GROUP, INC.

By: /s/ David M. Billings

Name: David M. Billings

Title: General Counsel and Secretary

AFFILIATED MANAGERS GROUP, INC.

\$280,000,000

5.875% JUNIOR SUBORDINATED NOTES DUE 2059

UNDERWRITING AGREEMENT

DATED MARCH 21, 2019

Morgan Stanley & Co. LLC
Merrill Lynch, Pierce, Fenner & Smith
Incorporated
Wells Fargo Securities, LLC
RBC Capital Markets, LLC

As Representatives of the several Underwriters
listed in Schedule I hereto

c/o Morgan Stanley & Co. LLC
1585 Broadway
New York, New York 10036

c/o Merrill Lynch, Pierce, Fenner & Smith
Incorporated
One Bryant Park
New York, New York 10036

c/o Wells Fargo Securities, LLC
Duke Energy Center
550 South Tryon Street, 5th Floor
Charlotte, North Carolina 28202

c/o RBC Capital Markets, LLC
200 Vesey Street
New York, New York 10281

Ladies and Gentlemen:

Affiliated Managers Group, Inc., a Delaware corporation (the "Company"), proposes to issue and sell to the several underwriters listed in Schedule I hereto (the "Underwriters"), for whom you are acting as representatives (the "Representatives"), \$280,000,000 aggregate principal amount of its 5.875% Junior Subordinated Notes due 2059 (the "Firm Securities") and, at the election of the Underwriters, up to \$42,000,000 aggregate principal amount of its 5.875% Junior Subordinated Notes due 2059 (the "Optional Securities"). The Firm Securities and the Optional Securities that the Underwriters elect to purchase pursuant to Section 2 hereof are herein collectively called the "Securities." The Securities will be issued pursuant to a base indenture to be dated as of March 27, 2019, as supplemented by a First Supplemental Indenture to be dated as of March 27, 2019 (collectively, the "Indenture"), each between the Company and U.S. Bank National Association, as trustee (the "Trustee").

The Company hereby confirms its agreement with the several Underwriters concerning the purchase and sale of the Securities, as follows:

Section 1. Registration Statement. The Company has prepared and filed with the Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933, as amended, and the rules and regulations of the Commission thereunder (collectively, the “Securities Act”), an “automatic shelf registration statement,” as defined in Rule 405 under the Securities Act, on Form S-3 (File No. 333-230423), including a prospectus, to be used in connection with the public offering and sale of the Securities, which incorporates by reference documents that the Company has filed or will file in accordance with the provisions of the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder (the “Exchange Act”). Such registration statement, as it may have heretofore been amended, including the information, if any, deemed pursuant to Rule 430A, 430B or 430C under the Securities Act to be part of the registration statement at the time of its effectiveness (“Rule 430 Information”), is referred to herein as the “Registration Statement”; and as used herein, the term “Preliminary Prospectus” means each prospectus included in such registration statement (and any amendments thereto) at the time it became effective and the prospectus included in the Registration Statement at its most recent effective date that omits Rule 430 Information, and the term “Prospectus” means the prospectus in the form first used (or made available upon request of purchasers pursuant to Rule 173 under the Securities Act) in connection with confirmation of sales of the Securities. Any reference in this Agreement to the Registration Statement, any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include the documents incorporated by reference therein pursuant to Item 12 of Form S-3 under the Securities Act, as of the effective date of the Registration Statement or the date of such Preliminary Prospectus or the Prospectus, as the case may be, and any reference to “amend”, “amendment” or “supplement” with respect to the Registration Statement, any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include any documents filed after such date under the Exchange Act that are deemed to be incorporated by reference therein. Capitalized terms used but not defined herein shall have the meanings given to such terms in the Registration Statement and the Prospectus.

At or prior to the time when sales of the Securities were first made (the “Time of Sale”), the Company had prepared the following information (collectively, the “Time of Sale Information”), a Preliminary Prospectus dated March 21, 2019, and each “free-writing prospectus” (as defined pursuant to Rule 405 under the Securities Act) listed on Annex A hereto as constituting part of the Time of Sale Information.

Section 2. Purchase of the Securities by the Underwriters.

(a) (i) The Company agrees to issue and sell the Securities to the several Underwriters as provided in this Agreement, and each Underwriter, on the basis of the representations, warranties and agreements set forth herein and subject to the conditions set forth herein, agrees, severally and not jointly, to purchase from the Company the respective principal amount of Firm Securities set forth opposite such Underwriter’s name in Schedule I hereto at a price equal to 96.85% of the principal amount thereof for retail orders (\$24.2125 purchase price in respect of \$271,750,000 aggregate principal amount) and 98.00% of the principal amount thereof for institutional orders (\$24.50 purchase price in respect of \$8,250,000 aggregate principal amount), plus accrued interest, if any, from March 27, 2019 to the First Time of Delivery (as defined below) and (ii) in the event and to the extent that the Underwriters shall exercise the election to purchase Optional Securities as provided below, the Company agrees to issue to each of the Underwriters, and each of the Underwriters agrees, severally and not jointly, to purchase from the Company, at

the price for retail orders described above, that portion of the principal amount of Optional Securities as to which such election shall have been exercised (to be adjusted by you so as to avoid purchases of Securities other than in integral multiples of \$25) determined by multiplying such principal amount of Optional Securities by a fraction the numerator of which is the maximum principal amount of Optional Securities which such Underwriter is entitled to purchase as set forth opposite the name of such Underwriter in Schedule I hereto and the denominator of which is the maximum principal amount of Optional Securities that all of the Underwriters are entitled to purchase hereunder.

The Company hereby grants to the Underwriters the right to purchase at their election up to \$42,000,000 aggregate principal amount of its 5.875% Junior Subordinated Notes due 2059, at the price for retail orders set forth above, for the sole purpose of covering over-allotments, if any. Any such election to purchase Optional Securities may be exercised only by written notice from the Representatives to the Company, given within a period of 30 calendar days after the date of this Agreement and setting forth the aggregate principal amount of Optional Securities to be purchased and the date on which such Optional Securities are to be delivered, as determined by the Representatives but in no event earlier than the First Time of Delivery (as defined in Section 2(b) hereof), or unless the Representatives and the Company otherwise agree in writing, earlier than two or later than ten “business days” (as defined in Section 14(b) hereof) after the date of such notice; provided that such election with respect to Optional Securities to be delivered on the First Time of Delivery may be effected by a notice dated at least one business day before the First Time of Delivery.

The Company understands that the Underwriters intend to make a public offering of the Securities as soon after the effectiveness of this Agreement as in the judgment of the Representatives is advisable, and initially to offer the Securities on the terms set forth in the Prospectus. The Company acknowledges and agrees that the Underwriters may offer and sell Securities to or through any affiliate of an Underwriter and that any such affiliate may offer and sell Securities purchased by it to or through any Underwriter. The Company will not be obligated to deliver any of the Securities except upon payment for all the Securities to be purchased as provided herein.

(b) Payment for and delivery with respect to the Securities will be made at the offices of Sidley Austin LLP, 787 Seventh Ave., New York, New York, 10023 at 10:00 A.M., New York City time, on March 27, 2019, or at such other time or place on the same or such other date, not later than the third business day thereafter, as the Representatives and the Company may agree upon in writing, and with respect to the Optional Securities, 10:00 AM, New York City time, on the date specified by the Representatives in the written notice given by the Representatives of the Underwriters’ election to purchase such Optional Securities, or such other time and date as the Representatives and the Company may agree upon in writing. The time and date of payment and delivery for the Firm Securities is referred to herein as the “First Time of Delivery”; each such time and date for delivery of the Optional Securities, if not the First Time of Delivery, is herein called a “Second Time of Delivery”; and each such time and date for delivery is herein called a “Time of Delivery.”

(c) Payment for the Securities shall be made by wire transfer in immediately available funds to the account(s) specified by the Company to the Representatives against delivery to the

nominee of The Depository Trust Company (“DTC”), for the account of the Underwriters, of one or more global notes representing the Securities (collectively, the “Global Note”), with any transfer taxes payable in connection with the sale of the Securities duly paid by the Company. The Global Note will be made available for inspection by the Representatives not later than 1:00 P.M., New York City time, on the business day prior to each Time of Delivery.

(d) The Company acknowledges and agrees that the Underwriters are acting solely in the capacity of an arm’s length contractual counterparty to the Company with respect to the offering of the Securities contemplated hereby (including in connection with determining the terms of the offering) and not as a financial advisor or a fiduciary to, or an agent of, the Company or any other person. Additionally, neither the Representatives nor any other Underwriter is advising the Company or any other person as to any legal, tax, investment, accounting or regulatory matters in any jurisdiction. The Company shall consult with its own advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated hereby, and the Underwriters shall have no responsibility or liability to the Company with respect thereto. Any review by the Underwriters of the Company, the transactions contemplated hereby or other matters relating to such transactions will be performed solely for the benefit of the Underwriters and shall not be on behalf of the Company.

Section 3. Representations and Warranties of the Company. The Company represents and warrants to each Underwriter that:

(a) *Preliminary Prospectus*. No order preventing or suspending the use of any Preliminary Prospectus has been issued by the Commission, and each Preliminary Prospectus, at the time of filing thereof, complied in all material respects with the Securities Act and did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company makes no representation and warranty with respect to any statements or omissions made in reliance upon and in conformity with any Underwriter Information (as defined in Section 7(b)).

(b) *Time of Sale Information*. The Time of Sale Information at the Time of Sale did not, and at each Time of Delivery will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company makes no representation and warranty with respect to any statements or omissions made in reliance upon and in conformity with any Underwriter Information. No statement of material fact included in the Prospectus was omitted from the Time of Sale Information if such statement of material fact would have been necessary to make the statements in the Time of Sale Information, in the light of the circumstances under which they were made, not misleading, and no statement of material fact included in the Time of Sale Information that is required to be included in the Prospectus has been omitted therefrom.

(c) *Issuer Free Writing Prospectus*. The Company (including its agents and representatives, other than the Underwriters in their capacity as such) has not prepared, made, used, authorized, approved or referred to and will not prepare, make, use, authorize, approve or refer to any “written communication” (as defined in Rule 405 under the Securities Act) that

constitutes an offer to sell or solicitation of an offer to buy the Securities (each such communication by the Company or its agents and representatives (other than a communication referred to in clauses (i) (ii) and (iii) below) an “Issuer Free Writing Prospectus”) other than (i) any document not constituting a prospectus pursuant to Section 2(a)(10)(a) of the Securities Act or Rule 134 under the Securities Act, (ii) the Preliminary Prospectus, (iii) the Prospectus, (iv) the documents listed on Annex A hereto as constituting the Time of Sale Information and (v) any electronic road show or other written communications, in each case approved in writing in advance by the Representatives. Each such Issuer Free Writing Prospectus complied in all material respects with the Securities Act, has been or will be (within the time period specified in Rule 433 under the Securities Act) filed in accordance with the Securities Act (to the extent required thereby) and, when taken together with the Preliminary Prospectus accompanying, or delivered prior to delivery of, or filed prior to the first use of such Issuer Free Writing Prospectus, did not, and at each Time of Delivery, will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company makes no representation and warranty with respect to any statements or omissions made in each such Issuer Free Writing Prospectus in reliance upon and in conformity with any Underwriter Information.

(d) *Registration Statement and Prospectus.* The Registration Statement is an “automatic shelf registration statement” as defined in Rule 405 under the Securities Act that has been filed with the Commission not earlier than three years prior to the date hereof; and no notice of objection of the Commission to the use of such registration statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Securities Act has been received by the Company. No order suspending the effectiveness of the Registration Statement has been issued by the Commission and no proceeding for that purpose or pursuant to Section 8A of the Securities Act against the Company or related to the offering has been initiated or threatened by the Commission; as of the applicable effective date of the Registration Statement and any amendment thereto, the Registration Statement complied and will comply in all material respects with the Securities Act and the Trust Indenture Act of 1939, as amended, and the rules and regulations of the Commission thereunder (collectively, the “Trust Indenture Act”), and did not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein not misleading; and as of the date of the Prospectus and any amendment or supplement thereto and as of each Time of Delivery, the Prospectus will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company makes no representation and warranty with respect to (i) that part of the Registration Statement that constitutes the Statement of Eligibility and Qualification (Form T-1) of the Trustee under the Trust Indenture Act or (ii) any statements or omissions made in reliance upon and in conformity with any Underwriter Information.

(e) *Well-Known Seasoned Issuer.* (A) At the original effectiveness of the Registration Statement, (B) at the time of the most recent amendment thereto for the purposes of complying with Section 10(a)(3) of the Securities Act (whether such amendment was by post-effective amendment, incorporated report filed pursuant to Section 13 or 15(d) of the Exchange Act or form of prospectus), (C) at the time the Company or any person acting on its behalf (within the meaning, for this clause only, of Rule 163(c) under the Securities Act) made any offer relating to the

Securities in reliance on the exemption of Rule 163 under the Securities Act, and (D) as of the Time of Sale, the Company was and is a “well-known seasoned issuer” (as defined in Rule 405 under the Securities Act).

(f) *Company Not Ineligible Issuer.* At the time of filing the Registration Statement and any post-effective amendment thereto, at the earliest time thereafter that the Company or another offering participant made a *bona fide* offer (within the meaning of Rule 164(h)(2) of the Securities Act) of the Securities and at the date hereof, the Company was not and is not an “ineligible issuer,” as defined in Rule 405 under the Securities Act, without taking account of any determination by the Commission pursuant to Rule 405 under the Securities Act that it is not necessary that the Company be considered an ineligible issuer.

(g) *Incorporated Documents.* Each document filed or to be filed pursuant to the Exchange Act and incorporated by reference in the Registration Statement, the Time of Sale Information or the Prospectus complied when it was filed, or will comply when it is filed, as the case may be, in all material respects with the Exchange Act and, when read together with the other information in the Registration Statement, the Time of Sale Information or the Prospectus, (a) at the Time of Sale and (b) at each Time of Delivery, each document filed and incorporated by reference will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(h) *Statements in the Registration Statement, the Time of Sale Information and the Prospectus.* The statements in the Registration Statement, the Time of Sale Information and the Prospectus under the heading “Material U.S. Federal Income Tax Considerations”, insofar as they purport to constitute summaries of certain provisions of U.S. federal income tax law and regulations or legal conclusions with respect thereto, constitute accurate summaries of such matters in all material respects.

(i) *Authorization of the Underwriting Agreement.* This Agreement has been duly authorized, executed and delivered by the Company.

(j) *Authorization of the Indenture.* The Indenture has been duly authorized by the Company and duly qualified under the Trust Indenture Act and, when duly executed and delivered in accordance with its terms by each of the parties thereto, will constitute a valid and legally binding agreement of the Company enforceable against the Company in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors’ rights generally or by equitable principles relating to enforceability.

(k) *Authorization of the Securities.* The Securities have been duly authorized by the Company and, at each Time of Delivery, will have been duly executed by the Company and, when authenticated, issued and delivered in the manner provided for in the Indenture and delivered to the Underwriters against payment of the purchase price therefor as described in the Registration Statement, the Time of Sale Information and the Prospectus, will constitute valid and binding obligations of the Company, entitled to the benefits of the Indenture and enforceable against the Company in accordance with their terms, except as the enforcement thereof may be limited by

applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability.

(l) *Descriptions of the Transaction Documents.* The description of this Agreement, the Securities and the Indenture (collectively, the "Transaction Documents") set forth in the Registration Statement, the Time of Sale Information and the Prospectus is correct in all material respects.

(m) *No Material Adverse Effect.* Since December 31, 2018, except as set forth in the Registration Statement, the Time of Sale Information and the Prospectus, (i) there has been no material adverse change or prospective material adverse change in the business, management, financial position, stockholders equity or results of operations of the Company and its subsidiaries considered as one enterprise from that set forth in the Registration Statement, the Time of Sale Information and the Prospectus, whether or not arising in the ordinary course of business (a "Material Adverse Effect"), (ii) there have been no transactions entered into by the Company or any of its subsidiaries, other than those in the ordinary course of business or otherwise publicly disclosed, which are material with respect to the Company and its subsidiaries considered as one enterprise, and (iii) there has been no dividend or distribution of any kind declared, paid or made by the Company on any class of its capital stock.

(n) *Independent Accountants.* PricewaterhouseCoopers LLP, who have expressed their opinion with respect to the audited financial statements (which term as used in this Agreement includes the related notes thereto) and supporting schedules included as a part of, or incorporated by reference in, the Registration Statement, the Time of Sale Information and the Prospectus, are independent registered public accountants with respect to the Company as required by the Securities Act and the applicable published rules and regulations thereunder.

(o) *Financial Statements.* The financial statements included in or incorporated by reference into the Registration Statement, the Time of Sale Information and the Prospectus, together with the related schedules and notes, present fairly in all material respects (i) the financial position of the Company and its consolidated subsidiaries at the dates indicated and (ii) the consolidated statements of income, changes in stockholders' equity and cash flows of the Company and its consolidated subsidiaries for the periods specified; said financial statements have been prepared in conformity with generally accepted accounting principles ("GAAP") applied on a consistent basis throughout the periods involved, except as stated therein. The supporting schedules incorporated by reference into the Registration Statement, the Time of Sale Information and the Prospectus present fairly, in accordance with GAAP, the information required to be stated therein. Any *pro forma* financial statements of the Company, and the related notes thereto, included in or incorporated by reference into the Registration Statement and the Prospectus present fairly in all material respects the information shown therein, have been prepared in accordance with the Commission's rules and guidelines with respect to *pro forma* financial statements and have been properly compiled on the basis described therein, and the assumptions used in the preparation thereof are reasonable and the adjustments used therein are appropriate to give effect to the transactions and circumstances referred to therein. Any other financial data derived from the financial statements of the Company included in or incorporated by reference into the Registration Statement, the Time of Sale Information and the Prospectus present fairly in all material respects the information shown therein, and have been compiled on a basis consistent in all material

respects with that of the audited financial statements included in or incorporated by reference in the Registration Statement, the Time of Sale Information and the Prospectus. No other financial statements are required to be set forth in or incorporated by reference into the Registration Statement or the Prospectus under the Securities Act.

(p) *Good Standing of the Company.* The Company has been duly organized and is validly existing as a corporation in good standing under the laws of the State of Delaware and has corporate power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement, the Time of Sale Information and the Prospectus and to enter into and perform its obligations under, or as contemplated by, this Agreement. The Company is duly qualified as a foreign corporation to transact business and is in good standing in each other jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure so to qualify or to be in good standing would not result in a Material Adverse Effect.

(q) *Good Standing of Subsidiaries.* Each subsidiary of the Company has been duly organized or formed and is validly existing as a corporation, limited partnership, limited liability company, limited liability partnership, Massachusetts business trust or general partnership, as the case may be, under the laws of its jurisdiction of organization and is in good standing under the laws of its jurisdiction of organization, has power (corporate or otherwise) and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement, the Time of Sale Information and the Prospectus and is duly qualified as a foreign corporation, limited partnership, limited liability company, limited liability partnership, Massachusetts business trust or general partnership, as the case may be, to transact business and is in good standing in each jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure to so qualify or to be in good standing would not result in a Material Adverse Effect. Except as otherwise disclosed in the Registration Statement, the Time of Sale Information and Prospectus, all of the issued shares of capital stock of each subsidiary of the Company which is a corporation have been duly authorized and validly issued and are fully paid and non-assessable, and to the extent owned by the Company or any of its subsidiaries (except for directors' qualifying shares and as described or reflected generally in the Registration Statement, the Time of Sale Information and the Prospectus) are owned directly or indirectly by the Company, free and clear of all liens, encumbrances, equities or claims, in each case with such exceptions, individually or in the aggregate, as would not have a Material Adverse Effect. The partnership interests, membership interests and shares of beneficial interest of each subsidiary of the Company which is a partnership, limited liability company, limited partnership, limited liability partnership or Massachusetts business trust have been validly issued in accordance with applicable law and the partnership agreement, limited liability agreement or declaration of trust, as applicable, of such subsidiary, and to the extent owned by the Company or any of its subsidiaries (except as described or reflected generally in the Registration Statement, the Time of Sale Information and the Prospectus) are owned directly or indirectly by the Company, free and clear of all liens, encumbrances, equities or claims, in each case with such exceptions, individually or in the aggregate, as would not have a Material Adverse Effect; and none of the outstanding shares of capital stock, partnership interests, membership interests or shares of beneficial interests, as the case may be, of any subsidiary of the Company was issued in violation of the preemptive or similar rights of any securityholder of such

subsidiary, in each case with such exceptions, individually or in the aggregate, as would not have a Material Adverse Effect.

(r) *Capitalization.* The Company has the authorized, issued and outstanding capitalization described in the Registration Statement, the Time of Sale Information and the Prospectus (except for subsequent issuances, if any, pursuant to reservations, agreements or employee benefit plans or pursuant to the exercise of convertible securities or options or upon the redemption or repurchase of outstanding securities, in each case accurately described or reflected in the Registration Statement, the Time of Sale Information and the Prospectus, as amended or supplemented). The shares of issued and outstanding capital stock of the Company have been duly authorized and validly issued and are fully paid and non-assessable; and none of the outstanding shares of capital stock of the Company was issued in violation of the preemptive or other similar rights of any securityholder of the Company. There are no authorized or outstanding options, warrants, preemptive rights, rights of first refusal or other rights to purchase, or equity or debt securities convertible into or exchangeable or exercisable for, any capital stock of the Company other than those accurately described or reflected in the Registration Statement, the Time of Sale Information and the Prospectus, as amended or supplemented, or pursuant to reservations, agreements or employee benefit plans or the exercise of convertible securities or options or upon the redemption or repurchase of outstanding securities, in each case accurately described or reflected in the Time of Sale Information and the Prospectus, as amended or supplemented. Except as would not, individually or in the aggregate, have a Material Adverse Effect, there are no authorized or outstanding options, warrants, preemptive rights, rights of first refusal or other rights to purchase, or equity or debt securities convertible into or exchangeable or exercisable for, any capital stock of any of the Company's subsidiaries, other than those accurately described or reflected in the Registration Statement, the Time of Sale Information and the Prospectus, as amended or supplemented, or pursuant to reservations, agreements or employee benefit plans or the exercise of convertible securities or options or upon the redemption or repurchase of outstanding securities, in each case accurately described or reflected in the Time of Sale Information and the Prospectus, as amended or supplemented.

(s) *Absence of Defaults and Conflicts.* Neither the Company nor any of its subsidiaries is in violation of its charter or by-laws or other constituting or organizational document or in default in the performance or observance of any obligation, agreement, covenant or condition contained in any contract, indenture, mortgage, deed of trust, loan or credit agreement, note, lease or other agreement or instrument to which the Company or any of its subsidiaries is a party, or by which it or any of them may be bound, or to which any of the property or assets of the Company or any subsidiary of the Company is subject (collectively, "Agreements and Instruments"), except for such defaults that would not result in a Material Adverse Effect; and the execution, delivery and performance of each of the Transaction Documents and any other agreement or instrument entered into or issued, or to be entered into or issued by, the Company in connection with the transactions contemplated hereby or thereby or in the Registration Statement, the Time of Sale Information and the Prospectus and the consummation of the transactions contemplated herein and in the Registration Statement, the Time of Sale Information and the Prospectus (including the issuance and sale of the Securities by the Company and the use of the proceeds by the Company from the sale of the Securities as described in the Registration Statement, the Time of Sale Information and the Prospectus under the caption "Use of Proceeds") and compliance by the Company with its obligations hereunder and thereunder have been duly authorized by all necessary

corporate action and do not, whether with or without the giving of notice or passage of time or both, conflict with or constitute a breach of, or default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any subsidiary of the Company pursuant to, the Agreements and Instruments (except for such conflicts, breaches or defaults or liens, charges or encumbrances that would not result in a Material Adverse Effect), nor will such action result in any violation of the provisions of the charter or by-laws or other constituting or organizational instrument as in effect on the date hereof of the Company or any subsidiary of the Company or any applicable law, statute, rule, regulation, judgment, order, writ or decree of any government, government instrumentality or court, domestic or foreign, having jurisdiction over the Company or any subsidiary of the Company or any of their assets, properties or operations, except for any such violation of any applicable law, statute, rule, regulation, judgment, order, writ or decree of law which would not result in a Material Adverse Effect.

(t) *Absence of Further Requirements.* No filing with, or authorization, approval, consent, license, order, registration, qualification or decree of, any court or governmental authority or agency is necessary or required for the performance by the Company of its obligations hereunder or under the Transaction Documents, in connection with the transactions contemplated thereby (including, without limitation, the offering, issuance or sale of the Securities hereunder, or the consummation of the transactions contemplated by the Transaction Documents) or for the due execution, delivery or performance of the Transaction Documents, except such as have been already obtained or as may be required under the Securities Act and the rules and regulations thereunder or state securities laws and except for the qualification of the Indenture under the Trust Indenture Act.

(u) *No Material Actions or Proceedings.* Except as disclosed in the Registration Statement, the Time of Sale Information and the Prospectus, there is no action, suit, proceeding, inquiry or investigation before or brought by any court or governmental agency or body, domestic or foreign, now pending, or, to the knowledge of the Company, threatened, against or affecting the Company or any subsidiary of the Company, which, singly or in the aggregate, would reasonably be expected to result in a Material Adverse Effect, or which would reasonably be expected to materially and adversely affect the consummation of the transactions contemplated in the Transaction Documents or the performance by the Company of its obligations hereunder or thereunder.

(v) *Accuracy of Exhibits.* All of the descriptions of contracts or other documents contained or incorporated by reference in the Registration Statement, the Time of Sale Information and the Prospectus are accurate and complete descriptions in all material respects of such contracts or other documents.

(w) *Possession of Licenses and Permits.* The Company and its subsidiaries possess such permits, licenses, approvals, consents and other authorizations (collectively, "Governmental Licenses") issued by the appropriate federal, state, local or foreign regulatory agencies or bodies necessary to conduct the business now operated by them; the Company and its subsidiaries are in compliance with the terms and conditions of all such Governmental Licenses, except in any such case where the failure to so possess or to comply would not, singly or in the aggregate, have a Material Adverse Effect; all of the Governmental Licenses are valid and in full force and effect, except where the invalidity of such Governmental Licenses or the failure of such Governmental

Licenses to be in full force and effect would not have a Material Adverse Effect; and neither the Company nor any of its subsidiaries has received any notice of proceedings relating to the revocation or modification of any such Governmental Licenses which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would result in a Material Adverse Effect.

(x) *Title to Properties.* The Company and its subsidiaries have good and marketable title to all real property owned by the Company and its subsidiaries and good title to all other properties owned by them, in each case, free and clear of all mortgages, pledges, liens, security interests, claims, restrictions or encumbrances of any kind except such as (a) are described in the Registration Statement, the Time of Sale Information and the Prospectus or (b) would not, singly or in the aggregate, result in a Material Adverse Effect; and all of the leases and subleases material to the business of the Company and its subsidiaries, considered as one enterprise, and under which the Company or any of its subsidiaries holds properties described in the Registration Statement, the Time of Sale Information and the Prospectus, are in full force and effect, and neither the Company nor any subsidiary of the Company has any notice of any material claim of any sort that has been asserted by anyone adverse to the rights of the Company or any subsidiary of the Company under any of the leases or subleases mentioned above, or affecting or questioning the rights of the Company or such subsidiary to the continued possession of the leased or subleased premises under any such lease or sublease.

(y) *No Investment Company.* Neither the Company nor any of its subsidiaries is, or, upon the issuance and sale by the Company of the Securities as herein contemplated and the application of the proceeds therefrom as described in the Registration Statement, the Time of Sale Information and the Prospectus, will be, an “investment company” or an entity “controlled” by an “investment company” as such terms are defined in the Investment Company Act of 1940, as amended, and the rules and regulations of the Commission thereunder (collectively, the “Investment Company Act”).

(z) *Company Not an Investment Adviser.* The Company is not required to register as an “investment adviser” or as a “broker-dealer” under the Investment Advisers Act of 1940, as amended, and the rules and regulations of the Commission promulgated thereunder (collectively, the “Advisers Act”) or the Exchange Act. The Company is not required to be registered, licensed or qualified as an investment adviser or broker-dealer under the laws requiring any such registration, licensing or qualification in any jurisdiction in which it or its subsidiaries conduct business. Each of the subsidiaries has been duly registered as an investment adviser under the Advisers Act, and has been duly registered as a broker-dealer under the Exchange Act, and each such registration is in full force and effect, in each case to the extent such registration is required and with such exceptions as would not reasonably be expected to have a Material Adverse Effect. Each of the subsidiaries is duly registered, licensed or qualified as an investment adviser and broker-dealer under state and local laws where such registration, licensing or qualification is required by such laws and is in compliance with all such laws requiring any such registration, licensing or qualification, in each case with such exceptions, individually or in the aggregate, as would not reasonably be expected to have a Material Adverse Effect.

(aa) *Compliance with Laws.* Each subsidiary of the Company which is required to be registered as an investment adviser or broker-dealer is and has been in compliance with all

applicable laws and governmental rules and regulations, as may be applicable to its investment advisory or broker-dealer business, except to the extent that such non-compliance would not reasonably be expected to result in a Material Adverse Effect and none of such subsidiaries is prohibited by any provision of the Advisers Act or the Investment Company Act from acting as an investment adviser. Each subsidiary of the Company which is required to be registered as a broker-dealer is a member in good standing of the Financial Industry Regulatory Authority (“FINRA”). No subsidiary of the Company which is required to be registered as an investment adviser or broker-dealer is in default with respect to any judgment, order, writ, injunction, decree, demand or assessment issued by any court or any foreign, federal, state, municipal or other governmental agency, board, commission, bureau, instrumentality or department, domestic or foreign, or by any self-regulatory authority relating to any aspect of its investment advisory or broker-dealer business, which would need to be disclosed pursuant to Rule 206(4)-4(b) under the Advisers Act, or which is reasonably likely to give rise to an affirmative answer to any of the questions in Item 11, Part 1 of the Form ADV of such registered investment adviser or which is reasonably likely to give rise to an affirmative answer to any of the questions in Item 7 of the Form BD of such broker-dealer.

(bb) *Registration of Funds.* Each mutual fund of which a subsidiary of the Company serves as the investment advisor (a “Mutual Fund”) has been since inception, is currently and will be immediately after consummation of the transactions contemplated herein, a duly registered investment company in compliance with the Investment Company Act, and the rules and regulations promulgated thereunder and duly registered or licensed, except where any failure to be duly registered, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect. Since their initial offering, shares of each of the Mutual Funds have been duly qualified for sale under the securities laws of each jurisdiction in which they have been sold or offered for sale at such time or times during which such qualification was required, and, if not so qualified, the failure to so qualify would not reasonably be expected to have a Material Adverse Effect. The offering and sale of shares of each of the Mutual Funds have been registered under the Securities Act during such period or periods for which such registration is required; the related registration statement has become effective under the Securities Act; no stop order suspending the effectiveness of any such registration statement has been issued and no proceedings for that purpose have been instituted or, to the knowledge of the Company, are contemplated. Except to the extent that such failure to comply, misstatement or omission, as the case may be, would not reasonably be likely to result in a Material Adverse Effect, the registration statement of each Mutual Fund, together with the amendments and supplements thereto, under the Investment Company Act and the Securities Act has, at all times when such registration statement was effective, complied in all material respects with the requirements of the Investment Company Act and the Securities Act then in effect and neither such registration statement nor any amendments or supplements thereto contained, at the time and in the light of the circumstances in which they were made, an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein, at the time and in the light of the circumstances under which they were made, not misleading. All shares of each of the Mutual Funds were sold pursuant to an effective registration statement, or pursuant to a valid exemption from registration, and have been duly authorized and are validly issued, fully paid and non-assessable. Each of the Mutual Funds’ investments has been made in accordance with its investment policies and restrictions set forth in its registration statement in effect at the time the investments were made and have been held in accordance with its respective investment policies

and restrictions, to the extent applicable and in effect at the time such investments were held, except to the extent any failure to comply with such policies and restrictions, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

(cc) *Investment Advisory Agreements.* The Company is not a party as an investment advisor or distributor to any investment advisory agreement or distribution agreement and is not serving or acting as an investment adviser to any person. Each of the investment advisory agreements to which any of its subsidiaries is a party is a legal and valid obligation of such subsidiary and complies with the applicable requirements of the Advisers Act and the rules and regulations of the Commission thereunder, except where the failure to so comply would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Each of the investment advisory agreements and distribution agreements between a subsidiary of the Company and a Mutual Fund is a legal and valid obligation of such subsidiary and complies with the applicable requirements of the Investment Company Act, and in the case of such distribution agreements, with the applicable requirements of the Exchange Act, except where the failure to so comply would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. No investment advisory agreement or distribution agreement to which any of the subsidiaries is a party that was either in effect on January 1, 2016 or entered into by a subsidiary of the Company since January 1, 2016 has been terminated or expired, except where any such termination or expiration would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. None of such subsidiaries is in breach or violation of or in default under any such investment advisory agreement or distribution agreement, with such exceptions individually or in the aggregate as would not reasonably be expected to have a Material Adverse Effect. No subsidiary of the Company is serving or acting as an investment adviser to any person except pursuant to an agreement to which such subsidiary is a party and which is in full force and effect, other than any agreement the non-existence of which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The consummation of the transaction contemplated herein will not constitute an “assignment” as such term is defined in the Advisers Act and the Exchange Act.

(dd) *Internal Control over Financial Reporting.* The Company maintains a system of internal control over financial reporting (as such term is defined in Rule 13a-15(f) under the Exchange Act) that complies with the requirements of the Exchange Act and has been designed by the Company’s principal executive officer and principal financial officer, or under their supervision, to provide reasonable assurance regarding the reliability of financial reporting, the preparation of financial statements for external purposes in accordance with generally accepted accounting principles and the interactive data in eXtensible Business Reporting Language included or incorporated by reference in the Registration Statement. The Company’s internal control over financial reporting is effective, and the Company is not aware of any material weaknesses in its internal control over financial reporting. Since the date of the latest audited financial statements included or incorporated by reference in the Registration Statement, the Time of Sale Information and the Prospectus, there has been no change in the Company’s internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company’s internal control over financial reporting.

(ee) (cc) *eXtensible Business Reporting Language.* The interactive data in eXtensible Business Reporting Language included or incorporated by reference in the Registration Statement

fairly presents the information called for in all material respects and has been prepared in accordance with the Commission's rules and guidelines applicable thereto.

(ff) *Disclosure Controls and Procedures.* The Company maintains disclosure controls and procedures (as such term is defined in Rule 13a-15(e) under the Exchange Act) that comply with the requirements of the Exchange Act; such disclosure controls and procedures have been designed to ensure that material information relating to the Company and its subsidiaries is made known to the Company's principal executive officer and principal financial officer by others within those entities; and such disclosure controls and procedures are effective.

(gg) *No Price Stabilization or Manipulation.* The Company has not taken, and will not take, directly or indirectly, any action designed to or that would be reasonably expected to cause or result in stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities.

(hh) *Brokers.* There is no broker, finder or other party that is entitled to receive from the Company any brokerage or finder's fee or other fee or commission as a result of any transactions contemplated by this Agreement.

(ii) *No Unlawful Payments.* Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee or other person associated with or acting on behalf of the Company or any of its subsidiaries has (i) used any corporate funds of the Company or any of its subsidiaries for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds of the Company or any of its subsidiaries; (iii) violated or is in violation of any provision of the Foreign Corrupt Practices Act of 1977 relating to activities of the Company or any of its subsidiaries; or (iv) made any bribe, rebate, payoff, influence payment, kickback or other unlawful payment on behalf of the Company or any of its subsidiaries.

(jj) *Compliance with Money Laundering Laws.* The operations of the Company and its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the "Money Laundering Laws"), and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened.

(kk) *Compliance with OFAC.* None of the Company, any of its subsidiaries or, to the knowledge of the Company, any director, officer, agent, employee or Affiliate of the Company or any of its subsidiaries is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC"); and the Company will not directly or indirectly use the proceeds of the offering of the Securities hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or

other person or entity, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC.

(ll) *Cybersecurity*. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect (i) to the knowledge of the Company, there has been no security breach or incident, unauthorized access or disclosure, or other compromise of or relating to the Company's or its subsidiaries' information technology and computer systems, networks, hardware, software, data and databases (including the data and information of their respective customers, employees, suppliers, vendors and any third party data maintained, processed or stored by the Company or its subsidiaries, and any such data processed or stored by third parties on behalf of the Company or its subsidiaries), equipment or technology (collectively, "IT Systems and Data"); (ii) neither the Company nor any of its subsidiaries has been notified of, and has no knowledge of any event or condition that would result in, any security breach or incident, unauthorized access or disclosure or other compromise to their IT Systems and Data and (iii) the Company and its subsidiaries have implemented appropriate controls, policies, procedures, and technological safeguards to maintain and protect the integrity, continuous operation, redundancy and security of their IT Systems and Data reasonably consistent with industry standards and practices, or as required by applicable regulatory standards. The Company and its subsidiaries are presently in compliance in all material respects with all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, internal policies and contractual obligations relating to the privacy and security of IT Systems and Data and to the protection of such IT Systems and Data from unauthorized use, access, misappropriation or modification.

Any certificate signed by an officer of the Company and delivered to the Underwriters or to counsel for the Underwriters shall be deemed to be a representation and warranty by the Company to the Underwriters as to the matters set forth therein.

Section 4. Covenants of the Company. The Company covenants and agrees with each Underwriter that:

(a) *Required Filings*. The Company will file the Prospectus with the Commission within the time periods specified by Rule 424(b) and Rule 430A, 430B or 430C under the Securities Act, will file any Issuer Free Writing Prospectus (including the Term Sheet substantially in the form of Annex B hereto) to the extent required by Rule 433 under the Securities Act; and will file promptly all reports and any definitive proxy or information statements required to be filed by the Company with the Commission pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act subsequent to the date of the Prospectus and for so long as the delivery of a prospectus is required in connection with the offering or sale of the Securities; and the Company will furnish copies of the Prospectus and each Issuer Free Writing Prospectus (to the extent not previously delivered) to the Underwriters in New York City prior to 10:00 A.M., New York City time, on the business day next succeeding the date of this Agreement in such quantities as the Representatives may reasonably request. The Company will pay the registration fees for this offering within the time period required by Rule 456(b)(1)(i) under the Securities Act (without giving effect to the proviso therein) and in any event prior to the First Time of Delivery.

(b) *Delivery of Copies.* The Company will deliver, without charge, (i) to the Representatives, two signed copies of the Registration Statement as originally filed and each amendment thereto, in each case including all exhibits and consents filed therewith; and (ii) to each Underwriter (A) a conformed copy of the Registration Statement as originally filed and each amendment thereto, in each case including all exhibits and consents filed therewith and (B) during the Prospectus Delivery Period (as defined below), as many copies of the Prospectus (including all amendments and supplements thereto) and each Issuer Free Writing Prospectus, in each case, as the Representatives may reasonably request. As used herein, the term “Prospectus Delivery Period” means such period of time after the first date of the public offering of the Securities as in the opinion of counsel for the Underwriters a prospectus relating to the Securities is required by law to be delivered (or required to be delivered but for Rule 172 under the Securities Act) in connection with sales of the Securities by any Underwriter or dealer.

(c) *Amendments or Supplements; Issuer Free Writing Prospectuses.* Before making, preparing, using, authorizing, approving, referring to or filing any Issuer Free Writing Prospectus, and before filing any amendment or supplement to the Registration Statement or the Prospectus (except for documents that are incorporated by reference therein), the Company will furnish to the Representatives and counsel for the Underwriters a copy of the proposed Issuer Free Writing Prospectus, amendment or supplement for review and will not make, prepare, use, authorize, approve, refer to or file any such Issuer Free Writing Prospectus or file any such proposed amendment or supplement to which the Representatives reasonably and promptly objects.

(d) *Notice to the Representatives.* The Company will advise the Representatives promptly, and confirm such advice in writing, (i) when any amendment to the Registration Statement has been filed or becomes effective; (ii) when any supplement to the Prospectus or any amendment to the Prospectus or any Issuer Free Writing Prospectus has been filed; (iii) of any request by the Commission for any amendment to the Registration Statement or any amendment or supplement to the Prospectus or the receipt of any comments from the Commission relating to the Registration Statement or any other request by the Commission for any additional information; (iv) of the issuance by the Commission of any order suspending the effectiveness of the Registration Statement or preventing or suspending the use of any Preliminary Prospectus or the Prospectus or the initiation or threatening of any proceeding for that purpose or pursuant to Section 8A of the Securities Act; (v) of the occurrence of any event within the Prospectus Delivery Period as a result of which the Prospectus, the Time of Sale Information or any Issuer Free Writing Prospectus as then amended or supplemented would include any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances existing when the Prospectus, the Time of Sale Information or any such Issuer Free Writing Prospectus is delivered to a purchaser, not misleading; (vi) of the receipt by the Company of any notice of objection of the Commission to the use of the Registration Statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Securities Act; and (vii) of the receipt by the Company of any notice with respect to any suspension of the qualification of the Securities for offer and sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose; and the Company will use its reasonable best efforts to prevent the issuance of any such order suspending the effectiveness of the Registration Statement, preventing or suspending the use of any Preliminary Prospectus or the Prospectus or suspending any such qualification of the Securities and, if any such order is issued, will obtain as soon as possible the withdrawal thereof.

(e) *Time of Sale Information.* If at any time prior to each Time of Delivery (i) any event shall occur or condition shall exist as a result of which the Time of Sale Information as then amended or supplemented would include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances, not misleading or (ii) it is necessary to amend or supplement the Time of Sale Information to comply with law, the Company will immediately notify the Underwriters thereof and forthwith prepare and, subject to paragraph (c) above, file with the Commission (to the extent required) and furnish to the Underwriters and to such dealers as the Representatives may designate, such amendments or supplements to the Time of Sale Information as may be necessary so that the statements in the Time of Sale Information as so amended or supplemented will not, in the light of the circumstances, be misleading or so that the Time of Sale Information will comply with law.

(f) *Ongoing Compliance.* If during the Prospectus Delivery Period (i) any event shall occur or condition shall exist as a result of which the Prospectus as then amended or supplemented would include any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances existing when the Prospectus is delivered to a purchaser, not misleading or (ii) it is necessary to amend or supplement the Prospectus to comply with law, the Company will immediately notify the Underwriters thereof and forthwith prepare and, subject to paragraph (c) above, file with the Commission and furnish to the Underwriters and to such dealers as the Representatives may designate, such amendments or supplements to the Prospectus as may be necessary so that the statements in the Prospectus as so amended or supplemented will not, in the light of the circumstances existing when the Prospectus is delivered to a purchaser, be misleading or so that the Prospectus will comply with law.

(g) *Blue Sky Compliance.* The Company will qualify the Securities for offer and sale under the securities or Blue Sky laws of such jurisdictions as the Representatives shall reasonably request and will continue such qualifications in effect so long as required for distribution of the Securities; provided that the Company shall not be required to (i) qualify as a foreign corporation or other entity or as a dealer in securities in any such jurisdiction where it would not otherwise be required to so qualify, (ii) file any general consent to service of process in any such jurisdiction or (iii) subject itself to taxation in any such jurisdiction if it is not otherwise so subject.

(h) *Compliance with Securities Law.* During the Prospectus Delivery Period, the Company will comply with all applicable securities and other laws, rules and regulations, including, without limitation, the Sarbanes-Oxley Act, and use its best efforts to cause the Company's directors and officers, in their capacities as such, to comply with such laws, rules and regulations, including, without limitation, the provisions of the Sarbanes-Oxley Act.

(i) *Earnings Statement.* The Company will make generally available to its security holders and the Representatives as soon as practicable an earnings statement that satisfies the provisions of Section 11(a) of the Securities Act and Rule 158 under the Securities Act promulgated thereunder covering a period of at least twelve months beginning with the first fiscal quarter of the Company occurring after the "effective date" (as defined in Rule 158) of the Registration Statement, provided that information filed with the Commission via EDGAR shall satisfy this requirement.

(j) *Clear Market.* During the period from the date hereof through and including the 30th day following the date hereof, the Company will not, without the prior written consent of the Representatives, offer, sell, contract to sell or otherwise dispose of any debt securities issued or guaranteed by the Company and having a tenor of more than one year.

(k) *Use of Proceeds.* The Company will apply the net proceeds from the sale of the Securities as described in the Registration Statement, the Time of Sale Information and the Prospectus under the heading “Use of Proceeds”.

(l) *Investment Limitation.* The Company shall not invest or otherwise use the proceeds received by the Company from its sale of the Securities in such a manner as would require the Company or any of its subsidiaries to register as an investment company under the Investment Company Act.

(m) *No Price Stabilization or Manipulation.* The Company will not take, directly or indirectly, any action designed to cause or result in, or that has constituted or might reasonably be expected to constitute, under the Exchange Act or otherwise, the stabilization or manipulation of the price of any securities of the Company to facilitate the sale or resale of the Securities.

(n) *Record Retention.* The Company will, pursuant to reasonable procedures developed in good faith, retain copies of each Issuer Free Writing Prospectus that is not filed with the Commission in accordance with Rule 433 under the Securities Act.

(o) *DTC.* The Company will cooperate with the Representatives and use its best efforts to permit the Securities to be eligible for clearance and settlement through DTC.

(p) *Listing.* The Company will use its reasonable best efforts to effect the listing of the Securities as specified in the Prospectus within 30 calendar days of the First Time of Delivery.

Section 5. Certain Agreements of the Underwriters. Each Underwriter hereby represents and agrees that:

(a) It has not used and will not use, authorize use of, refer to, or participate in the planning for use of, any “free writing prospectus”, as defined in Rule 405 under the Securities Act (which term includes use of any written information furnished to the Commission by the Company and not incorporated by reference into the Registration Statement and any press release issued by the Company) other than (i) a free writing prospectus that, solely as a result of use by such Underwriter, would not trigger an obligation to file such free writing prospectus with the Commission pursuant to Rule 433, (ii) any Issuer Free Writing Prospectus listed on Annex A or prepared pursuant to Section 3(c) or Section 4(c) above (including any electronic road show), or (iii) any free writing prospectus prepared by such Underwriter and approved by the Company in advance in writing (each such free writing prospectus referred to in clauses (i) or (iii), an “Underwriter Free Writing Prospectus”). Notwithstanding the foregoing, the Underwriters may use a term sheet substantially in the form of Annex B hereto without the consent of the Company.

(b) It is not subject to any pending proceeding under Section 8A of the Securities Act with respect to the offering (and will promptly notify the Company if any such proceeding against it is initiated during the Prospectus Delivery Period).

Section 6. Conditions of Underwriters' Obligations. The obligation of each Underwriter to purchase Securities at each Time of Delivery as provided herein is subject to the performance by the Company of its covenants and other obligations hereunder and to the following additional conditions:

(a) *Registration Compliance; No Stop Order*. No order suspending the effectiveness of the Registration Statement shall be in effect, and no proceeding for such purpose, pursuant to Rule 401(g)(2) or pursuant to Section 8A under the Securities Act shall be pending before or threatened by the Commission; the Prospectus and each Issuer Free Writing Prospectus shall have been timely filed with the Commission under the Securities Act (in the case of a Issuer Free Writing Prospectus, to the extent required by Rule 433 under the Securities Act) and in accordance with Section 4(a) hereof; and all requests by the Commission for additional information shall have been complied with to the reasonable satisfaction of the Representatives.

(b) *Accountants' Comfort Letter*. On the date of this Agreement and at each Time of Delivery, the Representatives shall have received from PricewaterhouseCoopers LLP, independent public accountants for the Company, a letter dated the date of this Agreement or such Time of Delivery, addressed to the Representatives, in form and substance reasonably satisfactory to the Representatives and PricewaterhouseCoopers LLP.

(c) *No Material Adverse Effect or Ratings Agency Change*. For the period from and after the date of this Agreement and prior to applicable Time of Delivery:

(i) in the judgment of the Representatives there shall not have occurred any Material Adverse Effect;

(ii) there shall not have been any change or decrease specified in the letter or letters referred to in paragraph (b) of this Section 6 which is, in the sole judgment of the Representatives, so material and adverse as to make it impractical or inadvisable to proceed with the offering or delivery of the Securities as contemplated by the Registration Statement, the Time of Sale Information and the Prospectus; and

(iii) there shall not have occurred any downgrading, nor shall any notice have been given of any intended or potential downgrading or of any review for a possible change that does not indicate the direction of the possible change, in the rating accorded any securities of the Company or any of its subsidiaries by any "nationally recognized statistical rating organization" as such term is defined in Section 3(a)(62) of the Exchange Act.

(d) *Opinion of Counsel for the Company*. At each Time of Delivery, the Representatives shall have received the favorable opinion of Simpson Thacher & Bartlett LLP, counsel for the Company, dated as of such Time of Delivery, in form and substance reasonably satisfactory to the Representatives.

(e) *Opinion of Counsel for the Underwriters*. At each Time of Delivery, the Representatives shall have received the favorable opinion of Sidley Austin LLP, counsel for the Underwriters, dated as of such Time of Delivery, in form and substance reasonably satisfactory to the Representatives; and the Company shall have furnished to such counsel such documents as they request for the purpose of enabling them to pass upon such matters.

(f) *Officers' Certificate.* At each Time of Delivery, the Representatives shall have received a written certificate executed by any two of an Executive or Senior Vice President, the General Counsel and Secretary, Chief Administrative Officer and the Chief Financial Officer and Treasurer, dated as of such Time of Delivery, to the effect that the signers of such certificate have carefully examined the Registration Statement, the Time of Sale Information, the Prospectus, any amendments or supplements thereto and this Agreement, to the effect set forth in subsection (c)(iii) of this Section 6, and further to the effect that:

(i) for the period from and after the date of this Agreement and prior to such Time of Delivery, there has not occurred any Material Adverse Effect;

(ii) the representations and warranties of the Company set forth in Section 3 of this Agreement are true and correct on and as of such Time of Delivery, with the same force and effect as though expressly made on and as of such Time of Delivery; and

(iii) the Company has complied with all the agreements hereunder and satisfied all the conditions on its part to be performed or satisfied hereunder at or prior to such Time of Delivery.

(g) [Reserved.]

(h) *Additional Documents.* On or before each Time of Delivery, the Representatives and counsel for the Representatives shall have received such information, documents and opinions as they may reasonably require for the purposes of enabling them to pass upon the issuance and sale of the Securities as contemplated herein, or in order to evidence the accuracy of any of the representations and warranties, or the satisfaction of any of the conditions or agreements, herein contained.

Section 7. Indemnification and Contribution.

(a) *Indemnification of the Underwriters.* The Company agrees to indemnify and hold harmless each Underwriter, its affiliates, directors, officers and selling agents and each person, if any, who controls such Underwriter within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any and all losses, claims, damages and liabilities (including, without limitation, reasonable legal fees and other reasonable expenses incurred in connection with any suit, action or proceeding or any claim asserted, as such fees and expenses are incurred), joint or several, that arise out of, or are based upon, (i) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary in order to make the statements therein, not misleading, (ii) or any untrue statement or alleged untrue statement of a material fact contained in the Prospectus (or any amendment or supplement thereto), any Issuer Free Writing Prospectus or any Time of Sale Information, or caused by any omission or alleged omission to state therein a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, in each case except insofar as such losses, claims, damages or liabilities arise out of, or are based upon, any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any Underwriter Information.

(b) *Indemnification of the Company.* Each Underwriter agrees, severally and not jointly, to indemnify and hold harmless the Company, its directors, its officers who signed the Registration Statement and each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act to the same extent as the indemnity set forth in paragraph (a) above, but only with respect to any losses, claims, damages or liabilities that arise out of, or are based upon, any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any information relating to such Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use in the Registration Statement, the Prospectus (or any amendment or supplement thereto), any Issuer Free Writing Prospectus or any Time of Sale Information. The Company hereby acknowledges that the only information furnished to the Company by any Underwriter through the Representatives expressly for use in the Registration Statement, the Prospectus (or any amendment or supplement thereto), any Issuer Free Writing Prospectus or any Time of Sale Information are the statements set forth in the last paragraph of text on the cover page of the Preliminary Prospectus and the Prospectus regarding delivery of the Securities and the eighth paragraph, the fourth sentence of the tenth paragraph, the eleventh paragraph and the second sentence in the twelfth paragraph under “Underwriting (Conflicts of Interest)” in the Preliminary Prospectus and in the Prospectus (the “Underwriter Information”).

(c) *Notice and Procedures.* If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against any person in respect of which indemnification may be sought pursuant to either paragraph (a) or (b) above, such person (the “Indemnified Person”) shall promptly notify the person against whom such indemnification may be sought (the “Indemnifying Person”) in writing; provided that the failure to notify the Indemnifying Person shall not relieve it from any liability that it may have under this Section 7 except to the extent that it has been materially prejudiced (through the forfeiture of substantive rights or defenses) by such failure; and provided, further, that the failure to notify the Indemnifying Person shall not relieve it from any liability that it may have to an Indemnified Person otherwise than under this Section 7. If any such proceeding shall be brought or asserted against an Indemnified Person and it shall have notified the Indemnifying Person thereof, the Indemnifying Person shall retain counsel reasonably satisfactory to the Indemnified Person (who shall not, without the consent of the Indemnified Person, be counsel to the Indemnifying Person) to represent the Indemnified Person and any others entitled to indemnification pursuant to this Section 7 that the Indemnifying Party may designate in such proceeding and shall pay the fees and expenses of such proceeding and shall pay the reasonable fees and expenses of counsel related to such proceeding, as incurred. In any such proceeding, any Indemnified Person shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such Indemnified Person unless (i) the Indemnifying Person and the Indemnified Person shall have mutually agreed to the contrary; (ii) the Indemnifying Person has failed within a reasonable time to retain counsel reasonably satisfactory to the Indemnified Person; (iii) the Indemnified Person shall have reasonably concluded that there may be legal defenses available to it that are different from or in addition to those available to the Indemnifying Person; or (iv) the named parties in any such proceeding (including any impleaded parties) include both the Indemnifying Person and the Indemnified Person and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. It is understood and agreed that the Indemnifying Person shall not, in connection with any proceeding or related proceeding in the same jurisdiction, be liable for the fees and expenses of more than one separate firm (in addition

to any local counsel) for all Indemnified Persons, and that all such reasonable fees and expenses shall be reimbursed as they are incurred. Any such separate firm for any Underwriter, its affiliates, directors and officers and any control persons of such Underwriter shall be designated in writing by the Representatives and any such separate firm for the Company, its directors, its officers who signed the Registration Statement and any control persons of the Company shall be designated in writing by the Company. The Indemnifying Person shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final, non-appealable judgment for the plaintiff, the Indemnifying Person agrees to indemnify each Indemnified Person from and against any loss or liability by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an Indemnified Person shall have requested that an Indemnifying Person reimburse the Indemnified Person for reasonable fees and expenses of counsel as contemplated by this paragraph, the Indemnifying Person shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 30 days after receipt by the Indemnifying Person of such request and (ii) the Indemnifying Person shall not have reimbursed the Indemnified Person in accordance with such request prior to the date of such settlement. No Indemnifying Person shall, without the written consent of the Indemnified Person, effect any settlement of any pending or threatened proceeding in respect of which any Indemnified Person is or could have been a party and indemnification could have been sought hereunder by such Indemnified Person, unless such settlement (x) includes an unconditional release of such Indemnified Person, in form and substance reasonably satisfactory to such Indemnified Person, from all liability on claims that are the subject matter of such proceeding and (y) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any Indemnified Person.

(d) *Contribution.* If the indemnification provided for in paragraphs (a) and (b) above is unavailable to an Indemnified Person or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then each Indemnifying Person under such paragraph, in lieu of indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities (i) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other from the offering of the Securities or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) but also the relative fault of the Company on the one hand and the Underwriters on the other in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Underwriters on the other shall be deemed to be in the same respective proportions as the net proceeds (before deducting expenses) received by the Company from the sale of the Securities and the total underwriting discounts and commissions received by the Underwriters in connection therewith, in each case as set forth in the table on the cover of the Prospectus, bear to the aggregate offering price of the Securities. The relative fault of the Company on the one hand and the Underwriters on the other shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company or by the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(e) *Limitation on Liability.* The Company and the Underwriters agree that it would not be just and equitable if contribution pursuant to this Section 7 were determined by *pro rata* allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation that does not take account of the equitable considerations referred to in paragraph (d) above. The amount paid or payable by an Indemnified Person as a result of the losses, claims, damages and liabilities referred to in paragraph (d) above shall be deemed to include, subject to the limitations set forth above, any reasonable legal or other expenses incurred by such Indemnified Person in connection with any such action or claim. Notwithstanding the provisions of this Section 7, in no event shall an Underwriter be required to contribute any amount in excess of the amount by which the total underwriting discounts and commissions received by such Underwriter with respect to the offering of the Securities exceeds the amount of any damages that such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations to contribute pursuant to this Section 7 are several in proportion to their respective purchase obligations hereunder and not joint.

(f) *Non-Exclusive Remedies.* The remedies provided for in this Section 7 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Indemnified Person at law or in equity.

Section 8. Effectiveness of Agreement. This Agreement shall become effective upon the execution and delivery hereof by the parties hereto.

Section 9. Termination. Prior to the applicable Time of Delivery, this Agreement may be terminated by the Underwriters by notice given to the Company if at any time (i) trading or quotation in any of the Company's securities shall have been suspended or limited by the Commission or by the New York Stock Exchange, (ii) trading in securities generally on the New York Stock Exchange shall have been suspended or limited, or minimum or maximum prices shall have been generally established by the Commission or FINRA or on either such stock exchange; (iii) a general banking moratorium shall have been declared by federal or New York authorities or a material disruption in commercial banking or securities settlement or clearance services in the United States has occurred; or (iv) there shall have occurred any outbreak or escalation of national or international hostilities or declaration of a national emergency or war by the United States or any crisis or calamity, or any change in the United States or international financial markets, or any substantial change or development involving a prospective substantial change in United States' or international political, financial or economic conditions, as in the judgment of the Underwriters is material and adverse and makes it impracticable or inadvisable to market the Securities in the manner and on the terms described in the Registration Statement, the Time of Sale Information and the Prospectus or to enforce contracts for the sale of securities. Any termination pursuant to this Section 9 shall be without liability on the part of (a) the Company to the Underwriters, except that the Company shall be obligated to reimburse the expenses of the Underwriters as provided in Section 11(b) hereof or (b) the Underwriters to the Company.

Section 10. Defaulting Underwriter. (a) If, at any Time of Delivery, any Underwriter defaults on its obligation to purchase the Securities that it has agreed to purchase hereunder, the

non-defaulting Underwriters may in their discretion arrange for the purchase of such Securities by other persons satisfactory to the Company on the terms contained in this Agreement. If, within 36 hours after any such default by any Underwriter, the non-defaulting Underwriters do not arrange for the purchase of such Securities, then the Company shall be entitled to a further period of 36 hours within which to procure other persons satisfactory to the non-defaulting Underwriters to purchase such Securities on such terms. If other persons become obligated or agree to purchase the Securities of a defaulting Underwriter, either the non-defaulting Underwriters or the Company may postpone such Time of Delivery for up to five full business days in order to effect any changes that in the opinion of counsel for the Company or counsel for the Underwriters may be necessary in the Registration Statement, the Time of Sale Information and the Prospectus or in any other document or arrangement, and the Company agrees to promptly prepare any amendment or supplement to the Registration Statement, the Time of Sale Information and the Prospectus that effects any such changes. As used in this Agreement, the term "Underwriters" includes, for all purposes of this Agreement unless the context otherwise requires, any person not listed in Schedule I hereto that, pursuant to this Section 10, purchases Securities that a defaulting Underwriter agreed but failed to purchase.

(b) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Underwriter or Underwriters by the non-defaulting Underwriters and the Company as provided in paragraph (a) above, the aggregate principal amount of such Securities that remains unpurchased does not exceed one-eleventh of the aggregate principal amount of all the Securities, then the Company shall have the right to require each non-defaulting Underwriter to purchase the principal amount of Securities that such Underwriter agreed to purchase hereunder plus such Underwriter's *pro rata* share (based on the principal amount of Securities that such Underwriter agreed to purchase hereunder) of the Securities of such defaulting Underwriter or Underwriters for which such arrangements have not been made.

(c) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Underwriter or Underwriters by the non-defaulting Underwriters and the Company as provided in paragraph (a) above, the aggregate principal amount of such Securities that remains unpurchased exceeds one-eleventh of the aggregate principal amount of all the Securities, or if the Company shall not exercise the right described in paragraph (b) above, then this Agreement with respect to the Securities (or, with respect to any Second Time of Delivery, the obligations of the Underwriters to purchase and of the Company to sell the Optional Securities) shall terminate without liability on the part of the non-defaulting Underwriters. Any termination of this Agreement pursuant to this Section 10 shall be without liability on the part of the Company, except that the Company will continue to be liable for the payment of expenses as set forth in Section 11 hereof and except that the provisions of Section 7 hereof shall not terminate and shall remain in effect.

(d) Nothing contained herein shall relieve a defaulting Underwriter of any liability it may have to the Company or any non-defaulting Underwriter for damages caused by its default.

Section 11. Payment of Expenses. (a) Whether or not the transactions contemplated by this Agreement are consummated or this Agreement is terminated, the Company will pay or cause to be paid all costs and expenses incident to the performance of its obligations hereunder, including without limitation, (i) the costs incident to the authorization, issuance, sale, preparation and delivery of the Securities and any taxes payable in that connection; (ii) the costs incident to the

preparation, printing and filing under the Securities Act of the Registration Statement, the Preliminary Prospectus, any Issuer Free Writing Prospectus, any Time of Sale Information and the Prospectus (including all exhibits, amendments and supplements thereto) and the distribution thereof; (iii) the costs of reproducing and distributing each of the Transaction Documents; (iv) the fees and expenses of the Company's counsel and independent accountants; (v) the fees and expenses incurred in connection with the registration or qualification and determination of eligibility for investment of the Securities under the laws of such jurisdictions as the Representatives may designate and the preparation, printing and distribution of a Blue Sky Memorandum (including the related fees and expenses of counsel for the Underwriters in an amount not to exceed \$15,000); (vi) any fees charged by rating agencies for rating the Securities; (vii) the fees and expenses of the Trustee and any paying agent (including related fees and expenses of any counsel to such parties); (viii) all expenses and application fees incurred in connection with any filing with, and clearance of the offering by, the Financial Industry Regulatory Authority; (ix) the fees and expenses incurred in connection with the listing of the Securities and (x) all expenses incurred by the Company in connection with any "road show" presentation to potential investors.

(b) If (i) this Agreement is terminated pursuant to Section 9(i), (ii) the Company for any reason not permitted by this Agreement fails to tender the Securities for delivery to the Underwriters or (iii) the Underwriters decline to purchase the Securities for any reason permitted under this Agreement, the Company agrees to reimburse the Underwriters for all out-of-pocket costs and expenses (including the fees and expenses of their counsel) reasonably incurred by the Underwriters in connection with this Agreement and the offering contemplated hereby.

Section 12. Persons Entitled to Benefit of Agreement. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and the officers and directors and any controlling persons referred to herein, and the affiliates of each Underwriter referred to in Section 7 hereof. Nothing in this Agreement is intended or shall be construed to give any other person any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein. No purchaser of Securities from any Underwriter shall be deemed to be a successor merely by reason of such purchase.

Section 13. Survival. The respective indemnities, rights of contribution, representations, warranties and agreements of the Company and the Underwriters contained in this Agreement or made by or on behalf of the Company or the Underwriters pursuant to this Agreement or any certificate delivered pursuant hereto shall survive the delivery of and payment for the Securities and shall remain in full force and effect, regardless of any termination of this Agreement or any investigation made by or on behalf of the Company or the Underwriters.

Section 14. Certain Defined Terms. For purposes of this Agreement, (a) except where otherwise expressly provided, the term "affiliate" has the meaning set forth in Rule 405 under the Securities Act; (b) the term "business day" means any day other than a day on which banks are permitted or required to be closed in New York City; and (c) the term "subsidiary" has the meaning set forth in Rule 405 under the Securities Act.

Section 15. Recognition of the U.S. Special Resolution Regimes.

(a) In the event that any Underwriter that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from such Underwriter of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.

(b) In the event that any Underwriter that is a Covered Entity or a BHC Act Affiliate of such Underwriter becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Agreement that may be exercised against such Underwriter are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.

For purposes of this Section 15: (a) a “BHC Act Affiliate” has the meaning assigned to the term “affiliate” in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k); (b) “Covered Entity” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b); (c) “Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable; and (d) “U.S. Special Resolution Regime” means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

Section 16. Miscellaneous. (a) *Authority of the Representatives*. Any action by the Underwriters hereunder may be taken by Morgan Stanley & Co. LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated, Wells Fargo Securities, LLC and RBC Capital Markets, LLC on behalf of the Underwriters, and any such action taken by Morgan Stanley & Co. LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated, Wells Fargo Securities, LLC and RBC Capital Markets, LLC shall be binding upon the Underwriters.

(b) *Notices*. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted and confirmed by any standard form of telecommunication. Notices to the Underwriters shall be given to the Representatives c/o (a) Morgan Stanley & Co. LLC, 1585 Broadway, New York, New York 10036, (fax: (212) 507-8999), Attention: Investment Banking Division, with a copy to the Legal Department; (b) Merrill Lynch, Pierce, Fenner & Smith Incorporated, 50 Rockefeller Plaza, NY1-050-12-02, New York, New York 10020 (fax: (646) 855-5958), Attention: High Grade Transaction Management/Legal; (c) Wells Fargo Securities, LLC, 550 South Tryon Street, 5th Floor, Charlotte, North Carolina 28202, Attention: Transaction Management, fax: (704) 410-0326; and (d) RBC Capital Markets, LLC, Brookfield Place, 200 Vesey Street, 8th Floor, New York, NY 10281, Attention: Transaction Management, Facsimile: (212) 428-6308; Notices to the Company shall be given to it at 600 Hale Street, P.O. Box 1000, Prides Crossing, MA 01965, (fax: (617) 747-3380); Attention: Chief Financial Officer.

(c) *Waiver of Jury Trial.* The parties hereby irrevocably waive, 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 Agreement or the transactions contemplated hereby.

(d) *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

(e) *Counterparts.* This Agreement may be signed in counterparts (which may include counterparts delivered by any standard form of telecommunication), each of which shall be an original and all of which together shall constitute one and the same instrument.

(f) *Amendments or Waivers.* No amendment or waiver of any provision of this Agreement, nor any consent or approval to any departure therefrom, shall in any event be effective unless the same shall be in writing and signed by the parties hereto.

(g) *Headings.* The headings herein are included for convenience of reference only and are not intended to be part of, or to affect the meaning or interpretation of, this Agreement.

Accepted and agreed as of the date first written above:

Morgan Stanley & Co. LLC
Merrill Lynch, Pierce, Fenner & Smith
Incorporated
Wells Fargo Securities, LLC
RBC Capital Markets, LLC

For themselves and on behalf of each of the several Underwriters named in Schedule I hereto

**MERRILL LYNCH, PIERCE, FENNER & SMITH
INCORPORATED**

By /s/ Randolph Randolph
Name: Randolph Randolph
Title: Managing Director

[Signature Page to Underwriting Agreement]

Accepted and agreed as of the date first written above:

Morgan Stanley & Co. LLC
Merrill Lynch, Pierce, Fenner & Smith
Incorporated
Wells Fargo Securities, LLC
RBC Capital Markets, LLC

For themselves and on behalf of each of the several Underwriters named in Schedule I hereto

WELLS FARGO SECURITIES, LLC

By /s/ Carolyn Hurley

Name: Carolyn Hurley

Title: Director

[Signature Page to Underwriting Agreement]

Accepted and agreed as of the date first written above:

Morgan Stanley & Co. LLC
Merrill Lynch, Pierce, Fenner & Smith
Incorporated
Wells Fargo Securities, LLC
RBC Capital Markets, LLC

For themselves and on behalf of each of the several Underwriters named in Schedule I hereto

RBC CAPITAL MARKETS, LLC

By /s/ Dane Graham
Name: Dane Graham
Title: Managing Director

[Signature Page to Underwriting Agreement]

SCHEDULE I

Underwriter	Principal Amount of Firm Securities	Principal Amount of Optional Securities
Morgan Stanley & Co. LLC	\$67,200,000	\$10,080,000
Merrill Lynch, Pierce, Fenner & Smith Incorporated	67,200,000	10,080,000
Wells Fargo Securities, LLC	67,200,000	10,080,000
RBC Capital Markets, LLC	39,200,000	5,880,000
Barclays Capital Inc.	3,564,400	534,660
Barrington Research Associates, Inc.	3,564,400	534,660
BNY Mellon Capital Markets, LLC	3,564,400	534,660
Citigroup Global Markets Inc.	3,564,400	534,660
Citizens Capital Markets, Inc.	3,564,400	534,660
Deutsche Bank Securities Inc.	3,564,400	534,660
The Huntington Investment Company	3,564,400	534,660
J.P. Morgan Securities LLC	3,564,400	534,660
MUFG Securities Americas Inc.	3,561,600	534,240
U.S. Bancorp Investments, Inc.	3,561,600	534,240
The Williams Capital Group, L.P.	3,561,600	534,240
Total	\$280,000,000	\$42,000,000

ANNEX A

Time of Sale Information

Free Writing Prospectus dated March 21, 2019 filed with the SEC on March 21, 2019 pursuant to Rule 433(d) of the Securities Act.

ANNEX B

Issuer Free Writing Prospectus dated March 21, 2019
Filed Pursuant to Rule 433
Relating to Preliminary Prospectus Supplement dated March 21, 2019
Registration Statement No. 333-230423

Affiliated Managers Group, Inc.



\$280,000,000
5.875% Junior Subordinated Notes due 2059
Term Sheet
March 21, 2019

The following information relates only to Affiliated Managers Group, Inc.'s offering (the "Offering") of its 5.875% Junior Subordinated Notes due 2059 and should be read together with the preliminary prospectus supplement dated March 21, 2019 relating to the Offering and the accompanying prospectus dated March 21, 2019, including the documents incorporated by reference therein.

Issuer:	Affiliated Managers Group, Inc. (NYSE: AMG)
Title of Security:	5.875% Junior Subordinated Notes due 2059 (the "Notes")
Type of Offering:	SEC Registered
Principal Amount:	\$280,000,000
Expected Ratings (Moody's / S&P)*:	[Intentionally omitted]
Trade Date:	March 21, 2019
Expected Settlement Date**:	March 27, 2019 (T+4)
Maturity Date:	March 30, 2059
Minimum Denomination / Multiples:	\$25.00 and integral multiples of \$25.00 in excess thereof
Interest Payment Dates:	March 30, June 30, September 30 and December 30 of each year, beginning June 30, 2019
Coupon:	5.875%
Price to Public:	\$25.00 per Note / 100% of principal amount

Underwriter Purchase Price:	\$24.2125 per Note plus accrued interest, if any, from March 27, 2019
Underwriter Purchase Price for Sales to Institutions:	\$24.50 per Note plus accrued interest, if any, from March 27, 2019
Over-allotment Option:	The underwriters may purchase up to an additional \$42,000,000 aggregate principal amount of Notes for 30 days after the Trade Date in order to cover over-allotments, if any.
Optional Redemption:	
Par Call:	On or after March 30, 2024, in whole or in part, at 100% of the principal amount, plus any accrued and unpaid interest
Call for Tax Event:	Prior to March 30, 2024, in whole but not in part, at 100% of the principal amount, plus any accrued and unpaid interest
Call for Rating Agency Event:	Prior to March 30, 2024, in whole but not in part, at 102% of the principal amount, plus any accrued and unpaid interest
Optional Deferral:	Up to 20 consecutive quarterly periods per deferral period
Listing:	The Issuer intends to apply to list the Notes on the New York Stock Exchange and, if approved for listing, expects the Notes to begin trading within 30 days after the Settlement Date
Proceeds, Before Expenses:	\$271,274,875 (without exercise of the Over-allotment Option)
Use of Proceeds:	The Issuer intends to use the majority of the net proceeds of this Offering to repay its outstanding indebtedness under its revolving credit facility. The remaining portion of the net proceeds will be used for other general corporate purposes.
CUSIP / ISIN:	008252 850 / US0082528508
Joint Book-Running Managers:	Morgan Stanley & Co. LLC Merrill Lynch, Pierce, Fenner & Smith Incorporated Wells Fargo Securities, LLC RBC Capital Markets, LLC
Co-Managers:	Barclays Capital Inc. Barrington Research Associates, Inc. BNY Mellon Capital Markets, LLC Citigroup Global Markets Inc. Citizens Capital Markets, Inc. Deutsche Bank Securities Inc.

The Huntington Investment Company
J.P. Morgan Securities LLC
MUFG Securities Americas Inc.
U.S. Bancorp Investments, Inc.
The Williams Capital Group, L.P.

The Issuer has filed a registration statement including a prospectus and a prospectus supplement with the SEC for the Offering to which this communication relates. Before you invest, you should read the prospectus and prospectus supplement in that registration statement and other documents the Issuer has filed with the SEC for more complete information about the Issuer and this Offering. You may obtain these documents for free by visiting EDGAR on the SEC Web site at www.sec.gov. Alternatively, any underwriter in the Offering will arrange to send you the prospectus and the prospectus supplement if you request them by calling Morgan Stanley & Co. LLC at 1-866-718-1649; Merrill Lynch, Pierce, Fenner & Smith Incorporated at 1-800-294-1322; Wells Fargo Securities, LLC at 1-800-645-3751; or RBC Capital Markets, LLC at 1-866-375-6829.

* A securities rating is not a recommendation to buy, sell or hold securities and may be subject to revision or withdrawal at any time.

** The Issuer expects that delivery of the Notes will be made against payment therefore on or about the closing date which will be on or about the fourth business day following the date of pricing of the Notes (this settlement cycle being referred to as "T+4"). Under Rule 15c6-1 of the Exchange Act, trades in the secondary market are generally required to settle in two business days, unless the parties to any such trade expressly agree otherwise. Accordingly, purchasers who wish to trade Notes on the date of pricing or the next business day will be required, by virtue of the fact that the Notes initially will settle in T+4, to specify an alternative settlement cycle at the time of any such trade to prevent a failed settlement and should consult their own advisor.

Any disclaimers or other notices that may appear below are not applicable to this communication and should be disregarded. Such disclaimers were automatically generated as a result of this communication being sent via email or another communication system.

AFFILIATED MANAGERS GROUP, INC.

Shares of Common Stock
(par value \$0.01 per share)

EQUITY DISTRIBUTION AGREEMENT

March 27, 2019

[AGENT NAME]
[AGENT ADDRESS]

[FORWARD PURCHASER NAME]
[FORWARD PURCHASER ADDRESS]

Ladies and Gentlemen:

This Equity Distribution Agreement (this "Agreement"), dated as of March 27, 2019, is among Affiliated Managers Group, Inc., a Delaware corporation (the "Company"), [AGENT NAME] (the "Agent") and [FORWARD PURCHASER NAME] (the "Forward Purchaser"). The Company, the Agent and the Forward Purchaser agree as follows:

Introductory. The Company proposes, subject to the terms and conditions stated herein, to issue and/or sell from time to time shares (the "Shares") of the Company's common stock, par value \$0.01 per share (the "Common Stock"), (i) to or through the Agent, as sales agent for the Company and/or principal, or (ii) in one or more Forward Sales (as defined below) pursuant to the Master Confirmation (as defined below) entered into with the Forward Purchaser, in each case on the terms set forth in this Agreement and having an aggregate offering price, together with all other issuances and sales of shares of Common Stock pursuant to the Additional Equity Distribution Agreements (as defined below), not in excess of \$500,000,000 (the "Maximum Program Amount").

Forward Sales. The Company has entered into a Master Confirmation, dated as of the date hereof, with the Forward Purchaser, a copy of which is attached hereto as Exhibit A (the "Master Confirmation"). In connection with the Master Confirmation and a Forward Sale, the Forward Purchaser may instruct an affiliate to borrow and sell Common Stock or engage in certain other hedging activities related thereto. Pursuant to the Master Confirmation, subject to the terms and conditions herein and therein, the Company will deliver to the Forward Purchaser, or an affiliate thereof (including the Agent), up to the number of Shares as may be sold as a Forward Sale in accordance with the terms of this Agreement. In connection therewith, the Company and the Forward Purchaser understand that the Forward Purchaser or its affiliate, through the Agent, will effect sales of Shares not in excess of the Maximum Program Amount on the terms set forth in Section 2 of this Agreement.

Terms Agreements. The Company agrees that whenever (1) it determines to sell Shares directly to the Agent, acting as principal, or (2) the Forward Purchaser or its affiliate sells to the Agent, acting as principal, as part of a Forward Sale pursuant to the Master Confirmation, the Company shall enter into a written terms agreement (a "Terms Agreement") with the Agent

and, in the case of a Forward Sale, the Forward Purchaser relating to such sale. Such Terms Agreement shall be in substantially the form of Schedule I hereto, in the case where the Agent is purchasing as principal from the Company, or Schedule II hereto, in the case of any Terms Agreement entered into in connection with a Forward Sale. References herein to “this Agreement” or to matters contained “herein” or “hereunder,” or words of similar import, mean this Agreement and any applicable Terms Agreement.

Additional Agreements.

The Company has also entered into equity distribution agreements (the “Additional Equity Distribution Agreements”), dated as of the date hereof, with each of (1) [•] (“[•]”) and [•], (2) [•] (“[•]”) and [•], (3) [•] (“[•]”) and [•], (4) [•] (“[•]”) and (5) [•] (“[•]”), and together with [•], [•], [•], and [•], the “Additional Agents”) and [•] and Master Confirmations (the “Additional Master Confirmations”), each dated as of the date hereof, with [an affiliate of] each of [•], [•], [•], [•] and [•].

The Company previously entered into an Equity Distribution Agreement with the Agent and the Forward Purchaser and a related Confirmation evidencing Registered Forward Transactions, each dated as of August 16, 2016 (together, the “Prior Agreements”), which Prior Agreements are hereby terminated by this Agreement and the Master Confirmation.

Section 1. Representations and Warranties of the Company. The Company represents and warrants to the Agent and the Forward Purchaser that:

(a) Compliance with Registration Requirements. The Company has filed, in accordance with the provisions of the Securities Act of 1933, as amended (the “1933 Act”), and the rules and regulations thereunder (the “1933 Act Regulations”), with the Securities and Exchange Commission (the “Commission”) an “automatic shelf registration statement,” as defined in Rule 405 of the 1933 Act Regulations (“Rule 405”), on Form S-3 (File No. 333-230423), including a prospectus, to be used in connection with the public offering and sale of the Shares, which incorporates by reference documents that the Company has filed or will file in accordance with the provisions of the Securities Exchange Act of 1934, as amended (the “1934 Act”), and the rules and regulations thereunder (the “1934 Act Regulations”), which registration statement became effective not earlier than three years on or prior to the date of this Agreement upon filing under Rule 462(e) of the 1933 Act Regulations.

Except where the context otherwise requires, the registration statement, as it may have heretofore been amended, including all documents filed as part thereof or incorporated by reference therein, and including any information contained in a Prospectus (as defined below) filed with the Commission pursuant to Rule 430B of the 1933 Act Regulations (“Rule 430B”), and also including any other registration statement filed with the Commission pursuant to Rule 462(b) or Rule 429 of the 1933 Act Regulations, is herein called the “Registration Statement,” the base prospectus filed as part of such Registration Statement, in the form in which it has most recently been filed with the Commission on or prior to the date of this Agreement, is herein called the “Base Prospectus,” the prospectus supplement dated March 27, 2019, specifically relating to the Shares prepared and filed with the Commission pursuant to Rule 424(b) of the 1933 Act Regulations is herein called the “Prospectus Supplement,” and the

Base Prospectus, as amended and supplemented from time to time by any Prospectus Supplements, is herein called the “Prospectus.” The Registration Statement at the time it originally became effective is herein called the “Original Registration Statement.” Any reference herein to the Registration Statement, the Base Prospectus, Prospectus Supplement or Prospectus or any amendment or supplement thereto shall be deemed to refer to and include the documents incorporated by reference therein as of the Applicable Time (as defined below), and any reference herein to the terms “amend,” “amendment” or “supplement” with respect to the Registration Statement or the Prospectus shall be deemed to refer to and include the filing after the execution hereof with the Commission of any post-effective amendment to the Registration Statement, any Prospectus Supplement and any document deemed to be incorporated by reference therein prior to the Applicable Time relating to the particular Shares. As used in this subsection and elsewhere in this Agreement, “Applicable Time” means the time of each sale of any Shares pursuant to this Agreement.

To the extent that the Registration Statement is not available for the sales of the Shares as contemplated by this Agreement or the Company is not a “well-known seasoned issuer” as defined in Rule 405 or otherwise is unable to make the representations set forth in Section 1(b) at any time when such representations are required, the Company shall file a new registration statement with respect to any additional shares of Common Stock necessary to complete such sales of the Shares and shall cause such registration statement to become effective as promptly as practicable. After the effectiveness of any such registration statement, all references to “Registration Statement” included in this Agreement shall be deemed to include such new registration statement, including all documents filed as part thereof or incorporated therein by reference, and all references to “Prospectus” included in this Agreement shall be deemed to include the final form of prospectus, including all documents incorporated therein by reference, included in any such registration statement, as amended or supplemented from time to time (including by any prospectus supplement thereto). For purposes of this Agreement, all references to the Registration Statement or the Prospectus or to any amendment or supplement thereto shall be deemed to include any copy filed with the Commission pursuant to its Electronic Data Gathering, Analysis and Retrieval (“EDGAR”) system, and such copy shall be identical in content to any Prospectus delivered to the Agent for use in connection with the offering of the Shares.

(b) Well-Known Seasoned Issuer. (1) At the time of filing of the Original Registration Statement, (2) at the time of the most recent amendment thereto for the purposes of complying with Section 10(a)(3) of the 1933 Act or otherwise (whether such amendment was by post-effective amendment, incorporated report filed pursuant to Section 13 or 15(d) of the 1934 Act or form of prospectus), (3) at the time the Company or any person acting on its behalf (within the meaning, for this clause only, of Rule 163(c) of the 1933 Act Regulations) made any offer relating to the Shares in reliance on the exemption of Rule 163 of the 1933 Act Regulations, (4) at the earliest time after the filing of the Original Registration Statement that a bona fide offer (within the meaning of Rule 164(h)(2) of the 1933 Act Regulations) of the Shares was made, and (5) at the date hereof, the Company was and is a “well-known seasoned issuer” as defined in Rule 405. The Registration Statement is an “automatic shelf registration statement,” as defined in Rule 405, and the Shares, since their registration on the Registration Statement, have been and remain eligible for registration by the Company on a Rule 405 “automatic shelf registration statement.” The Company has not received from the Commission any notice pursuant to Rule 401(g)(2) of the 1933 Act Regulations objecting to the use of the automatic shelf registration statement form.

(c) S-3 Eligibility. The Company meets, and at the time of filing of the Original Registration Statement met, the requirements for use of Form S-3 under the 1933 Act. The Registration Statement has been filed with the Commission and is effective under the 1933 Act. The Company has not received, and has no notice of, any order of the Commission preventing or suspending the use or effectiveness of the Registration Statement, or threatening or instituting proceedings for that purpose. Any statutes, regulations, contracts or other documents that are required to be described in the Registration Statement or the Prospectus or to be filed as exhibits to the Registration Statement have been so described or filed. Copies of the Registration Statement and the Prospectus, any such amendments or supplements and all documents incorporated by reference therein that were filed with the Commission on or prior to the date of this Agreement (including one fully executed copy of each of the Registration Statement and of each amendment thereto for the Agent) have been delivered to the Agent and its counsel. The Company has not distributed any offering material in connection with the offering or sale of the Shares other than the Registration Statement, the Prospectus or any other materials, if any, permitted by the 1933 Act and the 1933 Act Regulations and reviewed and consented to by the Agent.

(d) Form Compliance; No Material Misstatement or Omission of a Material Fact. Each of the Registration Statement, any post-effective amendment thereto, the Prospectus and any amendment or supplement thereto conforms, and when it became effective or was filed with the Commission conformed, in all material respects with the requirements of the 1933 Act and the 1933 Act Regulations. The Registration Statement and any post-effective amendment thereto, when it became effective or was filed with the Commission, did not, and each such part, as amended or supplemented, if applicable, as of each Settlement Date (as defined herein), will not, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading. The Prospectus and any amendment or supplement thereto does not, and on the date of filing thereof with the Commission did not, and, at each Settlement Date, will not, include an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except that the foregoing shall not apply to statements in, or omissions from, any such document in reliance upon, and in conformity with, the Agent Information (as defined below).

(e) Issuer Free Writing Prospectuses. Any Issuer Free Writing Prospectus(es) (as defined below) and the Prospectus, as amended or supplemented, all considered together (collectively, the “General Disclosure Package”), do not include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading as of each Applicable Time and, as then amended or supplemented by the Company, if applicable, at each Settlement Date.

As used in this subsection and elsewhere in this Agreement, “Issuer Free Writing Prospectus” means any “issuer free writing prospectus,” as defined in Rule 433 of the 1933 Act Regulations (“Rule 433”), relating to the Shares, in the form filed or required to be filed with the Commission or, if not required to be filed, in the form retained in the Company’s records pursuant to Rule 433(g).

Each Issuer Free Writing Prospectus does not, and as of its issue date and all subsequent times did not, include any information that conflicts or conflicted with the information contained in the Registration Statement or the Prospectus, including any document incorporated by reference therein, and any preliminary or other prospectus deemed to be a part thereof that has not been superseded or modified.

The representations and warranties in this Section 1(e) shall not apply to statements in or omissions from the Registration Statement, the Prospectus or any amendments or supplements thereto, or any Issuer Free Writing Prospectus made in reliance upon and in conformity with the Agent Information.

(f) Incorporation of Documents by Reference. The documents incorporated by reference in the Registration Statement and the Prospectus comply, and at the time they were filed with the Commission complied, in all material respects with the requirements of the 1934 Act and the 1934 Act Regulations, and, when read together with the other information in the Prospectus, do not, and at the time the Original Registration Statement became effective and at the date of the Prospectus did not, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(g) Independent Accountants. The accountants who certified the financial statements and supporting schedules incorporated by reference into the Registration Statement and the Prospectus are independent public accountants as required by the 1933 Act and the 1933 Act Regulations.

(h) Financial Statements. The financial statements included in or incorporated by reference into the Registration Statement and the Prospectus, together with the related schedules and notes, present fairly in all material respects (i) the financial position of the Company and its consolidated subsidiaries at the dates indicated and (ii) the consolidated statements of income, changes in stockholders' equity and cash flows of the Company and its consolidated subsidiaries for the periods specified; said financial statements have been prepared in conformity with generally accepted accounting principles ("GAAP") applied on a consistent basis throughout the periods involved, except as stated therein. The supporting schedules incorporated by reference into the Registration Statement and the Prospectus present fairly, in accordance with GAAP, the information required to be stated therein. Any *pro forma* financial statements of the Company, and the related notes thereto, included in or incorporated by reference into the Registration Statement and the Prospectus present fairly in all material respects the information shown therein, have been prepared in accordance with the Commission's rules and guidelines with respect to *pro forma* financial statements and have been properly compiled on the basis described therein, and the assumptions used in the preparation thereof are reasonable and the adjustments used therein are appropriate to give effect to the transactions and circumstances referred to therein. No other financial statements are required to be set forth in or incorporated by reference into the Registration Statement or the Prospectus under the 1933 Act or the 1933 Act Regulations. As used in this subsection and elsewhere in this Agreement, "subsidiary" has the meaning set forth in Rule 405.

(i) No Material Adverse Change in Business. Since the respective dates as of which information is given in the Registration Statement, the General Disclosure Package and the Prospectus, except as otherwise stated therein, (A) there has been no material adverse change or prospective material adverse change in the business, management, financial position, stockholders' equity or results of operations of the Company and its subsidiaries considered as one enterprise from that set forth in the Registration Statement, the General Disclosure Package and the Prospectus, whether or not arising in the ordinary course of business (a "Material Adverse Effect"), (B) there have been no transactions entered into by the Company or any of its subsidiaries, other than those in the ordinary course of business, which are material with respect to the Company and its subsidiaries considered as one enterprise, and (C) there has been no dividend or distribution of any kind declared, paid or made by the Company on any class of its capital stock.

(j) Good Standing of the Company. The Company has been duly organized and is validly existing as a corporation in good standing under the laws of the State of Delaware and has corporate power and authority to own, lease and operate its properties and to conduct its business as described in the General Disclosure Package and the Prospectus and to enter into and perform its obligations under, or as contemplated by, this Agreement and the Master Confirmation. The Company is duly qualified as a foreign corporation to transact business and is in good standing in each other jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure so to qualify or to be in good standing would not result in a Material Adverse Effect.

(k) Good Standing of Subsidiaries. Each subsidiary of the Company has been duly organized or formed and is validly existing as a corporation, limited partnership, limited liability company, limited liability partnership, Massachusetts business trust or general partnership, as the case may be, under the laws of its jurisdiction of organization and is in good standing under the laws of its jurisdiction of organization, has power (corporate or otherwise) and authority to own, lease and operate its properties and to conduct its business as described in the General Disclosure Package and the Prospectus and is duly qualified as a foreign corporation, limited partnership, limited liability company, limited liability partnership, Massachusetts business trust or general partnership, as the case may be, to transact business and is in good standing in each jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure to so qualify or to be in good standing would not result in a Material Adverse Effect. Except as otherwise disclosed in the General Disclosure Package and the Prospectus, all of the issued shares of capital stock of each subsidiary of the Company which is a corporation have been duly authorized and validly issued and are fully paid and non-assessable, and to the extent owned by the Company or any of its subsidiaries (except for directors' qualifying shares and as described or reflected generally in the General Disclosure Package and the Prospectus) are owned directly or indirectly by the Company, free and clear of all liens, encumbrances, equities or claims, in each case with such exceptions, individually or in the aggregate, as would not have a Material Adverse Effect. The partnership interests, membership interests and shares of beneficial interest of each subsidiary of the Company which is a partnership, limited liability company, limited

partnership, limited liability partnership or Massachusetts business trust have been validly issued in accordance with applicable law and the partnership agreement, limited liability agreement or declaration of trust, as applicable, of such subsidiary, and to the extent owned by the Company or any of its subsidiaries (except as described or reflected generally in the General Disclosure Package and the Prospectus) are owned directly or indirectly by the Company, free and clear of all liens, encumbrances, equities or claims, in each case with such exceptions, individually or in the aggregate, as would not have a Material Adverse Effect; and none of the outstanding shares of capital stock, partnership interests, membership interests or shares of beneficial interests, as the case may be, of any subsidiary of the Company was issued in violation of the preemptive or similar rights of any securityholder of such subsidiary, in each case with such exceptions, individually or in the aggregate, as would not have a Material Adverse Effect.

(l) Capitalization. The Company has the authorized, issued and outstanding capitalization described in the General Disclosure Package and the Prospectus (except for subsequent issuances, if any, pursuant to reservations, agreements or employee benefit plans or pursuant to the exercise of convertible securities or options, in each case accurately described or reflected in the General Disclosure Package and the Prospectus, as amended or supplemented). The shares of issued and outstanding capital stock of the Company have been duly authorized and validly issued and are fully paid and non-assessable; and none of the outstanding shares of capital stock of the Company was issued in violation of the preemptive or other similar rights of any securityholder of the Company. There are no authorized or outstanding options, warrants, preemptive rights, rights of first refusal or other rights to purchase, or equity or debt securities convertible into or exchangeable or exercisable for, any capital stock of the Company other than those accurately described or reflected in the General Disclosure Package and the Prospectus, as amended or supplemented, or pursuant to reservations, agreements or employee benefit plans or the exercise of convertible securities or options, in each case accurately described or reflected in the General Disclosure Package and the Prospectus, as amended or supplemented. Except as would not, individually or in the aggregate, have a Material Adverse Effect, there are no authorized or outstanding options, warrants, preemptive rights, rights of first refusal or other rights to purchase, or equity or debt securities convertible into or exchangeable or exercisable for, any capital stock of any of the Company's subsidiaries, other than those accurately described or reflected in the General Disclosure Package and the Prospectus, as amended or supplemented, or pursuant to reservations, agreements or employee benefit plans or the exercise of convertible securities or options or upon the redemption or repurchase of outstanding securities, in each case accurately described or reflected in the General Disclosure Package and the Prospectus, as amended or supplemented.

(m) Authorization of Agreement. This Agreement has been duly authorized, executed and delivered by the Company.

(n) Authorization of Master Confirmation. The Master Confirmation has been duly authorized, executed and delivered by the Company and constitutes a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency (including, without limitation, all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting enforcement of creditors' rights generally and except as enforcement thereof is subject to general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law). The description of the Master Confirmation set forth in the General Disclosure Package and the Prospectus is correct in all material respects.

(o) Authorization and Description of Shares. The description of the Common Stock set forth in the General Disclosure Package and the Prospectus is correct in all material respects. The Forward Settlement Shares (which means the “Settlement Shares” as defined in the Master Confirmation) have been duly authorized by the Company for issuance and sale to the Forward Purchaser pursuant to the Master Confirmation and, if and when issued and delivered by the Company pursuant to the Master Confirmation against payment of the consideration specified therein, will be validly issued, fully paid and non-assessable and will not be issued in violation of any preemptive or other similar rights of any securityholder of the Company. The Direct Settlement Shares (as defined herein, and together with the Forward Settlement Shares, the “Settlement Shares”) have been duly authorized by the Company for issuance and sale to the Agent, as sales agent and/or principal, and, when issued and delivered by the Company against payment therefor, will be validly issued, fully paid and non-assessable and will not be issued in violation of any preemptive or other similar rights of any securityholder of the Company. The Company has reserved and will keep available at all times, free from preemptive or similar rights and free from any lien, charge, claim or other encumbrance, authorized but unissued shares of Common Stock at least equal to the Share Cap (as defined in the Master Confirmation) for all Transactions (as defined in the Master Confirmation), solely for the purpose of settlement under the Transactions. No holder or beneficial owner of the Shares or the Settlement Shares will be subject to personal liability solely by reason of being such a holder or beneficial owner. The issuance and sale by the Company of the Forward Settlement Shares to the Forward Purchaser or its affiliate in settlement of the Master Confirmation in accordance with the terms thereof and the delivery by the Forward Purchaser or its affiliate of the Forward Settlement Shares, during the term of and at settlement of the Master Confirmation, to close out open borrowings of Common Stock created in the course of the hedging activities created by the Forward Purchaser or its affiliate relating to the Forward Purchaser’s exposure under the Master Confirmation will not require registration under the 1933 Act. The Company will not have an obligation to file a prospectus supplement pursuant to Rule 424(b) of the 1933 Act Regulations in connection with any Forward Settlement Shares delivered to the Forward Purchaser or its affiliate by the Company upon such settlement, and no prospectus supplement will be required to be filed under Rule 424(b) of the 1933 Act Regulations in connection with any Forward Settlement Shares delivered by the Forward Purchaser or its affiliate to close out open borrowings created in the course of the hedging activities created by the Forward Purchaser or its affiliate relating to the Forward Purchaser’s exposure under the Master Confirmation, assuming in each case that the Agent complied with Rule 173 of the 1933 Act Regulations in connection with the sales of Shares in an amount not less than the Number of Shares (as defined in the Master Confirmation).

(p) Listing on New York Stock Exchange. The Shares are listed on the New York Stock Exchange (the “NYSE”) and the Company has taken no action designed to, or likely to have the effect of, terminating the listing of the Shares from the NYSE, nor has the Company received any notification that the Commission or the NYSE is contemplating terminating such listing.

(q) Absence of Defaults and Conflicts. Neither the Company nor any of its subsidiaries is in violation of its charter or by-laws or other constituting or organizational document or in default in the performance or observance of any obligation, agreement, covenant or condition contained in any contract, indenture, mortgage, deed of trust, loan or credit agreement, note, lease or other agreement or instrument to which the Company or any of its subsidiaries is a party, or by which it or any of them may be bound, or to which any of the property or assets of the Company or any subsidiary of the Company is subject (collectively, "Agreements and Instruments"), except for such defaults that would not result in a Material Adverse Effect; and the execution, delivery and performance of this Agreement and the Master Confirmation and the consummation of the transactions contemplated herein and therein and in the General Disclosure Package and the Prospectus and compliance by the Company with its obligations hereunder and thereunder have been duly authorized by all necessary corporate action and do not, whether with or without the giving of notice or passage of time or both, conflict with or constitute a breach of, or default or Repayment Event (as defined below) under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any subsidiary of the Company pursuant to, the Agreements and Instruments (except for such conflicts, breaches or defaults or liens, charges or encumbrances that would not result in a Material Adverse Effect), nor will such action result in any violation of the provisions of the charter or by-laws or other constituting or organizational instrument as in effect on the date hereof of the Company or any subsidiary of the Company or any applicable law, statute, rule, regulation, judgment, order, writ or decree of any government, government instrumentality or court, domestic or foreign, having jurisdiction over the Company or any subsidiary of the Company or any of their assets, properties or operations, except for any such violation of any applicable law, statute, rule, regulation, judgment, order, writ or decree of law which would not result in a Material Adverse Effect. As used herein, a "Repayment Event" means any event or condition which gives the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder's behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Company or any subsidiary of the Company.

(r) Absence of Proceedings. Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, there is no action, suit, proceeding, inquiry or investigation before or brought by any court or governmental agency or body, domestic or foreign, now pending, or, to the knowledge of the Company, threatened, against or affecting the Company or any subsidiary of the Company, which, singly or in the aggregate, would reasonably be expected to result in a Material Adverse Effect, or which would reasonably be expected to materially and adversely affect the consummation of the transactions contemplated in this Agreement or the performance by the Company of its obligations hereunder.

(s) Accuracy of Descriptions. All of the descriptions of contracts or other documents contained or incorporated by reference in the Registration Statement, the General Disclosure Package and the Prospectus are accurate and complete descriptions in all material respects of such contracts or other documents.

(t) Absence of Further Requirements. No filing with, or authorization, approval, consent, license, order, registration, qualification or decree of, any court or governmental authority or agency is necessary or required for the performance by the Company of its obligations hereunder or under the Master Confirmation or the consummation of the transactions contemplated by this Agreement, or for the due execution, delivery or performance of this Agreement and the Master Confirmation, except such as have been already obtained or as may be required under the 1933 Act or the 1933 Act Regulations or state securities laws.

(u) Possession of Licenses and Permits. The Company and its subsidiaries possess such permits, licenses, approvals, consents and other authorizations (collectively, "Governmental Licenses") issued by the appropriate federal, state, local or foreign regulatory agencies or bodies necessary to conduct the business now operated by them; the Company and its subsidiaries are in compliance with the terms and conditions of all such Governmental Licenses, except in any such case where the failure to so possess or to comply would not, singly or in the aggregate, have a Material Adverse Effect; all of the Governmental Licenses are valid and in full force and effect, except where the invalidity of such Governmental Licenses or the failure of such Governmental Licenses to be in full force and effect would not have a Material Adverse Effect; and neither the Company nor any of its subsidiaries has received any notice of proceedings relating to the revocation or modification of any such Governmental Licenses which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would result in a Material Adverse Effect.

(v) Title to Property. The Company and its subsidiaries have good and marketable title to all real property owned by the Company and its subsidiaries and good title to all other properties owned by them, in each case, free and clear of all mortgages, pledges, liens, security interests, claims, restrictions or encumbrances of any kind except such as (a) are described in the General Disclosure Package and the Prospectus or (b) would not, singly or in the aggregate, result in a Material Adverse Effect; and all of the leases and subleases material to the business of the Company and its subsidiaries, considered as one enterprise, and under which the Company or any of its subsidiaries holds properties described in the General Disclosure Package and the Prospectus, are in full force and effect, and neither the Company nor any subsidiary of the Company has any notice of any material claim of any sort that has been asserted by anyone adverse to the rights of the Company or any subsidiary of the Company under any of the leases or subleases mentioned above, or affecting or questioning the rights of the Company or such subsidiary to the continued possession of the leased or subleased premises under any such lease or sublease.

(w) No Investment Company. Neither the Company nor any of its subsidiaries is, and upon the offering of the Shares as herein contemplated will be, an "investment company" or an entity "controlled" by an "investment company" as such terms are defined in the Investment Company Act of 1940, as amended (the "1940 Act").

(x) Company Not an Investment Adviser. The Company is not required to register as an "investment adviser" or as a "broker-dealer" under the Investment Advisers Act of 1940, as amended (the "Advisers Act") or the 1934 Act, respectively, and the rules and regulations of the Commission promulgated thereunder. The Company is not required to be registered, licensed or qualified as an investment adviser or broker-dealer under the laws requiring any such registration, licensing or qualification in any jurisdiction in which it or its subsidiaries conduct business. Each of the subsidiaries has been duly registered as an investment adviser under the Advisers Act, and has been duly registered as a broker-dealer under the 1934 Act, and each such registration is in full force and effect, in each case to the extent such registration is required and with such exceptions as would not reasonably be expected to have a

Material Adverse Effect. Each of the subsidiaries is duly registered, licensed or qualified as an investment adviser and broker-dealer under state and local laws where such registration, licensing or qualification is required by such laws and is in compliance with all such laws requiring any such registration, licensing or qualification, in each case with such exceptions, individually or in the aggregate, as would not reasonably be expected to have a Material Adverse Effect.

(y) Investment Adviser Subsidiaries. Each subsidiary of the Company which is required to be registered as an investment adviser or broker-dealer is and has been in compliance with all applicable laws and governmental rules and regulations, as may be applicable to its investment advisory or broker-dealer business, except to the extent that such non-compliance would not reasonably be expected to result in a Material Adverse Effect and none of such subsidiaries is prohibited by any provision of the Advisers Act or the 1940 Act from acting as an investment adviser. Each subsidiary of the Company which is required to be registered as a broker-dealer is a member in good standing of the Financial Industry Regulatory Authority (“FINRA”). No subsidiary of the Company which is required to be registered as an investment adviser or broker-dealer is in default with respect to any judgment, order, writ, injunction, decree, demand or assessment issued by any court or any foreign, federal, state, municipal or other governmental agency, board, commission, bureau, instrumentality or department, domestic or foreign, or by any self-regulatory authority relating to any aspect of its investment advisory or broker-dealer business, which would need to be disclosed pursuant to Rule 206(4)-4(b) under the Advisers Act, or which is reasonably likely to give rise to an affirmative answer to any of the questions in Item 11, Part 1 of the Form ADV of such registered investment adviser or which is reasonably likely to give rise to an affirmative answer to any of the questions in Item 7 of the Form BD of such broker-dealer.

(z) Investment Company Mutual Funds. Each mutual fund of which a subsidiary of the Company serves as the investment advisor (a “Mutual Fund”) has been since inception, is currently and will be immediately after consummation of the transactions contemplated herein, a duly registered investment company in compliance with the 1940 Act, and the rules and regulations promulgated thereunder, except where any failure to be duly registered, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect. Since their initial offering, shares of each of the Mutual Funds have been duly qualified for sale under the securities laws of each jurisdiction in which they have been sold or offered for sale at such time or times during which such qualification was required, and, if not so qualified, the failure to so qualify would not reasonably be expected to have a Material Adverse Effect. The offering and sale of shares of each of the Mutual Funds have been registered under the 1933 Act during such period or periods for which such registration is required; the related registration statement has become effective under the 1933 Act; no stop order suspending the effectiveness of any such registration statement has been issued and no proceedings for that purpose have been instituted or, to the best knowledge of the Company, are contemplated. Except to the extent that such failure to comply, misstatement or omission, as the case may be, would not reasonably be likely to result in a Material Adverse Effect, the registration statement of each Mutual Fund, together with the amendments and supplements thereto, under the 1940 Act and the 1933 Act has, at all times when such registration statement was effective, complied in all material respects with the requirements of the 1940 Act and the 1933 Act then in effect and neither such registration statement nor any amendments or supplements thereto contained, at the

time and in the light of the circumstances in which they were made, an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein, at the time and in the light of the circumstances under which they were made, not misleading. All shares of each of the Mutual Funds were sold pursuant to an effective registration statement, or pursuant to a valid exemption from registration, and have been duly authorized and are validly issued, fully paid and non-assessable. Each of the Mutual Funds' investments has been made in accordance with its investment policies and restrictions set forth in its registration statement in effect at the time the investments were made and have been held in accordance with its respective investment policies and restrictions, to the extent applicable and in effect at the time such investments were held, except to the extent any failure to comply with such policies and restrictions, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

(aa) Investment Advisory Agreements. The Company is not a party as an investment advisor or distributor to any investment advisory agreement or distribution agreement and is not serving or acting as an investment adviser to any person. Each of the investment advisory agreements to which any of its subsidiaries is a party is a legal and valid obligation of such subsidiary and complies with the applicable requirements of the Advisers Act and the rules and regulations of the Commission thereunder, except where the failure to so comply would not individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Each of the investment advisory agreements and distribution agreements between a subsidiary of the Company and a Mutual Fund is a legal and valid obligation of such subsidiary and complies with the applicable requirements of the 1940 Act, and in the case of such distribution agreements, with the applicable requirements of the 1934 Act, except where the failure to so comply would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. No investment advisory agreement or distribution agreement to which any of the subsidiaries is a party that was either in effect on January 1, 2016 or entered into by a subsidiary of the Company since January 1, 2016 has been terminated or expired, except where any such termination or expiration would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. None of such subsidiaries is in breach or violation of or in default under any such investment advisory agreement or distribution agreement, with such exceptions individually or in the aggregate as would not reasonably be expected to have a Material Adverse Effect. No subsidiary of the Company is serving or acting as an investment adviser to any person except pursuant to an agreement to which such subsidiary is a party and which is in full force and effect, other than any agreement the non-existence of which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The consummation of the transaction contemplated herein will not constitute an "assignment," as such term is defined in the Advisers Act and the 1934 Act, of an investment advisory agreement.

(bb) No Fiduciary Duties. The Company acknowledges and agrees that (i) the sale of the Shares pursuant to this Agreement is an arm's-length commercial transaction among the Company, on the one hand, and the Forward Purchaser and/or the Agent (as applicable), on the other hand, (ii) in connection with the Forward Sales contemplated hereby and the process leading to such transaction(s), the Agent is acting as agent for the Forward Purchaser in connection with sales of the Shares sold on behalf of the Forward Purchaser and neither the Agent nor the Forward Purchaser nor any of their affiliates is an agent or fiduciary of the Company, or its stockholders, creditors, employees or any other party, (iii) the Agent has not

assumed and will not assume an advisory or fiduciary responsibility in favor of the Company with respect to the offering contemplated hereby or the process leading thereto (irrespective of whether the Agent has advised or is currently advising the Company on other matters) and the Agent has no obligation to the Company with respect to the offering contemplated hereby except the obligations expressly set forth in this Agreement, (iv) the Agent and its affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Company and (v) the Agent has not provided any legal, accounting, regulatory or tax advice with respect to the offering contemplated hereby and the Company has consulted its own legal, accounting, regulatory and tax advisors to the extent it deemed appropriate.

(cc) Internal Control over Financial Reporting. The Company maintains a system of internal control over financial reporting (as such term is defined in Rule 13a-15(f) of the 1934 Act Regulations) that complies with the requirements of the 1934 Act and the 1934 Act Regulations and that has been designed by the Company's principal executive officer and principal financial officer, or under their supervision, to provide reasonable assurance regarding the reliability of financial reporting, the preparation of financial statements for external purposes in accordance with generally accepted accounting principles and the interactive data in eXtensible Business Reporting Language included or incorporated by reference in the Registration Statement. The Company's internal control over financial reporting is effective and the Company is not aware of any material weaknesses in its internal control over financial reporting. Since the date of the latest audited financial statements included or incorporated by reference in the General Disclosure Package and the Prospectus, there has been no change in the Company's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

(dd) eXtensible Business Reporting Language. The interactive data in eXtensible Business Reporting Language included or incorporated by reference in the Registration Statement fairly presents the information called for in all material respects and has been prepared in accordance with the Commission's rules and guidelines applicable thereto.

(ee) Disclosure Controls and Procedures. The Company maintains disclosure controls and procedures (as such term is defined in Rule 13a-15(e) of the 1934 Act Regulations) that comply with the requirements of the 1934 Act and the 1934 Act Regulations; such disclosure controls and procedures have been designed to ensure that material information relating to the Company and its subsidiaries is made known to the Company's principal executive officer and principal financial officer by others within those entities; and such disclosure controls and procedures are effective.

(ff) No Stop Order or Cease-and-Desist Proceeding. The Registration Statement is not the subject of a pending proceeding or examination under Section 8(d) or 8(e) of the 1933 Act, and the Company is not the subject of a pending proceeding under Section 8A of the 1933 Act in connection with the offering of the Shares.

(gg) Actively-Traded Security. The Common Stock is an "actively traded security" exempted from the requirements of Rule 101 of Regulation M under the 1934 Act by subsection (c)(1) of such rule.

(hh) No Other At-The-Market Offerings. Except for the Additional Equity Distribution Agreements and as otherwise disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, the Company has not entered into any other sales agency agreements or other similar arrangements with any agent or any other representative in respect of at the market offerings of the Shares in accordance with Rule 415(a) (4) of the 1933 Act Regulations.

(ii) No Stabilization or Manipulation. The Company has not taken, directly or indirectly, any action designed to or that would be reasonably expected to cause or result in stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Shares.

(jj) No Commissions. There is no broker, finder or other party that is entitled to receive from the Company any brokerage or finder's fee or other fee or commission as a result of any transactions contemplated by this Agreement.

(kk) Deemed Representation. Any certificate signed by any officer of the Company delivered to the Agent or the Forward Purchaser or to counsel for the Agent or the Forward Purchaser pursuant to or in connection with this Agreement shall be deemed a representation and warranty by the Company to the Agent or the Forward Purchaser as to the matters covered thereby.

(ll) Cybersecurity. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect (i) to the knowledge of the Company, there has been no security breach or incident, unauthorized access or disclosure, or other compromise of or relating to the Company's or its subsidiaries' information technology and computer systems, networks, hardware, software, data and databases (including the data and information of their respective customers, employees, suppliers, vendors and any third party data maintained, processed or stored by the Company or its subsidiaries, and any such data processed or stored by third parties on behalf of the Company or its subsidiaries), equipment or technology (collectively, "IT Systems and Data"); (ii) neither the Company nor any of its subsidiaries has been notified of, and has no knowledge of any event or condition that would result in, any security breach or incident, unauthorized access or disclosure or other compromise to their IT Systems and Data and (iii) the Company and its subsidiaries have implemented appropriate controls, policies, procedures, and technological safeguards to maintain and protect the integrity, continuous operation, redundancy and security of their IT Systems and Data reasonably consistent with industry standards and practices, or as required by applicable regulatory standards. The Company and its subsidiaries are presently in compliance in all material respects with all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, internal policies and contractual obligations relating to the privacy and security of IT Systems and Data and to the protection of such IT Systems and Data from unauthorized use, access, misappropriation or modification.

Section 2. Sale and Delivery of Shares.

(a) (i) Subject to the terms and conditions set forth herein, the Company may issue and sell Shares through the Agent, acting as sales agent for the Company, or directly to the Agent, acting as principal, from time to time (any such sale, a “Direct Sale”).

(ii) In addition, subject to the terms and conditions set forth herein, the Company may, from time to time, in consultation with the Forward Purchaser and the Agent, instruct the Forward Purchaser or its affiliate to borrow, offer and sell Shares to or through the Agent, acting as forward seller (any such sale, a “Forward Sale”). The Agent agrees, when acting as sales agent, to use its reasonable efforts to sell the Shares under a Forward Sale in the manner contemplated by the General Disclosure Package.

(b) The Shares are to be sold on a daily basis or otherwise as shall be agreed to by the Company, the Agent and, if applicable, the Forward Purchaser on any day that is a trading day for the NYSE (other than a day on which the NYSE is scheduled to close prior to its regular weekday closing time, each, a “Trading Day”) that the Company has satisfied its obligations under Section 4 of this Agreement and that the Company has instructed the Agent to make such sales. On any Trading Day, the Company, in consultation with the Agent and, if applicable, the Forward Purchaser, may instruct the Agent by telephone (confirmed promptly by telecopy or email, which confirmation shall contain the mutually agreed upon terms for the sales and such confirmation shall be promptly acknowledged by the Agent) (together, the “Instruction”) as to (i) the maximum amount of Shares to be sold by the Agent on such day (in any event not in excess of the amount then available for sale under the Prospectus and the currently effective Registration Statement), (ii) the minimum price per Share at which such Shares may be sold, (iii) whether the sale of such Shares will be a Direct Sale or a Forward Sale, and (iv) in the case of a Forward Sale, any terms, provisions or information that is required or contemplated by the Master Confirmation (including, without limitation, any Forward Price Reduction Dates and related Forward Price Reduction Amounts, any Discount to the Initial Forward Price (as defined in the Master Confirmation) and the amount, timing, record dates and ex-dividend dates of any planned dividends or distributions). Subject to the terms and conditions hereof, when acting as sales agent, the Agent shall use its commercially reasonable efforts to sell for the Forward Purchaser or its affiliate (in the case of a Forward Sale) or for the Company (in the case of a Direct Sale) all of the Shares so designated by the Company and in the manner contemplated by the General Disclosure Package. The Company, the Forward Purchaser and the Agent each acknowledges and agrees that (A) there can be no assurance that the Agent will be successful in selling the Shares or that the Forward Purchaser or any of its affiliates will be successful in borrowing any Shares, (B) the Agent will incur no liability or obligation to the Company, the Forward Purchaser or any other person or entity if it does not sell Shares for any reason other than a failure by the Agent to use its commercially reasonable efforts consistent with its normal trading and sales practices and applicable law and regulations to sell such Shares as required by this Agreement, and (C) the Agent shall be under no obligation to purchase Shares on a principal basis, except as expressly agreed by the Agent in a Terms Agreement.

(c) Notwithstanding the foregoing, the Company shall not authorize the sale of, and the Agent shall not be obligated to use its commercially reasonable efforts to sell, any Shares (i) at a price lower than the minimum price therefor authorized from time to time or (ii) having an aggregate offering price in excess of the aggregate offering price of Shares authorized from time to time to be issued and sold under this Agreement, in each case, by the

Company's board of directors, or a duly authorized committee thereof, and notified to the Agent in writing. In addition, the Company or the Agent may, upon notice to the other party hereto by telephone (confirmed promptly by telecopy or email, which confirmation will be promptly acknowledged), suspend the offering of the Shares for any reason and at any time; provided, however, that such suspension shall not affect or impair the parties' respective obligations with respect to the Shares sold hereunder prior to the giving of such notice. Under no circumstances shall the aggregate offering price of Shares sold pursuant to this Agreement and the Additional Equity Distribution Agreements exceed the Maximum Program Amount or the aggregate offering price of Common Stock available for sale under the currently effective Registration Statement. Notwithstanding any of the provisions of this Agreement, if in the event of any Forward Sale either (i) the Forward Purchaser or its affiliate is unable to borrow and deliver any Shares for sale under this Agreement or (ii) in the sole judgment of the Forward Purchaser or its affiliate, it is either impracticable to do so or the Forward Purchaser or its affiliate would incur a stock loan cost that is equal to or greater than 75 basis points per annum to do so, then the Agent shall only be required to sell on behalf of the Forward Purchaser or its affiliate the aggregate number of Shares that the Forward Purchaser or its affiliate is able to, and that it is practicable to, so borrow below such cost.

(d) The Company agrees that any offer to sell, any solicitation of an offer to buy, or any sales of Shares pursuant to this Agreement or the Additional Equity Distribution Agreements shall be effected by or through only one of the Agent or the Additional Agents on any single day, but in no event by more than one, and the Company shall in no event request that the Agent and the Additional Agents sell Shares on the same day.

(e) If any party reasonably believes that the exemptive provisions set forth in Rule 101(c)(1) of Regulation M under the 1934 Act are not satisfied with respect to the Company or the Shares, it shall promptly notify the other party or parties and sales of Shares under this Agreement shall be suspended until that or other exemptive provisions have been satisfied in the judgment of each party.

(f) The Shares, when sold through the Agent as sales agent, may be offered and sold in (1) privately negotiated transactions (if and only if the parties hereto have so agreed in writing), or (2) by any other method deemed to be an "at the market" offering as defined in Rule 415 of the Securities Act, including sales made directly on the NYSE or sales made to or through a market maker or through an electronic communications network. Nothing in this Agreement shall be deemed to require any party to agree to the method of offer and sale specified in clause (1) above, and any party may withhold its consent thereto in such party's sole discretion.

(g) The gross sales price of any Shares sold pursuant to this Agreement shall be the market or other price agreed to by the Company and the Agent for Shares sold by the Agent under this Agreement at the time of such sale, or as otherwise provided in an applicable Terms Agreement (the "Gross Proceeds"). The compensation payable to the Agent for sales of Shares shall be (i) in connection with any Direct Sale, up to 2.00% of the gross sales price for such Shares, as mutually agreed to in writing by the Company and the Agent (the "Direct Sale Compensation") or (ii) in connection with any Forward Sale, the difference between the Gross Proceeds and the amount payable by the Forward Purchaser to the Company under the Master

Confirmation, assuming full physical settlement of the Master Confirmation based on the Initial Forward Price. The amount payable (i) by the Agent to the Company in connection with any Direct Sale, shall be the Gross Proceeds less the Direct Sale Compensation or (ii) by the Forward Purchaser to the Company in connection with any Forward Sale, shall be determined pursuant to the Master Confirmation and the Instruction or the Terms Agreement, as the case may be, assuming full physical settlement of the Master Confirmation based on the Initial Forward Price, subject to the price adjustment and other provisions of the Master Confirmation, and shall constitute the net proceeds to the Company for such sales (in each case, the "Net Proceeds").

(h) The Agent shall provide written confirmation (which may be by telecopy or email) to the Company following the close of trading on the NYSE each day on which Shares are sold under this Agreement setting forth the number of Shares sold on such day, the price or prices at which such Shares were sold on such day, the aggregate Gross Proceeds of the Shares, the Net Proceeds to the Company and the compensation payable by the Company to the Agent with respect to such sales.

(i) Settlement for sales of Shares pursuant to this Section 2 will occur on the second business day that is also a Trading Day following the trade date on which such sales are made, unless another date shall be agreed to by the Company and the Agent (each such day, a "Settlement Date"). On each Settlement Date for any Direct Sale (each such day, a "Direct Settlement Date"), such Shares (the "Direct Settlement Shares") shall be delivered by the Company to the Agent in book-entry form to the Agent's account at The Depository Trust Company against payment by the Agent of the Net Proceeds from the sale of such Shares in same day funds delivered to an account designated by the Company. On each Settlement Date for any Forward Sale, the Shares sold through the Agent for settlement on such date shall be delivered by the Forward Purchaser or its affiliate to the Agent. If the Company shall default on its obligation to deliver Shares through the Agent as sales agent on any Direct Settlement Date, the Company shall

(i) indemnify and hold the Agent harmless against any loss, claim or damage arising from or as a result of such default by the Company and (ii) pay the Agent any commission to which it would otherwise be entitled absent such default.

(j) Notwithstanding any other provision of this Agreement, the Company and the Agent agree that no sales of Shares shall take place, and the Company shall not request the sale of any Shares that would be sold, and the Agent shall not be obligated to sell, (A) during any period starting on the tenth day of each fiscal quarter of the Company and ending on the day on which the Company's insider trading policy, as then in existence, does not prohibit the purchases or sales of the Company's Common Stock by its officers or directors (except to the extent that the Company is not in possession of material non-public information during the first five days of such period), (B) during any other period in which the Prospectus or any amendment or supplement thereto includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, or (C) during any period in which the Company is in possession of material non-public information.

(k) At each Applicable Time and on each Settlement Date, each date the Registration Statement or the Prospectus shall be amended or supplemented (other than a prospectus supplement to the Prospectus included as part of the Registration Statement filed pursuant to Rule 424(b) of the 1933 Act Regulations relating solely to the offering of securities other than the Shares) (a “Registration Statement Amendment Date”) and each date the Company files an Annual Report on Form 10-K or a Quarterly Report on Form 10-Q or an amendment to any such document (a “Company Periodic Report Date”), the Company shall be deemed to have affirmed each representation and warranty (except for the representation and warranty in Section 1(l) hereof, which the Company shall be deemed to have affirmed only at each Company Periodic Report Date) and its compliance with each covenant and other agreement contained in this Agreement (unless the Company shall have notified the Agent to the contrary in writing). The Company shall cause a senior corporate officer of the Company from time to time designated by the Company (which senior corporate officer shall initially be a senior corporate officer holding one of the offices specified in Exhibit B hereto) to respond via electronic mail to a communication from the Agent in the form set forth in Exhibit B hereto when, during the term of this Agreement, the Company shall have received such a communication. Any obligation of the Agent to use its commercially reasonable efforts to sell the Shares on behalf of the Forward Purchaser or its affiliate or the Company, as applicable, shall be subject to, as determined in the reasonable discretion of the Agent, the continuing accuracy of the representations and warranties of the Company, the compliance by the Company with each covenant contained herein, the performance by the Company of its obligations hereunder and the continuing satisfaction of the additional conditions specified in Section 4 of this Agreement.

(l) The Agent shall not have any obligation to purchase Shares as principal, whether from the Company or otherwise, unless the Company and the Agent agree as set forth below. Shares purchased from the Company by the Agent, as principal, shall be purchased in accordance with terms agreed upon between the Agent and the Company as evidenced by a Terms Agreement. The Agent’s commitment to purchase Shares from the Company as principal shall be deemed to have been made on the basis of the accuracy of the representations and warranties of the Company, and performance by the Company of its covenants and other obligations, herein contained and shall be subject to the terms and conditions herein set forth. At the time of each Terms Agreement, the Agent shall specify the requirements, if any, for the officers’ certificate, opinions and letters of counsel and accountants’ letter pursuant to Sections 4(c), 4(d), 4(e) and 4(f) hereof. In the event of a conflict between the terms of this Agreement and a Terms Agreement, the terms of such Terms Agreement shall control.

Section 3. Covenants of the Company. The Company hereby covenants and agrees with the Agent and the Forward Purchaser that:

(a) During the period beginning on the date hereof and ending on the date, as determined in the reasonable discretion of the Agent, that a prospectus is no longer required by law to be delivered in connection with the offering or sales of the Shares by the Agent or any dealer (whether physically or through compliance with Rule 153 or 172 of the 1933 Act Regulations, or in lieu thereof, a notice referred to in Rule 173(a) of the 1933 Act Regulations) (the “Prospectus Delivery Period”):

(i) the Company will notify the Agent promptly in writing of the time when any subsequent amendment to the Registration Statement has become effective or any amendment to the Registration Statement or any subsequent supplement to the Prospectus has been filed;

(ii) the Company will prepare and file with the Commission any material required to be filed with the Commission pursuant to Rule 433(d) of the 1933 Act Regulations and any amendments or supplements to the Registration Statement or the Prospectus that, in the reasonable judgment of the Company, may be necessary or advisable in connection with the offering of the Shares by the Agent;

(iii) the Company will comply with Rule 430B; provided, however, that the Company will not file any amendment to the Registration Statement or supplement to the Prospectus with respect to the Shares unless a copy thereof has been submitted to the Agent a reasonable period of time before filing with the Commission or if the Agent reasonably objects to such filing in writing, in each case excluding an amendment by incorporated report filed pursuant to Section 13 or 15(d) of the 1934 Act;

(iv) the Company will file promptly all reports and any definitive proxy or information statements required to be filed by the Company with the Commission pursuant to Section 13, 14 or 15 of the 1934 Act and will advise the Agent of any such filing;

(v) the Company will furnish to the Agent at the time of filing thereof, a copy of any document that upon filing is deemed to be incorporated by reference in the Registration Statement or the Prospectus; and

(vi) the Company will cause each amendment or supplement to the Prospectus to be filed with the Commission as required pursuant to the applicable paragraph of Rule 424(b) of the 1933 Act Regulations or, in the case of any document to be incorporated therein by reference, to be filed with the Commission as required pursuant to the 1934 Act, within the prescribed time period; in connection with a Terms Agreement, the Company will prepare and file with the Commission, a pricing supplement with respect to the offer and sale of Shares covered by such Terms Agreement. The Company will effect all filings required under Rule 424(b), in the manner and within the time period required by Rule 424(b) (without reliance on Rule 424(b)(8)), and will take such steps as it deems necessary to ascertain promptly whether the form of prospectus transmitted for filing under Rule 424(b) was received for filing by the Commission and, in the event that it was not, it will promptly file such prospectus.

(b) The Company shall pay the required Commission filing fees relating to the Shares within the time required by Rule 456(b)(1)(i) of the 1933 Act Regulations without regard to the proviso therein and otherwise in accordance with Rules 456(b) and 457(r) of the 1933 Act Regulations.

(c) To the extent the Company requests that the Agent effect sales of Shares pursuant to this Agreement, the Company will advise the Agent (through notice provided to Sidley Austin LLP, or other counsel reasonably satisfactory to the Agent) of the receipt of any comments of or request by the Commission for any amendment or supplement to the Registration Statement or the Prospectus, including the documents incorporated by reference therein, or for additional or supplemental information with respect thereto or of notice of

institution of proceedings for the entry of a stop order suspending the effectiveness of the Registration Statement by the Commission or of any examination pursuant to Section 8(e) of the 1933 Act concerning the Registration Statement or of any order or notice preventing or suspending the use of the Registration Statement, any preliminary prospectus or the Prospectus, or of any proceedings to remove, suspend or terminate from listing or quotation the Common Stock from any securities exchange upon which it is listed for trading or included or designated for quotation, or of the threatening or initiation of any proceedings for any of such purposes, which comments, requests, notices, proceedings have been received, threatened or initiated since the last time the Company requested that the Agent effect sales of Shares pursuant to this Agreement. The Company shall use its best efforts to prevent the issuance of any such stop order or notice of prevention or suspension of such use. If the Commission shall enter any such stop order or issue any such notice at any time, the Company will use its best efforts to obtain the lifting or reversal of such order or notice at the earliest possible moment, or will file an amendment to the Registration Statement or a new registration statement in a form satisfactory to the Agent and use its best efforts to have such amendment or new registration statement become effective as soon as practicable.

(d) The Company will make available to the Agent and from time to time furnish to the Agent, at the Company's expense, copies of the Prospectus (or the Prospectus as amended or supplemented if the Company shall have made any amendments or supplements thereto after the effective date of the Registration Statement) in such quantities and at such locations as the Agent may reasonably request for the purposes contemplated by the 1933 Act.

(e) The Company will promptly notify the Agent to suspend the offering of Shares (i) when the Company is in possession of material non-public information and (ii) upon the happening of any event known to the Company during the Prospectus Delivery Period or otherwise prior to the final Settlement Date which, in the reasonable judgment of the Company, would require the making of any change in the Registration Statement or in the Prospectus then being used, or in the information incorporated by reference therein, so that the Registration Statement and the Prospectus would not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. During such time period, the Company will prepare and furnish, at the Company's expense, to the Agent promptly such amendments or supplements to such Registration Statement and Prospectus as may be necessary to reflect any such change and will furnish the Agent with a copy of such proposed amendment or supplement before filing any such amendment or supplement with the Commission. If at any time following issuance of an Issuer Free Writing Prospectus there occurred or occurs an event or development as a result of which such Issuer Free Writing Prospectus conflicted or would conflict with the information contained in the Registration Statement (or any other registration statement relating to the Shares) or the Prospectus or any preliminary prospectus or included or would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances prevailing at that subsequent time, not misleading, the Company will promptly notify the Agent and will promptly amend or supplement, at its own expense, such Issuer Free Writing Prospectus to eliminate or correct such conflict, untrue statement or omission.

(f) The Company will furnish such information as may be required and otherwise will cooperate in qualifying the Shares for offering and sale under the securities or blue sky laws of such jurisdictions as the Agent may designate and to maintain such qualifications in effect so long as required for the distribution of the Shares; provided that the Company shall not be required to qualify as a foreign corporation or to consent to the service of process under the laws of any such jurisdiction (except service of process with respect to the offering and sale of the Shares). The Company will promptly advise the Agent of the receipt by the Company of any notification with respect to the suspension of the qualification of the Shares for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose.

(g) Prior to the final Settlement Date, the Company will furnish to the Agent (i) copies of any reports or other communications which the Company shall send directly to its stockholders or shall from time to time publish or publicly disseminate, (ii) copies of all annual, quarterly and current reports filed with the Commission on Forms 10-K, 10-Q and 8-K, or such other similar form as may be designated by the Commission, (iii) copies of any financial statements or reports filed with any national securities exchange on which any class of securities of the Company is listed and (iv) such other information as the Agent may reasonably request regarding the Company, in each case as soon as such reports, communications, documents or information becomes available. Where in any part of this Agreement there is an obligation on the part of the Company to deliver a document to the Agent or its counsel, or to provide notification of the filing of any such document with the Commission, such obligation shall be deemed satisfied if and when such document shall have been filed on the Commission's EDGAR system.

(h) The Company will make generally available to its stockholders as soon as practicable, and in the manner contemplated by Rule 158 of the 1933 Act Regulations but in any event not later than 15 months after the end of the Company's current fiscal quarter, an earnings statement (which need not be audited) covering a 12 month period beginning after the date upon which a prospectus supplement is filed pursuant to Rule 424(b) of the 1933 Act Regulations that shall satisfy the provisions of Section 11(a) of the 1933 Act and Rule 158 of the 1933 Act Regulations.

(i) Whether or not the transactions contemplated hereunder are consummated or this Agreement is terminated, the Company will pay all of its costs, expenses, fees and taxes incident to the performance of its obligations hereunder, including, but not limited to, such costs, expenses, fees and taxes in connection with (i) the preparation and filing of the Registration Statement, the Prospectus, each prospectus supplement filed by the Company in connection with the offering and sale of Shares by the Agent under this Agreement and any amendments or supplements thereto and the printing and furnishing of copies of each thereof to the Agent (including costs of mailing and shipment), (ii) the producing, word processing and/or printing of this Agreement, the Master Confirmation, any power of attorney and any closing documents (including compilations thereof) and the reproduction and/or printing and furnishing of copies of each thereof to the Agent (including costs of mailing and shipment), (iii) the qualification of the Shares for offering and sale under state laws and the determination of their eligibility for investment under state law as aforesaid (including the reasonable legal fees and filing fees and other disbursements of counsel for the Agent and the Forward Purchaser) and the preparation, printing and furnishing of copies of any blue sky surveys to the Agent, (iv) the listing of the Settlement Shares on the NYSE, (v) any filing for review of the public offering of the Shares by

FINRA, (vi) the fees and disbursements of the Company's counsel and accountants, (vii) the performance of the Company's other obligations hereunder, (viii) the costs and expenses (including without limitation any damages or other amounts payable in connection with legal or contractual liability) associated with the reforming of any contracts for sale of the Shares made by the Agent caused by a breach of the representation contained in the first paragraph of Section 1(e) and (ix) the registration, issue, sale and delivery of the Settlement Shares. The Agent and the Forward Purchaser will pay their own out-of-pocket costs and expenses incurred in connection with entering into this Agreement and the transactions contemplated by this Agreement, including, without limitation, travel, reproduction, printing and similar expenses as well as the fees and disbursements of their legal counsel.

(j) The Company will use the Net Proceeds from the sale of the Shares in the manner set forth in the Prospectus.

(k) During the period beginning on the date on which instructions to sell Shares hereunder are delivered by the Company to the Agent and ending on the Settlement Date with respect to such sales, the Company will not sell, offer or agree to sell, contract to sell, pledge, register, grant any option to purchase or otherwise dispose of, directly or indirectly, any shares of capital stock or securities convertible into or exchangeable, exercisable or redeemable for capital stock or warrants or other rights to purchase capital stock, except (i) for the registration of the Shares and the sales of Shares through the Agent or the Additional Agents pursuant to this Agreement and the Additional Equity Distribution Agreements, respectively, (ii) for shares of Common Stock issued pursuant to outstanding equity awards or the grant of equity awards under (x) existing employee benefit agreements or equity incentive plans or (y) employee benefit agreements or equity incentive plans described in the Prospectus or the Registration Statement, (iii) any shares of Common Stock issued upon conversion, repurchase or exchange of the Company's outstanding convertible securities, (iv) shares of Common Stock or other securities issued as consideration for investments in or acquisitions of entities involved in investment advisory or investment management activities or other financial services related business (including any resale of shares issued in such a transaction) or (v) any filing under the 1933 Act relating to any shares of Common Stock on Form S-8 or any issuances of Common Stock thereunder, without (a) giving the Agent prior written notice, as promptly as reasonably practicable, specifying the nature of the proposed sale and the date of such proposed sale and (b) the Agent suspending activity under this program for such period of time as requested by the Company or as reasonably deemed appropriate by the Agent in light of the proposed sale.

(l) At any time during the term of this Agreement, the Company will advise the Agent immediately after it shall have received notice or obtain knowledge thereof, of (x) any information or fact that, in the opinion of counsel to the Company, would alter or affect, in any material respect, any opinion, certificate, letter or other document provided to the Agent pursuant to Section 4 of this Agreement or any of the representations or warranties made pursuant to Section 1 of this Agreement or (y) any non-compliance or imminent non-compliance by the Company with any of its covenants or obligations hereunder in any material respect.

(m) Except as provided in the last sentence hereof, upon commencement of the offering of the Shares under this Agreement, (i) at each time Shares are delivered to the Agent as principal on a Settlement Date, (ii) on every Monday during the term of this Agreement following a week during which no certificate was furnished pursuant to this Section 3(m) (except for any Monday during any period starting on the first day of each fiscal quarter of the Company and ending on the third business day following the next Company Earnings Report Date, unless sales of Shares took place during such period pursuant to Section 2(j)(A)) and (iii) promptly after each Registration Statement Amendment Date, each Company Periodic Report Date, and each date on which a current report on Form 8-K shall be furnished by the Company under Item 2.02 of such form in respect of a public disclosure or material non-public information regarding the Company's results of operations or financial condition for a completed quarterly or annual fiscal period (a "Company Earnings Report Date") and on such other dates as the Agent shall reasonably request, the Company will furnish or cause to be furnished forthwith to the Agent and the Forward Purchaser a certificate dated the Settlement Date, date of effectiveness of such amendment, the date of filing with the Commission of such supplement or other document or the date of such request, as the case may be, in a form satisfactory to the Agent to the effect that the statements contained in the certificate referred to in Section 4(e) of this Agreement which were last furnished to the Agent and the Forward Purchaser are true and correct at the time of such Settlement Date, amendment, supplement or filing, as the case may be, as though made at and as of such time (except that such statements shall be deemed to relate to the Registration Statement and the Prospectus as amended and supplemented to such time) or, in lieu of such certificate, a certificate of the same tenor as the certificate referred to in said Section 4(e), but modified as necessary to relate to the Registration Statement and the Prospectus as amended and supplemented, or to the document incorporated by reference into the Prospectus, to the time of delivery of such certificate. As used in this paragraph, to the extent there shall be an Applicable Time on or following the dates referred to above, promptly shall be deemed to be such Applicable Time. The delivery requirements in this Section shall be suspended after the maximum number of Shares authorized to be issued and sold under this Agreement has been sold under this Agreement and the Additional Equity Distribution Agreements, in the aggregate. To the extent that the Company does not furnish or cause to be furnished the certificate on a date identified above, the Agent's obligations to effect sales under this Agreement shall be suspended until such time that the Company furnishes or causes to be furnished such certificate (and any other deliverables that may be due pursuant to the last sentence of Sections 3(n) and 3(o), respectively, of this Agreement).

(n) Except as provided in the last sentence hereof, upon commencement of the offering of the Shares under this Agreement, (i) at each time Shares are delivered to the Agent as principal on a Settlement Date and (ii) promptly after each Registration Statement Amendment Date, each Company Periodic Report Date and each Company Earnings Report Date and on such other dates as the Agent shall reasonably request, the Company will furnish or cause to be furnished forthwith to the Agent, the Forward Purchaser and to counsel to the Agent and the Forward Purchaser written opinions and negative assurance letters of Simpson Thacher & Bartlett LLP, or other counsel reasonably satisfactory to the Agent, dated the Settlement Date, date of effectiveness of such amendment, the date of filing with the Commission of such supplement or other document or the date of such request, as the case may be, in a form and substance reasonably satisfactory to the Agent and its counsel, of the same tenor as the opinions and negative assurance letters referred to in Section 4(c) of this Agreement, but modified as necessary to relate to the Registration Statement and the Prospectus as amended and supplemented, or to the document incorporated by reference into the Prospectus, to the time of delivery of such opinion, provided that the Company shall not be required to furnish or cause to

be furnished the opinion referred to in Section 4(c) other than upon the commencement of the offering of the Shares and each date the Company files an Annual Report on Form 10-K. As used in this paragraph, to the extent there shall be an Applicable Time on or following the dates referred to above, promptly shall be deemed to be such Applicable Time. The delivery requirements in this Section shall be suspended after the maximum number of Shares authorized to be issued and sold under this Agreement has been sold under this Agreement and the Additional Equity Distribution Agreements, in the aggregate. To the extent that the Company does not furnish or cause to be furnished the opinion and/or negative assurance letter on a date identified above, the Agent's obligations to effect sales under this Agreement shall be suspended until such time that the Company furnishes or causes to be furnished such opinion and/or negative assurance letter (and any other deliverables that may be due pursuant to the last sentence of Sections 3(m) and 3(o), respectively, of this Agreement); provided that the Company shall be required to furnish an opinion only if the Company has filed an Annual Report on Form 10-K during this suspension period.

(o) Except as provided in the last sentence hereof, upon commencement of the offering of the Shares under this Agreement, (i) at each time Shares are delivered to the Agent as principal on a Settlement Date and (ii) promptly after each Registration Statement Amendment Date, each Company Periodic Report Date and each Company Earnings Report Date and on such other dates as the Agent shall reasonably request, the Company will cause PricewaterhouseCoopers LLP (and any other independent registered public accounting firm whose report is incorporated by reference into the Registration Statement) to furnish to the Agent and the Forward Purchaser a letter, dated the Settlement Date, date of effectiveness of such amendment, the date of filing of such supplement or other document with the Commission or the date of such request, as the case may be, in form satisfactory to the Agent, its counsel and PricewaterhouseCoopers LLP (and, as applicable, the independent registered public accounting firm(s)), of the same tenor as the letter referred to in Section 4(d) hereof, but modified as necessary to relate to the Registration Statement and the Prospectus, as amended and supplemented, or to the document incorporated by reference into the Prospectus, to the date of such letter. As used in this paragraph, to the extent there shall be an Applicable Time on or following the dates referred to above, promptly shall be deemed to be such Applicable Time. The delivery requirements in this Section shall be suspended after the maximum number of Shares authorized to be issued and sold under this Agreement has been sold under this Agreement and the Additional Equity Distribution Agreements, in the aggregate. To the extent that the Company does not cause PricewaterhouseCoopers LLP (and, as applicable, the independent registered public accounting firm(s)) to furnish the letter on a date identified above, the Agent's obligations to effect sales under this Agreement shall be suspended until such time that the Company causes PricewaterhouseCoopers LLP (and, as applicable, the independent registered public accounting firm(s)) to furnish such letter (and any other deliverables that may be due pursuant to the last sentence of Sections 3(m) and 3(n), respectively, of this Agreement).

(p) The Company acknowledges that the Agent and its affiliates will be trading the Company's Common Stock for their own account and for the account of any of their clients at the same time as sales of Shares occur pursuant to this Agreement.

(q) (i) If any condition set forth in Section 4(a) or 4(g) hereof shall not have been satisfied on the applicable Settlement Date, the Agent, at the direction of the Company, will offer to any person who has agreed to purchase Shares pursuant to the offering contemplated by this Agreement as the result of an offer to purchase solicited by the Agent the right to refuse to purchase and pay for such Shares.

(ii) If any condition set forth in Section 4(a) or 4(g) hereof shall not have been satisfied on the applicable Settlement Date, the Company will offer to any person who has agreed to purchase Shares from or through the Agent the right to refuse to purchase and pay for such Shares.

(r) The Company will disclose in its Annual Reports on Form 10-K and Quarterly Reports on Form 10-Q, as applicable, the aggregate price of Shares sold through the Agent under this Agreement and through the Additional Agents under the Additional Equity Distribution Agreements during the relevant period, together with any other information that is required to comply with the 1933 Act or the rules and regulations thereunder.

(s) The Company will use its best efforts to cause the Settlement Shares to be listed on the NYSE and to maintain such listing and to file with the NYSE all documents and notices required by the NYSE of companies that have securities that are listed on the NYSE, it being understood that the Agent shall not be obligated to effect any sales of Shares in an amount exceeding the number of Settlement Shares that have been approved for listing on the NYSE.

(t) The Company will not (i) take, directly or indirectly, any action designed to stabilize or manipulate the price of any security of the Company, or which may cause or result in, or which would in the future reasonably be expected to cause or result in, the stabilization or manipulation of the price of any security of the Company, to facilitate the sale or resale of any of the Shares, (ii) bid for or purchase, or pay any person (other than as contemplated by the provisions of this Agreement) any compensation for, soliciting purchases of the Shares or (iii) pay or agree to pay to any person any compensation for soliciting any order to purchase any security that is a "reference security" with respect to the Common Stock of the Company (within the meaning of Regulation M under the 1934 Act) other than as contemplated by the provisions of this Agreement, in each case, during any "restricted period" within the meaning of Regulation M under the 1934 Act. In connection with entering into any Master Confirmation, the Company will not acquire any long position (either directly or indirectly, including through an Affiliate or through a derivative transaction) with respect to shares of Common Stock concurrently with (or shortly before or after) entering into such Master Confirmation for tax avoidance purposes. For purposes of the foregoing, "Affiliate" means, with respect to any person or entity, any other person or entity directly or indirectly controlling, controlled by, or under common control with such person or entity. For purposes of this definition, "control" when used with respect to any person or entity means ownership of 50% or more of the voting power or value of such person or entity.

(u) The Company will comply with all of the provisions of any undertakings in the Registration Statement.

(v) The Company will cooperate timely with any reasonable due diligence review conducted by the Agent, the Forward Purchaser or their counsel from time to time in connection with the transactions contemplated hereby, including, without limitation, providing information and making available documents and senior corporate officers, during regular business hours and at the Company's offices, at such times as the Agent may reasonably request. If the Agent shall so request of one of the senior corporate officers of the Company specified in Exhibit B by 3:00 p.m. Eastern Time on any business day, the Company shall either (i) make available one or more senior corporate officers of the Company for interview due diligence at 9:00 a.m. Eastern Time on the next following business day or (ii) direct the Agent to cease offers and sales of the Shares until such time as such senior corporate officer or officers of the Company shall be made available for such purposes. Further, the Company shall make available a Senior Vice President (or other senior corporate officer reasonably acceptable to the Agent) and counsel of the Company for interview due diligence at 9:00 a.m. Eastern Time on the 15th calendar day of the third month of each fiscal quarter of the Company.

(w) The Company represents and agrees that, unless it obtains the prior consent of the Agent, it has not made and will not make any offer relating to the Shares that would constitute an Issuer Free Writing Prospectus or that would otherwise constitute a "free writing prospectus," as defined in Rule 405, whether or not required to be filed with the Commission. Any such free writing prospectus consented to by the Company and the Agent is hereinafter referred to as a "Permitted Free Writing Prospectus." The Company represents that it has treated or agrees that it will treat each Permitted Free Writing Prospectus as an Issuer Free Writing Prospectus and has complied and will comply with the requirements of Rule 433 applicable to any Permitted Free Writing Prospectus, including timely filing with the Commission where required, legending and record keeping.

(x) The Company agrees that it will not claim that the Agent has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to the Company, in connection with such transaction or the process leading thereto.

Section 4. Conditions of Agent's Obligations. The obligations of the Agent hereunder are subject to (i) the accuracy of the representations and warranties on the part of the Company on the date hereof and as of each Registration Statement Amendment Date, Company Earnings Report Date, Company Periodic Report Date, Applicable Time and Settlement Date, (ii) the performance by the Company of its obligations hereunder and (iii) the following additional conditions precedent:

(a) (i) No stop order with respect to the effectiveness of the Registration Statement shall have been issued under the 1933 Act or the 1933 Act Regulations or proceedings initiated under Section 8(d) or 8(e) of the 1933 Act and no order directed at any document incorporated by reference therein and no order preventing or suspending the use of the Prospectus has been issued by the Commission, and no suspension of the qualification of the Shares for offering or sale in any jurisdiction, or to the knowledge of the Company or the Agent of the initiation or threatening of any proceedings for any of such purposes, has occurred; (ii) the Registration Statement and all amendments thereto, or modifications thereof, if any, shall not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; (iii) the Prospectus and all amendments or supplements thereto, or modifications thereof, if any, and the General Disclosure Package shall not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the

circumstances under which they are made, not misleading; (iv) the Company shall have filed the Prospectus, and any amendments and supplements thereto, with the Commission (including the information required by Rule 430B) in the manner and within the time period required by the 1933 Act and the 1933 Act Regulations, and any post-effective amendment thereto containing the information required by Rule 430B shall have become effective and (v) all material required to be filed by the Company pursuant to Rule 433(d) shall have been filed with the Commission within the applicable time periods prescribed for such filings under Rule 433.

(b) In the judgment of the Agent, there shall not have occurred any Material Adverse Effect.

(c) The Company shall cause to be furnished to the Agent and the Forward Purchaser, on every date specified in Section 3(n) hereof (except as provided in the last sentence of Section 3(n)), the opinion and negative assurance letter of Simpson Thacher & Bartlett LLP, or other counsel reasonably satisfactory to the Agent, addressed to the Agent and the Forward Purchaser, dated as of such date, in form reasonably satisfactory to the Agent, the Forward Purchaser and their counsel, substantially in the form of Exhibit C-1 and Exhibit C-2 attached hereto.

(d) The Company shall cause to be furnished to the Agent and the Forward Purchaser, on every date specified in Section 3(o) hereof (except as provided in the last sentence of Section 3(o)), from PricewaterhouseCoopers LLP (and any other independent registered public accounting firm whose report is incorporated by reference into the Registration Statement), letters dated the date of delivery thereof and addressed to the Agent and the Forward Purchaser in form and substance satisfactory to the Agent, the Forward Purchaser and their counsel, containing statements and information of the type ordinarily included in accountants' "comfort letters" to underwriters with respect to the financial statements of the Company and its subsidiaries included or incorporated by reference in the Registration Statement.

(e) The Company shall furnish to the Agent and the Forward Purchaser, on each date specified in Section 3(m) hereof (except as provided in the last sentence of Section 3(m)), a certificate of two of its executive officers to the effect that (i) the representations and warranties of the Company as set forth in this Agreement are true and correct as of the date of such certificate (the "Certificate Date"), (ii) the Company shall have performed such of its obligations under this Agreement as are to be performed at or before each such Certificate Date and (iii) the conditions set forth in paragraphs (a) and (b) of this Section 4 have been met.

(f) On the date hereof, the Agent and the Forward Purchaser shall have received the opinion of Sidley Austin LLP, or other counsel reasonably satisfactory to the Agent, dated the date hereof and addressed to the Agent and the Forward Purchaser in form and substance reasonably satisfactory to the Agent and the Forward Purchaser. On every date specified in Section 3(n) hereof, the Agent and the Forward Purchaser shall have received a negative assurance letter of Sidley Austin LLP, or other counsel reasonably satisfactory to the Agent, dated as of such date, in form and substance satisfactory to the Agent and the Forward Purchaser.

(g) All filings with the Commission required by Rule 424 of the 1933 Act Regulations to have been filed by each Applicable Time or related Settlement Date, as the case may be, shall have been made within the applicable time period prescribed for such filing by Rule 424 (without reliance on Rule 424(b)(8)).

(h) The Settlement Shares shall have been approved for listing on the NYSE, subject to official notice of issuance. The Agent acknowledges that as of the date of this Agreement, 8,333,334 shares of Common Stock have been approved for listing on the NYSE.

(i) The Company shall have furnished to the Agent and the Forward Purchaser such other documents and certificates as to the accuracy and completeness of any statement in the Registration Statement, the Prospectus and the General Disclosure Package as of each Settlement Date as the Agent and the Forward Purchaser may reasonably request.

(j) The Company shall have paid the required Commission filing fees relating to the Shares within the time period required by Rule 456(b)(1)(i) of the 1933 Act Regulations without regard to the proviso therein and otherwise in accordance with Rules 456(b) and 457(r) of the 1933 Act Regulations.

(k) FINRA shall not have raised any objection with respect to the fairness and reasonableness of the terms and arrangements under this Agreement.

(l) No amendment or supplement to the Registration Statement or Prospectus, including documents deemed to be incorporated by reference therein, shall be filed to which the Agent objects in writing.

(m) Except as otherwise disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, since the later of the time of execution of this Agreement and the most recent Applicable Time, there shall not have occurred any downgrading, nor shall any notice, announcement or written indication have been given or made of any intended or potential downgrading in the rating accorded any securities of or guaranteed by the Company by any "nationally recognized statistical rating organization," as that term is defined in Rule 436(g)(2) of the 1933 Act Regulations.

Section 5. Indemnification.

(a) Indemnification of Agent and Forward Purchaser. The Company agrees to indemnify and hold harmless the Agent and the Forward Purchaser, each of their directors, officers, employees and agents, and each person, if any, who controls the Agent or the Forward Purchaser within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act:

(i) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, arising out of any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (or any amendment thereto) or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein not misleading or arising out of any untrue statement or alleged untrue statement of a material fact contained in any Issuer Free Writing Prospectus, the General Disclosure Package or the Prospectus (or any amendment or supplement thereto), or the omission or alleged omission therefrom of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(ii) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, to the extent of the aggregate amount paid in settlement of any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or of any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission; provided that (subject to Section 5(d) below) any such settlement is effected with the written consent of the Company; and

(iii) against any and all expense whatsoever, as incurred (including the reasonable fees and disbursements of counsel chosen by the Agent), reasonably incurred in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission, to the extent that any such expense is not paid under (i) or (ii) above;

provided, however, that this indemnity agreement shall not apply to any loss, liability, claim, damage or expense to the extent arising out of any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with the Agent Information.

(b) Indemnification of Company, Directors and Officers. The Agent and the Forward Purchaser, severally and not jointly, agree to indemnify and hold harmless the Company, its directors, each of its officers who signed the Registration Statement, and each person, if any, who controls the Company within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act against any and all loss, liability, claim, damage and expense described in the indemnity contained in subsection (a) of this Section, as incurred, but only with respect to untrue statements or omissions, or alleged untrue statements or omissions, made in the Registration Statement (or any amendment thereto) or any Issuer Free Writing Prospectus, the General Disclosure Package or the Prospectus (or any amendment or supplement thereto) in reliance upon and in conformity with written information furnished to the Company by the Agent expressly for use therein. The Company acknowledges that (i) the statements set forth in the third sentence of the second paragraph under the caption “Plan of Distribution (Conflicts of Interest)” in the Prospectus Supplement concerning transactions that stabilize the Common Stock and (ii) the Agent’s name on the front cover page of the Prospectus Supplement, on the back cover page of the Prospectus and under the caption “Plan of Distribution (Conflicts of Interest)” in the Prospectus Supplement constitute the only information furnished in writing by or on behalf of the Agent for inclusion in the Registration Statement (or any amendment thereto) or any Issuer Free Writing Prospectus, the General Disclosure Package or the Prospectus (or any amendment or supplement thereto) (the “Agent Information”).

(c) Actions against Parties; Notification. Each indemnified party shall give notice as promptly as reasonably practicable to each indemnifying party of any action commenced against it in respect of which indemnity may be sought hereunder, but failure to so notify an indemnifying party shall not relieve such indemnifying party from any liability hereunder to the extent it is not materially prejudiced as a result thereof and in any event shall not relieve it from any liability which it may have otherwise than on account of this indemnity agreement. In the case of parties indemnified pursuant to Section 5(a) above, counsel to the indemnified parties shall be selected by the Agent, and, in the case of parties indemnified pursuant to Section 5(b) above, counsel to the indemnified parties shall be selected by the Company. An indemnifying party may participate at its own expense in the defense of any such action; provided, however, that counsel to the indemnifying party shall not (except with the consent of the indemnified party) also be counsel to the indemnified party. In no event shall the indemnifying parties be liable for fees and expenses of more than one counsel (in addition to any local counsel) separate from their own counsel for all indemnified parties in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances. No indemnifying party shall, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever in respect of which indemnification or contribution could be sought under this Section 5 or Section 6 hereof (whether or not the indemnified parties are actual or potential parties thereto), unless such settlement, compromise or consent (i) includes an unconditional release of each indemnified party from all liability arising out of such litigation, investigation, proceeding or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

(d) Settlement without Consent if Failure to Reimburse. If at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel, such indemnifying party agrees that it shall be liable for any settlement of the nature contemplated by Section 5(a)(ii) effected without its written consent if (i) such settlement is entered into more than 45 days after receipt by such indemnifying party of the aforesaid request, (ii) such indemnifying party shall have received notice of the terms of such settlement at least 30 days prior to such settlement being entered into and (iii) such indemnifying party shall not have reimbursed such indemnified party in accordance with such request prior to the date of such settlement. Notwithstanding the immediately preceding sentence, if at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel, an indemnifying party shall not be liable for any settlement of the nature contemplated by Section 5(a)(ii) effected without its consent if such indemnifying party (i) reimburses such indemnified party in accordance with such request to the extent it considers such request to be reasonable and (ii) provides written notice to the indemnified party substantiating the unpaid balance as unreasonable, in each case prior to the date of such settlement.

(e) Additional Liability. The obligations of the Company under this Section 5 shall be in addition to any liability which the Company may otherwise have and shall extend, upon the same terms and conditions, to the directors and officers of the Agent and the Forward Purchaser and to each person, if any, who controls the Agent or the Forward Purchaser within the meaning of the 1933 Act and each broker-dealer affiliate of the Agent or the Forward Purchaser; and the obligations of the Agent and the Forward Purchaser under this Section 5 shall be in addition to any liability which the Agent and the Forward Purchaser may otherwise have and shall extend, upon the same terms and conditions, to each officer and director of the Company and to each person, if any, who controls the Company within the meaning of the 1933 Act.

Section 6. Contribution. If the indemnification provided for in Section 5 hereof is for any reason unavailable to or insufficient to hold harmless an indemnified party in respect of any losses, liabilities, claims, damages or expenses referred to therein, then each indemnifying party shall contribute to the aggregate amount of such losses, liabilities, claims, damages and expenses incurred by such indemnified party, as incurred, (i) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Agent and the Forward Purchaser on the other hand from the offering of the Shares pursuant to this Agreement or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company on the one hand and of the Agent and the Forward Purchaser on the other hand in connection with the statements or omissions which resulted in such losses, liabilities, claims, damages or expenses, as well as any other relevant equitable considerations.

The relative benefits received by the Company on the one hand and the Forward Purchaser and the Agent on the other hand in connection with the offering of the Shares pursuant to this Agreement shall be deemed to be in the same respective proportions as (i) the Net Proceeds from the offering of the Shares pursuant to this Agreement (before deducting expenses and, for the avoidance of doubt, without including proceeds from the offering of Shares pursuant to the Additional Equity Distribution Agreements) received by the Company (which shall be deemed to include the proceeds that would be received by the Company upon physical settlement of the Master Confirmation assuming that the aggregate amount payable by the Forward Purchaser under the Master Confirmation is equal to the aggregate amount of the Net Proceeds realized upon the sale of the Shares) and (ii) the aggregate proceeds received by the Forward Purchaser and the Agent from the sale of the Shares less the aggregate Net Proceeds.

The relative fault of the Company on the one hand and the Forward Purchaser and the Agent on the other hand shall be determined by reference to, among other things, whether any such untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company or by the Forward Purchaser and the Agent and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

The Company, the Agent and the Forward Purchaser agree that it would not be just and equitable if contribution pursuant to this Section 6 were determined by *pro rata* allocation or by any other method of allocation which does not take account of the equitable considerations referred to above in this Section 6. The aggregate amount of losses, liabilities, claims, damages and expenses incurred by an indemnified party and referred to above in this Section 6 shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue or alleged untrue statement or omission or alleged omission.

Notwithstanding the provisions of this Section 6, the Agent and the Forward Purchaser shall not be required to contribute any amount in excess of (i) the total compensation received by the Agent in connection with the sale of Shares on behalf of the Company and (ii) the total compensation received by the Agent in connection with the sale of Shares on behalf of the Forward Purchaser or the Company.

No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

For purposes of this Section 6, the person, if any, who controls the Agent or the Forward Purchaser within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act and the Agent's and the Forward Purchaser's affiliates shall have the same rights to contribution as such Agent or Forward Purchaser, and each director of the Company, each officer of the Company who signed the Registration Statement, and each person, if any, who controls the Company within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act shall have the same rights to contribution as the Company.

Section 7. Representations, Warranties and Agreements to Survive Delivery. The respective indemnities, agreements, representations, warranties and other statements of the Company, the Agent and the Forward Purchaser, as set forth in this Agreement or made by or on behalf of them, respectively, pursuant to this Agreement, shall remain in full force and effect, regardless of any investigation (or any statement as to the results thereof) made by or on behalf of the Agent and the Forward Purchaser or any controlling person of the Agent and the Forward Purchaser, or the Company, or any officer or director or controlling person of the Company, and shall survive delivery of and payment for the Shares.

Section 8. Termination.

(a) The Company shall have the right, by giving written notice as hereinafter specified, to terminate this Agreement in its sole discretion at any time. Any such termination shall be without liability of any party to any other party except that (i) if Shares have been sold through the Agent, then Section 3(q) shall remain in full force and effect notwithstanding such termination, (ii) with respect to any pending sale through the Agent, the obligations of the Company, including in respect of compensation of the Agent, shall remain in full force and effect notwithstanding such termination and (iii) the provisions of Section 1, Section 3(i), Section 5, Section 6 and Section 10 of this Agreement shall remain in full force and effect notwithstanding such termination.

(b) The Agent shall have the right, by giving written notice as hereinafter specified, to terminate this Agreement in its sole discretion at any time. Any such termination shall be without liability of any party to any other party except that the provisions of Section 1, 3(i), Section 5, Section 6 and Section 10 of this Agreement shall remain in full force and effect notwithstanding such termination.

(c) This Agreement shall remain in full force and effect unless terminated pursuant to Section 8(a) or (b) above or otherwise by mutual agreement of the parties or upon settlement of the sale of all the Shares in the aggregate in one or more offerings; provided that any such termination by mutual agreement or pursuant to this clause (c) shall in all cases be deemed to provide that Section 1, Section 3(i), Section 5, Section 6 and Section 10 of this Agreement shall remain in full force and effect.

(d) Any termination of this Agreement shall be effective on the date specified in such notice of termination; provided that such termination shall not be effective until the close of business on the date of receipt of such notice by the Agent or the Company, as the case may be. If such termination shall occur prior to the Settlement Date for any sale of Shares, such sale shall settle in accordance with the provisions of Section 2(i) hereof.

(e) The Agent may terminate a Terms Agreement by notice given by it to the Company, if after the execution and delivery of such agreement and prior to any Settlement Date (as defined in the Terms Agreement) (i) trading generally shall have been suspended or materially limited on, or by, as the case may be, the NYSE, (ii) trading of any securities of the Company shall have been suspended on any exchange or in any over-the-counter market, (iii) a material disruption in securities settlement, payment or clearance services in the United States shall have occurred, (iv) any moratorium on commercial banking activities shall have been declared by Federal or New York State authorities or (v) there shall have occurred any outbreak or escalation of hostilities or any calamity or crisis that, in the Agent's judgment, is material and adverse and which, singly or together with any other event specified in this clause (v), makes it, in the Agent's judgment, impracticable or inadvisable to proceed with the offer, sale or delivery of the Shares on the terms and in the manner contemplated in the Prospectus.

Section 9. Notices. Except as otherwise herein provided, all statements, requests, notices and agreements shall be in writing and delivered by hand, overnight courier, mail or facsimile and, if to the Agent, shall be sufficient in all respects if delivered or sent to [•]; if to the Forward Purchaser, it shall be sufficient in all respects if delivered or sent to [•]; if to the Company, it shall be sufficient in all respects if delivered or sent to the Company at the offices of the Company at 777 South Flagler Drive, West Palm Beach, FL 33401, Attention: Chief Financial Officer, with a copy to the Company at 600 Hale Street, P.O. Box 1000, Prides Crossing, MA 01965, Attention: General Counsel. Each party to this Agreement may change such address for notices by sending to the parties to this Agreement written notice of a new address for such purpose.

Section 10. Recognition of the U.S. Special Resolution Regimes.

(a) In the event that the Agent or the Forward Purchaser is a Covered Entity and becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from the Agent or the Forward Purchaser of this Agreement or any Terms Agreement, and any interest and obligation in or under this Agreement or any Terms Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement or any Terms Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.

(b) In the event that the Agent or the Forward Purchaser is a Covered Entity and it or a BHC Act Affiliate of the Agent or the Forward Purchaser becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Agreement or any Terms Agreement that may be exercised against the Agent or the Forward Purchaser are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement or any Terms Agreement were governed by the laws of the United States or a state of the United States.

(c) “BHC Act Affiliate” has the meaning assigned to the term “affiliate” in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k). “Covered Entity” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b). “Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable. “U.S. Special Resolution Regime” means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

Section 11. Parties. The Agreement herein set forth has been and is made solely for the benefit of the Agent, the Forward Purchaser and the Company and to the extent provided in Section 5 hereof the controlling persons, directors and officers referred to in such section, and their respective successors, assigns, heirs, personal representatives and executors and administrators; provided, that the Agent may, upon notice to the Company, assign its rights and obligations under this Agreement to any other registered broker-dealer wholly-owned by [*] to which all or substantially all of the Agent’s investment banking or related business may be transferred following the date of this Agreement. No other person, partnership, association or corporation (including a purchaser, as such purchaser, from any of the Agent) shall acquire or have any right under or by virtue of this Agreement.

Section 12. Adjustments For Stock Splits. The parties acknowledge and agree that all share related numbers contained in this Agreement shall be adjusted to take into account any stock split effected with respect to the Shares.

Section 13. Counterparts. This Agreement may be executed by any one or more of the parties hereto and thereto in any number of counterparts, each of which shall be deemed to be an original, but all such respective counterparts shall together constitute one and the same instrument. This Agreement may be delivered by any party by facsimile or other electronic transmission.

Section 14. Time of the Essence. Time shall be of the essence of this Agreement. As used herein, the term “business day” shall mean any day when the Commission’s office in Washington, D.C. is open for business.

Section 15. Waiver of Jury Trial. The Company, the Agent and the Forward Purchaser hereby irrevocably waive, 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 Agreement or the transactions contemplated hereby.

Section 16. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REFERENCE TO ITS PRINCIPLES OF CONFLICTS OF LAW.

Section 17. Headings. The Section headings in this Agreement have been inserted as a matter of convenience of reference and are not a part of this Agreement.

Section 18. Successors and Assigns. This Agreement shall be binding upon the Agent, the Forward Purchaser and the Company and their successors and assigns and any successor or assign of any substantial portion of the Company's and any of the Agent's or Forward Purchaser's respective businesses and/or assets.

Section 19. Severability. The invalidity or unenforceability of any Section, paragraph or provision of this Agreement shall not affect the validity or enforceability of any other Section, paragraph or provision hereof. If any Section, paragraph or provision of this Agreement is for any reason determined to be invalid or unenforceable, there shall be deemed to be made such minor changes (and only such minor changes) as are necessary to make it valid and enforceable.

Section 20. Entire Agreement. This Agreement constitutes the entire agreement and supersedes all other prior and contemporaneous agreements and undertakings, both written and oral, among the parties hereto with regard to the subject matter hereof.

[Remainder of this page intentionally left blank]

If the foregoing is in accordance with your understanding of our agreement, please sign and return to the Company a counterpart hereof, whereupon this instrument, along with all counterparts, will become a binding agreement among the Agent, the Forward Purchaser and the Company in accordance with its terms.

Very truly yours,

Affiliated Managers Group, Inc.

By: _____

Name:

Title:

Accepted as of the date hereof:

[AGENT],
As Agent

By: _____
Name:
Title:

[FORWARD PURCHASER],
As Forward Purchaser

By _____
Name:
Title:

Schedule I

Affiliated Managers Group, Inc.

Shares of Common Stock
(par value \$0.01 per share)

TERMS AGREEMENT

[AGENT NAME]
[AGENT ADDRESS]

Ladies and Gentlemen:

Affiliated Managers Group, Inc., a Delaware corporation (the "Company"), proposes, on the basis of the representations and warranties, and subject to the terms and conditions, stated herein and in the Equity Distribution Agreement, dated as of March 27, 2019 (the "Sales Agreement"), among the Company, [•] (the "Agent") and [•], to issue and sell to the Agent as principal for resale (the "Underwriter"), and the Underwriter agrees to purchase from the Company, the shares of Common Stock specified in Schedule A hereto (the "[Initial] Securities") [, and to grant to the Underwriter the option to purchase the additional shares of Common Stock specified in Schedule A hereto (the "Option Securities", and together with the Initial Securities, the "Securities")]*, [in each case]* on the terms specified in Schedule A hereto. In addition, under no circumstances shall any shares with respect to which the Agent acts as principal pursuant to this Terms Agreement be offered or sold by the Agent at an initial offering price lower than the initial offering price set forth on Schedule A hereto. Capitalized terms used but not defined herein have the respective meanings ascribed thereto in the Sales Agreement.

[The Company grants an option to the Underwriter to purchase up to an additional [] Option Securities at the price per share set forth in Schedule A hereto, less an amount per share equal to any dividends or distributions declared by the Company and payable on the Initial Securities but not payable on the Option Securities. The option hereby granted may be exercised for 30 days after the date hereof and may be exercised in whole or in part at any time from time to time upon notice by the Underwriter to the Company setting forth the number of Option Securities as to which the Underwriter is then exercising the option and the time and date of payment and delivery for such Option Securities. Any such time and date of delivery (a "Date of Delivery") shall be determined by the Underwriter, but shall not be later than seven full business days after the exercise of said option, nor in any event prior to the Settlement Date (as defined below). For purposes of clarity, the parties hereto agree that the opinions and letter of counsel, officers' certificate and accountants' letter referred to in Sections 4(c), 4(d), 4(e) and 4(f) of the Sales Agreement are required to be delivered by or on behalf of the Company on the Settlement Date.]*

Payment of the purchase price for, and delivery of certificates for, the [Initial] Securities shall be made at the offices of Sidley Austin LLP, 787 Seventh Avenue, New York, New York 10019, or at such other place as shall be agreed upon by the Underwriter and the Company, at 9:00 A.M. (New York City time) on the third (or fourth, if the pricing occurs after

4:30 P.M. (New York City time) on any given day) business day after the date hereof, or such other time not later than ten business days after such date as shall be agreed upon by the Underwriter and the Company (such time and date of payment and delivery being herein called "Settlement Date").

[In addition, in the event that any or all of the Option Securities are purchased by the Underwriter, payment of the purchase price for, and delivery of certificates for, such Option Securities shall be made at the above-mentioned offices, or at such other place as shall be agreed upon by the Underwriter and the Company, on each Date of Delivery as specified in the notice from the Underwriter to the Company.]*

Payment shall be made to the Company by wire transfer of immediately available funds to a bank account designated by the Company against delivery to the Underwriter for its own account for the Securities to be purchased by it.

Each of the provisions of the Sales Agreement not related solely to the Agent, as agent of the Company, is incorporated herein by reference in its entirety, and shall be deemed to be part of this Terms Agreement to the same extent as if each such provision had been set forth in full herein. Each of the representations and warranties set forth in the Sales Agreement shall be deemed to have been made at and as of the date of this Terms Agreement, the Applicable Time and [the Settlement Date] [any Date of Delivery]*.

If the foregoing is in accordance with your understanding of our agreement, please sign and return to the Company a counterpart hereof, whereupon this instrument, along with all counterparts, will become a binding agreement between the Underwriter and the Company in accordance with its terms.

THIS TERMS AGREEMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS TERMS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO ITS CHOICE OF LAW PROVISIONS.

Very truly yours,

Affiliated Managers Group, Inc.

By: _____
Name:
Title:

Accepted as of the date hereof:

[Underwriter]

By: _____

Name:

Title:

* Include only if the Underwriter has an option to purchase additional shares of Common Stock from the Company.

Schedule A to Terms Agreement

Title of [Initial] Securities [and Additional Option Securities]:

Common Stock, par value \$0.01 per share

Number of Shares of [Initial] Securities:

[]

[Number of Shares of [Option] Securities:]

[]

[Price to Public:]

[]

Purchase Price by []:

[]

Method of and Specified Funds for Payment of Purchase Price:

[By wire transfer to a bank account specified by the Company in same day funds.]

Method of Delivery:

[To [] account, or the account of []' designee, at The Depository Trust Company via DWAC in return for payment of the purchase price.]

Settlement Date:

[], 20[]

[Lockup:]

[]

Schedule II

Affiliated Managers Group, Inc.

Shares of Common Stock
(par value \$0.01 per share)

TERMS AGREEMENT

[AGENT NAME]
[AGENT ADDRESS]

[FORWARD PURCHASER NAME]
[FORWARD PURCHASER ADDRESS]

Ladies and Gentlemen:

References are made to the Equity Distribution Agreement, dated as of March 27, 2019 (the "Sales Agreement"), among Affiliated Managers Group, Inc., a Delaware corporation (the "Company"), [•] (the "Agent") and [•] (the "Forward Purchaser"), and the Master Confirmation, dated as of [•], 2019 (the "Master Confirmation"), between the Company and the Forward Purchaser. In connection with the Forward Sale (as defined in the Sales Agreement) of [] shares (the "Securities") of common stock, par value \$0.01 per share (the "Common Stock"), pursuant to the Master Confirmation and the Sales Agreement, the Company, the Agent and the Forward Purchaser agree, on the basis of the representations and warranties, and subject to the terms and conditions, stated herein and in the Sales Agreement, to supplement the terms of the Forward Sale as specified in the Master Confirmation with Schedule A hereto. Capitalized terms used but not defined herein have the respective meanings ascribed thereto in the Sales Agreement and the Master Confirmation. Any representations, warranties, covenants or other obligations or provisions contained in the Sales Agreement for the benefit of the Agent, other than any related solely to the Agent, as agent to the Company, are incorporated herein by reference in their entirety and shall be deemed to be part of this Terms Agreement to the same extent as if each such provision had been set forth in full herein, and shall also inure to the benefit of the Forward Purchaser in connection herewith. Each of the representations and warranties set forth in the Sales Agreement shall be deemed to have been made at and as of the date of this Terms Agreement.

For purposes of clarity, the parties hereto agree that the opinions and letter of counsel, officers' certificate and accountants' letter referred to in Sections 4(c), 4(d), 4(e) and 4(f) of the Sales Agreement are required to be delivered by or on behalf of the Company on the date of this [Terms Agreement][Terms Agreement (only with respect to the accountants' letter) and the settlement of the resales by the Agent] to the parties hereto.

If the foregoing is in accordance with your understanding of our agreement, please sign and return to the Company a counterpart hereof, whereupon this instrument, along with all counterparts, will become a binding agreement among the Agent, the Forward Purchaser and the Company in accordance with its terms.

THIS TERMS AGREEMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS TERMS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO ITS CHOICE OF LAW PROVISIONS.

Very truly yours,

Affiliated Managers Group, Inc.

By: _____
Name:
Title:

Accepted as of the date hereof:

[AGENT]

By: _____
Name:
Title:

[FORWARD PURCHASER]

By: _____
Name:
Title:

Schedule A to Terms Agreement

Title of Securities:

Common Stock, par value \$0.01 per share

Number of Shares of Securities:

[]

[Price to Public:]

[]

[Price to Agent:]

[Dividend/Distribution Schedule:]

[Ex-Dividend Date(s) for Dividend(s)/Distribution(s):]

[Initial Forward Price:]

[Discount to Initial Forward Price:]

[Forward Price Reduction Date(s):]

[Forward Price Reduction Amount(s):]

[Lockup:]

[]

Exhibit A

MASTER CONFIRMATION

Separately attached

Exhibit B

Form of Electronic Communication Specified in Section 2(k):

Please confirm that the prospectus (including the documents incorporated by reference therein), as of the date of this email, does not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

Officers Initially Designated by the Company for purposes of Section 2(k) and Section 3(v):

Chief Financial Officer

General Counsel

AFFILIATED MANAGERS GROUP, INC.,

as Company,

and

U.S. BANK NATIONAL ASSOCIATION,

as Trustee

JUNIOR SUBORDINATED NOTES INDENTURE

Dated as of

March 27, 2019

CROSS-REFERENCE TABLE

<u>TIA Section</u>	<u>Indenture Section</u>
310 (a)(1)	8.9
(a)(2)	8.9
(a)(3)	N/A
(a)(4)	N/A
(a)(5)	8.9
(b)	8.8; 8.9
(c)	N/A
311 (a)	8.13
(b)	8.13
(c)	N/A
312 (a)	9.1
(b)	9.2
(c)	9.2
313 (a)	9.3
(b)(1)	9.3
(b)(2)	9.3
(c)	9.3
(d)	9.3
314 (a)	9.4
(b)	N/A
(c)(1)	1.2
(c)(2)	1.2
(c)(3)	N/A
(d)	N/A
(e)	1.2
(f)	1.2
315 (a)	8.1
(b)	8.2
(c)	8.1
(d)	8.1; 8.3
(e)	7.14
316 (a) (last sentence)	1.1 (“ <u>Outstanding</u> ”)
(a)(1)(A)	7.12
(a)(1)(B)	7.13
(a)(2)	N/A
(b)	7.8
(c)	10.2
317 (a)(1)	7.3
(a)(2)	7.4
(b)	5.3
318 (a)	1.7

N/A means Not Applicable

Note: This Cross-Reference Table shall not, for any purpose, be deemed to be part of this Indenture.

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INDENTURE, dated as of March 27, 2019, between Affiliated Managers Group, Inc., a Delaware corporation (herein called the “Company”), having its principal executive offices at 777 South Flagler Drive, West Palm Beach, Florida, 33401, and U.S. Bank National Association, a national bank association, as Trustee (herein called the “Trustee”).

RECITALS OF THE COMPANY

The Company has duly authorized the execution and delivery of this Indenture to provide for the issuance from time to time of its debentures, notes or other evidences of indebtedness (herein called the “Securities,” each being a “Security”), to be issued in one or more series as in this Indenture provided.

NOW, THEREFORE, for and in consideration of the premises and the purchase of the Securities by the Holders thereof, the Company and the Trustee mutually covenant and agree, for the equal and proportionate benefit of all Holders of the Securities or of any series thereof, as follows:

ARTICLE I

DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.1. Definitions.

For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

- (1) the terms defined in this Article have the respective meanings assigned to them in this Article and include the plural as well as the singular;
- (2) all other terms used herein which are defined in the Trust Indenture Act, either directly or by reference therein, have the respective meanings assigned to them therein;
- (3) all accounting terms not otherwise defined herein have the respective meanings assigned to them in accordance with generally accepted accounting principles, and, except as otherwise herein expressly provided, the term “generally accepted accounting principles” with respect to any computation required in the United States of America or permitted hereunder shall mean such accounting principles as are generally accepted at the date of such computation;
- (4) 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; and
- (5) references to Sections are to Sections of this Indenture unless otherwise expressly indicated.

“Act”, when used with respect to any Holder, has the meaning specified in Section 1.4(a).

“Additional Interest” means any interest not paid on an Interest Payment Date (whether by virtue of deferral or extension), together with interest thereon from such Interest Payment Date to the date of payment, compounded quarterly (or, if specified in the terms of a series of Securities, semi-annually), on each Interest Payment Date.

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such specified Person. For the purposes of this definition, “control” when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Authenticating Agent” means any Person authorized by the Trustee to act on behalf of the Trustee to authenticate Securities.

“Board of Directors” means the board of directors of the Company or any duly authorized committee of such board.

“Board Resolution” means a copy of a resolution certified by an Officer of the Company to have been duly adopted by the Board of Directors of the Company and to be in full force and effect on the date of such certification, and delivered to the Trustee.

“Business Day” means each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in The City of New York are authorized or obligated by law or executive order to close or be closed.

“Capital Stock” for any corporation means any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) stock issued by that corporation.

“Commission” means the Securities and Exchange Commission, as from time to time constituted, created under the Exchange Act or, if at any time after the execution of this instrument such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties at such time.

“Company” means the Person named as the “Company” in the first paragraph of this instrument until a successor Person shall have become permitted as the Company’s successor pursuant to the applicable provisions of this Indenture, and thereafter “Company” shall mean such successor Person.

“Company Request” or “Company Order” means a written request or order signed in the name of the Company by any Officer.

“Corporate Trust Office” means the office of the Trustee at which at any particular time its corporate trust business shall be administered, which office at the date hereof for purposes of payment only is located at Global Corporate Trust Services, One Federal Street, Boston, MA 02110, or such other address as the Trustee may designate from time to time by notice to the Company, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Company).

The term “corporation” includes corporations, associations, companies (including limited liability companies), limited and general partnerships and business trusts.

The terms “covenant defeasance” and “defeasance” have the respective meanings specified in Sections 11.4 and 11.3.

The term “default”, when used in Sections 5.5, 8.2 and/or 8.3, has the meaning specified in Section 8.2.

“Defaulted Interest” has the meaning specified in Section 2.7(b).

“Depository” means, with respect to the Securities of any series issuable or issued in whole or in part in the form of one or more Global Securities, the Person designated as Depository for such series by the Company pursuant to Section 2.1(b)(17), which Person shall be a clearing agency registered under the Exchange Act; and if at any time there is more than one such Person, “Depository” as used with respect to the Securities of any series shall mean the Depository with respect to the Securities of such series.

“Event of Default” has the meaning specified in Section 7.1.

“Exchange Act” means the Securities Exchange Act of 1934, as amended from time to time.

“Global Security” or “Global Securities” means a Security or Securities, as the case may be, evidencing all or part of a series of Securities, issued to the Depository for such series or its nominee, and registered in the name of such Depository or nominee.

“Holder” or “Holder of Securities” means a Person in whose name a Security is registered in the Security Register.

“Indenture” means this indenture agreement as originally executed or as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof and shall include the terms of particular series of Securities established as contemplated by Section 2.1.

“interest” means interest payable from time to time and, when used with respect to an Original Issue Discount Security which by its terms bears interest only at Maturity, means interest payable at Maturity.

“Interest Payment Date”, when used with respect to any Security, means the Stated Maturity of an installment of interest on such Security.

“Maturity”, when used with respect to any Security, means the date on which the principal of such Security or an installment of principal becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration, call for redemption or otherwise.

“Notice of Covenant Default” has the meaning specified in Section 7.1.

“Officer” shall mean any of the Chief Executive Officer, the President, the Chief Financial Officer, the General Counsel, the Chief Administrative Officer, the Secretary, an Executive Vice President, a Senior Vice President or a Vice President of the Company.

“Officer’s Certificate” means a certificate signed by any Officer and delivered to the Trustee. An Officer’s Certificate provided pursuant to Section 5.5 shall be signed by a principal executive, financial, legal or accounting Officer of the Company.

“Opinion of Counsel” means a written opinion of counsel, who may be counsel for the Company (including an employee or officer of the Company or any of its Affiliates) and who shall be reasonably acceptable to the Trustee.

“Original Issue Discount Security” means any Security which provides for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 7.2.

“Outstanding”, when used with respect to Securities, means, as of the date of determination, all Securities theretofore authenticated and delivered under this Indenture, except:

(i) Securities theretofore canceled by the Trustee or delivered to the Trustee for cancellation;

(ii) Securities for whose payment or redemption money (or in the case of payment by defeasance under Section 11.3, money, U.S. Government Obligations or both) in the necessary amount has been theretofore deposited with the Trustee or any Paying Agent (other than the Company) in trust, or set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent), for the Holders of such Securities; provided that, if such Securities are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made and provided, further, in the case of payment by defeasance under Section 11.3, that all conditions precedent to the application of such Section shall have been satisfied; and

(iii) Securities which have been paid pursuant to Section 2.6(c) or in exchange for or in lieu of which other Securities have been authenticated and delivered pursuant to this Indenture, other than any such Securities in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Securities are held by a bona fide purchaser in whose hands such Securities are valid obligations of the Company;

provided, however, that in determining whether the Holders of the requisite principal amount of the Outstanding Securities have given any request, demand, authorization, direction, notice, consent or waiver hereunder, (i) the principal amount of an Original Issue Discount Security that shall be deemed to be Outstanding shall be the amount of the principal thereof that would be due and payable as of the date of such determination upon acceleration of the Maturity thereof pursuant to Section 7.2, (ii) the principal amount of a Security denominated in one or more foreign currencies or currency units which shall be deemed to be Outstanding shall be the U.S. dollar equivalent, determined as of such date in the manner provided in the applicable supplemental indenture or other instrument governing such series of Securities and (iii) Securities owned by the Company or any other obligor upon the Securities or any Affiliate of the Company or of such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Securities which the Trustee knows to be so owned shall be so disregarded. Securities which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's independent right so to act with respect to such Securities and that the pledgee is not the Company or any other obligor upon the Securities or any Affiliate of the Company or of such other obligor.

“Paying Agent” means any Person authorized by the Company to pay the principal of (and premium, if any) or interest on any Securities on behalf of the Company. The Company may act as Paying Agent with respect to any Securities issued hereunder. The Company hereby initially designates U.S. Bank National Association as Paying Agent hereunder and designates the Corporate Trust Office of the Trustee as the office or agency of the Company for such purposes where notices and demands to or upon the Company in respect of the Securities and this Indenture may be served.

“Payment” has the meaning specified in Section 12.2(a).

“Person” means any individual, corporation, partnership, limited liability company, business trust, association, joint-stock company, joint venture, trust, incorporated or unincorporated organization or government or any agency or political subdivision thereof.

“Place of Payment”, when used with respect to the Securities of any series, means the place or places where the principal of (and premium, if any) and interest on the Securities of that series are payable as specified as contemplated by Section 2.1 or, if not so specified, the Corporate Trust Office of the Trustee.

“Predecessor Security” or “Predecessor Securities” of any particular Security means every previous Security evidencing all or a portion of the same debt as that evidenced by such particular Security; and, for the purposes of this definition, any Security authenticated and delivered under Section 2.6 in exchange for or in lieu of a mutilated, destroyed, lost or stolen Security shall be deemed to evidence the same debt as the mutilated, destroyed, lost or stolen Security.

“Proceeding” has the meaning specified in Section 12.2(a).

“Record Date” means a Regular Record Date or a Special Record Date, as applicable.

“Redemption Date”, when used with respect to any Security to be redeemed, means the date fixed for such redemption by or pursuant to this Indenture.

“Redemption Price”, when used with respect to any redemption of Securities, means the price at which such Securities are to be redeemed pursuant to this Indenture.

“Regular Record Date” for the interest payable on any Interest Payment Date on the Securities of any series means the date specified for that purpose as contemplated by Section 2.1.

“Responsible Officer”, when used with respect to the Trustee, means any officer in the Corporate Trust Office of the Trustee with direct responsibility for the administration of this Indenture and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of such other officer’s knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

“Securities” and “Security” have the respective meanings stated in the first recital of this Indenture and more particularly mean any Securities and/or Security of any series authenticated and delivered under this Indenture.

“Security Register” and “Security Registrar” have the respective meanings specified in Section 2.5(a).

“Senior Indebtedness” means, with respect to the Company, (i) any payment due in respect of indebtedness of the Company, whether outstanding at the date of execution of this Indenture or thereafter incurred, created, or assumed, (a) in respect of money borrowed or (b) evidenced by securities, debentures, bonds, notes or other similar instruments issued by the Company which, by their terms, are senior or senior subordinated debt securities including, without limitation, all obligations under its indentures with various trustees; (ii) all obligations in respect of any financial derivative, hedging or futures contract or similar instrument; (iii) all capitalized lease obligations; (iv) all obligations issued or assumed as the deferred purchase price of property, all conditional sale obligations and all obligations of the Company under any title retention agreement (but excluding trade accounts payable arising in the ordinary course of business and long-term purchase obligations); (v) all obligations for the reimbursement of any letter of credit, banker’s acceptance, security purchase facility or similar credit transaction; (vi) all obligations of the type referred to in clauses (i) through (v) above of other persons the payment of which the Company is responsible or liable as obligor, guarantor or otherwise; and (vii) all obligations of the type referred to in clauses (i) through (vi) above of other persons secured by any lien on any property or asset of the Company (whether or not such obligation is assumed by the Company), except for (1) any such indebtedness that is by its terms subordinated to or *pari*

passu with the Securities, (2) any trade obligations and (3) any unsecured indebtedness between or among the Company or its Subsidiaries. Such Senior Indebtedness shall continue to be entitled to the benefits of the subordination provisions contained in Article XII irrespective of any amendment, modification or waiver of any term of such Senior Indebtedness.

“Special Record Date” for the payment of any Defaulted Interest means a date fixed by the Trustee pursuant to Section 2.7(b).

“Stated Maturity”, when used with respect to any Security or any installment of principal thereof or interest thereon, means the date specified in such Security as the fixed date on which the principal of such Security or such installment of principal or interest is due and payable.

“Subsidiary” means (i) a corporation, a majority of whose Capital Stock with voting power, under ordinary circumstances, to elect directors is, at the date of determination, directly or indirectly owned by the Company, by one or more Subsidiaries of the Company or by the Company and one or more Subsidiaries of the Company, (ii) a partnership in which the Company or a Subsidiary of the Company holds a majority interest in the equity capital or profits of such partnership, or (iii) any other Person (other than a corporation or partnership) in which the Company, a Subsidiary of the Company or the Company and one or more Subsidiaries of the Company, directly or indirectly, at the date of determination, has (x) at least a majority ownership interest or (y) the power to elect or direct the election of a majority of the directors or other governing body of such Person.

“Trust Indenture Act” means the Trust Indenture Act of 1939 as in force at the date as of which this Indenture was executed, subject to Section 10.5 and, to the extent required by any amendment thereto, the Trust Indenture Act of 1939, as amended from time to time.

“Trustee” means the Person named as the “Trustee” in the first paragraph of this instrument until a successor Trustee shall have assumed such role pursuant to the applicable provisions of this Indenture, and thereafter “Trustee” shall mean or include each Person who is then a Trustee hereunder and, if at any time there is more than one such Person, “Trustee” as used with respect to the Securities of any series shall mean the Trustee with respect to Securities of that series.

“U.S. Government Obligation” has the meaning set forth in Section 11.5(a).

Section 1.2. Compliance Certificates and Opinions.

(a) Upon any application or request by the Company to the Trustee (including in its capacity as Paying Agent) (other than with respect to routine operations of the Trustee or the Paying Agent) to take any action under any provision of this Indenture, the Company shall furnish to the Trustee (i) an Officer’s Certificate stating that all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with and (ii) an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent, if any, have been complied with, except that in the case of any such application or request as to which the furnishing of such documents is specifically required by any other provision of this Indenture relating to such particular application or request, no additional certificate or opinion need be furnished beyond what such provision otherwise requires.

(b) Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than certificates provided pursuant to Section 5.5) shall include:

(1) a statement that each individual signing such certificate or opinion has read such covenant or condition and the definitions herein relating thereto;

(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 each such individual, such individual has made such examination or investigation as such individual deemed reasonably necessary to enable such individual to express an opinion as to whether or not such covenant or condition has been complied with; and

(4) a statement as to whether, in the opinion of each such individual (based on the examination or investigation described in clause (3) above), such condition or covenant has been complied with.

Section 1.3. Form of Documents Delivered to Trustee.

(a) In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or more documents.

(b) Any certificate or opinion of any officer of the Company may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any such certificate or opinion or any Opinion of Counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Company stating that the information with respect to such factual matters is in the possession of the Company, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

(c) Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

Section 1.4. Acts of Holders.

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and

evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing. Except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Company. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the “Act” of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and (subject to Section 8.1) conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by a signer acting in a capacity other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of his authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

(c) The ownership of Securities shall be proved by the Security Register.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Security shall bind every future Holder of the same Security and the Holder of every Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee, the Company in reliance thereon, whether or not notation of such action is made upon such Security or such other Security.

(e) The Depository selected pursuant to subsection (b)(17) of Section 2.1, as a Holder, may appoint agents and/or otherwise authorize participants to give or take any request, demand, authorization, direction, notice, consent, waiver or other action which a Holder is entitled to give or take hereunder.

(f) The Trustee may make reasonable rules for action by or at a meeting of Holders, including with respect to proxy voting. The Security Registrar and Paying Agent may make reasonable rules and set reasonable requirements for its respective functions and compensation.

Section 1.5. Notices, Etc., to Trustee or Company.

Any request, demand, authorization, direction, notice, consent, waiver or Act of Holders or other document provided or permitted by this Indenture to be made, given or furnished to, or filed with,

(1) the Trustee by any Holder or the Company shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing (including by facsimile and electronic mail actually received) to or with the Trustee at its Corporate Trust Office, or

(2) the Company by the Trustee or by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to the Company addressed to it, to the attention of the General Counsel, at the address of its office specified in the first paragraph of this instrument or at any other address previously furnished in writing to the Trustee by the Company.

Section 1.6. Notice to Holders; Waiver.

(a) Where this Indenture provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to each Holder affected by such event, at such Holder's address as it appears in the Security Register, not later than the latest date, and not earlier than the earliest date, prescribed for the giving of such notice. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

(b) If it shall be impracticable to give such notice by mail, then such notification in lieu thereof as shall be made by the Company with the approval of the Trustee or by the Trustee on behalf of and at the written instruction of the Company shall constitute a sufficient notification for every purpose hereunder.

Section 1.7. Conflict with Trust Indenture Act.

If any provision hereof limits, qualifies or conflicts with another provision hereof which is required to be included in this Indenture by any of the provisions of the Trust Indenture Act, such required provision shall control. If any provision hereof limits, qualifies or conflicts with the duties imposed by section 318(c) of the Trust Indenture Act, such imposed duties shall control. If any provision of this Indenture limits, qualifies or conflicts with a provision of the Trust Indenture Act that is required under the Trust Indenture Act to be a part of and govern this Indenture, such provision of the Trust Indenture Act shall control. If any provision of this Indenture modifies or excludes any provision of the Trust Indenture Act that may be so modified or excluded, the latter provision shall be deemed to apply to this Indenture as such provision of the Trust Indenture Act is so modified or excluded, as the case may be.

Section 1.8. Effect of Headings and Table of Contents.

The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 1.9. Successors and Assigns.

All covenants and agreements in this Indenture by the Company shall bind its successors and assigns, whether so expressed or not.

Section 1.10. Separability Clause.

In case any provision in this Indenture or in the Securities shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 1.11. Benefits of Indenture.

Nothing in this Indenture or in the Securities, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder and the Holders of the Senior Indebtedness and the Holders of the Securities, any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 1.12. Governing Law.

This Indenture and the Securities shall be governed by, and construed in accordance with, the laws of the State of New York.

Section 1.13. Legal Holidays.

In any case where any Interest Payment Date, Redemption Date or Stated Maturity of any Security shall not be a Business Day at any Place of Payment, then (notwithstanding any other provision of this Indenture or of the Securities) payment of interest or principal (and premium, if any) need not be made at such Place of Payment on such date, but may be made on the next succeeding Business Day at such Place of Payment with the same force and effect as if made on the Interest Payment Date or Redemption Date, or at the Stated Maturity; provided that no interest shall accrue on the amount then payable for the period from and after such Interest Payment Date, Redemption Date or Stated Maturity, as the case may be.

Section 1.14. Waiver of Jury Trial.

EACH OF THE COMPANY AND THE TRUSTEE HEREBY, AND EACH HOLDER OF A SECURITY BY ITS ACCEPTANCE THEREOF, 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 SECURITIES OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

ARTICLE II

THE SECURITIES

Section 2.1. Amount Unlimited; Issuable in Series.

(a) The aggregate principal amount of Securities which may be authenticated and delivered under this Indenture is unlimited.

(b) The Securities may be issued in one or more series, but all Securities issued hereunder shall be subordinate and junior in right of payment, to the extent and in the manner set forth in Article XII or the applicable Board Resolution, Officer's Certificate or indentures supplemental hereto referred to below and relating to such Securities, to all Senior Indebtedness of the Company. There shall be established in or pursuant to a Board Resolution and (subject to Section 2.3) set forth or determined as provided in an Officer's Certificate, or established in one or more indentures supplemental hereto (with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture, and with such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with the rules of any securities exchange or as may, consistently herewith, be determined by the Officer executing such Securities, as evidenced by his or her execution of such Securities), prior to the issuance of Securities of any series:

(1) the title of the Securities of the series (which shall distinguish the Securities of the series from all other Securities);

(2) [Reserved];

(3) if the Securities are to be convertible into or exchangeable for any securities or property of any Person (including the Company), the terms and conditions upon which such Securities will be so convertible or exchangeable, and any additions or changes to this Indenture, if any, to permit or facilitate such conversion or exchange;

(4) any limit upon the aggregate principal amount of the Securities of the series which may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of the series pursuant to Section 2.4, 2.5, 2.6, 3.7 or 10.6 and except for any Securities which, pursuant to Section 2.3, are deemed never to have been authenticated and delivered hereunder);

(5) the Person to whom any interest on a Security of the series shall be payable, if other than (i) the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest or (ii) in the case of interest payable on the Stated Maturity of such Security or on any Redemption Date (in each case, whether or not an Interest Payment Date), the Person to whom principal of such Security is payable;

(6) the date or dates on which the principal of the Securities of the series is payable and/or the method by which such date or dates shall be determined;

(7) the rate or rates (or method for establishing the rate or rates) at which the Securities of the series shall bear interest, if any, the date or dates from which such interest shall accrue, the Interest Payment Dates on which such interest shall be payable and the Regular Record Date for the interest payable on any Interest Payment Date (or method for establishing such date or dates);

(8) the place or places where the principal of (and premium, if any) and interest on Securities of the series shall be payable;

(9) the period or periods within which, the price or prices at which and the terms and conditions upon which Securities of the series may be redeemed, in whole or in part, at the option of the Company;

(10) the obligation, if any, of the Company to redeem or purchase Securities of the series pursuant to any sinking fund or analogous provisions or at the option of a Holder thereof and the period or periods within which, the price or prices at which and the terms and conditions upon which Securities of the series shall be redeemed or purchased, in whole or in part, pursuant to such obligation;

(11) if other than denominations of \$25 and any integral multiple thereof, the denominations in which Securities of the series shall be issuable;

(12) if other than the full principal amount thereof, the portion of the principal amount of Securities of the series which shall be payable upon declaration of acceleration of the Maturity thereof pursuant to Section 7.2 or the method by which such portion shall be determined;

(13) if other than the currency of the United States of America, the currency or currencies (including composite currencies) in which payment of the principal of (and premium, if any) and/or interest on the Securities of the series shall be payable and the manner of determining the equivalent thereof in the currency of the United States of America for any purpose, including for purposes of the definition of "Outstanding" in Section 1.1;

(14) if the principal of (and premium, if any) and/or interest on the Securities of the series are to be payable, at the election of the Company or any Holder, in a currency or currencies (including composite currencies) other than that in which the Securities are stated to be payable, the period or periods within which, and the terms and conditions upon which, such election may be made;

(15) if the amounts of payments of principal of (and premium, if any) and/or interest on the Securities of the series may be determined with reference to an index, the manner in which such amounts shall be determined;

(16) if applicable, that the Securities of the series, in whole or any specified part, shall be defeasible pursuant to Section 11.3 or Section 11.4 or both such Sections and, if other than by Board Resolution, the manner in which any election by the Company to defease such Securities shall be evidenced;

(17) whether the Securities of the series shall be issued in whole or in part in the form of one or more Global Securities and, in such case, the Depository for such Global Security or Global Securities;

(18) any additional or different events of default that apply to Securities of the series, and any change in the right of the Trustee or the Holders of such Securities to declare the principal thereof due and payable;

(19) any additional or different covenants that apply to Securities of the series;

(20) the form of the Securities of the series;

(21) the right, if any, of the Company to defer interest payments or to extend the interest payment period of such series of Securities, including the maximum duration of any such deferral or deferrals or any such extension or extensions, the Additional Interest, if any, payable on such Securities during any deferral or extension of the interest payment period and any notice (which shall include notice to the Trustee) that must be given upon the exercise of such right to defer interest payments or to extend interest payment periods; and

(22) any other terms of the Securities of such series (which terms shall not contradict the provisions of the Trust Indenture Act, but may modify, amend, supplement or delete any of the terms of this Indenture with respect to such series).

(c) The definitive Securities shall be printed, lithographed or engraved on steel engraved borders or may be produced in any other manner, all as determined by the Officer executing such Securities, as evidenced by his or her execution of such Securities.

(d) All Securities of any one series shall be substantially identical except as to interest rates, method for determining interest rates, Interest Payment Dates, Regular Record Dates, redemption terms, Stated Maturity, denomination, date of authentication, currency, any index for determining amounts payable, and except as may otherwise be provided in or pursuant to such Board Resolution and set forth or determined as provided in such Officer's Certificate or in any indenture supplemental hereto.

(e) If any of the terms of the series are established by action taken pursuant to a Board Resolution, a copy of an appropriate record of such action shall be certified by an Officer of the Company and delivered to the Trustee at or prior to the delivery of the Officer's Certificate setting forth the terms of the series. With respect to Securities of a series constituting a medium term note program, such Board Resolution may provide general terms or parameters for Securities of such series and may provide that the specific terms of particular Securities of such series, and the Persons authorized to determine such terms or parameters, may be determined in accordance with or pursuant to the Company Order referred to in Section 2.3.

Section 2.2. Denominations.

The Securities of each series shall be issuable in registered form without coupons in such denominations as shall be specified as contemplated by Section 2.1. In the absence of any such provisions with respect to the Securities of any series, the Securities of such series shall be issuable in denominations of \$25 and any integral multiple thereof.

Section 2.3. Execution, Authentication, Delivery and Dating.

(a) The Securities shall be executed on behalf of the Company by any Officer. The signature of any Officer on the Securities may be manual or facsimile.

(b) Securities bearing the manual or facsimile signatures of any individual who was at any time an Officer of the Company shall bind the Company, notwithstanding that any such individual has ceased to hold such office prior to the authentication and delivery of such Securities or did not hold such office at the date of such Securities.

(c) At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Securities of any series executed on behalf of the Company pursuant to clause (a) above to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Securities, and the Trustee in accordance with such Company Order shall authenticate and deliver such Securities; provided that, with respect to Securities of a series constituting a medium term note program, the Trustee shall authenticate and deliver Securities of such series for original issue from time to time in the aggregate principal amount established for such series pursuant to such procedures acceptable to the Trustee and to such recipients as may be specified from time to time by a Company Order. The maturity dates, original issue dates, interest rates and any other terms of the Securities of such series shall be determined by or pursuant to such Company Order and procedures.

(d) The Trustee's certificates of authentication shall be in substantially the following form:

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
Authorized Signatory

Date: _____

(e) If the form or terms of the Securities of the series have been established in or pursuant to one or more Board Resolutions as permitted by Section 2.1, in authenticating such Securities, and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall receive, and (subject to Section 8.1) shall be fully protected in relying upon, an Opinion of Counsel stating:

(1) if the form of any of such Securities has been established by or pursuant to a Board Resolution as permitted by Section 2.1, that such form has been established in conformity with the provisions of this Indenture; and

(2) that such Securities, when authenticated and delivered by the Trustee and issued by the Company in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute valid and binding obligations of the Company, enforceable in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting the enforcement of creditors' rights and to general equity principles.

(f) Notwithstanding that such form or terms have been so established, the Trustee shall not be required to authenticate such Securities if the issue of such Securities pursuant to this Indenture would adversely affect the Trustee's own rights, duties or immunities under the Securities and this Indenture or otherwise in a manner which is not reasonably acceptable to the Trustee.

(g) [Reserved.]

(h) With respect to Securities of a series constituting a medium term note program, if the form and general terms of the Securities of such series have been established by or pursuant to one or more Board Resolutions or by an indenture supplemental hereto, as permitted by Section 2.1 in authenticating such Securities, and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall receive, and (subject to Section 8.1) shall be fully protected in relying upon, in addition to the foregoing documents and (if applicable) in lieu of clause (e) above, an Opinion of Counsel stating that the Securities have been duly authorized and executed by the Company, and assuming the due authentication by the Trustee in the manner provided for in this Indenture, when delivered against payment of the consideration therefor in accordance with any applicable distribution agreement, the Securities will constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and similar laws affecting the rights and remedies of creditors generally and to general equity principles.

(i) Each Security shall be dated the date of its authentication.

(j) No Security shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Security a certificate of authentication substantially in the form provided for herein executed by the Trustee by manual signature, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder and is entitled to the benefits of this Indenture. Notwithstanding the foregoing, if any Security shall have been authenticated and delivered hereunder but never issued and sold by the Company, and the Company shall deliver such Security to the Trustee for cancellation as provided in Section 2.9 together with a written statement (which need not comply with Section 1.2 and need not be accompanied by an Opinion of Counsel) stating that such Security has never been issued and sold by the Company, for all purposes of this Indenture such Security shall be deemed never to have been authenticated and delivered hereunder and shall never be entitled to the benefits of this Indenture.

Section 2.4. Temporary Securities.

(a) Pending the preparation of definitive Securities of any series, the Company may execute, and upon Company Order from the Company, the Trustee shall authenticate and deliver, temporary Securities which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor of the definitive Securities in lieu of which they are issued, with such appropriate insertions, omissions, substitutions and other variations as the Officer executing such Securities may determine, as evidenced by his or her execution of such Securities.

(b) If temporary Securities of any series are issued, the Company will cause definitive Securities of that series to be prepared without unreasonable delay. After the preparation of definitive Securities of such series, the temporary Securities of such series shall be exchangeable for definitive Securities of such series upon surrender of the temporary Securities of such series at the office or agency of the Company in a Place of Payment for that series, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities of any series the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a like principal amount of definitive Securities of the same series and of like tenor, of authorized denominations. Until so exchanged the temporary Securities of any series shall in all respects be entitled to the same benefits under this Indenture as definitive Securities of such series.

Section 2.5. Registration; Transfer and Exchange.

(a) The Company shall cause to be kept at the Corporate Trust Office of the Trustee a register (the register maintained in such office and in any other office or agency of the Company in a Place of Payment being herein sometimes collectively referred to as the "Security Register") in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Securities and of transfers of Securities. The Trustee is hereby appointed "Security Registrar" for the purpose of registering Securities and transfers of Securities as herein provided.

(b) Upon surrender for registration of transfer of any Security of any series at an office or agency of the Company in a Place of Payment designated by the Company pursuant to Section 5.2 for that series, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Securities of the same series, of any authorized denominations and of a like aggregate principal amount and tenor.

(c) At the option of the Holder, Securities of any series may be exchanged for other Securities of the same series of any authorized denominations and of a like aggregate principal amount and tenor, upon surrender of the Securities to be exchanged at such office or agency. Whenever any Securities are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive.

(d) All Securities issued upon any registration of transfer or exchange of Securities shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Securities surrendered upon such registration of transfer or exchange.

(e) Every Security presented or surrendered for registration of transfer or for exchange shall (if so required by the Company or the Trustee) be duly endorsed, or be accompanied by a written instrument of transfer, in form satisfactory to the Company and the Security Registrar, duly executed by the Holder thereof or his attorney duly authorized in writing.

(f) No service charge shall be made for any registration of transfer or for exchange of Securities, but the Company, the Trustee or the Security Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Securities, other than exchanges pursuant to Section 2.4, 2.5(h), 3.7 or 10.6 not involving any transfer.

(g) The Company shall not be required (i) to issue, register the transfer of or exchange Securities of any series during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of Securities of that series selected for redemption under Section 3.3 and ending at the close of business on the day of such mailing, or (ii) to register the transfer of or exchange any Security so selected for redemption in whole or in part, except the unredeemed portion of any Security being redeemed in part.

(h) Notwithstanding the foregoing, any Global Security shall be exchangeable pursuant to this Section 2.5 for Securities registered in the names of Persons other than the Depository for such Security or its nominee only if (i) such Depository notifies the Company that it is unwilling or unable to continue as Depository for such Global Security or such Depository ceases to be a clearing agency registered under the Exchange Act, (ii) the Company executes and delivers to the Trustee a Company Order that such Global Security shall be so exchangeable or (iii) there shall have occurred and be continuing an Event of Default of which the Trustee has been notified with respect to the Securities. Any Global Security that is exchangeable pursuant to the preceding sentence shall be exchangeable for Securities registered in such names as the Depository shall direct in writing in an aggregate principal amount equal to the principal amount of the Global Security with like tenor and terms.

(i) Notwithstanding any other provision in this Indenture, but subject to exchanges under clause (h) above, a Global Security may not be transferred except as a whole by the Depository with respect to such Global Security to a nominee of such Depository or by a nominee of such Depository to such Depository or another nominee of such Depository.

(j) 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 Security (including any transfers between or among the Depository or other beneficial owners of interests in any Global Security) 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 of its respective agents, shall have responsibility for any actions taken or not taken by a Depository.

(k) The Trustee shall have no responsibility or obligation to any beneficial owner of a Global Security, a member of, or a participant in, the applicable Depository or other Person with respect to the accuracy of the records of a Depository or its nominee or of any participant or member thereof, with respect to any ownership interest in the Securities or with respect to the

delivery to any participant, member, beneficial owner or other Person (other than the Depository) of any notice (including any notice of redemption or purchase) or the payment of any amount or delivery of any Securities (or other security or property) under or with respect to such Securities. All notices and communications to be given to the Holders and all payments to be made to Holders in respect of the Securities shall be given or made only to or upon the order of the registered Holders (which shall be the Depository or its nominee in the case of a Global Security). The rights of beneficial owners in any Global Security shall be exercised only through the applicable Depository subject to the applicable rules and procedures of the Depository. The Trustee may rely and shall be fully protected in relying upon information furnished by the applicable Depository with respect to its members, participants and any beneficial owners.

Section 2.6. Mutilated, Destroyed, Lost and Stolen Securities.

(a) If any mutilated Security is surrendered to the Trustee, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a new Security of the same series and of like tenor and principal amount, and bearing a number not contemporaneously Outstanding.

(b) If there shall be delivered to the Company and the Trustee (i) evidence to their satisfaction of the destruction, loss or theft of any Security and (ii) such security or indemnity as may be required by them to save each of them and any agent of any of them harmless, then, in the absence of notice to the Company or the Trustee that such Security has been acquired by a bona fide purchaser, the Company shall execute and the Trustee shall authenticate and deliver, in lieu of any such destroyed, lost or stolen Security, a new Security of the same series and of like tenor and principal amount, and bearing a number not contemporaneously Outstanding.

(c) In case any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Security, pay such Security.

(d) Upon the issuance of any new Security under this Section, the Company or the Trustee may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee and its counsel) connected therewith.

(e) Every new Security of any series issued pursuant to this Section in lieu of any destroyed, lost or stolen Security shall constitute an original additional contractual obligation of the Company, whether or not the destroyed, lost or stolen Security shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Securities of that series duly issued hereunder.

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

Section 2.7. Payment of Interest; Interest Rights Preserved.

(a) Unless otherwise provided as contemplated by Section 2.1 with respect to any series of Securities, interest (including Additional Interest) on any Security which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest; provided, however, that interest due on the Stated Maturity of such Security or on any Redemption Date (in each case, whether or not an Interest Payment Date) will be paid to the Person to whom principal of such Security is payable.

(b) Any interest (including Additional Interest) on any Security of any series which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the Holder entitled to such interest by virtue of having been such Holder, and such Defaulted Interest may be paid by the Company, at its election in each case, as provided in clause (1) or (2) below:

(1) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names the Securities of such series (or their respective Predecessor Securities) are registered at the close of business on a Special Record Date (as defined below) for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Security of such series and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this clause provided. Thereupon the Trustee shall fix a special record date (the "Special Record Date") for the payment of such Defaulted Interest which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, to each Holder of Securities of such series at his address as it appears in the Security Register, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been so mailed, such Defaulted Interest shall be paid to the Persons in whose names the Securities of such series (or their respective Predecessor Securities) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following clause (2).

(2) The Company may elect to make payment of any Defaulted Interest (including Additional Interest, if any) on the Securities of any series in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Securities may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustee.

(c) Subject to the foregoing provisions of this Section, each Security delivered under this Indenture, upon registration of transfer of or in exchange for or in lieu of any other Security, shall carry the rights to interest (including Additional Interest, if any) accrued and unpaid, and interest (including Additional Interest, if any) to accrue, which were carried by such other Security.

Section 2.8. Persons Deemed Owners.

Prior to due presentment of a Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee, including a Paying Agent, may treat the Person in whose name such Security is registered as the owner of such Security for the purpose of receiving payment of principal of (and premium, if any) and (subject to Section 2.7) interest (including Additional Interest, if any) on such Security and for all other purposes whatsoever, whether or not such Security be overdue, and neither the Company, the Trustee nor any agent of the Company or the Trustee, including a Paying Agent, shall be affected by notice to the contrary.

Section 2.9. Cancellation.

All Securities surrendered for payment, redemption, registration of transfer or exchange or for credit against any sinking fund payment shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee and shall be promptly canceled by it. The Company may at any time deliver to the Trustee for cancellation any Securities previously authenticated and delivered hereunder which the Company may have acquired in any manner whatsoever, and may deliver to the Trustee (or to any other Person for delivery to the Trustee) for cancellation any Securities previously authenticated hereunder which the Company has not issued and sold and all Securities so delivered shall be promptly canceled by the Trustee. No Securities shall be authenticated in lieu of or in exchange for any Securities canceled as provided in this Section, except as expressly permitted by this Indenture. All canceled Securities held by the Trustee shall be disposed of as directed by a Company Order from the Company.

Section 2.10. Computation of Interest.

Except as otherwise specified as contemplated by Section 2.1 for Securities of any series, interest on the Securities of each series shall be computed on the basis of a 360-day year of twelve 30-day months.

Section 2.11. CUSIP Numbers.

The Company in issuing the Securities may use "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" numbers in notices of redemption as a convenience to Holders; provided that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Securities or as contained in any notice of redemption and that reliance may be placed only on the other identification numbers printed on the Securities, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company will promptly notify the Trustee in writing of any change in the "CUSIP" numbers.

REDEMPTION OF SECURITIES

Section 3.1. Applicability of Article.

Securities of any series which are redeemable before their Stated Maturity shall be redeemable in accordance with their terms and (except as otherwise specified as contemplated by Section 2.1 for Securities of any series) in accordance with this Article.

Section 3.2. Election to Redeem; Notice to Trustee.

In case of any redemption at the election of the Company of less than all the Securities of like tenor of any series, the Company shall, at least ten (10) days prior to the date that the notice of redemption is required to be given or caused to be given to the Holders of such Securities pursuant to Section 3.4(a) (unless a shorter notice shall be satisfactory to the Trustee), notify the Trustee of such Redemption Date and of the principal amount of Securities of such series to be redeemed. Any such notice may be cancelled at any time prior to notice of such redemption being mailed to any Holder and shall thereby be void and of no effect. In the case of any redemption of Securities prior to the expiration of any restriction on such redemption provided in the terms of such Securities or elsewhere in this Indenture, the Company shall furnish the Trustee with an Officer's Certificate evidencing compliance with such restriction.

Section 3.3. Selection by Trustee of Securities to Be Redeemed.

(a) If less than all the Securities of like tenor of any series are to be redeemed, the particular securities to be redeemed shall be selected by the Trustee from the Outstanding Securities of like tenor of such series not previously called for redemption, by lot or any other such method as the Trustee shall deem fair and appropriate (subject to the redemption procedures of the applicable Depository) and which may provide for the selection for redemption of portions (equal to the minimum authorized denomination for Securities of that series or any integral multiple thereof) of the principal amount of such Securities of a denomination larger than the minimum authorized denomination for such Securities.

(b) The Trustee shall promptly notify the Company in writing of the Securities selected for redemption and, in the case of any Securities selected for partial redemption, the principal amount thereof to be redeemed.

(c) For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Securities shall relate, in the case of any Securities redeemed or to be redeemed only in part, to the portion of the principal amount of such Securities which has been or is to be redeemed.

Section 3.4. Notice of Redemption.

(a) Unless otherwise indicated for a particular series of Securities by Board Resolution, a supplemental indenture hereto or an Officer's Certificate, a notice of redemption shall be given by first-class mail, postage prepaid, not less than 30 nor more than 60 days prior to the Redemption Date, to each Holder of Securities to be redeemed, at such Holder's address appearing in the Security Register.

Such notice of redemption shall state:

- (1) the Redemption Date,
- (2) the Redemption Price,
- (3) if less than all the Outstanding Securities of like tenor of any series are to be redeemed, the identification (and, in the case of partial redemption, the principal amounts) of the particular Securities to be redeemed,
- (4) in case any Security is to be redeemed in part only, the notice which relates to such Security shall state that on and after the Redemption Date, upon surrender of such Security, the Holder of such Security will receive, without charge, a new Security or Securities of authorized denominations for the principal amount thereof remaining unredeemed,
- (5) that on the Redemption Date the Redemption Price will become due and payable upon each such Security to be redeemed and, if applicable, that interest thereon will cease to accrue on and after such date,
- (6) the CUSIP number and/or similar numbers of such Securities, if any (or any other numbers used by a Depository to identify such Securities),
- (7) the place or places where such Securities are to be surrendered for payment of the Redemption Price, and
- (8) that the redemption is for a sinking fund, if such is the case.

In addition, if such redemption is subject to satisfaction of one or more conditions precedent, as permitted by the Board Resolution, supplemental indenture or Officer's Certificate establishing such series of Securities, such notice shall describe each such condition, and if applicable, shall state that, in the Company's discretion, the Redemption Date may be delayed until such time as any or all such conditions shall be satisfied, 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 satisfied by the Redemption Date, or by the Redemption Date as so delayed.

(b) Any such notice of redemption of Securities to be redeemed at the election of the Company shall be given by the Company or, at the Company's request, by the Trustee in the name and at the expense of the Company.

Section 3.5. Deposit of Redemption Price.

By 11:00 a.m. New York time on any Redemption Date, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, the Company shall segregate and hold in trust as provided in Section 5.3) an amount of money sufficient to pay the Redemption Price of, and accrued interest on, all the Securities which are to be redeemed on that date.

Section 3.6. Securities Payable on Redemption Date.

(a) Subject to the final sentence of Section 3.4(a), notice of redemption having been given as aforesaid, the Securities so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified and, from and after such date (unless the Company shall default in the payment of the Redemption Price and accrued interest (including Additional Interest, if any)) such Securities shall cease to bear interest. Upon surrender of any such Security for redemption in accordance with such notice, such Security shall be paid by the Company at the Redemption Price, together with accrued interest (including Additional Interest, if any) to (but excluding) the Redemption Date; provided, however, that installments of interest whose Stated Maturity is prior to the Redemption Date shall be payable to the Holders of such Securities, or one or more Predecessor Securities, registered as such at the close of business on the relevant Record Dates, and installments of interest whose Stated Maturity is on the Redemption Date shall be payable to the Holders of such Securities to whom the principal shall be payable, in each case, according to their terms and the provisions of Section 2.7.

(b) If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal (and premium, if any) shall, until paid, bear interest from the Redemption Date at the rate prescribed therefor in the Security.

Section 3.7. Securities Redeemed in Part.

Any Security which is to be redeemed only in part shall be surrendered at a Place of Payment therefor (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or such Holder's attorney duly authorized in writing). The Company shall execute, and the Trustee shall authenticate and deliver to the Holder of such Security without service charge, a new Security or Securities of the same series and of like tenor, of any authorized denomination as requested by such Holder, in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Security so surrendered.

ARTICLE IV

SINKING FUNDS

Section 4.1. Applicability of Article.

(a) The provisions of this Article shall be applicable to any sinking fund for the retirement of Securities of a series permitted or required by the applicable supplemental indenture except as otherwise specified in accordance with Section 2.1 for Securities of such series.

(b) The minimum amount of any sinking fund payment provided for by the terms of Securities of any series is herein referred to as a “mandatory sinking fund payment”, and any payment in excess of such minimum amount provided for by the terms of Securities of any series is herein referred to as an “optional sinking fund payment”. If provided for by the terms of Securities of any series, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 4.2. Each sinking fund payment shall be applied to the redemption of Securities of any series as provided for by the terms of Securities of such series.

Section 4.2. Satisfaction of Sinking Fund Payments with Securities.

The Company (1) may deliver Outstanding Securities of a series (other than any previously called for redemption) and (2) may apply as a credit Securities of a series which have been redeemed either at the election of the Company pursuant to the terms of such Securities or through the application of permitted optional sinking fund payments pursuant to the terms of such Securities, in each case in satisfaction of all or any part of any sinking fund payment with respect to the Securities of such series required to be made pursuant to the terms of such Securities as provided for by the terms of such series; provided that such Securities have not been previously so credited. Such Securities shall be received and credited for such purpose by the Trustee at the Redemption Price specified in such Securities for redemption through operation of the sinking fund and the amount of such sinking fund payment shall be reduced accordingly.

Section 4.3. Redemption of Securities for Sinking Fund.

Not less than 45 days prior (unless a shorter period shall be satisfactory to the Trustee) to each sinking fund payment date for any series of Securities, the Company will deliver to the Trustee an Officer’s Certificate specifying the amount of the next ensuing sinking fund payment for that series pursuant to the terms of that series, the portion thereof, if any, which is to be satisfied by payment of cash and the portion thereof, if any, which is to be satisfied by delivering and crediting Securities of that series pursuant to Section 4.2 and will also deliver to the Trustee any such Securities. Not less than 30 days before each such sinking fund payment date the Trustee shall select the Securities to be redeemed upon such sinking fund payment date in the manner specified in Section 3.3 and cause notice of the redemption, prepared by the Company, thereof to be given in the name of and at the expense of the Company in the manner provided in Section 3.4. Such notice having been duly given, the redemption of such Securities shall be made upon the terms and in the manner stated in Sections 3.6 and 3.7.

ARTICLE V

COVENANTS

Section 5.1. Payment of Principal, Premium and Interest.

- (a) The Company covenants and agrees for the benefit of each series of Securities that it will duly and punctually pay the principal of (and premium, if any) and interest on the Securities of that series in accordance with the terms of the Securities and this Indenture.
- (b) An installment of principal or interest shall be considered paid on the date it is due if the Trustee or Paying Agent holds on that date money designated for and sufficient to pay such installment and is not prohibited from paying such money to the Holders pursuant to the terms of this Indenture or otherwise.

Section 5.2. Maintenance of Office or Agency.

(a) The Company will maintain in each Place of Payment for any series of Securities an office or agency where Securities of that series may be presented or surrendered for payment, where Securities of that series may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company in respect of the Securities of that series and this Indenture may be served. The Company 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 Company shall fail to maintain any such required office or agency or shall 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, and the Company hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands.

(b) The Company may also from time to time designate one or more other offices or agencies where the Securities of one or more series 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 shall in any manner relieve the Company of its obligation to maintain an office or agency in each Place of Payment for Securities of any series for such purposes. The Company 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.

Section 5.3. Money for Securities Payments to Be Held in Trust.

(a) If the Company shall at any time act as its own Paying Agent with respect to any series of Securities, it will, on or before each due date of the principal of (and premium, if any) or interest (including Additional Interest, if any) on any of the Securities of that series, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the principal (and premium, if any) or interest so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided and will promptly notify the Trustee of its failure so to act.

(b) Whenever the Company shall have one or more Paying Agents for any series of Securities, it will, by 11:00 a.m., New York time, on each due date of the principal of (and

premium, if any) or interest (including Additional Interest, if any) on any Securities of that series, deposit with a Paying Agent a sum sufficient to pay the principal (and premium, if any) or interest (including Additional Interest, if any) so becoming due, such sum to be held in trust for the benefit of the Persons entitled to such principal, premium or interest (including Additional Interest, if any), and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee of its action or failure so to act.

(c) The Company will cause each Paying Agent for any series of Securities other than the Trustee or the Company to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section, that such Paying Agent will:

(1) hold all sums held by it for the payment of the principal of (and premium, if any) or interest (including Additional Interest, if any) on Securities of that series in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein provided;

(2) give the Trustee notice of any default by the Company (or any other obligor upon the Securities of that series) in the making of any payment of principal (and premium, if any) or interest (including Additional Interest, if any) on the Securities of that series; and

(3) at any time during the continuance of any such default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

(d) The Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or by Company Order, direct any Paying Agent to pay, to the Trustee all sums held in trust by the Company or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Company or such Paying Agent. Upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such money.

(e) Any money deposited with the Trustee or any Paying Agent, or then held by the Company in trust, for the payment of the principal of (and premium, if any) or interest (including Additional Interest, if any) on any Security of any series, and remaining unclaimed for two years after such principal (and premium, if any) or interest (including Additional Interest, if any) has become due and payable shall be paid to the Company on Company Request or (if then held by the Company) shall be discharged from such trust. Thereafter the Holder of such Security shall, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease.

Section 5.4. Corporate Existence.

Subject to Article VI, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence.

Section 5.5. Annual Statement by Officer as to Default.

The Company will deliver to the Trustee, within 120 days after the end of each fiscal year of the Company ending after the date hereof, an Officer's Certificate stating whether or not to the knowledge of the signer thereof the Company was in default in the performance and observance of any of the terms, provisions and conditions applicable to the Company during such fiscal year and, if the Company was in default, specifying all such defaults and the nature and status thereof of which he or she may have knowledge. If any default or Event of Default under clauses (5), (6) or (7) of Section 7.1 has occurred and is continuing, within 30 Business Days after its becoming aware of such occurrence, the Company shall deliver to the Trustee an Officer's Certificate specifying such event and what action the Company is taking or proposes to take with respect thereto.

Section 5.6. Additional Interest.

(a) If the Securities of a series provide for the payment of Additional Interest to the Holders of such Securities, then the Company shall pay to each Holder of such Securities the Additional Interest as provided therein.

(b) Except as otherwise provided in or pursuant to this Indenture, if the Securities of a series provide for the payment of Additional Interest, at least 10 days prior to the first Interest Payment Date with respect to that series of Securities upon which such Additional Interest shall be payable (or, if the Securities of that series shall not bear interest prior to Maturity, the first day on which a payment of principal and any premium is made), and at least 10 days prior to each date of payment of principal and any premium or interest if there has been any change with respect to the matters set forth in the below-mentioned Officer's Certificate, the Company will furnish the Trustee and the Company's Paying Agents, if other than the Trustee or the Company, with an Officer's Certificate stating the amount of the Additional Interest payable per minimum authorized denomination of such Securities (and, if such Additional Interest is payable only with respect to particular Securities, then the names of the Holders of such Securities).

ARTICLE VI

CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE

Section 6.1. Company May Consolidate, Etc., Only on Certain Terms.

The Company shall not consolidate with or merge with or into, or convey, transfer or lease all or substantially all of its properties and assets to, another Person (in a transaction in which the Company is not the surviving entity) unless (1) the resulting, surviving or transferee Person (in a transaction in which the Company is not the surviving entity) is an entity organized and existing under the laws of the United States of America, any State thereof or the District of Columbia, and such Person expressly assumes by supplemental indenture all of the Company's obligations under the Securities and this Indenture; and (2) immediately after giving effect to such transaction, no Event of Default has occurred and is continuing under this Indenture. Upon any such consolidation, merger or transfer, the resulting, surviving or transferee Person (in a transaction in which the Company is not the surviving entity) shall succeed to, and may exercise every right and power of, the Company under this Indenture.

This Section 6.1 shall not apply to any consolidation or merger, or any sale, assignment, transfer, conveyance, lease or other disposition of assets, between or among the Company and its Subsidiaries.

Section 6.2. Successor Substituted.

Upon any consolidation by the Company with or merger by the Company into any other Person or any conveyance, transfer or lease of all or substantially all of the properties and assets of the Company in accordance with Section 6.1, the successor formed by such consolidation or into which the Company is merged or the Person to which such conveyance, transfer or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein, and thereafter, except in the case of a lease, the predecessor Person shall be relieved of all obligations and covenants under this Indenture and the Securities.

ARTICLE VII

REMEDIES

Section 7.1. Events of Default.

“Event of Default”, wherever used herein with respect to Securities of any series, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body or occasioned by the operation of Article XII):

- (1) [Reserved]; or
- (2) [Reserved]; or
- (3) [Reserved]; or
- (4) [Reserved]; or

(5) the entry by a court having jurisdiction in the premises of (A) a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law or (B) a decree or order adjudging the Company a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Company under any applicable Federal or State law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 90 consecutive days; or

(6) the commencement by the Company of a voluntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other

similar law or of any other case or proceeding to be adjudicated a bankrupt or insolvent, or the consent by it to the entry of a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under any applicable Federal or State law, or the consent by it to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or similar official of the Company or of any substantial part of its property, or the making by the Company of an assignment for the benefit of creditors, or the admission by the Company in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Company in furtherance of any such action; or

(7) any other Event of Default provided with respect to Securities of that series.

With respect to the Securities of any Series, and for purposes of this Section 7.1, the term “Default” means the following events: (a) default in the payment of any interest upon any Security of that series when it becomes due and payable on an Interest Payment Date other than at Maturity, including Additional Interest in respect thereof, and continuance of such default for a period of 30 days; provided, however, that a valid extension of the interest payment period by the Company pursuant to the terms of a supplemental indenture authorizing the Securities of that series shall not constitute a default in the payment of interest for this purpose, (b) default in the payment of the principal of (or premium, if any), or interest (including Additional Interest) on, any Security of that series when due and payable at its Maturity or (c) default in the performance or breach of any covenant or warranty of the Company in the Indenture or a supplemental indenture (other than a covenant or warranty (i) a default in whose performance or whose breach is addressed in clauses (a) or (b) of this paragraph or (ii) which has expressly been included in the Indenture solely for the benefit of one or more series of Securities), and continuance of such default or breach for a period of 90 days after there has been given, by registered or certified mail, to the Company by the Trustee, or to the Company and the Trustee by the Holders of at least 25% in principal amount of the Outstanding Securities, a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a “Notice of Covenant Default” hereunder.

Upon the occurrence and continuance of a Default, the Trustee and the Holders of the Securities shall have the same rights and remedies, and shall be subject to the same limitations, restrictions, protections and exculpations, and the Company shall be subject to the same obligations and restrictions, in each case, as would apply if such Default was an Event of Default or an event which after notice or lapse of time or both would become an Event of Default; provided that the principal of and accrued interest (including Additional Interest) on the Securities may not be declared immediately due and payable by reason of the occurrence and continuation of a Default, and any notice of declaration or acceleration based on such Default shall be null and void with respect to the Securities; provided, further, that in case a Default has occurred and is continuing, the Trustee shall not be subject to Section 8.1(b) of the Indenture unless an Event of Default has occurred and is continuing.

The Trustee shall have no right or obligation under this Indenture or otherwise to exercise any remedies on behalf of any Holders of any series of Securities issued pursuant to this Indenture in connection with any default, unless such remedies are available under this Indenture and the Trustee is directed to exercise such remedies pursuant to and subject to the conditions of Section 7.12 of this Indenture, provided, however, that this provision shall not affect the rights of the Trustee with respect to any Events of Default as set forth in Section 7.1 that may occur with respect to such Securities. In connection with any such exercise of remedies, the Trustee shall be entitled to the same immunities and protections and remedial rights (other than acceleration) as if such Default were an Event of Default.

Subject to the provisions of Section 8.3(i), the Trustee shall not be deemed to have knowledge of an Event of Default hereunder (except for those described in paragraphs (1) through (3) above) unless a Responsible Officer of the Trustee has received written notice thereof.

Section 7.2. Acceleration of Maturity; Rescission and Annulment.

(a) If an Event of Default specified in clause (5) or (6) of Section 7.1 occurs, the principal amount (or, if any of the Securities of that series are Original Issue Discount Securities, such portion of the principal amount of such Securities as may be specified in the terms thereof) of, and accrued and unpaid interest on, all of the Outstanding Securities of that series shall be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder of any Security of that series.

Section 7.3. Collection of Indebtedness and Suits for Enforcement by Trustee.

(a) The Company covenants that if a Default occurs pursuant to clause (a) or (b) of the definition of "Default" the Company will, upon demand of the Trustee, pay to it, for the benefit of the Holders of such Securities, the whole amount then due and payable on such Securities for principal (and premium, if any) and interest (including Additional Interest) and, to the extent that payment of such interest shall be legally enforceable, interest on any overdue principal (and premium, if any) and on any overdue interest (including Additional Interest), at the rate or rates prescribed therefor in such Securities, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

(b) If the Company fails to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree, and may enforce the same against the Company or any other obligor upon such Securities and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Company or any other obligor upon such Securities, wherever situated.

(c) If an Event of Default with respect to Securities of any series occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders of Securities of such series by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in this Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy.

Section 7.4. Trustee May File Proofs of Claim.

(a) In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Company or any other obligor upon the Securities or the property of the Company or of such other obligor or their creditors (irrespective of whether the principal of the Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Company for the payment of overdue principal (and premium, if any) or interest (including Additional Interest)), the Trustee shall be entitled and empowered, by intervention in such proceeding or otherwise:

(i) to file and prove a claim for the whole amount of principal (and premium, if any) and interest (including Additional Interest) owing and unpaid in respect of the Securities and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due to the Trustee under Section 8.7 of this Indenture) and of the Holders allowed in such judicial proceeding, and

(ii) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same.

(b) Any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official 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 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 8.7.

(c) Nothing herein contained shall be deemed to authorize the Trustee to authorize, consent to, accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Securities or the rights of any Holder thereof or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

(d) The Trustee shall be entitled to participate as a member of any official committee of creditors in the matters it deems advisable.

Section 7.5. Trustee May Enforce Claims Without Possession of Securities.

All rights of action and claims under this Indenture or the Securities may be prosecuted and enforced by the Trustee without the possession of any of the Securities or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Securities in respect of which such judgment has been recovered.

Section 7.6. Application of Money Collected.

Any money collected by the Trustee pursuant to this Article shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal (or premium, if any) or interest, upon presentation of the Securities and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

FIRST: To the payment of all amounts due the Trustee under Section 8.7;

SECOND: Subject to Article XII, to the payment of the amounts then due and unpaid for principal of (and premium, if any) and interest (including Additional Interest, if any) on the Securities in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such Securities for principal (and premium, if any) and interest (including Additional Interest, if any), respectively; and

THIRD: To the Company.

Section 7.7. Limitation on Suits.

No Holder of any Security of any series shall have any right to institute any proceeding, judicial or otherwise, with respect to this Indenture, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless:

- (1) such Holder has previously given written notice to the Trustee of a continuing Event of Default with respect to the Securities of that series;
- (2) the Holders of not less than 25% in principal amount of the Outstanding Securities of that series shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;

(3) such Holder or Holders have offered to the Trustee indemnity or security satisfactory to the Trustee in its sole discretion against the costs, expenses and liabilities to be incurred in compliance with such request;

(4) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity or security has failed to institute any such proceeding; and

(5) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Holders of a majority in principal amount of the Outstanding Securities of that series;

it being understood and intended that no one or more of such Holders shall have any right in any manner whatever by virtue of any provision of this Indenture to affect, disturb or prejudice the rights of any other of such Holders, or to obtain or to seek to obtain priority or preference over any other of such Holders or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all of such Holders (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not such actions or forbearances are unduly prejudicial to such Holders).

Section 7.8. Unconditional Right of Holders to Receive Principal, Premium and Interest.

Notwithstanding any other provision in this Indenture, but subject to Article XII, the Holder of any Security shall have the right, which is absolute and unconditional, to receive payment of the principal of (and premium, if any) and (subject to Section 2.7) interest (including Additional Interest, if any) on such Security on the Stated Maturity or Maturities expressed in such Security (or, in the case of redemption, on the Redemption Date) and to institute suit for the enforcement of any such payment, and such rights shall not be impaired without the consent of such Holder.

Section 7.9. Restoration of Rights and Remedies.

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Company, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

Section 7.10. Rights and Remedies Cumulative.

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities in Section 2.6, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 7.11. Delay or Omission Not Waiver.

No delay or omission of the Trustee or of any Holder of any Securities to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

Section 7.12. Control by Holders.

(a) The Holders of a majority in principal amount of the Outstanding Securities of any series shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee, with respect to the Securities of such series; provided that the Trustee may refuse to follow any direction that is in conflict with any rule of law or with this Indenture, subjects the Trustee to a risk of personal liability in respect of which the Trustee has not received indemnification or security satisfactory to it, or that the Trustee determines in good faith may be unduly prejudicial to the rights of Holders not joining in the giving of such direction; provided, however, that the Trustee may take any other action it deems proper that is not inconsistent with any such direction.

(b) Upon receipt by the Trustee of any such direction with respect to Securities of a series all or part of which is represented by a Global Security, the record date for determining Holders of Outstanding Securities of such series entitled to join in such direction shall be the day the Trustee receives such direction, or, if such receipt occurs after the close of business or on a day that is not a Business Day, the next succeeding Business Day, and the Holders on such record date, or their duly designated proxies, and only such Persons, shall be entitled to join in such direction, whether or not such Holders remain Holders after such record date; provided that unless such majority in principal amount shall have been obtained prior to the day which is 90 days after such record date, such direction shall automatically and without further action by any Holder be canceled and of no further effect. The Trustee may conclusively rely on any representation by the Holders delivering such direction that such Holders constitute the requisite percentage to deliver such direction. Nothing in this paragraph shall prevent a Holder, or a proxy of a Holder, from giving, after expiration of such 90-day period, a new direction identical to a direction which has been canceled pursuant to the provisions to the preceding sentence, in which event a new record date shall be established pursuant to the provisions of this Section 7.12.

Section 7.13. Waiver of Past Defaults.

(a) The Holders of not less than a majority in principal amount of the Outstanding Securities of any series may on behalf of the Holders of all the Securities of such series waive any past default hereunder with respect to such series and its consequences, except a default:

(1) in the payment of the principal of or interest (including Additional Interest) on any Security of that series when due and payable at its Maturity, or

(2) in respect of a covenant or provision hereof which under Article X cannot be modified or amended without the consent of the Holder of each Outstanding Security of such series affected.

(b) 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 7.14. Undertaking for Costs.

Each party to this Indenture agrees, and each Holder of any Security by acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section shall not apply to any suit instituted by the Company, to any suit instituted by the Trustee, to any suit instituted by any Holder, or group of Holders, holding in the aggregate more than 10% in principal amount of the Outstanding Securities of any series, or to any suit instituted by any Holder for the enforcement of the payment of the principal of (or premium, if any) or interest (including Additional Interest) on any Security on or after the Stated Maturity or Maturities expressed in such Security (or, in the case of redemption, on or after the Redemption Date).

Section 7.15. Waiver of Usury, Stay or Extension Laws.

The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any usury, stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture; and the Company (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 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 had been enacted.

ARTICLE VIII

THE TRUSTEE

Section 8.1. Certain Duties and Responsibilities.

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

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(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; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall examine the same to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

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

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligence or willful misconduct, except that:

(1) this subsection shall not be construed to limit the effect of subsection (a) of this Section;

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

(3) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction, determined as provided in Section 7.12, of the Holders of a majority in principal amount of the Outstanding Securities of any series, relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture with respect to the Securities of such series; and

(4) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(d) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Article VIII.

(e) The Trustee shall not be liable for interest on any money or assets received by it except as the Trustee may agree with the Company.

(f) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company shall be sufficient if signed by an Officer of the Company.

Section 8.2. Notice of Defaults.

Within 90 days after the Trustee has actual knowledge of an occurrence of any default hereunder with respect to the Securities of any series, the Trustee shall transmit by mail to all Holders of Securities of such series, as their names and addresses appear in the Security Register, notice of such default hereunder known to the Trustee, unless such default shall have been cured or waived; provided, however, that, except in the case of a default in the payment of the principal of (or premium, if any) or interest (including Additional Interest) on any Security of such series or in the payment of any sinking fund installment with respect to Securities of such series, the Trustee shall be protected in withholding such notice if the Trustee in good faith determines that the withholding of such notice is in the interest of the Holders of Securities of such series. For the purpose of this Section, the term “default” means any event which is, or after notice or lapse of time or both would become, an Event of Default with respect to Securities of such series.

Section 8.3. Certain Rights of Trustee.

Subject to the provisions of Section 8.1:

(a) the Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order, or as otherwise expressly provided herein, and any resolution of the Board of Directors may be sufficiently evidenced by a Board Resolution or as otherwise expressly provided herein;

(c) whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, require and rely upon an Officer’s Certificate or Opinion of Counsel. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on an Officer’s Certificate and/or Opinion of Counsel;

(d) the Trustee may consult with counsel of its selection and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;

(e) the Trustee shall 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 pursuant to this Indenture (including, without limitation, instituting, conducting or defending any litigation), unless such Holders shall have offered to the Trustee security or indemnity reasonably satisfactory to it against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction;

(f) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other document, but if notwithstanding the foregoing the Trustee makes or is directed to make such further inquiry or investigation into such facts or matters, it shall, upon at least three (3) Business Days' prior notice or such lesser period of time as may be acceptable to the Company, be entitled reasonably to examine the books, records and premises of the Company, personally or by agent or attorney and, subject to Section 8.1(c), shall incur no liability or additional liability of any kind by reason of such inquiry or investigation;

(g) the Trustee shall not be liable for any action taken, suffered or omitted by it in good faith and believed by it to be authorized or within the discretion, rights or powers conferred upon it by this Indenture;

(h) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder;

(i) the Trustee shall not be deemed to have notice of any default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default or Event of Default is received by a Responsible Officer of the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Securities and this Indenture. For purposes of determining the Trustee's responsibility and liability hereunder, whenever reference is made in this Indenture to a default or Event of Default, such reference shall be construed to refer only to such default or Event of Default for which the Trustee is deemed to have notice pursuant to this Section 8.3(i);

(j) the permissive rights of the Trustee enumerated herein shall not be construed as duties of the Trustee;

(k) 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 each agent, custodian and other Person employed to act hereunder;

(l) the Trustee may request that the Company deliver a certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture; provided that the Trustee reasonably believes that the last such certificate received from the Company or currently on file is no longer accurate;

(m) the Trustee shall not be required to give any note, bond or surety in respect of the execution of the trusts and powers under this Indenture; and

(n) the Trustee shall have no obligation or duty to ensure compliance with the securities laws of any country or state except to request such certificates or other documents required to be obtained by the Trustee or any Security Registrar hereunder in connection with any exchange or transfer pursuant to the terms hereof.

Section 8.4. Not Responsible for Recitals or Issuance of Securities.

The recitals contained herein and in the Securities, except the Trustee's certificates of authentication, shall be taken as the statements of the Company, and the Trustee or any Authenticating Agent assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Securities. The Trustee or any Authenticating Agent shall not be accountable for the use or application by the Company of Securities or the proceeds thereof.

Section 8.5. May Hold Securities.

The Trustee, any Authenticating Agent, any Paying Agent, any Security Registrar or any other agent of the Company or of the Trustee, in its individual or any other capacity, may become the owner or pledgee of Securities and, subject to Sections 8.8 and 8.13, may otherwise deal with the Company with the same rights it would have if it were not Trustee, Authenticating Agent, Paying Agent, Security Registrar or such other agent.

Section 8.6. Money Held in Trust.

Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed with the Company.

Section 8.7. Compensation and Reimbursement.

(a) The Company agrees:

(1) to pay to the Trustee from time to time such compensation for its acceptance of this Indenture and for its services hereunder as Trustee, Paying Agent, Security Registrar and in all other capacities in which it is serving hereunder as the Company and the Trustee shall from time to time agree in writing (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(2) except as otherwise expressly provided herein, to reimburse the Trustee upon its request for all reasonable out-of-pocket expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including the reasonable compensation, expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to its negligence, bad faith or willful misconduct; and

(3) to indemnify the Trustee and its agents, directors, employees and officers for, and to hold them harmless against, any loss, claim, damage, liability or reasonable

out-of-pocket expense (including the reasonable compensation, expenses and disbursements of its agents and counsel) incurred without negligence, bad faith or willful misconduct on its or their part, arising out of or in connection with the acceptance or administration of the trust or trusts hereunder, including the reasonable costs and out-of-pocket expenses of defending itself against any claim or liability in connection with the exercise or performance of any of the Trustee's powers or duties hereunder.

As security for the performance of the obligations of the Company under this Section, the Trustee shall have a lien prior to the Securities upon all property and funds held or collected by the Trustee in such capacity, and may withhold or set-off any amounts due and owing to it under this Indenture from any money or property held or collected by it in its capacity as Trustee. If the Trustee incurs expenses or renders services after the occurrence and during the continuance of an Event of Default, the expenses and the compensation for the services will be intended to constitute expenses of administration under Title 11 of the United States Bankruptcy Code or any applicable Federal or State law for the relief of debtors. The provisions of this Section 8.7 shall survive the resignation or removal of the Trustee and the satisfaction, discharge and termination of this Indenture for any reason and shall not be subordinate to the payment of Senior Indebtedness pursuant to Article XII.

(b) The Trustee shall notify the Company promptly of any third-party claim for which it may seek indemnity of which it has received written notice. Failure by the Trustee to so notify the Company shall not relieve the Company of its obligations hereunder unless, and solely to the extent that, such failure materially prejudices the Company's defense of such claim. The Company shall defend the claim, with counsel reasonably satisfactory to the Trustee, and the Trustee shall provide reasonable cooperation at the Company's expense in the defense; provided that if the defendants in any such claim include both the Company and the Trustee and the Trustee shall have concluded that there may be legal defenses available to it which are different from or additional to those available to the Company, or the Trustee has concluded that there may be any other actual or potential conflicting interests between the Company and the Trustee, the Trustee shall have the right to select separate counsel and the Company shall be required to pay the reasonable fees and expenses of such separate counsel. Any settlement which affects the Trustee may not be entered into without the written consent of the Trustee, unless the Trustee is given a full and unconditional release from liability with respect to the claims covered thereby and such settlement does not include a statement or admission of fault, culpability or failure to act by or on behalf of the Trustee. After the Company has assumed the defense of a claim as set forth in this Section 8.7(b), the Trustee may not settle or compromise any suit or action without the consent of the Company (not to be unreasonably withheld or delayed).

Section 8.8. Disqualification; Conflicting Interests.

The Trustee shall comply with the terms of section 310(b) of the Trust Indenture Act.

Section 8.9. Corporate Trustee Required; Eligibility.

There shall at all times be a Trustee hereunder which shall be a corporation organized and doing business under the laws of the United States of America, any State thereof or the District of Columbia, authorized under such laws to exercise corporate trust powers, having a combined

capital and surplus of at least \$50,000,000 and subject to supervision or examination by Federal or State authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of such supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article.

Section 8.10. Resignation and Removal; Appointment of Successor.

- (a) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee in accordance with the applicable requirements of Section 8.11.
- (b) The Trustee may resign at any time with respect to the Securities of one or more series by giving written notice thereof to the Company. If the instrument of acceptance by a successor Trustee required by Section 8.11 shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such series.
- (c) The Trustee may be removed at any time with respect to the Securities of any series by Act of the Holders of a majority in principal amount of the Outstanding Securities of such series, delivered to the Trustee and to the Company.
- (d) If at any time:
- (1) the Trustee shall fail to comply with Section 8.8 after written request therefor by the Company or by any Holder who has been a bona fide Holder of a Security for at least six months, or
 - (2) the Trustee shall cease to be eligible under Section 8.9 and shall fail to resign after written request therefor by the Company or any such Holder, or
 - (3) the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (i) the Company may remove the Trustee with respect to all Securities, or (ii) subject to Section 7.14, any Holder who has been a bona fide Holder of a Security for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee with respect to all Securities and the appointment of a successor Trustee or Trustees.

- (e) If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, with respect to the Securities of one or more series, the Company shall promptly appoint a successor Trustee or Trustees with respect to

the Securities of that or those series (it being understood that any such successor Trustee may be appointed with respect to the Securities of one or more or all of such series and that at any time there shall be only one Trustee with respect to the Securities of any particular series) and shall comply with the applicable requirements of Section 8.11. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee with respect to the Securities of any series shall be appointed by Act of the Holders of a majority in principal amount of the Outstanding Securities of such series delivered to the Company and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment in accordance with the applicable requirements of Section 8.11, become the successor Trustee with respect to the Securities of such series and to that extent supersede the successor Trustee appointed by the Company. If no successor Trustee with respect to the Securities of any series shall have been so appointed by the Company or the Holders and accepted appointment in the manner required by Section 8.11, any Holder who has been a bona fide Holder of a Security of such series for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such series.

(f) The Company shall give notice of each resignation and each removal of the Trustee with respect to the Securities of any series and each appointment of a successor Trustee with respect to the Securities of any series by mailing written notice of such event by first-class mail, postage prepaid, to all Holders of Securities of such series as their names and addresses appear in the Security Register. Each notice shall include the name of the successor Trustee with respect to the Securities of such series and the address of its corporate trust office.

Section 8.11. Acceptance of Appointment by Successor.

(a) In case of the appointment hereunder of a successor Trustee with respect to all Securities, every such successor Trustee so appointed shall execute, acknowledge and deliver to the Company and the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee. On the request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder.

(b) In case of the appointment hereunder of a successor Trustee with respect to the Securities of one or more (but not all) series, the Company, the retiring Trustee and each successor Trustee with respect to the Securities of one or more series shall execute and deliver an indenture supplemental hereto wherein each successor Trustee shall accept such appointment and which (1) shall contain such provisions as shall be necessary or desirable to transfer and confirm to, and to vest in, each successor Trustee all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates, (2) if the retiring Trustee is not retiring with respect to all Securities, shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or

those series as to which the retiring Trustee is not retiring shall continue to be vested in the retiring Trustee, and (3) shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust and that each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee. Upon the execution and delivery of such supplemental indenture, the resignation or removal of the retiring Trustee shall become effective to the extent provided therein and each such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates. On request of the Company or any successor Trustee, such retiring Trustee shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder with respect to the Securities of that or those series to which the appointment of such successor Trustee relates.

(c) Upon request of any such successor Trustee, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts referred to in clause (a) and (b) of this Section, as the case may be.

(d) No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article.

(e) Notwithstanding the replacement of the Trustee pursuant to Section 8.10, the Company's obligations under Section 8.7 shall continue for the benefit of the retiring Trustee.

Section 8.12. Merger, Conversion, Consolidation or Succession to Business.

Any corporation or other entity into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation or other entity resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation or other entity succeeding to all or substantially all the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto; provided such corporation or other entity shall be otherwise qualified and eligible under this Article. In case any Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Securities so authenticated with the same effect as if such successor Trustee had itself authenticated such Securities.

Section 8.13. Preferential Collection of Claims.

The Trustee shall comply with section 311(a) of the Trust Indenture Act, excluding any creditor relationship listed in section 311(b) of the Trust Indenture Act. A Trustee who has resigned or been removed shall be subject to section 311(a) of the Trust Indenture Act to the extent indicated therein.

Section 8.14. Appointment of Authenticating Agent.

(a) At any time when any of the Securities remain Outstanding, the Trustee may and, upon request of the Company, shall appoint an Authenticating Agent or Agents with respect to one or more series of Securities, which shall be authorized to act on behalf of the Trustee to authenticate Securities of such series issued upon exchange, registration of transfer or partial redemption thereof or pursuant to Section 2.6; provided that the Trustee's appointment of such Authenticating Agent shall be subject to the Company's approval at the time of and throughout such appointment. Securities so authenticated shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder. Wherever reference is made in this Indenture to the authentication and delivery of Securities by the Trustee or the Trustee's certificate of authentication, such reference shall be deemed to include authentication and delivery on behalf of the Trustee by an Authenticating Agent and a certificate of authentication executed on behalf of the Trustee by an Authenticating Agent. Each Authenticating Agent shall at all times be a corporation or other entity organized and doing business under the laws of the United States of America, any State thereof or the District of Columbia, authorized under such laws to act as Authenticating Agent, having a combined capital and surplus of not less than \$50,000,000 and subject to supervision or examination by Federal or State authority. If such Authenticating Agent publishes reports of condition at least annually pursuant to law or to the requirements of such supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such Authenticating Agent shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, such Authenticating Agent shall resign immediately in the manner and with the effect specified in this Section.

(b) Any corporation or other entity into which an Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation or other entity resulting from any merger, conversion or consolidation to which such Authenticating Agent shall be a party, or any corporation or other entity succeeding to the corporate agency or corporate trust business of an Authenticating Agent, shall continue to be an Authenticating Agent without the execution or filing of any paper or any further act on the part of the Trustee or the Authenticating Agent; provided such corporation or other entity shall be otherwise eligible under this Section.

(c) An Authenticating Agent may resign at any time by giving written notice thereof to the Trustee and the Company. The Trustee may at any time terminate the agency of an Authenticating Agent by giving written notice thereof to such Authenticating Agent and the Company, and the Trustee shall terminate any such agency promptly upon request by the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time such Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, the Trustee may and, upon request of the Company, shall appoint a successor Authenticating Agent; provided that the Trustee's appointment of such Authentication Agent shall be subject to the Company's approval at the time of and throughout such appointment, and the Trustee shall mail written notice of such appointment by first-class mail, postage prepaid, to all Holders of Securities of the series with respect to which such Authenticating Agent will serve, as their names and addresses appear in the Security Register. Any successor Authenticating

Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent. No successor Authenticating Agent shall be appointed unless eligible under the provisions of this Section.

(d) The Company agrees to pay to each Authenticating Agent from time to time reasonable compensation for its services under this Section.

(e) If an appointment of an Authenticating Agent with respect to one or more series is made pursuant to this Section, the Securities of such series may have endorsed thereon, in lieu of the Trustee's certificate of authentication, an alternate certificate of authentication in the following form:

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
As Authenticating Agent

Date: _____

Section 8.15. Consequential Damages.

In no event shall the Trustee be responsible or liable for special, indirect, punitive 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.

Section 8.16. Notices.

The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured e-mail, pdf, facsimile transmission or other similar unsecured electronic methods; provided, however, that the Trustee shall have received or have on file an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the Company elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. 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 Company agrees to assume all risks arising out of the use of such electronic methods by the Company to submit instructions and directions 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.

Section 8.17. Force Majeure.

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 reasonable 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; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

ARTICLE IX

HOLDERS' LISTS AND REPORTS BY TRUSTEE AND COMPANY

Section 9.1. Company to Furnish Trustee Names and Addresses of Holders.

If the Trustee is not the Security Registrar, the Company will furnish or cause to be furnished to the Trustee:

(a) not later than 15 days after each Regular Record Date (or, if there is no Regular Record Date relating to a series, semi-annually on dates set forth in the Board Resolution or supplemental indenture with respect to such series), a list, in such form as the Trustee may reasonably require, of the names and addresses of the Holders as of such date, and

(b) at such other times as the Trustee may request in writing, within 30 days after the receipt by the Company of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished.

Section 9.2. Preservation of Information; Communications to Holders.

(a) The Trustee shall preserve, in as current a form as is reasonably practicable, the names and addresses of Holders contained in the most recent list furnished to the Trustee as provided in Section 9.1 (if any) and the names and addresses of Holders received by the Trustee in its capacity as Security Registrar. The Trustee may destroy any list furnished to it as provided in Section 9.1 upon receipt of a new list so furnished.

(b) Holders of any series may communicate pursuant to section 312(b) of the Trust Indenture Act with other Holders of that series or any other series with respect to their rights under this Indenture or the Securities of that series or any other series. The Company, the Trustee, the Security Registrar and any other Person shall have the protection of section 312(c) of the Trust Indenture Act.

Section 9.3. Reports by Trustee.

(a) Within 60 days after May 15 of each year, commencing the May 15 following the date of this Indenture, the Trustee shall, to the extent that any of the events described in section 313(a) of the Trust Indenture Act occurred within the previous 12 months, but not otherwise, mail to each Holder a brief report dated as of such date that complies with section 313(a) of the Trust Indenture Act. The Trustee also shall comply with sections 313(a), 313(b), 313(c) and 313(d) of the Trust Indenture Act.

(b) A copy of each report at the time of its mailing to Holders shall be mailed to the Company and filed with the Commission and each securities exchange, if any, on which the Securities of that series are listed.

(c) The Company shall notify the Trustee if the Securities of any series become listed on any securities exchange or of any delisting thereof and the Trustee shall comply with section 313(d) of the Trust Indenture Act.

Section 9.4. Reports by Company.

(a) The Company shall deliver to the Trustee, within fifteen days after the same is filed with the Commission, copies of the quarterly and annual reports and of the information, documents and other reports, if any, that the Company is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act, and to the extent required by Section 1.7, the Company shall otherwise comply with the requirements of Section 314(a) of the Trust Indenture Act. Any such report, information or document that the Company files with the Commission through the Commission's EDGAR database (or any successor thereto) shall be deemed delivered to the Trustee for purposes of this Section 9.4(a) at the time of such filing through the EDGAR database (or successor thereto), without notice to the Trustee or any other action on the part of the Company.

(b) Delivery of any information, documents and reports to the Trustee pursuant to clause (a) of this Section is for informational purposes only and the Trustee's receipt of such items shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officer's Certificates).

SUPPLEMENTAL INDENTURES

Section 10.1. Supplemental Indentures Without Consent of Holders.

Without the consent of or notice to any Holders, the Company and the Trustee (at the direction of the Company) at any time and from time to time, may enter into one or more indentures supplemental hereto (including any related opinions, certificates and ancillary documents), in form reasonably satisfactory to the Trustee, for any of the following purposes:

- (1) to evidence the succession of another Person to the Company and the assumption by any such successor of the covenants of the Company herein and in the Securities; or
- (2) to add to the covenants of the Company for the benefit of the Holders of all or any series of Securities (and if such covenants are to be for the benefit of less than all series of Securities, stating that such covenants are expressly being included solely for the benefit of such series) or to surrender any right or power herein conferred upon the Company; or
- (3) to add any additional Events of Default with respect to all or any series of Securities (and if such Events of Default are to be for the benefit of less than all series of Securities, stating that such Events of Default are expressly being included solely for the benefit of such series); or
- (4) to add to or change any of the provisions of this Indenture to such extent as shall be necessary to permit or facilitate the issuance of new Securities permitted by Section 2.1 in bearer form, registrable or not registrable as to principal, and with or without interest coupons, or to permit or facilitate the issuance of Securities in uncertificated form; or
- (5) to secure the Securities; or
- (6) to add any guarantees with respect to the Securities; or
- (7) to change or eliminate any of the provisions of this Indenture; provided that any such change or elimination shall become effective only when there is no Security Outstanding of any series created prior to the execution of such supplemental indenture which is entitled to the benefit of such provision; or
- (8) to make a change to the Securities of any series that does not adversely affect the rights of any Holder of the Securities of such series; or
- (9) to establish the form or terms of Securities of any series as permitted by Section 2.1; or
- (10) to evidence and provide for the acceptance of appointment hereunder by a successor Trustee with respect to the Securities of one or more series or to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to the requirements of Section 8.11(b); or
- (11) to cure any ambiguity or omission or to correct or supplement any provision herein which may be defective or inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Indenture; provided that such action shall not adversely affect the interests of the Holders of Securities of any series in any material respect; or

(12) to comply with any requirement of the Commission in order to effect or maintain the qualification of this Indenture under the Trust Indenture Act; or

(13) to make any change in Article XII that would limit or terminate the benefits available to any holder of Senior Indebtedness under such Article; or

(14) to change or eliminate any of the provisions of this Indenture with respect to any series of Securities theretofore unissued; or

(15) to conform this Indenture or the Securities to the description thereof in the related prospectus, offering memorandum or disclosure document.

Section 10.2. Supplemental Indentures with Consent of Holders.

(a) With the consent of the Holders of not less than a majority in principal amount of the Outstanding Securities of each series so affected by such supplemental indenture, by Act of such Holders delivered to the Company and the Trustee, the Company and the Trustee (at the direction of the Company) may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of the Securities of such series or of modifying in any manner the rights of the Holders of Securities of such series under this Indenture. Without the consent of the Holder of each Outstanding Security directly affected thereby, a supplemental indenture under this Section 10.2 shall not (with respect to any Outstanding Security held by a non-consenting Holder):

(1) change the Stated Maturity of, the principal of, or any installment of principal of or interest (including Additional Interest) on, such Security, or reduce the principal amount thereof or the rate of interest thereon or any premium payable upon the redemption thereof, or reduce the amount of the principal of an Original Issue Discount Security that would be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 7.2, or adversely affect any right of repayment of such Security at the Holder's option or change any Place of Payment where, or the currency in which, such Security or any premium or the interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date) or modify the Securities of any series to subordinate such Securities to other indebtedness, or

(2) reduce the percentage in principal amount of the Outstanding Securities of the series for such Outstanding Security, the consent of whose Holders is required for any such supplemental indenture, or the consent of whose Holders is required for any waiver (of compliance with certain provisions of this Indenture or certain defaults hereunder and their consequences) provided for in this Indenture; or

(3) modify any of the provisions of this Section or Section 7.13, except to increase any such percentage or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Security directly affected thereby; provided, however, that this clause shall not be deemed to require the consent of any Holder with respect to changes in the references to "the Trustee" and concomitant changes in this Section, or the deletion of this proviso, in accordance with the requirements of Sections 8.11(b) and 10.1(8);

(4) make any Security payable in a currency other than that stated in such Security; or

(5) modify the provisions of Article XII with respect to the Securities in a manner materially adverse to such Holder.

(b) A supplemental indenture which changes or eliminates any covenant or other provision of this Indenture which has expressly been included solely for the benefit of one or more particular series of Securities, or which modifies the rights of the Holders of Securities of such series with respect to such covenant or other provision, shall be deemed not to affect the rights under this Indenture of the Holders of Securities of any other series.

(c) It shall not be necessary for any Act of Holders under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.

(d) The Company may set a record date for purposes of determining the identity of Holders of Securities entitled to consent pursuant to this Section. Such record date shall be the later of (i) 30 days prior to the first solicitation of such consent or (ii) the date of the most recent list of Holders furnished to the Trustee pursuant to Section 9.1 prior to such solicitation.

Section 10.3. Execution of Supplemental Indentures.

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article or the modifications thereby of the trusts created by this Indenture, the Trustee shall be entitled to receive, and (subject to Section 8.1) shall be fully protected in relying upon, an Officer's Certificate and an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Indenture and complies with the provisions hereof (including Section 10.5). The Trustee may, but shall not be obligated to, enter into any such supplemental indenture which affects the Trustee's own rights, duties, or immunities or liabilities under this Indenture or otherwise.

Section 10.4. Effect of Supplemental Indentures.

Upon the execution of any supplemental indenture under this Article, this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes. Every Holder of Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

Section 10.5. Conformity with Trust Indenture Act.

Every supplemental indenture executed pursuant to this Article shall conform to the requirements of the Trust Indenture Act, as then in effect.

Section 10.6. Reference in Securities to Supplemental Indentures.

Securities authenticated and delivered after the execution of any supplemental indenture pursuant to this Article may, and shall if required by the Trustee, bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Securities of any series so modified as to conform, in the opinion of the Trustee and the Company, to any such supplemental indenture may be prepared and executed by the Company, and such Securities may be authenticated and delivered by the Trustee, in exchange for Outstanding Securities of such series.

ARTICLE XI

SATISFACTION AND DISCHARGE; DEFEASANCE

Section 11.1. Satisfaction and Discharge of Indenture.

(a) This Indenture shall upon Company Request cease to be of further effect with respect to Securities of any series (except as to any surviving rights of registration of transfer or exchange of Securities of such series and replacement of lost, stolen or mutilated Securities of such series herein expressly provided for), and the Trustee, on the demand of and at the expense of the Company, shall execute instruments acknowledging satisfaction and discharge of this Indenture with respect to such series, when:

(1) Either:

(A) all Securities of such series theretofore authenticated and delivered have been delivered to the Trustee for cancellation (other than (i) Securities of such series which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 2.6 and (ii) Securities of such series for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 5.3); or

(B) all such Securities of such series not theretofore delivered to the Trustee for cancellation:

(i) have become due and payable, or

(ii) will become due and payable at their Stated Maturity within one year, or

(iii) are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption,

and the Company, in the case of clauses (i), (ii) or (iii) above, has deposited or caused to be deposited with the Trustee as trust funds in trust for the purpose of establishing an amount sufficient to pay and discharge the entire indebtedness on such Securities of such series not theretofore delivered to the Trustee for cancellation, for principal and interest (including Additional Interest, if any) to the date of such deposit (in the case of Securities of such series which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be; and

(2) the Company has paid or caused to be paid all other sums payable hereunder by the Company with respect to Securities of such series; and

(3) the Company has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for the satisfaction and discharge of this Indenture with respect to Securities of such series have been complied with.

(b) At any time when no Securities of any series are Outstanding, this Indenture shall upon Company Request cease to be of further effect and the Trustee, at the expense of the Company, shall execute instruments of satisfaction and discharge of this Indenture.

(c) Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Company to the Trustee under Section 8.7 and, if money shall have been deposited with the Trustee pursuant to subclause (B) of clause (a)(1) of this Section 11.1, the obligations of the Trustee under Section 11.6 and Section 5.3(e) shall survive.

(d) If, subsequent to the date a discharge is effected pursuant to this Section 11.1, Additional Interest (in excess of that established as of the date such discharge is effected) becomes payable in respect of the series of Securities discharged, in order to preserve the benefits of the discharge established hereunder, the Company shall irrevocably deposit or cause to be irrevocably deposited in accordance with the provisions of this Section 11.1, within ten Business Days prior to the date the first payment in respect of any portion of such excess Additional Interest becomes due, such additional funds as are necessary to satisfy the provisions of this Section 11.1 as if a discharge were being effected as of the date of such subsequent deposit. Failure to comply with the requirements of this paragraph shall result in the termination of the benefits of the discharge established by this Section 11.1.

Section 11.2. Company's Option to Effect Defeasance or Covenant Defeasance.

Unless pursuant to Section 2.1 provision is made for either or both of (a) defeasance of the Securities of another series under Section 11.3 not to be applicable with respect to the Securities of a particular series or (b) covenant defeasance of the Securities of another series under Section 11.4 not to be applicable with respect to the Securities of such particular series, then the provisions of such Sections, together with the other provisions of Sections 11.3, 11.4, 11.5 and 11.6, shall be applicable to the Securities of such particular series, and the Company may at its option, at any time, with respect to the Securities of such particular series, elect to have either Section 11.3 or Section 11.4 be applied to the Outstanding Securities of such series upon compliance with the conditions set forth below in Sections 11.3, 11.4, 11.5 and 11.6.

Section 11.3. Defeasance and Discharge.

Upon the Company's exercise of the option set forth in Section 11.2 and satisfaction of the conditions to defeasance set forth in Section 11.5, the Company shall be deemed to have been discharged from its obligations with respect to the Outstanding Securities of such series, and the provisions of Article XII shall cease to be effective, on the date the conditions set forth below are satisfied (hereinafter, "defeasance"). For this purpose, such defeasance means that the Company shall be deemed to have paid and discharged the entire indebtedness represented by the Outstanding Securities of such series and to have satisfied all its other obligations under such Securities and this Indenture insofar as such Securities are concerned (and the Trustee, at the expense and direction of the Company, shall execute instruments acknowledging the same), except for the following which shall survive until otherwise terminated or discharged hereunder: (A) the rights of Holders of Outstanding Securities of such series to receive, solely from the trust fund described in Section 11.5 and as more fully set forth in such Section, payments in respect of the principal of (and premium, if any) and interest on such Securities when such payments are due, (B) the Company's obligations with respect to such Securities under Sections 2.4, 2.5, 2.6, 5.2 and 5.3, (C) the rights, powers, trusts, duties, and immunities of the Trustee under Sections 2.5, 2.6, 2.7, 2.8, 2.9, 5.3(e), 8.7 and 11.6 and otherwise the duty of the Trustee to authenticate Securities of such series issued on registration of transfer or exchange and (D) Sections 11.3, 11.4, 11.5 and 11.6. Subject to compliance with Sections 11.3, 11.4, 11.5 and 11.6, the Company may exercise its option under this Section 11.3 notwithstanding the prior exercise of its option under Section 11.4 with respect to the Securities of such series.

Section 11.4. Covenant Defeasance.

Upon the Company's exercise of the option set forth in Section 11.2 and satisfaction of the conditions to defeasance set forth in Section 11.5, the Company shall be released from its obligations under Sections 5.4, 5.5, 6.1 and 9.4 and any other covenants to be applicable to the Securities of a series as specified pursuant to Section 2.1 unless specified otherwise pursuant to such Section (and the failure to comply with any such provisions shall not constitute a default or Event of Default under Section 7.1), and the occurrence of any event described in Sections 7.1(7) and any other events of default to be applicable to the Securities of a series as specified pursuant to Section 2.1 unless specified otherwise pursuant to such Section shall not constitute a default or Event of Default hereunder, with respect to the Outstanding Securities of such series on and after the date the conditions set forth below are satisfied (hereinafter, "covenant defeasance"). For this purpose, such covenant defeasance means that, with respect to the Outstanding Securities of such series, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such Section with respect to it, whether directly or indirectly by reason of any reference elsewhere herein to any such Section or by reason of any reference in any such Section to any other provision herein or in any other document, but the remainder of this Indenture and such Securities shall be unaffected thereby.

Section 11.5. Conditions to Defeasance or Covenant Defeasance.

The following shall be the conditions to application of either Section 11.3 or Section 11.4 to the Outstanding Securities of such series:

(a) the Company shall irrevocably have deposited or caused to be deposited with the Trustee (or another trustee satisfying the requirements of Section 8.9 who shall agree to comply with the provisions of this Article XI applicable to it) as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to, the benefit of the holders of such Securities, (A) money in an amount, or (B) U.S. Government Obligations which through the scheduled payment of principal and interest in respect thereof in accordance with their terms will provide, not later than the due date of any payment, money in an amount, or (C) a combination thereof, sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge, and which shall be applied by the Trustee (or other qualifying trustee) to pay and discharge, (i) the principal of (and premium, if any) on and each installment of principal of (premium, if any) and interest on the Outstanding Securities of such series on the Stated Maturity of such principal or installment of principal or interest and (ii) any mandatory sinking fund payments or analogous payments applicable to the Outstanding Securities of such series on the day on which such payments are due and payable in accordance with the terms of this Indenture and of such Securities. For this purpose, "U.S. Government Obligations" means securities that are (x) direct obligations of the United States of America for the payment of which its full faith and credit is pledged or (y) 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, and shall also include a depository receipt issued by a bank (as defined in section 3(a)(2) of the Securities Act of 1933, as amended from time to time) as custodian with respect to any such U.S. Government Obligation or a specific payment of principal of or interest on any such U.S. Government Obligation held by such custodian for the account of the holder of such depository receipt; provided 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 the U.S. Government Obligation or the specific payment of principal of or interest on the U.S. Government Obligation evidenced by such depository receipt;

(b) no Event of Default with respect to the Securities of such series shall have occurred and be continuing on the date of such deposit (other than an Event of Default resulting from borrowing of funds to be applied to such deposit and the grant of any lien securing such borrowing);

(c) such defeasance or covenant defeasance shall not cause the Trustee for the Securities of such series to have a conflicting interest for purposes of the Trust Indenture Act with respect to any securities of the Company;

(d) such defeasance or covenant defeasance shall not result in a breach or violation of, or constitute a default under, any other agreement or instrument to which the Company is a party or by which it is bound;

(e) such defeasance or covenant defeasance shall not cause any Securities of such series then listed on any registered national securities exchange under the Exchange Act to be delisted;

(f) in the case of an election under Section 11.3, the Company shall have delivered to the Trustee an Opinion of Counsel stating that (x) the Company has received from, or there has been published by, the Internal Revenue Service a ruling, or (y) since the date of this Indenture there has been a change in the applicable Federal income tax law, in either case to the effect that, and based thereon such opinion shall confirm that, the Holders of the Outstanding Securities of such series will not recognize income, gain or loss for Federal income tax purposes as a result of such defeasance and will be subject to Federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such defeasance had not occurred;

(g) in the case of an election under Section 11.4, the Company shall have delivered to the Trustee an Opinion of Counsel to the effect that the Holders of the Outstanding Securities of such series will not recognize income, gain or loss for Federal income tax purposes as a result of such covenant defeasance and will be subject to Federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such covenant defeasance had not occurred;

(h) such defeasance or covenant defeasance shall be effected in compliance with any additional terms, conditions or limitations which may be imposed on the Company in connection therewith pursuant to Section 2.1;

(i) the Company shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent relating to either the defeasance under Section 11.3 or the covenant defeasance under Section 11.4, as the case may be, have been complied with;

(j) No event or condition shall exist that, pursuant to the provisions of Article XII, would prevent the Company from making payments of the principal of (and any premium) or interest (including Additional Interest) on the Securities of such series on the date of such deposit; and

(k) The Company shall have delivered to the Trustee an Opinion of Counsel substantially to the effect that (i) the trust funds deposited pursuant to this Section will not be subject to any rights of holders of Senior Indebtedness, including those arising under Article XII, and (ii) after the 90th day following the deposit, the trust funds will not be subject to the effect of any applicable bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally, except that if a court were to rule under any such law in any case or proceeding that the trust funds remained property of the Company, no opinion is given as to the effect of such laws on the trust funds except the following: (A) assuming such trust funds remained in the possession of the trustee with whom such funds were deposited prior to such court ruling to the extent not paid to Holders of such Securities, such trustee would hold, for the benefit of such

Holders, a valid and perfected security interest in such trust funds that is not avoidable in bankruptcy or otherwise, (B) such Holders would be entitled to receive adequate protection of their interests in such trust funds if such trust funds were used and (C) no property, rights in property or other interests granted to such trustee for the Trustee or such Holders in exchange for or with respect to any such funds would be subject to any prior rights of holders of Senior Indebtedness, including those arising under Article XII.

Section 11.6. Deposited Money and U.S. Government Obligations to Be Held in Trust; Other Miscellaneous Provisions.

(a) Subject to the provisions of Section 5.3(e), all money deposited with the Trustee (or other qualifying trustee, collectively, for purposes of this Section 11.6, the “Trustee”), all money and U.S. Government Obligations deposited with the Trustee and all money received by the Trustee in respect of U.S. Government Obligations deposited with the Trustee, pursuant to Section 11.1 or 11.5, in respect of the Outstanding Securities of such series shall be held in trust and applied by the Trustee, in accordance with the provisions of such Securities 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 Holders of such Securities, of all sums due and to become due thereon in respect of principal (and premium, if any) and interest (including Additional Interest), but such money need not be segregated from other funds except to the extent required by law. Money and U.S. Government Obligations (including the proceeds thereof) so held in trust shall not be subject to the provisions of Article XII, provided that the applicable conditions of Section 11.5 have been satisfied.

(b) The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the U.S. Government Obligations deposited pursuant to Section 11.5 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 Securities of such series.

(c) Anything in this Article XI to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon Company Request any money or U.S. Government Obligations held by it as provided in Section 11.5 which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, are in excess of the amount thereof which would then be required to be deposited to effect an equivalent defeasance or covenant defeasance and pay any obligations owed or accrued in favor of the Trustee.

ARTICLE XII

SUBORDINATION

Section 12.1. Securities Subordinate to Senior Indebtedness.

(a) The Company covenants and agrees, and each Holder of a Security, by his acceptance thereof, likewise covenants and agrees, that, to the extent and in the manner hereinafter set forth in this Article (subject to Article XI), the payment of the principal of, premium, if any, and interest (including Additional Interest) on each and all of the Securities are hereby expressly made subordinate and subject in right of payment to the prior payment in full in cash of all Senior Indebtedness.

(b) No provision of this Article XII shall prevent the occurrence of any Default or Event of Default hereunder.

Section 12.2. Payment of Proceeds upon Dissolution, etc.

(a) Upon any payment or distribution of assets of the Company to creditors upon any liquidation, dissolution, winding-up, reorganization, assignment for the benefit of creditors, marshalling of assets or liabilities or any bankruptcy, insolvency or similar proceedings of the Company, whether voluntary or involuntary (each such event, if any, referred to as a "Proceeding"), the holders of Senior Indebtedness shall be entitled to receive payment in full of all amounts due on or to become due on or in respect of all Senior Indebtedness (including any interest accruing thereon after the commencement of any such Proceeding, whether or not allowed as a claim against the Company in such Proceeding), before the Holders of the Securities are entitled to receive any payment or distribution (excluding any payment described in Section 12.9) on account of the principal of, premium, if any, or interest (including Additional Interest, if any) on the Securities or on account of any purchase, redemption or other acquisition of Securities by the Company (all such payments, distributions, purchases, redemptions and acquisitions, whether or not in connection with a Proceeding, herein referred to, individually and collectively, as a "Payment").

(b) In the event that, notwithstanding the foregoing, any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities, prohibited by the foregoing shall be received by the Trustee or a Holder of the Securities before all Senior Indebtedness is paid in full, or provision is made for such payment in money in accordance with its terms, such payment or distribution shall be held in trust for the benefit of and shall be paid over or delivered to the holders of Senior Indebtedness or to the trustee or trustees under any indenture pursuant to which any instruments evidencing any such Senior Indebtedness may have been issued, as their respective interests may appear, as calculated by the Company, for application to the payment of all Senior Indebtedness remaining unpaid to the extent necessary to pay all Senior Indebtedness in full in accordance with its terms, after giving effect to any concurrent payment or distribution to or for the holders of such Senior Indebtedness.

(c) For purposes of this Article, "assets of the Company" shall not be deemed to include shares of stock of the Company as reorganized or readjusted, or securities of the Company or any other corporation provided for by a plan of reorganization or readjustment, the payment of which is subordinated at least to the extent provided in this Article with respect to the Securities to the payment of all Senior Indebtedness that may at the time be outstanding; provided, however, that (i) the Senior Indebtedness is assumed by the new corporation, if any, resulting from any such reorganization or readjustment, and (ii) the rights of the holders of the Senior Indebtedness are not, without the consent of such holders, altered by such reorganization or readjustment. The consolidation of the Company with, or the merger of the Company into, another corporation or the liquidation or dissolution of the Company following the conveyance

or transfer of its property as an entirety, or substantially as an entirety, to another corporation upon the terms and conditions provided for in Article VI hereof shall not be deemed a dissolution, winding-up, liquidation or reorganization for the purposes of this Section 12.2 if such other corporation shall, as a part of such consolidation, merger, conveyance or transfer, comply with the conditions stated in Article VI hereof. Nothing in Section 12.3 or in this Section 12.2 shall apply to claims of, or payments to, the Trustee under or pursuant to Section 8.7.

Section 12.3. No Payment When Senior Indebtedness in Default.

(a) No payment of any principal, including redemption payments, if any, premium, if any, or interest on (including Additional Interest) the Securities shall be made if:

(1) any Senior Indebtedness is not paid when due, whether at the stated maturity of any such payment or by call for redemption, and any applicable grace period with respect to such default has ended, with such default remaining uncured, and such default has not been waived or otherwise ceased to exist;

(2) the maturity of any Senior Indebtedness has been accelerated because of a default; or

(3) notice has been given of the exercise of an option to require repayment, mandatory payment or prepayment or otherwise.

(b) In the event that, notwithstanding the foregoing, the Company shall make any Payment to the Trustee or any Holder prohibited by the foregoing provisions of this Section, then in such event such Payment shall be held in trust and paid over and delivered forthwith to the holders of the Senior Indebtedness or to the trustee or trustees under any indenture pursuant to which any instruments evidencing any such Senior Indebtedness may have been issued, as their respective interests may appear, as calculated by the Company, for application to the payment of all Senior Indebtedness remaining unpaid to the extent necessary to pay all Senior Indebtedness in full in accordance with its terms, after giving effect to any concurrent payment or distribution to or for the holders of such Senior Indebtedness.

(c) The provisions of this Section shall not apply to any Payment with respect to which Section 12.2 hereof would be applicable.

Section 12.4. Payment Permitted if no Default.

(a) Nothing contained in this Article or elsewhere in this Indenture or in any of the Securities shall prevent the Company, at any time except during the pendency of any Proceeding referred to in Section 12.2 hereof or under the conditions described in Section 12.3 hereof, from making Payments. Nothing in this Article shall have any effect on the right of the Holders or the Trustee to accelerate the maturity of the Securities upon the occurrence of an Event of Default, but, in that event, no payment may be made in violation of the provisions of this Article with respect to the Securities. If payment of the Securities is accelerated because of an Event of Default, the Company shall promptly notify the holders of the Senior Indebtedness (or their representatives) of such acceleration.

Section 12.5. Subrogation to Rights of Holders of Senior Indebtedness.

(a) The rights of the Holders of the Securities shall be subrogated to the rights of the holders of such Senior Indebtedness to receive payments and distributions of cash, property and securities applicable to the Senior Indebtedness until the principal of, premium, if any, and interest (including Additional Interest) on the Securities shall be paid in full. For purposes of such subrogation, no payments or distributions to the holders of the Senior Indebtedness of any cash, property or securities to which the Holders of the Securities or the Trustee would be entitled except for the provisions of this Article, and no payments pursuant to the provisions of this Article to the holders of Senior Indebtedness by Holders of the Securities or the Trustee, shall, as among the Company, its creditors other than holders of Senior Indebtedness and the Holders of the Securities, be deemed to be a payment or distribution by the Company to or on account of the Senior Indebtedness.

Section 12.6. Provisions Solely to Define Relative Rights.

(a) The provisions of this Article are and are intended solely for the purpose of defining the relative rights of the Holders on the one hand and the holders of Senior Indebtedness on the other hand. Nothing contained in this Article or elsewhere in this Indenture or in the Securities is intended to or shall (a) impair, as among the Company, its creditors other than holders of Senior Indebtedness and the Holders of the Securities, the obligation of the Company, which is absolute and unconditional (and which, subject to the rights under this Article of the holders of Senior Indebtedness, is intended to rank equally with all other general obligations of the Company), to pay to the Holders of the Securities the principal of, premium, if any, and interest (including Additional Interest) on the Securities as and when the same shall become due and payable in accordance with their terms; or (b) affect the relative rights against the Company of the Holders of the Securities and creditors of the Company other than the holders of Senior Indebtedness; or (c) prevent the Trustee or the Holder of any Security from exercising all remedies otherwise permitted by applicable law upon default under this Indenture, subject to the rights, if any, under this Article of the holders of Senior Indebtedness to receive cash, property and securities otherwise payable or deliverable to the Trustee or such Holder or, under the conditions specified in Section 12.3, to prevent any payment prohibited by such Section or enforce their rights pursuant to the penultimate paragraph in Section 12.3.

Section 12.7. Trustee to Effectuate Subordination.

(a) Each Holder of a Security by his acceptance thereof authorizes and directs the Trustee on his behalf to take such action as may be necessary or appropriate to effectuate the subordination provided in this Article and appoints the Trustee his attorney-in-fact for any and all such purposes, including, in the event of any dissolution, winding-up, liquidation or reorganization of the Company, whether in bankruptcy, insolvency, receivership proceedings, or otherwise, the timely filing of a claim for the unpaid balance of the indebtedness of the Company owing to such Holder in the form required in such proceedings and the causing of such claim to be approved.

Section 12.8. No Waiver of Subordination Provisions.

(a) No right of any present or future holder of any Senior Indebtedness to enforce the subordination provisions provided herein shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of the Company or by any act or any failure to act, in good faith, by any such holder, or by any noncompliance by the Company with the terms, provisions and covenants of this Indenture, regardless of any knowledge thereof any such holder may have or be otherwise charged with.

(b) Without in any way limiting the generality of the foregoing paragraph, the holders of Senior Indebtedness may, at any time and from time to time, without the consent of or notice to the Trustee or the Holders of the Securities, without incurring responsibility to the Holders of the Securities and without impairing or releasing the subordination provided in this Article or the obligations hereunder of the Holders of the Securities to the holders of Senior Indebtedness, do any one or more of the following: (i) change the manner, place or terms of payment or extend the time of payment of, or renew or alter, Senior Indebtedness, or otherwise amend or supplement in any manner Senior Indebtedness or any instrument evidencing the same or any agreement under which Senior Indebtedness is outstanding; (ii) permit the Company to borrow, repay and then reborrow any or all of the Senior Indebtedness; (iii) sell, exchange, release or otherwise deal with any property pledged, mortgaged or otherwise securing Senior Indebtedness; (iv) release any Person liable in any manner for the collection of Senior Indebtedness; (v) exercise or refrain from exercising any rights against the Company and any other Person; or (vi) apply any sums received by them to Senior Indebtedness.

Section 12.9. Trust Moneys not Subordinated.

(a) Notwithstanding anything contained herein to the contrary, payments from money held in trust by the Trustee under Article XI for the payment of the principal of, premium, if any, and interest (including Additional Interest) on any series of Securities shall not be subordinated to the prior payment of any Senior Indebtedness or subject to the restrictions set forth in this Article, and no Holder of such Securities nor the Trustee shall be obligated to pay over such amount to the Company, any holder of Senior Indebtedness (or a designated representative of such holder) or any other creditor of the Company.

Section 12.10. Notice to the Trustee.

(a) The Company shall give prompt written notice to a Responsible Officer of the Trustee of any fact known to the Company that would prohibit the making of any payment of monies to or by the Trustee in respect of the Securities pursuant to the provisions of this Article. Notwithstanding the provisions of this Article or any other provision of this Indenture, the Trustee shall not be charged with knowledge of the existence of any facts that would prohibit the making of any payment of monies to or by the Trustee in respect of the Securities pursuant to the provisions of this Article unless and until a Responsible Officer of the Trustee shall have received written notice thereof at the Corporate Trust Office of the Trustee from the Company or a holder or holders of Senior Indebtedness or from any trustee therefor; and before the receipt of any such written notice, the Trustee, subject to the provisions of Section 8.1, shall be entitled in all respects to assume that no such facts exist; provided, however, that if the Trustee shall not

have received the notice provided for in this Section 12.10 at least two Business Days prior to the date upon which, by the terms hereof, any money may become payable for any purpose (including, without limitation, the payment of the principal of (or premium, if any) or interest on any Securities), then, anything herein contained to the contrary notwithstanding, the Trustee shall have full power and authority to receive such money and to apply the same to the purposes for which they were received, and shall not be affected by any notice to the contrary that may be received by it within two Business Days prior to such date.

(b) The Trustee, subject to the provisions of Section 8.1, shall be entitled to rely on the delivery to it of a written notice by a Person representing himself to be a holder of Senior Indebtedness (or a trustee on behalf of such holder) to establish that such notice has been given by a holder of Senior Indebtedness or a trustee on behalf of any such holder or holders. In the event that the Trustee determines in good faith that further evidence is required with respect to the right of any Person as a holder of Senior Indebtedness to participate in any payment or distribution pursuant to this Article, the Trustee may request such Person to furnish evidence to the reasonable satisfaction of the Trustee as to the amount of Senior Indebtedness held by such Person, the extent to which such Person is entitled to participate in such payment or distribution and any other facts pertinent to the rights of such Person under this Article, and if such evidence is not furnished the Trustee may defer any payment to such Person pending judicial determination as to the right of such Person to receive such payment.

Section 12.11. Reliance on Judicial Order or Certificate of Liquidating Agent.

(a) Upon any payment or distribution of assets of the Company referred to in this Article, the Trustee, subject to the provisions of Section 8.1 hereof, and the Holders of the Securities shall be entitled to rely upon any order or decree entered by any court of competent jurisdiction in which such Proceeding is pending, or a certificate of the trustee in bankruptcy, receiver, liquidating trustee, custodian, assignee for the benefit of creditors, agent or other Person making such payment or distribution, delivered to the Trustee or to the Holders of the Securities, for the purpose of ascertaining the Persons entitled to participate in such payment or distribution, the holders of the Senior Indebtedness, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article, provided that the foregoing shall apply only if such court has been apprised of the provisions of this Article.

Section 12.12. Trustee not Fiduciary for Holders of Senior Indebtedness.

(a) Subject to the provisions of Section 8.1, the Trustee shall not be deemed to owe any fiduciary duty to the holders of Senior Indebtedness and shall not be liable to any such holders if it shall in good faith mistakenly pay over or distribute to Holders of the Securities or to the Company or to any other Person cash, property or securities to which any holders of Senior Indebtedness shall be entitled by virtue of this Article or otherwise. With respect to the holders of Senior Indebtedness, the Trustee undertakes to perform or to observe only such of its covenants or obligations as are specifically set forth in this Article and no implied covenants or obligations with respect to holders of Senior Indebtedness shall be read into this Indenture against the Trustee.

Section 12.13. Rights of Trustee as Holder of Senior Indebtedness; Preservation of Trustee's Rights.

(a) The Trustee in its individual capacity shall be entitled to all the rights set forth in this Article with respect to any Senior Indebtedness that may at any time be held by it, to the same extent as any other holder of Senior Indebtedness, and nothing in this Indenture shall deprive the Trustee of any of its rights as such holder.

(b) Nothing in this Article shall apply to claims of, or payments to, the Trustee under or pursuant to Section 8.7 hereof.

Section 12.14. Article Applicable to Paying Agents.

(a) In case at any time any Paying Agent other than the Trustee (or the Company or an Affiliate of the Company) shall have been appointed by the Company and be then acting hereunder, the term "Trustee" as used in this Article shall in such case (unless the context otherwise requires) be construed as extending to and including such Paying Agent within its meaning as fully for all intents and purposes as if such Paying Agent were named in this Article in addition to or in place of the Trustee.

Section 12.15. Reliance by Holders of Senior Indebtedness on Subordination Provisions.

(a) Each Holder by accepting a Security acknowledges and agrees that the foregoing subordination provisions are, and are intended to be, an inducement and a consideration to each holder of any Senior Indebtedness, whether such Senior Indebtedness was created or acquired before or after the issuance of the Securities, to acquire and continue to hold, or to continue to hold, such Senior Indebtedness, and such holder of Senior Indebtedness shall be deemed conclusively to have relied on such subordination provisions in acquiring and continuing to hold, or to continue to hold, such Senior Indebtedness. Each Holder of Securities, by its acceptance hereof, waives all notice of acceptance of the subordination provisions contained herein by each Holder of Senior Indebtedness of the Company, whether now outstanding or hereafter incurred, and waives reliance by each such holder upon said provisions.

Section 12.16. Additional Interest.

(a) Whenever there is mentioned in this Indenture, in any context, the payment of the principal of, premium, if any, or interest on, or in respect of, any Securities of any series, such mention shall be deemed to include mention of the payment of Additional Interest provided for by the terms of such series of Securities to the extent that, in such context, Additional Interest is, were or would be payable in respect thereof pursuant to such terms, and express mention of the payment of Additional Interest in any provisions hereof shall not be construed as excluding Additional Interest in those provisions hereof where such express mention is not made.

* * * *

This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute one and the same instrument.

[The remainder of this page intentionally left blank; signature pages follow.]

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of the date first above written.

COMPANY:

AFFILIATED MANAGERS GROUP, INC.

By: /s/ David Billings

Name: David M. Billings

Title: Executive Vice President, General Counsel and
Secretary

[Signature page to Indenture]

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of the date first above written.

TRUSTEE:

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: /s/ David W. Doucette
Name: David W. Doucette
Title: Vice President

[Signature page to Indenture]

AFFILIATED MANAGERS GROUP, INC.

First Supplemental Indenture

Dated as of March 27, 2019

5.875% Junior Subordinated Notes due 2059

(First Supplement to the Junior Subordinated Notes Indenture Dated as of March 27, 2019)

U.S. BANK NATIONAL ASSOCIATION, as Trustee

FIRST SUPPLEMENTAL INDENTURE, dated as of March 27, 2019, between Affiliated Managers Group, Inc., a Delaware corporation (herein called the “**Company**”), having its principal executive offices at 777 South Flagler Drive, West Palm Beach, Florida, 33401, and U.S. Bank National Association, a national bank association, as Trustee (herein called the “**Trustee**”).

RECITALS:

WHEREAS, the Company executed and delivered to the Trustee a Junior Subordinated Notes Indenture, dated as of March 27, 2019 (the “**Base Indenture**”), providing for the issuance from time to time of the Company’s junior subordinated debt securities (herein and therein called the “**Securities**”), to be issued in one or more series as provided in the Base Indenture;

WHEREAS, Section 10.1(9) of the Base Indenture permits the Company and the Trustee to enter into an indenture supplemental to the Base Indenture to establish the form and terms of any series of Securities without notice to or consent of any Holder of any Securities;

WHEREAS, Section 2.1(b) of the Base Indenture permits the form of Securities of any series to be established in an indenture supplemental to the Base Indenture;

WHEREAS, pursuant to Sections 2.1 and 2.3 of the Base Indenture, the Company desires to provide for the establishment of a new series of Securities under the Base Indenture, the form and substance of such series of Securities and the terms, provisions and conditions thereof to be set forth as provided in the Base Indenture and this First Supplemental Indenture;

WHEREAS, all conditions and requirements necessary to make this First Supplemental Indenture, when executed and delivered, a valid agreement of the Company, in accordance with its terms, have been performed and filled;

NOW, THEREFORE, WITNESSETH:

For and in consideration of the premises and the purchase of the Securities established by this First Supplemental Indenture by the holders thereof (the “**Holders**”), it is mutually agreed, for the equal and proportionate benefit of all such Holders, as follows:

ARTICLE I

Definitions and Other Provisions of General Application

Section 1.01. Relation to Base Indenture. This First Supplemental Indenture constitutes a part of the Base Indenture (the provisions of which, as modified through this First Supplemental Indenture, shall apply to the series of Securities established by this First Supplemental Indenture) but, except as expressly provided herein, shall not modify, amend or otherwise affect the Base Indenture insofar as it relates to any other series of Securities or, except as expressly provided herein, modify, amend or otherwise affect in any manner the terms and conditions of the Securities of any other series.

Section 1.02. **Definitions.** For all purposes of this First Supplemental Indenture, the capitalized terms used herein (i) which are defined in this Section 1.02 have the respective meanings assigned hereto in this Section 1.02 and (ii) which are defined in the Base Indenture (and which are not defined in this Section 1.02) have the respective meanings assigned thereto in the Base Indenture. For all purposes of this First Supplemental Indenture:

(a) Unless the context otherwise requires, any reference to an Article or Section refers to an Article or Section, as the case may be, of this First Supplemental Indenture;

(b) The words “herein,” “hereof” and “hereunder” and words of similar import refer to this First Supplemental Indenture as a whole and not to any particular Article, Section or other subdivision; and

(c) The terms defined in this Section 1.02(c) have the meanings assigned to them in this Section and include the plural as well as the singular.

“**Additional Interest**” has the meaning set forth in Section 2.03.

“**Administrative Action**” means any judicial decision or any official administrative pronouncement, ruling, regulatory procedure, notice or announcement, including any notice or announcement of intent to issue or adopt any administrative pronouncement, ruling, regulatory procedure or regulation.

“**Depository**” has the meaning set forth in Section 2.01(c).

“**Indenture**” means the Base Indenture, as supplemented by this First Supplemental Indenture.

“**Interest Payment Date**” has the meaning set forth in Section 2.02(a).

“**Maturity Date**” means March 30, 2059.

“**Notes**” has the meaning set forth in Section 2.01(a).

“**Optional Deferral Period**” has the meaning set forth in Section 2.03.

“**Original Issue Date**” means March 27, 2019.

“**Rating Agency Event**” means that any nationally recognized statistical rating organization within the meaning of Section 3(a)(62) under the Exchange Act that then publishes a rating for the Company (a “rating agency”) amends, clarifies or changes the criteria it uses to assign equity credit to securities such as the Notes, which amendment, clarification or change results in (a) the shortening of the length of time the Notes are assigned a particular level of equity credit by that rating agency as compared to the length of time the Notes would have been assigned that level of equity credit by that rating agency or its predecessor upon the initial issuance of the Notes; or (b) the lowering of the equity credit (including up to a lesser amount) assigned to the Notes by that rating agency compared to the equity credit assigned by that rating agency or its predecessor upon the initial issuance of the Notes.

“**Redemption Date**”, when used with respect to any Note to be redeemed, means the date fixed for the redemption of such Note by or pursuant to this First Supplemental Indenture.

“**Redemption Price**”, when used with respect to any Note to be redeemed, means the price at which such Note is to be redeemed pursuant to this First Supplemental Indenture.

“**Regular Record Date**” means, with respect to each Interest Payment Date, the close of business (i) on the Business Day immediately preceding such Interest Payment Date in respect of any Notes issued in the form of one or more Global Securities or (ii) on the 15th calendar day preceding such Interest Payment Date in respect of any Notes issued in the form of definitive Note (whether or not a Business Day).

“**Securities Rate**” has the meaning set forth in Section 2.02.

“**Tax Event**” means that the Company shall have received an opinion of counsel experienced in tax matters to the effect that, as a result of:

(a) any amendment to, clarification of, or change, including any announced prospective change, in the laws or treaties of the United States or any of its political subdivisions or taxing authorities, or any regulations under those laws or treaties;

(b) an Administrative Action;

(c) any amendment to, clarification of, or change in the official position or the interpretation of any Administrative Action or any interpretation or pronouncement that provides for a position with respect to an Administrative Action that differs from the previously generally accepted position, in each case by any legislative body, court, governmental authority or regulatory body, regardless of the time or manner in which that amendment, clarification or change is introduced or made known; or

(d) a threatened challenge asserted in writing in connection with an audit of the Company or an audit of any of the subsidiaries of the Company, or a publicly-known threatened challenge asserted in writing against any other taxpayer that has raised capital through the issuance of securities that are substantially similar to the Notes,

which amendment, clarification or change is effective or the Administrative Action is taken or issued, or interpretation or pronouncement is issued or threatened challenge is asserted or becomes publicly-known after the Original Issue Date, there is more than an insubstantial risk that interest payable by the Company on the Notes is not deductible, or within 90 days of the date of such opinion would not be deductible, in whole or in part, by the Company for United States federal income tax purposes.

ARTICLE II

General Terms and Conditions of the Notes

Section 2.01. Terms of Notes. Pursuant to Sections 2.1 and 2.3 of the Base Indenture, there is hereby established a series of Securities, the terms of which shall be as follows:

(a) Designation. The Securities shall be known and designated, as applicable, as the “5.875% Junior Subordinated Notes due 2059” (the “**Notes**”) of the Company.

(b) Principal Amount. The aggregate principal amount of the Notes shall initially be \$280,000,000 (or up to \$322,000,000 aggregate principal amount if the underwriters exercise in full their overallotment option to purchase additional Notes granted pursuant to the underwriting agreement relating to the Notes entered into by the Company and the other parties thereto on March 21, 2019). The Company may at any time issue additional securities under the Indenture in unlimited amounts having the same terms (except for the issue date, issue price and, in some cases, the first interest accrual date and first interest payment date) as the Notes (except as otherwise provided in the Indenture) so that such additional securities shall be consolidated with the Notes, including for purposes of voting and redemption; provided, however, that the Company will use a separate CUSIP for any such additional securities that are not fungible with the original Notes for U.S. federal income tax purposes. Any such additional securities shall, together with the outstanding Notes, constitute a single series of debt securities under the Indenture.

(c) Form and Denominations. The Notes will be issued only in fully registered form, and the authorized minimum denominations of the Notes shall be \$25 and integral multiples of \$25 in excess thereof. The Notes will initially be issued in the form of one or more Global Securities substantially in the form of Annex A attached hereto, with such modifications thereto as may be approved by the Officer executing the same, which shall be deposited on behalf of the purchasers of the Notes represented thereby with the Trustee as custodian for The Depository Trust Company (the “**Depository**”) and registered in the name of Cede & Co., the Depository’s nominee, duly executed by the Company, and, upon receipt of a Company Order, authenticated by the Trustee. In limited circumstances, the Notes may be represented by notes in certificated form. The Notes will be denominated in U.S. Dollars and payments of principal and interest will be made in U.S. Dollars.

(d) Sinking Fund; Holder Repurchase Right. The Notes shall not be subject to any sinking fund or analogous provision or be redeemable at the option of the Holders.

(e) Forms. The Notes shall be substantially in the form of Annex A attached hereto, with such modifications thereto as may be approved by the Officer executing the same.

(f) Security Registrar, Paying Agent and Place of Payment. The Company hereby appoints U.S. Bank National Association as Security Registrar and Paying Agent with respect to the Notes. The Notes may be surrendered for registration of transfer and for exchange at the Corporate Trust Office of the Trustee or at any other office or agency maintained by the Company for such purpose. The place of payment for the Notes shall be the Corporate Trust Office of the Trustee.

(g) Subordination. The subordination provisions of the Base Indenture, including the provisions contained in Article XII and the definition of “Senior Indebtedness” set forth in Section 1.1, shall apply to the Notes.

(h) Defeasance. The Notes shall be defeasible pursuant to both Sections 11.3 and 11.4 of the Base Indenture, and the provisions of Article XI of the Base Indenture shall apply to the Notes.

Section 2.02. Payment of Principal and Interest.

(a) The principal of the Notes shall be due on the Maturity Date (unless earlier redeemed). The unpaid principal amount of the Notes shall bear interest at the rate of 5.875% per annum (the “**Securities Rate**”) from the Original Issue Date. Subject to Section 2.03, interest on the Notes shall be payable quarterly in arrears on March 30, June 30, September 30 and December 30 of each year, beginning June 30, 2019 (each such date, an “**Interest Payment Date**”), to the Person in whose name the Notes are registered at the close of business on the Regular Record Date for such Interest Payment Date.

(b) Payments of interest on the Notes will include interest accrued to but excluding the respective Interest Payment Dates. Interest payments for the Notes shall be computed on the basis of a 360-day year of twelve 30-day months. In the event that any date on which interest is payable on the Notes is not a Business Day, then payment of the interest payable on such date will be made on the next succeeding day that is a Business Day (and without any interest or other payment in respect of any such delay), with the same force and effect as if made on the date the payment was originally payable.

Section 2.03. Deferral of Interest Payments.

(a) The Company may, at its option, on one or more occasions, defer payment of all or part of the current and accrued interest otherwise due on the Notes by extending the interest payment period for up to 20 consecutive quarterly periods (each period, commencing on the date that the first such interest payment would otherwise have been made, an “**Optional Deferral Period**”). A deferral of interest payments may not extend beyond the Maturity Date or end on a day other than an Interest Payment Date. Any deferred interest on the Notes will accrue additional interest at the Securities Rate from the applicable Interest Payment Date to the date of payment, compounded quarterly (such deferred interest and additional interest accrued thereon, “**Additional Interest**”), to the extent permitted under applicable law. No interest shall be due and payable on the Notes until the end of an Optional Deferral Period, except upon a redemption of the Notes during such Optional Deferral Period.

(b) Prior to the termination of any Optional Deferral Period, the Company may further defer the payment of interest by extending such Optional Deferral Period; provided that such Optional Deferral Period together with all such previous and further deferrals of interest payments shall not exceed 20 consecutive quarterly periods at any one time or extend beyond the Maturity Date. Upon the termination of any Optional Deferral Period or on any Redemption Date, the Company shall pay all interest accrued and unpaid on the Notes, including any Additional Interest, (i) to the Person in whose name the Notes are registered on the Regular Record Date for such Interest Payment Date, provided that interest accrued and unpaid on the Notes, including any Additional Interest, payable at the Maturity Date or on any Redemption Date will be paid to the Person to whom principal is payable, or (ii) to the Person entitled to receive the Redemption Price in accordance with Article III of the Base Indenture. Once the Company pays all interest accrued and unpaid on the Notes, including any Additional Interest, it shall be entitled again to defer interest payments on the Notes as described above.

(c) During an Optional Deferral Period, subject to Section 2.03(d), the Company shall not (i) declare or pay any dividend or make any distributions, or redeem, purchase, acquire or make a liquidation payment with respect to, any of its Capital Stock, or (ii) make any payment of interest on, principal of or premium, if any, on or repay, repurchase or redeem any debt securities (including guarantees) issued by the Company which rank equally (“**pari passu securities**”) or junior (“**junior securities**”), in each case, in right of payment to the Notes.

(d) Section 2.03(c) shall not restrict:

(i) any of the actions described in Section 2.03(c) resulting from any reclassification of the Company's Capital Stock or the exchange or conversion of one class or series of the Company's Capital Stock for another class or series of the Company's Capital Stock,

(ii) the purchase of fractional interests in shares of the Company's Capital Stock pursuant to an acquisition or the conversion or exchange provisions of such Capital Stock or the security being converted or exchanged,

(iii) dividends, payments or distributions payable in shares of Capital Stock or warrants, options or rights to acquire the Company's Capital Stock,

(iv) redemptions, purchases or other acquisitions of shares of Capital Stock in connection with any employment contract, incentive plan, benefit plan or other similar arrangement of the Company or any of its subsidiaries or in connection with a dividend reinvestment or stock purchase plan,

(v) any declaration of a dividend in connection with implementation of any stockholders' rights plan, or the issuance of rights, stock or other property under any such plan, or the redemption, repurchase or other acquisition of any such rights pursuant thereto,

(vi) redemptions, purchases or other acquisitions of shares of Capital Stock in connection with the satisfaction of the Company's obligations pursuant to any contract entered into prior to the beginning of the applicable Optional Deferral Period,

(vii) (x) any payment of current or deferred interest (or setting aside a sum sufficient for the payment thereof) on any pari passu securities that is made pro rata to the amounts due on such pari passu securities and the Notes and (y) any payment of principal or current or deferred interest on pari passu securities that, if not made, would cause the Company to breach the terms of the instrument governing such pari passu securities,

(viii) the payment of any dividend or distribution on the Company's Capital Stock within 30 days after the date of declaration of such dividend or distribution, if the dividend or distribution would have been permitted under the Indenture on the date of declaration, or

(ix) the redemption of pari passu securities or junior securities within 60 days after the date on which notice of redemption was given, if at the time the notice was given, such redemption would have been permitted under the Indenture.

(e) The Company shall provide written notice of its selection or extension of an Optional Deferral Period to a Responsible Officer of the Trustee at least 10 Business Days and not more than 60 Business Days prior to the earlier of (i) the next applicable Interest Payment Date or (ii) the date, if any, upon which the Company is required to give notice of such Interest Payment Date or the Regular Record Date thereof to the New York Stock Exchange or any applicable self-

regulatory organization. In addition, the Company shall deliver to the Trustee an Officer's Certificate stating whether or not a Default or Event of Default shall have occurred and be continuing. Subject to the delivery of the Officer's Certificate described in the immediately preceding sentence, the Trustee shall forward such written notice promptly to the Holders of the Notes as provided in Section 1.6 of the Base Indenture.

Section 2.04. Redemption at the Company's Option.

(a) At any time and from time to time on or after March 30, 2024, the Notes will be subject to redemption at the option of the Company in whole or in part upon not less than 10 nor more than 60 days' notice, at a Redemption Price equal to 100% of the principal amount of the Notes being redeemed plus accrued and unpaid interest (including any Additional Interest) on the Notes being redeemed to the Redemption Date.

(b) At any time prior to March 30, 2024, the Company may redeem the Notes, in whole but not in part, upon not less than 10 nor more than 60 days' notice following the occurrence of a Tax Event, at a Redemption Price equal to 100% of the principal amount to be redeemed plus any accrued but unpaid interest (including any Additional Interest) to the Redemption Date.

(c) At any time prior to March 30, 2024, the Company may redeem the Notes, in whole but not in part, upon not less than 10 nor more than 60 days' notice, given within the 90 days after the occurrence of a Rating Agency Event, at a Redemption Price equal to 102% of the principal amount to be redeemed plus any accrued but unpaid interest (including any Additional Interest) to the Redemption Date.

(d) In the event of redemption of the Notes in part only, a new Note or Notes for the unredeemed portion will be issued in the name or names of the Holders thereof upon the surrender thereof.

(e) Notice of redemption shall be given as provided in Section 3.4 of the Base Indenture.

(f) Any redemption of less than all of the Notes shall, with respect to the principal thereof, be divisible by \$25.

Section 2.05. Events of Default.

(a) For the benefit of the Holders of the Notes and for purposes of this First Supplemental Indenture only, Section 7.1 the Base Indenture shall be amended and restated in its entirety as follows:

“Section 7.1. Events of Default

“**Event of Default**”, wherever used herein with respect to the Notes, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body or occasioned by the operation of Article XII of the Base Indenture):

(1) the entry by a court having jurisdiction in the premises of (A) a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law or (B) a decree or order adjudging the Company a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Company under any applicable Federal or State law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 90 consecutive days; or

(2) the commencement by the Company of a voluntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law or of any other case or proceeding to be adjudicated a bankrupt or insolvent, or the consent by it to the entry of a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under any applicable Federal or State law, or the consent by it to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or similar official of the Company or of any substantial part of its property, or the making by the Company of an assignment for the benefit of creditors, or the admission by the Company in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Company in furtherance of any such action.

With respect to the Notes, and for purposes of this Section 7.1, the term “**Default**” means the following events: (a) default in the payment of any interest upon any of the Notes when due and payable on an Interest Payment Date other than at Maturity, including Additional Interest in respect thereof, and continuance of such default for a period of 30 days; provided, however, that a valid extension of the interest payment period by the Company pursuant to the terms of the Indenture shall not constitute a default in the payment of interest for this purpose, (b) default in the payment of the principal of (or premium, if any), or interest (including Additional Interest) on, the Notes when due and payable at Maturity or earlier redemption or (c) default in the performance or breach of any covenant or warranty of the Company in the Indenture (other than a covenant or warranty a default in whose performance or whose breach is addressed in clause (a) or (b) of this paragraph), and continuance of such default or breach for a period of 90 days after there has been given, by registered or certified mail, to the Company by the Trustee, or to the Company and the Trustee by the Holders of at least 25% in principal amount of the outstanding Notes, a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a “Notice of Covenant Default” hereunder.

Upon the occurrence and continuance of a Default, the Trustee and the Holders of the Notes will have the same rights and remedies, and will be subject to the same limitations, restrictions, protections and exculpations, and the Company will be subject to the same obligations and restrictions, in each case, as would apply if such Default was an Event of Default or an event which after notice or lapse of time or both would become an Event of Default; provided that the principal of and accrued and unpaid interest (including Additional Interest) on the Notes may not be declared

immediately due and payable by reason of the occurrence and continuation of a Default, and any notice of declaration or acceleration based on such Default will be null and void with respect to the Notes; provided, further, that in case a Default has occurred and is continuing, the Trustee will not be subject to the requirement to exercise, in respect of the rights and powers vested in it by the Indenture, the same degree of care as a prudent Person would exercise in the conduct of such Person's own affairs, unless an Event of Default has occurred and is continuing.

If there occurs a Default specified in clauses (a) or (b) of the second preceding paragraph, the Trustee may or, if directed by the Holders of a majority in principal amount of the Notes then outstanding, shall, subject to the provisions of the Indenture, demand payment of the amount then due and payable and may institute judicial proceedings for the collection of such amount if the Company fails to make payment thereof upon demand.

The Trustee shall have no right or obligation under the Indenture or otherwise to exercise any remedies on behalf of any Holders of the Notes in connection with any default, unless such remedies are available under the Indenture and the Trustee is directed to exercise such remedies pursuant to and subject to the conditions of Section 7.12 of the Base Indenture, provided, however, that this provision shall not affect the rights of the Trustee with respect to any Events of Default as set forth in Section 7.1 of the Base Indenture that may occur with respect to the Notes. In connection with any such exercise of remedies, the Trustee shall be entitled to the same immunities and protections and remedial rights (other than acceleration) as if such Default were an Event of Default.

Subject to the provisions of Section 8.3(i) of the Base Indenture, the Trustee shall not be deemed to have knowledge of an Event of Default hereunder unless a Responsible Officer of the Trustee has received written notice thereof."

(b) For the benefit of the Holders of the Notes and for purposes of this First Supplemental Indenture only, Section 7.2 the Base Indenture shall be amended and restated in its entirety as follows:

"Section 7.2. Acceleration of Maturity; Rescission and Annulment.

If an Event of Default occurs, the principal of and accrued and unpaid interest (including Additional Interest) on the Notes shall be immediately due and payable without declaration or other act on the part of the Trustee or any Holder of the Notes."

Section 2.06. Supplemental Indentures.

For the avoidance of doubt, as referenced in Section 10.1(15) of the Base Indenture, without the consent of or notice to any Holders, the Company and the Trustee (at the direction of the Company) at any time and from time to time, may enter into one or more indentures supplemental to the Base Indenture (including any related opinions, certificates and ancillary documents), in form reasonably satisfactory to the Trustee, to conform the terms of the Base Indenture, this First Supplemental Indenture or the Notes to the description thereof in the Company's prospectus supplement dated March 21, 2019 relating to the Notes.

ARTICLE III

Miscellaneous

Section 3.01. Relationship to Existing Base Indenture. This First Supplemental Indenture is a supplemental indenture within the meaning of the Base Indenture. The Base Indenture, as supplemented and amended through this First Supplemental Indenture, is in all respects ratified, confirmed and approved and, with respect to the Notes, the Base Indenture, as supplemented and amended through this First Supplemental Indenture, shall be read, taken and construed as one and the same instrument.

Section 3.02. Modification of the Existing Base Indenture. Except as expressly modified through this First Supplemental Indenture, the provisions of the Base Indenture shall govern the terms and conditions of the Notes.

Section 3.03. Governing Law. This instrument shall be governed by, and construed in accordance with, the laws of the State of New York.

Section 3.04. Counterparts. This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 3.05. Makes No Representation. The recitals contained herein are made by the Company and not by the Trustee, and the Trustee assumes no responsibility for the correctness thereof. The Trustee makes no representation as to the validity or sufficiency of this First Supplemental Indenture (except for its execution thereof and its certificates of authentication of the Notes).

Section 3.06. Agreement by Holders to Certain Tax Treatment. Each Holder of the Notes will, by accepting the Notes or a beneficial interest therein, be deemed to have agreed that the Holder intends that the Notes constitute indebtedness and will treat the Notes as indebtedness for U.S. federal, state and local tax purposes.

Section 3.07. Waiver of Jury Trial. EACH OF THE COMPANY AND THE TRUSTEE HEREBY, AND EACH HOLDER OF THE NOTES BY ITS ACCEPTANCE THEREOF, IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN A LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS FIRST SUPPLEMENTAL INDENTURE, THE SECURITIES OF THE TRANSACTION CONTEMPLATED BY OR THEREBY.

IN WITNESS WHEREOF, the parties hereto have caused this First Supplemental Indenture to be duly executed as of the date first written above.

AFFILIATED MANAGERS GROUP, INC.

By: /s/ David M. Billings

Name: David M. Billings

Title: Executive Vice President,
General Counsel and Secretary

[Signature Page to First Supplemental Indenture]

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: /s/ David W. Doucette
Name: David W. Doucette
Title: Vice President

[Signature Page to First Supplemental Indenture]

Annex A

THIS NOTE IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF THE DEPOSITORY OR A NOMINEE OF THE DEPOSITORY. THIS GLOBAL SECURITY IS EXCHANGEABLE FOR SECURITIES REGISTERED IN THE NAME OF ANY PERSON OTHER THAN THE DEPOSITORY OR ITS NOMINEE ONLY IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE, AND, UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE AND IN PART FOR SECURITIES IN DEFINITIVE FORM, 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 ANOTHER NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO THE COMPANY (AS DEFINED BELOW) OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY SECURITY ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS 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.

AFFILIATED MANAGERS GROUP, INC.

5.875% Junior Subordinated Notes due 2059

No. [*]
\$[*]

CUSIP NO. [*]
ISIN: [*]

Affiliated Managers Group, Inc., a corporation duly incorporated and subsisting under the laws of the State of Delaware (herein called the "**Company**"), which term includes any successor corporation under the Indenture hereinafter referred to), for value received, hereby promises to pay to Cede & Co., or registered assigns, the principal sum of [*] million U.S. Dollars (U.S. \$[*]) on March 30, 2059 and to pay interest thereon from March 27, 2019 or from the most recent Interest Payment Date to which interest has been paid or duly provided for, on March 30, June 30, September 30 and December 30 in each year, commencing June 30, 2019, at the rate of 5.875% per annum, until the principal hereof is paid or made available for payment.

The Company may, at its option, on one or more occasions, defer payment of all or part of the current and accrued interest otherwise due on the Notes in accordance with Section 2.03 of the First Supplemental Indenture (as defined on the reverse of this Note).

The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in such Indenture, be paid to the Person in whose name this Note (or one or more predecessor securities) is registered at the close of business on the Regular Record Date for such Interest Payment Date. Except as otherwise provided in the Indenture (as defined on the reverse of this Note), any such interest not so punctually paid or duly provided for will forthwith cease to be payable to the Holder on such Regular Record Date and may either be paid to the Person in whose name this Note (or one or more predecessor securities) is registered at the close of business on a Special Record Date for the payment of such defaulted interest to be fixed by the Trustee, notice whereof shall be given to Holders of Notes of this series not less than ten days prior to such Special Record Date, or be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Notes of this series shall be listed, and upon such notice as may be required by any such exchange, as more fully provided in the Indenture.

Payment of the principal of and interest on this Note shall be made at the Corporate Trust Office of the Trustee maintained for that purpose, in such currency of the United States of America as at the time of payment is legal tender for payment of public and private debts; provided, however, for so long as the Notes are represented in global form by one or more Global Securities, all payments of principal and interest shall be made by wire transfer of immediately available funds to the Depository or its nominee, as the case may be, as the registered owner of the Global Security representing such Notes. In the event that definitive Notes shall have been issued, all payments of principal and interest shall be made by wire transfer of immediately available funds to the accounts of the registered Holders thereof; provided, that the Company may at its option pay interest by check to the registered address of each Holder of a definitive Note.

The indebtedness evidenced by this Note, including the principal hereof and interest (including Additional Interest) hereon, is, to the extent provided in the Indenture, subordinate and junior in right of payment and upon liquidation to the prior payment in full of all Senior Indebtedness, and this Note is issued subject to the provisions of the Indenture with respect thereto. Each Holder of the Notes, by accepting the same, (a) agrees to and shall be bound by such provisions, (b) authorizes and directs the Trustee on his behalf to take such action as may be necessary or appropriate to effectuate the subordination so provided, and (c) appoints the Trustee his attorney-in-fact for any and all such purposes. Each Holder of the Notes, by accepting the same, waives all notice of the acceptance of the subordination provisions contained herein and in the Indenture by each holder of Senior Indebtedness, whether now outstanding or hereafter incurred, and waives reliance by each such holder upon said provisions.

Reference is hereby made to the further provisions of this Note set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

Unless the certificate of authentication hereon has been executed by the Trustee referred to on the reverse hereof by manual signature, this Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed under its corporate seal.

AFFILIATED MANAGERS GROUP, INC.

By: _____
Name:
Title:

[Seal]

Attest: _____
Name:
Title:

Date:

[Signature Page to Global Note]

This is one of the Securities of the series designated therein issued under the within mentioned Indenture.

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
Authorized Signatory

Date:

[Signature Page to Global Note]

[Form of Reverse of Note]

This Note is one of a duly authorized issue of securities of the Company (herein called the “Notes”), issued and to be issued in one or more series under a Junior Subordinated Notes Indenture, dated as of March 27, 2019 (herein called the “Base Indenture”), as supplemented through a First Supplemental Indenture, dated as of March 27, 2019 (herein called the “First Supplemental Indenture”, and together with the Base Indenture, the “Indenture”), between the Company and U.S. Bank National Association, as Trustee (herein called the “Trustee”, which term includes any successor trustee under the Indenture), and reference is hereby made to the Indenture for a statement of the respective rights, limitations of rights, obligations, duties and immunities thereunder of the Company, the Trustee and the Holders of the Notes and of the terms upon which the Notes are, and are to be, authenticated and delivered. This Note is one of the series designated on the face hereof, initially limited in aggregate principal amount to \$280,000,000 (or up to \$322,000,000 aggregate principal amount if the underwriters exercise in full their overallocation option to purchase additional Notes granted pursuant to the underwriting agreement relating to the Notes entered into by the Company and the other parties thereto on March 21, 2019). The Company may at any time issue other debt securities under the Indenture. The Company may at any time issue additional securities under the Indenture in unlimited amounts having the same terms (except for the issue date, issue price and, in some cases, the first interest accrual date and first interest payment date) as the Notes (except as otherwise provided in the Indenture) so that such additional securities shall be consolidated with the Notes, including for purposes of voting and redemption; provided, however, that the Company will use a separate CUSIP for any such additional securities that are not fungible with the original Notes for U.S. federal income tax purposes. Any such additional securities shall, together with the outstanding Notes, constitute a single series of debt securities under the Indenture.

At any time and from time to time on or after March 30, 2024, the Notes will be subject to redemption at the option of the Company in whole or in part upon not less than 10 nor more than 60 days’ notice, at a Redemption Price equal to 100% of the principal amount of the Notes being redeemed plus accrued and unpaid interest (including any Additional Interest) on the Notes being redeemed to the Redemption Date.

At any time prior to March 30, 2024, the Company may redeem the Notes, in whole but not in part, upon not less than 10 nor more than 60 days’ notice following the occurrence of a Tax Event, at a Redemption Price equal to 100% of the principal amount to be redeemed plus any accrued but unpaid interest (including any Additional Interest) to the Redemption Date.

At any time prior to March 30, 2024, the Company may redeem the Notes, in whole but not in part, upon not less than 10 nor more than 60 days’ notice, given within the 90 days after the occurrence of a Rating Agency Event, at a Redemption Price equal to 102% of the principal amount to be redeemed plus any accrued but unpaid interest (including any Additional Interest) to the Redemption Date.

The Indenture contains provisions for defeasance at any time of all payment and other obligations under the Indenture and certain restrictive covenants in the Indenture, in each case upon compliance with certain conditions set forth in the Indenture.

If an Event of Default with respect to the Notes occurs, the principal of the Notes and accrued and unpaid interest (including Additional Interest) shall automatically, and without any declaration or other action on the part of the Trustee or any Holder of the Notes, become immediately due and payable as provided in the Indenture. For the avoidance of doubt, Holders of Notes shall have no right to declare the principal of the Notes to be due and payable immediately, and there shall be no right of acceleration of principal and accrued but unpaid interest (including Additional Interest) on the Notes in the case of any Default.

The Indenture or the Notes may be amended or supplemented as provided in the Indenture.

No reference herein to the Indenture and no provision of this Note or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and any interest on this Note at the times, place and rate, and in the currency, herein prescribed, subject to the Company's option to defer interest payments in accordance with Section 2.03 of the First Supplemental Indenture.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Note is registrable in the Security Registrar's books, upon surrender of this Note for registration of transfer at the Corporate Trust Office of the Trustee or at any other office or agency maintained by the Company for such purpose, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed by, the Holder hereof or the Holder's attorney duly authorized in writing, and thereupon one or more new securities of this series, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

The Notes of this series are issuable only in registered form in minimum denominations of \$25 and integral multiples of \$25 in excess thereof. As provided in the Indenture and subject to certain limitations therein set forth, Notes are exchangeable for a like aggregate principal amount of Notes of this series of a different authorized denomination, as requested by the Holder surrendering the same.

No service charge shall be made to a Holder for any such registration of transfer or exchange, but the Company, the Trustee or the Security Registrar may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith other than in the case of certain exchanges as provided in the Indenture.

Prior to due presentment of this Note for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Note is registered as the owner hereof for all purposes, whether or not this Note be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

All terms used in this Note which are defined in the Indenture shall have the meanings assigned to them in the Indenture.

March 27, 2019

Affiliated Managers Group, Inc.
777 South Flagler Drive
West Palm Beach, Florida 33401

Ladies and Gentlemen:

We have acted as counsel to Affiliated Managers Group, Inc., a Delaware corporation (the “Company”), in connection with the Registration Statement on Form S-3 (File No. 333-230423) (the “Registration Statement”) filed by the Company with the Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933, as amended, relating to the issuance by the Company from time to time of an indeterminate initial offering price of debt securities.

We have examined the Registration Statement, the Underwriting Agreement dated March 21, 2019 (the “Underwriting Agreement”), between the Company and the underwriters named therein pursuant to which such underwriters have agreed to purchase up to \$322,000,000 aggregate principal amount of 5.875% Junior Subordinated Notes due 2059 (the “Notes”) issued by the Company; the Indenture, dated as of March 27, 2019 (the “Base Indenture”), between the Company and U.S. Bank National Association, as trustee (the “Trustee”), as supplemented by the First Supplemental Indenture, dated March 27, 2019 (the “First Supplemental Indenture” and, together with the Base Indenture, the “Indenture”); and a duplicate of the global note representing the Notes. In addition, we have examined, and have relied as to matters of fact upon, originals, or duplicates or certified or conformed copies, of such records, agreements, documents and other instruments and such certificates or comparable documents of public officials and of officers and representatives of the Company and have made such other investigations as we have deemed relevant and necessary in connection with the opinions hereinafter set forth.

In rendering the opinion set forth below, we have assumed the genuineness of all signatures, the legal capacity of natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as duplicates or certified or conformed copies and the authenticity of the originals of such latter documents. We also have assumed that the Indenture is the valid and legally binding obligation of the Trustee.

In rendering the opinion set forth below, we have assumed further that the execution, issuance, delivery and performance by the Company of the Underwriting Agreement, the Indenture and the Notes do not constitute a breach or default under any agreement or instrument which is binding upon the Company.

Based upon the foregoing, and subject to the qualifications, assumptions and limitations stated herein, we are of the opinion that assuming due authentication thereof by the Trustee and upon payment and delivery in accordance with the provisions of the Underwriting Agreement, the Notes will constitute valid and legally binding obligations of the Company enforceable against the Company in accordance with their terms.

Our opinion set forth above is subject to (i) the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally, (ii) general equitable principles (whether considered in a proceeding in equity or at law) and (iii) an implied covenant of good faith and fair dealing. In addition, we express no opinion as to the validity, legally binding effect or enforceability of Section 1.10 of the Base Indenture relating to the separability of provisions of the Base Indenture.

We do not express any opinion herein concerning any law other than the law of the State of New York and the Delaware General Corporation Law.

We hereby consent to the filing of this opinion letter as Exhibit 5.1 to the Current Report on Form 8-K of the Company filed with the Commission in connection with the offer and sale of the Notes by the Company and to the use of our name under the caption "Validity of the Notes" in the prospectus relating to the Notes included in the Registration Statement.

Very truly yours,

/s/ SIMPSON THACHER & BARTLETT LLP

SIMPSON THACHER & BARTLETT LLP

March 27, 2019

Affiliated Managers Group, Inc.
777 South Flagler Drive
West Palm Beach, Florida 33401

Ladies and Gentlemen:

We have acted as counsel to Affiliated Managers Group, Inc., a Delaware corporation (the “Company”), in connection with the Registration Statement on Form S-3 (File No. 333-230423) (the “Registration Statement”) filed by the Company with the Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933, as amended (the “Act”), relating to the issuance by the Company from time to time of common stock, par value \$0.01 per share (the “Common Stock”) and other securities of the Company.

We have examined (i) the Registration Statement, (ii) the Distribution Agreements, dated March 27, 2019 (the “Distribution Agreements”), by and between the Company and each of Merrill Lynch, Pierce, Fenner & Smith Incorporated, Barclays Capital Inc., Citigroup Global Markets Inc., J.P. Morgan Securities LLC, RBC Capital Markets, LLC and Wells Fargo Securities, LLC, as sales agents, and each of Bank of America, N.A., Barclays Bank PLC, Citibank, N.A., JPMorgan Chase Bank, National Association, London Branch, Royal Bank of Canada and Wells Fargo Bank, National Association, as forward purchasers and (iii) the Master Confirmations, each dated March 27, 2019 (the “Master Confirmations”), by and between the Company and each of Bank of America, N.A., Barclays Bank PLC, Citibank, N.A., JPMorgan Chase Bank, National Association, London Branch, Royal Bank of Canada and Wells Fargo Bank, National Association, as forward purchasers, pursuant to which the sales agents, or forward purchasers, as the case may be, have agreed to purchase from time to time up to an aggregate amount of \$500,000,000 of shares of Common Stock issued by the Company (the

“Shares”). In addition, we have examined, and have relied as to matters of fact upon, originals, or duplicates or certified or conformed copies, of such records, agreements, documents and other instruments and such certificates or comparable documents of public officials and of officers and representatives of the Company and have made such other investigations as we have deemed relevant and necessary in connection with the opinions hereinafter set forth.

In rendering the opinion set forth below, we have assumed the genuineness of all signatures, the legal capacity of natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as duplicates or certified or conformed copies and the authenticity of the originals of such latter documents.

Based upon the foregoing, and subject to the qualifications, assumptions and limitations stated herein, we are of the opinion that, upon payment and delivery in accordance with the Distribution Agreements, Master Confirmations, the Amended and Restated Certificate of Incorporation of the Company and all amendments thereto, the Amended and Restated By-laws of the Company and the Delaware General Corporation Law, the Shares will be validly issued, fully paid and nonassessable.

We do not express any opinion herein concerning any law other than the law of the State of New York and the Delaware General Corporation Law.

We hereby consent to the filing of this opinion letter as Exhibit 5 to the Registration Statement and to the use of our name under the caption “Validity of Securities” in the prospectus included in the Registration Statement.

Very truly yours,

/s/ SIMPSON THACHER & BARTLETT LLP

SIMPSON THACHER & BARTLETT LLP

MASTER CONFIRMATION

DATE: March 27, 2019

TO: Affiliated Managers Group, Inc.
777 South Flagler Drive
West Palm Beach, FL 33401

ATTENTION: Chief Financial Officer

FROM: []
[]
[]

TELEPHONE: []

FACSIMILE: []

SUBJECT: Registered Forward Transactions

The purpose of this letter agreement (this “**Master Confirmation**”) is to set forth the terms and conditions of one or more transactions (each, a “**Transaction**”) to be entered into between [] (“**Dealer**”) and Affiliated Managers Group, Inc. (“**Counterparty**”). Each such Transaction entered into between Dealer and Counterparty that is subject to this Master Confirmation shall be evidenced by (i) one or more instructions (each, an “**Instruction**”) pursuant to Section 2(b) of the Distribution Agreement (as defined below) (an “**Agency Forward**”) or a terms agreement (the “**Terms Agreement**”) pursuant to Section 2(l) of the Distribution Agreement (a “**Block Forward**”) and (ii) with respect to an Agency Forward, a pricing supplement substantially in the form of Annex A hereto (a “**Pricing Supplement**”), each with such modifications as to which Dealer and Counterparty mutually agree. This Master Confirmation, an Instruction or a Terms Agreement and a Pricing Supplement, if any, together shall constitute a “Confirmation” for the purposes of the Agreement specified below. This Master Confirmation, each Instruction, Terms Agreement, Pricing Supplement and the Agreement constitute the entire agreement and understanding of the parties with respect to the subject matter and terms of the Transactions and supersede all prior or contemporaneous written and oral communications with respect thereto.

The definitions and provisions contained in the 2002 ISDA Equity Derivatives Definitions (the “**Equity Definitions**”), as published by the International Swaps and Derivatives Association, Inc., are incorporated into each Confirmation, including this Master Confirmation. For purposes of the Equity Definitions, each Transaction will be deemed to be a Share Forward Transaction.

Each party is hereby advised, and each such party acknowledges, that the other party has engaged in, or refrained from engaging in, substantial financial transactions and has taken other material actions in reliance upon the parties’ entry into the Transactions to which this Master Confirmation, each Instruction or Terms Agreement and the Pricing Supplement, if any, relate on the terms and conditions set forth below.

This Master Confirmation, each Instruction or Terms Agreement and the Pricing Supplement, if any, evidence a complete and binding agreement between Dealer and Counterparty as to the terms of each Transaction to which this Master Confirmation, each Instruction or Terms Agreement and the Pricing Supplement, if any, relate. This Master Confirmation, each Instruction or Terms Agreement and the Pricing Supplement, if any, together with all other Confirmations of Equity Contracts (as defined in "Netting and Set-off" below), shall supplement, form a part of, and be subject to an agreement in the form of the ISDA 2002 Master Agreement (the "**Agreement**") as if Dealer and Counterparty had executed an agreement in such form (without any Schedule except for the election of United States dollars ("**USD**") as the Termination Currency and such other elections set forth in this Master Confirmation, each Instruction or Terms Agreement and the Pricing Supplement, if any).

If, in relation to any Transaction to which this Master Confirmation, an Instruction or a Terms Agreement, as applicable, and the Pricing Supplement, if any, relate, there is any inconsistency between the Agreement, this Master Confirmation, such Instruction or Terms Agreement and any such Pricing Supplement and the Equity Definitions, the following will prevail for purposes of such Transaction in the order of precedence indicated: (i) any such Pricing Supplement; (ii) such Instruction or Terms Agreement; (iii) this Master Confirmation; (iv) the Equity Definitions; and (v) the Agreement. The parties hereby agree that, other than the Transactions to which this Master Confirmation, all Instructions or Terms Agreements and Pricing Supplements, if any, relate and any other Equity Contract, no other Transaction shall be governed by the Agreement. The parties also acknowledge that the Transactions to which this Master Confirmation, each Instruction or Terms Agreement and the Pricing Supplement, if any, relate are not governed by, and shall not be treated as Transactions under, any other ISDA Master Agreement entered into between Dealer and Counterparty from time to time.

The terms of each Transaction to which this Master Confirmation, each Instruction or Terms Agreement and the Pricing Supplement, if any, relate are as follows:

General Terms:

Trade Date:	For each: (i) Agency Forward, the date on which Counterparty provides the first Instruction for such Transaction, and (ii) Block Forward, the date of the Terms Agreement for such Transaction.
Effective Date:	The first day occurring on or after the applicable Trade Date on which Shares are sold through [] acting as forward seller (when acting in such capacity, the " Distribution Agent ") pursuant to a "Forward Sale" under the Equity Distribution Agreement dated as of March 27, 2019 between Counterparty, Dealer and the Distribution Agent (the " Distribution Agreement ").
Seller:	Counterparty
Buyer:	Dealer
Shares:	The common stock of Counterparty, par value USD 0.01 per share (Ticker Symbol: "AMG")

Number of Shares: For each: (i) Agency Forward, the aggregate number of Shares sold through the Distribution Agent pursuant to a "Forward Sale" under the Distribution Agreement in relation to all Instructions for such Transaction, and (ii) Block Forward, as set forth in the Terms Agreement for such Transaction; *provided* that, in each case above, on each Settlement Date, the Number of Shares for such Transaction shall be reduced by the number of Settlement Shares settled on such date.

Hedge Completion Date: For each Agency Forward, the earliest of (i) the date specified in writing as the Hedge Completion Date for such Transaction by Counterparty, (ii) any Settlement Date for such Transaction and (iii) the last Scheduled Trading Day of the calendar quarter in which the Trade Date for such Transaction occurs; *provided* that Counterparty shall be obligated to specify as the Hedge Completion Date (1) the second Scheduled Trading Day immediately preceding the first date on which the Registration Statement (as defined in the Distribution Agreement) would no longer be available for use, (2) the first date after the Effective Date on which Counterparty has any Material Non-Public Information (as defined below) and (3) the first date after the Effective Date on which Shares are sold pursuant to any other sales agency agreements or other similar arrangements with any agent or any other representative in respect of at the market offerings of the Shares in accordance with Rule 415(a)(4) of the Securities Act of 1933, as amended (the "**Securities Act**"), and the rules and regulations thereunder. Promptly after the Hedge Completion Date, Dealer will furnish Counterparty with a Pricing Supplement specifying for the relevant Transaction the Number of Shares as of the Hedge Completion Date (the "**Initial Number of Shares**"), the Initial Forward Price and the Final Date, all determined in accordance with the terms hereof.

For each Block Forward, the Effective Date for such Transaction.

Initial Forward Price:

For each:

- (a) Agency Forward, the product of: (i) the volume weighted average price at which the Shares are sold through the Distribution Agent pursuant to a "Forward Sale" under the Distribution Agreement in relation to all Instructions in relation to such Transaction and (ii) 1 *minus* the Discount, adjusted by the Calculation Agent to (x) reflect on each day during such period the sum of 1 and the Daily Rate for such day *multiplied by* the then-Initial Forward Price as of such day and (y) reduce the then-Initial Forward Price by the relevant Forward Price Reduction Amount on each Forward Price Reduction Date occurring on or before the Hedge Completion Date; and
- (b) Block Forward, as set forth in the Terms Agreement for such Transaction.

Forward Price:

For each Transaction:

- (a) on the Hedge Completion Date, the Initial Forward Price; and
- (b) on each calendar day thereafter, (i) the Forward Price as of the immediately preceding calendar day *multiplied by* (ii) the sum of 1 and the Daily Rate for such day;

provided that the Forward Price for such Transaction on each Forward Price Reduction Date for such Transaction shall be the Forward Price for such Transaction otherwise in effect on such date *minus* the Forward Price Reduction Amount for such Forward Price Reduction Date; *provided, further*, that if in respect of an Agency Forward, the first Forward Price Reduction Date occurs prior to the Hedge Completion Date, only the Forward Price with respect to the number of Shares equal to the Number of Shares as of such first Forward Price Reduction Date shall be reduced by the Forward Price Reduction Amount for such first Forward Price Reduction Date and the Forward Price with respect to the number of Shares equal to the Number of Shares *minus* such number of Shares reduced by the first Forward Price Reduction Amount shall not be so reduced.

Discount:

For each Agency Forward, as set forth in the first Instruction for such Transaction.

Daily Rate:	For any day, (i) (a) USD-Federal Funds Rate (or, if the USD-Federal Funds Rate is no longer published, a successor rate mutually agreed in good faith by Dealer and Counterparty; <i>provided</i> that, if Dealer and Counterparty do not mutually agree on the successor rate within one Scheduled Trading Day following the date the USD-Federal Funds Rate ceases to be published, the successor rate shall be determined by the Calculation Agent acting in good faith and in a commercially reasonable manner and, following any such determination, the Calculation Agent will provide to Counterparty the basis for its determination) for such day <i>minus</i> (b) the Spread <i>divided by</i> (ii) 365.
USD-Federal Funds Rate:	For any day, the rate set forth for such day opposite the caption “Federal funds”, as such rate is displayed on the Bloomberg Screen “FEDL01 Index <GO>”, or any successor page (which displayed rate is, for the avoidance of doubt, a percentage); <i>provided</i> that if no rate appears for a particular day on such page, the rate for the immediately preceding day for which a rate does so appear shall be used for such day.
Spread:	90 basis points
Forward Price Reduction Dates:	For each Transaction, as set forth in the latest Instruction or the Terms Agreement for such Transaction.
Forward Price Reduction Amount:	For each Forward Price Reduction Date, the Forward Price Reduction Amount set forth opposite such date in the latest Instruction or Terms Agreement for such Transaction.
Prepayment:	Not Applicable
Variable Obligation:	Not Applicable
Exchange:	The New York Stock Exchange
Related Exchange(s):	All Exchanges
Clearance System:	The Depository Trust Company
Market Disruption Event:	Section 6.3(a) of the Equity Definitions is hereby amended by deleting the words “during the one hour period that ends at the relevant Valuation Time, Latest Exercise Time, Knock-in Valuation Time or Knock-out Valuation Time, as the case may be,” in clause (ii) thereof.
Early Closure:	Section 6.3(d) of the Equity Definitions is hereby amended by deleting the remainder of the provision following the term “Scheduled Closing Time” in the fourth line thereof.

Settlement:

Settlement Currency: USD (all amounts shall be converted to the Settlement Currency in good faith and in a commercially reasonable manner by the Calculation Agent).

Settlement Date: Any Scheduled Trading Day following the Effective Date and up to and including the applicable Final Date that is either:

- (a) designated by Counterparty as a “**Settlement Date**” by a written notice (a “**Settlement Notice**”) delivered to Dealer no less than (i) one Scheduled Trading Day prior to such Settlement Date and five Scheduled Trading Days prior to such Final Date, if Physical Settlement applies, and (ii) five Scheduled Trading Days prior to such Settlement Date, which may be such Final Date, if Cash Settlement or Net Stock Settlement applies; *provided* that if Cash Settlement or Net Stock Settlement applies, any Settlement Date, including a Settlement Date on the scheduled Final Date, shall be deferred until the date on which Dealer (or its affiliate) is able to completely unwind Dealer’s hedge with respect to the portion of the Number of Shares to be settled if Dealer (or its affiliate) is unable to completely unwind Dealer’s hedge with respect to the portion of the Number of Shares to be settled during the Unwind Period due to the restrictions of Rule 10b-18 (“**Rule 10b-18**”) under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”) agreed to hereunder, the existence of any Suspension Day or Disrupted Day or the lack of sufficient liquidity in the Shares during the Unwind Period (as determined by the Calculation Agent); *provided, further*, that if Dealer (or its affiliate) shall fully unwind Dealer’s hedge with respect to the portion of the Number of Shares to be settled during an Unwind Period by a date that is more than two Scheduled Trading Days prior to a Settlement Date specified above, Dealer may, by written notice to Counterparty, specify any Scheduled Trading Day prior to such original Settlement Date as the Settlement Date; or
- (b) designated by Dealer as a Settlement Date pursuant to the “Acceleration Events” provisions below; *provided* that in each case the applicable Final Date will be a Settlement Date if on such date the applicable Number of Shares for which a Settlement Date has not already been designated is greater than zero; *provided, further*, that if any

Settlement Date specified above is not an Exchange Business Day, the Settlement Date shall instead be the next Exchange Business Day; and *provided, further*, that, following the occurrence of at least three consecutive Suspension Days during an Unwind Period and while such Suspension Days are continuing, Dealer may designate any subsequent Exchange Business Day as the Settlement Date with respect to the portion of the Settlement Shares, if any, for which Dealer (or its affiliate) has determined an Unwind Purchase Price during such Unwind Period (such Settlement Date, a “**Partial Settlement Date**”), it being understood that (x) other than in the case of a Rule 10b-18 Unavailability Period (as defined below), the Unwind Period with respect to the remainder of such Settlement Shares shall recommence on the next succeeding Exchange Business Day that is not a Suspension Day and (y) in the case of a Rule 10b-18 Unavailability Period, the remainder of such Settlement Shares shall be treated as if Counterparty had not designated a Settlement Date with respect thereto and Counterparty shall be entitled to designate another Settlement Date in accordance with the terms hereof (or, if the Final Date has passed, Counterparty shall be deemed to have designated in a Settlement Notice a Settlement Date of the Scheduled Trading Day immediately following the related Partial Settlement Date with respect to such remainder of such Settlement Shares, and Physical Settlement shall apply to such Settlement Date).

Final Date:

For each: (i) Agency Forward, the first anniversary of the Hedge Completion Date (or if such day is not a Scheduled Trading Day, the next following Scheduled Trading Day), and (ii) Block Forward, the first anniversary of the Trade Date (or if such day is not a Scheduled Trading Day, the next following Scheduled Trading Day).

Settlement Shares:

(a) With respect to any Settlement Date other than the Final Date, the number of Shares designated or deemed designated as such by Counterparty in the relevant Settlement Notice or designated pursuant to the “Acceleration Events” provisions below, as applicable; *provided* that the Settlement Shares so designated shall (i) not exceed the applicable Number of Shares at that time and (ii) be at least equal to the lesser of 100,000 and such Number of Shares at that time; and

(b) with respect to the Settlement Date on the Final Date, a number of Shares equal to the applicable Number of Shares at that time;

in each case with the applicable Number of Shares determined taking into account pending Settlement Shares for the relevant Transaction.

Settlement Method Election:	Physical Settlement, Cash Settlement, or Net Stock Settlement, at the election of Counterparty, in its sole discretion, as set forth in a Settlement Notice; <i>provided</i> that if Counterparty elects Cash Settlement or Net Stock Settlement, it shall be deemed to have repeated the representations contained under “Securities Laws Representations and Agreements” below; <i>provided, further</i> , that if no election is made by Counterparty, Physical Settlement shall apply. The parties hereto acknowledge that Counterparty cannot be obligated to settle any Transaction by cash payment unless Counterparty elects Cash Settlement.
Physical Settlement:	If Physical Settlement is applicable, then Counterparty shall deliver to Dealer through the Clearance System a number of Shares equal to the Settlement Shares for such Settlement Date, and Dealer shall pay to Counterparty, by wire transfer of immediately available funds to an account designated by Counterparty, an amount equal to the Physical Settlement Amount for such Settlement Date.
Physical Settlement Amount:	For any Settlement Date for which Physical Settlement is applicable, an amount in cash equal to the product of (a) the applicable Forward Price in effect on the relevant Settlement Date and (b) the Settlement Shares for such Settlement Date.
Cash Settlement:	On any Settlement Date in respect of which Cash Settlement applies, if the Cash Settlement Amount is a positive number, Dealer will pay the Cash Settlement Amount to Counterparty. If the Cash Settlement Amount is a negative number, Counterparty will pay the absolute value of the Cash Settlement Amount to Dealer. Such amounts shall be paid on such Settlement Date.
Cash Settlement Amount:	An amount determined by the Calculation Agent equal to: (i)(A) the weighted average (weighted on the same basis as clause (B)) of the Forward Prices on each day during the applicable Unwind Period <i>minus</i> (B) the weighted average price (the “ Unwind Purchase Price ”) at which Dealer (or its affiliate) purchases Shares during the Unwind Period to

unwind Dealer's hedge (or, if Net Stock Settlement applies, to unwind all or a portion of Dealer's hedge, including any purchases of Shares for delivery to Counterparty, in each case as determined by Dealer) with respect to the portion of the applicable Number of Shares to be settled during the Unwind Period (including, for the avoidance of doubt, purchases on any Suspension Day or Disrupted Day in part), taking into account the restrictions of Rule 10b-18 under the Exchange Act agreed to hereunder, *plus* USD 0.02, *multiplied by* (ii) the Settlement Shares.

Net Stock Settlement:

On any Settlement Date in respect of which Net Stock Settlement applies, if the Cash Settlement Amount is a (i) positive number, Dealer shall deliver through the Clearance System a number of Shares to Counterparty equal to the Net Stock Settlement Shares, or (ii) negative number, Counterparty shall deliver through the Clearance System a number of Shares to Dealer equal to the Net Stock Settlement Shares; *provided* that if Dealer determines in its good faith judgment that it would be required to deliver Net Stock Settlement Shares to Counterparty, Dealer may elect to deliver a portion of such Net Stock Settlement Shares on one or more dates prior to the applicable Settlement Date.

Net Stock Settlement Shares:

With respect to a Settlement Date, the absolute value of the Cash Settlement Amount *divided by* the applicable Unwind Purchase Price, with the number of Shares rounded up in the event such calculation results in a fractional number.

Unwind Period:

For each Transaction, the period from and including the first Exchange Business Day following the date Counterparty elects Cash Settlement or Net Stock Settlement in respect of a Settlement Date for such Transaction through the second Scheduled Trading Day preceding such Settlement Date (as such date may be changed by Dealer as described in the first proviso in clause (a) of the definition of Settlement Date above and *provided* that Dealer may truncate any Unwind Period pending (and reduce the Settlement Shares for such Unwind Period to the portion thereof, if any, for which Dealer (or its affiliate) has determined an Unwind Purchase Price) at the time Dealer designates a Settlement Date pursuant to the "Acceleration Events" provisions below, effective upon such designation).

Failure to Deliver:

Applicable

Suspension Day: Any day on which Dealer determines, based on the advice of outside counsel of national standing, that Cash Settlement or Net Stock Settlement may violate applicable securities laws or cause Dealer (or its affiliates) to not be in compliance with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures applicable to Dealer (or its affiliates) or that the safe harbor provided by Rule 10b-18 would be unavailable by virtue of the exclusions from the definition of “Rule 10b-18 purchase” under clauses (i) or (iv) thereof (the period of unavailability, a “**Rule 10b-18 Unavailability Period**”). Dealer shall promptly notify Counterparty if it receives such advice from its counsel.

Share Cap: Except as provided under “Private Placement and Registration Procedures” below, in no event will Counterparty be required to deliver to Dealer (or its affiliate) on any Settlement Date, whether pursuant to Physical Settlement, Net Stock Settlement, any Private Placement Settlement or any Registration Settlement, a number of Shares in excess of (i) the applicable Initial Number of Shares, subject to adjustment from time to time in accordance with the provisions of this Master Confirmation or the Equity Definitions, *minus* (ii) the aggregate number of Shares delivered by Counterparty to Dealer (or its affiliate) under the applicable Transaction prior to such Settlement Date.

Adjustments:

Method of Adjustment: Calculation Agent Adjustment

Extraordinary Events:

New Shares: In the definition of New Shares in Section 12.1(i) of the Equity Definitions, the text in (i) shall be deleted in its entirety and replaced with “publicly quoted, traded or listed on any of the New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or their respective successors)”.

Consequences of Merger Events:

- (a) Share-for-Share: Cancellation and Payment
- (b) Share-for-Other: Cancellation and Payment
- (c) Share-for-Combined: Cancellation and Payment

Tender Offer:	Applicable
Consequences of Tender Offers:	
(a) Share-for-Share:	Cancellation and Payment
(b) Share-for-Other:	Cancellation and Payment
(c) Share-for-Combined:	Cancellation and Payment
Composition of Combined Consideration:	Not Applicable
Nationalization, Insolvency or Delisting:	Cancellation and Payment
	In addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it will also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted on any such exchange or quotation system, such exchange or quotation system shall be deemed to be the Exchange.
Determining Party:	For all applicable Extraordinary Events, Dealer; <i>provided</i> that all calculations, adjustments, specifications, choices and determinations by the Determining Party shall be made in good faith and in a commercially reasonable manner. The parties agree that they will work reasonably to resolve any disputes.
Additional Disruption Events:	
Change in Law:	Applicable; <i>provided</i> that Section 12.9(a)(ii) of the Equity Definitions is hereby amended by (i) replacing the phrase “the interpretation” in the third line thereof with the phrase “or public announcement of the formal or informal interpretation” and (ii) immediately following the word “Transaction” in clause (X) thereof, adding the phrase “in the manner contemplated by the Hedging Party on the Trade Date”. For the avoidance of doubt, “a materially increased cost in performing its obligations under such Transaction” includes any materially increased cost to acquire, establish, re-establish, substitute, maintain, unwind or dispose of any Hedge Positions.

Increased Cost of Stock Borrow:	Applicable; <i>provided</i> that Section 12.9(b)(v) of the Equity Definitions is hereby amended by (A) adding the word “or” immediately before subsection “(B)” and deleting the comma at the end of subsection (A); and (B)(1) deleting subsection (C) in its entirety, (2) deleting the word “or” immediately preceding subsection (C), (3) replacing in the penultimate sentence the words “either party” with “the Hedging Party” and (4) deleting clause (X) in the final sentence.
Initial Stock Loan Rate:	45 basis points per annum
Hedging Party:	Dealer or any affiliate of Dealer involved in hedging a Transaction.
Insolvency Filing:	Notwithstanding anything to the contrary herein, in the Agreement or in the Equity Definitions, upon any Insolvency Filing or other proceeding under the U.S. Bankruptcy Code in respect of the Issuer, each Transaction shall automatically terminate on the date thereof without further liability of either party to this Master Confirmation, each Instruction or Terms Agreement and the Pricing Supplement, if any, to the other party (except for any liability in respect of any breach of representation or covenant by a party under this Master Confirmation, each Instruction or Terms Agreement and the Pricing Supplement, if any, prior to the date of such Insolvency Filing or other proceeding), it being understood that each Transaction is a contract for the issuance of Shares by the Issuer.
Determining Party:	For all applicable Additional Disruption Events, Dealer; <i>provided</i> that all calculations, adjustments, specifications, choices and determinations by the Determining Party shall be made in good faith and in a commercially reasonable manner. The parties agree that they will work reasonably to resolve any disputes.
Acknowledgments:	
Non-Reliance:	Applicable
Agreements and Acknowledgments Regarding Hedging Activities:	Applicable

Additional Acknowledgments:

Applicable

Transfer:

Notwithstanding anything to the contrary herein or in the Agreement, Dealer may assign, transfer and set over all rights, title and interest, powers, privileges and remedies of Dealer under each Transaction, in whole or in part, to an affiliate of Dealer, or any entity sponsored or organized by, or on behalf of or for the benefit of, Dealer without the consent of Counterparty; *provided* that either (A) the long-term, unsecured and unsubordinated credit rating (“**Credit Rating**”) of the transferee or assignee (or any guarantor of its obligations under the transferred Transactions) is equal to or greater than the Credit Rating of Dealer, as specified by either S&P Global Ratings or Moody’s Investors Service, Inc. (or their respective successors), at the time of such assignment, transfer or set over, or (B) such transferee’s or assignee’s obligations hereunder will be guaranteed by Dealer or Dealer’s ultimate parent entity pursuant to the terms of a customary guarantee in a form used by such guarantor generally for similar transactions. No later than promptly following any such assignment, transfer or set over, Dealer shall notify Counterparty as to whether the transfer, assignment or set over is pursuant to subclause (A) or subclause (B) above. In the event of any transfer or assignment of any rights, title and interest, powers, privileges and remedies of Dealer under any Transaction, the transferee or assignee shall assume and enter into all of the transferor’s covenants and representations under Sections 3(e), 3(f), 4(a)(i) and 4(a)(iii) of the Agreement or enter into new covenants and representations that are agreed by the other party under the Agreement, and the identity of the transferee or assignee shall be entered on the books and records maintained by each party or its respective agents.

Calculation Agent:

Dealer. All calculations and determinations by the Calculation Agent shall be made in good faith and in a commercially reasonable manner. The parties agree that they will work reasonably to resolve any disputes.

Account Details:

- (a) Account for delivery of Shares to Dealer: To be furnished
- (b) Account for payments to Counterparty: To be furnished
- (c) Account for payments to Dealer: To be furnished

Offices:

The Office of Counterparty for each Transaction is: Inapplicable, Counterparty is not a Multibranch Party.

The Office of Dealer for each Transaction is: []

Notices:

For purposes of this Master Confirmation:

- (a) Address for notices or communications to Counterparty:

Affiliated Managers Group, Inc.
777 South Flagler Drive
West Palm Beach, FL 33401
Telephone: (800) 345-1100
Attention: Chief Financial Officer

- (b) Address for notices or communications to Dealer:

[]

Attention: []
Telephone: []
Facsimile: []
Email: []

Effectiveness; Distribution Agreement; Interpretive Letter:

Conditions to Effectiveness. Each Transaction shall be effective if and only if Shares are sold on or after the applicable Trade Date and on or prior to the applicable Hedge Completion Date through the Distribution Agent pursuant to a “Forward Sale” under the Distribution Agreement. If the Distribution Agreement is terminated prior to any such sale of Shares thereunder, the parties shall have no further obligations in connection with the relevant Transaction, other than in respect of breaches of representations or covenants on or prior to such date.

Distribution Agreement Representations, Warranties and Covenants. On each Trade Date and on each date on which Dealer or its affiliates deliver a prospectus in connection with a sale to hedge a Transaction, Counterparty repeats and reaffirms as of such date all of the representations and warranties contained in the Distribution Agreement. Counterparty hereby agrees to comply with its covenants contained in the Distribution Agreement as if such covenants were made in favor of Dealer.

Interpretive Letter. Counterparty agrees and acknowledges that each Transaction is being entered into in accordance with the October 9, 2003 interpretive letter from the staff of the Securities and Exchange Commission to Goldman, Sachs & Co. (the “**Interpretive Letter**”) and agrees to take all actions, and to omit to take any actions, reasonably requested by Dealer for each Transaction to comply with the Interpretive Letter. Without limiting the foregoing, Counterparty agrees that neither it nor any “affiliated purchaser” (as defined in Regulation M (“**Regulation M**”) promulgated under the Exchange Act) will, directly or indirectly, bid for, purchase or attempt to induce any person to bid for or purchase, the Shares or securities that are convertible into, or exchangeable or exercisable for, Shares during any “restricted period” as such term is defined in Regulation M. In addition, Counterparty represents that it is eligible to conduct a primary offering of Shares on Form S-3, the offering contemplated by the Distribution Agreement complies with Rule 415 under the Securities Act, and the Shares are “actively traded” as defined in Rule 101(c)(1) of Regulation M.

Agreements and Acknowledgments Regarding Shares:

- (i) Counterparty agrees and acknowledges that, in respect of any Shares delivered to Dealer (or its affiliates) hereunder, such Shares shall be newly issued (unless mutually agreed otherwise by the parties) and upon such delivery, duly and validly authorized, issued and outstanding, fully paid and nonassessable, free of any lien, charge, claim or other encumbrance and not subject to any preemptive or similar rights and shall, upon such issuance, be accepted for listing or quotation on the Exchange.
- (ii) Counterparty agrees and acknowledges that Dealer (or its affiliates) will hedge its exposure to each Transaction by selling Shares borrowed from third-party securities lenders or other Shares pursuant to a registration statement, and that, pursuant to the terms of the Interpretive Letter, the Shares (up to the Initial Number of Shares) delivered, pledged or loaned by Counterparty to Dealer (or its affiliates) in connection with each Transaction may be used by Dealer (or its affiliates) to return to securities lenders without further registration under the Securities Act. Accordingly, Counterparty agrees that the Shares that it delivers, pledges or loans to Dealer (or its affiliates) on or prior to the final Settlement Date will not bear a restrictive legend and that such Shares will be deposited in, and the delivery thereof shall be effected through the facilities of, the Clearance System.
- (iii) Counterparty has reserved and will keep available at all times, free from preemptive or similar rights and free from any lien, charge, claim or other encumbrance, authorized but unissued Shares at least equal to the Number of Shares for all Transactions, solely for the purpose of settlement under the Transactions.

- (iv) Unless the provisions set forth below under “Private Placement and Registration Procedures” are applicable, Dealer agrees to use or cause its affiliates to use any Shares delivered by Counterparty hereunder on any Settlement Date to return to securities lenders to close out open securities loans with respect to the Shares.
- (v) In connection with bids and purchases of Shares in connection with any Cash Settlement or Net Stock Settlement of a Transaction, Dealer shall use its good faith efforts to comply, or cause compliance, with the provisions of Rule 10b-18 under the Exchange Act, taking into account any purchases under other Forward Contracts (as defined herein), as if such provisions were applicable to such purchases. “**Forward Contract**” shall mean any Transaction relating to Shares sold through the Distribution Agent pursuant to a “Forward Sale” under the Distribution Agreement and any similar transaction relating to Shares sold by an affiliate of Dealer pursuant to an underwriting agreement (or equivalent agreement).

Securities Laws Representations and Agreements:

- (i) Counterparty represents to Dealer on each Trade Date and on any date that Counterparty notifies Dealer that Cash Settlement, Net Stock Settlement or Alternative Settlement under “Accounting Standards Codification 815-40; Alternative Settlement” below applies to a Transaction, that (a) each of its filings under the Securities Act, the Exchange Act or other applicable securities laws that are required to be filed have been filed and that, as of the respective dates thereof and as of the date of this representation, there is no misstatement of material fact contained therein or omission of a material fact required to be stated therein or necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading and (b) it has not and will not directly or indirectly violate any applicable law (including, without limitation, the Securities Act and the Exchange Act) in connection with a Transaction. In addition to any other requirement set forth herein, Counterparty agrees not to designate any Settlement Date or elect Alternative Settlement under “Accounting Standards Codification 815-40; Alternative Settlement” below if settlement in respect of such date would result in a violation of any applicable federal or state law or regulation, including the U.S. federal securities laws.
- (ii) It is the intent of Dealer and Counterparty that following any election of Cash Settlement or Net Stock Settlement by Counterparty for a Transaction, the purchase of Shares by Dealer (or its affiliates) during the related Unwind Period complies with the requirements of Rule 10b5-1(c)(1)(i)(B) of the Exchange Act and that this Master Confirmation, each Instruction or Terms Agreement and the Pricing Supplement, if any, shall be interpreted to comply with the requirements of Rule 10b5-1(c).

Counterparty acknowledges that (a) during any Unwind Period, Counterparty shall not have, and shall not attempt to exercise, any influence over how, when or whether to effect purchases of Shares by Dealer (or its agent or affiliate) in connection with this Master Confirmation, each Instruction or Terms Agreement and the Pricing Supplement, if any, and (b) Counterparty is entering into the Agreement and this Master Confirmation, each Instruction or Terms Agreement and the Pricing Supplement, if any, in good faith and not as part of a plan or scheme to evade compliance with federal securities laws including, without limitation, Rule 10b-5 promulgated under the Exchange Act.

Counterparty hereby agrees with Dealer that during any Unwind Period Counterparty shall not communicate, directly or indirectly, any Material Non-Public Information (as defined herein) to any Equity Derivatives Group Personnel (as defined below). For purposes of each Transaction, "**Material Non-Public Information**" means information relating to Counterparty or the Shares that (x) has not been widely disseminated by wire service, in one or more newspapers of general circulation, by communication from Counterparty to its shareholders or in a press release, or contained in a public filing made by Counterparty with the Securities and Exchange Commission and (y) a reasonable investor might consider to be of importance in making an investment decision to buy, sell or hold Shares. For the avoidance of doubt and solely by way of illustration, information should be presumed "material" if it relates to such matters as dividend increases or decreases, earnings estimates, changes in previously released earnings estimates, significant expansion or curtailment of operations, a significant increase or decline of orders, significant merger or acquisition proposals or agreements, significant new products or discoveries, extraordinary borrowing, major litigation, liquidity problems, extraordinary management developments, purchase or sale of substantial assets, or other similar information. For purposes of each Transaction, "**Equity Derivatives Group Personnel**" means any employee of Dealer or its affiliates who effects purchases or sales of Shares in connection with this Master Confirmation.

- (iii) Counterparty shall, at least one day prior to the first day of any Unwind Period, notify Dealer of the total number of Shares purchased in Rule 10b-18 purchases of blocks pursuant to the once-a-week block exception contained in Rule 10b-18(b)(4) by or for Counterparty or any of its affiliated purchasers during each of the four calendar weeks preceding the first day of the Unwind Period and during the calendar week in which the first day of the Unwind Period occurs ("Rule 10b-18 purchase", "blocks" and "affiliated purchaser" each being used as defined in Rule 10b-18).
- (iv) During any Unwind Period, Counterparty shall (a) notify Dealer prior to the opening of trading in the Shares on any day on which Counterparty makes, or expects to be made, any public announcement (as defined in Rule 165(f) under the Securities Act) of any merger, acquisition, or similar transaction involving

a recapitalization relating to Counterparty (other than any such transaction in which the consideration consists solely of cash and there is no valuation period), (b) promptly notify Dealer following any such announcement that such announcement has been made, and (c) promptly deliver to Dealer following the making of any such announcement information indicating (1) Counterparty's average daily Rule 10b-18 purchases (as defined in Rule 10b-18) during the three full calendar months preceding the date of the announcement of such transaction and (2) Counterparty's block purchases (as defined in Rule 10b-18) effected pursuant to paragraph (b)(4) of Rule 10b-18 during the three full calendar months preceding the date of the announcement of such transaction. In addition, Counterparty shall promptly notify Dealer of the earlier to occur of the completion of such transaction and the completion of the vote by target shareholders.

- (v) Neither Counterparty nor any of its affiliates shall take or refrain from taking any action (including, without limitation, any direct purchases by Counterparty or any of its affiliates, or any purchases by a party to a derivative transaction with Counterparty or any of its affiliates), either under this Master Confirmation, each Instruction or Terms Agreement and the Pricing Supplement, if any, under an agreement with another party or otherwise, that might cause any purchases of Shares by Dealer or any of its affiliates in connection with any Cash Settlement or Net Stock Settlement of a Transaction not to meet the requirements of the safe harbor provided by Rule 10b-18 determined as if all such foregoing purchases were made by Counterparty. Without limiting the foregoing, Counterparty may not elect Cash Settlement or Net Stock Settlement during a Rule 10b-18 Unavailability Period.
- (vi) Counterparty will not engage in any "distribution" (as defined in Regulation M) that would cause a "restricted period" (as defined in Regulation M) to occur during any Unwind Period.

Miscellaneous:

Acceleration Events.

- (i) **Stock Borrow Event.** If in Dealer's reasonable judgment, (a) Dealer (or its affiliate) is not able to hedge Dealer's exposure under a Transaction because insufficient Shares are made available for borrowing by securities lenders or (b) Dealer (or its affiliate) would incur a cost to borrow (or to maintain a borrow of) sufficient Shares to hedge Dealer's exposure under a Transaction that is equal to or greater than 300 basis points per annum per any Share (each of (a) and (b), a "**Stock Borrow Event**"), then Dealer shall be entitled to designate any Scheduled Trading Day prior to the date the applicable Number of Shares is first reduced to zero to be a Settlement Date for such Transaction, by providing Counterparty at least two Scheduled Trading Days' notice prior to the relevant Settlement Date, and to designate the number of Settlement Shares for the relevant Settlement Date, which shall not exceed the number of Shares as to which the relevant Stock Borrow Event relates.

- (ii) **Dividends.** If on any day after a Trade Date, Counterparty declares a distribution, issue or dividend to existing holders of the Shares of (a) any cash dividends: (x) with an ex-dividend date occurring prior to the ex-dividend date for such calendar quarter provided for in the applicable Instruction for such Transaction, or (y) the amount or value of which per Share (as determined by the Calculation Agent), when aggregated with the amount or value (as determined by the Calculation Agent) of any and all previous dividends with ex-dividend dates occurring in the same calendar quarter, exceeds the amount for such quarter provided in the latest Instruction for such Transaction or (b) share capital or other securities of another issuer acquired or owned (directly or indirectly) by Counterparty as a result of a spin-off or similar transaction or (c) any other type of securities (other than Shares), rights or warrants or other assets, in any case for payment (cash or other consideration) at less than the prevailing market price, as determined by Dealer, then for each affected Transaction Dealer shall be entitled to designate any Scheduled Trading Day prior to the date the applicable Number of Shares is first reduced to zero to be a Settlement Date for such Transaction, by providing Counterparty at least three Scheduled Trading Days' notice prior to the relevant Settlement Date, and to designate the number of Settlement Shares for the relevant Settlement Date. For the avoidance of doubt, any amount calculated pursuant to this Acceleration Event shall not be adjusted by the value associated with such distribution, issue or dividend. Counterparty agrees that it will publicly announce any such distribution, issue or dividend at least five Scheduled Trading Days before the record date therefor.
- (iii) **Stock Price Event.** If at any time after a Trade Date the traded price per Share on the Exchange is less than or equal to 35% of the applicable Initial Forward Price, then for each affected Transaction Dealer shall be entitled at any time thereafter to designate one or more Scheduled Trading Days prior to the date the applicable Number of Shares is first reduced to zero to be a Settlement Date for such Transaction, by providing Counterparty at least ten Scheduled Trading Days' notice prior to the relevant Settlement Date, and to designate the number of Settlement Shares for the relevant Settlement Date.
- (iv) **Announcement of Merger Event.** If on any day after a Trade Date, Counterparty announces any event that, if consummated, would constitute a Merger Event, then Counterparty shall notify Dealer of such occurrence within one Scheduled Trading Day after such occurrence and for each affected Transaction Dealer shall be entitled to designate any Scheduled Trading Day prior to the date the applicable Number of Shares is first reduced to zero to be a Settlement Date for such Transaction, by providing Counterparty at least one Scheduled Trading Day's notice prior to the relevant Settlement Date, and to designate the number of Settlement Shares for the relevant Settlement Date.

- (v) **ISDA Termination.** In lieu of (a) designating an Early Termination Date as the result of an Event of Default or Termination Event, (b) terminating a Transaction and determining a Cancellation Amount as the result of an Additional Disruption Event, or (c) terminating a Transaction and determining an amount payable in connection with an Extraordinary Event to which Cancellation and Payment would otherwise be applicable, Dealer shall be entitled to designate for each affected Transaction any Scheduled Trading Day prior to the date the applicable Number of Shares is first reduced to zero to be a Settlement Date for such Transaction with respect to the applicable Number of Shares as the Settlement Shares.
- (vi) **Termination Settlement.** Notwithstanding anything to the contrary herein, in the Agreement or in the Equity Definitions, if a Settlement Date is designated by Dealer as the result of one of the foregoing sub-paragraphs (i) through (v), Physical Settlement shall apply to the relevant Settlement Shares.

Private Placement and Registration Procedures. If Counterparty notifies Dealer that it is unable to comply with the provisions of sub-paragraph (ii) of “Agreements and Acknowledgments Regarding Shares” above because of a change in law or a change in the policy of the Securities and Exchange Commission or its staff, or Dealer notifies Counterparty that in its reasonable opinion any Shares to be delivered to Dealer (or its affiliate) by Counterparty may not be freely returned by Dealer (or its affiliate) to securities lenders as described under such sub-paragraph (ii), or otherwise constitute “restricted securities” as defined in Rule 144 under the Securities Act (the date such notification is effective being the “**Determination Date**”), then Counterparty may elect to effect the delivery of any such Shares (the “**Restricted Shares**”) pursuant to either clause (i) or (ii) below, unless waived by Dealer, on the later of (A)(1) if Private Placement Settlement is applicable, the tenth Scheduled Trading Day following the Determination Date or (2) if Registration Settlement is applicable, the thirtieth calendar day following the Determination Date (or if such day is not a Clearance System Business Day, the next Clearance System Business Day), (B) the date such delivery would otherwise be due pursuant to the terms of this Master Confirmation, each Instruction or Terms Agreement and the Pricing Supplement, if any, and (C) the Clearance System Business Day following notice by Dealer to Counterparty of the number of Shares to be delivered pursuant to these “Private Placement and Registration Procedures”; *provided* that if Counterparty does not so elect within three Scheduled Trading Days of the Determination Date, Counterparty shall be deemed to have elected clause (i) below.

- (i) If Counterparty is obligated to settle any Transaction with Restricted Shares (a “**Private Placement Settlement**”), then delivery of Restricted Shares by Counterparty shall be effected in customary private placement procedures with respect to such Restricted Shares reasonably acceptable to Dealer; *provided* that Counterparty may not elect a Private Placement Settlement if, on the date of its election, it has taken, or caused to be taken, any action that would make unavailable either the exemption pursuant to Section 4(a)(2) of the Securities Act for the sale by Counterparty to Dealer (or any affiliate designated by

Dealer) of the Restricted Shares or the exemption pursuant to Section 4(a)(1) or Section 4(a)(3) of the Securities Act for resales of the Restricted Shares by Dealer (or any such affiliate of Dealer). The Private Placement Settlement of such Restricted Shares shall include customary representations, covenants, blue sky and other governmental filings and/or registrations, indemnities to Dealer and its affiliates, due diligence rights (for Dealer, any affiliate designated by Dealer or any buyer of the Restricted Shares designated by Dealer or its affiliate), opinions and certificates, and such other documentation as is customary for private placement agreements, all reasonably acceptable to Dealer. In the case of a Private Placement Settlement, Dealer shall, in its good faith discretion, adjust the amount of Restricted Shares to be delivered to Dealer (or its affiliate) hereunder in a commercially reasonable manner to reflect the fact that (A) such Restricted Shares may not be freely returned to securities lenders by Dealer (or its affiliate) and may only be saleable by Dealer (or its affiliates) at a discount to reflect the lack of liquidity in Restricted Shares and (B) Dealer (or its affiliate) will incur carrying costs and other costs in connection with the unwind of Dealer's hedge as it relates to such Private Placement Settlement; *provided* that for any Transaction in no event will Counterparty be required to deliver to Dealer (or its affiliate) a number of Restricted Shares in excess of (i) the applicable Initial Number of Shares *multiplied by two, minus* (ii) the aggregate number of Shares delivered by Counterparty to Dealer (or its affiliate) under such Transaction prior to the date of such delivery (the "**Maximum Delivery Amount**"). If Dealer adjusts the amount of Restricted Shares, it shall provide Counterparty with a statement indicating in reasonable detail how such share adjustment was determined.

If Counterparty delivers any Restricted Shares in respect of a Transaction, Counterparty agrees that (A) such Shares may be transferred by and among Dealer and its affiliates and (B) after the "holding period" specified in Rule 144(d) under the Securities Act has elapsed, Counterparty shall promptly remove, or cause the transfer agent for the Shares to remove, any legends referring to any transfer restrictions from such Shares upon delivery by Dealer (or such affiliate of Dealer) to Counterparty or such transfer agent of any seller's and broker's representation letters customarily delivered by Dealer or its affiliates in connection with resales of restricted securities pursuant to Rule 144 under the Securities Act, each without any further requirement for the delivery of any certificate, consent, agreement, opinion of counsel, notice or any other document, any transfer tax stamps or payment of any other amount or any other action by Dealer (or such affiliate of Dealer).

- (ii) If Counterparty elects to settle a Transaction pursuant to this clause (ii) (a "**Registration Settlement**"), then Counterparty shall promptly (but in any event no later than the Scheduled Trading Day immediately prior to the date delivery of the Shares is due pursuant to the terms of these "Private Placement and Registration Procedures") file and use its reasonable efforts to make effective under the Securities Act a registration statement or supplement or amend an outstanding registration statement in form and substance reasonably

satisfactory to Dealer, to cover the resale of Restricted Shares (the “**Registered Shares**”) in accordance with customary resale registration procedures, including covenants, conditions, representations, underwriting discounts, commissions, indemnities, due diligence rights, opinions and certificates, and such other documentation as is customary for equity resale underwriting agreements, all reasonably acceptable to Dealer. If Dealer, in its reasonable discretion, is not satisfied with such procedures and documentation or if a Settlement Date is designated by Dealer pursuant to the “Acceleration Events” provisions above, Private Placement Settlement shall apply and Counterparty shall effect delivery of Restricted Shares by the tenth Scheduled Trading Day following notification from Dealer. In the case of a Registration Settlement, Dealer shall, in its good faith discretion, adjust the amount of Registered Shares to be delivered to Dealer (or its affiliate) under the relevant Transaction in a commercially reasonable manner to reflect the fact that Dealer (or its affiliate) will incur carrying costs and other costs in connection with the unwind of Dealer’s hedge as it relates to such Registered Settlement; *provided* that for any Transaction in no event will Counterparty be required to deliver to Dealer (or its affiliate) a number of Registered Shares in excess of the Maximum Delivery Amount for such Transaction. If Dealer adjusts the amount of Registered Shares, it shall provide Counterparty with a statement indicating in reasonable detail how such share adjustment was determined.

Indemnity. Counterparty agrees to indemnify Dealer and its affiliates and their respective directors, officers, employees, agents and controlling persons (Dealer and each such affiliate or person being an “**Indemnified Party**”) from and against any and all losses, claims, damages and liabilities, joint and several, incurred by or asserted against such Indemnified Party arising out of, in connection with, or relating to, the execution or delivery of this Master Confirmation, each Instruction or Terms Agreement and the Pricing Supplement, if any, the performance by the parties hereto of their respective obligations under any Transaction, any breach of any covenant or representation made by Counterparty in this Master Confirmation, each Instruction or Terms Agreement and the Pricing Supplement, if any, or the Agreement or the consummation of the transactions contemplated hereby and will reimburse any Indemnified Party for all reasonable expenses (including reasonable legal fees and expenses) as they are incurred in connection with the investigation of, preparation for, or defense of any pending or threatened claim or any action or proceeding arising therefrom, whether or not such Indemnified Party is a party thereto, except to the extent resulting from Dealer’s gross negligence or willful misconduct.

Waiver of Trial by Jury. EACH OF COUNTERPARTY AND DEALER HEREBY IRREVOCABLY WAIVES (ON ITS OWN BEHALF AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ON BEHALF OF ITS STOCKHOLDERS) ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO ANY TRANSACTION OR THE ACTIONS OF DEALER OR ITS AFFILIATES IN THE NEGOTIATION, PERFORMANCE OR ENFORCEMENT HEREOF.

Governing Law/Jurisdiction. This Master Confirmation, each Instruction or Terms Agreement and the Pricing Supplement, if any, shall be governed by the laws of the State of New York without reference to the conflict of laws provisions thereof. The parties hereto irrevocably submit to the exclusive jurisdiction of the courts of the State of New York and the United States Court for the Southern District of New York in connection with all matters relating hereto and waive any objection to the laying of venue in, and any claim of inconvenient forum with respect to, these courts.

Designation by Dealer. Notwithstanding any other provision in this Master Confirmation, each Instruction or Terms Agreement and the Pricing Supplement, if any, to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities to or from Counterparty, Dealer may designate any of its affiliates to purchase, sell, receive or deliver such Shares or other securities and otherwise to perform Dealer obligations in respect of any Transaction and any such designee may assume such obligations. Dealer shall be discharged of its obligations to Counterparty only to the extent of any such performance.

Accounting Standards Codification 815-40; Alternative Settlement. The parties hereby agree that all documentation with respect to a Transaction is intended to qualify such Transaction as an equity instrument for purposes of Accounting Standards Codification 815-40. If, subject to “Netting and Set-off” below, Counterparty owes Dealer any amount in connection with a Transaction pursuant to Section 12.7 or 12.9 of the Equity Definitions (except in the case of an Extraordinary Event in which the consideration or proceeds to be paid to holders of Shares as a result of such event consists solely of cash) or pursuant to Section 6(d)(ii) of the Agreement (except in the case of an Event of Default in which Counterparty is the Defaulting Party or a Termination Event in which Counterparty is the Affected Party, other than (x) an Event of Default of the type described in Section 5(a)(iii), (v), (vi) or (vii) of the Agreement or (y) a Termination Event of the type described in Section 5(b)(i), (ii), (iii), (iv), or (v) of the Agreement that in the case of either (x) or (y) resulted from an event or events outside Counterparty’s control) (a “**Payment Obligation**”), Counterparty shall have the right, in its sole discretion, to satisfy any such Payment Obligation by delivery of Termination Delivery Units (as defined below) by giving irrevocable telephonic notice to Dealer, confirmed in writing within one Scheduled Trading Day, between the hours of 9:00 a.m. and 4:00 p.m. New York time on the Closing Date, Early Termination Date or other date of termination or cancellation, as applicable (“**Notice of Termination Delivery**”). Upon Notice of Termination Delivery, Counterparty shall deliver to Dealer a number of Termination Delivery Units having a cash value equal to the amount of such Payment Obligation (such number of Termination Delivery Units to be delivered to be determined by the Calculation Agent acting in a commercially reasonable manner, taking into account whether the Termination Delivery Units so delivered are freely tradable). Settlement relating to any delivery of Termination Delivery Units pursuant to this provision shall occur within two Scheduled Trading Days. “**Termination Delivery Unit**” means (A) in the case of a Termination Event, an Event of Default or an Extraordinary Event (other than an Insolvency, Nationalization, Merger Event or Tender Offer), one Share or (B) in the case of an Insolvency, Nationalization, Merger Event or Tender Offer, a unit consisting of the number or

amount of each type of property received by a holder of one Share (without consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Insolvency, Nationalization, Merger Event or Tender Offer; *provided* that if such Insolvency, Nationalization, Merger Event or Tender Offer involves a choice of consideration to be received by holders, such holder shall be deemed to have elected to receive the maximum possible amount of cash.

Disclosure. Effective from the date of commencement of discussions concerning a Transaction, each of Dealer and Counterparty and each of their employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of such Transaction and all materials of any kind (including opinions or other tax analyses) relating to such tax treatment and tax structure.

Right to Extend. Dealer may postpone any Settlement Date or any other date of valuation or delivery, with respect to some or all of the relevant Settlement Shares, if Dealer determines, in its discretion, that such extension is reasonably necessary or appropriate to enable Dealer (or its affiliate) to effect purchases of Shares in connection with Dealer's hedging activity hereunder or under any other Forward Contract in a manner that would, if Dealer (or its affiliate) were Counterparty or an affiliated purchaser of Counterparty, be in compliance with applicable legal and regulatory requirements, as determined by Dealer based upon the advice of outside counsel of national standing.

Counterparty Share Repurchases. Counterparty agrees not to repurchase any Shares if, immediately following such purchase, the Number of Shares for all Transactions under this Master Confirmation, each Instruction or Terms Agreement and the Pricing Supplement, if any, and all other Forward Contracts would be equal to or greater than 8.0% of the number of then-outstanding Shares or such lower number of Shares as Dealer notifies Counterparty would, in the reasonable judgment of outside counsel of national standing for Dealer, present legal or regulatory issues for Dealer or its affiliates.

Limit on Beneficial Ownership. Notwithstanding any other provisions hereof, neither Dealer nor its affiliates shall be entitled to receive Shares hereunder (whether in connection with the purchase of Shares on any Settlement Date or otherwise) to the extent (but only to the extent) that such receipt would result in Dealer and its affiliates or any "group" of which Dealer (or its affiliates) is a part (i) directly or indirectly beneficially owning (as such term is defined for purposes of Section 13(d) of the Exchange Act or, if it would result in a higher percentage of beneficial ownership, the equivalent calculation for purposes of determining a ten percent beneficial owner under Section 16 of the Exchange Act) at any time in excess of 4.9% of the outstanding Shares or (ii) having direct or indirect ownership or control (for purposes of the Bank Holding Company Act of 1956, as amended) at any time in excess of 4.9% of the outstanding Shares. Any purported delivery hereunder shall be void and have no effect to the extent (but only to the extent) that such delivery would result in Dealer and its affiliates or such a group directly or indirectly so beneficially owning or so owning or

controlling in excess of 4.9% of the outstanding Shares. If any delivery owed to Dealer (or its affiliates) hereunder is not made, in whole or in part, as a result of this provision, Counterparty's obligation to make such delivery shall not be extinguished and Counterparty shall make such delivery as promptly as practicable after, but in no event later than one Exchange Business Day after, Dealer gives notice to Counterparty that such delivery would not result in Dealer and its affiliates or such a group directly or indirectly so beneficially owning or so owning or controlling in excess of 4.9% of the outstanding Shares.

Commodity Exchange Act. Each of Dealer and Counterparty agrees and represents that it is an "eligible contract participant" as defined in the U.S. Commodity Exchange Act, as amended (the "CEA"), and the Agreement and each Transaction are subject to individual negotiation by the parties and have not been executed or traded on a "trading facility" as defined in the CEA.

Securities Act. Each of Dealer and Counterparty agrees and represents that it is a "qualified institutional buyer" as defined in Rule 144A under the Securities Act, or an "accredited investor" as defined under the Securities Act.

ERISA. Each of Dealer and Counterparty agrees and represents that the assets used in each Transaction (a) are not assets of any "plan" (as such term is defined in Section 4975 of the Code) subject to Section 4975 of the Code or any "employee benefit plan" (as such term is defined in Section 3(3) of the U.S. Employee Retirement Income Security Act of 1974, as amended ("ERISA")) subject to Title I of ERISA, and (b) do not constitute "plan assets" (as such term is defined in Section 3(42) of ERISA).

Bankruptcy Status. Dealer acknowledges and agrees that this Master Confirmation, each Instruction or Terms Agreement and the Pricing Supplement, if any, is not intended to convey to Dealer rights with respect to the transactions contemplated hereby that are senior to the claims of Counterparty's common stockholders in any U.S. bankruptcy proceedings of Counterparty; *provided* that nothing herein shall be deemed to limit Dealer's right to pursue remedies in the event of a breach by Counterparty of its obligations and agreements with respect to this Master Confirmation, each Instruction or Terms Agreement and the Pricing Supplement, if any, and the Agreement; and *provided, further*, that nothing herein shall limit or shall be deemed to limit Dealer's rights in respect of any transaction other than the Transactions.

No Collateral. The parties acknowledge that none of the Transactions are secured by any collateral that would otherwise secure the obligations of Counterparty herein under or pursuant to the Agreement. Without limiting the generality of the foregoing, none of the Transactions will be considered to create obligations covered by any collateral credit support annex to the Agreement and will be disregarded for the purposes of calculating any exposures pursuant to any such annex.

Netting and Set-off. Dealer agrees not to set-off or net amounts due from Counterparty with respect to any Transaction against amounts due from Dealer to Counterparty under obligations other than Equity Contracts. Section 2(c) of the Agreement as it applies to payments due with respect to any Transaction shall remain in effect and is not subject to the first sentence of this provision. The parties agree that Section 6(f) of the Agreement is amended and restated to read as follows:

“(f) Upon the occurrence of an Event of Default or Termination Event with respect to Counterparty as the Defaulting Party or the Affected Party (“X”), Dealer (“Y”) will have the right (but not be obliged) without prior notice to X or any other person to set-off or apply any obligation of X under an Equity Contract owed to Y (or any Affiliate of Y) (whether or not matured or contingent and whether or not arising under this Agreement, and regardless of the currency, place of payment or booking office of the obligation) against any obligation of Y (or any Affiliate of Y) under an Equity Contract owed to X (whether or not matured or contingent and whether or not arising under this Agreement, and regardless of the currency, place of payment or booking office of the obligation). Y will give notice to the other party of any set-off effected under this Section 6(f).

“Equity Contract” shall mean, for purposes of this Section 6(f), any Transaction relating to Shares sold through the Distribution Agent pursuant to a “Forward Sale” under the Distribution Agreement.

If any obligation is unascertained, Y may in good faith estimate that obligation and set-off in respect of the estimate, subject to the relevant party accounting to the other when the obligation is ascertained.

Nothing in this Section 6(f) shall be effective to create a charge or other security interest. This Section 6(f) shall be without prejudice and in addition to any right of set-off, combination of accounts, lien or other right to which any party is at any time otherwise entitled (whether by operation of law, contract or otherwise).”

Wall Street Transparency and Accountability Act of 2010. The parties hereby agree that none of (a) Section 739 of the Wall Street Transparency and Accountability Act of 2010 (“**WSTAA**”), (b) any similar legal certainty provision in any legislation enacted, or rule or regulation promulgated, on or after any Trade Date, (c) the enactment of WSTAA or any regulation under the WSTAA, (d) any requirement under WSTAA nor (e) an amendment made by WSTAA, shall limit or otherwise impair either party’s rights to terminate, renegotiate, modify, amend or supplement this Master Confirmation, each Instruction or Terms Agreement and the Pricing Supplement, if any, or the Agreement, as applicable, arising from a termination event, force majeure, illegality, increased costs, regulatory change or similar event under this Master Confirmation, each Instruction or Terms Agreement and the Pricing Supplement, if any, the Equity Definitions incorporated herein, or the Agreement (including, but not limited to, rights arising from Change in Law, Increased Cost of Stock Borrow or Illegality (as defined in the Agreement)).

Tax Representations.

- (i) For the purpose of Section 3(e) of the Agreement, each party makes the following representation:

It is not required by any applicable law, as modified by the practice of any relevant governmental revenue authority, of any Relevant Jurisdiction to make any deduction or withholding for or on account of any Tax from any payment (other than interest under Section 9(h) of the Agreement or any other payments of interest or penalty charges for late payment) to be made by it to the other party under the Agreement.

In making this representation, a party may rely on:

- (i) the accuracy of any representations made by the other party pursuant to Section 3(f) of the Agreement,
- (ii) the satisfaction of the agreement contained in Section 4(a)(i) or 4(a)(iii) of the Agreement, and the accuracy and effectiveness of any document provided by the other party pursuant to Section 4(a)(i) or 4(a)(iii) of the Agreement, and
- (iii) the satisfaction of the agreement of the other party contained in Section 4(d) of the Agreement;

provided that it shall not be a breach of this representation where reliance is placed on clause (ii) above and the other party does not deliver a form or document under Section 4(a)(iii) by reason of material prejudice to its legal or commercial position.

- (ii) For the purpose of Section 3(f) of the Agreement:

- (A) Dealer makes the following representation(s):

[]

- (B) Counterparty represents that it is a "U.S. person" (as that term is used in section 1.1441-4(a)(3)(ii) of the United States Treasury Regulations) for United States federal income tax purposes and an exempt recipient under section 1.6049-4(c)(1)(ii) of the United States Treasury Regulations.

Withholding Tax Imposed on Payments to Non-US Counterparties under the United States Foreign Account Tax Compliance Act. "Tax" as used in the preceding paragraph (i) of this Section (Tax Representations) and "Indemnifiable Tax" as defined in Section 14 of the Agreement shall not include any U.S. federal withholding tax imposed or collected pursuant to Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended (the "Code"), any current or future regulations or official interpretations thereof, or any agreement entered into pursuant

to Section 1471(b) of the Code (“**FATCA**”), or any fiscal or regulatory legislation or rules adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of FATCA (a “**FATCA Withholding Tax**”). For the avoidance of doubt, a FATCA Withholding Tax is a Tax the deduction or withholding of which is required by applicable law.

Incorporation of ISDA 2015 Section 871(m) Protocol. To the extent that either party to the Agreement is not an adhering party to the ISDA 2015 Section 871(m) Protocol published by the International Swaps and Derivatives Association, Inc. on November 2, 2015 and available at www.isda.org, as may be amended, supplemented, replaced or superseded from time to time (the “**871(m) Protocol**”), Dealer and Counterparty hereby agree that the provisions and amendments set out in the 871(m) Protocol shall apply to the Agreement and this Master Confirmation. The parties further agree that for the purpose of the 871(m) Protocol, (i) solely for purposes of applying such provisions and amendments to this Master Confirmation, the Agreement shall be deemed to be a Covered Master Agreement and (ii) the Implementation Date shall be deemed to be the date of this Master Confirmation.

Document Delivery.

For the purpose of Sections 4(a)(i) and 4(a)(ii) of the Agreement:

- (i) Dealer agrees to complete, accurately and in a manner reasonably satisfactory to Counterparty, to execute and to deliver to Counterparty a valid and duly executed U.S. Internal Revenue Service Form W-9 or W-8ECI, as applicable (or any successor form) and any required attachments thereto (i) upon execution of this Master Confirmation and thereafter prior to the date on which such form becomes invalid, (ii) promptly upon reasonable demand by Counterparty and (iii) promptly upon learning that any Form W-9 or W-8ECI, as applicable (or any successor thereto) previously provided by Dealer has become obsolete, invalid or incorrect.
- (ii) Counterparty agrees to complete, accurately and in a manner reasonably satisfactory to Dealer, to execute and to deliver to Dealer a valid and duly executed U.S. Internal Revenue Service Form W-9 (or any successor form) and any required attachments thereto (i) upon execution of this Master Confirmation and thereafter prior to the date on which such form becomes invalid, (ii) promptly upon reasonable demand by Dealer and (iii) promptly upon learning that any Form W-9 (or any successor thereto) previously provided by Counterparty has become obsolete, invalid or incorrect.
- (iii) Counterparty and Dealer agree to deliver any other form or document, accurately completed and in a manner reasonably satisfactory to the other party, that may be required or reasonably requested in order to allow the other party to make a payment under this Master Confirmation, without any deduction or withholding for or on account of any Tax or with such deduction at a reduced rate promptly upon the reasonable demand of such other party.

Change of Account. [Section 2(b) of the Agreement is hereby amended by the addition after the word “delivery” in the first line thereof of the phrase “to another account in the same legal and tax jurisdiction”.][Section 2(b) of the Agreement is hereby amended by the addition of the following after the word “change” in the fourth line thereof: “; provided that if any new account of one party is not in the same tax jurisdiction as the original account, the other party shall not be obliged to pay, for tax reasons, any greater amount and shall not be obliged to accept any lesser amount as a result of such change than would have been the case if such change had not taken place.”]

Tax Documents. Section 4(a)(iii) of the Agreement is hereby amended by adding prior to the existing text: “upon the earlier of learning that such form or documents is required or”.

Investment Risk. Counterparty (i) is capable of evaluating investment risks independently, both in general and with regard to all transactions and investment strategies involving a security or securities, (ii) will exercise independent judgment in evaluating the recommendations of any broker-dealer or its associated persons, unless it has otherwise notified the broker-dealer in writing, and (iii) has total assets of at least USD50 million as of the date hereof.

U.S. Stay Regulations. To the extent that the QFC Stay Rules are applicable hereto, then the parties agree that (i) to the extent that prior to the date hereof both parties have adhered to the 2018 ISDA U.S. Resolution Stay Protocol (the “**Protocol**”), the terms of the Protocol are incorporated into and form a part of this Confirmation, and for such purposes this Confirmation shall be deemed a Protocol Covered Agreement and each party shall be deemed to have the same status as “Regulated Entity” and/or “Adhering Party” as applicable to it under the Protocol; (ii) to the extent that prior to the date hereof the parties have executed a separate agreement the effect of which is to amend the qualified financial contracts between them to conform with the requirements of the QFC Stay Rules (the “**Bilateral Agreement**”), the terms of the Bilateral Agreement are incorporated into and form a part of this Confirmation and each party shall be deemed to have the status of “Covered Entity” or “Counterparty Entity” (or other similar term) as applicable to it under the Bilateral Agreement; or (iii) if clause (i) and clause (ii) do not apply, the terms of Section 1 and Section 2 and the related defined terms (together, the “**Bilateral Terms**”) of the form of bilateral template entitled [“Full-Length Omnibus (for use between U.S. G-SIBs and Corporate Groups)” published by ISDA on November 2, 2018 (currently available on the 2018 ISDA U.S. Resolution Stay Protocol page at www.isda.org and, a copy of which is available upon request),] the effect of which is to amend the qualified financial contracts between the parties thereto to conform with the requirements of the QFC Stay Rules, are hereby incorporated into and form a part of this Master Confirmation, and for such purposes this Master Confirmation shall be deemed a “Covered Agreement,” Dealer shall be deemed a “Covered Entity” and Counterparty shall be deemed a “Counterparty Entity.” In the event that, after the date of this Master Confirmation, both parties hereto become adhering parties to the Protocol, the terms of the Protocol will replace the terms of this paragraph. In the event of any inconsistencies between this Master Confirmation and

the terms of the Protocol, the Bilateral Agreement or the Bilateral Terms (each, the “**QFC Stay Terms**”), as applicable, the QFC Stay Terms will govern. Terms used in this paragraph without definition shall have the meanings assigned to them under the QFC Stay Rules. For purposes of this paragraph, references to “this Master Confirmation” include any related credit enhancements entered into between the parties or provided by one to the other. In addition, the parties agree that the terms of this paragraph shall be incorporated into any related covered affiliate credit enhancements, with all references to Dealer replaced by references to the covered affiliate support provider.

“**QFC Stay Rules**” mean the regulations codified at 12 C.F.R. 252.2, 252.81–8, 12 C.F.R. 382.1-7 and 12 C.F.R. 47.1-8, which, subject to limited exceptions, require an express recognition of the stay-and-transfer powers of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and the Orderly Liquidation Authority under Title II of the Dodd Frank Wall Street Reform and Consumer Protection Act and the override of default rights related directly or indirectly to the entry of an affiliate into certain insolvency proceedings and any restrictions on the transfer of any covered affiliate credit Enhancements.

Please confirm your agreement to be bound by the terms stated herein by executing the copy of this Master Confirmation enclosed for that purpose and returning it to Dealer.

Very truly yours,

[]

By: _____
Name:
Title:

Counterparty hereby agrees to, accepts and confirms the terms of the foregoing as of the date first written above.

AFFILIATED MANAGERS GROUP, INC.

By: _____
Name:
Title:

Signature page to Registered Forward Transaction (ATM) Master Confirmation

FORM OF PRICING SUPPLEMENT

DATE: [], 2019

TO: Affiliated Managers Group, Inc.
777 South Flagler Drive
West Palm Beach, FL 33401

ATTENTION: Chief Financial Officer

FROM: []
[]
[]

TELEPHONE: []

FACSIMILE: []

SUBJECT: Registered Forward Transactions

REFERENCE NUMBER(S): []

Ladies and Gentlemen:

The purpose of this Pricing Supplement is to notify you of certain terms of the above-referenced Transaction entered into between [] (“**Dealer**”) and Affiliated Managers Group, Inc. (“**Counterparty**”) on the Trade Date specified below.

This Pricing Supplement supplements, forms part of, and is subject to (i) the Instruction between Dealer and Counterparty with the same Trade Date and Reference Number as set forth herein (the “**Instruction**”) and (ii) the Master Confirmation, dated March 27, 2019, between Dealer and Counterparty (as amended, modified or supplemented from time to time, the “**Master Confirmation**”). All provisions contained in the Agreement (as modified and as defined in the Master Confirmation or the Instruction) shall govern this Pricing Supplement, except as expressly modified below, and capitalized terms used but not defined herein shall have the meanings specified in the Master Confirmation.

The particular Transaction to which this Pricing Supplement relates shall have the following terms:

- (a) the Trade Date is [];
- (b) the Hedge Completion Date is [];
- (c) the Number of Shares shall be [], subject to further adjustment in accordance with the terms of the Master Confirmation;
- (d) the Initial Forward Price shall be USD []; and
- (e) the Final Date is [].

Very truly yours,

[]

By: _____

Name:

Title:

Confirmed as of the date first above written:

AFFILIATED MANAGERS GROUP, INC.

By: _____

Name:

Title: